

Reforming site contamination assessment in the planning system

What is the Planning and Design Code?

The Code is the cornerstone of South Australia's new planning system and will become the state's single source of all planning zones and rules for assessing development applications. It will replace all 72 Development Plans by 1 July 2020. The Code aims to make the development application process quicker, simpler and more equitable, giving people greater access to planning information that is consistent and clear, and available online 24/7.

A global issue with state wide implications

Site contamination exists in most urbanised areas around the world. There are an estimated 160,000 contaminated sites across Australia, with the EPA currently holding information on its public register on approximately 2,500 sites in South Australia.

While not all of these sites are contaminated, they are indicators of South Australia's industrial and manufacturing history that has left a chemical disposal legacy.

Urban renewal and community health

Community awareness about site contamination is growing as a focus on urban renewal and greater demand for housing is leading to the conversion of former industrial lands to mixed use residential areas. The community rightly want to know if their home, school or office will be safe when undertaking development on, or near, former industrial land.

In recognition of this issue, *State Planning Policy 16: Emissions and Hazardous Activities* recognises the critical role of the planning system in safeguarding communities and the environment from potential site contamination, particularly when a change in land use is proposed.

A partnership approach to reform

The development industry continue to highlight unnecessary costs, delays and disputes that arise from the inconsistent use of optional planning mechanisms to address site contamination.

To address this, DPTI and the EPA have partnered with the local government sector and industry groups to reform the site contamination assessment process to simplify guidance for practitioners, to safeguard community health and ensure a clear and even playing field for developers.

Clearer guidance and simplified processes

The changes introduce a risk-based approach to determine site suitability. Consisting of four steps, the procedure is based around a staged assessment of site conditions based on previous uses of the land, and only applies when a more sensitive use than previous is proposed.

In addition to policy contained within the Code, a draft *Practice Direction* has been prepared to provide clear direction on the steps required. The draft *Practice Direction* will accompany the release of the Code for consultation. Supporting amendments to the *Planning, Development and Infrastructure (General) Regulations 2017* will also occur.

Benefits of the new process

For Government

30 Year Plan for Greater Adelaide – the reforms would ensure the necessary site contamination investigations to safeguard development of potentially contaminated land. Safe development would be attractive to the community and thereby help to realise the economic benefits of urban consolidation including reduced infrastructure supply costs, more efficient use of existing infrastructure, and reduced loss of agricultural land.

Protection or enhancement of property values - by undertaking adequate site contamination investigations and any necessary remediation, the reforms would have a beneficial effect on state revenue via taxes and charges that are based on property values.

For the community

Protecting health and safety - By helping to ensure that site contamination is adequately investigated and providing more effective guidance regarding necessary remediation, the reforms would help ensure that the health and safety of the community is more effectively protected.

Protecting property values – The reforms would help protect the value of residential properties from the adverse impacts of retrospective identification of site contamination. This can potentially result in assets becoming a net liability if a decline in property values is sufficient to result in them being worth less than borrowings undertaken to fund acquisition.



For developers

The proposed reforms **limit intervention and assessment** through a risk based framework.

Importantly, under these reforms only the EPA can direct an audit be undertaken, providing improved consistency compared to the ad hoc council led approach (refer to Table I for predicted costs savings where an audit is not required).

Benefits for developers include:

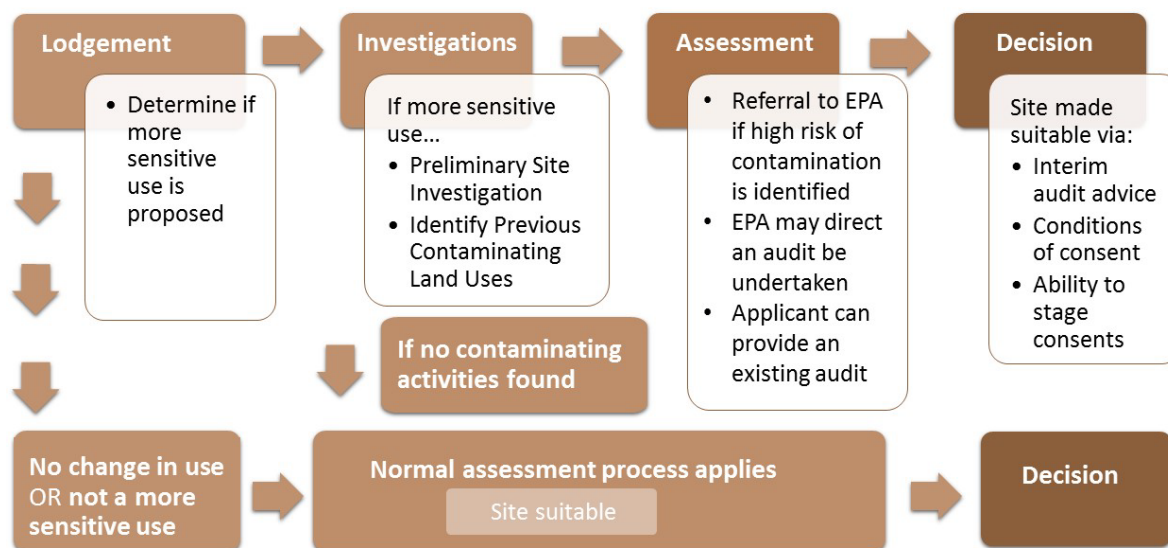
- ✓ greater certainty – build into financial models and project timeframes
- ✓ equity – levels the playing field
- ✓ efficiency – proportionate expenditure at the appropriate stage
- ✓ enhanced market confidence
- ✓ clear path for managing liability under the *Environment Protection Act 1993* (s.103D) - assigned to developers when undertaking a 'change in land use' application
- ✓ protection and enhancement of property values which can increase profitability
- ✓ improved ability for developers to secure finance on the basis of addressing legacy risks
- ✓ avoiding expensive surprises during brownfield development, which can stall development.

Table I: Developer cost savings where audit not required

Development scenario	PSI costs per allotment/unit	PSI costs as % of total development costs	Cost saving where only PSI* required
50 lot residential land division (excluding dwelling construction) CAPEX \$3.0 - \$3.6 million PSI costs \$3K - \$10K	\$60 - \$200	0.08% - 0.3%	\$55,000 - \$130,000
Residential apartment complex (20-26 units) CAPEX \$2.7 - \$11.25 million (high end) PSI costs \$3K - \$10K	\$115 - \$500	0.03% - 0.4%	\$35,000 - \$120,000
Notes and assumptions: *PSI means Preliminary site investigation. Investigation and auditing costings based on a 2019 survey of site contamination auditors. Development costs derived from Renewal SA and DPTI sources. Development scenarios are based on conservative assumptions with larger scale residential land divisions and apartment complexes seeing bigger savings as a percentage of total costs and smaller per allotment/unit costs.			



An overview of the new assessment process



NB: a more detailed process diagram for practitioners is provided within this consultation package.

Implications of the proposed reforms

Residential land supply

Minor infill - Minor infill contributed around 40% to the annual metropolitan housing supply growth within Greater Adelaide¹ between 2012 and 2018. Minor infill is classified as development and adaptation of the existing housing stock, including demolition and resubdivision, on sites less than 4,000m² and involving 10 dwellings or less.

Importantly, reforms to site contamination assessment will not impact minor infill, which will remain an important aspect to Adelaide's settlement pattern.

Redevelopment of the existing housing stock does not typically involve land use change. Where land use change does occur it's to a less sensitive use (moving to medium density housing with limited or no access to soils), and would not trigger the need for site contamination investigations.

Broadhectare land - Land is classified as broadhectare if it is residentially zoned (including mixed use zones), greater than 4,000m², and satisfies certain land use and ownership criteria². Broadhectare land can be located on greenfield sites on the urban fringe, established urban areas and in regional townships, and contributes around 30% to net dwelling increase in Greater Adelaide³.

The site contamination reforms will not impact urban development on market and development ready broadhectare land⁴.

¹ DTPI (2018) 'Minor Infill Greater Adelaide: 2012 – 2018'

² DTPI (2018) 'Residential broadhectare land supply report: Greater Adelaide region and selected regional towns'

³ State Planning Commission (2019) 'People and Neighbourhoods: Policy Discussion paper, September 2019'

⁴ Market ready means land which has an application for subdivision lodged and has been granted Development Approval. Lots may be ready for sale.

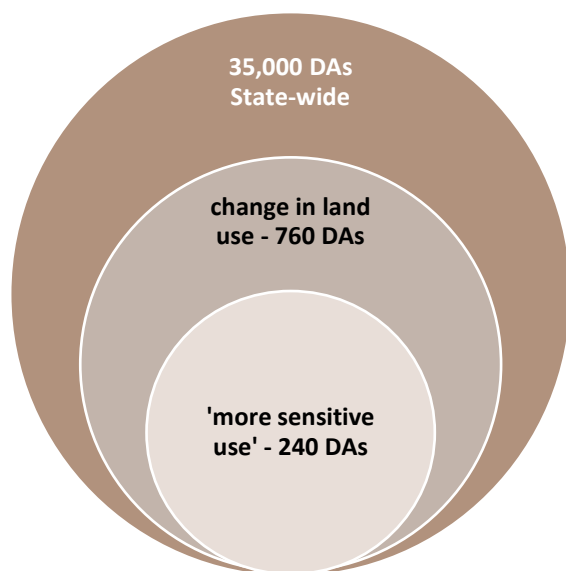
Project viability and pricing

The risk-based reforms primarily target major infill and future urban growth areas. This form of development accounts for about 30% of the net dwelling increase in Greater Adelaide³, is often master-planned and typically achieves high-quality design outcomes along with strong yields.

Where major infill redevelopment occurs on former industrial or commercial land, the reforms are expected to improve market confidence that site contamination is being adequately managed.

Figure 1 shows the predicted gross number of development applications (DAs) that might be impacted. Given the State-wide inconsistencies in site contamination assessment (discussed above) this analysis assumes about 120 DAs (50% of 240) do not currently adequately consider potential site contamination.

Figure 1: Assumed⁵ gross number of development applications (DAs) involving a land use change to a 'more sensitive use'



Site contamination investigations, including audits, are already undertaken for a number of DAs across the State. With Greater Adelaide having one of the lowest average housing construction costs in Australia³, there is no evidence that undertaking adequate site contamination investigations has resulted in a significant number of projects becoming unviable, or a significant increase in property prices.

The reforms will deliver a level playing field and potential costs savings to developers.

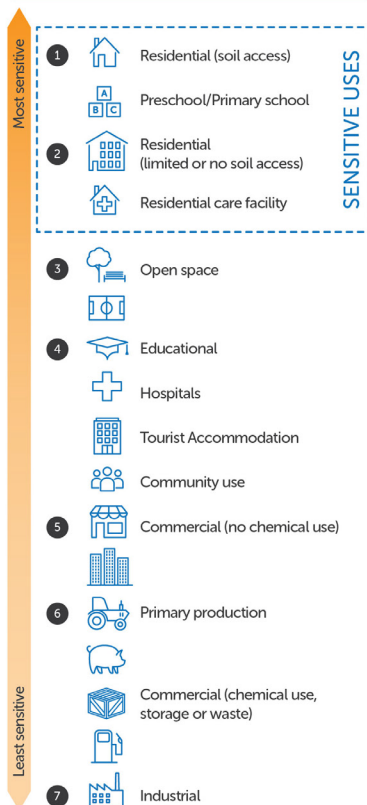
For further information on the Code, you can visit the SA Planning Portal at:

www.saplanningportal.sa.gov.au/en/have_your_say

³ Development ready means land which has an application for subdivision lodged but is awaiting Planning Approval.

⁵ Assumptions derived from various data sources including DPTI, EPA and the City of Charles Sturt

Land use sensitivity hierarchy



Did you know?

If you are moving up the ladder (hierarchy) your proposal is a 'more sensitive use'

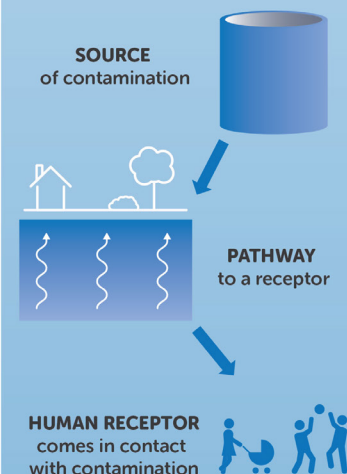


STEP 1

Land Use Sensitivity

Changing the land use can cause site contamination, even if you are not the original polluter.

In order for site contamination to become a problem, there needs to be:



By changing the land use you may change the **PATHWAY** or potential **HUMAN RECEPTORS**.

Fast track pathways

No change in land use OR equally OR less sensitive land use

STEP 2

Investigations

If your proposal is changing the land use to a 'more sensitive use' you need to investigate potential site contamination.

Looking for (past or current) **Potentially Contaminating Activities (PCA)** is a reliable and cheap way of identifying likely **SOURCES** of contamination.

Not all activities are equal.

A site contamination consultant undertakes a **Preliminary Site Investigation (PSI)**

increasing potential risk

PCAs

Low risk



eg: broad acre cropping (class 3)

Medium risk



eg: cement works (class 2)

High risk



eg: petrol station (class 1)

Known site contamination on site, and on adjacent or other land* **known to impact subject site** should be defined in PSI.

No PCAs identified on site or known off site

STEP 3

Assessment

PSI finding may lead to site contamination consultant recommending **Detailed Site Investigations (DSI)**



DSI may recommend **REMEDiation**

EPA REFERRAL

'more sensitive use' + Class 2 PCA + Class 1 PCA



Sensitive use ie. 1 or 2 in land use sensitivity hierarchy

EPA Referral



EPA Referral

LOWER RISK
EPA RISK ASSESSMENT
HIGHER RISK

Submit a site contamination audit report (≤5 years old) at any time (at your discretion) showing site is suitable or can be made suitable

STEP 4

Site Suitability

Relevant authority decision

Site Contamination Consultant statement of site suitability

Planning Decision



Site Contamination Consultant

EPA Direction



Site Contamination Auditor

Interim audit advice

Only the EPA can **direct** an audit to be undertaken

Site Suitable



Notes

* 'other land' means land as identified on the SA Planning Portal or EPA website

Site Contamination and the Planning System