

# CONTAMINATION ISSUES – REAL PROPERTY

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## Guidance Papers

### Objectives

The principal objective of a Guidance Paper (*GP*) and Resource Pack (if applicable) is to clarify professional and industry processes, best practices, and procedures and to discuss their use and implementation.

A *GP* is designed to be of assistance to *Members* and those who use *Members'* services. They serve as a guide and measure of acceptable professional practice and conduct of a *Member*.

The intention of a *GP* is to:

- a) provide information on the characteristics of different types of assets that are relevant to the advice;
- b) provide information on appropriate practices and their application;
- c) provide information that assists *Members* in exercising the judgements they are required to make in specific situations';
- d) convey elements of what is considered "competent professional practice" for Australian Property Institute (*API*) *Members* and "best practice" for Property Institute of New Zealand (*PINZ*) *Members* and New Zealand Institute of Valuers (*NZIV*) *Members*.

A *GP* is not intended to provide comprehensive training, instruction or prescriptive practices and procedures, or direct that a process, professional approach, or method should or should not be used in any specific instruction or situation.

### Member Obligations

The *Member* is responsible for choosing the most appropriate approach in a matter based upon the task and instruction. It is a matter for each *Member* to decide the appropriate practice in any situation, and if they are unclear, seek legal advice. *Members* have the responsibility of deciding when it is appropriate to depart from the guidance and practices contained in a *GP*.

The *Institute(s)* do not warrant that anything contained in this, or any *GP* is the definitive or final statement on any issue. *Members* must perform their own work pursuant to their own professional expertise and experience and if required, seek additional advice which might include legal advice.

### Court or Tribunal Reliance

A court or tribunal may consider the contents of any relevant *GP* in deciding whether the *Member* acted to a standard required by law.

### Currency of Publication

This *GP* is current at the time of publication, based on current case law and legislation.

### **Departure or Non-Compliance**

Where a *Member* considers that a circumstance exists that warrants the departure from or non-compliance with any of this *GP*, the *Member's* report (or other advice) should include a statement that outlines:

- a) the reasons for the departure or non-compliance with this *GP*; and
- b) any impact the *Members* departure or non-compliance may have on the content of the report.

### **Enquiries**

If any *Member* considers any information or advice in this *GP* to not be accurate or up to date, or wish to raise any issue for consideration arising from the contents of this *GP*, please refer this to

API contact: [standards@api.org.au](mailto:standards@api.org.au)

PINZ contact: [standards@property.org.nz](mailto:standards@property.org.nz)

## 1.0 Introduction

### 1.1 Scope of this GP

The purpose of this Guidance Paper (*GP*) is to outline information, issues and approaches relating to *contamination* issues impacting and affecting real property assets.

This *GP* provides information and guidance for *Institute Members* providing professional services in relation to real property which is contaminated or for which the *contamination* status is unknown or uncertain.

It also addresses items that *Institute Valuer Members (Valuers)* should consider when undertaking valuations of real property that is known to be contaminated or for which the *contamination* status is uncertain.

For the purposes of this *GP* “real property” (property) is defined as the land and any improvements, structures, or additions to the land.

Polluted land is synonymous with *contaminated land*, and the latter is used to describe property which has foreign substances in, on, or under the land, or the improvements thereon that are causing or may cause harm, nuisance, or interference with the rights of the property owner or occupier; or which may limit the current or potential use of the property and/or increase the cost of occupying or developing the property.

*Members* should be aware of the types of *contamination* that may warrant further investigation by the *Member* or their client, based on the *Members* advice.

*Members* providing professional services or advice in relation to contaminated or potentially contaminated property must do so to the standard of professionalism and skill required and consistent with membership of the *Institutes* and in compliance with the law.

When providing advice in relation to contaminated property the *Member* should consider:

- the existence and effect of contamination;
- the current interpretation of the law;
- the effect of legislation;
- the previous use of the land/buildings;
- the existing use of the land/buildings; and
- the proposed use of the land/buildings.

In summary *Members* should:

- not act outside their area of expertise
- recognise polluting and potentially polluting activities and land uses
- identify known or observable contamination issues
- make the reader of the report or advice aware of any known or observable contamination issues
- recommend that the client seek further expert advice in relation to identified contamination issues

This *GP* should be read in conjunction with any other relevant *GPs*, professional standards documents, and any other relevant professional guidelines published or adopted by the *Institutes*.

## 1.2 International Valuation Standards

International Valuation Standards (*IVS*) published by the International Valuation Standards Council (*IVSC*) are adopted by the *Institute(s)*.

It is the *Valuers* responsibility to comply with the *IVS* applicable at the date of valuation, keep informed of any changes and, apply them appropriately and consistently when providing valuations.

This *GP* is also intended to be consistent with the concepts and definitions contained in the *IVS*, however, there may be departures from the *IVS* to reflect Australian and New Zealand law and practice. This *GP* refers to and uses *IVSC* definitions to promote consistency.

## 2.0 Definitions

The definitions contained below and used in this *GP* are applicable to this *GP* and have been included to assist with the interpretation and understanding of terms used within this *GP*. Whilst a defined term may also have a common meaning or interpretation, its use in this *GP* is so limited.

Where a defined term is included in this *GP* it is shown in italics.

|                                       |   |
|---------------------------------------|---|
| Institute(s)                          | All references to <i>Institute(s)</i> mean, as the context requires, the <i>API</i> , <i>PINZ</i> and/or <i>NZIV</i> .  |
| Member(s)                             | A <i>Member(s)</i> of the <i>API</i> , <i>PINZ</i> and/or <i>NZIV</i> .   |
| Contamination                         | The act of contaminating or the state of being contaminated or the presence of a foreign substance, impurity, or other undesirable element that spoils, corrupts, infects, makes inferior, unfit or unsuitable any asset for its current or intended use or any part thereof. |
| Contaminated Land (contaminated site) | Real property for which hazardous substances occur at concentrations where assessment indicates it poses or is likely to pose an immediate or long-term hazard to human health or the environment.  |

## 3.0 Land Contamination

### 3.1 Hazardous Substances

Any substance that has one or more inherent hazardous properties. This includes flammability, explosiveness, toxicity, and the ability to oxidise.

Hazardous substances are any man made or naturally occurring substances whether solid, liquid or gas that may cause *contamination*.

Hazardous substances are classified based on their potential effects and impact, whether acute (immediate) or chronic (long-term).

They include, but are not limited to, chemicals, products containing chemicals, fumes, vapours, dust, mists, nanotechnology, gases and asphyxiating gases, biological agents, germs that cause diseases, radioactive substances, asbestos, and lead.

### 3.2 Contaminants

*Contamination* is the result of the introduction of harmful materials or hazardous substances. These harmful or hazardous substances are called contaminants (or pollutants).

There is a wide range of potential contaminants, varying from liquid and solid chemicals to corrosive gases and radioactive substances. They may be naturally occurring, such as volcanic ash. They may also be created by human activity, such as waste or run-off produced by factories or bio-logical wastes and hazardous from the medical industry.

Contaminants can be classified as either physical or non-physical contaminants.

### 3.3 Physical Contaminants

Physical contaminants are hazardous or toxic substances in, or, under or near a property in measurable quantities which are identified as having detrimental environmental impact on the value or use of the property. Contaminants must be considered for any potential physical and non-physical impact.

Examples of physical contaminants include asbestos, hydrocarbons, lead, mercury, arsenic, cyanide and pesticides, but are not limited to these substances. Clandestine activities such as the manufacture and consumption of illegal drugs such as methamphetamine and marijuana may result in physical *contamination* of property. Mining by-products can include nutrients and arsenic compounds amongst others. Unexploded ordinances have been another environmental difficulty associated with former defence force lands. Organic compounds such as formaldehyde are problem sources. Coal tars from coal-using powerhouse operations, asbestos, or PCBs, PFAS can cause toxicity problems.

### 3.4 Non – Physical Contaminants

Contaminants that have no tangible, physical substance are non-physical contaminants; however, their impact could be as significant as physical contaminants.

Examples could be radiation including electromagnetic radiation such as power lines, intense radio waves transmissions and microwave sources, plus excessive heat, and increased noise levels. Property may be affected by proximity to the source of the contaminant.

### 3.5 List of potentially contaminating activities, and land uses

The following is included to illustrate the type of activities and land uses which could potentially be contaminating, and that *Members* should be aware of when undertaking a physical inspection of a property.

This list is advisory and is not intended to be exhaustive.

1. Abattoirs and Animal Processing Works
2. Acid/Alkali Plant and Formulation
3. Agricultural Activities (eg: Vineyards, Tobacco, Sheep Dips, Market Gardens)
4. Airports
5. Alumina Refinery Residue Disposal Areas
6. Asbestos Production and storage facilities
7. Animal By-Product Rendering facilities
8. Bottling Works
9. Breweries
10. Brickworks
11. Auto Wreckers
12. Cement Works
13. Cemeteries
14. Ceramic Works. Heavy metals
15. Chemical Manufacture and Formulation
16. Clandestine drug manufacturing and/or consumption
17. Coal Mines and preparation Plants
18. Defence Force training, storage, and manufacturing facilities
19. Docks
20. Drum Reconditioning Works
21. Dry Cleaning Establishments.
22. Electricity distribution network, power-grid lines, electricity, power stations, sub-stations, transformers, and overhead transmission lines
23. Electroplating and Heat Treatment Premises
24. Ethanol Production Plants
25. Engine works
26. Explosives Industries
27. Fertiliser Manufacturing Plants
28. Fire Stations and firefighting training areas
29. Gasworks
30. Glass Manufacturing Works
31. Horticulture/Orchards
32. Industrial Tailings Ponds
33. Iron and Steel Works

34. Landfill Sites
35. Lime works
36. Marinas and Associated Boat Yards
37. Metal Treatment
38. Microwaves, mobile phone networks and broadcasting towers
39. Mineral Sand Dumps
40. Mining and Extractive Industries
41. Munitions Testing and Production Sites
42. Oil Production, Treatment and Storage
43. Paint Formulation and Manufacture
44. Pesticide Manufacture and Formulation
45. Pharmaceutical Manufacture and Formulation
46. Photographic Developers
47. Piggeries
48. Plant Nurseries
49. Plant or Fibreglass
50. Power Stations and Substations
51. Prescribed Waste Treatment and Storage Facilities
52. Printed Circuit Board Manufacturers
53. Properties Containing Underground Storage Tanks
54. Radioactive Materials, Use, Storage or Disposal Facilities
55. Railway Yards
56. Research Laboratories
57. Sawmills and Joinery works
58. Scrapyards
59. Service Stations
60. Sewerage Works
61. Sites of incidence: e.g., road or rail spillage involving hazardous substances; fires involving hazardous substances
62. Smelting and Refining
63. Sugar mill or Refinery
64. Tanning and Associated Trades (e.g. Fellmongery)
65. Timber Treatment works
66. Transport/Storage Depots
67. Tyre Manufacturing and Re-treading Works
68. Waste Treatment Plants in which solid, liquid, chemical, oil, petroleum or hospital wastes are Incinerated, crushed, stored, processed, recovered, or disposed of
69. Wood Storage Treatment
70. Wood Treatment Facility
71. Wood Preservation

### 3.6 Specific Contamination Issues and Sources

There are several *contamination* situations that *Members* should be aware of, and these are outlined below. When considering the impact of *contamination* on the property, it is important for the *Member* to have consideration to public perception and fear which may impact the value, marketability and use of the property.

#### 3.6.1 Asbestos

Materials containing asbestos can create *contamination* issues that may affect the value, marketability or use of a property. Although asbestos has not been used in building materials for several decades, many older structures, contain asbestos. Asbestos contains fibres that can result in life-threatening health conditions if breathed in. It is particularly dangerous when it is in a 'friable' condition. It is considered lower risk if it is sealed and undamaged.

#### 3.6.2 Lead Paint and Products

Lead is a heavy metal that was used, particularly in older structures, as an additive to paint, and in pipes and solder used to join lead and copper pipes. Lead dust and chips of lead paint result in *contamination* of specific areas. Where lead is in contact with drinking water, *contamination* will result.

#### 3.6.3 PFAS – such as PFOA and PFOS

PFAS (per- and poly- fluoroalkyl substances) are a group of manufactured chemicals that have been widely used, globally, since the 1950s to make household and industrial fluoropolymer coatings and products that resist heat, stains, grease, and water.

Because they are heat resistant and film-forming in water, some have also been used as very effective ingredients in fire-fighting foams.

#### 3.6.4 Toxins in the Home Environment

There are many toxic substances used in the home. These comprise a long list of substances, including insecticides, lead based paint, wood preservatives, polishes, weed killers, bleaches and numerous other substances. Many of these home toxins are not structural but transient and may be removed through relatively low-cost means. Unless specific circumstances exist such as the use of these products in commercial quantities, comments on domestic use in a residential valuation report are considered excessive.

Residential construction methods and materials used may involve toxic substances or break down over time resulting in a release of such substances into the home environment. Certain timber related or artificially produced materials used for home insulation, furniture and fittings may release formaldehyde or other substances such as lead or asbestos fibres. The market will determine the impact of such factors on the property.

Construction related materials and residual *contamination* should be considered, based on market perceptions and evidence, whereas the presence of transient materials and substances should be ignored.

### 3.6.5 Underground Storage Tanks (UST)

An underground storage tank is a container used to house liquid substances for preservation, treatment and use. Underground storage tanks typically store petroleum or other hazardous substances.

The greatest potential hazard from a leaking UST is that the petroleum or other hazardous substance can seep into the soil resulting in *contamination*. A leaking UST can present other health and environmental risks, including the potential for fire and explosion.

### 3.6.6 Waste disposal facilities

A waste disposal facility is a facility for the recycling, reprocessing, sorting, consolidation, treatment, storage, incineration, conversion to energy, or disposal (including by disposal to landfill) of waste.

*Contamination* sources from waste facilities are that the waste or other hazardous substance(s) can seep into the soil resulting in *contamination* of the waste facility property or surrounding properties.

### 3.6.7 Illegal drug manufacturing and use

Residential and commercial properties used for making or smoking illicit drugs, such as methamphetamine (meth, ice), or growing cannabis may present a health risk to current and future occupants from residual contaminants.

The risk depends on the type of activity at the property.

Activities which may result in *contamination* include:

- clandestine drug laboratories: a house, commercial property or place used to manufacture or 'cook' illicit drugs, especially meth
- meth or illicit drug smoke house: a house or commercial property used to smoke these drugs, but not manufacture them
- grow house: a house or commercial property or place used to grow an illegal crop of cannabis (marijuana) for use or sale

### 3.6.8 Soil contamination

Soil *contamination* occurs when a contaminant is present on or in the natural soil environment and is causing or has the potential to cause adverse effects on the current or potential use of the land or the environment,

Any hazardous substance in or on the soil that exceeds naturally occurring background levels is a soil contaminant.

Examples of soil contaminants could include, but are not limited to;

- biological agents
- agricultural activities/practices
- radioactive pollutants
- urban waste
- industrial waste

Common soil contaminants include the chemicals in petroleum hydrocarbons, solvents, pesticides, fertilisers, herbicides, lead and other heavy metals.

### 3.6.9 Air pollution

Air pollution is *contamination* of the indoor or outdoor environment by any chemical, physical or biological agent that modifies the natural characteristics of the atmosphere. It is the presence of, or the introduction into, the air of a hazardous substance which has harmful or toxic effects.

Common sources of air pollution include household combustion devices, motor vehicles, industrial facilities, and bush fires. Pollutants of major public health concern include particulate matter, carbon monoxide, ozone, nitrogen dioxide and sulphur dioxide. Outdoor and indoor air pollution cause respiratory and other diseases and are important sources of morbidity and mortality.

### 3.6.10 Noise pollution

Noise pollution is any unwanted or disturbing sound(s) in the environment that impact(s) the health and well-being of humans and other living organisms.

There are many sources of noise pollution, including but not limited to, traffic noise, air traffic noise, building/construction sites, hospitality venues and night life, and animals.

## 3.7 Legislative Considerations

*Members* should be aware of applicable legislation relating to *contamination* issues (usually covered under relevant Environment Protection Act and managed by a regulatory authority such as the Environmental Protection Agency) in the jurisdiction that the subject property is located in.

## 3.8 Responsibility to Report

*Members* should understand the obligatory reporting requirements relating to contaminated property.

## 3.9 Environmental Protection Agencies

Most jurisdictions have a regulatory agency known as the Environmental Protection Agency (*EPA*) set up as the jurisdiction's independent environmental protection regulator. The *EPA* is responsible for administering the Environment Protection Act and other relevant environmental acts and regulations.

An *EPA* protects, restores, and enhances the environment via its risk-based regulation of pollution, waste, noise, and radiation.

## 3.10 Contaminated Site Register

The *EPA* in most jurisdictions maintains and manages an online contaminated site register. *Members* are encouraged to utilise online search tools when providing professional services in relation to real property which is contaminated or for which the *contamination* status is unknown or uncertain.

Where a *Member* identifies or suspects that a property is or may be contaminated, the *Institutes* consider that it would be appropriate for the *Member* to conduct a search of the contaminated site register.

*Members* should not over-rely on online registers as they may not be exhaustive, especially in those jurisdictions where they are not formally required by legislation or regulation. Absence from a register should not be taken as blanket evidence that a site is not contaminated.

*Members* should disclose the results of any searches undertaken to the client in any report/advice. When a *Member* has information or evidence that points to a different opinion or outcome than that contained in the online register, this should also be reported to the client.

Where a *Member* receives confirmation, evidence, or identifies because of their own investigations and inspections, the presence of *contamination* on or in the property which is the subject of the professional services they are providing, the *Member* must recommend to the client for additional searches or investigations to be undertaken by suitably qualified environmental experts.

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In New Zealand the Ministry for the Environment's Hazardous Activities and Industries List (HAIL) provides guidance on industries and activities which have the potential to cause *contamination*.

To determine whether these activities have taken place requires either:

- sourcing dangerous goods files, property files, resource consent database and relevant registers at the City, District and Regional Councils; or
- engaging a suitably qualified and experienced professional to conduct a site investigation.

Useful information may include:

- Land Information Memorandum (LIM) – *Members* should request the City, District or Regional Council for this to obtain information on the property.
- The property file held by the City, District or Regional Council – these may contain useful information about the property e.g., past land use activities.
- Historical search of computer registers – these provide information on previous owners of the property.
- Search of City, District or Regional Council on GIS portal, which will typically identify whether a property is listed on, or near a property list on HAIL.
- Ministry of Environment's Hazardous Activities and Industries List (HAIL).
- Historical aerial photographs – these can be reviewed to determine if the property was previously used for the storage or use of hazardous substances (e.g., fuel storage areas, underground tanks, old sheep dips, market gardens, orchards and/or greenhouses).
- Building reports - consider the age of buildings and building materials used e.g., lead/arsenic/cadmium-based paint, contaminated claddings or building materials, asbestos, treated timber etc.

### 3.11 'The Polluter Pays Principle'

The 'polluter pays principle' is the cornerstone of global environmental policy, and the basis of environmental laws throughout Australia.

In environmental law, the polluter pays principle is enacted to make the party responsible for producing pollution responsible to bear the costs of containment, avoidance, abatement for the damage done to the natural environment. It requires the polluter to take responsibility for the external costs arising from its pollution.

Under the polluter pays principle, the polluter should pay for the costs of:

- preventing pollution or reducing pollution to comply with applicable standards and laws;
- preventing, controlling, abating and mitigating damage to the environment caused by pollution.
- making good any resultant environmental damage, such as cleaning up pollution and restoring the environment damaged; and
- making reparation (including compensatory damages and compensatory restoration) for irreparable injury.

The situation in New Zealand differs to Australia. As at the date of publication of this GP, land contamination associated with a property has been the responsibility of a polluter, occupier, or the current landowner. The upcoming Natural and Built Environment Bill seeks to reform this approach and proposes to enact the 'polluter pays principle' in New Zealand.

### 3.12 Environmental Case Law

*Members* should be aware of case law in relation to contaminated property and that judgements may establish new findings and directions.

## 4.0 Role of the Member

It is not the role of the *Member* to quantify the type and extent of *contamination*. *Members* are reminded of their obligations to operate within their field of expertise and competence.

*Members* that work with *contaminated sites* are encouraged to actively foster professional association with consultants specialising in the identification and treatment of *contamination* and to ensure adequate training is obtained or given to prevent health and safety issues.

### 4.1 Not Expert

*Members* should not hold themselves out as an expert in issues of site or other *contamination* unless they hold appropriate qualifications and experience in identifying and reporting on *contamination* issues.

*Members*, who are not qualified environmental experts, should be aware that their role and expertise is limited to the detection of the existence (or possible existence) of known or observable *contamination*.

Detailed identification and quantification of *contamination* should be left to those who specialise in that field.

## 4.2 Members to refer

Where *contamination* is suspected and where detailed information is unable to be obtained or provided, the *Member* should refer the matter back to the client seeking clarity on how to proceed.

## 4.3 Investigations and Inspections

*Members* undertaking an inspection should be aware that their role and expertise is limited to the detection of the existence (or possible existence) of known or observable *contamination*.

However, *Members* undertaking an inspection of a property are expected to be aware of the potential for, or of, *contamination* issues based on their inspection and report their findings, accordingly, including recommending additional expert investigations and advice from suitably qualified environmental experts.

It is important for *Members* to investigate and look for signs that may suggest that a former use, if not the present use, may have led to, or caused, some form of *contamination*.

A *Members* inspection and investigations are not intended to replicate a preliminary site investigation undertaken by experts in contamination issues. A preliminary site investigation by an expert in contamination issues is primarily a desktop investigation to establish historical land uses and site history, identify likely sources of contamination and potential impacts. The purpose of a preliminary site investigation by experts in contamination issues is to assist the contamination expert in deciding whether the property warrants further investigation including inspection by a contamination expert.

*Members* can consider a range of property specific factors that could indicate *contamination* issues, these include:

- site layout and contours,
- storage areas,
- geology,
- water features,
- onsite stockpiles,
- debris as well as impacts from nearby developments which may affect the subject property. and
- the potential for contamination from off-site sources.

There are often tell-tale signs that could indicate the possible presence of some contaminants. *Members* can look for:

- disturbed or coloured soils,
- disturbed vegetation,
- the presence of any chemical containers or chemical odours,
- view the quality of any surface water, and
- surface soil or fill which may have been introduced to the property from other locations.

Examination of historical land use may provide evidence of the potential for contamination.

#### 4.4 “Environmental Checklist”

*Members*, including *Valuers*, may, in some instances, be requested to provide responses to questions in a standardised form/checklist which the *Member* may not be qualified or able to answer.

The Annexures to this paper contain an example “Environmental Checklist” that can be modified or adapted by *Members* as part of their data collection procedures.

The completion of any environmental checklist by a *Valuer*, or other *Member* is undertaken on the basis that the *Member* is not an expert in identifying, quantifying and/or reporting on environmental (*contamination*) issues, and that any ‘checklist’ (or answers) is provided by the *Member* in their capacity as a non-suitably qualified expert in environmental issues.

*Members* must not commit to providing definitive confirmations in an environmental checklist just because the instruction/request imply that the services to be provided so requires.

*Members* are reminded to ensure that they should not accept or agree to undertake professional services outside their area of expertise.

#### 4.5 Highlighting Risk and Mitigating Risk to Members

*Members* must advise their client if they identify or become aware of *land contamination* relating to the subject property.

Clients, regardless of whether they are property owners, vendors, purchasers, financial institutions, receiver-managers, holders of major or minor property portfolios etc will often look to *Members* for advice and guidance on *land contamination* and how it impacts their property interest and value.

It is not the *Members* responsibility to be the expert in environmental matters / *contamination* issues.

*Members* should exercise caution in describing the nature/type and extent of any *contamination* or remediation/clean-up requirements, unless they are quoting the advice/report of suitably qualified environment experts. Costs associated with remediation and/or clean-up of *contamination* issues is also a matter for experts in that field. *Members* should not provide advice or costings on remediation/clean-up requirements. If information from suitably qualified environmental experts is available/provided, *Members* should be referring to that advice in their report or advice to their client.

## **5.0 Instructions**

### **5.1 In Writing**

*Members* must obtain instructions in writing in accordance with accepted professional practice and clearly outline the professional services agreement between the *Member* and the client.

Instructions in relation to *contamination* issues should be agreed prior to the *Member* beginning work or when *contamination* issues are identified during the professional services prior to the *Member* completing the professional services.

Where the *Member* requires clarity or if there is any confusion in relation to the instructions this should be referred to the instructing party/client.

Any variations to instructions must be in writing.

### **5.2 Accepting Instructions**

The *Member* must possess the necessary expertise, knowledge, and experience to undertake the professional services prior to accepting instructions.

In relation to *contamination* issues the *Member* must not act outside their expertise or hold themselves out as an expert in *contamination* issues. *Members* must ensure that they have clarified the role and services that they can provide their client in relation to *contamination* issues.

## **6.0 Professional Indemnity Insurance**

### **6.1 Policy Exclusions**

*Members* should be aware of any exclusions within their professional indemnity insurance policy related to pollution, *contamination*, or specific contaminants.

Some policies do not provide cover in relation to claims arising from or in connection with these matters. For example, many policies exclude liability for claims arising from nuclear radiation.

*Members* should refer to their professional indemnity insurance policy and consult with their insurer where required.

## **7.0 Qualifications**

### **7.1 Use of Qualification Clauses/Statements**

The *Institutes* recommend that *Members* seek appropriate legal advice as to the use and applicability of the legal and commercial efficacy of any proposed disclaimers and qualifications included in a report/advice.

The sample qualifications contained below are strictly that, sample clauses that should be reviewed, modified, and adapted by *Members* to be fit for purpose for the specific circumstance that they are included in an report/advice.

## 7.2 Sample Qualifications

Below are some examples of the types of qualification clauses or statements that may be relevant and used or modified by *Members* to fit the specific situation that they are reporting on:

### Environmental Issues

Our enquiries indicate that the site has not previously been utilised for any industrial or manufacturing use or for the storage (either above ground or underground) of any chemical substance.

Our enquiries at [insert name of relevant authority] indicate that it is not aware of the existence of any site contamination. Whilst our visual inspection of the site surface has not revealed any evidence of site contamination, we have not investigated the site beneath the surface or undertaken vegetation or soil sampling, nor have we been provided with an environmental site assessment or similar. We have assumed that the property is not affected by site contamination. We reserve the right to review and if necessary vary our report and opinions provided if any contamination or other environmental issues are identified.

The site is (or has been) occupied by [insert description of land use] which, having regard to the nature of process or chemicals used or stored, has a potential to cause soil contamination.

Whilst our enquiries at [insert name of relevant authority – e.g. the Environmental Protection Authority] indicate that it is not aware of the existence of any site contamination, we have not investigated the site beneath the surface or undertaken vegetation or soil sampling, nor have we been provided with an environmental site assessment (or similar). We have assumed that the property is not affected by site contamination. We recommend that this assumption be confirmed prior to reliance or use on the report by obtaining a satisfactory environmental site assessment report from environmental consultants. If such site assessment report reveals that the property is affected by site contamination, [insert name of Member/Member's firm] should be consulted to assess any effect on the opinions stated in this report.

### Petroleum products

The subject property is operated as a service station and workshop and therefore fuels, oils and other products capable of causing contamination are used on the site as part of the operation. There are no visible signs of any pollution on the property; however, we are unable to certify that there is no contamination of the property beneath the surface of the soil. We have assumed that the property is not affected by site contamination. We recommend that you confirm this assumption by obtaining a satisfactory contaminated site assessment report from environmental consultants. If such site assessment report reveals that the property is affected by site contamination, [insert name of Member/Member's firm] should be consulted to assess any effect on the opinions stated in this report.

## Asbestos

Inspection of the improvements showed the use of asbestos products in the building. We have not sighted or been provided with an asbestos assessment report. We are not experts in this area and therefore, in the absence of an environmental consultant's report concerning the presence of any asbestos fibre within the subject property, this report is made on the assumption that there are no negative impacts, including health risks due to the presence of asbestos. As there is a risk of asbestos related health issues, we strongly recommend that this assumption is confirmed by obtaining a contamination site assessment report from suitably qualified environmental consultants. If such site assessment report reveals that the property is affected by asbestos contamination, [insert name of Member/Member's firm] should be consulted to assess any effect on the opinions provided in this report.

## 8.0 Impacts on Property

*Contamination* may range from low to severe impact:

- Low impact - requiring minimal clean-up costs and having little, or no impact on the current or potential use of the property and/or a negative impact on the value and marketability of the property.
- Moderate – where site contamination exists and either does not require remediation for contamination of the existing land use or can be remediated for alternative land uses.
- Severe - where there is effectively no use of the property possible for the present or foreseeable future and costs to remedy and clean-up the *contamination* issue(s) are financially, economically and/or environmentally nonviable.

### 8.1 Costs

The cost to remedy or clean-up an identified *contamination* issues often are not able to be quantified when the *contamination* is discovered. There are difficulties in estimating and quantifying costs in all situations. Differing contaminants and *contamination* issues as well as the current or proposed use of the property present different complexities and costs that need to be considered, including the impact of those costs.

*Members* should consider estimates provided by suitably qualified experts. Cost estimates provided by other non-experts must be treated with a degree of scepticism as they may not be representative of true or actual costs.

The cost to remedy a *contamination* issue includes all costs required because of, and associated with, the identification of the *contamination* and the clean-up costs. This may include investigation/survey costs, physical clean-up, monitoring or on-going costs and legal/professional fees and any regulatory costs.

### 8.1.1 Initial Survey Costs

The first cost with *contamination* is normally the cost of identifying and quantifying the presence or extent of any contaminants and the impact on the property.

Where *contamination* issues are identified by the *Member* at the time of their inspection or other investigations, they should recommend that the client seek the services of a suitably qualified expert to assess the extent of and potential impacts, including costs to remedy or clean-up the *contamination*.

### 8.1.2 Cost of Remediation/Clean-up

Actual or final costs are often unknown prior to the completion of clean-up. It may not be possible for complete clean-up to be affected in all instances. Mitigation measures or strategies may be required to control or reduce *contamination* issues.

*Members* should consider estimates provided by suitably qualified experts.

### 8.1.3 Ongoing Costs

The costs of ongoing testing and monitoring of *contamination* issues are expenses that property owners or occupiers may face. Ongoing costs include those costs the property owner incurs due to the *contamination* issues remaining after clean-up that may be the result of regulatory or statutory requirements, higher insurance premiums or reduced ability to use the property as security to raise finance. Ongoing costs may be substantial and should be estimated or ascertained by a suitably qualified expert in *contamination* issues. *Members* should consider the impact of current and future costs, as detailed and advised by suitably qualified experts, on the present and future use of the property.

### 8.1.4 Legal Costs

*Contaminated land* may attract legal costs because of dealings with regulatory and statutory bodies/agencies or requirements (known as legal requirements). Legal proceedings or responses to other affected property owners/occupiers or other third parties in relation to *contamination* issues are additional legal costs that owners or occupiers of *contaminated land* may incur.

The legal costs associated with *contamination* issues or *contaminated land* may be considered part of the cost of remedy or clean-up, where they are over and above normal legal advice and costs. The potential for litigation or any pending litigation may affect the marketability and value of a property by reducing demand and deterring prospective buyers or tenants.

Where legal costs specific to the property are known or expected, they should be considered by *Members* and included in any report/advice to their client. It is however not the *Members* responsibility to determine or quantify the legal cost.

### 8.1.5 Indirect Costs

When it comes to *contamination* issues, anything that impacts a property's use or income earning capacity either during remediation and clean-up or following clean-up may be categorised as an indirect cost of the *contamination*. For example, a tenant may not be able to occupy a property during clean-up resulting in additional relocation costs; or a portion of a manufacturing facility is 'shut down' for remediation of hazardous substances and this results in other parts of the facility not having access to products or process in the closed portion thereby reducing production and earnings from the facility.

While impacts of this nature may not be permanent, they do need to be considered and factored into advice or opinion provided by *Members* and they have the potential to impact the utility, marketability, and value of a property.

## 8.2 Financing

Finance costs are known to affect demand for property and values. In relation to *contaminated land*, there are effects that should be considered. The ability of prospective buyers to raise finance to purchase a contaminated property, or finance terms available are not typical for the marketplace due to the *contamination* this can impact the marketability and value of a property. Likewise, unfavorable finance terms to remediate or clean-up *contamination* will result in the perception or actual occurrence of additional liability and reduced income from the property thereby reducing buyer demand.

## 8.3 Liability and Indemnity Agreements

Liability for costs associated with *contaminated land* often lies with property owners. Also refer to ‘the polluter pays principle’ outlined in section 3.11. The liability for costs may impact on the current or future use of the property and its subsequent value in the marketplace may be affected.

Where the *Member* is aware, or made aware, that there is an indemnity agreement in place over a property or contained within a sale contract, whereby the owner or seller agrees to retain responsibility for all current and future costs related to the *contamination*, this will need to be considered by the *Member*. An indemnification agreement of this nature is normally structured as a bond or similar contractual arrangement that provides for specified *contamination* related costs.

*Members* should seek legal advice as to the efficacy or enforceability of any indemnification agreement, and where appropriate provide appropriately qualified report or advice.

## 8.4 Stigma

Stigma is an intangible factor which may not be as measurable as other value determinants. A stigmatized property is one that buyers or tenants may avoid for reasons not related to its physical condition, features, or use. Land *contamination* may be seen as blight or perceived blemish or stain on a property resulting from real or perceived risk associated with the property.

Due to the intangible nature of the stigma attached to *contamination* issues or *contaminated land*, the impact of marketability and value may be out of proportion to the cost to remediate and/or clean-up the *contamination* issues and can persist for many years.

Stigma makes a property less desirable even when the *contamination* has been remediated and/or cleaned-up. Where there is market perception that a property is or has been contaminated, then despite evidence that remediation or clean-up has occurred, the market may still pay less than normal unaffected values.

Stigma can also affect property adjacent to or nearby *contaminated land* and or previously *contaminated land*. In these situations, despite the presence of nearby *contaminated land*, the stigma attached to these properties may be overstated because the utility and/or value is not often demonstrably affected.

The market's perception of *contaminated land* and/or *contamination* issues can result in a discount in value more than the direct or indirect costs of any remediation or clean-up. The market may perceive stigma exists because of;

- Uncertainty affecting the current or future use of the property
- Risks and concerns associated with the effectiveness of remediations and/or clean-up
- Concerns about possible unknown costs
- The property never being regarded as truly 'clean'
- Restrictions on future use of the property
- Legal implications including responsibility and liability falling to the property owner
- Impacts on financing any dealings with the land
- Public liability risk associated with *contaminated land*

### 8.5 Contamination may not necessarily impact property use

The existence of *contamination* issues in or on a property may not necessarily result in a negative impact to the property or reduce its marketability of value with the land use classification or industry in which its current use is operating, for example, a service station.

In some jurisdictions an existing use may be permitted to be continued without remediation, clean-up, or any other mitigation requirements. Special licensing (or similar) issued by the relevant authority is generally required in these situations which permits the property to continue to be used as it is.

*Members* should confirm details and conditions of such 'licensing' in any report/advice and ensure that such report/advice is appropriately qualified including a warning that there may be impacts on the property if the current use ceased.

## 9.0 Impacts on Value

*Contamination* issues and their impacts on the marketability and/or value vary from property to property based on a variety of factors, some of which could include:

- Type and extent of *contamination*
- Property type and location
- Current or intended use of the property
- Demand for alternative uses
- Remediation and/or clean-up methods and availability
- Ability to secure suitable financing
- Marketability issues/market perceptions
- Statutory or regulatory authority requirements

## 10.0 Valuation Approaches, and application of methodologies

### 10.1 Valuation Approaches

As per IVS, valuation approaches utilised in determining value are based on market observations.

The principal valuation approaches as defined in IVS are

- (i) market approach,
- (ii) income approach, and
- (iii) cost approach.

Within these approaches, there are also various methodologies.

*Valuers* should refer to IVS 105 Valuation Approaches and Methods for further information.

It is incumbent on the *Valuer* to identify what the key market drivers (value determinants) are for the subject property class. *Valuers* should consider the detail and accuracy of information available and ensure that whichever approach is selected, it is supported through analysis of the most appropriate evidence.

The selection of the valuation approach should consider the basis under which the evidence relied on has transacted.

The analysis process will also provide the *Valuer* with an opportunity to identify the most appropriate methodology to utilise for the valuation.

The primary valuation approach chosen by the *Valuer* should also consider the purpose for which the valuation is undertaken.

### 10.2 Valuation Methodology

The valuation of *contaminated land* is complex as the circumstances of each property are unique to the affected property and because there are often insufficient sales available for direct comparison purposes or the sales are subject to unknown or bespoke terms and conditions in relation to the *contamination* issues.

As noted previously, there are various methodologies that can be applied under the three (3) principal valuation approaches. Notwithstanding the difficulty and complexity in the valuation of *contaminated land* it is the *Valuers* responsibility to choose the appropriate method(s) for the valuation.

## 11.0 Valuation Considerations

The valuation of *contaminated land* may require the *Valuer* to ascertain all the value determinants (components of value) on the assumption that the property is free of contamination and to then determine appropriate adjustments to take into consideration the *contamination* issues.

A key consideration for *Valuers* when providing an opinion of value is the determination of the highest & best use for the property that is subject to the *contamination* issues. Highest & best use is the use that maximises the properties potential, produces the highest value and must be physically possible, legally permissible, and financially feasible.

The two concepts that may be considered in relation to *contaminated land* are the free of contamination value and the existing use value of the property.

Free of contamination value is the value that a contaminated property would have if no adjustments were made for the *contamination* issues. This value is calculated utilising standard valuation methods for the subject asset type/class/market and reflects the properties highest & best use. Adjustments that are required to account for the *contamination* issues should also consider the existing use.

The existing use value implies that a contaminated property can be used or will be able to be used in the near future. This concept may remain true even if costs to remedy/clean up the *contamination* issues exceeds the nominal free of contamination value.

The *Valuer* needs to consider if a contaminated property retains an existing use value. If there is no use for the property, that is, it is not able to be used for any purpose, then there is likely no market for the property. In such cases, it would follow that the property has zero value. When a property can be used, value would exist, because with use there is some level of market demand for the property.

Another consideration is that in many jurisdictions' *contamination* is permitted within defined levels for some land uses and locations. These are defined in permits or licenses issued by regulatory or statutory authorities and permit a business to operate or continue to operate where no operation would be possible if a zero *contamination* regime was in place.

Furthermore, the time during which impacts of the *contamination* issues are present also need to be established. *Valuers* should have regard to advice on timelines and costs for remedy/clean up and any additional costs provided by suitably qualified experts.

Proof of *contamination* and all cost estimates for remedy/clean up or other associated costs should be provided by a suitably qualified environmental expert to enable the *Valuer* to make appropriate adjustments. The cost of remediation/clean up and/or other associated costs may exceed the value of the property thereby resulting in a zero dollar assessment or valueless property, or significantly reduced value. It is critical that any such conclusion should never be presumed by the *Valuer* and should be based on detailed costings provided by a suitably qualified environmental expert.

*Valuers* should consider the potential impact on land uses, whether lower or higher uses, and any impact on the marketability and value of the property considering the advice and guidance provided by suitably qualified environmental/contamination experts.

## 12.0 Valuation Reporting

Valuation reports of property that is known to be contaminated or for which the *contamination* status is uncertain should have regard to the requirements contained with *IVS 103 Reporting*.

Reports should satisfy any requirements contained within the instructions agreed between the *Valuer* and the instructing party, as well as contain the following minimum information:

- Reference to the instructions received
- Details of the asset that is the subject of the valuation
- Purpose
- Client and any other parties who can use or rely on the valuation
- An appropriately worded third party disclaimer
- Valuation date, inspection date and date of issue of the report
- The valuation approach selected, and method or methods applied
- Supporting evidence for comparison purposes (eg: sales evidence)
- Details of any assumptions made
- The conclusion(s) of value and explanation for any conclusion(s) reached
- Details of any limitations, conditions, or qualifications on the valuation

Where information is provided, sourced, or made available to the *Member*, this should be provided to the client together with a statement of the source of the information and its use or reliance disclosed and qualification as appropriate.

## 13.0 Effective Date

This *GP* is applicable from 01 July 2023. Earlier adoption is permitted and encouraged.

In Australia, this *GP* replaces *APGP 403 Land Contaminations Issues* which was in effect from 1 July 2021 and was withdrawn 30 June 2023.

In New Zealand, this *GP* replaces *NZVGP 506 Valuation of Contaminated Land*, which was in effect from 1 July 2021 and was withdrawn 30 June 2023.

### ANNEXURES

- Annexure 1: Sample “Environmental Checklist”
- Annexure 2: sample Site Contamination Questionnaire for mortgage valuations of non-residential property

## ANNEXURE 1: Sample “Environmental Checklist”

The following checklist is included to illustrate the type of factors *Members* should be aware of when undertaking an inspection of a property.

It is not intended to be exhaustive. *Members* should exercise their own professional judgement in deciding what factors are relevant to the subject property and, as necessary, create/design an appropriate checklist or data collection tool for their use.

### Hazardous Materials, Storage and Disposal

|          |  |     |    |         |    |
|----------|--|-----|----|---------|----|
| 1        | Are there any drums, tanks, or other holders of hazardous materials like chemicals, pesticides, cleaners, solvents on the property?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 2        | If so, is there any indication of spills, leaks, or discharges to the ground from the drums, tanks, other holders of hazardous material?   | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 3        | Are there any areas observed with stains on the ground or with dead or stressed vegetation?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 4        | Is the facility or operations on the property a generator of hazardous waste?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 5        | If hazardous waste is generated at the property, does it appear to be improperly monitored or not transported off the property by professional hazardous waste disposal contractors? | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 6        | If the property generates hazardous waste, does it have statutory environmental authority approval, or is it licensed to do so?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 7        | Does the property appear to have any pits, ponds, lagoons (other than normal water retention ponds required by some local councils) or other dumping areas?                          | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |

### Hazardous Materials, Storage and Disposal continued

|          |  |     |    |         |    |
|----------|--|-----|----|---------|----|
| 8        | Is there any evidence of radioactive products being utilised on the property?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 9        | Does the facility appear to be free of any obvious sources of air emissions that have chemical odours, fumes, or mists?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 10       | Does the facility appear to be free of any noise pollution and are controls in place?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 11       | Is there any evidence of any source of infectious waste (medical pathological wastes) on the property?   | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 12       | If there is any source of infectious waste, are facilities for its disposal inadequate or not functioning properly?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 13       | If the current use of the property does not indicate any of the above, could prior uses of the land involve hazardous materials, storage, and disposal?          | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 14       | Is the property registered on any Government register of contaminated land or its equivalent?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 15       | Are the existing or past operations on the property subject to local environmental concerns expressed by the local community, Council, Health Department or EPA? | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 16       | Do the existing operations comply with current regulatory permits and licensing?   | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |

### Management Controls: Hazardous Waste

|          |  |     |    |         |    |
|----------|--|-----|----|---------|----|
| 1        | Does this facility have a policy document and is it available to all staff?                                  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 2        | Does the facility have an action plan in place for monitoring and reviewing environment controls?            | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 3        | Does the facility have an emergency plan and/or procedures in the event of a spill, explosion or break down? | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 4        | Are copies of licenses and/or registrations easily visible and are they up to date?                          | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 5        | Verify the status on any current orders  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 6        | Verify the status on current audits  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |

### Extractive Industries

|          |   |     |    |         |    |
|----------|---|-----|----|---------|----|
| 1        | Is there any extractive industry currently being operated on the site?    | Yes | No | Unknown | NA |
| Comments |   |     |    |         |    |
| 2        | If yes, is there an Environmental Impact Statement available for perusal? | Yes | No | Unknown | NA |
| Comments |   |     |    |         |    |
| 3        | If yes, is there a current Development Approval available for inspection? | Yes | No | Unknown | NA |
| Comments |   |     |    |         |    |

### Agricultural-Type Properties

|          |   |     |    |         |    |
|----------|---|-----|----|---------|----|
| 1        | If the property has previously been used for horticultural, orchard or market garden purposes, is there any historic evidence of past land uses having involved persistent pesticides, such as dieldrin or DDT? | Yes | No | Unknown | NA |
| Comments |   |     |    |         |    |
| 2        | Are there any environmental audits available evaluating the presence of pesticides?   | Yes | No | Unknown | NA |
| Comments |   |     |    |         |    |

### Asbestos

|          |   |     |    |         |    |
|----------|---|-----|----|---------|----|
| 1        | Is asbestos apparent on the property?   | Yes | No | Unknown | NA |
| Comments |   |     |    |         |    |
| 2        | Does a walk through the facilities reveal any obvious evidence of asbestos in ceilings, pipes, ducts, roofing, boiler insulation or structural beams, etc, that appears to be friable, flaking, or damaged? | Yes | No | Unknown | NA |
| Comments |   |     |    |         |    |
| 3        | Were the facilities on the property constructed prior to 1980 when the use of asbestos was banned?  | Yes | No | Unknown | NA |
| Comments |   |     |    |         |    |
| 4        | Has an asbestos survey/audit of the facilities been conducted?  | Yes | No | Unknown | NA |
| Comments |   |     |    |         |    |
| 5        | Did the survey find the buildings to be free of asbestos containing materials?  | Yes | No | Unknown | NA |
| Comments |   |     |    |         |    |

### Polychlorinated Biphenyls (PCBs)

|          |   |     |    |         |    |
|----------|---|-----|----|---------|----|
| 1        | Is there any electrical equipment (transformers, capacitors, etc) that contain polychlorinated biphenyls (PCBs) on the property?                | Yes | No | Unknown | NA |
| Comments |   |     |    |         |    |
| 2        | If PCB containing electrical equipment is presently on the property, is there any evidence of leaks or spills on the ground near the equipment? | Yes | No | Unknown | NA |
| Comments |   |     |    |         |    |

### Underground Storage Tanks (USTs)

|          |  |     |    |         |    |
|----------|--|-----|----|---------|----|
| 1        | Are there any underground storage tanks (USTs) containing petroleum products or hazardous chemicals on the property?                   | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 2        | If USTs exist on the property, are leak detection equipment or secondary containment systems installed on the tanks?                   | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 3        | Have they ever been tested for leaks?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 4        | Has there ever been an incident of a leak, spill or discharge?   | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 5        | Have the owners or lessees of the property undertaken any environmental audit pertaining to underground storage tanks on the property? | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 6        | Have the proper registration forms been submitted to the designated regulatory authorities?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |

### Land Fills

|          |  |     |    |         |    |
|----------|--|-----|----|---------|----|
| 1        | Is there any evidence that the site is currently being filled or has been filled?                  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 2        | Have the filling operations been approved by Council and the EPA?                                  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 3        | Do the filling operations allow for putrescible, non-putrescible, or toxic wastes?                 | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 4        | Do the filling operations require a licence and/or Performance Guarantee and License from the EPA? | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |

### Former Defence-Oriented Property

|          |  |     |    |         |    |
|----------|--|-----|----|---------|----|
| 1        | Does the land contain unexploded munitions, radioactivity or other hazardous substances that could be associated with defence works?   | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 2        | Is there any information available from the Department of Defence or local authorities regarding the presence of unexploded munitions? | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |

### Environmental Hazards on Adjacent Properties

|          |  |     |    |         |    |
|----------|--|-----|----|---------|----|
| 1        | Do any adjacent properties appear to have any improper storage or dumping of hazardous materials, drums or containers that could impact on the value of the subject property?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 2        | Are there any landfills, dumps or other waste disposal facilities within one kilometre of the subject property?  | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |
| 3        | Is there any indication of operations such as gas stations, chemical plants, bulk storage tanks, manufacturing plants or other land uses which potentially involve land contamination (as outlined in this document), on any of the adjacent properties? | Yes | No | Unknown | NA |
| Comments |  |     |    |         |    |

## ANNEXURE 2: sample Site Contamination Questionnaire for mortgage valuations of non-residential property

The questionnaire on the following pages is designed to provide preliminary information on the *contamination* issues that might exist at a non-residential property valued under instruction from a lender for mortgage security purposes.

The questionnaire is intended to illustrate the type of factors *Valuers* should be aware of when undertaking an inspection of a property. It is not intended to be exhaustive. *Valuers* should exercise their own professional judgement in deciding what factors are relevant to the subject property.

It may be included a valuation report prepared by a *Valuer* if deemed appropriate and relevant to the property.

Answers to the questions should be factual and sourced through independent investigation by the *Valuer* based on their inspection and other enquiries as outlined in this *GP*. The *Valuer* should not solely rely on information provided by the owner or occupant.

Where a 'Yes' or 'Unknown' response to any question is appropriate the *Valuer* should consider the guidance and advice contained with the *GP*, including considering whether further investigation by a suitably qualified environmental expert is warranted.

Where all responses from the *Valuer* are 'No' the valuation report should include a comment confirming that the **Site Contamination Questionnaire for mortgage valuations of non-residential properties** as contained within ANZVGP 115 Contamination Issues – Real Property has been completed and no positive responses identified.

Discussions may be had with the property owner, occupant, or their representative, to gather information required to complete the questionnaire. To the extent possible and within the capacity of a *Valuer*, any information made available should be independently considered by the *Valuer*.

Questions such as statutory compliance, or notices of breach or warning may also be requested of the customer.

The lender acknowledges and accepts that the *Valuer* is not an expert in the identification of *contamination* issues.

The lender requires the *Valuer* to base their advice on an independent investigation of the following:

- Inspection of the property in accordance with accepted valuation practice;
- Review of existing and historical site use (so far as it is reasonably identifiable);
- Where the *Valuer* discovers or suspects the property may be contaminated, a review of the register of 'contaminated sites', or equivalent (as appropriate in the jurisdiction that the property is in);
- To the extent possible, a visual inspection of the immediately surrounding environment;
- In relation to asbestos, a review of the asbestos register (or similar document as it applies in the jurisdiction) or a statement that a request was made, but that the owner did not make the register available for review if applicable; and

- Consideration and review of any information provided by the owner, occupant or their representative, to the Valuer.

The lender accepts that a *Valuer* is not an expert in *contamination* matters. The Lender accepts that a Site Contamination Questionnaire with all 'No' responses, based on the above sources, does not guarantee that the subject property is free of contamination issues.

The Site Contamination Questionnaire is only to be relied upon by the lender in conjunction with the advice contained within the valuation report and subject to the qualifications and disclaimers included in the report. The Site Contamination Questionnaire is not to be relied on as a 'stand-alone' document by the lender, or any other party.

Site Contamination Questionnaire for non-residential property

|                   |  |
|-------------------|--|
| Property Address: |  |
| Current Use:      |  |
| Inspection Date:  |  |

| Topic                              | Question   | Yes | No | Unknown | NA |
|------------------------------------|--|-----|----|---------|----|
| Historical use                     | 1. Is there any indication that there has been previous noxious or potentially contaminating use of the property?  |     |    |         |    |
| Planning controls                  | 2. Is the property subject to an environmental planning overlay that could constrain land use and development, or an overlay that indicates the need for an environmental audit as part of any development approval process?   |     |    |         |    |
| Adjoining planning controls        | 3. Is land adjoining the property subject to an overlay that indicates any adjoining land could be contaminated?   |     |    |         |    |
| Neighbouring land use              | 4. Based on a visual inspection to the extent that it is reasonably possible to do so, are there adjoining sites that appear to or are known to have or have had noxious or potentially contaminating uses?  |     |    |         |    |
| Current operations at the property | 5. Have investigations identified industrial processes onsite that involve the use of chemicals or hazardous materials?<br><br>6. Have investigations identified there having been, past or present, the underground storage of fuels, chemicals or hazardous materials at the property? |     |    |         |    |

|                               |   |  |  |  |  |
|-------------------------------|---|--|--|--|--|
| Registers, Notices and Orders | 7. Is the property included in the current register of contaminated sites, or the subject of a contaminated land audit as indicated on that public register?  |  |  |  |  |
| Environmental Licensing       | 8. Are the operations at the premises subject to an environmental license, resource consent or equivalent?  |  |  |  |  |
| Asbestos                      | <p>9. Could any buildings or improvements at the property predate 1990?</p> <p>10. Is asbestos containing material known to be present at the Property?</p> <p>11. Were there any observed non-compliances with statutory requirements pertaining to asbestos or hazardous materials (e.g. failure to maintain current asbestos register / record)?</p> <p>12. Did the asbestos register / record indicate the presence of asbestos?</p> <p>13. Is an Asbestos Management Plan in place for the Property?</p> |  |  |  |  |