

# Guide to using the IDAS development application forms

## Guide 5 — Contaminated land matters v2.2 February 2009

This guide has been prepared to assist applicants and local governments determine if an application triggers assessment by the Environmental Protection Agency (EPA) for consideration of contaminated land matters.

### The triggers relating to contaminated land matters

An application involving development may trigger assessment in relation to contaminated land matters if the development is for a material change of use of premises, or reconfiguring a lot, if:

#### Trigger 1

All or part of the land forming part of the premises is on the Environmental Management Register (EMR) or Contaminated Land Register (CLR) under the *Environmental Protection Act 1994* (EP Act), unless an exemption applies (see the list of exemptions below).

The EMR and CLR are land use planning and management registers. The EMR provides information about whether land has been or is currently subject to a notifiable activity or has been contaminated by a 'hazardous contaminant' (see definition in this guide). The CLR is a register of proven contaminated land that is causing or may cause serious or material environmental harm, or

#### Trigger 2

All or part of the land forming part of the premises is used for, or if there is no existing use, was last used for:

- i. a notifiable activity<sup>1</sup> under Schedule 2 of the EP Act (see the summary list of notifiable activities below), unless an exemption applies (see the list of exemptions below); or
- ii. an industrial activity (other than a mining or petroleum activity<sup>2</sup>), and the proposed use is for child care, educational, recreational or residential purpose, including a caretakers residence on industrial land, unless an exemption applies (see the list of exemptions below).

Land uses that have been identified as likely to cause land contamination are listed as 'notifiable activities' in schedule 3 of the EP Act. Common land uses that are notifiable activities include service stations, cattle dips, tanneries, wood treatment sites, landfills and fuel storage. A summary of these uses is included in this guide. For the complete detailed list, refer to schedule 3 of the EP Act.

<sup>1</sup> Land uses that have been identified as likely to cause land contamination are listed as 'notifiable activities' in schedule 3 of the EP Act. A summary list of these notifiable activities is also provided in this guide. Common land uses that are notifiable activities include service stations, cattle dips, tanneries, wood treatment sites, landfills and fuel storage.

<sup>2</sup> The term 'mining activity' is defined in s147 of the EP Act and the term 'petroleum activity' is defined in schedule 4 of the EP Act.

Your application may involve land where there are (or have been) industrial uses which are not on the EMR or CLR. Still, the EPA needs to ensure that the proposed change in land use to a more sensitive use is appropriate (e.g. a boat repair premises going to a child care centre), or

### Trigger 3

All or part of the land forming part of the premises is in an area for which an area management advice (AMA<sup>3</sup>) has been given for natural mineralisation or industrial activity (other than for a mining or petroleum activity), and the proposed use of the land is for child care, educational, recreational or residential purposes, including a caretaker residence on industrial land, or

### Trigger 4

All or part of the land forming part of the premises is in an area for which an AMA has been given for unexploded ordnance.

## Exemptions

If any of the exemptions listed below apply to a development, the application does not need to be assessed by the EPA with regards to contaminated land matters.

### Exemptions in relation to Trigger 1

- a) A 'suitability statement' has been given, and a 'site management plan' (SMP) approved for the land for the intended use and the application only involves:
- the fit-out of a building on the land, or
  - minor site excavation (e.g. the digging of post holes for open-sided, non-habitable structures).

This exemption applies where land is vacant but the previous use of the land was a notifiable activity.

If a suitability statement has been given and a SMP approved for the intended use, as long as the site is still being used for that intended use and the application only involves the fit-out of a building on the land or minor excavation (i.e. no large areas of soil disturbance), the EPA does not need to assess the application.

In this instance, the level of risk has already been assessed in the giving of the suitability statement and approval of the SMP.

- b) There is currently a notifiable activity on the land and the activity is continuing. This exemption applies where a site is currently used for a notifiable activity and that same use and notifiable activity is continuing (e.g. the expansion of a service station by the doubling of the number of underground storage tanks).

In this instance the EPA does not need to assess the application as the same use and notifiable activity is continuing.

- c) The proposed use is industrial and only involves minor site excavation (eg. the digging of post holes for open-sided, non-habitable structures).

This exemption applies where the application is for minor works on industrial uses such as a warehouse or office (e.g. adding an awning).

In this instance, as long as there is only minor excavation (i.e. no large areas of soil disturbance), the EPA does not need to assess the application for the management of potentially contaminated or contaminated land.

<sup>3</sup> AMAs are held with the EMR and CLR. A search of these registers will provide AMA details.

- d) The land is used for a mining or petroleum activity (for a material change of use application only).

Contaminated land management for a mining or petroleum activity<sup>2</sup> is considered as part of the environmental authority under the EP Act for these developments.

#### Exemptions in relation to Trigger 2

- a) A 'suitability statement', removing the land from the environmental land register (EMR) has been given for the existing use (or if there is no existing use—the last use), and:
- no new notifiable activity has occurred on the land since the suitability statement was issued, and
  - the land is not otherwise contaminated by a hazardous contaminant.

This exemption applies where the previous use of land was for a notifiable activity and a suitability statement has been issued for the land removing it from the EMR.

This means that the site has previously been assessed and as long as no new notifiable activity has occurred on the site (i.e. there has been no new potential for contamination) and the site is not otherwise contaminated with a hazardous contaminant, the EPA does not need to assess the application.

- b) A 'suitability statement', has been given and a 'site management plan' (SMP) approved, for the land for the intended use and the application only involves:
- the fit-out of a building on the land, or
  - minor site excavation (e.g. the digging of post holes for open-sided non-habitable structures).

This exemption applies where a suitability statement has been given for the land and a SMP has been approved for the intended use. As long as the site is still being used in accordance with the SMP and the application only involves the fit-out of a building on the land or minor excavation (i.e. no large areas of soil disturbance), the EPA does not need to assess the application.

In this instance, the levels of risk and conditions of use have already been assessed in the giving of the suitability statement and approval of the SMP.

- c) The land is used for a mining activity or petroleum activity (for a material change of use application only). Contaminated land management for a mining or petroleum activity<sup>2</sup> is considered as part of the environmental authority issued under the EP Act for these developments.

## Definition of a hazardous contaminant

A 'hazardous contaminant' is a contaminant that, if improperly treated, stored, disposed of or otherwise managed, is likely to cause serious or material environmental harm because of:

- its quantity, concentration, acute or chronic toxic effects, carcinogenicity, teratogenicity, mutagenicity, corrosiveness, explosiveness, radioactivity or flammability, or
- its physical, chemical or infectious characteristics.

## Assessment manager and referral arrangements

Applications are, in most cases, lodged with the local government as the assessment manager, with the application being referred to the EPA as concurrence agency. The EPA is the assessment manager when the development does not involve assessment under the planning scheme or the reconfiguration of a lot. However, the local government is always the assessment manager where an AMA for unexploded ordnance has been given.

When an application involves contaminated land matters Part N of Form 1 and the IDAS Assessment Checklist must be completed in addition to Part A.

## Assessment by the EPA of contaminated land matters

When assessing an application, the EPA must determine if any investigations in relation to contaminated land issues are required. Where applicable, the EPA recommends that contaminated land issues be addressed as early as possible in the planning process as contaminated land assessment and remediation can, in many instances, be a lengthy process.

When an application is made for a material change of use on land triggering assessment of contaminated land matters and the application involves a change to a more sensitive use and/or significant earthworks, the EPA require sufficient information to be provided with the application to ensure a 'suitability statement' can be issued under Chapter 6, Part 8 of the EP Act. If this information is not provided with the application on lodgement, the EPA is likely to issue an information request requiring site investigation and/or remedial works.

Where an application is being made for the reconfiguration of a lot on land triggering the assessment of contaminated land matters, the EPA will require sufficient information to determine that the new lots will be suitable for the intended use. If this information is not provided with the application on lodgement, the EPA will request this information as part of an information request.

## Search of the registers

If it is possible that a site is contaminated, it is strongly recommended that a search of the EMR and CLR be conducted. There is a small cost associated with this search.

A joint search of these registers is available—phone the Ecoaccess Customer Service Unit on 1300 368 326, or request an on-line search through Smart Service Queensland [www.smartservice.qld.gov.au/AQ](http://www.smartservice.qld.gov.au/AQ)

For an immediate response, search on-line via CITEC CONFIRM at [www.confirm.com.au](http://www.confirm.com.au)

The fee can be paid by credit card on-line for the latter two options.

## Application fee

There are currently no fees applicable to the assessment of a development application in relation to contaminated land matters. However, where assessment includes consideration of a site investigation report under the EP Act, a fee will apply.

## For more information

For further information, or to submit an application (where the EPA is the assessment manager) contact:

Contaminated Land Unit  
Floor 16, 288 Edward Street, Brisbane  
GPO Box 2771 Brisbane Qld 4001  
Tel: (07) 3225 1827  
Fax: (07) 3247 3278

For technical advice contact the Contaminated Land Unit, EPA.  
EPA's information sheets available free of charge from [www.epa.qld.gov.au](http://www.epa.qld.gov.au) or contact your local government.

## Summary list of notifiable activities

Note: For the fully detailed list, refer to schedule 3 of the *Environmental Protection Act 1994*.

1. Abrasive blasting
2. Aerial spraying and associated washing activities
3. Asbestos manufacturing or disposal
4. Asphalt or bitumen manufacturing
5. Battery manufacturing or recycling
6. Chemical manufacturing or formulation
7. Chemical storage (other than petroleum products or oil under item 29)
8. Coal fired power station
9. Coal gas works
10. Drum reconditioning or recycling
11. Dry cleaning
12. Electrical transformers
13. Engine reconditioning works
14. Explosives production or storage
15. Fertiliser manufacturer
16. Foundry operations
17. Gun, pistol or rifle range
18. Herbicide or pesticide manufacture
19. Landfill
20. Lime burner
21. Livestock dip or spray race operations
22. Metal treatment or coating
23. Mine wastes
24. Mineral processing
25. Paint manufacturer or formulation
26. Pest control
27. Petroleum or petrochemical industries including a petrol depot, terminal or refinery or a facility for the recovery, reprocessing or recycling of petroleum-based materials
28. Petroleum product or oil storage
29. Pharmaceutical manufacture
30. Printing
31. Railway yards
32. Scrap yards
33. Service stations
34. Smelting or refining
35. Tannery, fellmongery or hide curing
36. Waste storage, treatment or disposal
37. Wood treatment and preservation