

Integrating environment protection reform into land use planning

Consultation Report



Acknowledgment

We acknowledge and respect Victorian Traditional Owners as the original custodians of Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

We are committed to genuinely partner, and meaningfully engage, with Victoria's Traditional Owners and Aboriginal communities to support the protection of Country, the maintenance of spiritual and cultural practices and their broader aspirations in the 21st century and beyond.



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Introduction

The Department of Environment, Land, Water and Planning (DELWP) has prepared updates to Victoria's land use planning system to bring it in line with the new environment protection framework, due to come into effect from 1 July 2021.

The updates will ensure that the *Environment Protection Act 2017* (EP Act 2017) (as amended by the *Environment Protection Amendment Act 2018*) and its subordinate instruments function at commencement, and that effective interaction between the environment protection framework and the land use planning framework is maintained and improved. This includes amendments that will integrate new requirements for the management of potentially contaminated land within the planning system.

The updates include changes to the Victorian Planning Provision (VPP) clauses that refer to instruments under the EP Act. They also include updates to *Ministerial Direction No. 1 – Potentially Contaminated Land*, and *Planning Practice Note 30: Potentially Contaminated Land*.

These updates were developed in collaboration with the Environment Protection Authority (EPA) and deliver on commitments in the Government response to the Independent Inquiry into the Environment Protection Authority¹. They follow on from extensive public consultation held to inform the development of Victoria's new environment protection laws.

Public consultation

DELWP invited feedback on proposed updates to planning provisions through an online form on the Engage Victoria website². The formal response process was open from 3 April 2020 until 2 June 2020, with some late submissions also accepted.

DELWP invited feedback on draft amendments to the following instruments:

1. **VPP Clause 13.04-1S Contaminated and potentially contaminated land**
2. **VPP Clause 45.03 Environmental Audit Overlay**
3. **VPP Clauses 65.01 and 65.02**
4. **VPP Clause 73.01 General Terms**
5. **Ministerial Direction No. 1 – Potentially Contaminated Land (MD1)**
6. **Planning Practice Note 30 – Potentially Contaminated Land (PPN30)**

An overview of other proposed administrative updates to the Victorian Planning Provisions was also provided for comment. These include mainly administrative changes necessary to update references in the planning system to align with the EP Act 2017 and new subordinate instruments proposed to apply from 1 July 2021.

Appendix 1 includes the FAQ from the Engage Victoria website to support the public consultation process.

¹ <https://www.environment.vic.gov.au/sustainability/independent-inquiry-into-the-epa>

² <https://engage.vic.gov.au/integrating-environment-protection-reform-land-use-planning>

Summary of submissions received

In total, 57 submissions were received from councils, organisations and individuals (see Figure 1). Councils were represented by 20 metropolitan and 7 regional councils. Organisations included property and housing industry associations, waste management and contaminated land associations and peak bodies, environmental auditor consultancies, water corporations, legal firms and government agencies.

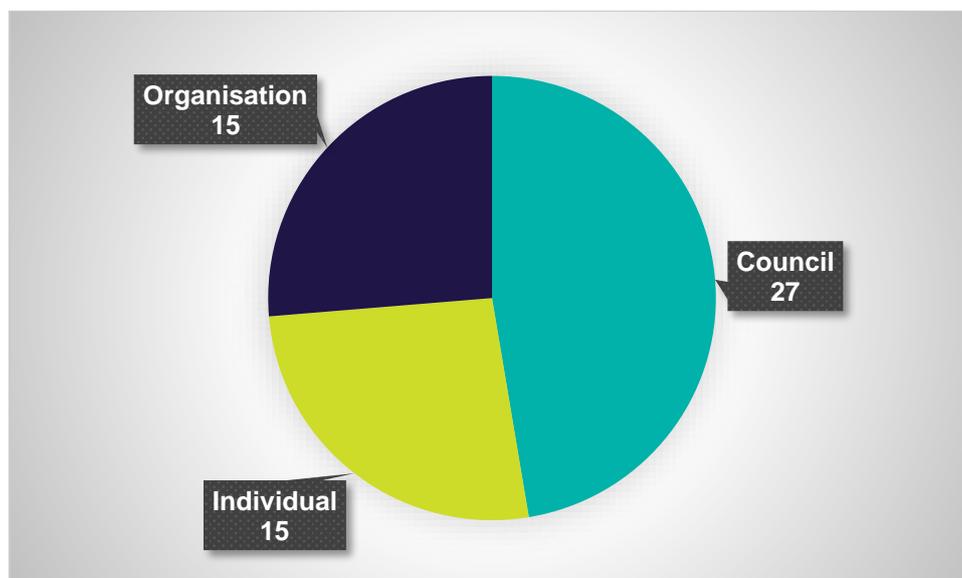


Figure 1 – breakdown of submissions received

Summary of issues raised in submissions

Overview – general issues raised across submissions

Most submissions were supportive of the proposed changes to the land use planning system, recognising that the changes to align with the new Environment Protection framework will lead to a clearer, more effective approach for managing risks associated with potentially contaminated land.

The main issues raised in submissions were requests for clarification of definitions, roles and responsibilities, subdivisions, compliance and enforcement, administrative details and types of guidance that would be available. There were several helpful suggestions to improve grammar, layout, clarity and consistency across the planning instruments. There was also a general desire for clearer and more accessible guidance to support planners and other decision-makers, and consistent feedback that draft Planning Practice Note 30 could be improved to address most of the questions raised.

Where there were concerns with the proposed changes the main issues raised were: the level of expertise required to identify potentially contaminated land; potential costs and time associated with assessments; specific concerns about new proposed requirements for public open space, agriculture, secondary schools and children's playgrounds; and new proposed requirements concerning subdivision of land.

Table 1 provides a summary of the broader issues and concerns raised in the submissions. These account for approximately 80% of all issues raised. Further details on issues raised in the submissions, and our response, are presented in the following sections.

Table 1: Summary of key issues raised in submissions

Issue raised in submissions	Response
<p>Purpose of the amendment: Seeking clarification on why these changes are being proposed.</p>	<p>These changes are required to align the planning system with the new environment protection framework that begins on 1 July 2021 with the commencement of the <i>Environment Protection Amendment Act 2018</i>. This act amends the <i>Environment Protection Act 2017</i> (EP Act 2017) to introduce a preventative approach to environment protection through a general environmental duty, an improved environmental audit system for managing potentially contaminated land, and a more flexible, risk-based approach to permits and licences.</p>
<p>Definitions: Seeking clarification on terms used, scope or purpose of definitions</p> <p><i>More details on definitions are presented in the section on clause 73.01 General Terms.</i></p>	<p>Key definitions have been amended to be clearer and consistent with other uses. The definition of “Potentially contaminated land” has been refined for clarity and consistency. The term “sensitive use” is defined to be consistent with other EPA publications and with national standards. Some terms have remained undefined as common language definitions, relying on their commonly understood meaning.</p>
<p>Roles and responsibilities: Seeking clarification on obligations for land managers/owners and the roles and responsibilities of the EPA and local council. Councils expressed concern over the reforms placing greater onus on councils to assess, identify and control environmental risk matters.</p>	<p>Planning Practice Note 30 has been updated to outline roles and responsibilities, including obligations and responsibilities for landowners, land managers, local councils and EPA.</p> <p>These reforms to the planning system will not increase responsibilities on planning authorities to assess potentially contaminated land. Reforms to the environmental audit system under the EP Act 2017 including the introduction of the preliminary risk screen analysis (PRSA) will provide a clearer pathway for assessing potentially contaminated land.</p> <p>However, under broader changes to the environment protection framework councils may have additional responsibilities to comply with duties under the EP Act 2017.</p>
<p>Expertise required to identify and assess potentially contaminated land: Concerns about the level of technical expertise required to make planning decisions regarding potentially contaminated land.</p>	<p>These reforms to the planning system will not place any new requirements on planning authorities to have technical expertise in contaminated land management. However, under broader changes to the environment protection framework planning authorities may have additional responsibilities to comply with duties under the EP Act 2017.</p> <p>Planning Practice Note 30 has been updated to clarify the process for identifying potentially contaminated land and provide clear guidance to support decision-making.</p>
<p>Process of identifying contaminated land: Seeking clarification as to how and which tools should be used to identify contaminated land</p>	<p>Planning Practice Note 30 has been updated to clarify the process for identifying potentially contaminated land and provide clear guidance to support decision-making.</p>
<p>Compliance and enforcement: Concerns about potential adverse consequences and increased obligations on planning / responsible authorities for ensuring compliance and enforcement of environmental audit recommendations, including upfront or ongoing recommendations and controls.</p>	<p>Following consideration of issues raised in submissions, proposed new requirements on audit recommendations have been removed from clause 45.03 Environmental Audit Overlay and Ministerial Direction number 1. Planning Practice Note 30 provides guidance on procedures for compliance and enforcement of environmental audit recommendations.</p>

Issue raised in submissions	Response
<p>Costs or red tape: Expressing concerns about the costs and time associated with environmental assessments.</p>	<p>These reforms are designed to reduce the costs and time associated with assessments as the reformed environmental audit system has been improved. The audit system under the EP Act 2017 includes the option of a preliminary risk screen assessment where there is uncertainty about the presence of contamination and the need for an audit, and environmental audits are scaled to assess risk more appropriately.</p>
<p>Audit or PRSAs: Seeking clarification for audit requirements/conditions and when to use a Preliminary Risk Screen Assessment (PRSA), and how PRSAs / Audits intersect with planning permits.</p>	<p>Planning Practice Note 30 has been updated to clarify the different forms of environmental assessment, the appropriate use of those assessments, and how they are applicable in the planning system.</p>
<p>Subdivision: Concerns about potential adverse and unforeseen consequences of proposed requirements for environmental assessment before/after a certificate of compliance for subdivision is granted.</p>	<p>Following consideration of issues raised in submissions, the proposed new requirements in Ministerial Direction 1 regarding subdivision of land have been removed and are not included in the revised planning controls.</p>
<p>Guidance: Seeking more detailed guidance on environment protection requirements in the planning system.</p>	<p>Planning Practice Note 30 has been expanded and reworked to offer clearer and more detailed guidance to planners, applicants and other interested parties. Further information will also be available on the DELWP website including links to EPA guidance and documentation.</p>

Submissions on draft planning instruments

Planning Policy Framework: VPP Clause 13.04-1S Contaminated and potentially contaminated land

Updates to Clause 13.04-1S 'Contaminated and potentially contaminated land' were proposed to improve and strengthen the clause and bring it in line with the new environment protection framework. Key changes from the existing provision included:

- Additional and updated strategies.
- Addition of secondary schools and children's playgrounds as being relevant for remediation of contaminated land, along with existing 'sensitive uses' (childcare centres, kindergartens, pre-school centres, primary schools, even if ancillary to another use).
- Reference to the State Environment Protection Policy (Prevention and Management of Contamination of Land) has been removed (as this is no longer a statutory document under the EP Act 2017).

Summary of submissions on VPP Clause 13.04-1S

Twenty eight (28) submissions included specific feedback on proposed changes to VPP Clause 13.04-1S Contaminated and potentially contaminated land:

- 16 were strongly supportive of the proposed changes, with some of these requesting clarifications and minor improvements such as clearer definitions of key terms or for further guidance to be provided in the planning practice note.
- 11 were generally supportive, suggesting moderate changes such as increasing the scope to cover other areas such as agriculture, public open space, buffers around landfills and issues such as aircraft noise
- There were some concerns raised about the potential costs and delays due to requirements for considering potentially contaminated land.

Further details on key issues raised in submissions on VPP Clause 13.04-1S are presented in Table 2.

Changes to VPP Clause 13.04-1S following consideration of submissions

As a result of feedback from submissions VPP Clause 13.04-1S has been revised for additional clarity and to ensure they clearly meet the requirements of the Planning Policy Framework (PPF) including the rules set out in A Practitioner's Guide to Victorian Planning Schemes³.

The key changes include:

- The strategy to require applicants to provide adequate information on the potential for contamination has been removed from clause 13.04-1S. This change has been made as information requirements are not considered appropriate as strategies in the PPF. Information requirements are now covered in guidance provided in Planning Practice Note 30. Note that this does not mean that applicants are not required to provide adequate information, as information will in general be required to ensure land is suitable for use and sensitive uses are protected.
- The strategy to "Impose conditions as necessary to ensure contamination is managed so that the site is suitable for a proposed use and development" has been removed. Additional content is included in Planning Practice Note 30 to clarify the use of conditions to manage contamination.
- The strategy "Require an assessment confirming that the environmental conditions of the site are suitable for a proposed use and development" has been simplified and assessments under the EP Act 2017 are now included as a Policy Guideline.

³ <https://www.planning.vic.gov.au/guide-home/a-practitioners-guide-to-victorian-planning-schemes>

- Reference to assessments pursuant to *National Environment Protection (Assessment of Site Contamination) Measure* is included as a policy guideline.
- An additional strategy has been included to protect sensitive uses including residential use or use as a childcare centre, kindergarten, pre-school centre, primary school, secondary school or children's playground from the effects of potential contamination.

Table 2: VPP Clause 13.04-1S – Key issues raised in submissions

Issue raised in submission	Response
Concern that the Objective of 13.04-1S emphasises broad consideration of environmental contamination under the Planning Scheme, yet the Strategies limit consideration to an amendment or planning permit process. Many 'sensitive uses' occur without the need for a planning permit and / or amendment.	This Objective in the exposure draft 13.04-1S is unchanged from the current provision. The Strategies in 13.04-1S apply to all planning decisions. The planning framework is also complemented by requirements under the EP Act 2017 including the general environmental duty and duty to manage contaminated land. These provide appropriate controls for management of contaminated land outside the planning framework.
The Objective should specify whether groundwater is included in the matters to be considered as contaminated or potentially contaminated.	The planning system operates under the <i>Planning and Environment Act 1987</i> (P & E Act) which does not include groundwater in the definition of land. This differs from the definition in the EP Act 2017 which includes groundwater. However, the definition of potentially contaminated land in VPP clause 73.01 and Ministerial Direction No. 1 includes cases where groundwater contamination is a concern, such as where there has been underground fuel storage.
Concerns that the controls required to manage environmental conditions may result in additional time and costs for planning proposals and may be so great they result in an inability to facilitate the proposed use and/or development.	The main purpose of the strategies in clause 13.04-1S is to protect human health from the risks of contamination. The planning controls are to ensure land is suitable for use and that risks of contamination are effectively managed. The audit system under the EP Act 2017 allows for flexible and scalable assessments proportional to the risks. However high risk cases may still require significant remediation to ensure human health is protected.
The controls should consider risk to human health posed by food-production related activities taking place on potentially contaminated, given this is recognised elsewhere in the proposed draft documents (e.g. the Draft EAO).	Agriculture is considered as a potential low-medium risk activity in Ministerial Direction number 1 and is also addressed as a risk in Planning Practice Note 30 (PPN30). Clause 13.04-1S applies to all potentially contaminated land. While most agricultural land is not potentially contaminated, specific activities may mean it meets this definition. PPN30 provides guidance on which activities would cause agricultural land to be identified as potentially contaminated.
Greater clarity is required on what is 'adequate' information on the potential for contamination to have adverse effects on the future land use.	Guidance on information requirements is included in PPN30.
Training will need to be provided to planners with respect to the content and relevance of the Environment Reference Standard and Environment Protection Regulations 2021.	EPA is developing guidance for councils regarding their obligations under the Environment Reference Standard and Environment Protection Regulations 2021.

Issue raised in submission	Response
<p>The second strategy be broadened to "... confirming that the environmental conditions of the site are suitable, or <i>could be made suitable</i>, for a proposed use and development". This would allow flexibility for the buildings and works to occur to create the land use, and have it assessed as suitable, prior to the commencement of use.</p>	<p>Based on feedback in submissions the Strategies in clause 13.04-1S have been revised for clarity and to better conform to the requirements of the Planning Policy Framework (PPF) including the rules set out in A Practitioner's Guide to Victorian Planning Schemes. The relevant clause has been simplified and reworded to include the words "is or will be suitable for the proposed use prior to commencement of any use or development".</p>

VPP Clause 45.03 Environmental Audit Overlay

Updates to Clause 45.03 Environmental Audit Overlay were proposed to bring it in line with the new environment protection framework including the reformed audit system under Part 8.3 of the EP Act 2017 (as amended to commence on 1 July 2021).

Key changes from the existing clause 45.03 included:

- Clarifying the purpose of the provision is to apply to potentially contaminated land proposed to be used for a sensitive use, agriculture or public open space.
- Clarifying that the provision applies whether or not a permit is required.
- Expanding the definition 'sensitive uses' to also include secondary schools and children's playgrounds, even if ancillary to another use.
- Updating environmental audit requirements to bring them in line with the EP Act 2017.
- New requirements for subdivision of land where a sensitive use is allowed on potentially contaminated land.
- New requirement to ensure compliance with recommendations to manage residual contamination in an environmental audit statement.
- Clarifying exemptions from the requirement for an environmental audit, including use of a preliminary risk screen assessment for an existing sensitive use on the land and exemptions for works not associated with a change in land use and not involving soil disturbance.

Summary of submissions on VPP clause 45.03 Environmental Audit Overlay

Thirty-three (33) submissions included specific feedback on proposed changes to VPP Clause 45.03 Environmental Audit Overlay:

- 6 were strongly supportive of the proposed changes, requesting more clarification for definitions, roles and responsibilities and expanding on exemptions requirements.
- 27 were generally supportive while expressing some concerns with the changes. Key concerns included:
 - significant concerns with the inclusion of agriculture and public open space in the requirement;
 - limited knowledge and expertise in some Councils to assess audit reports and ensure compliance with audit recommendations;
 - difficulties for Councils in managing and enforcing audit requirements where planning permits are not triggered; and
 - concern from many Councils that the proposed provisions increase council's responsibilities for managing and enforcing audit requirements.
- 20 of the 27 Council submissions raised significant concerns with the proposed requirements for subdivisions. Similar concerns were also raised in submissions from industry organisations.

Further details on issues raised in submissions on VPP Clause 45.03 are presented in Table 3 below

Changes to VPP clause 45.03 following consideration of submissions

As a result of the feedback from submissions a number of changes have been made to the revised VPP Clause 45.03 Environmental Audit Overlay. The key changes are summarised below (with further detail provided in Table 3).

- Changes to the Purpose:
 - Reinstated reference to implementation of Municipal Planning Strategy and the Planning Policy Framework.
 - Removal of consideration of agriculture and public open space.

- Changes to the Requirement:
 - Requirements for agriculture and public open space have been removed.
 - Requirements for subdivisions have been removed.
 - The use of the preliminary risk screen assessment (PRSA) to determine if an audit is not required is included as an option to meet the requirement (rather than an exemption) and is not limited to existing sensitive uses.
 - The requirement to carry out recommendations in an environmental audit statement to manage residual contamination has been removed. This is addressed in Planning Practice Note 30.
- The following changes were made to the exemptions of the overlay:
 - The exemption involving the PRSA has been deleted (as it is now included in the requirement)
 - The exemption for buildings and works is not associated with a change in land use has been revised to all include existing sensitive uses, secondary schools or children’s playgrounds, for works listed in Clause 62.02-1 or 62.02-2 where soil is not disturbed. This provides greater clarity on low risk activities that are exempt from the requirement.
- The transitional provision associated with the issue of a statement of compliance to subdivide land has been removed as subdivisions are no longer a covered by the EAO requirement.

Table 3: VPP Clause 45.03 – Key issues raised in submissions:

Issue raised in submissions	Response
The references to implementing the Municipal Planning Strategy and Planning Policy Framework should not be removed from the purpose of the EAO. These are important elements that should be retained so that there is a clear link across the planning scheme.	The purpose of the EAO has been reinstated in the revised EAO clause.
The EAO provisions should include a Planning Permit trigger. This will ensure that all sensitive uses on potentially contaminated land undergo the necessary environmental assessment.	The EAO requirements are designed to apply whether or not a planning permit is required. In various instances sensitive uses on sites under an EAO do not require planning permit but may still require investigation of the risks of potential contamination.
It is not clear how these controls will be practically enforced where no planning permit is required.	<p>The EAO requirements apply whether or not a permit is required. Where appropriate, planning authorities may choose to include specific requirements in permit conditions to ensure these controls are practically enforced. When no permit is required for buildings and works under an EAO, planning authorities are still required to consider whether the environmental conditions of the site are suitable for a proposed use and development.</p> <p>Landowners / land managers are responsible for managing risks of contamination under the EP Act 2017 requirements including the duty to manage contaminated land (DTM) and the general environmental duty (GED). Information on these duties is available on the EPA website.</p> <p>EPA may also enforce audit recommendations by use of controls such as a site management order (SMO). More detail on SMOs will be available on the EPA website.</p>

Issue raised in submissions	Response
<p>The assessment requirements for agriculture and public open spaces are overly onerous and not proportional to the risk. Is an audit under the EP Act really necessary for these less sensitive uses?</p>	<p>Agriculture and public open space were originally included in the proposed changes to ensure land covered by an EAO is suitable for these uses. Feedback in submissions suggested that these uses should not require the same level of assessment as other more sensitive uses. In response DELWP has removed agriculture and public open spaces from the EAO requirements. This makes no change to the existing requirements. However, the suitability of land for agriculture and public open space uses must be considered at the planning amendment stage under Ministerial Direction Number 1.</p>
<p>Councils were seeking clarity on their role when an audit is required for a use/development that does not otherwise require a planning permit. They asked whether councils will be expected to be assessing these documents, referring them to the EPA, or just trusting the outcomes of the assessment.</p>	<p>Environmental Audits by EPA appointed auditors under the EP Act 2017 are conducted to rigorous standards and are considered authoritative. Councils may commission an audit when one is required but do not have a role in the audit process.</p>
<p>Further clarity was requested about the role of EPA and councils on matters such as responsibility for compliance and/or enforcement of audit conditions and where an overlap of responsibilities may occur.</p>	<p>Guidance on roles and responsibilities is provided in PPN30 and in additional information available on the DELWP website.</p>
<p>Why is the EAO control restricted to sensitive uses on potentially contaminated land and not to uses such as in Commercial and Industrial Zones?</p>	<p>These planning controls are designed to protect sensitive uses from the risks of contamination as these uses present the most significant risks to human health.</p> <p>The risks associated with contaminated land for non-sensitive uses are addressed by EP Act 2017 requirements including the duty to manage contaminated land and the general environmental duty (GED).</p>
<p>The proposed EAO requirements for subdivision will be difficult to implement, have significant resourcing implications for EPA, councils and applicants, and may have unintended consequences, for example where subdivision follows the grant of a permit for use and development for a non-sensitive use.</p>	<p>Requirements for subdivisions were originally included in the proposed EAO changes to address known issues with subdivision approvals and the timing of environmental assessments. Feedback in submissions suggested that the proposed provisions may have unintended consequences for subdivision approvals. In response DELWP has removed subdivisions from the EAO requirements and other proposed VPP amendments. This makes no change to the existing requirements. DELWP will continue work to address concerns about environmental assessments where subdivisions are proposed on potentially contaminated land.</p>
<p>What constitutes 'soil disturbance'? E.g. Would soil disturbance include works such as gardening?</p>	<p>Guidance on the exemption involving soil disturbance is provided in PPN30. Gardening is not considered as soil disturbance.</p>

Issue raised in submissions	Response
<p>The requirement that audit recommendations to manage residual contamination are carried out impose unreasonable obligations on councils to monitor and assess compliance with audits. Also, the requirement that recommendations are carried out prior to statement of compliance is not practical for recommendations of an on-going nature e.g. maintenance of a cap, ground water testing, vapour risk mitigation system maintenance.</p>	<p>Requirements to ensure audit recommendations are carried out were originally included in the proposed EAO changes to reflect process previously outlined in State environment protection policy (Prevention and Management of Contamination of Land) [SEPP (PMCL)]. Feedback in submissions suggested that the proposed provisions may have unintended consequences. In response DELWP has removed these requirements from EAO and Ministerial Direction no. 1.</p> <p>Planning Practice Note 30 provides guidance on procedures for compliance and enforcement of environmental audit recommendations. DELWP will continue work on clarifying roles and responsibilities regarding compliance and enforcement in the future.</p> <p>There is also a general requirement for landowners / land managers to comply with audit recommendations due to duties under the EP Act 2017.</p>
<p>No exemptions should be allowed for existing 'sensitive use.' Any new works, even on existing 'sensitive use' sites for new buildings or groundworks is effectively a new site and must have an environmental audit.</p>	<p>Exemptions will be available for buildings and works are associated with an existing sensitive use in a range of cases where the soil is not disturbed. These exemptions have been designed to allow building and works to proceed without an assessment under the EP Act 2017 if they pose negligible risk and an environmental assessment is unwarranted. For example, these exemptions allow building and works where there are existing sensitive uses occurring above ground level.</p>
<p>The EAO should include a referral section where all applications must be referred to the EPA as the technical experts for contaminated land, in the same way that applications in a Bushfire Management Overlay (BMO) are referred to the CFA unless the exemptions listed in the overlay apply.</p>	<p>Referral to EPA is not required for contaminated land as the EAO requires assessment by an EPA appointed auditor under the EP Act 2017. EPA does not need to review the assessment through referral.</p>
<p>There should be some recognition that planning permits may lapse, may not be acted upon and may be extended, thereby impacting on the proposed conditions of the audit. Similarly, some conditions in a statement of environmental audit may have a specific time frame: how are these matters to be addressed?</p>	<p>It is noted that the planning permit may lapse from time to time.</p> <p>As per duties under the EP Act 2017 including the duty to manage contaminated land and general environmental duty, it is the responsibility of the landowner / land manager to ensure that recommendations in an audit statement are completed.</p>

VPP Clauses 65.01 and 65.02

A minor update was proposed to these clauses to clarify that before deciding on an application or approval of a plan (65.01) or application to subdivide land (65.02), the responsible authority must consider, as appropriate:

- Any significant effects the environment, including any contamination of land may have on the use or development of the land.

Summary of submissions on VPP clauses 65.01 and 65.02

Twenty (20) submissions included specific feedback on proposed changes to VPP Clauses 65.01 and 65.02:

- In general, submissions recognised that the addition to 65.01 was consistent with Section 60(1)(e) of the *Planning and Environment Act 1987* which requires the responsible authority to consider any significant effects the use or development may have on the environment or the environment may have on the use or development.
- 14 submission were strongly supportive of the proposed changes to 65.01 stating that it strengthens council position and provides policy justification for considering contaminated land even when the land is not affected by EAO.
- 6 submission were generally supportive but requested more clarification on generic terms and roles and responsibilities. Definitions and terms are addressed in the discussion below on Clause 73.01. Additional clarity on roles and responsibilities is provided in the updated PPN30.
- As discussed under clause 45.03 Environmental Audit Overlay, 20 of 27 council submissions raised concerns with the proposed new requirements for subdivisions, which includes the proposed changes to clause 65.02.

Changes to VPP clauses 65.01 and 65.02 following consideration of submissions

As a result of the feedback from submissions proposed clause 65.01 will be amended as proposed.

However, proposed changes to clause 65.02 will not be made and the clause will not be amended due to the concerns raised on the proposed new requirements for subdivisions.

VPP Clause 73.01 General Terms (including other feedback on terms and definitions)

Updates were proposed to include a definition of potentially contaminated land in the list of general terms. This is an update of the previous definition from Ministerial Direction No. 1 to more accurately identify sites with a potential risk of contamination, clarifying that it applies:

- where there is storage of chemicals, gas, wastes or liquid fuel above or below ground; and
- where known past or present activities or events on the land or offsite have the potential to have caused contamination.

Summary of submissions on VPP clause 73.01 General Terms

Forty eight (48) submissions included specific feedback on the proposed definition of potentially contaminated land:

- 28 were strongly supportive of the proposed definition, acknowledging the limitation of the existing provisions. Some of these submissions raised minor grammatical concerns and made constructive suggestions to improve the definition.
- 20 were generally supportive while raising more significant concerns regarding reference to ancillary uses and ambiguity in considering the past activities on the land or offsite.

Issues raised on clause 73.01 are presented in Table 4 below. The table also includes general feedback raised elsewhere in submissions on terms and definitions in the draft planning changes.

Changes to VPP clause 73.01 following consideration of submissions

As a result of the feedback from submissions the following changes were made to the proposed definition of potentially contaminated land in VPP Clause 73.01: General Terms:

- The second dot point has been amended to exclude cases where there has been minor above-ground storage that is ancillary to another use of the land.
- The third dot point has been amended to remove ambiguity.

Table 4: Key issues raised in submissions on terms and definitions including VPP Clause 73.01

Issue raised in submissions	Response
Clause 73.01 should also include definitions of key terms such as 'preliminary risk screen assessment', 'environmental audit', 'environmental auditor', 'site management order' etc as well as other key terms from other documents that form part of this reform.	Definitions were not added to clause 73.01 as 'Preliminary risk screen assessment', 'Environmental audit', 'Environmental auditor' 'site management order' are terms already defined under the EP Act 2017.
'Sensitive use' should be defined within Clause 73.01	A definition for 'sensitive use' was not added to clause 73.01 because it is defined in different ways in clauses throughout the VPPs. For example, sensitive uses in relation to helicopter landing sites (CI 52.15) or pig farms (CI 53.16) includes hospitals and tertiary education centres, which are not considered sensitive uses with respect to contaminated land. The definition of "sensitive use" for contaminated land clauses is consistent with EPA's usage of the term based on <i>National Environment Protection (Assessment of Site Contamination) Measure 1999 (NEPM)</i> .
'Children's playground' should be defined within Clause 73.01	The term children's playground remains undefined. Interpretation will rely on the commonly understood meaning of the term.

Issue raised in submissions	Response
<p>Groundwater should be defined within Clause 73.01 as it poses a potential risk to human health and the environment but is not adequately addressed in the planning system.</p>	<p>A definition for 'groundwater' was not added to clause 73.01.</p> <p>A list of potential contaminating activities is included in PPN30 to help determine if land meets the definition of potentially contaminated land. These activities include industries which may generate groundwater contamination with potential to impact the proposed land use.</p>
<p>The definition of potentially contaminated land needs more explanation to outline what activities and events can cause contamination, and what level of contamination risk they pose.</p>	<p>Guidance on applying the definition of potentially contaminated land is provided in PPN30</p>
<p>The definition of potentially contaminated land should be refined so that relatively minor instances of chemical storage, such as the day-to-day storage of chemicals in a shed, do not come within scope.</p>	<p>The definition of potentially contaminated land has been revised to exclude minor above ground storage of chemicals.</p>
<p>The definition of potentially contaminated land should also explicitly note that gas and vapours are not an element of land contamination, but are an important consideration, nonetheless.</p>	<p>A list of potential contaminating activities is included in PPN30 to help determine if land meets the definition of potentially contaminated land. These activities include industries which may generate gas and vapours with potential to impact the proposed land use.</p>
<p>Concern planners will need to remember the long list of potentially contaminating former uses in the practice note, and also have a long and detailed knowledge of past land uses across the municipality.</p>	<p>PPN30 includes a list of potential contaminating activities to provide guidance to council planners. Many councils are also compiling data on past land uses and potentially contaminated land for use by council planners.</p>
<p>Consider referring to public open space rather than children's' playground. All proposed clauses should include sporting grounds and reserves as "sensitive uses" due to the popular use of these open areas by children.</p>	<p>The reference to children's' playground has been retained as proposed. Public open space has wider coverage and does not present the same risks from contamination as children's' playgrounds.</p>
<p>'Place of Worship' should also be considered as a sensitive use as they often incorporate childcare, children's play areas and kindergartens.</p>	<p>Place of Worship' is not listed as a sensitive use. Where a place of worship incorporates uses such as childcare, children's play areas and kindergartens these are classified as sensitive uses under Ministerial Direction number 1 and Environmental Audit Overlay.</p>

Ministerial Direction No. 1 – Potentially Contaminated Land (MD1)

Updates were proposed to Ministerial Direction No. 1 - Potentially Contaminated Land (MD1) to align with the EP Act 2017 (as amended to commence on 1 July 2021) and its new subordinate instruments. Key changes proposed were:

- Updated definition of 'potentially contaminated land' to be consistent with the definition in proposed VPP Clause 73.01 General Terms.
- Expanding the definition 'sensitive uses' to also include secondary schools and children's playgrounds, even if ancillary to another use.
- Updating environmental audit requirements to bring them in line with the EP Act 2017. This includes reference to the preliminary risk screen assessment as an alternative to an environmental audit in some circumstances.
- Requires that any recommendations of an environmental audit statement are complied with.
- Updates to the requirements to allow a planning authority to defer the requirement for an audit by including in the amendment the application of the Environmental Audit Overlay in the Victoria Planning Provisions to all land that it has determined to be potentially contaminated.
- An Explanatory Note, as provided in the existing MD1, was not included.

Summary of submissions on Ministerial Direction No. 1

Twenty six (26) submissions included specific feedback on the proposed MD1:

- 8 were strongly supportive of the proposed amendment, with few submissions raising concerns on removal of the explanatory note and minor grammatical and wording issues.
- 18 were generally supportive while raising concerns regarding clarity on roles & responsibilities, the revised definition of potentially contaminated land, the expansion of sensitive uses, and clarity on definitions of various terms.
- Concerns were also raised about the requirements for agriculture and public open space to require an environmental audit under the EP Act 2017.
- Most local council submissions raised concerns regarding increased requirements on councils for identification and assessment of potentially contaminated land and the requirement to ensure that recommendations of an environmental audit statement are complied with. Some councils expressed concern about their limited technical expertise in contaminated land and requested that EPA be included as a Referral Authority.

A summary of issues raised on MD1 is presented in Table 5 below. Note that the suggestion to add the definition of potentially contaminated land is included in Table 4.

Changes to Ministerial Direction No. 1 following consideration of submissions

As a result of the feedback from submissions the following key changes have been made to the Ministerial Direction 1:

- The definition of 'potentially contaminated land' has been amended as per clause 73.01, to exclude minor above-ground storage of chemicals, gas, waste or liquid fuel that are ancillary to another use of the land.
- The definition of 'sensitive use' has been amended to exclude secondary school and children's playground, to ensure the term 'sensitive use' is consistent with EPA guidance which uses the definition from *National Environment Protection (Assessment of Site Contamination) Measure 1999* (NEPM).
- Secondary schools and children's playgrounds have been retained in the requirement section, listed separately to sensitive uses. The requirement of MD1 applies to all sensitive uses, secondary schools and children's playgrounds.

- The requirement that recommendations of an environmental audit statement are complied with has been removed. This is addressed in Planning Practice Note 30.
- The requirement for agricultural and public open space has been amended to not require an audit under the EP Act 2017, allowing more flexibility to apply environmental assessments to satisfy the planning authority that the land is or will be suitable for use.
- As requested in many submissions, an Explanatory Statement providing an overview of the direction has been included. More guidance to support implementation of MD1 is also included in Planning Practice Note 30.

Table 5: Ministerial Direction No. 1 – Key issues raised in submissions

Issue raised in submission	Response
<p>The existing Ministerial Direction provides an ‘Explanatory Statement’ to provide further context on what is considered ‘Potentially Contaminated Land’. It is suggested that this content be amended as appropriate and included in the revised Ministerial Direction.</p>	<p>A brief Explanatory Statement is now included as part of MD1. More guidance to support implementation of MD1 is also included in PPN30.</p>
<p>MD1 should require consideration of potential contamination from neighbouring or off-site sources.</p>	<p>Potential contamination from offsite sources is now included in the definition of potentially contaminated land.</p>
<p>MD1 places the onus of assessing whether or not a site is potentially contaminated on local councils. Submissions suggested that this should be an Environment Protection Authority role.</p>	<p>Under the <i>Planning and Environment Act 1987</i> local councils (as the responsible authority) must consider the significant effects the environment may have on the use or development, including the potential effects of contamination. Under MD1 councils are responsible for identifying whether land is potentially contaminated, based on available information including data provided by EPA. EPA’s role is to oversee application of the environmental audit system under the EP Act 2017.</p> <p>Guidance on roles and responsibility is provided in PPN30.</p>
<p>There is some concern that the new requirement for a responsible authority to satisfy itself in relation to potentially contaminated land places an enhanced level of risk (including financial and legal) on a council, rather than a more qualified regulatory authority (such as the EPA) should a future issue of contamination occur. To mitigate this issue, further guidance should be provided to councils on how a decision should be made in this respect.</p>	<p>The revised MD1 places no new obligations on responsible authorities compared to the previous MD1, and the level of risk on councils regarding planning decisions is unchanged. The risks of potential contamination are addressed by application of the environmental audit system under the EP Act 2017.</p> <p>However, alongside these changes to the planning system, the EP Act 2017 may impose new contaminated land responsibilities on councils to comply with the general environmental duty, the duty to notify on contaminated land, and the duty to manage contaminated land. Further guidance is provided on the EPA website.</p>
<p>Submissions sought clarification about what information is required in the Explanatory Report to describe the measures council has taken to satisfy itself that land within the amendment is not potentially contaminated.</p>	<p>Where councils are satisfied that land is not potentially contaminated this just needs to be noted in the Explanatory Report. Guidance on procedures for identifying potentially contaminated land is provided in PPN30.</p>

Issue raised in submission	Response
<p>Agriculture should be removed from the proposed VC Amendment until further consideration of issues has occurred. The new requirements for agricultural use are an unjustified regulatory burden which is better handled by the notification requirements in the new Environment Protection Act.</p>	<p>Due to concerns raised in submissions, MD1 has been amended to remove the proposed requirement for an audit under the EP Act 2017 for agricultural use on potentially contaminated land. This makes no change to the existing requirements. MD1 still requires consideration of the risks of contamination for agricultural uses as well as public open space, with more flexibility in the types of environmental assessments that can satisfy the planning authority that land is or will be suitable for use. Further information is provided in PPN30.</p>
<p>More guidance is required on the circumstances in which deferral of an audit is allowable due to it being “unreasonable or impractical”, with clear direction on the level of information to be provided by proponents and the grounds for delaying the remediation works.</p>	<p>Further information on deferral of audit requirements by application of an EAO is provided in PPN30.</p> <p>Note that MD1 has been revised to use the words “difficult or inappropriate” rather than “unreasonable or impractical”</p>
<p>Can the EPA provide a list of who would be considered suitably qualified professionals for the purposes of completing environmental assessments such as a Preliminary Site Investigation?</p>	<p>Guidance on qualifications and experience required to be considered “suitably qualified” is provided in PPN30.</p> <p>EPA appointed environmental auditors that can conduct assessments under the EP Act 2017 are available on the EPA website at https://www.epa.vic.gov.au/for-business/find-a-topic/environmental-audit/environmental-auditors</p>
<p>Many councils do not have the expertise to assess contaminated land reports. This means they need employ an expert to peer review reports before councils can be assured enough to proceed. This is a significant cost for councils, and unfairly places risk onto councils.</p>	<p>The PRSA has been designed to address this issue. Where there is evidence that land should be considered potentially contaminated and councils require a higher level of assurance the option of a PRSA is available to determine the likelihood of contamination being present. This is conducted by EPA appointed auditors under the <i>EP Act 2017</i> and can provide assurance on the risk of contamination being present.</p>
<p>It should be noted in the documents that the cost associated with getting a Preliminary Site Investigation, Preliminary Risk Screen or Environmental Audit be met by the applicant, not the responsible authority.</p>	<p>Who meets the costs associated with an environmental assessment will depend on the proposal, but will generally be borne by the proponent or landholder.</p>
<p>Submissions sought clarification on the value of an independent expert report that confirms there were no sources of contamination and it is not contaminated.</p>	<p>If a PSI has been conducted by a suitably qualified professional which identifies the land is not contaminated, then that evidence should be considered in deciding whether the land is potentially contaminated. More information is provided in PPN30.</p>

Planning Practice Note 30 - Potentially Contaminated Land

Updates were proposed to Planning Practice Note 30 – Potentially Contaminated Land (PPN30) to align with the new environment protection framework including the reformed audit system under Part 8.3 of the EP Act 2017 (as amended to commence on 1 July 2021).

- Updated definition of ‘potentially contaminated land’ to be consistent with the definition in proposed VPP Clause 73.01 General Terms.
- Expanding the definition ‘sensitive uses’ to also include secondary schools and children’s playgrounds, even if ancillary to another use.
- Updating environmental audit requirements to bring them in line with the EP Act 2017. This includes reference to the preliminary risk screen assessment as an alternative to an environmental audit in some circumstances.
- Updated guidance on what form of assessment is appropriate for identification of potentially contaminated land.
- Reference to the current State Environment Protection Policy (Prevention and Management of Contamination of Land) has been removed (outdated reference).

Summary of submissions on Planning Practice Note 30

Thirty-three (33) submissions included specific feedback on PPN30:

- 13 were strongly supportive of the proposed amendments to PPN30 with some constructive feedback on the need of more clarification around definitions and general terms, grammatical edits, and the need for further guidance.
- 20 were generally supportive while requesting further information in PPN30 including: more detail on roles and responsibilities and clarity on EPA’s role in the assessment process. These submissions also raised concerns about the definitions of potentially contaminated land and sensitive uses, and requested clarity of the definitions of various other terms.
- Most local council submissions raised similar concerns as discussed above with MD1. These concerns included: the lack of technical expertise in councils and limited support from EPA in identifying potentially contaminated land, assessing audit reports, and enforcing audit conditions; concerns about increased cost, regulatory burden and risk on councils due to these changes; and a lack of clarity on EPA’s role in the assessment process.

Issues raised on PPN30 are presented in Table 6 below. Comments on definitions including the definition of potentially contaminated land are included in Table 4.

Changes to Planning Practice Note 30 following consideration of submissions

Following consideration of submissions, the proposed PPN30 has been substantially amended to clarify how the environment protection framework is applied in the planning system. The key changes include:

- Re-formatting for additional clarity and accessibility.
- Updates to reflect the updated planning provisions and MD1, as discussed above.
- The steps for assessing strategic and statutory planning proposals for potentially contaminated land are clearly set out and explained.
- Clearer information is provided on the process for identifying and assessing potentially contaminated land including information requirements.
- More details are provided on the range of assessment options including more guidance on use of a preliminary risk screen assessment (PRSA) and preliminary site investigation (PSI).
- Clearer guidance is included on the process for ensuring a site is suitable for use, including compliance with recommendations in an environmental audit statement.

- Further guidance notes have been included on managing the environmental audit overlay.
- Further changes and additions have been to the practice note as outlined in the response in Table 6 below.

Table 6: Planning Practice Note 30 – Key issues raised in submissions

Issue raised in submissions	Response
What is the definition of a 'suitably qualified professional'? Is there a professional organisation they need to have membership to?	Guidance on qualifications and experience required to be considered "suitably qualified" is provided in PPN30.
PPN30 should clearly explain expectations on landowners when making an application for land deemed as being potentially contaminated and clarify EPA's role in the planning process.	PPN30 has been updated to include guidance on roles and responsibilities, including expectations on landowners.
The list of land uses where remediation of contaminated land is required should include food-production related uses (such as "agriculture", "reservoir" and "winery").	Some specific agricultural activities have been added to the table of land uses with potential to contaminate land as presenting a medium potential for contamination.
Given the proposed clause 13.04-1S refers to the need to impose permit conditions as necessary, PPN30 should also be listed as a "policy guideline" to be considered as relevant, given PN30 is the source of suggested wording for the permit conditions. This will also serve to improve awareness of PPN30.	PPN30 is not listed as a policy guideline. Planning practice notes provide ongoing advice about the operation of the Victoria Planning Provisions and in general are not listed as policy guidelines in the planning policy framework.
PPN30 should specify how many years data needs to be considered when conducting a desktop assessment. Historical data may be difficult to access especially when considering history before amalgamation or introduction of electronic data.	PPN30 clarifies expectations on desktop assessments. In general, data available through known sources such as EPA and Victoria Unearthed should be referenced as well as any other data that is readily accessible by planning / responsible authorities.
PPN30 should provide more information on a Preliminary Site Investigation (PSI) including the purpose of a PSI, when a PSI is required and who is responsible for managing the PSI process.	PPN30 has been revised to include clearer information on the use of PSIs in planning decisions.
Please provide a list of EPA published guidance that would be useful in the assessment / management of contamination or potentially contaminated land.	Links to relevant EPA guidance will be provided on the DELWP website to accompany the Planning Practice note.
Please provide more information on the Environmental Reference Standard (ERS). Suggest the heading is simplified to 'Environment Reference Standard' and a description and purpose is included in the first paragraph.	The revised PPN30 does not include information on the ERS. More information on the ERS and how it applies to decision makers will be available on the EPA website.
PPN30 should clearly specify roles and responsibilities for implementation of audit recommendations, particularly those involving significant ongoing maintenance and/or monitoring. In what circumstances would a Section 173 Agreement be needed?	PPN30 has been updated to include guidance on roles and responsibilities for enforcing audit recommendations.

Issue raised in submissions	Response
Please provide more clarification on Site Management Orders (SMO).	A Site Management Order (SMO) is an instrument under the EP Act 2017 that EPA may apply in certain circumstances to enforce audit recommendations. Not every site will need SMO. More information on SMO is available on the EPA website.
The current practice note contains an Assessment Matrix in Table 2, which is considered to be a simple tool to use and explain to applicants. In comparison, the proposed Table 3 and Figure 1 are comparatively complex:	PPN30 has been updated to present clearer guidance on the audit process and recommended use of assessment tools.
Transitional arrangements are required for the new planning scheme provisions to be considered where appropriate.	<p>Transitional provisions for the new planning scheme provisions are not necessary.</p> <p>Transitional provisions for environmental audits are included in the <i>Environment Protection Amendment Act 2018</i>, and allow audits conducted under the <i>Environment Protection Act 1970</i> to also apply under the EP Act 2017.</p>
The reference to an environmental audit not being required if the applicant can demonstrate that 'other strategies or programs are in place to effectively manage any contamination' should be further clarified and refined. If this is to remain, there should be greater oversight and approval by EPA if alternative approaches to the environmental audit system are to be sanctioned as councils don't have the expertise to make this decision.	PPN30 has been revised to remove reference to 'other strategies' and clarify requirements for when an environmental audit is required. An audit is not required if there is no evidence of potentially contaminated land. A preliminary risk screen assessment (PRSA) can also be used to determine if an audit is required. This is conducted by EPA appointed auditors and does not require councils to have technical expertise.

Appendix 1 – FAQ on Engage Victoria

The following frequently asked questions (FAQ) were provided on the Engage Victoria website to support the public consultation process and provide additional information on the proposed changes.

Why are land use planning amendments being proposed?

From 1 July 2021, a new environment protection framework will come into effect in Victoria, led by the Environment Protection Authority. To support the new framework, these proposed changes will better integrate the new environment protection framework with the land use planning system. These reforms are introduced as part of the government response to recommendation 10.3 & 14.2 of the Independent Inquiry into the Environment Protection Authority.

When are these planning reforms likely to come into effect?

The Victorian Government intends for the reforms to take effect with commencement of the new environment protection framework on 1 July 2021.

<https://www.environment.vic.gov.au/sustainability/environment-protection-reform/ep-bill-2018>

Where can I find more information about the broader EPA reforms?

Further information of the EPA reforms is available on <https://www.epa.vic.gov.au/for-business/new-laws-and-your-business>.

What planning policies are being updated?

To give effect to these environment protection framework changes, corresponding updates to the land use planning provisions are required, including;

- Ministerial Direction No.1- Potentially contaminated land, (MD1)
- Environmental Audit Overlay (EAO)
- Planning Practice Note 30 –Potentially contaminated land (PPN30), and
- other Victorian Planning Provisions (VPP), as required.

The main focus is making administrative changes to integrate environment protection framework into planning provisions. There are also limited updates that accommodate newer approaches, and address known operational issues.

Why is policy ‘Contaminated and potentially contaminated land’ (Clause 13.04-1S) being updated?

The objective, strategies and policy guidelines are amended to provide broader scope. The strategies now include following:

- Require applicants to provide adequate information on the potential for contamination to have adverse effects on the future land use if the subject land is potentially contaminated land.
- Require an assessment confirming that the environmental conditions of the site are suitable for a proposed use and development.
- Impose conditions as necessary to ensure contamination is managed so that the site is suitable for a proposed use and development.
- Facilitate the remediation of contaminated land, particularly on sites with potential for development for a residential use, child care centre, kindergarten, pre-school centre, primary school, secondary school and children’s playground, even if ancillary to another use.

Why are the general decision guidelines (i.e. Clause 65.01 and 65.02) being updated?

Decision guidelines under the General provisions have been amended to ensure that prior to approving any use, development and or subdivision the Responsible Authority must ensure the land is suitable for sensitive use.

- Decision guidelines under **Clause 65.01** in amended to include, any significant effects the environment, including the contamination of land may have on the use or development.
- Decision guidelines under **Clause 65.02** in amended to include, any significant effects the environment, including the contamination of land may have on the use or development of the land to be subdivided.

Why is Ministerial Direction No.1 proposed to be amended?

Ministerial Direction is being amended to incorporate reference to new instruments under the Environment Protection Act 2017 (EP Act). This includes a new preliminary risk screen assessment, and an environmental audit that can be scoped. This amendment supports the policy reforms outlined in recommendation 14.2 of the EPA Inquiry.

Why is 'potentially contaminated land' being defined?

The definition of 'potentially contaminated land' is a land use planning term, as opposed to the definition of 'contaminated land' under the EP Act. The EP Act definition is based on knowledge that contaminant levels exceed criteria (e.g. based on sampling data). In contrast, where the planning definition is about identifying where contamination may be probable based on-site history, prior to any field investigation.

The current definition of PCL, outlined in the current MD1, is being slightly broadened to include new potentially contaminating activities or sources.

What type of assessment is required to check the potential contamination?

Planning Practice Note 30 provides with the guidance on steps and types of assessment required. Whilst the various planning instrument outline what must be done to comply with the planning system, Planning Practice outlines in more detail the application of the instruments, including how decisions are made and what evidence is required.

What is a Preliminary risk screen assessment (PRS)?

Defined under s204 of the Environment Protection Act 2017, a preliminary risk screen assessment provides a primarily desktop assessment (sometimes with limited physical sampling) and sign-off by an EPA appointed auditor. The PRS establishes risk of proposal, whether an audit is required and the scope of any subsequent audit.

More information regarding PRS assessment is available in EP ACT 2018, s204.

Link to EPA Act 2018: https://content.legislation.vic.gov.au/sites/default/files/79b87865-9bbe-376c-95fa-fc61b1b0d844_18-039aa%20authorised.pdf

What is an environmental audit?

Environmental audit is defined under the Environment Protection Act 2018, an environmental audit is formally established under the audit system as an assessment of the nature and extent of the risk of harm to human health and environment from a contaminated site and recommend measures to manage those risks.

Environmental audits can only be undertaken by an EPA appointed auditor. EPA maintains a list of appointed auditors on their website to help with selection of an auditor.

More information regarding environmental audit is available in the EP ACT 2018, s208;

Link to EPA Act 2018: https://content.legislation.vic.gov.au/sites/default/files/79b87865-9bbe-376c-95fa-fc61b1b0d844_18-039aa%20authorised.pdf

When is PRS suitable? What information do I required under PRS?

A PRS is similar in extent of assessment to a Preliminary site investigation (PSI) but is independently reviewed by an EPA appointed environmental auditor. The resulting preliminary risk screen statement provides a recommendation on whether a further environmental audit is required.

PRS assessment is best suited to lower risk circumstances, as outlined in Planning Practice Note 30. An applicant may choose to go direct to audit if they decide their site is of medium to high risk from contamination.

What is the most appropriate type of environmental assessment when making planning decision? When is a PRS, audit or other assessment most appropriate?

The most appropriate type of assessment will depend on the various circumstances of the site. These may include site history, including neighbouring sites, any known contamination and the proposed use of the site. A draft version of planning practice note (PPN30) outlines the most appropriate application of each of these instruments.

Links

- [Government response to the Independent Inquiry into the Environment Protection Authority](#)
- [Environment Protection Amendment Act 2018](#)
- [Engage Victoria page on EPA Reform](#)
- [Proposed regulations and environment reference standards](#)