



## NSW Accredited Site Auditor Scheme – Auditors’ Meeting

Meeting:	NSW Accredited Site Auditor Scheme – Auditors’ Meeting	Date:	20 October 2023
Location:	Online	Time:	10am-13.00pm
Last Meeting Date:	19 May 2023	Next Meeting Date:	March 2024
<b>Present:</b>	<p><b>EPA accredited site auditors</b> - Adrian Hall, Alyson Macdonald, Andrei Woinarski, Andrew Kohlrusch, Amanda Lee, Andrei Woinarski, Ben Wackett, Brad May, Charlie Barber, Cheryl Halim, Chris Duesterberg, Chris Jewell, Colin McKay, Edward Wu, Michael Dunbavan, Fiona Robinson, Frank Mohen, Ian Gregson, Ian Swane, James Davis, Jason Clay, Jonathan Ho, Julie Evans, Kylie Lloyd, Lange Jorstad, Loek Munnichs, Louise Walkden, Marc Salmon, Mark Stuckey, Ross McFarland, Melissa Porter, Peter Beck, Peter Lavelle, Peter Ramsay, Tony Scott, Paul Steinwede, Tim Chambers, Tom Onus, Caroline Vernon, Rebeka Hall, Philip Mulvey</p> <p><b>Auditor proxies</b> - Daniela Balbachevsky (Andre Smit); Christine Louie (Andrew Lau); Renee Ashton (Rod Harwood); Jenna Maltman (David Gregory), Ke Ye (Rowena Salmon)</p> <p><b>NSW EPA</b> – Len Potapof, Victoria Lee, Jo Graham, Giselle Goloy, Brenda Ioffrida, Sam Waskett, Donna Phelan, Natasha Ryan, Mark Hanemann, Aidan Elliott, Natasha Ryan, Kate Snow</p> <p><b>Auditor panel</b> – Fouad Abo; Damien Davidson</p>		
<b>Apologies:</b>	Brad Eisman; Stephan Pawelczyk; Mike Nash; Paul Moritz; Rod Harwood; Graeme Miller; Andre Smit; Andrew Lau; David Gregory; Rowena Salmon		

### Agenda items:

#### 1. Introduction – Len Potapof, NSW EPA

Welcome and Acknowledgment of Country.

#### 2. Audit Unit Update – Jo Graham, NSW EPA

Refer to presentation attached. The following items were discussed:

##### Annual returns

- The audit team presented the data from the Annual Returns 2022-23 (available in the presentation). The data summarises the number of completed, terminated and ongoing audits for the last financial year and compared to data from previous years.

##### Peer reviews

- The EPA advised it had been made aware that some consultants and councils may be requesting “opinions” on contaminated land matters from an auditor but in their capacity as a consultant rather than an auditor by way of trying to bypass the requirement for a SAS/SAR.

- The EPA advised that if the review / opinion / advice being requested meets the definition of a site audit as defined within the *Contaminated Land Management Act 1997* (CLM Act), then an accredited site auditor needs to complete a site audit (i.e. issue a SAS and SAR). Auditors cannot do this work in their capacity as a consultant rather than an auditor – this is very clearly described within section 3.2.2 of the Guidelines for the NSW Site Auditor Scheme (3<sup>rd</sup> edition) (auditor guidelines). Just calling it an “opinion” or “advice” rather than a review does not change the definition of an audit.
- The EPA advised that the purpose of including this requirement in the auditor guidelines is to avoid persons attempting to navigate around the audit process and by-passing the requirement for a SAS/SAR which will ultimately undermine the integrity of the audit scheme.
- The EPA advised that the only exception to this is where accredited auditors are giving evidence as expert witnesses in court proceedings.
- The EPA also advised of the requirements that apply to accredited auditors who are also certified contaminated land consultants. Reference was made to section 4.3 of the EPA’s Contaminated Land Consultant Certification Policy, which clearly explains what auditors are able to do in their capacity as certified consultants. Auditors (who are also certified consultants) are only able to review/approve plans and reports prepared by the same company they are employed by, (i.e., internal reviews), and not for a consultancy they are not employed. However, auditors, in their capacity as a certified consultant, 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). But it should be made clear that the site auditor is working in their capacity as a certified contaminated land consultant and not as a site auditor.

Auditor discussion on peer reviews:

Auditor question	EPA response
Can an auditor review work as part of a consulting team providing an independent review - i.e., for internal QC purposes an auditor may review work undertaken by colleagues in the same consulting company?	Auditors can carry out internal QA/QC work where they are reviewing a colleagues work as long as they don't sign it off as an auditor. Reference should be made to section 3.2.2 of the auditor guidelines, which specifies: <i>“A consultant who is an accredited site auditor may review work prepared by a colleague (or colleagues) as part of internal quality assurance checks or as part of a managerial role, however this work must not be signed off as an accredited site auditor for and on behalf of the consultancy.”</i>
Could you advise whether auditors are able to review other auditor's work within the same company (i.e., filling in when away on leave)?	There must only be one auditor working on an audit. An auditor can act as expert support team member for another auditor, but to do this the auditor must be listed as a part of the other auditor’s expert support team lodged with the EPA.  If an auditor goes on leave they cannot ask another auditor to “cover” the audit. The auditor can choose to terminate the audit and have a different auditor take on the work. Their auditor assistant may be able to continue with certain aspects of the work. Added after meeting for further clarity: The auditor must make their own independent decisions about all matters that form part of the site audit report and site audit statement. (Ref. section 3.7.1 of the auditor guidelines)
Can you confirm that an auditor cannot work as an assistant on another audit?	As above, only one auditor can work on an audit. An accredited auditor cannot be an auditor’s assistant.

What about in terms of risk assessment?	An auditor can assist another auditor for risk assessment purposes if they are a risk assessor, but only if they are listed as a risk assessment expert on the expert support team of the auditor engaged for the work.
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### Administrative matters

- **Automatic Mutual Recognition** – the EPA advised at the last meeting that the exemption granted to NSW was due to end on 1 July 2023. However, the EPA received late notice that a further 1 year exemption was granted, which is now due to end on 1 July 2024.
- The EPA has been advised that the draft PFAS NEMP (version 3) is being progressed, however, no dates have been provided for publication as yet.
- The EPA reminded auditors to consider terminating audits where there has been no activity for some time. A termination notice needs to be sent to the EPA and should also go to the relevant consent authority.

### 3. Contaminated Land Policy Update – Mark Hanemann, NSW EPA

Refer to presentation attached. The following items were discussed:

#### EPA Service Station Assessment Guidance

- The EPA Service Station Assessment Guidance was published in July 2023. This is available here: [EPA service-station-assessment guidance](#). The guidance was updated in response to requests from the auditor group. The EPA is interested in whether reports on service station contamination has improved as a result of this updated guidance. A request for feedback was sought.

#### Chief Scientist’s review into asbestos management

- The EPA advised the asbestos management review has now recommenced following a delay of several months due to the Chief Scientist’s involvement in the emergency Menindee Fish Kill issue.
- The first steps of the review will involve a literature review and establishing an Expert Panel. The Expert Panel may engage subject-matter experts where required for each of the terms of reference.
- The Office of the Chief Scientist will be liaising with a broad range of stakeholders, including site auditors, who are expected to be consulted in early 2024. The final report is expected in mid-2024.

#### Position Statement: Management of asbestos-contaminated sites

- The EPA advised that the updated Position Statement is currently going through a final round of consultation, with SafeWork NSW and targeted industry stakeholders. A crucial point is defining what “historical” contamination is and how this interacts with Waste definitions. It is hoped the updated Position Statement will be published in early 2024.

Auditor discussion on the asbestos Position Statement :

Auditor question / Comment	EPA response
What was wrong with the previous approach to managing asbestos in soils?	Local councils and consultants are seeking guidance on how to differentiate and manage historical asbestos contamination and asbestos waste. There is often an overlap between the CLM approach and the Waste approach – for example if asbestos waste and asbestos contamination are present on the same site. The Position Statement is intended to help manage these overlapping issues.

	The EPA supports reducing waste going to landfill where safe and appropriate alternatives exist. The overall approach has not changed, but guidance will help clarify what options are available.
The approach to asbestos in NSW is already clear under the current legislation. Is the EPA planning on making changes to the POEO Act?	There are no plans to change the POEO Act at this time, but there is a need to provide guidance on how historic asbestos contamination and asbestos waste can be managed under the existing legislation.
Would it be fair to say that the EPA has discretion about how asbestos waste can be managed, even if it has been illegally received? (eg. still prosecute, but manage on site)?	The EPA has some discretion about how we respond to a given situation, but we must abide by the requirements of the legislation. If it is a public health issue, or a grey area for example in the event of an innocent owner having contamination dumped on their land, we may consider a broader range of options.
Why do we need to define historical asbestos contamination?	Because it is generally managed differently to asbestos waste – if defined as ‘asbestos waste’, it must go to landfill. If considered historical, or legacy asbestos contamination, it can be managed under a contaminated land approach.
How can the position statement be applicable if it is in line with the legislation? There will be a need to change the act surely?	The Position Statement provides guidance on how asbestos-contaminated soils can be managed under existing legislation. There are no plans to amend the legislation at this stage, but if publishing guidance is not sufficient to address industry confusion around the overlap between the CLM and Waste regulatory frameworks, other options may be explored.
The EPA has previously advised that the waste regulatory framework kicks in when material moves off site / is received from off site. That may occur in the past, present or future, hence the complications regarding 'asbestos waste', which is a particular concern in regard to discouraging illegal dumping.	Correct, although material may be waste even if it doesn't move off site.
What kind of soil movement within a site causes material to become a waste? Isn't it only waste once it leaves the site?	No, it may also be considered to be waste depending on how it is managed on-site. For example, stockpiling unwanted soil and leaving it for extended periods of time may result in the stockpiles being considered waste – but it depends on the individual circumstances.  The Position Statement will support on-site remediation where appropriate but will maintain the EPA's ability to undertake regulatory action where illegal dumping has occurred.
How long does a stockpile need to sit on site before it becomes waste?	Whether something is considered waste depends on a range of factors, rather than just time. Waste is defined under the POEO Act - the updated Position Statement will provide further guidance on this.

#### **4. Review of the Resource Recovery Framework – Kate Snow, NSW EPA**

Refer to presentation attached. The following items were discussed:

- An overview of the review of the NSW Resource Recovery Framework was provided. Dr Cathy Wilkinson carried out the independent review, which was a commitment made by the NSW Government to review the framework against circular economy objectives, as well as how the framework protects health, as well as transparency.
- The review made 22 recommendations. The EPA supported all 22 recommendations. The review is available here: <https://www.epa.nsw.gov.au/your-environment/recycling-and-reuse/resource-recovery-framework/independent-review>
- The EPA is committed to implementing all 22 recommendations within 5 years but many will be completed before that. Some recommendations will require legislative changes, so will take longer than others.
- The EPA has released a Delivery Plan that sets out all the actions to be taken to implement the recommendations. This is available here: <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/recycling/23p4430-resource-recovery-framework-delivery-plan.pdf?la=en&hash=DFB6BD6642DBE00D1304AEBDEF56A9E10420EFDB>
- The EPA has a current work program which is working on priority actions. The current work program was put together following stakeholder feedback and aims to address priority issues outlined by industry, including:
  - new and updated guidance materials for orders and exemptions
  - a review of the form and structure of orders and exemptions
  - expert review and advice on the management of asbestos in waste and recovered materials
  - developing an innovation pathway, and
  - investigating end-of-waste pathways for suitable materials.
- The EPA is undertaking widespread engagement, details of which are available on the website.
- If there are any recommendations auditors are interested in engaging with the EPA on, please get in touch via the email [resource.recovery@epa.nsw.gov.au](mailto:resource.recovery@epa.nsw.gov.au).

#### **5. Landfill Audit Case Study – Tony Scott, Tetra Tech Coffey**

Accredited site auditor Tony Scott presented a case study on the actions and learnings from an audit undertaken on a landfill site. This resulted in some good discussion among the auditors. No presentation is available.

#### **6. Slido session – auditor meeting feedback**

The auditors were asked to provide responses to questions regarding the use of Interim Audit Advice and feedback on the auditor meeting. This included a request for auditors to volunteer to present at future meetings and suggested topics auditors would like to hear.

#### **7. Other Business**

- No other business items were raised.
- Next meeting is scheduled for March 2024 (date to be confirmed)