



## NSW Accredited Site Auditor Scheme – Auditors’ Meeting

<b>Meeting:</b>	NSW Accredited Site Auditor Scheme – Auditor’s Meeting	<b>Date:</b>	22 March 2024
<b>Location:</b>	Rydges World Square	<b>Time:</b>	9.15am-13.20pm
<b>Last Meeting:</b>	20 October 2023	<b>Next Meeting:</b>	October 2024
<b>Present:</b>	<p><b>EPA accredited site auditors</b> – Charlie Barber, Tim Chambers, James Davis, Chris Duesterberg, Michael Dunbavan, Julie Evans, Ian Gregson, Cheryl Halim, Adrian Hall, Rebeka Hall, Rod Harwood, Jonathan Ho, Chris Jewell, Lange Jorstad, Andrew Lau, Peter Lavelle, Amanda Lee, Kylie Lloyd, Brad May, Alyson MacDonald, Kevin Masterton, Ross McFarland, Colin McKay, Philip Mulvey, Loek Munnichs, Mike Nash, Tom Onus, Stephen Pawelczyk, Melissa Porter, Fiona Robinson, Marc Salmon, Rowena Salmon, Tony Scott, Andre Smit, Mark Stuckey, Ian Swane, Caroline Vernon, Ben Wackett, Louise Walkden, Andrei Woinarski</p> <p><b>Auditor proxies</b> – Alice Walker (Peter Beck), Kate Robinson (Jason Clay), Debbie Midwinter (Brad Eismen), Jenna Maltman (David Gregory), John Russell (Paul Moritz), Daniela Balbachevsky (Andrew Kohlrusch); Mark Tiedman (Paul Steinwede), Kelsie McGillen (Edward Wu)</p> <p><b>NSW EPA</b> – Erwin Benker, Joanne Wilson, Lesley Corkhill, Jerome Koh, Daniel Opdam, Darren Perrera, Gwendolyn Foo, Nicholas Siltington-Hansen, Jo Graham, Giselle Goloy, Brenda Ioffrida, Sam Waskett, Rose Cocks, Ziyad Khan, Mark Hanemann, Kate Sargent, Helen Prifti</p> <p><b>Auditor panel</b> –Damien Davidson</p>		
<b>Apologies:</b>	<p><b>EPA accredited site auditors</b> - Peter Beck, Jason Clay, Brad Eismen, David Gregory, Andrew Kohlrusch, Graeme Miller, Frank Mohen, Paul Moritz, Peter Ramsey; Paul Steinwede, Edward Wu.</p> <p><b>Auditor panel members</b> – Fouad Abo, Karen Marler, Louise Cartwright, Carolyn Brumley</p>		
<b>Guests:</b>	<b>David Springer (Envirolab Group)</b>		

### Agenda items:

#### **1. Introduction – Erwin Benker, NSW EPA**

Welcome and Acknowledgment of Country. Erwin welcomed everyone to the meeting, and introduced Kevin Masterton, who is a new auditor in NSW via the Mutual Recognition Act.

## 2. Aboriginal Initiatives Team – Joanne Wilson, NSW EPA

Refer to presentation attached. The following items were discussed:

- The EPA developed the Aboriginal Initiatives Team to provide aboriginal perspectives into the EPA’s strategy, policy and operational activities. This led to the development of the EPA Statement of Commitment to Aboriginal Peoples: <https://www.epa.nsw.gov.au/about-us/our-organisation/statement-of-commitment-to-aboriginal-people> which has been strongly endorsed by the EPA Executive.
- The Statement includes 12 commitments, being:
  - Work in respectful partnership with Aboriginal peoples
  - Actively learn from and listen to Aboriginal voices, cultures, and knowledges
  - Act boldly and bravely to play our part to mend and heal Country together.
  - Respect Aboriginal people’s knowledge and science as an equal to western science.
  - Include Aboriginal knowledges and science into the EPA decision making.
  - Ensure Aboriginal knowledges, science and Indigenous Cultural Intellectual Property is protected.
  - Address both the tangible and intangible cultural elements of environmental protection
  - Deliver on results that have direct benefits for Aboriginal communities.
  - Embed consistent, meaningful, and trustworthy engagement with Aboriginal communities.
  - Improve Aboriginal cultural competency across the agency.
  - Improve Aboriginal employment across the agency.
  - Monitor the impact of this Commitment.
- The Statement provides a foundation to improve the EPA’s cultural capability.
- Some examples of where the Statement is influencing the EPA’s work includes: Aboriginal perspectives in the EPA strategies, policies, and legislation; addressing illegal dumping and waste management in Aboriginal communities; Aboriginal impact statements; Aboriginal engagement in regard to river health (floods and fish kills); an Aboriginal Peoples Knowledge Group; and the clean-up of asbestos in Discreet Aboriginal Communities.
- Contamination has a significant impact on Aboriginal communities. Discreet communities were often built on or near to contaminated land; land returned under the Land Rights Act is often not investigated for contamination; Aboriginal people are disproportionately impacted by contamination due to poor quality housing or location near to contamination (Broken Hill, lead issue for example); Aboriginal people are also disproportionately impacted by natural disasters.

Questions / comments from auditors	EPA response
Where might people find information on Aboriginal knowledge and science to assist when considering contamination?	<ul style="list-style-type: none"> <li>○ The “Our Knowledge, Our Way” Guidelines produced by CSIRO are a good place to start: <a href="https://www.csiro.au/en/research/indigenous-science/indigenous-knowledge/our-knowledge-our-way">https://www.csiro.au/en/research/indigenous-science/indigenous-knowledge/our-knowledge-our-way</a></li> <li>○ Work is also being done to potentially develop a framework to help guide decision making on land contamination issues, similar to one in New Zealand where decision makers need to consider Maori views when making decisions. The Maturanga Framework can be viewed here: <a href="https://www.epa.govt.nz/te-hautu/maturanga/">https://www.epa.govt.nz/te-hautu/maturanga/</a></li> <li>○ While there is not a bank of information in mainstream scientific literature, universities can be a reliable source of information,</li> </ul>

	<p>particularly those with strong Aboriginal connections.</p> <ul style="list-style-type: none"> <li>○ A lot of gaining access to Aboriginal knowledge and science is about building trust.</li> </ul>
An auditor advised that one stream of the upcoming Clean Up Conference in Adelaide specifically discusses this subject, so the presentation was considered very relevant for the auditors.	<p>Further information on the themes covered at the Clean Up Conference are available here:  <a href="https://adelaide2024cleanupconference.com/2024-themes">https://adelaide2024cleanupconference.com/2024-themes</a></p>

### 3. Audit Unit Update – Brenda Ioffrida, NSW EPA

Refer to presentation attached. The following items were discussed:

#### Training for private certifiers

- The EPA has developed training for Building Certifiers around contaminated land, waste disposal and asbestos.
- The waste and asbestos training are done in the hope of preventing downstream problem waste issues.
- The training is free for private certifiers, who will also receive a completion certificate and CPD points. The EPA is also encouraging Councils to undertake the training.
- More information is available on the EPA website at: <https://www.epa.nsw.gov.au/your-environment/waste/training-for-building-certifiers>

#### Interim audit advice

- At the previous auditor meeting (October 2023) the EPA ran a Slido survey asking a number of questions around interim audit advice (IAA). The results of this showed that:
  - There was an inconsistent approach among auditors on when and how to issue interim audit advice in terms of issuing a formal letter or a non-formal email.
  - 70% of responses considered that no further guidance was needed from the EPA on IAA.
- While entitled “Multi-stage audits” section 3.6.2 of the auditor guidelines provides guidance on IAA. This states:

*“... the auditor may provide written interim advice on the work plans or reports in the lead-up to issuing the final site audit statement at the end of the entire audit. When this interim advice is provided, the site auditor must:*

- *specify that the interim advice does not constitute a site audit report or statement.*
  - *ensure the interim advice is consistent with EPA guidelines and policy.*
  - *not pre-empt the conclusion to be drawn at the end of the site audit process*
  - *clarify that a site audit statement will be issued at the end of the audit process.*
  - *document in the site audit report all interim advice that was given.”*
- The EPA confirmed that the advice in section 3.6.2 is relevant for any audit where IAA is considered appropriate.
  - The EPA also noted it had seen a number of IAA’s recently which had either been signed or co-signed by an auditor assistant. The EPA reminded auditors that IAA can only be sent by an auditor, so must not be signed out by anybody else.
  - The EPA also outlined its’ expectation that IAA should be in letter form, rather than sent as an email. This will help avoid any confusion with general email correspondence (i.e. not IAA) sent as part of the audit.

- The EPA noted that IAA is okay to be issued where an auditor is reviewing/approving a Remedial Action Plan (RAP), for example, but only if it is being completed for an audit that goes beyond the review of a RAP and a Site Audit Statement (SAS) and Site Audit Report (SAR) is issued at the end of the audit. IAA cannot replace a SAS/SAR in any circumstance.

#### Updates / Reminders / Admin

- With the addition of Mr Kevin Masterton, there are now 51 accredited auditors in NSW.
- The EPA reminded auditors to please make sure they check the correct Lots/DPs are included in Site Audit Notifications (SAN) and survey map details are correct in Site Audit Statements (SAS)
- The EPA requested that auditors please terminate any audits where there has been no involvement or activity for some time. Please include the EPA and the consent authority on terminations.
- A request was received by an auditor for an update on the draft Perfluorooctane sulfonate default guideline values (PFOS DGV) Technical Brief. Following enquiries made by the audit unit, the Federal government advised that following comments received on the draft, the technical panel is to be reconvened to consider the comments. It is then likely that in another 3 months a new draft will be issued.

#### **4. Contaminated Land Strategy & Policy Update – Lesley Corkill and Mark Hanemann, NSW EPA**

The auditors were introduced to Lesley Corkill, who is now the manager of the Contaminated Land Strategy & Policy team (replacing Joanne Stuart).

Refer to presentation attached. The following items were discussed:

#### **Priorities for 2024**

- **Review of the Underground Petroleum Storage Systems (UPSS) Regulation 2019.** The Regulation is due to be re-made in September 2025 (it was originally 2024, but an extension was provided for one year) and needs to be re-made before it is repealed. The EPA is about to start work on a review of the current Regulation with a remit of ensuring that the Regulation is clear and fit for purpose. The review will seek to take into account any current issues, for example – the current Regulation has no “trigger point” to ensure the decommissioning of abandoned UPSS. The review will include drafting of a Regulatory Impact Statement and public consultation with stakeholders.
- **The Office of the NSW Chief Scientist & Engineer (OCSE) asbestos review.** The OCSE was engaged to look at matters such as thresholds for asbestos in waste; sampling; asbestos in soils. Two literature reviews are ongoing, looking at thresholds used by other jurisdictions and countries, and sampling. OCSE is developing a discussion paper, which will go out to consultation to auditors and other relevant parties. The findings of the review will help inform future policy work on asbestos. Further information on this is available at: <https://www.chiefscientist.nsw.gov.au/independent-reports/asbestos-management>
- **Position Statement: Management of asbestos-contaminated sites.** This will be one of the items informed by the OCSE review. The 2022 Position Statement received lots of feedback. The document has been updated based on stakeholder feedback and two rounds of consultation, but it will not be finalised until the work being done by the OCSE is completed. Tensions remain over the legality of remediation of asbestos in soils under the POEO legislation. The EPA is currently analysing the options available to address this. The EPA understands the need for a quick resolution on this. Learnings from the recent asbestos in mulch issue will also be incorporated as well.
- **Environment Management Plan (EMP) compliance and enforcement project.** The EPA is aware of the ongoing issues around managing EMPs and ensuring there is a mechanism in place to ensure they can be made to be legally enforceable. The EPA understands that the options for enforcing EMPs may not always be available. One option being considered is the development of an online register for EMPs signed off by auditors. Views on this proposal will be sought from auditors via email in the coming weeks. Once feedback is received, the EPA will go out to

broader consultation in the second half of the year with planning authorities and other stakeholders.

Questions / comments from auditors	EPA response
<p>An auditor suggested a way to address the issue of what to do in the community where one fragment on asbestos is found would be to allow residents to take small amounts of asbestos to “Chemical Clean Up” days. This might resolve or reduce the issue of asbestos entering the green waste streams.</p>	<p>This suggestion was taken on notice for further consideration. Enquiries made following the meeting identified that the EPA had previously trialled a community asbestos disposal program, called the <a href="#">Household Asbestos Disposal Scheme</a>, which explored the impact of cheaper and easier asbestos disposal for householders on rates of illegal dumping of asbestos waste. At the end of the trial the scheme was not continued.</p>
<p>An auditor raised concern around the Position Statement and ambiguity on whether the 2022 position statement still stands, or whether it has been withdrawn?</p>	<p>The EPA advised that the Position Statement has not been withdrawn and that it reflects the legislation as it currently stands but does not necessarily align with the EPA’s policy position. The EPA has a desire to better align policy and NSW legislation with the ASC NEPM. If auditors/consultants find inconsistency with the Position Statement and NEPM when conducting remediation, follow the NEPM. The EPA supports the NEPM approach for contaminated land remediation.</p>
<p>An auditor stated that the NEPM does not discuss remediation and does not answer the question of removing ACM from soils.</p>	<p>The NEPM does speak to remediation indirectly – it has case studies, references the Western Australian guidance etc. The EPA is seeking to better align policy and NSW legislation. The EPA acknowledges the feedback received and this will be considered and incorporated where appropriate.</p>
<p>An auditor raised the issue of conditions of consent requiring EMPs being issued by some local Councils. A suggestion was raised that “model” consent conditions could be developed to help Councils.</p>	<p>The EPA advised that there are some “model” consent conditions available to Councils through the work done by the EPA-funded Regional Council Capacity Building Program. For example, the Hunter Joint Organisation produced a register of the contaminated land consent conditions. This, and other useful guidance for councils, is available here: <a href="https://www.hunterjo.com.au/projects/regional-contaminated-land-program/">https://www.hunterjo.com.au/projects/regional-contaminated-land-program/</a></p> <p>In terms of the EMP compliance and enforcement project, the EPA noted that the hope is that a solution can be found that goes beyond just having a well written condition to actually ensuring the long-term management of EMPs is implemented.</p>
<p>An auditor asked where the contaminated land Planning Guideline re-write is up to. Auditors commented on these previously but they have been shelved for a couple of years now.</p>	<p>The re-draft of the contaminated land Planning Guidelines are now actively being worked on again by the Department of Planning. The EPA are providing input into this document.</p>

## 5. Integrated Waste Tracking Solution (IWTS) – Jerome Koh, NSW EPA

Refer to presentation attached. The following items were discussed:

- The IWTS is focussed on the tracking of hazardous and high-risk wastes. The management of such wastes is conducted primarily by private industry and regulated by government, with local government playing a part in both. Therefore, the proper management of hazardous waste depends on effective regulation that supports and protects a stable and well-functioning market.
- A National Framework has been in place since 1998 with each jurisdiction having their own systems. Many of these systems were considered no longer be fit for purpose. There was no integrated data sharing available. This led to issues in tracking problem waste.
- The EPA has been working with the Queensland Dept of Environment Science and Innovation (QLD DESI) and industry to understand the issues. KPMG were then engaged to develop a system which will provide a nationally consistent tracking system.
- A “sandbox” system was released and lots of engagement was undertaken with industry and regulators to help refine the system.
- The rollout of the IWTS for NSW was completed on 28 February 2024 with Queensland to come online later this year. It is now the system to be used for tracking the movements of trackable waste, including waste tyres and asbestos waste. This replaces the previous two systems for hazardous and high risk waste (i.e. waste locate and online waste tracking system)
- No changes have been made to the POEO regulation, but there are changes to the Asbestos and Waste Tyres Guidelines to reflect the new process in the IWTS. There are also changes to the system used by householders who transport their own asbestos waste. Householders now only need to use the form on the EPA website (there is now only a single step, instead of previously needing to do two steps)
- Looking ahead – the EPA will be assisting industry in moving across to adopt IWTS.

Questions / comments from auditors	EPA response
An auditor asked if there will there be public access to the system, so for example, could an auditor log on to verify that loads have gone where they have been told they have, as part of their audit?	Currently, this function does not exist but this can be looked into if it is considered that this is needed.

## 6. Waste Update – Helen Prifti, NSW EPA

Refer to presentation attached. The following items were discussed:

- While the EPA is unable to comment on the recent asbestos in mulch issues because this is an ongoing investigation, there are some observations that the EPA wanted to share around retesting of materials and the limits of reporting being requested from laboratories:
  - **Retesting** – do not do it! Do not keep retesting until you get a result you like (unless there is an error in the labs etc, you cannot discount the result you found). You cannot “unfind” asbestos.
  - **Limits of reporting (LOR)** for PFAS. Some labs have been reissuing lab reports upon request from consultants who prefer a higher LOR for PFAS, or even raising the LOR achievable in their lab to a higher limit to potentially hide findings. A LOR of 5 ug/kg for PFAS was previously considered to be industry “norm”, but most labs can have a LOR a lot lower (0.1-0.2 ug/kg). The EPA is aware of some incidences of consultants requesting that labs raise the LOR to 5ug/kg when the lab has identified PFAS at a lower

concentration so that it could be said that the sample was “below LOR”. The LOR is the LOR – this is not interchangeable based on what you want to see.

- New system for applying for Resource Recovery Orders (RROs) & Exemptions (RREs)
  - Applications for RROs and RREs will no longer be via email.
  - Applications must now be made via the new external facing portal, eConnect: <https://www.epa.nsw.gov.au/licensing-and-regulation/licensing/econnect-epa>
  
- The Environment Protection Legislation Amendment (Stronger Regulation and Penalties) Bill 2024 passed in parliament on 20 March 2024. The Bill includes doubling maximum penalties for serious offences (including increasing fines for certain asbestos-related offences to \$4 million for companies and \$1 million for individuals), raising on-the-spot fines and a proposal for a new waste certification scheme. Further information is available on the EPA website: <https://www.epa.nsw.gov.au/news/media-releases/2024/epamedia240321-landmark-environmental-reforms-pass-nsw-parliament>

Questions / comments from auditors	EPA response
An auditor suggested that the EPA should require the LOR on waste to avoid people “choosing” a lab to get the result they want.	Noted
When classifying waste the EPA requires “no asbestos” but this cannot ever be guaranteed. How do auditors audit this?	Sampling is important, but it is only one part of the picture. Auditors and consultants need to consider other lines of evidence as well, as you would do for any other contaminant.

## **7. Sampling Discrepancies – David Springer (Envirolab Group); Ian Swane (Ian Swane & Associates); Daniel Opdam (NSW EPA)**

Refer to presentation attached. The following items were discussed:

- **Ian Swane** provided information on a site he is auditing where he had come across fraudulent laboratory reports.
  
- **David Springer** provided information on a number of lab reports that had been brought to his attention that were either fraudulent or may have looked that way because of a poor conversion from the original report to a PDF. David provided insights on what to look for as indicators that the lab report being read may not be the original.
  
- **Daniel Opdam** outlined that s103 of the *Contaminated Land Management Act 1997* provides the offence of false or misleading information. This outlines:

*“A person must not, in compliance or purported compliance with a requirement under this Act, give information to the EPA or another person knowing that, or being reckless as to whether, the information is false or misleading in a material particular.”*

- “Another person” can be a site auditor.
- When considering whether a lab report you are reading has potentially been falsified, things to look for are:
  - Discrepancies – why doesn’t it add up?
  - Abnormalities – is the logo wrong/out of date? Are there changes in font?

- Circumstances – why can't they provide you with the lab reports? Why is it taking weeks/months to provide you something that could be emailed in minutes?
- Intuition – does it “feel” wrong?
- If you think you might be reading a falsified report, you should:
  - Review and articulate suspicions
  - Check with the lab.
  - If you see something, say something.
  - Report it to the EPA – use Environment Line 131 555 or [info@epa.nsw.gov.au](mailto:info@epa.nsw.gov.au)
  - Do not alert the suspect (if possible)
  - Make notes of discussions had with the consultant.
  - Organise records – this will make the investigation process much easier.
  - Remember that, if an investigation is ongoing, communication with investigators is key... and patience.

### **8. Auditing a residential subdivision on a landfill – a case study – Ian Swane & Associates**

Refer to presentation attached. The following items were discussed:

Accredited site auditor Ian Swane presented a case study of a residential subdivision which was being built on a former landfill for which he is the site auditor. This resulted in some good discussion among the auditors.

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

Due to the overrun of the meeting the planned Slido survey would instead be emailed out to auditors in the coming weeks instead. It was noted that as well as the usual meeting feedback and suggestions for future meetings, the EPA will be seeking some information to help inform the EMP compliance and enforcement project, mentioned in the Policy update, and would really appreciate the auditors taking the time to respond to these questions.

There will also be some questions on current availability of audit work in NSW. An auditor had recently raised some queries around the number of current auditors and whether there was sufficient work available. It was noted that a similar query was raised a few years ago and that a questionnaire was sent out to address this at that time. So similar questions will be asked to determine if the situation has changed in the last few years.

### **10. General Business**

The next meeting is scheduled for October 2024 (online) (date to be confirmed).