

Planning for potentially contaminated land

A summary guide for planners, proponents and applicants



Why plan for potentially contaminated land?

Development of potentially contaminated land provides an opportunity to address contamination and mitigate any risks posed to human health, the environment, and building and structures. Contaminated land can often be safely used and developed following appropriate remediation, provided any necessary controls to manage residual contamination are implemented.

Appropriately planning for potentially contaminated land facilitates productive reuse of land which may otherwise be underutilized or vacant, improving land use efficiencies in Victoria's cities and towns. The system for remediating and redeveloping land is an important mechanism to address the impacts of poor industrial practices of the past, and restore the quality of Victoria's land, enabling its highest and best use for the future.

About this guide

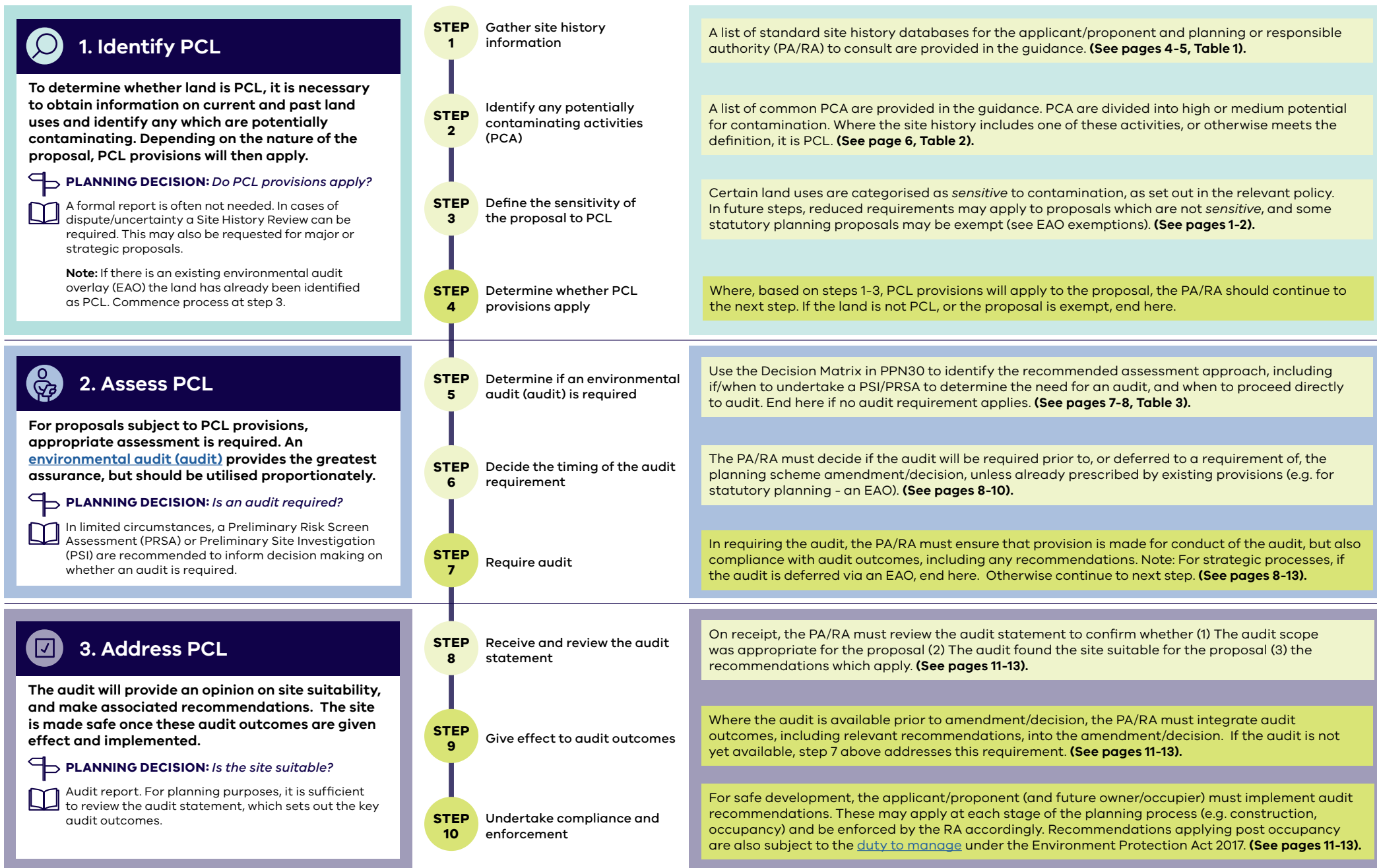
This guide is designed for planners, along with planning proponents and applicants. It provides a simplified overview of the content in [Planning Practice Note 30 – Potentially Contaminated Land](#).

The guide illustrates the process for planning for potentially contaminated land through a step-by-step guide (graphic 1), explains the role of technical reports (graphic 2), sets out the legislative and policy framework (graphic 3) and articulates the roles and responsibilities of different actors (graphic 4).




The guide can be printed, or viewed digitally to allow navigation to other resources via hyperlinks. The guide is available from the Planning for Environment Protection webpage at: www.planning.vic.gov.au/guides-and-resources/guides/all-guides/contaminated-land-and-planning

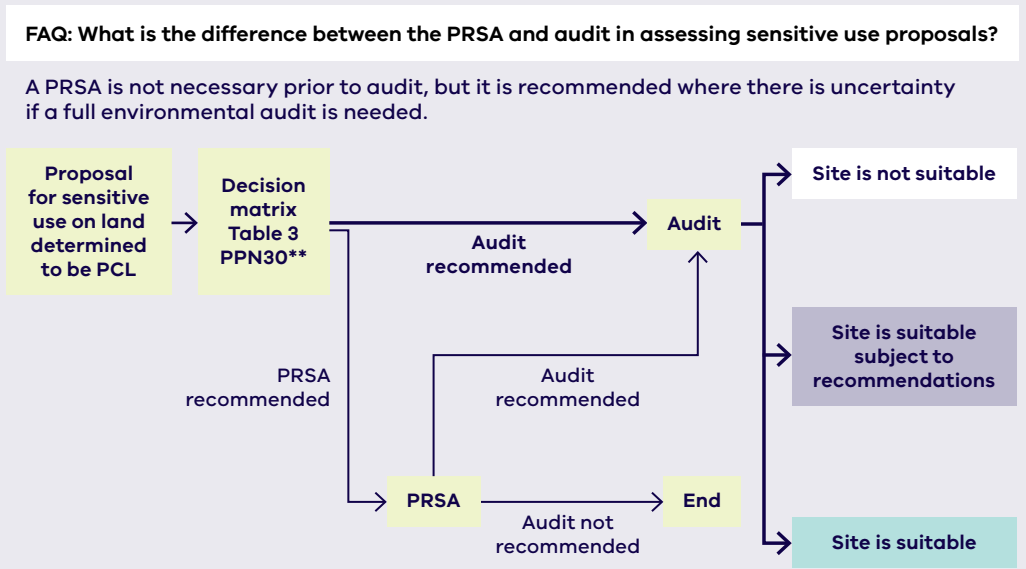
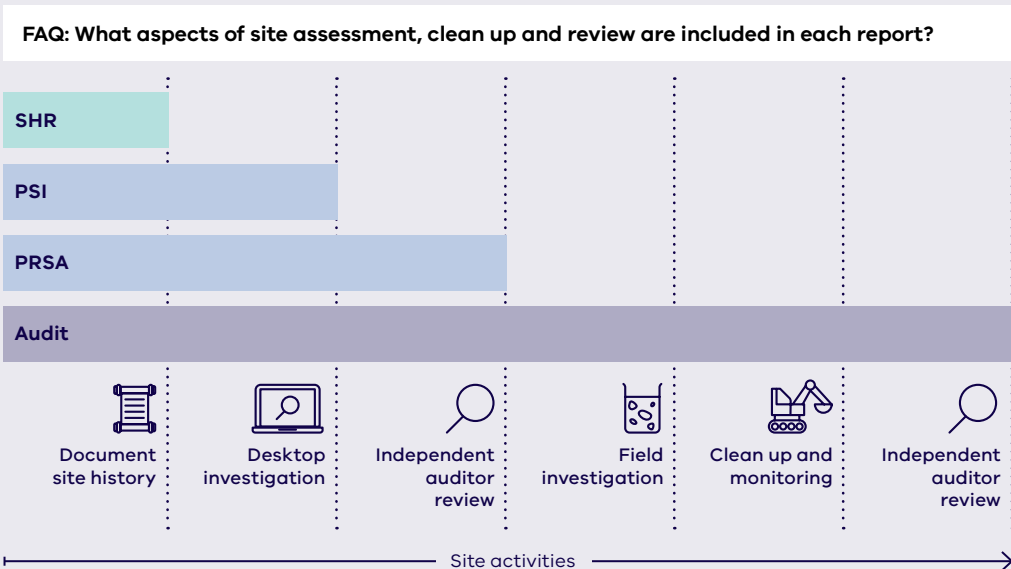
1. A step-by-step guide to planning for potentially contaminated land (PCL) for planners and proponents/applicants

This graphic is a generalised process which can be used for strategic and statutory planning proposals as relevant. The graphic summarises content from [Planning Practice Note 30 – Potentially Contaminated Land \(PPN30\)](#) and references are to this document.



2. Summary of reports used to inform decision making when planning for potentially contaminated land (PCL)

 Site History Review (SHR)	 Preliminary Site Investigation (PSI)	 Preliminary Risk Screen Assessment (PRSA)	 Environmental Audit (audit)
		 <div style="position: absolute; top: 10px; right: 10px; transform: rotate(-45deg); font-size: 8px; background: white; padding: 2px;">INDEPENDENTLY REVIEWED</div>	 <div style="position: absolute; top: 10px; right: 10px; transform: rotate(-45deg); font-size: 8px; background: white; padding: 2px;">INDEPENDENTLY REVIEWED</div>
<p> Conducted by Urban Planner/Suitably Qualified Environmental Consultant (SQEC)</p> <p> PLANNING DECISION: 1. Do PCL provisions apply? Possible report outcomes: Land is recommended to be determined as PCL/not PCL</p> <p> Relevant standard: ASC NEPM Schedule B2 s3.3 (only)* or AS4482.1 2005 s3.2.2</p>	<p> Conducted by Suitably Qualified Environmental Consultant</p> <p> PLANNING DECISION: 2. Is an audit required? Possible report outcomes: Further investigation is/is not recommended</p> <p> Relevant standard: ASC NEPM Schedule B2*</p>	<p> Conducted by SQEP or environmental auditor. Independent review by environmental auditor</p> <p> PLANNING DECISION: 2. Is an audit required? Possible report outcomes: An audit is/is not recommended</p> <p> Relevant standard: ASC NEPM Schedule B2* EPA Publication 2021</p>	<p> Assessment conducted by SQEP. Independent review by environmental auditor</p> <p> PLANNING DECISION: 3. Is the site suitable? Possible report outcomes: Site is not/is suitable for proposal (subject to any recommendations)</p> <p> Relevant standard: ASCNEPM Schedule B2* EPA Publication 2041</p>



Note: while the PSI and PRSA are predominantly desktop investigations, they may include limited targeted field sampling.

* National Environment Protection (Assessment of Site Contamination Measure 1999 (ASC NEPM)

** [Planning Practice Note 30 - Potentially Contaminated Land](#)

3. Land use planning for potentially contaminated land (PCL) – framework overview

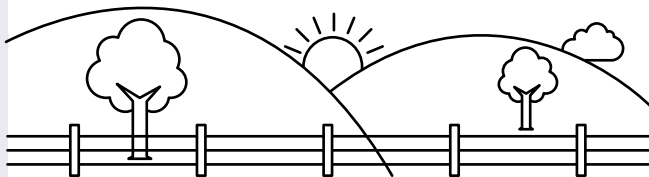
Links to all below references are at: www.planning.vic.gov.au/guides-and-resources/guides/all-guides/contaminated-land-and-planning

	Strategic Planning	Statutory Planning
Legislation Planning and Environment Act 1987	S12(2)(b): Requires planning decision makers to consider any effects the environment (including PCL) may have on the proposal, and vice versa.	S60(1)(e): Matters which must be taken into account in statutory planning decisions, including in relation to PCL.
Policy Ministerial Directions (MD) Victoria Planning Provisions (VPP)	MD1 - Potentially Contaminated Land sets out requirements to address PCL in planning scheme amendments.	VPP CI 65.01 Decision guidelines, approval of an application or plan Matters which must be taken into account in statutory planning decisions, including in relation to PCL.
	MD19 - Preparation and content of amendments that may significantly affect the environment, amenity and human health Requirements for planning decision makers to engage with the Environment Protection Authority in strategic planning processes, including in relation to PCL.	
	VPP CI 73.01 – Meaning of terms – general terms (Potentially Contaminated Land) Provides the land use planning definition of PCL.	
	VPP CI 13.04-1S – Contaminated land and potentially contaminated land Provisions to ensure that contaminated land and potentially contaminated land to be used and developed safely, applicable to all planning proposals.	
	VPP CI 45.03 - Environmental audit overlay (EAO) A mechanism which may be applied to known PCL to require <u>environmental audit system</u> (environmental audit or preliminary risk screen assessment) requirements to be met prior to commencement of a sensitive use, or buildings and works associated with a sensitive use. Applies (and may be enforced) regardless of whether there is a permit required for the use /development.	
Guidance Planning Practice Note 30 (PPN30) Planning for environment protection website (P4EP website)	PPN30 provides an overview of the planning for PCL framework, and guidance for planners on applying the framework when assessing a planning proposal.	P4EP website – “Planner’s Toolkit” also includes statutory planning guidance on writing permit conditions.
	P4EP website – “Contaminated Land and Planning” section includes frequently asked questions (FAQs). P4EP website – “Planner’s Toolkit” includes step-by-step guides to interpreting environmental assessments, and identifying PCL, and best practice principles.	
	P4EP website – “Planner’s Toolkit” also includes step by step strategic planning guides to applying the EAO on a precinct basis, and removing an EAO, and defining EAO spatial boundaries.	

Disclaimer: The references above are paraphrased in this graphic, in event of conflict the source references take precedence over this graphic.

4. Roles and responsibilities in managing contaminated and potentially contaminated land

Planning applicant or proponent (i.e. landowner, occupant or developer)



- Providing adequate information on contaminated or potentially contaminated land to enable a planning or responsible authority to make an informed decision, including through undertaking required environmental investigations,
- Complying with requirements of the planning scheme and planning approvals.
- Implementing outcomes of any environmental audit process, including recommendations for mitigation/management measures to make (and keep) the site safe for its use/development.
- Under the EP Act 2017, persons in management or control of contaminated land may be subject to obligations including the [duty to manage](#) and the [duty to notify](#) contaminated land.

Planning

Planning Authority (PA) (i.e. decision maker for planning scheme amendments)

- Considering the potential for land to be contaminated in planning scheme amendment processes.
- Ensuring that the site is suitable for its proposed use, including ensuring that any applicable recommendations of an environmental audit are given effect.
- Engaging with EPA under Ministerial Direction 19 (MD 19).

Responsible Authority (RA) (i.e. decision maker for planning permits)

- Considering the potential for land to be contaminated when assessing planning permit applications.
- Ensuring that the site is suitable for its proposed use, including ensuring that any relevant recommendations of an environmental audit are given effect.
- On becoming aware that an occupier is failing to comply with requirements set out in a planning permit, undertaking enforcement procedures under the Planning and Environment Act 1987. These may include planning infringement notices, enforcement orders or prosecution through the Magistrates Court.

Note: planning and responsible authorities do not manage risks from contamination where no planning approval or control applies - e.g. risks to an existing or as-of-right-use.

Environment

Suitably qualified environmental consultants (SQEC)

- Conducting site assessment and remediation activities.
- Preparing associated reports, which may include preliminary site investigations, and detailed site investigations.

Note: on request, SQEP can assist with verification of compliance with audit recommendations.

Environmental auditors (auditors)

- Undertaking third party, independent review of consultant reports on site assessment and remediation.
- In doing so, acting in accordance with relevant legislations, policy, standards and guidelines under the Environment Protection Act 2017.
- Undertaking preliminary/reliminary risk screen assessments (PRSA) and environmental audit reports and statements.

Note: on request, auditors can assist with verification of compliance with audit recommendations.

Environment Protection Authority Victoria (EPA)

- Administering the environmental audit system, including appointment of environmental auditors and quality assurance of their work.
- Providing written views to planning authorities under MD 19.
- Compliance and enforcement of contaminated land duties and Site Management Orders under the EP Act 2017 which may apply to audit recommendations of an ongoing nature.
- Regulation of contaminating activities to prevent new contamination occurring.

Note: as the [environmental audit system](#) provides the mechanism to obtain independent site specific advice on audit requirements, site suitability and recommendations for controls on use and development, EPA is not a referral authority. For matters not addressed by the environmental audit process, referrals to EPA can be made under s 52.