

Planning circular

PLANNING SYSTEM

Planning certificates

Circular	PS 21-034
Issued	2 December 2021
Related	Replaces PS 09-019

Planning certificates: contaminated land

This circular provides guidance on information required to be included in planning certificates issued under section 10.7 of the *Environmental Planning and Assessment Act 1979* and the *Contaminated Land Management Act 1997* in relation to contaminated land.

Overview

Planning certificates are a means of disclosing information about a parcel of land, including any relevant information, policies and land use controls that apply to the land at the time of issue.

In NSW it is a mandatory part of the property conveyancing process to include a planning certificate issued under section 10.7(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act)

Planning certificates may be purchased through the NSW Planning Portal or from a council by anyone, and for any purpose.

Schedule 4 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) specifies the information to be included in planning certificates issued under section 10.7(2) of the EP&A Act. The *Contaminated Land Management Act 1997* (CLM Act) prescribes additional information to be included in a planning certificate.

This planning circular clarifies the information required to be included in planning certificates in relation to contaminated land.

Contamination

The information requirements for contaminated land in section 10.7(2) planning certificates are prescribed in section 59(2) of the CLM Act. The CLM Act requires the following information to be included in a planning certificate:

- that the land to which the certificate relates is **significantly contaminated land**—if the land (or part of the land) is significantly contaminated land at the date when the certificate is issued,
- that the land to which the certificate relates is **subject to a management order**—if it is subject to such an order at the date when the certificate is issued,

- that the land to which the certificate relates is the **subject of an approved voluntary management proposal**—if it is the subject of such an approved proposal at the date when the certificate is issued,
- that the land to which the certificate relates is **subject to an ongoing maintenance order**—if it is subject to such an order at the date when the certificate is issued,
- that the land to which the certificate relates is the **subject of a site audit statement**—if a copy of such a statement has been provided at any time to the local authority issuing the certificate.

The savings and transitional provisions under clause 13 of Schedule 2 of the CLM Act provide the following:

- An 'investigation area' or a 'remediation site' are taken to be references to 'significantly contaminated land'.
- An 'investigation order' or 'remediation order' are taken to be references to a 'management order'.
- A 'voluntary investigation proposal' or 'voluntary remediation proposal' that has been agreed to by the EPA are taken to be references to an 'approved voluntary management proposal'.

These saving and transitional provisions apply to relevant references in planning certificates issued before 1 July 2009.

Further information

The EP&A Regulation and the CLM Act are available online at www.legislation.nsw.gov.au.

Department of Planning, Industry and Environment circulars are available at: planning.nsw.gov.au/circulars

Authorised by:

Marcus Ray

Group Deputy Secretary Planning and Assessment

Department of Planning, Industry and Environment

Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

© State of New South Wales through the Department of Planning, Industry and Environment planning.nsw.gov.au

Disclaimer: While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agencies and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.