



Resource Planning and Development Commission

Planning Advisory Note 12

Subject: Contaminated Land

Purpose: To advise on the procedure for amending a planning scheme where the land is, or may be, contaminated.

Background

Planning authorities are required to ensure that draft amendments are prepared in accordance with s.32 of the *Land Use Planning and Approvals Act 1993* (the Act) when initiating and certifying a draft amendment. The planning authority must therefore be satisfied that the draft amendment is prepared in accordance with State Policies.

The *National Environment Protection (Assessment of Site Contamination) Measure 1999* (the NEPM) provides a policy framework and guidelines for assessment of site contamination. S.12A of the *State Policies and Projects Act 1993* states that a National Environmental Protection Measure is taken to be a State Policy.

The NEPM states:

6(5) Planning authorities of participating jurisdictions should ensure a site which is being considered for a change in land use, and which planning authorities ought reasonably to have known to have a history of use that is indicative of potential contamination, is suitable for its intended use.

The NEPM suggests that a preliminary investigation based on a comprehensive site history and site sampling should be undertaken to determine whether land contamination is likely. A more detailed investigation may be required depending on the results of the preliminary investigation. In some instances, remediation or management strategies relating to the management of land contamination may also need to be developed.

Procedure for Rezoning Contaminated Land

Specific reporting is required before certifying a draft amendment that relates to potentially contaminated land where the intent of the draft amendment is to allow for use and development that is sensitive to contamination. Sensitive uses are residential uses, or uses involving the presence of people, other than in the course of their employment, for extended periods, such as in childcare centres, schools, hospitals and caravan parks.

An environmental site assessment of contamination and any management works must be undertaken by an appropriately qualified and experienced consultant and referred to the Environment Division of the Department of Environment, Heritage and the Arts for review.

Planning Advisory Notes are prepared by the Resource Planning and Development Commission to explain statutory provisions and provide guidance to planning authorities and others on the operation of the planning system.

Heritage values should, wherever possible, be assessed before any physical assessment of contaminated land is carried out. Heritage Tasmania and the Tasmanian Aboriginal Heritage Office of the Department of Environment, Heritage and the Arts of should be contacted for appropriate advice in this regard.

A planning authority should ensure that neighbours and others who may have an interest in the land are contacted during the preparation of the site assessment and associated reports. This will assist in allaying any concerns and may elicit more information in relation to the previous use.

The Environment Division will audit the assessment and associated reports, and the Director of Environmental Management will provide a written endorsement, or “sign-off”, if appropriate works and investigations by a suitable qualified consultant have been undertaken and it is reasonable to rely on the consultant’s recommendation that the land is suitable for its intended use or development.

A planning authority should not certify a draft amendment affecting potentially contaminated land until:

- the Director of Environmental Management has signed-off that the land is suitable for redevelopment or change of use; or
- a remediation or management plan relating to the management of land contamination have been prepared to the satisfaction to the Director of Environmental Management.

Where a remediation or management plan has been prepared to the satisfaction to the Director of Environmental Management, a planning authority may consider a draft amendment provided that the draft amendment contains specific provisions to ensure that “sign-off” from the Director of Environmental Management has been obtained prior to any change of use or resulting development commencing.

All information relating to the contamination issues, including advice from the Environment Division should be provided to the Resource Planning and Development Commission (the Commission) when submitting the amendment for approval.

The same procedure should be followed when submitting a draft planning scheme for certification where it is intended to provide for use and development on any land that may be contaminated and where any sensitive use or development is able to be undertaken.

Further Information

Further information relating to the management of contaminated land, including Department of Environment, Heritage and the Arts (July 2007): *Information Bulletin 112: The “Sign Off” Process*, Department of Environment, Parks, Heritage and the Arts, Tasmania, can be viewed by going to the Environment Division webpage at <http://www.environment.tas.gov.au> and then following the Land Contamination link.

Relevant legislation may be viewed at <http://www.thelaw.tas.gov.au>.

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