



## NSW Accredited Site Auditor Scheme – Auditor’s Meeting

<b>Meeting:</b>	NSW Accredited Site Auditor Scheme – Auditor’s Meeting	<b>Date:</b>	19 May 2023
<b>Location:</b>	Level 11, 4PSQ (in person)	<b>Time:</b>	10am-13.00pm
<b>Last Meeting Date:</b>	21 October 2022	<b>Next Meeting Date:</b>	October 2023
<b>Present:</b>	<p><b>EPA accredited site auditors</b> - Andre Smit, Amanda Lee, Andrew Lau, Brad May, Charlie Barber, Chris Jewell, Brad Eismen, Ian Gregson, Ian Swane, James Davis, Jason Clay, Julie Evans, Kylie Lloyd, Lange Jorstad, Marc Salmon, Mark Stuckey, Colin McKay, Melissa Porter, Mike Nash, Paul Moritz, Rod Harwood, Rowena Salmon, Tony Scott, Stephan Pawelczyk, Tim Chambers, Tom Onus, Caroline Vernon, Alyson Macdonald, Frank Mohen, Louise Walkden, Cheryl Halim, Chris Duesterberg, Andrei Woinarski, Edward Wu, , Loek Munnichs, Jonathan Ho</p> <p><b>Auditor’s Proxies</b> - Daniela Balbachevsky (Peter Beck); Jackie Wright (Adrian Hall); Zoe Maher (Michael Dunbavan); Jenna Maltman (David Gregory); Mark Tiedeman (Ross McFarland), Craig Goodbody (Fiona Robinson); Ross Nicholson (Ben Wackett);</p> <p><b>NSW EPA</b> – Jo Graham, Rose Cocks, Sam Waskett, Giselle Goloy, Victoria Lee, Joanne Stuart, Mark Hanemann, Matt Hart, Christina Low, Brigitte Elvy, Donna Phelan, Erwin Benker, Anthea White, Elizabeth Watson, Sascha Qin</p> <p><b>Audit Panel</b> Members – Louise Cartwright</p>		
<b>Apologies:</b>	<p><b>EPA accredited site auditors</b> - Andrew Kohlrusch, Graeme Miller, Adrian Hall, Ross McFarland, Peter Beck, Michael Dunbavan. Fiona Robinson, David Gregory, Phil Mulvey, Peter Lavelle, Rebeka Hall, Ben Wackett, Paul Steinwede, Peter Ramsay,</p> <p><b>Audit Panel</b> Members – Damien Davidson, Carolyn Brumley, Karen Marler, Fouad Abo, Wendy Boyce</p>		

### Agenda items:

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

- Welcome and Acknowledgment of Country.
- Announced that 7 (seven) new auditors have been accredited in NSW since the last auditor meeting. The new auditors were welcomed.

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

Refer to presentation attached. The following items were discussed:

##### Automatic Mutual Recognition (AMR)

- NSW exemption from AMR will finish on 1 July 2023. Auditors wanting to work in NSW under AMR will need to submit an application via the Service NSW website and will need to meet the notification requirements, which include appropriate public liability insurance and expert support teams.

- AMR has already commenced in Victoria and WA. NSW auditors can already apply to work there under AMR but should check with those jurisdictions for notification requirements.
- QLD is not adopting the AMR scheme.
- The EPA is not proposing to include the names and contact details of auditors working under AMR in NSW on NSW EPA website.
- A shared government website for AMR has been set up, so jurisdictions can share information (i.e., conditions / any disciplinary action taken etc)
- The definition of “home state” for AMR was provided (refer to presentation).

### **Minor amendments to the guidelines for the NSW auditor scheme (2017) (auditor guidelines)**

- Some minor amendments are being made to the auditor guidelines, to include information on AMR; some changes resulting from the *Contaminated Land Management Regulation 2022* amendments; updating outdated links and email addresses; and updating references to any recently revised guidelines.
- The EPA will not be going out for consultation as the amendments are only minor.
- A list of minor amendments will be produced and provided to auditors when the revised auditor guidelines are published.

### **Direct Accreditation Round 2022**

- An overview on the 2022 Direct Accreditation round was provided:
  - 16 applications were received
  - 9 applicants invited by the Accreditation Panel to take the exam
  - 7 applicants progressed to the interview stage with the Accreditation Panel
  - 6 applicants were successful in the interview and have become accredited.
- The EPA thanked the Accreditation Panel for their considerable time and effort in contributing to the accreditation process.
- A number of improvements made for this accreditation round included:
  - the redaction of personal information from the applications so the panel were not aware of the applicants being assessed;
  - bias training provided for the panel;
  - a different structure for the panel which included consultants and persons with auditing experience being included in the panel for the first time; and
  - references for applicants being sought before the interview so the panel could take these into account when making their recommendations.
- Feedback has been sought from applicants and panel members alike for this round so that further improvements can be made for future rounds.

### **Administrative matters**

- Auditors are reminded to please consider terminating audits where no activity has been ongoing for some time. Please advise both the EPA and the planning consent authority/Local Council (if applicable).
- Please ensure that any Site Audit Notification / Site Auditor Statement / Conflict of interest forms submitted to the EPA are the current forms with the correct logos. These are available here: <https://www.epa.nsw.gov.au/your-environment/contaminated-land/site-auditor-scheme>
- Auditors are reminded that, where your audit is for a Partial Lot, you must provide a site survey plan with the SAS, so it is clear which part of the site the audit relates to.
- When issuing a revised SAS, auditors need to make sure this is sent to all the people it was sent to originally to ensure all relevant parties are aware of the revisions and to advise the EPA this has been done.

- For future auditor meetings, the intention is to hold one meeting in person and one online per year. The next meeting planned for October will be held online.

## Discussion

- A question was raised by an auditor as to whether there were any plans to normalise site auditor accreditation fees across Australia? The EPA advised that this is not planned at this stage. The fee structures are different across the jurisdictions which makes comparison difficult. Discussions have taken place among the jurisdictions with accreditation schemes about this, but there are no plans to normalise fees at this stage.

### **3. Land & Resources Policy Update – Joanne Stuart and Mark Hanemann, NSW EPA**

Refer to presentation attached. The following items were discussed:

#### **Independent review of asbestos management in recovered materials (Joanne Stuart)**

- The NSW Office of the Chief Scientist and Engineer (OCSE) has been asked by the Minister to undertake a review and to provide advice on the management of asbestos in recovered fines, the residue remaining after all recyclable construction waste material has been removed from skip bins and other recovered materials
- Terms of Reference have been developed in consultation with the EPA and the National Asbestos Contamination Committee (NACC) and will include consideration of national and international guidelines. The review will consider whether a tolerable level can be set for asbestos in recovered materials, along with a host of other things such as the best analytical approach and thresholds.
- The OSCE is presently undertaking a literature review and Data Gap analysis and formal work will commence in August 2023. However, as the OSCE has also been asked to investigate the current Menindee mass fish kill, this timeframe may be pushed back.
- The OSCE will be setting up an Expert Panel, of academics and government experts to consider the issue. While the Expert Panel will not include consultants or auditors, the intention is for the OCSE to engage with contaminated land experts and representatives from the construction and demolition waste industry in order to get a good understanding how waste is managed under CLM framework against how its managed in the waste industry.
- **The OSCE will be looking to undertake site visits, so the EPA asked auditors to contact Joanne Stuart if they have a site where asbestos is the major contaminant of concern that the OSCE might be able to visit in the future.**
- A report will be eventually published on the OCSE website. Once the review is finalised and recommendations released, the EPA will consider the outcomes in the context of its approach in management of asbestos and resource recovery to support a circular economy.
- Further information is available here: <https://www.chiefscientist.nsw.gov.au/independent-reports/asbestos-management>

#### **Update on the Position Statement - WA guidelines for asbestos contaminated sites (Mark Hanemann)**

- The EPA position statement on the WA guidelines for asbestos contaminated sites was released around a year ago. The intent was to clarify difference between the WA and NSW positions around asbestos in soils. The EPA received lots of feedback, both positive and negative. But overriding consensus was that clarification was needed, particularly around the crossover between the contaminated land and waste frameworks.
- Based on the feedback received, a draft revised statement has now been developed. This was emailed to all auditors and is available here: <https://www.epa.nsw.gov.au/your->

[environment/contaminated-land/other-contamination-issues/managing-asbestos-in-and-on-land/position-statement-wa-management-of-asbestos-sites](#)

- The position statement has been renamed to apply more broadly to the management of asbestos-contaminated sites in NSW.
- The new draft statement reflects current industry best practice and supports the NSW Government's objective of working toward a circular economy.
- Although there is some overlap between the Waste and CLM frameworks, the EPA considers they should generally be kept separate when undertaking remediation. We acknowledge sentiment from some auditors who felt that the previous position statement conflated the two frameworks.
- Under the revised position statement, remediation of asbestos in soils is only permissible for historical legacy contamination, not illegally dumped materials.
- The proposed changes include that it is permissible to undertake remediation of asbestos in soils, in certain circumstances. Provided remediation can meet the NEPM HSLs, soils may then be reused on-site, again with caveats.
- These proposed changes remain consistent with NSW legislation, as did the previous Position Statement. The legislation does allow some room for interpretation, which is why publishing a position statement is important. The EPA is considering changes to the legislation to remove grey areas.
- The EPA is now seeking feedback on the draft position statement, and we are allowing 3-4 weeks for comments. This is a targeted consultation sent to auditors and other relevant stakeholders. A final position statement is earmarked for late 2023.
- The Position statement will be a live document and the findings of the OCSE review will inform its further development.

## Discussion

- A question was raised by an auditor around the subject of historical legacy contamination – will there be timeframes given on what constitutes “historic”? The EPA advised that it is looking at developing guidance around this. It's complicated, as there is no easy way to define historic contamination, but it is happy to receive comments on how best to define “legacy” as part of the feedback on the draft position statement.

## 4. Waste update – John Ingold, NSW EPA

No presentation provided. The following items were discussed:

### Updates to the Solid Waste Landfill Guidelines (2016)

- The EPA is reviewing the *Environmental Guidelines: Solid Waste Landfills* (EPA, 2016), which set out the EPA's technical policies for the design, construction, operation, monitoring and rehabilitation of landfills
- The current edition was released in 2016. The guidelines have worked well.
- The EPA does not consider that the guidelines require major changes. The review is not a major review of the technical policies in the guidelines.
- The review is mainly an update to:
  - update superseded technical standards, test methods and legislation referred to in the guidelines
  - clarify any uncertainties in the interpretation of the guidelines
  - ensure consistency with other EPA and national policies released since 2016
  - address emerging environmental issues
  - provide additional guidance on problematic issues
  - streamline the assessment and approvals process
  - improve the presentation of the guidelines.

The EPA is currently working through the changes. When completed, the EPA will formally consult with industry and local government. This consultation is likely to take place in the second half of 2023

## Potential expansion of the site auditor scheme to include new landfill approvals

- The idea of a potential expansion of the site auditor scheme to include new landfill approvals was informally raised at the site auditors meeting in April 2022.
- From the feedback at the meeting, the majority of auditors expressed broad interest in the proposal and thought that it could be accommodated within the existing scheme. Most auditors also felt they or their firms had the expertise to perform landfill audit functions.
- The proposal is still in the very early stages, but the main elements include the possibility that:
  - Applications to the EPA to construct major landfill works may include an auditor review.
  - The auditor review will need to confirm that the design and construction proposals in the licence application address the requirements of the NSW Landfill Guidelines.
  - A satisfactory auditor review will be a prerequisite prior to the EPA approving the works.
  - Also, at the completion of construction of approved works, an auditor review must confirm that the Construction Quality Assurance (CQA) report for the works is satisfactory. The CQA report is a prerequisite prior to the EPA approving commencement of use of the constructed works.
  - 'Major landfill works' are new landfill cells, water and gas management systems, and final capping and rehabilitation of the site.
  - The scope of the auditor's role may also include review of monitoring reports (landfill gas and water monitoring).

## Next steps

Further policy development work and formal industry consultation will be needed to:

- precisely define the auditor's role
- develop guidelines (including standard forms) for the expanded role of auditors
- develop an implementation mechanism, e.g., standard licence condition under the *Protection of the Environment Operations Act 1997* (POEO Act)
- further internal and external consultation.

## Discussion

- An auditor asked what is the current state of thinking on how this might work (i.e., will there be a need for SAS/SAR at the end?) The EPA advised that it is currently thinking about this. Currently, EPA officers undertake all reviews of documents and reports relating to a landfill application. The thought is that auditors might be able to do this review. It might result in a SAS – but might also be something else. Work is to be done around this. This is very preliminary at this stage. Ultimately, if it does happen, this will be auditing work and not consulting work (i.e., checking against the guidelines, signing off that the application meets all criteria).
- Another auditor asked whether the 2016 Solid Waste Landfill Guideline updates will address legacy (non-active) landfills and onsite containment? The EPA advised that the guidelines are for active landfills. Legacy guidelines should be addressed under the CLM Act. Containment cells are more complicated. There is Federal guidance on containment cells. The EPA review will include some further direction on containment cells in the updated guideline.
- An auditor spoke about the trend for "piggyback landfills", involving building higher cells on top of older landfills, and asked whether the Guideline update will capture the expansion of existing landfills? The EPA advised that this issue is on the list to look at and will be looked at as part of the review.

## **5. EPA v Zoya Investments – Legal Case Review - Donna Phelan (Regulatory Operations) and Brigitte Elvy (Legal Services), NSW EPA**

Refer to the presentation attached.

A very interesting presentation was given by NSW EPA Operations and Legal Services branch on a legal case relating to the failure to comply with a Management Order under the *Contaminated Land Management Act 1997*. This was the first prosecution undertaken by the EPA for this offence.

The judgment in *EPA v Zoya Investments Pty Ltd* [2022] NSWLEC 149 is available here: <https://www.caselaw.nsw.gov.au/decision/185089824b3f347692992b08>

The published notice ordered by the Court is available here: <https://acapmag.com.au/2023/02/contaminated-site-declaration/>

## **6. Maximum Probable Error (MPE) Worksop – Marc Salmon, Easterly Point Environmental**

Refer to the presentation attached.

Accredited Site Auditor Marc Salmon presented on and took the auditors through a workshop on the use and benefits of using MPE when considering the sampling design for a contaminated site, which resulted in some rich discussion among the auditors.

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

The auditors were asked to provide quick responses 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.

## **8. Other Business**

- No other business items were raised.
- Next meeting is scheduled for October 2023 (date to be confirmed).