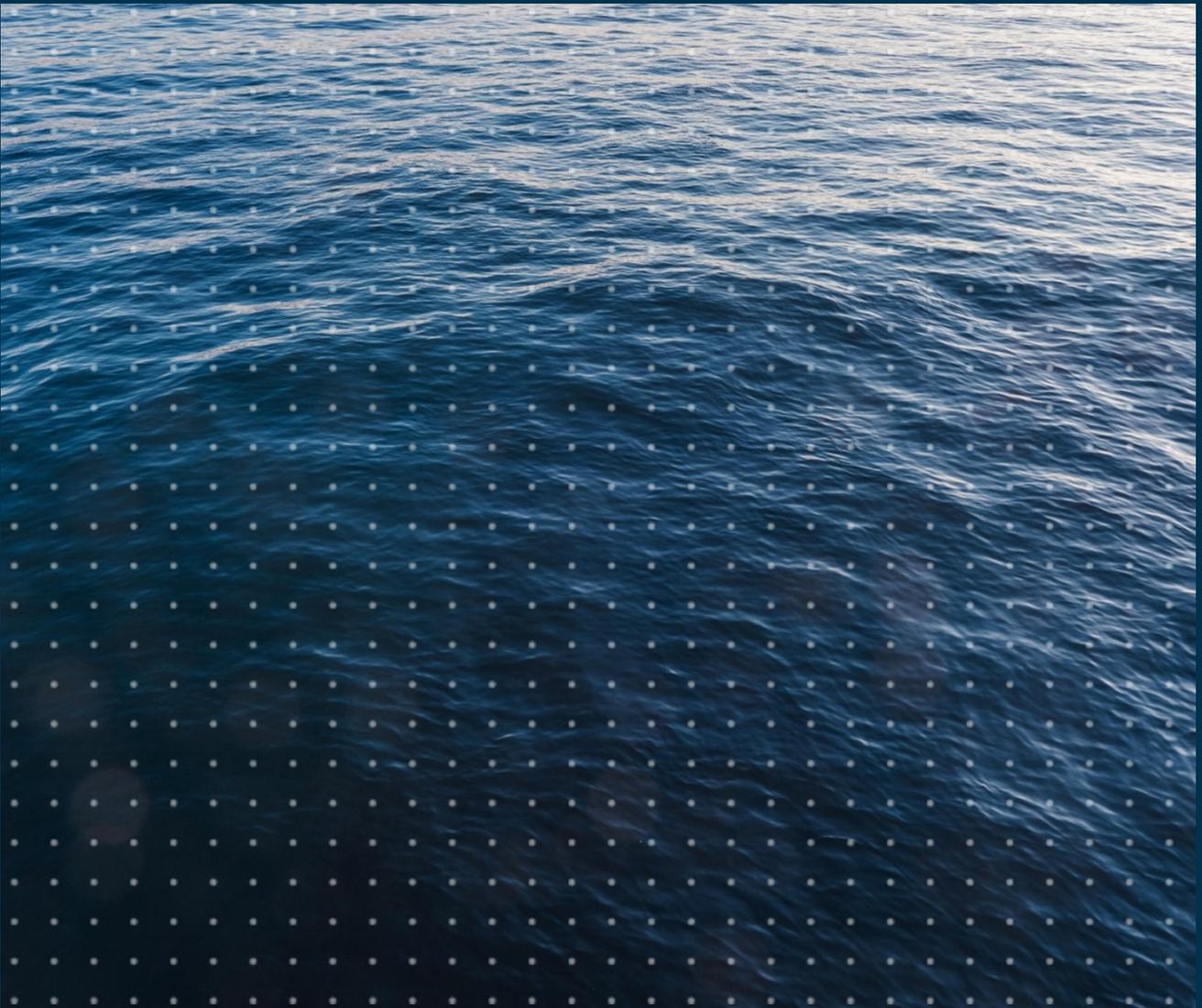




Environment Protection Authority

Contaminated Land Consultant Certification Policy

Version 3 – January 2022



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This policy sets out the NSW Environment Protection Authority's (EPA) requirements for the use of certified contaminated land consultants in the preparation of reports provided to the EPA.

1. What is the policy?

The policy aims to help protect human health and the environment by improving the standard of contaminated land work in NSW. It sets out the NSW Environment Protection Authority's (EPA) requirements for the use of certified contaminated land consultants in the preparation of reports provided to the EPA, and supports the implementation of independent consultant certification schemes.

1.1 Introduction

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 lead to time delays in cleaning up and regulating contaminated sites, and can increase costs for the landowner/occupier. There is a need for industry engaging contaminated land consultants, and regulators reviewing contaminated land consultants' work, to have confidence in the competency levels of these consultants.

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

This policy sets out the EPA's requirements in relation to:

- the preparation of contaminated land reports provided to the EPA
- contaminated land consultant certification
- the roles and responsibilities of certified contaminated land consultants.

This version of the policy revokes the previous edition of the Contaminated Land Consultant Certification Policy (Version 2 November 2017).

1.2 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
- state the EPA's position on 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 contaminated land consultants by the community and industry.

2. Reporting requirements

2.1 Requirements for reporting to the EPA

The 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. The requirement includes reports associated with a:

- preliminary investigation order (PIO)
- management order (MO)
- voluntary management proposal (VMP)
- 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.

2.2 Use of certification seals in reports

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

- CEnvP (SC) certified consultants are to affix an individualised seal, incorporating their certification number and the year of validity
- CPSS CSAM certified consultants are to affix a personalised annual electronic seal.

The seals can be affixed in the quality information section of the report, as part of the accredited person's details.

The seal of a certified contaminated land consultant must not be used by a company on reports that have not directly been prepared, or reviewed and approved, by that certified consultant, even if the certified consultant is an employee of the company. That is, if a company employs a certified consultant it does not mean that the company is permitted to affix that consultant's certification seal to other reports prepared by that company.

2.3 Appropriate certification in reports

The two certification schemes provide accreditation for a range of specialist technical areas, of which contaminated land/site contamination is but one. Certified consultants who hold accreditation that is not specifically related to contaminated land or site contamination (e.g. certified heritage specialists) are not permitted to prepare or review and approve contaminated land reports for submissions to the EPA to comply with the requirements of the CLM Act.

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 contaminated land 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 contaminated land consultant.

2.4 Quality of reports prepared by certified consultants

The EPA's Consultants reporting on contaminated land – Contaminated Land Guidelines (the reporting guidelines) provide guidance and checklists for consultants to use when reporting on

contaminated sites. Certified consultants should reference these guidelines when preparing, or reviewing and approving, contaminated land reports. Regulators should reference the guidelines when assessing reports provided by contaminated land consultants.

Use of the reporting guidelines will help achieve a uniform approach and consistent level of quality for contaminated land reports that are drafted or 'reviewed and approved' by a certified contaminated land consultant.

A Guideline on the Competencies and Acceptance of Environmental Auditors and Related Professionals (Schedule B9) is provided in the ASC NEPM.

2.5 Obligations when 'reviewing and approving' reports

The responsibility of a certified consultant for reviewing and approving a report is the same as if they were co-author, either in substance or in a supervising role. Their sign-off of approval should not be subject to disclaimers limiting responsibility for completeness or accuracy.

2.6 Requirements for reporting to third parties

Specifying the required credentials of a contaminated land consultant is at the discretion of the person engaging the consultant or the local planning authority. This policy therefore does not address the issue of contaminated land reports submitted to third parties, such as local councils or site auditors, or as part of third-party processes (e.g. site audits, development applications) needing to be prepared, or reviewed and approved, by a certified consultant. However, local councils may adopt a similar policy and require this as part of consent conditions.

3. Consultant certification

3.1 Consultant certification schemes

The EPA does not accredit or certify environmental consultants; however, it recognises two independent certification schemes:

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

The CEnvP Scheme was established in 2004 as an initiative of the Environment Institute of Australia and New Zealand Inc. The scheme assesses and certifies a range of environmental and social professionals in the competency criteria of training, experience, professional conduct and ethical behaviour. Site Contamination is a specialist certification type available within the CEnvP Scheme.

Website: <https://www.cenvp.org/>

Certified Professional Soil Scientist – Contaminated Site Assessment and Management (CPSS CSAM)

The CPSS CSAM certification is provided by Soil Science Australia (SSA), a not-for-profit, professional association for soil scientists. SSA provides accreditation for suitably qualified members as Certified Professional Soil Scientists, and the CPSS CSAM is available to experienced soil scientists as a specialised competency.

Website: <https://www.soilscienceaustralia.org.au/cpss/>

3.2 Certification scheme requirements

In 2017 the Heads of EPA Australia and New Zealand (HEPA) endorsed the following four principles that certification schemes should 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 areas with specified competencies
- recertification – reassessment of certified practitioners at least every three years, with continuing professional development to form a key element of this recertification assessment
- 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
- qualifications
- minimum professional experience
- competencies
- continuing professional development
- ethical and professional conduct
- work samples
- referee requirements
- assessment process
- assessment panel
- certification restrictions
- application/certification fee
- annual certification fee
- complaints handling and disciplinary action
- overseas certification mutual recognition
- certification of regulators.

3.3 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 both schemes provide a thorough process for certifying contaminated land consultants to an acceptable minimum standard of competency.

3.4 Administration and complaints handling

The two consultant certification schemes operate independently of each other and of the EPA, and the EPA does not have an administrative or compliance role in relation to the schemes. Each scheme has mechanisms in place for managing complaints or allegations of malpractice or misconduct, and complaints should be referred to the relevant scheme in the first instance.

In exceptional circumstances, ongoing issues that have not been able to be resolved with the schemes directly may be forwarded to the EPA for further investigation.

4. Roles and responsibilities

4.1 Contaminated land consultants

A contaminated land consultant may be engaged to assess a site for contamination and, where required, to develop a remediation plan, implement the plan and validate the remediation. The contaminated land consultant designs and undertakes the site assessment and, where required, all remediation and validation activities to achieve the objectives specified by the regulator, owner or developer.

The EPA's [Consultants Reporting on Contaminated Land – Contaminated Land Guidelines](#) provides a description of the various stages of contaminated site assessment, remediation and validation.

4.2 Site auditors

Site auditors accredited under the NSW Site Auditor Scheme are often engaged to independently review a consultant's work to ensure the work complies with current regulations and guidelines and meets the standard appropriate for the proposed land use. The auditor prepares a site audit report and a site audit statement at the conclusion of the review.

The [Guidelines for the NSW Site Auditor Scheme](#) provide further details of the roles and responsibilities of site auditors in the site assessment and audit process.

4.3 Certified consultants who are also site auditors

A certified contaminated land 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 undertaken as a certified contaminated land consultant may 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 contaminated land consultant who is also a site auditor can co-author reports for a consultancy they are not employed by, as long as:

- they are not conducting a review of work already undertaken, and
- they 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 contaminated land consultant and not as 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 contaminated land consultant who is also an auditor can only be signed off as a certified consultant and not as an accredited site auditor.

4.4 EPA

The EPA is responsible for developing regulations, policies and guidelines for site auditors, contaminated land consultants, local government and the community on the investigation and

remediation of contaminated sites. The EPA works with the Department of Planning, Industry and Environment in the development of land-use planning guidelines relating to contaminated sites.

The EPA 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 includes details of the contaminated land consultant certification schemes recognised by the EPA and requirements for the use of certified contaminated land consultants when submitting reports to the EPA.

The EPA does not 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 certification schemes' websites.

5. Policy administration

5.1 New and updated schemes

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

5.2 Review of effectiveness of the policy

The EPA undertook a review of the policy in 2021, and amended the policy in response to submissions received during consultation.

The EPA will undertake a further review of the policy in 2026, to ensure the policy continues to meet its objectives.

The EPA will continue to liaise with certification schemes as required to ensure the schemes are operating in a manner consistent with the EPA's expectations.