

# Contaminated Land Development Control Plan 2010

---

Date of commencement: 4 August 2010

*Version date: 4 August 2010*

Repealed by WDCP 2015 on 23/05/15

Repealed by WDCP2015 on 23/05/15

# Table of contents

<b>Overview of the Contaminated Land DCP</b>	<b>1</b>
<b>Part 1: Preliminary</b>	<b>2</b>
1.0 Introduction .....	2
1.1 Name of this plan.....	2
1.2 Land to which this plan applies .....	2
1.3 Contaminated lands policy .....	2
1.4 Objectives .....	2
1.5 How the objectives will be achieved .....	3
1.6 Approval and commencement .....	3
1.7 Relationship to the Act, the Regulation, other plans, policies and guidelines .....	3
1.8 Definitions .....	4
1.9 Acid sulfate soils .....	4
1.10 Notes in the plan.....	4
<b>Part 2: Land use restrictions</b>	<b>5</b>
2.0 Introduction .....	5
2.1 Plan making and rezoning.....	5
2.2 Development applications .....	5
2.3 Initial evaluation .....	6
<b>Part 3: Information to be provided by the applicant</b>	<b>7</b>
3.0 Introduction .....	7
3.1 Stage 1 – Preliminary investigation .....	7
3.2 Stage 2 – Detailed investigation .....	8
3.3 Stage 3 – Remedial action plan .....	8
3.4 Stage 4 – Validation and monitoring.....	8
3.5 Notification .....	9
<b>Part 4: Remediation work</b>	<b>10</b>
4.0 Introduction .....	10
4.1 Conditions of consent.....	10
<b>Part 5: Site audits</b>	<b>11</b>
5.0 Introduction .....	11
5.1 Is a site audit required? .....	11
5.2 Site auditors .....	11
<b>Part 6: Access to information</b>	<b>12</b>
6.0 Introduction .....	12
6.1 Information systems .....	12
6.2 Council’s policy on access to information.....	12
<b>Part 7: Section 149 planning certificates</b>	<b>13</b>
7.0 Introduction .....	13
7.1 Section 149(2) planning certificates.....	13
7.2 Section 149(5) planning certificates.....	14
<b>Appendix 1: Some activities that may cause contamination</b>	<b>15</b>
<b>Appendix 2: Potential sources of site history information</b>	<b>16</b>

Repealed by WDCP2015 on 23/05/15

# Overview of the Contaminated Land DCP

This plan is Woollahra Council's policy for managing land contamination. The plan is based on procedures and legal requirements contained in State Government legislation and guidelines. The aim of the plan is to ensure that when land is developed, the potential of contamination affecting human health and the environment is properly addressed.

## How to use the contaminated land referral table

There are four principal user groups of this plan:

1. Owners or prospective purchasers of property investigating whether land may be contaminated and persons intending to carry out development on land;
2. Contaminated land specialists;
3. Persons who are intending to carry out remediation of land;
4. Independent auditors.

The plan is divided into seven parts which may apply individually or in combinations. The table below directs each user to the relevant part of the plan for their purpose.

<b>Contaminated land referral table</b>	
<b>User Group</b>	<b>Relevant sections of the plan</b>
Owners or prospective purchasers investigating whether land may be contaminated and persons intending to carry out development on land.	<p><b>Part 2: Land use restrictions</b> This part outlines how contamination issues will be considered in development applications and the preparation of local environmental plans.</p> <p>An initial evaluation will be required with every application to determine whether land contamination is relevant to the determination of development applications and the preparation of local environmental plans.</p> <p><b>Part 6: Access to information</b> This part details what records Council maintains which may be used in investigations.</p> <p><b>Part 7: Section 149 Planning certificates</b> This part details Council's legal obligations in relation to land contamination.</p>
Contaminated land specialists	<p><b>Part 3: Information to be provided by the applicant</b> If contamination is, or may be present on the land, this part identifies what additional information must be provided to Council.</p>
Persons who are intending to carry out remediation of land	<p><b>Part 4: Remediation work</b> This part identifies which remediation works require development consent, and the relevant conditions of consent.</p>
Independent auditors	<p><b>Part 5: Site audits</b> This part details under what circumstances Council may require an independent site audit and what information a site audit is to contain.</p>

# Part 1: Preliminary

## 1.0 Introduction

Over time, the land within Woollahra has had many different uses including agricultural, commercial, industrial and residential. Areas have also been used to accommodate landfill. Some of these uses may cause land to become contaminated due to the generation of waste products and the use of chemicals, oils and fuels.

If land is contaminated, it can have serious effects on human health and the environment. These effects can have an immediate impact or become a problem in years to come. It is therefore important the land is free from contamination to ensure that the environment is protected for future generations.

When carrying out planning functions, Council is required by legislation to consider whether a previous land use has caused contamination of a site, (this includes the potential risk of any future contamination). Accordingly, Woollahra Council will implement the statutory requirements of *State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)* and the *Managing Land Contamination: Guidelines* through its procedures and decision making processes.

## 1.1 Name of this plan

This plan is called the **Contaminated Land Development Control Plan 2010**.

## 1.2 Land to which this plan applies

This plan applies to all land within the Woollahra Municipality.

## 1.3 Contaminated lands policy

Council's policy for contaminated lands is set out in this plan. In particular, this policy adopts the statutory provisions and procedures dealing with contaminated land in the:

- *Environmental Planning and Assessment Act 1979 (the Act)*;
- *Environmental Planning and Assessment Regulation 2000 (the Regulation)*;
- *Contaminated Land Management Act 1997 (CLM Act)*;
- *State Environmental Planning Policy No. 55 Remediation of Land*.

## 1.4 Objectives

The objectives of this plan are to:

- i) establish the Council's policy on the management of land that may be affected by contamination;
- ii) ensure that changes of land use will not increase the risk to health or the environment;
- iii) avoid inappropriate restrictions on land use;
- iv) provide information to support decision making and inform the community;
- v) establish an efficient and effective procedural framework for the integration of contaminated land management into the planning and development process within the Woollahra Municipality.

## 1.5 How the objectives will be achieved

The objectives will be achieved by following the procedures and requirements of:

- this plan;
- the *Environmental Planning and Assessment Act 1979* (the Act);
- the *Contaminated Land Management Act 1997 (CLM Act)*;
- the *State Environmental Planning Policy No. 55 Remediation of Land*;
- the *Managing Land Contamination Guidelines*.

## 1.6 Approval and commencement

This plan was approved by Woollahra Council on 26 July 2010 and came into force on 4 August 2010.

## 1.7 Relationship to the Act, the Regulation, other plans, policies and guidelines

### 1.7.1 *Environmental Planning and Assessment Act 1979 (Act) and the Environmental Planning and Assessment Regulation 2000 (Regulation).*

This plan has been prepared under Part 3, Division 6 of the Act and Part 3 of the Regulation.

### 1.7.2 **Contaminated Land Management Act 1997 (CLM Act).** The general object of the Act is to establish a process for investigation (and where appropriate) remediating land. Certain definitions and requirements contained in the CLM Act are used in this plan (see section 1.8).

### 1.7.3 **State policies.** State environmental planning policies may apply to the land to which this plan applies. Where this occurs, the statutory provisions of those policies prevail over this plan.

### 1.7.4 **Managing Land Contamination Guidelines – Draft.** The *Managing land contamination: guidelines (Consultation Draft - November 2008, NSW Department of Planning & NSW Department of Environment, Climate Change and Water)* (Guidelines) have been prepared to assist planning and consent authorities undertake their responsibilities under the Act. In particular the guidelines support the application of SEPP 55 – Remediation of Land.

*Note: At the time of this plan's adoption, the Guidelines were in draft form only. Once the Guidelines are made, a reference in this plan to the Guidelines shall be read as a reference to the Guidelines as adopted and a reference to clause numbers of the Guidelines shall be read as a reference to the corresponding clause of the adopted guidelines.*

### 1.7.5 **Woollahra Local Environment Plan 1995.** Woollahra LEP 1995 applies to the land to which this plan applies. Woollahra LEP 1995 is a statutory instrument that contains specific provisions relating to land use, building height, heritage impact and building density. This plan supplements the provisions of Woollahra LEP 1995. The provisions of Woollahra LEP 1995 prevail over this plan.

### 1.7.6 **Other Woollahra DCPs, policies and codes.** In the event of inconsistency between this plan and other development control plans, policies and codes, this plan prevails unless otherwise specified in this plan or in the other plans, policies and codes.

## 1.8 Definitions

In this plan, certain terms have the meaning defined in the Act, SEPP 55, the CLM Act and in Woollahra LEP 1995. The following table shows the main terms used in this plan and the location of their definitions.

Term	Definition sources
" <b>contaminated land</b> " means land in, on or under which any substance is present at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.	<i>Environmental Planning and Assessment Act 1979</i>
" <b>preliminary investigation</b> " in relation to land, means a preliminary investigation referred to in the Contaminated Land Planning Guidelines.	<i>Environmental Planning and Assessment Act 1979</i>
" <b>remediation</b> " means: (a) removing, dispersing, destroying, reducing, mitigating or containing the contamination of any land, or (b) eliminating or reducing any hazard arising from the contamination of any land (including by preventing the entry of persons or animals on the land).	<i>Environmental Planning and Assessment Act 1979</i>
" <b>land</b> " includes water on or below the surface of land and the bed of such water.	<i>Contaminated Land Management Act 1997</i>
" <b>site audit</b> " means a review: (a) that relates to management (whether under this Act or otherwise) of the actual or possible contamination of land, and (b) that is conducted for the purpose of determining any one or more of the following matters: (i) the nature and extent of any contamination of the land, (ii) the nature and extent of any management of actual or possible contamination of the land, (iii) whether the land is suitable for any specified use or range of uses, (iv) what management remains necessary before the land is suitable for any specified use or range of uses, (v) the suitability and appropriateness of a plan of management, long-term management plan or a voluntary management proposal.	<i>Contaminated Land Management Act 1997</i>
" <b>site audit statement</b> " means a site audit statement prepared by a site auditor in accordance with Part 4.	<i>Contaminated Land Management Act 1997</i>
" <b>site auditor</b> " means a person for the time being accredited under Part 4 as a site auditor.	<i>Contaminated Land Management Act 1997</i>

## 1.9 Acid sulfate soils

Acid sulfate soils are natural soils that form in seawater or brackish water environments. These soils are common in estuary and estuarine floodplains throughout NSW. The Department of Environment, Climate Change and Water has mapped the risk of acid sulfate soils within NSW. Based on those maps, Council has produced an Acid Sulfate Soils Planning Map that forms part of Woollahra LEP 1995.

This plan does not set out the statutory requirements for managing actual or potential acid sulfate soils. Refer to clause 25D of Woollahra LEP 1995 for the relevant requirements.

## 1.10 Notes in the plan

Notes included in this plans are provided for guidance and do not form part of this plan.

## Part 2: Land use restrictions

### 2.0 Introduction

This plan sets out procedures for determining the extent of risk of contamination of land which is the subject of planning proposals such as applications for rezonings and development applications, and mechanisms for managing that risk.

Restrictions may be imposed to reduce the risk of exposure to contaminated materials to acceptable levels. The restrictions may be imposed or resolved at different stages of the planning and development process. For instance:

- If the contamination status of land is unknown, no change in use which may increase the risk of harm should occur, until the land has been investigated.
- If contamination causes an unacceptable risk of harm, the use of the land will be restricted to reduce the risk to acceptable levels.
- If remediation has reduced the risk to acceptable levels, no restriction on land use is necessary.

In preparing local environmental plans and assessing development applications, Council will consider the possibility of land contamination and the implications it has for any proposed or permissible future uses of land.

### 2.1 Plan making and rezoning

In preparing planning proposals for the rezoning of land, consideration should be given to the possibility of the land being affected by contamination. However, this only applies if the proposed zone would permit a change of use on the land and one of the following criteria is met:

- The land is significantly contaminated land (declared under the CLM Act);
- Development for a purpose referred to in Appendix 1 is being, or is known to have been carried out on the land;
- It is proposed to carry out development on the land for residential, educational, recreational, child care purposes or a hospital, and there is an incomplete historical knowledge of the land, or it may have been previously lawful to carry out on the land a use identified in Appendix 1.

All planning proposals will be submitted to the Minister for Planning for review, and the Minister for Planning determines whether or not the planning proposal should proceed. In all rezoning applications, the onus will be on the applicant to demonstrate to Council that the site is suitable for the proposed rezoning. If Council is preparing a rezoning, it will ensure the requirements of SEPP 55 are met.

### 2.2 Development applications

When assessing development applications, section 79C(1) of the Act requires the Council to consider "...the suitability of the site for the development". The risk to health and the environment from contamination is included in the assessment. The Council must also consider clause 7 (1) of SEPP 55, which states:

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
- (a) *it has considered whether the land is contaminated, and*

- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

## 2.3 Initial evaluation

An initial evaluation must accompany every application except for those applications which are required to be accompanied by a preliminary investigation (see Section 3.1 below).

An initial evaluation is essential to determine whether contamination is an issue and whether sufficient information is available to carry out a planning function.

The purpose of this initial evaluation is to determine whether land contamination is relevant to the decision being made and whether further information is required from the proponent. Land contamination may be an issue either because of the history of the subject land, or the history of neighbouring land.

The initial evaluation should be based on available factual information, including current zoning and permissible uses, records from previous re-zonings, development applications, and building applications, construction certificates and property files. For a list of potential sources of site history information see Appendix 2.

In particular, the initial evaluation should provide details of the:

- Present use of the site;
- Date that the present use commenced;
- Previous uses of the site (if known);
- Present and previous uses of the adjoining land (if known);
- Whether the present or previous uses of the site and adjoining lands were potentially contaminating (listed in Appendix 1 of this guide);
- Whether there has been any testing or assessment of the site for land contamination.

The applicant is responsible for making the necessary enquiries to obtain the information required to be included in the initial evaluation. The applicant must note, in the initial evaluation, the source of the information on which the initial evaluation is based. For example, information sourced from Council's property files, local history library and oral history.

Section 3.2.1 of the Guidelines provides a brief checklist of what should be considered when preparing the initial evaluation.

The initial evaluation may provide sufficient information to allow Council to proceed with an assessment of a development application or preparation of a local environmental plan. If the initial evaluation does not provide sufficient information, Council may require further information.

## Part 3: Information to be provided by the applicant

### 3.0 Introduction

If the initial evaluation indicates that contamination is, or may be, present on or may affect the land the subject of the application, then the applicant must investigate the site and provide Council with the further information it needs to carry out its planning function. This will apply to any application to Council, including development applications and requests by landowners or proponents for the making of environmental planning instruments to rezone land.

The further investigations and information required may take the form of a site investigation process of up to four stages, which are all to be undertaken by the applicant. The appropriate level of evaluation/investigation will depend upon the circumstances of each site. The four stages that an applicant may be required to undertake are:

- Stage 1 – Preliminary Investigation
- Stage 2 – Detailed investigation
- Stage 3 – Remedial action plan
- Stage 4 – Validation and monitoring

All such investigations, plans, validation and monitoring are to be prepared and carried out by suitably qualified and experienced people. The applicant is responsible for engaging a suitably qualified and experienced person. The investigations, plans, validation and monitoring must be prepared, and carried out in accordance with the Guidelines and any relevant Department of Environment, Climate Change and Water (DECCW) guidelines.

Council will have regard to the relevant heads of consideration in section 3.5 of the Guidelines when assessing any investigations, plans, validations and monitoring submitted.

### 3.1 Stage 1 – Preliminary investigation

The main objectives of a preliminary investigation are to identify any past or present potentially contaminating activities, provide a preliminary assessment of any site contamination and, if required, provide a basis for a more detailed investigation.

Council will require a preliminary investigation to be submitted with a zoning, or rezoning proposal or a development application in accordance with Clause 6(4) and Clause 7(4) respectively of SEPP55 where:

- (4) *The land concerned is:*
- (a) *land that is within an investigation area,*
  - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines [also listed in Appendix 1 of this plan] is being, or is known to have been, carried out,*
  - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*

- (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 [also listed in Appendix 1 of this plan] to the contaminated land planning guidelines has been carried out, and*
- (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

In accordance with section 3.3.2 of the Guidelines, Council may also require a preliminary investigation to be submitted when:

- The subject site or land in the vicinity is, or may be, associated with potentially contamination activities listed in Appendix 1 of this plan but it is not known whether contamination exists.
- The land was, or is, regulated by the DECCW or other regulatory authority in relation to land contamination, and there is insufficient information available about the nature and extent of contamination.
- The land has been investigated or remediated but there is insufficient information available about the nature and extent of contamination, or the circumstances have changed.
- There are restrictions on, or conditions attached to, the use of the site by regulatory or planning authorities that are, or may be, related to contamination, but there is insufficient information available about the nature and extent of contamination.
- Council records have demonstrated that the land is associated with complaints about pollution or illegal dumping of wastes but it is not known whether contamination exists.
- A sensitive use including, but not necessarily limited to, residential, educational, recreational, hospital or childcare is proposed on the land and records on the site history are unclear about whether the land has been used in the past for a purpose listed in Appendix 1 of this plan.

### **3.2 Stage 2 – Detailed investigation**

A detailed investigation is necessary when a preliminary investigation indicates that the land is contaminated or that it is, or was formerly used for an activity listed in Appendix 1 and a land use change is proposed that has the potential to increase the risk of exposure to contamination. The objectives of a detailed investigation 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, if required.

### **3.3 Stage 3 – Remedial action plan**

If investigations find that contamination makes the land unsuitable for the proposed use and remediation is required, a remedial action plan must be prepared and submitted prior to Council making a determination. Council will reserve the right to require a site audit of the remedial action plan (see also part 4 of this plan).

### **3.4 Stage 4 – Validation and monitoring**

The objective of validation and monitoring is to demonstrate whether the objectives stated in the remedial action plan and any conditions of development consent have been achieved. SEPP 55 requires a notice of completion for all remediation work.

### 3.5 Notification

Where Council or the applicant (including their consultant or site auditor) considers that the contamination at the subject site is significant and warrants regulation under the *CLM Act*, the DECCW may need to be notified. There is a legal duty on owners of land as well as persons whose activities have contaminated land to notify the DECCW as soon as practicable after becoming aware that contamination poses a significant risk of harm to human health or the environment (see section 60 of the *CLM Act*).

Repealed by WDCCP2015 on 23/05/15

## Part 4: Remediation work

### 4.0 Introduction

Woollahra LEP 1995 identifies land within the Municipality that is within a heritage conservation area. The LEP also identifies that all land within the Municipality is either a harbour foreshore scenic protection area or a foreshore scenic protection area.

Clause 9(e)(ii) of SEPP 55 has the effect that all remediation work in a heritage conservation area is Category 1 remediation work. Furthermore Clause 9(e)(ix) has the effect that all remediation work in scenic areas or scenic protection areas is Category 1 remediation work.

All remediation works in Woollahra require development consent of the Council (other than remediation work which the Minister for Planning considers to be category 1 remediation work on a remediation site, which requires the approval of the Minister under Part 3A of the Act).

### 4.1 Conditions of consent

Due to the different environments within the Municipality, and the variable nature of remediation works, Council will impose relevant and reasonable conditions to ensure works are carried out in an appropriate manner. This will include conditions relating to hours of operation, vehicle movement and routes, vehicular parking and the disposal of contaminated spoil.

The conditions will ensure the remediation work is carried out in accordance with the relevant *Managing Land Contamination Guidelines*, any relevant DECCW Guidelines and the remedial action plan or other remediation documentation applicable to a development application.

## Part 5: Site audits

### 5.0 Introduction

A site audit is an independent review of any or all stages of the site investigation process, conducted in accordance with the CLM Act and the Managing Land Contamination Guidelines. A site audit may review a preliminary investigation, a detailed investigation, a remedial action plan or a validation report.

A site audit will lead to the provision of a certificate called a site audit statement, stating the purpose for which the land is suitable. Only site auditors accredited by the DECCW can issue site audit statements.

### 5.1 Is a site audit required?

Council may require a site audit at any stage in the decision making process. In accordance with section 3.6.1 of the Managing Land Contamination Guidelines, in particular, a site audit will be required if Council:

- Believes on reasonable grounds that the information provided by the proponent is incorrect or incomplete,
- Wishes to verify the information provided by the proponent adheres to appropriate standards, procedures and guidelines,
- Does not have the internal resources to conduct its own technical review.

A site audit will also be requested if legislation requires one.

### 5.2 Site auditors

The NSW EPA has prepared guidelines (2<sup>nd</sup> edition draft) for the NSW Site Auditor Scheme June 2002, which provides guidelines on:

- The NSW Site Auditor Scheme,
- The process of appointing site auditors,
- The legal, administrative and technical directions,
- Site auditors and the preparation of site audit statements.

The Applicant is responsible for engaging a suitably qualified and experienced consultant to undertake a site audit statement in accordance with these guidelines.

## Part 6: Access to information

### 6.0 Introduction

Council has an important role in supplying information regarding land use history, land contamination and remediation. Council also has a statutory responsibility under section 59 of the CLM Act to include information about land contamination provided to Council by either the DECCW or accredited auditors on planning certificates issued under section 149 (2) of the Act.

### 6.1 Information systems

Information concerning contaminated land will be added to the Council property information system when development applications are processed or when information is provided to the Council via other sources. A flexible information system is needed to accommodate the dynamic nature of land contamination management. Knowledge about contamination and the relevance of contamination as an issue will change over time, as land is investigated further, is remediated for particular uses, or as standards for remediation change to accommodate changing values.

To assist Council in the management of land contamination issues the following information is recorded for individual parcels of land:

- Site contamination reports submitted to Council
- Site audit Statements received by Council
- Environmental Protection Authority (EPA) declarations and orders issued under the CLM Act (including voluntary investigation & remediation proposals agreed by the EPA)
- Remedial action plans

Council records can also be searched for:

- Historical development applications, building approvals and other approvals and
- Current and historical land use zoning

Historical information can also be accessed through the Woollahra Library Information Service (see also Appendix 2).

### 6.2 Council's policy on access to information

The Council has adopted a policy on access to information, titled "*Access to Council Information*". This policy recognises the Council's obligation to provide access to information as required by a number of NSW Acts of Parliament including the *Government Information (Public Access) Act 2009*, the *Environmental Planning and Assessment Act 1979* and the *Privacy and Personal Information Act 1998*.

Information on land contamination may be contained in a range of documents within Council's records. Access to these documents and information may be obtained in accordance with Council's policy on access to information. An application for a planning certificate under section 149(2) of the Act may be made for an individual property. That certificate will include responses to specific questions on land contamination (see clause 7 of this plan for more information).

## Part 7: Section 149 planning certificates

### 7.0 Introduction

Under section 149 of the Act, a person may request from Council a planning certificate containing advice on prescribed matters. These matters are listed in the Regulation, and for land contamination in particular, the CLM Act. A council policy to restrict the use of land is one of the matters prescribed in the Regulation.

### 7.1 Section 149(2) planning certificates

Section 149(2) planning certificates issued by Council will contain information on prescribed matters. Section 59(2) of the CLM Act, provides that specific notations relating to contaminated land issues which must be included on section 149(2) planning certificates.

These matters are whether:

- (a) *the land to which the certificate relates is significantly contaminated land-if the land (or part of the land) is declared to be significantly contaminated land at the date when the certificate is issued*
- (b) *the land to which the certificate relates is subject to a management order-if it is subject to such an order at the date when the certificate is issued*
- (c) *the land to which the certificate relates is the subject of an approved voluntary management proposal - if it is the subject of such an approved proposal at the date when the certificate is issued*
- (d) *the land to which the certificate relates is subject to an ongoing maintenance order – if it is subject to such an order at the date when the certificate is issued.*
- (e) *the land to which the certificate relates is the subject of a site audit statement-if a copy of such a statement has been provided at any time to the local authority issuing the certificate.*

Each certificate will indicate whether any of the five matters listed above are applicable to the land. If the matter is applicable, the certificate will specify a **Yes**. In order to respond to matter (e), Council has a register of site audit statements to which it will refer.

*Council's response to these matters is based on information supplied by a third party. The accuracy of this information has not been verified by Woollahra Council and if the information is vital for the proposed end use, then it should be verified by the applicant.*

In addition to the prescribed matters under the CLM Act, the Regulation requires Council to indicate on a section 149(2) planning certificate whether land which is the subject of the certificate is affected by an adopted policy that restricts development of land due to contamination.

This plan is Council's policy on contaminated lands and may have the effect of restricting development on certain lands. Accordingly, the following statement will be included on all section 149(2) planning certificates.

**Council has adopted by resolution a policy on contaminated land which may restrict the development of the land. This policy is implemented when zoning or land use changes are proposed on lands which have previously been used for certain purposes. Consideration of council's policy and the application of provisions under relevant State legislation is warranted.**

It should be noted that a section 149 (2) planning certificate does not itself restrict the use of land. It is simply the mechanism for recording the fact that a Council policy applies which may restrict the use of land.

## **7.2 Section 149(5) planning certificates**

Generally Council does not provide information in relation to site contamination issues under a section 149(5) planning certificate.

## Appendix 1: Some activities that may cause contamination

- Acid/alkali plant and formulation
- Agricultural/horticultural activities
- Airports
- Asbestos production and disposal
- Chemicals manufacture and formulation
- Defence works
- Drum re-conditioning works
- Dry cleaning establishments
- Electrical manufacturing (transformers)
- Electroplating and heat treatment premises
- Engine works
- Explosives industry
- Gas works
- Iron and steel works
- Landfill sites
- Metal treatment
- Mining and extractive industries
- Oil production and storage
- Paint formulation and manufacture
- Pesticide manufacture and formulation
- Power stations
- Railway yards
- Scrap yards
- Service stations
- Sheep and cattle dips
- Smelting and refining
- Tanning and associated trades
- Waste storage and treatment
- Wood preservation

**Note:** It is not sufficient to rely solely on the contents of this appendix to determine whether a site is likely to be contaminated or not. The appendix is a guide only. A conclusive status can only be determined after a review of the site history and, if necessary, sampling and analysis.

Due to the possibility of leaching and/or transmission of airborne contaminants, sites adjacent to those with an above listed use may also be at risk of contamination and warrant further investigation.

## Appendix 2: Potential sources of site history information

Potential sources of information about past and current activities that may indicate land contamination:

- Department of Environment, Climate Change and Water
- Sydney Water Corporation
- WorkCover Authority
- EnergyAustralia
- Noxious Trades Act Register
- Local History Library

Local History searches of a particular site and adjoining sites for information which may indicate previous activities as listed in Appendix 1 could involve the following:

- Sand's Sydney and New South Wales Directory 1858 to 1932/3
- Local history publications
- Past and present telephone books
- Long term residents
- Current and past site workers
- Aerial photographs
- Historical development applications, building approvals and other approvals
- Current and historical land use zoning