



City of
KINGSTON

MANAGING COUNCIL OWNED OR CONTROLLED CONTAMINATED LAND POLICY

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RESPONSIBLE EXECUTIVE:	General Manager Assets and Environment
POLICY OWNER:	Manager Property Arts and Leisure

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1. Purpose of the Policy

To provide guidance in the management of contaminated land including current and former landfill sites owned by the City of Kingston to ensure Council meets its obligations whilst minimising risk to human health, protecting the environment and minimising any detrimental impacts to amenity from contaminated sites.

Through this policy, Council is aiming to:

- reassure the local community that Council is taking the issue of Council owned or controlled contaminated sites very seriously and that the health and wellbeing of its residents are of the highest priority;
- identify risks and appropriately manage them
- provide a clear, honest, transparent and accountable process that is inclusive of all stakeholders

2. Scope

This policy applies to all sites located within the City of Kingston that are owned or controlled by the Council that are known or likely to be contaminated as a result of former uses including those defined as closed or active landfill sites

This policy does not apply to contaminated land or landfill sites owned or managed by others. The management of non-Council controlled sites is controlled via the Kingston Planning scheme and relevant state statute.

Nothing in this policy shall contravene any planning instruments, common law or Council's local laws.

3. Definitions

Contamination	The presence of an unwanted and potentially harmful chemical, element or pathogen that is not naturally occurring at an elevated concentration.
Council Owned or Controlled	Includes all land owned in Fee Simple by Council, Crown Land to which Council has been appointed committee of management under the Crown Land Reserves Act and land held under lease by council.
EPA	Environmental Protection Agency.

4. Responsible executive

The General Manager City Assets and Environment has responsibility for this policy.

5. Policy Owner

The position responsible for writing and/or reviewing the policy and ensuring it is kept up-to-date with any legislative or operational changes is the Manager Property, Arts and Leisure Services. This position can be contacted for assistance and information about this policy.

6. Related Documents

This policy refers to the following:

- (a) Managing Landfills – Victorian Auditor-General’s Report September 2014 (2014-15.5)
- (b) Siting, design, operation and rehabilitation of landfills – Environmental Protection Agency (EPA), October 2014 publication 788.2.
- (c) Closed Landfill Guidelines – Environmental Protection Agency (EPA), December 2012 publication 1490.
- (d) Hydrogeological Assessment (Groundwater Quality) Guidelines – Environmental Protection Agency (EPA) September 2006 Publication No. 668.
- (e) Environment Protection Act 1970
- (f) Ministerial Direction No1- Potentially Contaminated Land

7. Delegated Authority

Delegations under the following Acts and Regulations that apply to this Policy:

- Local Government Act 1989

8. Operating Principles

Council’s operating principles are based on the protection of human health through the application of risk management techniques in an open, transparent and accountable manner.

The Environment Protection Act 1970, Minister’s Direction No.1 Potentially Contaminated Land (1992) and the State Environmental Protection Policy (2002) refers to sites currently owned or operated by Council and ‘sets the scene’ regarding Council’s responsibilities in relation to site contamination, that is, the requirement to manage Council’s own land to avoid contamination and to appropriately manage sites already contaminated.

Council is committed to:

8.1. Human health as a primary concern during all aspects of assessment and management of land contamination.

This means:

- The highest priority (for assessment and remediation of Council owned or controlled land) where any potential exists for vulnerable individuals or communities to be exposed to site contamination that may cause harm;
- The protection of the health and safety of persons occupying or visiting Council owned or operated sites, including staff and contractors, and persons occupying neighbouring properties, throughout the assessment, remediation and management stages;
- The City of Kingston is committed to seeking the most current advice and implementing best practice from industry experts.

- Site assessments will be conducted by accredited professionals according to EPA guidelines and the National Environment Protection Measure (“NEPM”) (Assessment of Site Contamination); and
- Remediation priorities will be determined based upon risk management principles. Remediation strategies adopted may be short or long term and will have regard to the overall management of Council’s property portfolio and the Council Plan.

8.2. Effective risk management.

This means:

- Identifying all sites that are owned or controlled by Council that are, or are likely to be, contaminated;
- Identification of site specific risks arising from contamination;
- Community consultation and risk communication strategies involving all stakeholders commencing early at the identification of possible risk;
- A cautious approach to site safety, remediation and monitoring of remediation is preferred by Council wherever practicable and in the context of the assessed risk and available resources for remediation. This will involve short term and longer term management strategies; and
- Annual reviews of the Management Plan and site risks.

8.3. Community Consultation

This means:

The community’s right to be informed of, and to be consulted on, the decision making process from an early stage in the assessment of potential site contamination. This means Council will strive for maximum transparency in the provision of information to affected parties. This includes when contamination, or potential contamination, is in or adjacent to Council owned or operated premises or public areas. Local communities will be advised from the outset and kept informed about any potential or actual risks and how they will be managed to protect public health.

Community consultation is recognised nationally as a core component of the assessment and management of site contamination. The emphasis on community consultation has been adopted in other States. For example, in Western Australia, the Department of Environment and Conservation, has published a Contaminated Sites Management Series, Community Consultation Guideline document released November 2006. It includes:

The investigation, remediation and management of contaminated sites may cause a range of community concerns. The concerns may relate to real or perceived environmental and human health impacts associated with contamination and/or the environmental effects and nuisance conditions arising from contaminated site remediation and management.

An appropriate level of community consultation is required when investigating, remediating and managing contaminated 'sensitive use' sites owned or operated by the City of Kingston.

9. Risk

Council acknowledges that the ownership and control of land which is contaminated land including a closed or active landfill gives rise to risk. Every endeavor is made by Council through this policy and through actions to have **Zero** harm to its employees and the community.

Risk means the probability in a certain time frame that an adverse outcome will occur in a person, group of people, plants, animals and/or ecology of a specified area that is exposed to a particular dose or concentration of a hazardous agent, ie it depends on both the level of toxicity of the hazardous agent and the level of exposure. Risk is usually measured in terms of consequences (or hazard/s) and the likelihood.

It is the policy of Kingston City Council to:

- Assess the Council's risk and the effectiveness of risk treatments set out in the Management Plan;
- Anticipate and respond to changing social, environmental and legislative requirements; and
- Maintain awareness of Council's approach to risk in relation to Council owned or controlled contaminated land - Extreme and High risks are **unacceptable** and require immediate mitigation

9.1. Risk approach to the management of Council owned or controlled contaminated land

Council will manage Council owned or controlled contaminated land including closed or active landfills, through a 'Management Plan' by addressing risks in order of priority whereby the first action addressed poses the greatest risk and the final action presents the lowest risk. The 'Management Plan' will act as a register of Council owned or controlled contaminated land and be reviewed by Council's Property Services team on an ongoing basis. At least annually the Management Plan will be reviewed to ensure the risk prioritisation is correct and adopted mitigations are appropriately addressing adverse impacts.

Risks for identified sites will be documented in the Management Plan and treated in accordance with Councils Risk Management Policy.

9.2. Methodology to mitigate Council's liability for contaminated land

In addition to the methodology outlined for Council owned and controlled land, Council will undertake the following actions to further the appropriate management of non-council owned contaminated land within the municipality.

- Collate information held by Council identifying impacted land within the municipality.
- Complete a gap analysis of impacted land identified against publicly available records maintained by state Government or other relevant entities.
- Tabulate known and likely risks associated with each site

- Council will make available to the EPA and relevant public land managers a list of all of such sites that have been identified as being potentially contaminated.

10. Management Plan

Council will develop a Management Plan to document all known contaminated sites. This document will act as a register and document the relative risks and their treatments. As additional information becomes available, it will be added to the Management Plan. The methodology applied to Council owned property is to be adopted from that methodology applied to non-Council owned land in respect of Council mitigating liability.

10.1. Development of the Management Plan:

- Identify all known contaminated sites that are owned or under the control of Council.
- Identify risks for each site.
- Develop treatments for those risks.
- Progressively review the history of all Council owned sites that are at present being used for sensitive uses. Identify those sites with a potential for site contamination.
- Progressively undertake a review of Council owned land to assess its potential to be contaminated.
- Arrange preliminary and detailed site assessments based on the likelihood of site contamination to be undertaken by EPA approved or other suitably qualified professionals, or EPA accredited auditors.
- Determine a management plan including timeline and budget for any site remediation and management, consistent with the level of assessed contamination and incorporating short and long term management strategies.
- Decide the best mix of short and long term management strategies to ensure site safety and efficient resource management in all contaminated sites. Base these decisions on advice from the site assessors.
- Keep a comprehensive record of Council decisions and rationale, including a process for strategic review.

10.2. Implementation of the Management Plan

Council will maintain a panel of environmental consultants and environmental auditors and make appropriate appointments from the panel to undertake works as necessary, to fulfill the objectives of this policy and to undertake works set out in the Management Plan. The Consultants and Auditors will be directed by Council's Property Services team, who will administer and be responsible for all contracts arising from the management plan.

Commence and continue community and stakeholder consultation in general and for specific sites.

Monitor and report on the implementation of the Management Plan

10.3. Reviewing Divestment & Responsibility for costs of Remediation

- Identify responsibility for site remediation in accordance with polluter pays principle of State Environment Protection Policy (Prevention and Management of Contamination of Land 2002).
- For all Council sites to be sold in future, integrate assessment and remediation of site contamination as part of the divestment process.
- Review contracts with outsourced agencies for Council activities with potential for site contamination (for example, waste management) in the context of risk management.

10.4. Reducing future risk

- Undertake environmental assessments where appropriate prior to purchasing land.
- Ensure that Council operational sites are properly equipped and designed to prevent contamination of land from Councils activities.
- Include environmental clauses in leasing and licensing agreements for Council owned or controlled land.
- Increase staff expertise in this area (for example, staff secondment, specific recruitment and training).

11. Transition/Translation arrangements

The policy commencement date is 24th November 2015.

12. This policy is to be reviewed by 30th November 2018.