

Contaminated Land Consultant Certification Policy

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This policy sets out the NSW Environment Protection Authority (EPA) requirements and discusses recognised certification schemes.

Contaminated land consultant certification

Introduction

There is a need for industry engaging contaminated land consultants and regulators reviewing contaminated land consultant's work to have confidence in the competency levels of these consultants. The NSW Environment Protection Authority (EPA) requires all reports submitted to it to comply with the requirements of the *Contaminated Land Management Act 1997* (CLM Act) to be prepared, or reviewed and approved, by a certified contaminated land consultant.

Contaminated land consultant certification based on competency and national standards should lead to improvements in the minimum standard of contaminated land work carried out by practitioners and increased confidence in the profession.

Using a suitably qualified and experienced contaminated land consultant is critical for effective site assessment and remediation. There are significant social, economic and legal implications if contaminated land management at a site does not meet the appropriate environmental and planning requirements and standards. Poor quality contaminated site reports can also lead to time delays in cleaning up and regulating contaminated sites and can increase costs to the landowner/occupier.

This policy sets out the EPA's requirements and includes discussion of the certification schemes recognised by the EPA.

Policy objectives

The objectives of the Contaminated Land Consultant Certification Policy are to:

- support initiatives aiming to improve the minimum standard of contaminated land work in NSW
- clarify the EPA's position with respect to the certification of contaminated land consultants
- support the development and implementation of nationally consistent certification schemes in Australia
- encourage consultants to become certified and encourage the use of certified consultants by the community and industry.

Requirements for reporting to EPA

The EPA requires all reports submitted to the EPA to comply with the requirements of the *Contaminated Land Management Act 1997* (CLM Act) to be prepared, or reviewed and approved, by a certified consultant. The requirement includes reports associated with a:

- preliminary investigation order
- management order
- voluntary management proposal
- ongoing maintenance order.

The requirement will be included as a condition or term on regulatory instruments issued by the EPA under the CLM Act, for example a management order.

Consultants preparing or reviewing and approving reports are required to include the details of their certification in each report as follows:

- The Certified Environmental Practitioners Scheme - Site Contamination (CEnvP (SC)) certified consultants are to affix an individualised seal, incorporating their certification number and the year of validity

- Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certified consultants are to affix a personalised annual electronic seal.

The seals can be affixed in the quality information section alongside the accredited person's details.

If the EPA is regulating a site under the CLM Act and a report submitted as part of the regulatory requirements has not been prepared or reviewed and approved by a certified consultant, as required by the regulatory instrument, the EPA will not accept the report. The report will be returned to the regulated party to arrange for review and approval by a certified consultant.

Consultant certification schemes

Three contaminated land consultant certification schemes were initially developed in Australia. Two of these schemes have since been merged.

The Certified Environmental Practitioners Scheme - Site Contamination CEnvP (SC)

The Environment Institute of Australia and New Zealand Inc. (EIANZ), a not-for-profit professional association for environmental practitioners from across Australia and New Zealand, developed the Certified Environmental Practitioners Scheme (CEnvP) Contaminated Land specialisation in October 2014. Site Contamination Practitioners Australia (SCPA), a not-for-profit organisation supported by the Cooperative Research Centre for Contamination Assessment and Remediation of the Environment (CRC CARE), launched its certification scheme in November 2014. The boards of each scheme came to an agreement to transition the two schemes into a new single 'Site Contamination' specialist certification operating under CEnvP. All current members of each scheme will be transitioned to the new scheme which from 1 January 2018 will be referred to as CEnvP Site Contamination (CEnvP (SC)).

Certified Professional Soil Scientist Contaminated Site Assessment and Management

Soil Science Australia (SSA) has also developed a **Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM)** certification. SSA provides accreditation for suitably qualified members as Certified Professional Soil Scientists. The CPSS CSAM is available to experienced soil scientists as a specialised competency. The CPSS CSAM scheme was launched in 2016.

Review of certification schemes

In April 2017, the Heads of EPA Australia and New Zealand (HEPA) endorsed the following four principles it considers certification bodies should ensure their certification schemes comply with:

- general conformity with ISO 17024:2013 – Australian and New Zealand Standard for Conformity assessment – general requirements for bodies operating certification of persons;
- clearly defined specialist area with specified competencies;
- recertification – reassessment of certified practitioners at least every three years with continuing professional development (CPD) to form a key element of this recertification assessment; and
- ethical and professional conduct – applicants to sign and agree to abide by a Code of Conduct committing to ethical and professional conduct.

In recognising the CEnvP(SC) and CPSS CSAM certification schemes, the EPA has taken into consideration the above four principles as well as the following:

- | | |
|-----------------------------------|------------------------------|
| ▪ governance | ▪ assessment process |
| ▪ qualifications | ▪ assessment panel |
| ▪ minimum professional experience | ▪ certification restrictions |

- competencies
- continuing professional development
- ethical and professional conduct
- work samples
- referee requirements
- application/certification fee
- annual certification fee
- complaints handling & disciplinary action
- overseas certification mutual recognition
- certification of regulators

EPA recognition of certification schemes

The EPA recognises both the CEnvP(SC) and CPSS CSAM certifications.

While there are differences between these schemes, the EPA is satisfied that both schemes provide a thorough process for certifying contaminated land consultants to an acceptable minimum standard of competency.

Accredited site auditors and certification

A certified consultant who is also an accredited site auditor is able to design and conduct site assessment, remediation and validation work, provided this work is being carried out in their capacity as a certified consultant. Work as a certified consultant could also include the review and approval of plans or reports, however, due to the definition of a site audit under the CLM Act, certified consultants who are also auditors are only able to do this for plans and reports prepared by the same company they are employed by.

A certified consultant (who is also a site auditor) can also co-author reports for a consultancy which they are not employed by as long as they are not performing a review of work already performed and have a role in the preparation of the report (i.e., they are a legitimate co-author and are contributing to the content of the work, either in substance, or oversight of the project or supervision of staff for example). In carrying out such work it should be made clear to the client that the site auditor is working in their capacity as a certified consultant and not a site auditor. There should be a disclaimer or similar, in the report, that indicates the report is not a report prepared or reviewed by a person acting in their capacity as a site auditor, nor is it a site audit.

Any reports or correspondence produced in relation to this work by a certified consultant who is also an auditor can only be signed off as a certified consultant and not as an accredited site auditor.

Contaminated land consultants

The EPA currently provides information on its website to help businesses and individuals select a [contaminated land consultant](#) in NSW for contaminated site investigations and remediation. This includes information on where to find a contaminated land consultant, what to look for in a consultant, and what to consider when selecting and engaging a consultant. It also includes details of the contaminated land consultant certification schemes currently recognised by the EPA and requirements for the use of certified consultants when submitting reports to the EPA.

The EPA cannot recommend specific consultants; however, the EPA recognises the importance of contaminated land consultants being certified to acceptable competency levels by independent bodies. Details of certified practitioners are available on the websites of the certification schemes.

Communicating the EPA's requirements to stakeholders

The EPA may contact key stakeholders directly to advise of the EPA's reporting requirements, if appropriate. For example, if a site is to be regulated, the responsible party will be advised of the

requirements for any reports to be submitted to the EPA to be prepared or reviewed and approved by a certified consultant. The EPA also provides updates on any changes to this policy via Contaminated Land Management Updates.

Complaints handling of alleged malpractice or misconduct

The EPA is not responsible for administering the consultant certification schemes. Each scheme has a mechanism for managing third party complaints and this should be followed if there is an issue with a certified consultant.

Future considerations

New and updated schemes

New schemes will be reviewed by the EPA as they are released. The EPA's guidance information will be updated to reflect any changes in the EPA's recognition of schemes (new or developments in existing schemes).

Extending the certification policy

The policy currently sets out the EPA's position with respect to reports submitted to the EPA under the CLM Act. Consultants with specialist expertise in other disciplines may also be required to prepare environmental reports for submission to the EPA under other environmental legislation such as the *Protection of the Environment Operations Act 1997*. Consideration will be given to extending the policy to other reports submitted to the EPA under other environmental legislation if appropriate.

Consideration will also be given as to whether contaminated land reports provided to accredited site auditors in relation to site audits should be required to be prepared, or reviewed and approved, by a certified consultant.

Review of effectiveness

A review of the policy will be conducted in 2020 to ensure the schemes are addressing the EPA's objectives. Considerations may include:

- the number of practitioners becoming certified and the rate of uptake
- whether there is a diversity of practitioners from small, medium and large consulting firms
- any impacts on the cost of contaminated land consultant services
- any impacts on the availability of contaminated land consultant services in regional areas
- feedback from stakeholders on the use of certified practitioners and, in particular, whether the needs of stakeholders in regional areas or stakeholders with smaller scale contamination are being met
- the administration of the certification schemes
- whether there has been an overall improvement the minimum standard of contaminated land work in NSW.