



New South Wales

Environmental Planning and Assessment Amendment (Contaminated Land) Regulation 1998

under the

Environmental Planning and Assessment Act 1979

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

CRAIG KNOWLES MP

Minister for Urban Affairs and Planning

Explanatory note

Development for a purpose, or of a type, described in Schedule 3 to the *Environmental Planning and Assessment Regulation 1994* is **designated development** for the purposes of the *Environmental Planning and Assessment Act 1979* (which requires, among other things, public exhibition and notification of development applications for consent to carry out development of that kind). The object of this Regulation is to amend the description of contaminated soil treatment works in that Schedule.

This Regulation also corrects a cross-reference (in consequence of other recent amendments to the *Environmental Planning and Assessment Regulation 1994*) and inserts a Note in Schedule 4 (Section 149 certificates) to that Regulation.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including section 157 (the general regulation-making power).

Environmental Planning and Assessment Amendment (Contaminated Land) Regulation 1998

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (contaminated Land) Regulation 1998*.

2 Commencement

- (1) This Regulation commences on the day on which it is published in the Gazette, except as provided by subclause (2).
- (2) Schedule 1 [4] to this Regulation commences on the commencement of Schedule 1.2 to the *Contaminated Land Management Act 1997*.
- (3) Schedule 1 [5] to this Regulation commences on the commencement of section 59 of the *Contaminated Land Management Act 1997*.

3 Amendment of Environmental Planning and Assessment Regulation 1994

The *Environmental Planning and Assessment Regulation 1994* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Schedule 3 Designated development

Omit “(Clause 49)” where appearing immediately after the heading to Schedule 3.

Insert instead “(Clause 53C)”.

[2] Schedule 3, Part 1, matter relating to contaminated soil treatment works

Omit “treat contaminated soil containing substances classified as poisonous in the Australian Dangerous Goods Code” from paragraph (1).

Insert instead “treat or store contaminated soil not originating from the site on which the development is proposed to be carried out”.

[3] Schedule 3, Part 1, matter relating to contaminated soil treatment works

Omit “treat (otherwise than by incineration) or store” from paragraph (3) (b).

Insert instead “treat otherwise than by incineration and store”.

[4] Schedule 3, Part 3, definition of “contaminated soil”

Omit the definition. Insert instead:

contaminated soil means soil that contains a substance at a concentration above the concentration at which the substance is normally present in soil from the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment. In this context, harm to the environment includes any direct or indirect alteration of the environment that has the effect of degrading the environment.

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Schedule 1 Amendments

[5] Schedule 4 Section 149 certificates

Insert at the end of the Schedule:

Note. Section 59 (2) of the *Contaminated Land Management Act 1997* prescribes additional matters that are to be specified in a certificate under section 149 of the *Environmental Planning and Assessment Act 1979*. The additional matters to be specified are the following:

- (a) that the land to which the Certificate relates is within land declared to be an **Investigation area** or **remediation site** under Part 3 of the *Contaminated Land Management Act 1997* (if it is within such an area or site at the date when the certificate is issued),
- (b) that the land to which the certificate relates is subject to an **investigation order** or a **remediation order** within the meaning of that Act (if it is subject to such an order at the date when the certificate is issued),
- (c) that the land to which the certificate relates is the subject of a voluntary investigation proposal (or voluntary remediation proposal) that is the subject of the Environment Protection Authority's agreement under section 19 (or 26) of that Act (if it is the subject of such a proposal, and the proposal has not been fully carried out, at the date when the certificate is issued),
- (d) that the land to which the certificate relates is the subject of a site audit statement within the meaning of Part 4 of that Act (if a copy of such a statement has been provided at any time to the local authority issuing the certificate).