

CORPORATE POLICY & PROCEDURE

POLICY TITLE: CONTAMINATED SITES
POLICY NO.: CS-5.16-P

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| Chapter: | Corporate Services | | |
| Section: | 5. Property and Risk Management | | |
| Effective Date: | January 29, 2021 | Last Review Date: | January 29, 2021 |
| Approval Authority: | Board of Directors | | |
| Issued to: | All TRCA Employees | | |
| Policy Owner: | Property and Risk Management | | |

1. PURPOSE

- 1.01. The purpose of this Policy is to address the risk of contamination in the acquisition, disposition, and management of Toronto and Region Conservation Authority (TRCA) lands.

2. SCOPE

- 2.01. The Policy applies to all staff involved with property acquisition, disposition, and management, the determination of financial liability, and annual audits as well as those involved in managing projects that might disturb or otherwise impact Contaminated Sites.

3. POLICY

Property Acquisition

- 3.01. TRCA will not accept conveyance of Contaminated Sites unless it is done in conformity with this Policy or as otherwise directed by the Board of Directors.
- 3.02. Staff shall report to the Board of Directors any contamination risks associated with a proposed acquisition, appropriate measures to manage any identified risk and will seek corresponding direction from the Board of Directors with regard to the proposed acquisition.
- 3.03. A Phase I Environmental Site Assessment completed by a Qualified Person in conformity with Record of Site Condition requirements has to be circulated to the satisfaction of Property and Risk Management staff in advance of the closing of all property acquisitions.

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3.04. A Phase II Environmental Site Assessment will be required where recommended by the Phase I Environmental Site Assessment.

3.05. Where property to be acquired by TRCA is expected to undergo a change in property use which is restricted under the *Environmental Protection Act* or *O. Reg 153/04* (as amended), Record of Site Condition registration shall be required prior to property conveyance.

This requirement applies only where the actual property use changes from a higher intensity land use (for example, industrial) to a lower intensity land use (for example, residential) irrespective of a corresponding zoning by-law change (See Table 1).

3.06. Where a Phase I Environmental Site Assessment reveals history of contaminating activity, areas of potential environmental concern or that a Phase II Environmental Site Assessment shows presence of contaminants, TRCA may require that a record of site condition be registered prior to conveyance of the property.

3.07. The site condition standards of the property at the time of conveyance shall meet the standards of the intended land use or the standards of the most sensitive adjacent land uses, whichever are more stringent.

3.08. The Board of Directors shall approve the conditions of any Certificates of Property Use that might be binding upon TRCA prior to acquisition.

3.09. Submission of all environmental site assessments, Risk Assessments, records of site condition and any other reports upon which TRCA may need to rely shall be accompanied by:

- (a) A letter signed by the Qualified Person stating that TRCA can rely on the opinion of the Qualified Person; and
- (b) Proof of professional liability insurance in the name of the Qualified Person in a form acceptable to TRCA.

3.10. Cost of compliance with any environmental studies, peer reviews, risk studies or costs of any kind further to a permitting or planning review process will be borne by the Project Proponent.

Property Disposition

3.11. TRCA will ensure appropriate terms and conditions including indemnities as may be applicable to protect TRCA's interests regarding any contamination that may be present on lands to be disposed.

Known Contaminated Sites

3.12. TRCA shall ensure that all property under its ownership that include known Contaminated Sites are managed in accordance with existing legislation and regulations.

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Previously Unknown Contaminated Sites

- 3.13. Upon discovery and identification of a Contaminated Site on property under TRCA ownership, TRCA shall manage that site in compliance with existing legislation and regulations.
- 3.14. The Facility Manager for the property upon which potential contaminants have been discovered (for example as a result of illegal dumping or spill) shall ensure that:
- (a) The potential contaminants are reported as per *CS-5.09-P Incident Reporting Policy*;
 - (b) The potential impacts to soil, groundwater, and surface water are assessed by a qualified professional in accordance with *O. Reg. 153/04*; and
 - (c) A corresponding contaminant management plan is developed.
- 3.15. The contaminant management plan shall consider the source (where known), nature and extent of impacts, risks associated with any identified contaminants and the strategy for mitigating impacts to human health and/or the environment. The contaminant management plan must also consider health and safety protocols as well as any regulatory or contractual requirements and sources of funding to implement any associated mitigation or remediation plan.

Sources of funding for consideration include any responsible third parties, followed by grants, recovery funds, insurance and finally land management budgets.

Financial and Regulatory Reporting

- 3.16. TRCA shall report liabilities and issues of contamination as required by law or public accounting standards.

4. RESPONSIBILITY

- 4.01. The **Board of Directors** is responsible for providing direction to staff with regard to any proposed acquisition associated with contamination risks.
- 4.02. **Development and Engineering Services** staff are responsible for informing development proponents of the requirements of this Policy and furthermore that that Phase I Environmental Site Assessments, for lands to be conveyed to TRCA, at a minimum must be submitted as part of a complete application during pre-consultation meetings.
- 4.03. **Property and Risk Management** staff are responsible for:
- (a) Ensuring compliance with this Policy in the course of any property acquisition process;
 - (b) Managing records of contamination in compliance with *Records Management Policy* and any associated policy tools; and
 - (c) Managing any claims associated with discovered potentially contaminating sources.
- 4.04. The **Facility Manager** for each property is responsible for ensuring compliance with this Policy while managing lands and facilities under their responsibility, including

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consulting with Health and Safety Specialists, and Property and Risk Management staff as may be applicable.

- 4.05. **Project Managers** are responsible for ensuring that planned works will not disturb known contaminated sites without proper authorization and shall ensure that health and safety as well as contamination risks are adequately addressed in any project workplans and shall consult with Health and Safety Specialists, and Property and Risk Management staff as may be applicable. Project managers are further responsible for ensuring that any materials being brought onto a project site comply with any applicable regulations, and where applicable, the soil management plan for their project site.
- 4.06. **Business Intelligence and Data Analytics** staff is responsible for ensuring that geospatial data on the presence of Contaminated Sites is adequately managed.
- 4.07. **Finance** is responsible for ensuring that TRCA reports on an annual basis any liabilities associated with known Contaminated Sites in accordance with PS3260.
- 4.08. On motion from TRCA's Board of Directors, TRCA may accept, revise or rescind this Policy.

5. PROCEDURE

- 5.01. Table 1 includes a list of restricted property use changes that require Record of Site Condition registration referred to in section 3.05.

| Existing Property Use | New Property Use | Enabling Section |
|---|---|--|
| Industrial | Residential or Parkland | <i>Environmental Protection Act 168.3.1(1)</i> |
| Industrial | Agricultural or other (for example, conservation purposes) | <i>O. Reg. 153/04, s. 14, 1</i> |
| Industrial | Where there is more than one new property use, any or all of the following: <ul style="list-style-type: none"> i. Agricultural or other use. ii. Institutional use. iii. Parkland use. iv. Residential use. | <i>O. Reg. 153/04, s. 14, 2</i> |
| Industrial, including any other type or types of property uses. | Where there is more than one new property use, any or all of the following: <ul style="list-style-type: none"> i. Agricultural or other use. ii. Institutional use. iii. Parkland use. iv. Residential use. | <i>O. Reg. 153/04, s. 14, 3</i> |

| Table 1: Restricted Property Use Changes | | |
|---|---|--|
| Existing Property Use | New Property Use | Enabling Section |
| Commercial | Residential or Parkland | <i>Environmental Protection Act 168.3.1(1)</i> |
| Commercial | Agricultural or other, or an institutional use | <i>O. Reg. 153/04, s. 14, 4.</i> |
| Commercial | Where there is more than one new property use, any or all of the following: <ul style="list-style-type: none"> i. Agricultural or other use. ii. Institutional use. iii. Parkland use. iv. Residential use. | <i>O. Reg. 153/04, s. 14, 5.</i> |
| Commercial, including any other type or types of property uses. | Where there is more than one new property use, any or all of the following: <ul style="list-style-type: none"> i. Agricultural or other use. ii. Institutional use. iii. Parkland use. iv. Residential use. | <i>O. Reg. 153/04, s. 14, 6.</i> |
| Community | Agricultural or other, or an Institutional use, a parkland use or a residential use. | <i>O. Reg. 153/04, s. 14, 7.</i> |
| Community | Where there is more than one new property use, any or all of the following: <ul style="list-style-type: none"> i. Agricultural or other use. ii. Institutional use. iii. Parkland use. iv. Residential use. | <i>O. Reg. 153/04, s. 14, 8.</i> |
| Community, including any other type or types of property uses. | Where there is more than one new property use, any or all of the following: <ul style="list-style-type: none"> i. Agricultural or other use. ii. Institutional use. iii. Parkland use. iv. Residential use. | <i>O. Reg. 153/04, s. 14, 9.</i> |
| Industrial, commercial or community use other than a community use that: <ul style="list-style-type: none"> i. falls within the classification of occupancies in Group A of Table 3.1.2.1. of Division B of the building code; and | Community uses that: <ul style="list-style-type: none"> i. that fall within the classification of occupancies in Group A of Table 3.1.2.1. of Division B of the building code; and | <i>O. Reg. 153/04, s. 14, 10.</i> |

| Table 1: Restricted Property Use Changes | | |
|--|---|-------------------------|
| Existing Property Use | New Property Use | Enabling Section |
| ii. is an indoor swimming pool, an indoor ice rink, an indoor arena, an enclosed stadium, an indoor sports field or an indoor gymnasium. | ii. are an indoor swimming pool, an indoor ice rink, an indoor arena, an enclosed stadium, an indoor sports field or an indoor gymnasium. | |

6. DEFINITIONS

- 6.01. **“Certificate of Property Use”** means a certificate of property use issued under the s168.6 of the *Environmental Protection Act*.
- 6.02. **“Contaminant”** means any solid, liquid, gas, odor, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that causes or may cause an adverse effect.
- 6.03. **“Contaminated Site”** means land at which contaminants occur in concentrations that exceed applicable Site Condition Standards.
- 6.04. **“Parkland”** means the use of land or a building on the property for:
- Outdoor recreational activities, including use for a playground or a playing field,
 - A day camp, an overnight camp or an overnight camping facility,
 - An outdoor gathering of people for civic or social purposes, or
 - In respect of the classification of occupancies in Table 3.1.2.1. of Division B of the building code, use that falls within Group A, Division 4, assembly occupancies in which occupants are gathered in the open air other than use for a stadium;
- 6.05. **“Project Proponent”** means the party undertaking the project or program that triggers the need for environmental investigations or registrations (for example the development applicant, municipality or in some cases TRCA if undertaking a project).
- 6.06. **“PS3260”** means *Public Sector Accounting Handbook Section PS 3260 - Liability for Contaminated Sites*, or any successor guideline.
- 6.07. **“Qualified Person”** means a person who meets the qualifications to be a qualified person described in the regulations governing the undertaking of environmental site assessments, registration of records of site condition and other related activities under the *Environmental Protection Act*.
- 6.08. **“Record of Site Condition”** means a record of site condition as defined by the Environmental Protection Act and its associated regulations.
- 6.09. **“Risk Assessment”** means a risk assessment as defined under the *Environmental Protection Act* and its associated regulations.

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- 6.10. **“Site Condition Standard”** means the full depth background site condition standards, full depth generic site condition standards and stratified site condition standards, as defined in *O.Reg. 153/04*, or any successor regulation.

7. ADMINISTRATION

Administered by the Clerk’s Office

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| Review Schedule: | 5 Years | Next Review Date: | January 29, 2026 |
| Supersedes: | N/A | | |
| Related Legislation, Regulations and Guidelines: | Ontario’s Environmental Protection Act, R.S.O. 1990, c. E.19 Ontario’s O. Reg. 153/04: Records of Site Condition - PART XV.1 of the Act under Environmental Protection Act, R.S.O. 1990, c. E.19 <i>Public Sector Accounting Handbook Section PS 3260 – Liability for Contaminated Sites</i> | | |
| Related Policies and Policy Tools: | <i>CS-5.09-P Incident Reporting</i> <i>Records Management Policy</i> | | |
| Revision History | | | |
| Version Number | Version Date | Description | |
| 1 | January 21, 2021 | Policy went into effect. | |
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