

# Contaminated Land Policy and Assessment



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EIANZ forum, Ballina  
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# Outline

- Planning and planning tools
  - Contaminated Lands Policy / DCP
  - Contaminated Lands Information Register
  - s.149 Planning Certificates
- Assessment
  - Dealing with Contaminated Lands as part of a Development Application
- Clean up Notices
  - Dealing with Contaminated Lands under the Protection of the Environment Operations Act 1997
- Case Studies

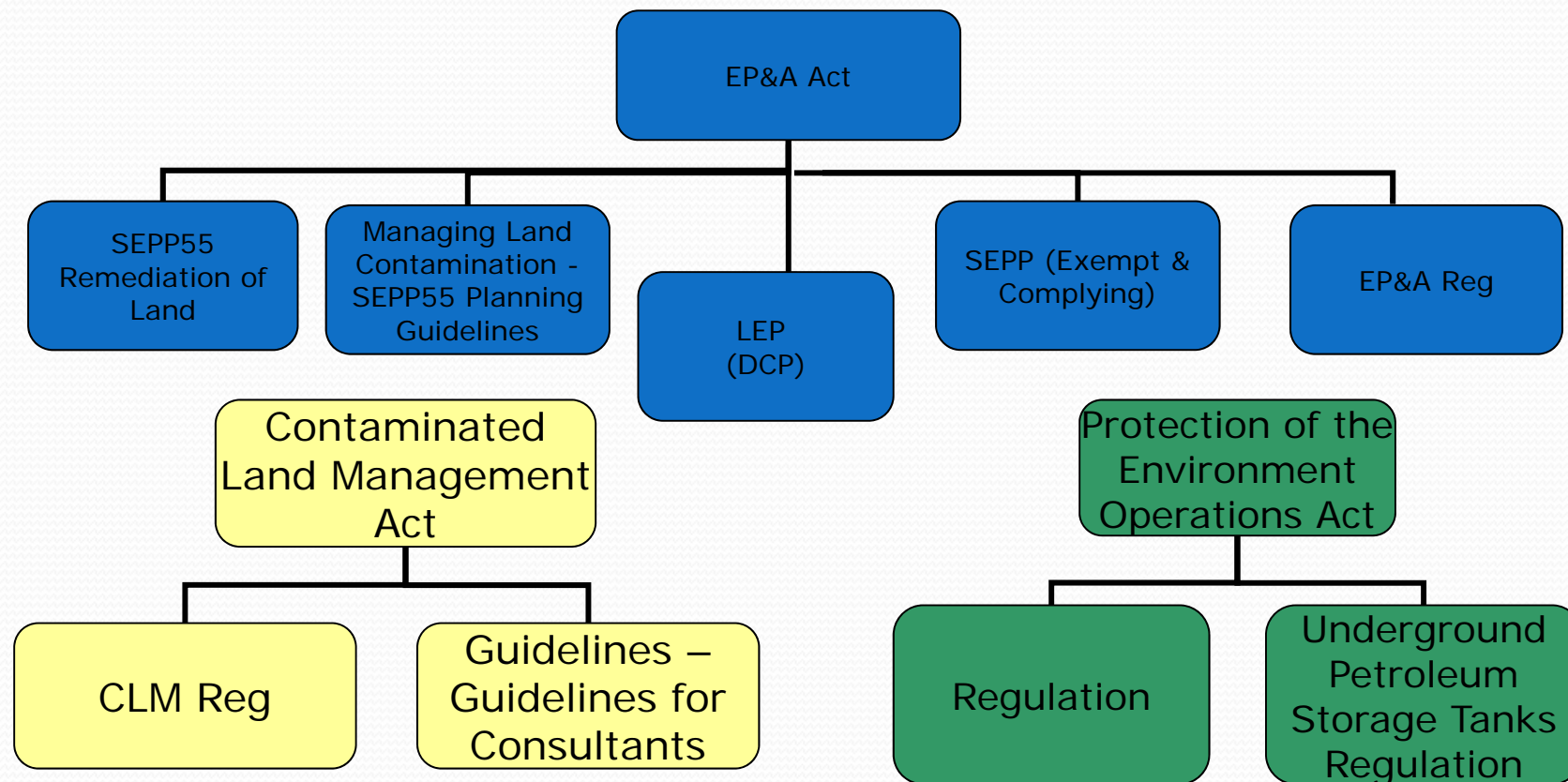


# Planning

Ensuring the documents and policies are available to enable the remediation and management of Contaminated Lands



# Planning - Legislative Framework





# Contaminated Land Policy

**LEP** – A separate contaminated clause is not included in the LEP standard instrument. Contaminated Lands and suitability of lands covered under clause 79(c) of the EP&A Act and SEPP 55.

**SEPP 55** – Clause 6. The allocated zone must be suitable for the contamination status of the land when considering making an environmental planning instrument. Clause 7 – Suitable land use.

**Development Control Plan** – Provides the controls for certain types of development.


**Protection of the Environment Operations Act** – Legislation that can be used in emergency situations.

**SEPP (Exempt and Complying Development Codes) 2008** – Aims to provide streamlined assessment processes for development that complies with specified development standards.

# SEPP 55 – Remediation of Land

- **Clause 6 – Contamination and remediation to be considered in zoning or rezoning proposals.**
  - Must identify classes of land
  - Will require evidence of land status prior to consenting to zone changes
- **Clause 7 – Contamination and remediation to be considered in determining development applications.**
  - Council must consider whether the land is contaminated.
  - the land is suitable in its contaminated state or after remediation.
  - Is satisfied that remediation will be carried out prior to the land being used for the approved purpose.




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- **Category 1 Remediation works – Requires development consent.**
  - **Category 2 Remediation works – Requires:**
    - notification to Council 1 month prior to commencement of works
    - Submission of a Validation report 30 days after completion of works to Council
  - ▶ **Section 9(f)** allows Councils to nominate remediation works as Category 1 in a policy made under the contaminated land planning guidelines



# Draft Development Control Plan 2015

- Sutherland Shire Council took the option of including additional works as **Category 1 remediation** in accordance with **Clause 9(f) of SEPP 55**.
  - Remediation work within 40m of an open drainage channel, creek or water body.
  - Remediation work involving treatment of groundwater,
  - Remediation work involving on-site treatment of contaminated soil eg: soil stabilisation, land-farming, soil washing or thermal desorption.
  - Remediation work involving on-site capping or containment of contaminated soils.

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- Remediation work on a site where off-site migration of contaminants has occurred.
  - Remediation work involving the removal of Petroleum and other Underground Storage Tanks.
  - **Reasons for nomination of Category 1 Remediation Works**
    - Shallow groundwater, sensitive environments, many waterways, works often not compliant with SEPP 55.
    - SEPP 55 is difficult to enforce (Division 3 (Orders of the Court) & 4 (Offences) EP&A Act 1979)



# SEPP (Exempt and Complying Development Codes) 2008

- Over rides LEP, and SEPP 55.


*(1) If this Policy and any other State environmental planning policy, whether made before or after the commencement of this Policy, specify the same development, as either exempt development or complying development, the other Policy does not apply to that development, except as provided by subclauses (2)–(4).*

- (5) Specific land exemptions for Commercial and Industrial (New Buildings and Additions) Code

*5(d) land that is significantly contaminated land within the meaning of the Contaminated Land Management Act 1997,*

- Does not recognise that residential land can be contaminated.
- Does not apply to land that is in Class 1 & 2 ASS areas, Environmentally Sensitive land, heritage conservation area, foreshore area, affected by coastal hazard, unsewered land.



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- Section 1.20 of the Act refers to covenant's imposed by Council as over-riding the SEPP.
  - Conflicting legal advice as to whether a covenant can be imposed by Council or whether it must be imposed by the owner of the land to override SEPP.
  - Council cannot impose a covenant on the title unless it is in accordance with a development standard s1.2. (2)(a) eg: building height, floor space ratio.
  - In accepting a Development Application or Environmental Management Plan on contaminated land, consider:
    - the future likelihood of installation of swimming pools,
    - alteration of slab size,
    - excavations (to 3m) etc,
    - whether the risk assessment will still be adequate for all development permitted or whether it will need to be reassessed.
  - Dept. Planning have been made aware of issue. Still waiting an outcome.



# Managing Contaminated Land Guidelines

- Section 4.2 suggests that it would be useful for Councils to have a DCP that maps previous land uses associated with the activities listed in table 1 of the Guidelines. Used as a guide to areas where further information is required.
- Section 5.1 recommends a flexible information system is needed to accommodate the dynamic nature of land contamination management.



# SSC's CLIR

- First began recording contaminated or potentially contaminated land in 1994.
- Limited data and stored as a hard copy
- In 2006 data was entered into a basic register on Council's database – Proclaim. Info up to 2000.
- Sought funding and approval to update and expand CLIR in 2011
- Researching and investigating properties that have had or currently has a Potentially Contaminating Activity occurring on site.
- The Potentially Contaminating Activities have been determined by Appendix A of SEPP 55 – Remediation of Land Planning Guidelines.





# Processes undertaken

- Review of aerial photographs from 1930 – present
- Review of historical records and archives
- Comprehensive review of Councils records
- Online internet searches
- Interviews
- Site Survey's

# Service Station





# Market Gardens





# Quarry





# Contaminated Lands Register – Recording of information

The screenshot displays the 'Regulatory Officer' software interface for recording information in the Contaminated Lands Register. The main window shows the 'Rams - Application Process' form for Cont. Land Reg. CLD1841. The form includes sections for Status and Decision, Application Details, Categorisation, Log, Related Applications, Clock and Target Details, and Custom Fields. Red arrows highlight specific fields with labels:

- CLIR #**: Points to the 'Cont. Land Reg.' field containing 'CLD1841'.
- Summary of details**: Points to the 'Petrol Station - 1 x 2000gal, 1 x 3000gal, 2 x 500gal UST, tanks still on site, filled with sand' text.
- Property details**: Points to the 'Address: 376A Port Hacking Road CARINGBAH NSW 2229' and other property information.
- Contamination Status**: Points to the 'Status:' dropdown menu, which is currently set to 'Current'.
- Full description of activities and status**: Points to the 'Full Details:' text area, which contains the same description as the summary.

The 'Status and Decision' section shows 'Status:' as 'Current' and 'Stage/Decision:' as 'Potential'. The 'Application Details' section shows 'Full Details:' with the same description. The 'Categorisation' section shows 'Module Code:' as 'Rams', 'Primary Group:' as 'CLIR', and 'Primary Category:' as 'FuelStorage'. The 'Clock and Target Details' section shows a clock with 'Utilised:' 1644 days and 5.9833 hours, and 'Delayed:' 0 days and 0.0000 hours. The 'Custom Fields' section shows 'Date Recorded:' as '5/11/2010 12:00:00' and 'Primary Category:' as 'FuelStorage'.



Regulatory Officer - TechnologyOne Property - 10.04.04.007 - Production Database direct

File Edit View Tools Actions Window Help

My Workplaces My Reports and Files Reminders Preferences

Home Tasks Perform Application Maintenance Quote Maintenance Property Enq Name Enq Land Enq More

Regulatory Officer

Maintain Help back close clear retrieve

### Rams - Application Process

Cont. Land Reg:  Petrol Station - 1 x 2000gal, 1 x 3000gal, 2 x 500gal UST, tanks still on site, filled with sand

Address: 376A Port Hacking Road CARINGBAH NSW 2229  
Legal Description: Lot 21 DP 540106  
Owner Assoc: (from Property) Sutherland Shire Council  
Applicant: Sutherland Shire Council  
Property No: 360175, Assessment No: Land No: 46129 Area: 1303.0000 MSQ

Inherit Custom Fields from Parent Application: [Another Application](#)

Date	Text	Value
Date Recorded: <input type="text" value="5/11/2010 12:00:0"/>	Primary Category: <input type="text" value="Fuelstorag"/> Fuel Storage and Service Stations	Commenced: <input type="text" value="1960"/>
File Update: <input type="text"/>	2nd Category: <input type="text"/>	Ceased: <input type="text" value="1975"/>
Det. Invest: <input type="text"/>	3rd Category: <input type="text"/>	Commenced: <input type="text" value="0"/>
ID not Cont.: <input type="text"/>	4th Category: <input type="text"/>	Ceased: <input type="text" value="0"/>
Confirm Cont.: <input type="text"/>	5th Category: <input type="text"/>	Commenced: <input type="text" value="0"/>
RAP Received: <input type="text"/>	Invest Officer: <input type="text" value="Yassene T"/> Tegan Yasserie	Ceased: <input type="text" value="0"/>
Partial Remedia: <input type="text"/>	DA Received: <input type="text"/>	Commenced: <input type="text" value="0"/>
Remediated: <input type="text"/>	DA Ref: <input type="text"/>	Ceased: <input type="text" value="0"/>
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	DA Received: <input type="text"/>	Commenced: <input type="text" value="0"/>
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Miscellaneous

Records Link:

#### Attachments

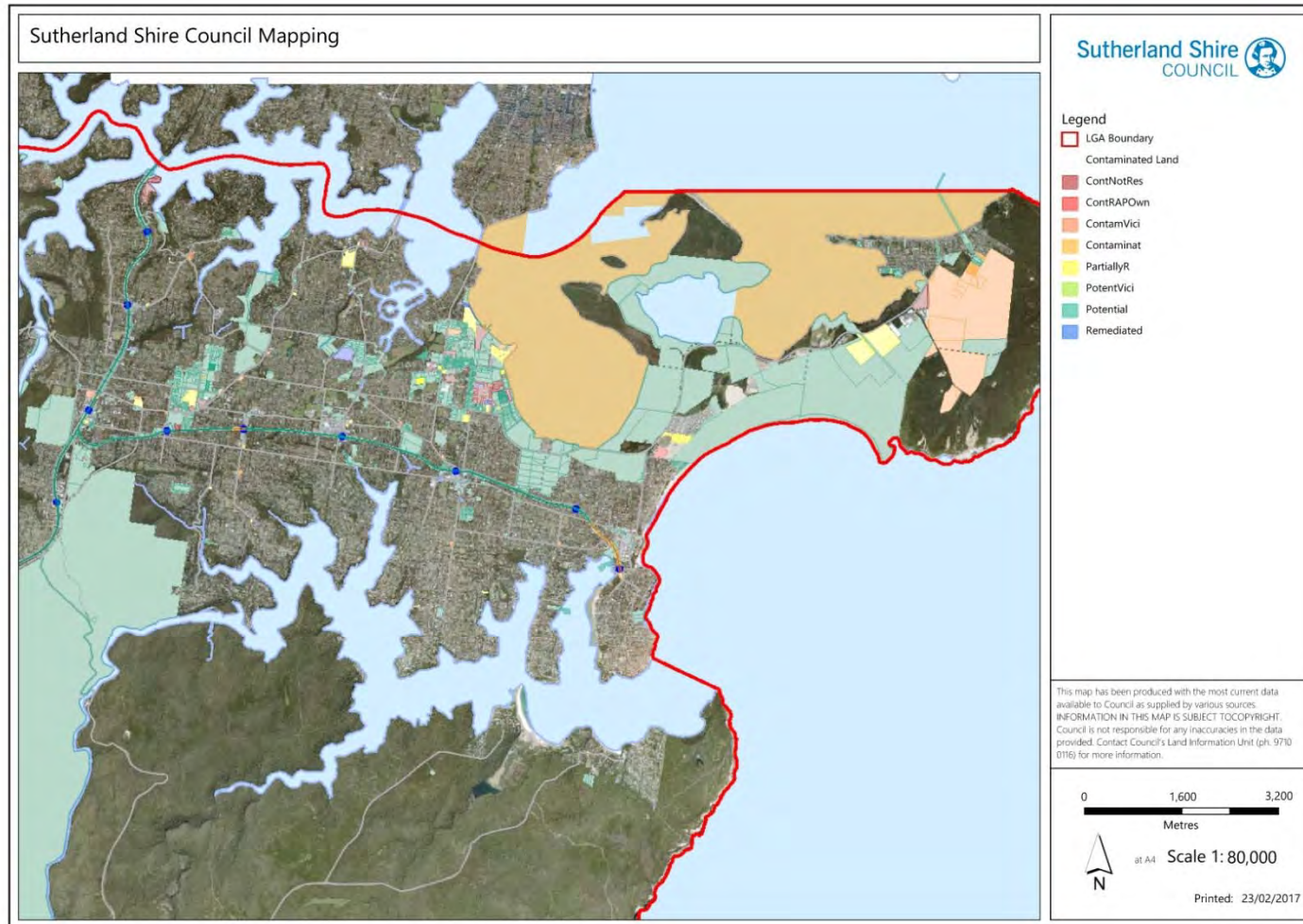
Associations (3)  
Attributes (0)  
Memos (1)  
Aliases (0)

ALERTS 1 Information 0 Events 0 Workflow

12:46 PM 23/02/2017

**Recording DA / Remediation information**

# Mapping of CLIR





# GIS Mapping Tool

