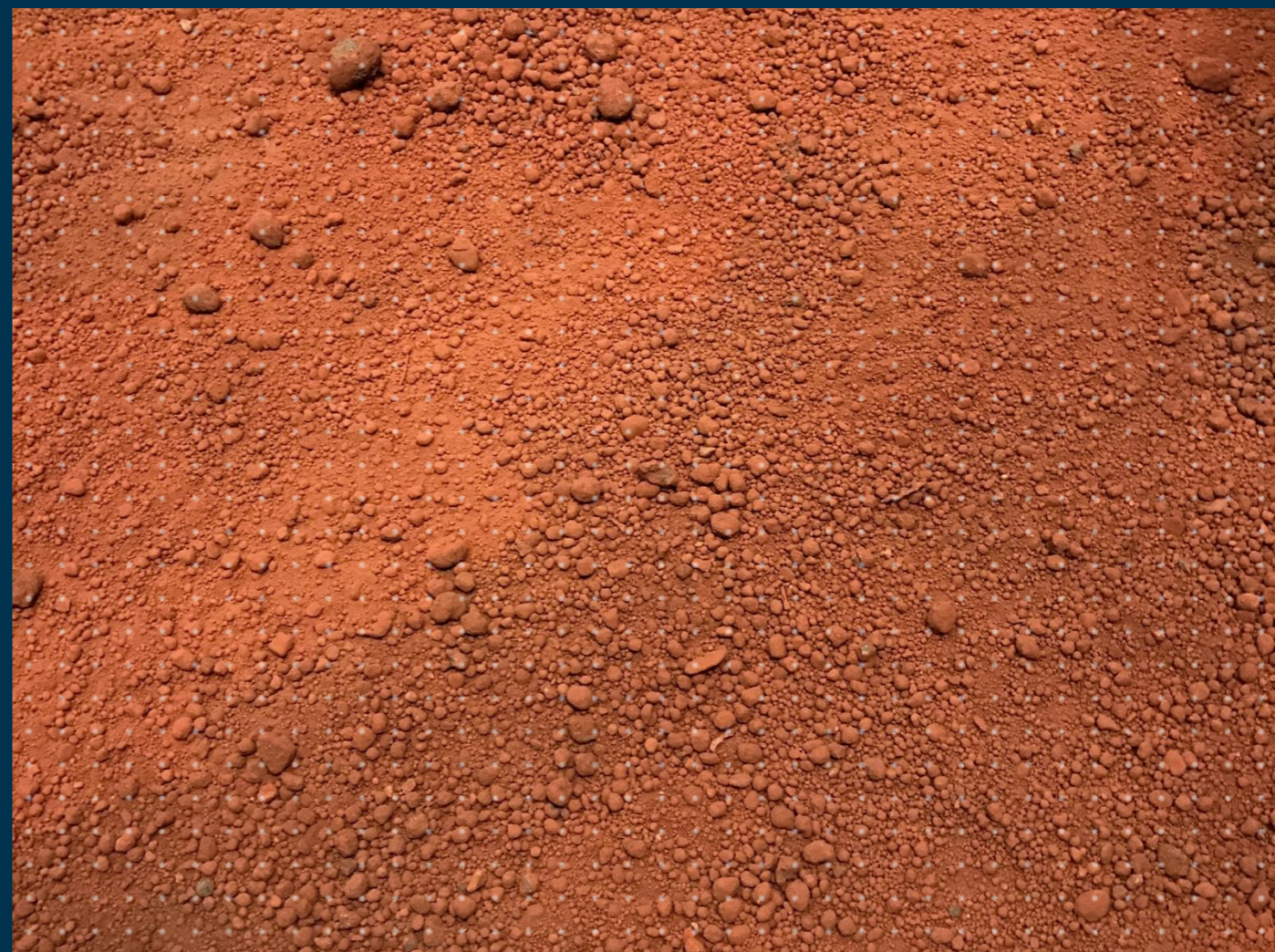


Environment Protection Authority

# Contaminated Land Advice and Audit Team Update

Jo Graham

29 October 2021



# Site Audit Report Reviews by EPA

- Our checklist considers all the “musts” and “shoulds” in the Guidelines for the NSW Site Auditor Scheme (3<sup>rd</sup> edition)
- Section 3.1 obligations of site auditors
- Section 3.2.6 role of expert support team members
- Section 3.3 Site audit report requirements
- Section 3.8 communications with EPA
- Section 4 – contamination assessment, remediation and management
  - Waste notifications

# Good reviews

# Common issues



Check tables – appendixes	Overlooking communication requirements with the EPA (notified / regulated sites / groundwater & ground gas issues)
Clear and separate auditor narrative	Insufficient justification to support conclusions/comments
Concise, clear, well structured report	EMP enforceability / public notification
Conclusions in SAR support SAS	SAS forms – errors / incomplete
Clear figures/plans of audit area (incl. in SAS)	Typos / poorly structure / unclear / duplication
Clear scopes	Lengthy overall comments sections in SASs
Clear records of communications / interim advice / notifications	Missing interim advice
Stand alone report	Including consultants reports

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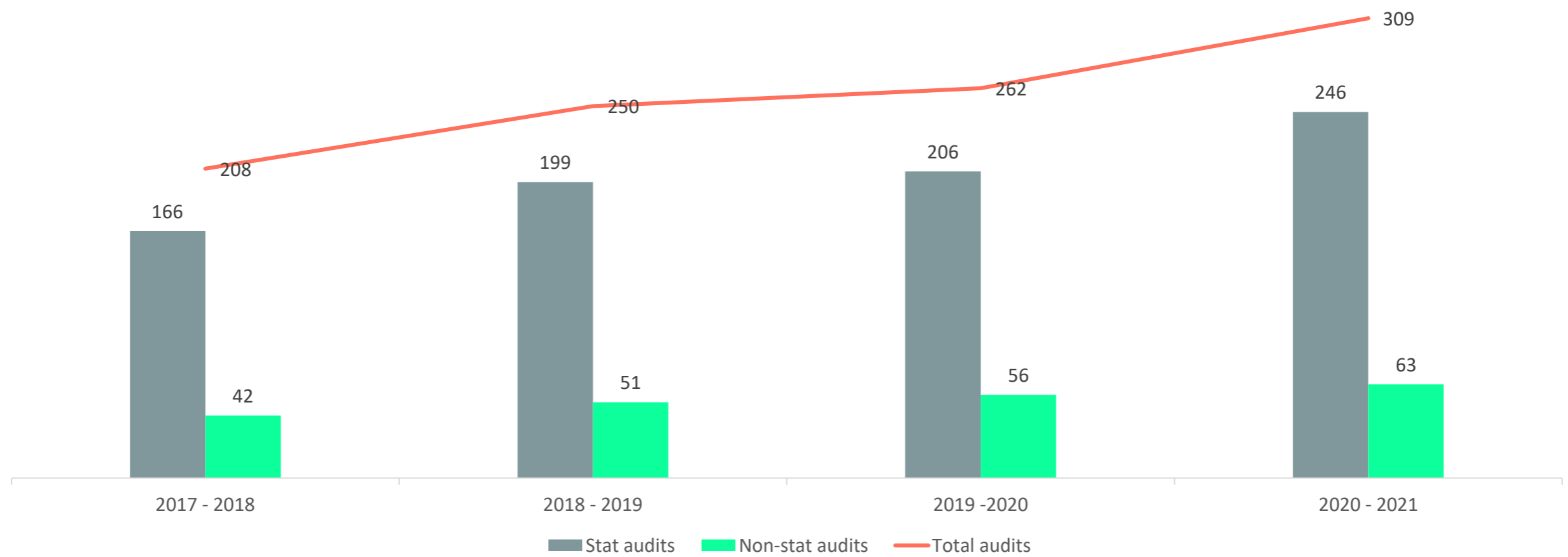
# Annual Returns 2020 - 2021

- 309 audits completed (2019/20 – 262)
- 45 audits terminated (2019/20 – 52)
- 707 audits ongoing (2019/20 – 704)
- 300 stat audits commenced (2019/20 – 243)

Of the audits completed:

- 27 auditors < 5 audits (31 – 2019/20 ; 28 - 2018/19 ; 32 – 2017/18)
- 6 auditors 5-10 audits (5 – 2019/20 ; 4 – 2018-19 ; 5 – 2017/18)
- 8 auditors 10-20 audits (6 – 2019/20 ; 11 – 2018-19 ; 5 – 2017-18)
- 5 auditors >20 audits (4 – 2019/20 ; 1 - 2018-19 ; 2 – 2017/18)

# Completed Audits 2017 to 2021



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# Automatic Mutual Recognition

- EPA has been granted a 12 month temporary exemption and is seeking a further 5-year exemption
- Treasury to consult with stakeholders (accreditation panel, accredited site auditor, Australasian Land and Groundwater Association)

# Auditors' Meeting Minutes Format

- Proposing to simplify and shorten the minutes in line with standard EPA meeting minute template
- Simpler, shorter, clearer
- important information which needs to be referenced will be documented
- Slido question at end of meeting to seek auditor input

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## Other matters

- The EPA is anticipating advertising for new applicants early next year.
- Waste notifications now to be sent to [info@epa.nsw.gov.au](mailto:info@epa.nsw.gov.au) (cc the audit mailbox as normal)
- Planning conditions – being revised following considerable stakeholder feedback

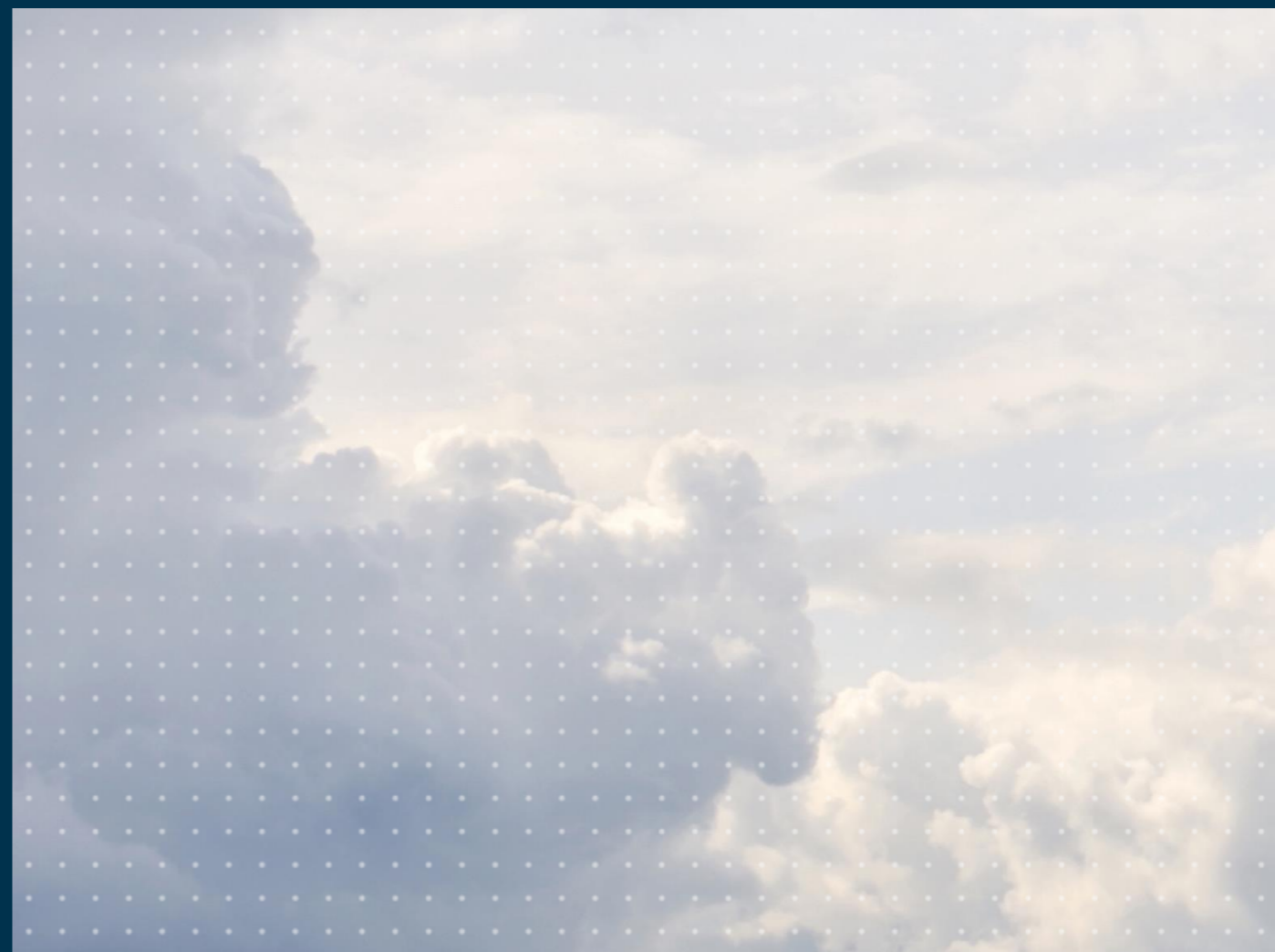


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# Policy Update

## Auditors Meeting

October 2021



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# Guideline and Policy Reviews

## Sampling Design Guidelines

- Consultation on draft undertaken in late 2020 – 51 submissions
- Made changes in response:
  - moved away from sampling density based on past land use
  - added material to aid non-technical users
- Update almost complete – finalising position on asbestos in soils
- Working to ensure consistency with EPA’s position on the WA Asbestos in Soils Guidelines
- Aiming to publish early 2022

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# Guideline and Policy Reviews

## **Contaminated Land Consultant Certification Policy**

- Review has been finalised and policy updated – waiting on internal approval to publish along with the consultation report
- No change to policy but clarified difference between consultants and auditors
- Referenced Consultants Reporting on Contaminated Land Guidelines for use when reviewing and approving reports

## **EMP Practice Note**

- Currently being edited
- Will need internal approval prior to publication
- Does not provide guidance on enforcing EMPs

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# 2021 WA Asbestos Guidelines

## Application in NSW

- WA Guidelines not wholly consistent with NSW legislation and EPA position
- Not an approved guideline under CLM Act - not all aspects of WA Guidelines can be applied in NSW
- Offence to cause or permit asbestos waste in any form to be re-used or recycled - POEO Act
- Amount, size or proportion of asbestos not relevant to definition of asbestos waste
- EPA will publish position statement shortly to address inconsistencies
- Currently working with SafeWork and other agencies to develop further guidance

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## Remake of Contaminated Land Management Regulation

- Regulations are required to be remade every five years or they lapse
- Several postponements of remake of CLM Reg 2013
- Commenced review – will be remade by 1 September 2022
- Propose to consult publicly in March / April on draft Regulation and Regulatory Impact Statement

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# Remake of Contaminated Land Management Regulation

- Propose to make following amendments:
  - Increase and align penalty notice amounts for offences with similar penalty notice offences under other environmental legislation – this includes the offence of undertaking a statutory site audit if not an accredited site auditor
  - Prescribe financial assurance policy and guideline for calculating cost, and the monetary benefits calculation protocol and tool
  - Prescribe the circumstances that the EPA can refund or waive accredited site auditor fees
  - Minor administrative changes

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## Other regulatory reforms

- EPA has a staged reform program – environment legislation amendment bill soon to be introduced into Parliament – will make some changes to CLM Act
- Future reform program being developed
- Planning have informed us Remediation of Land SEPP and associated Contaminated Land Planning Guidelines not a current priority – likely to be updated in 2022
- Waste Regulation remake scheduled to be completed 1 September 2023

Questions?



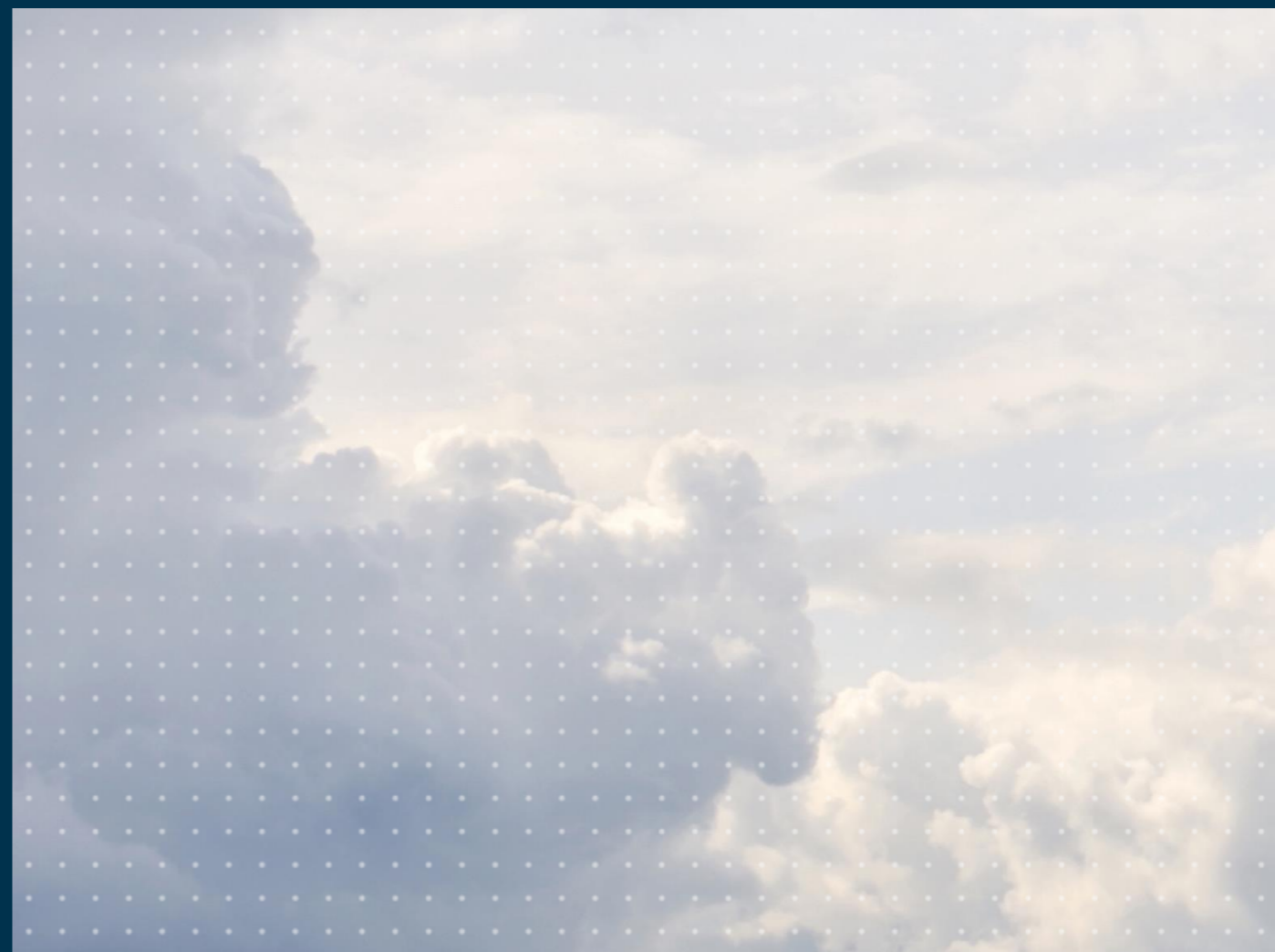


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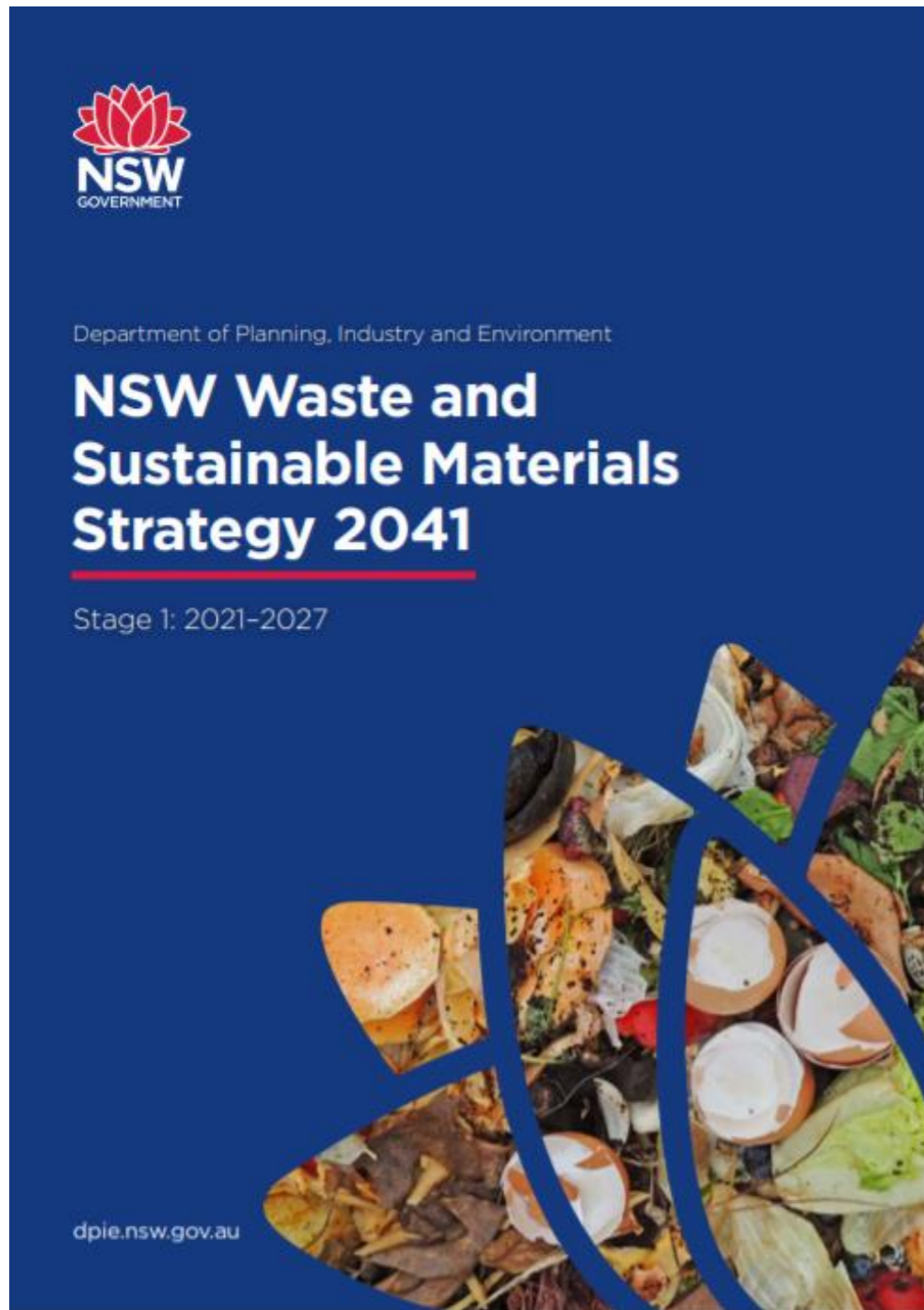
# Accreditation of waste classifiers & licensing of waste transporters

Major Projects & Initiatives, EPA

October 2021



# Waste and Sustainable Materials Strategy



\$356 million over five years from 1 July 2022 into programs and initiatives to:

- ↓
- 1. Meet our future infrastructure and service needs
- ↓
- 2. Reduce carbon emissions through better waste and materials management
- ↓
- 3. Build on our work to protect the environment and human health from waste pollution

↓

**Managing hazardous wastes and stopping illegal dumping**

- Investigate establishing a scheme for accredited waste assessors to assist with waste characterisation and classification
- NSW Asbestos Waste Strategy 2019-21: closing loopholes and increasing transparency in the transport of asbestos waste

# EPA Waste Delivery Plan



## Our Strategic Waste Priority

We take action to reduce the harmful impact of waste and drive behaviours that create a circular economy

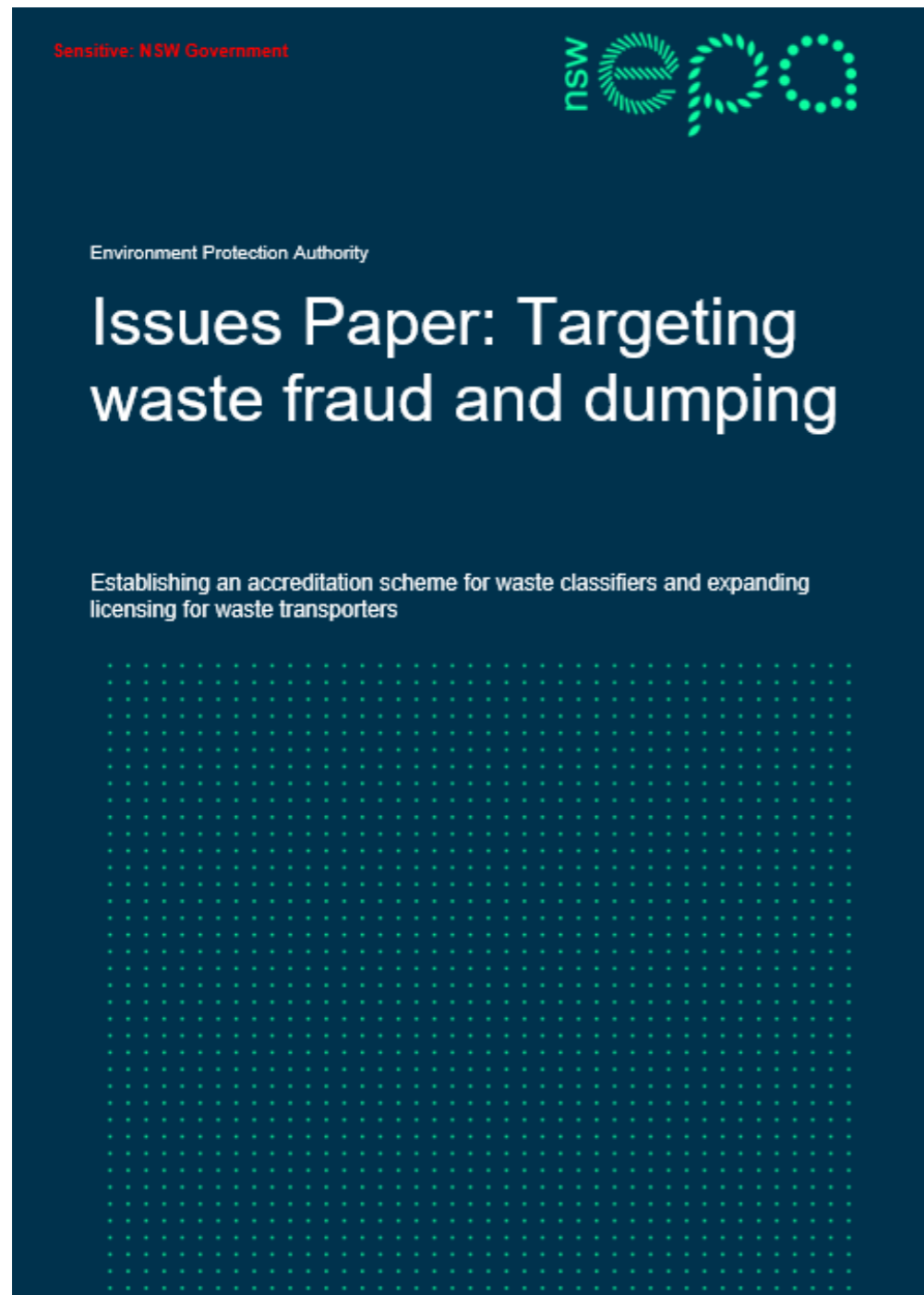
To achieve our waste priority, the Waste Delivery Plan outlines how the EPA will work with our partners to implement *Waste and Sustainable Materials Strategy* initiatives & complementary actions, including:



## Preventing illegal dumping and strengthening the way we regulate waste crime

- \$16 million over five years to continue illegal dumping prevention programs
- Investigate legislative reforms including:
  - **accreditation of waste classifiers**
  - **extended licensing requirements for waste transporters**
  - mandating the use of GPS tracking for vehicles transporting high volumes of asbestos waste
  - use of electronic waste docket and disposal fee systems
  - enhanced investigation and enforcement powers for EPA officers

# Issues Paper: Targeting waste fraud and dumping



- Describes the current regulatory framework as it relates to waste classification and transportation
- Identifies gaps in our regulatory oversight and why they need to be addressed
- Outlines proposals to introduce an accreditation scheme for waste classifiers and extend licensing for waste transporters

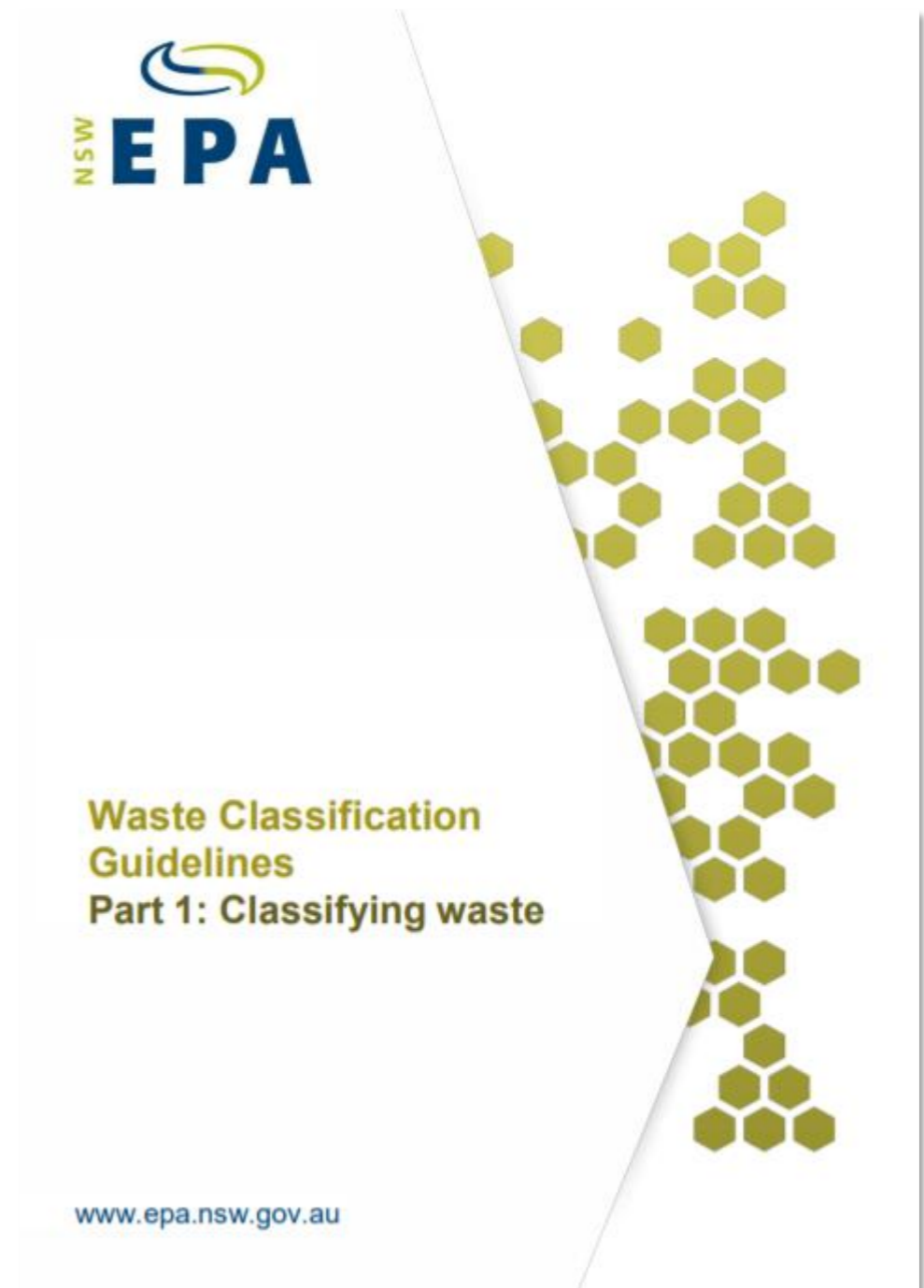
# Accrediting waste classifiers



# Current state

## There is limited quality control for waste classification in NSW

- Individual wastes have unique storage, handling, transport, treatment, disposal, recovery and reuse requirements
- Waste classification and characterisation are important to ensuring these requirements are complied with and waste is safely managed
- The way in which waste is classified in NSW – the procedures that are applied and by whom – is largely self-regulated
- Without appropriate controls, there is a higher risk of waste misclassification and subsequent mismanagement – intentional or otherwise - creating opportunities for harm to occur



# Proposed approach

**Investigate an accreditation scheme for waste classifiers to introduce quality control and reduce incidents of fraud**

- **Aim:** ensure waste is accurately classified and characterised in accordance with the Guidelines and waste codes
- **Mechanisms to be explored:**
  - Training and certification of waste classifiers
  - Online register for waste classifiers and classification reports
  - Standard requirements for waste classification reports
- **Options for implementation:**
  - Mandatory accreditation scheme
  - Expansion of authorised agents in line with Victorian approach
  - Administration by the EPA or an independent body



# Licensing waste transporters





# Current state

## Gaps in the licensing framework for waste transportation can be exploited

- Waste transporters are only required to be licensed where specific conditions are met. Training, vetting, or licensing is not required for:
  - transportation of less than 200 kg/L of trackable wastes
  - non-trackable wastes
  - intrastate transport of asbestos waste and waste tyres
- Transporters can therefore operate with limited knowledge of the risks of certain wastes and their appropriate handling
- There is also greater opportunity for illegal disposal of waste (particularly building and demolition waste)



# Proposed approach

## Investigate a streamlined licensing framework for transporters carrying all waste types

- **Aim:** deter unlawful operators while avoiding placing unnecessary regulatory burdens on legitimate operators.
- **Mechanisms to be explored:**
  - New waste volume thresholds triggering licence requirements
  - Training and assessment
  - Possession of documentation regarding waste being transported
- **Options for implementation:**
  - Expansion of existing EPL framework or dangerous goods driver licensing model



# Questions for site auditors

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## **Accrediting waste classifiers**

- What is your experience with the way we classify and characterise waste in NSW?
- What parts of how we currently regulate waste classification have you found effective? What hasn't worked for you and why?
- How would the proposals impact your work as site auditors?
- What improvements or requirements should be included in the proposed approach to ensure it operates effectively and achieves its aims?
- Are there any circumstances where a certified waste classifier should not be required
- What key learnings could we apply from the site auditors scheme to the proposal?

## **Licensing waste transporters**

- What is your experience with unlicensed waste transporters?
- What parts of the current waste transportation licensing framework have you found effective? What hasn't worked for you and why?

**Contact:**

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Environment Protection Authority

# Update on the recovered fines review

Helen Prifti

Unit Head Resource Recovery Innovation

October 2021



# Brief history

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- Over the last few years, EPA has made a suite of legislative changes to better manage construction and demolition waste, landfills and asbestos waste, including
    - Standards for Managing Construction Waste in NSW.
    - A waste levy concession for ‘recovered fines’ as daily cover at landfills
    - Offences for exhuming waste from current or former landfills
    - Increasing penalty notice amounts for asbestos waste offences
    - Introducing changes to improve handling of asbestos waste during transportation and disposal
    - Creating new offences under the POEO Act for illegally disposing, recycling or reusing asbestos waste
    - Making the presence of asbestos as a sentencing consideration.
  - In 2019, the EPA commenced the review of the skip bin and soil recycling sector producing “recovered fines”.
-

# What are recovered fines?

*Recovered fines means a **soil or sand substitute** with a typical maximum particle size of 9.5 mm that is derived from the continuous/batch processing of **mixed construction and demolition waste** including residues from the processing of **skip bin waste**.*



# 2019/20 review

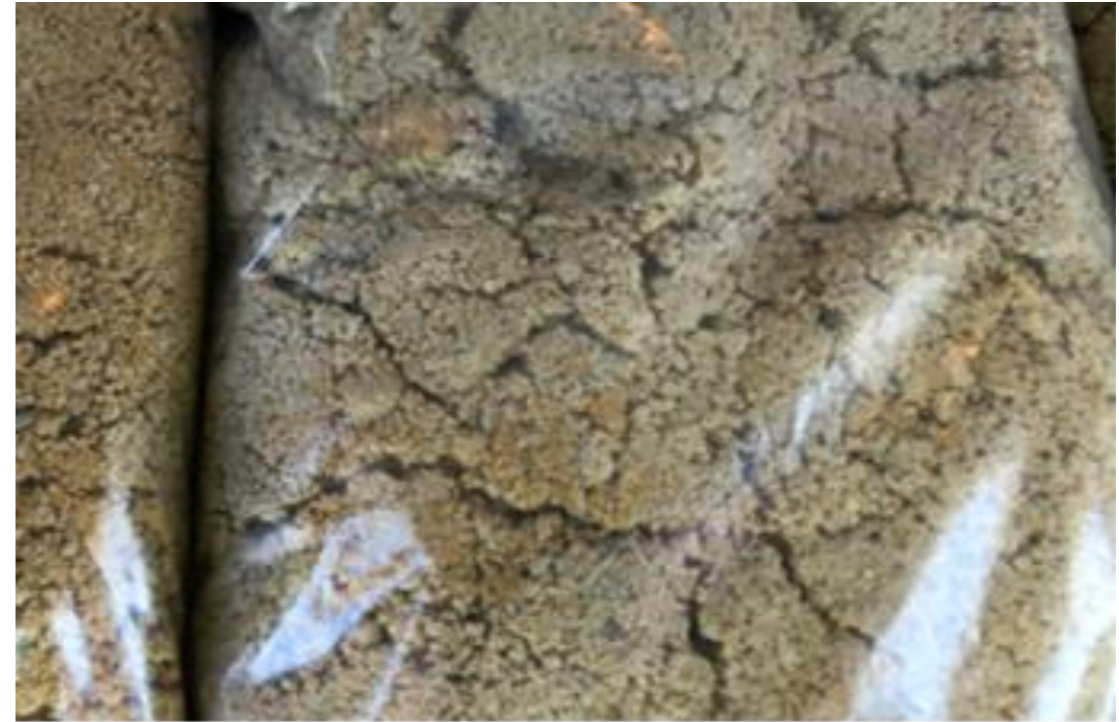


Objective of review – To determine whether the existing framework is fit for purpose for recovered fines and to assess whether the outputs are good quality and protective of human health and the environment

Stage 1 – Review of information	Stage 2 – EPA Site Visits & Sampling	Stage 3 - Findings & workshops
Sampling plans	Visited 14 waste facilities	Present findings to C&D working group
Two years of testing data	Inspected operations of site	Present findings to industry
Lab reports	Surveyed facilities	Hold workshop 1 – Improving waste inputs
Record keeping (incl. consumers, volumes)	Sampling and testing of material onsite	Hold workshop 2 – Improving waste processing
QAQC	Site photographs	Hold workshop 3 – Proposed way forward
		Met with individual facilities

# Summary of findings

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- Industry size - >600,000 tonnes of product supplied per year
- 2 types of products – skip bin residues and soils



# Summary of findings cont...

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## **Chemical and other**

- Material was exceeding maximum concentration limits (mostly pH, lead and glass, metal and rigid plastics >2mm)
- EPA samples generally passed, with exceedances for lead, cadmium and asbestos (note not in the soils)
- Foreign materials glass, metal plastic were commonly found in skip bin fines incl not traditional ones tested frequently e.g. rubber, paint, paper, bitumen, engineered timbers

## **Sampling practices and retesting needed improving**

- Not sample at the right frequency
- Lack of good sampling practices
- Majority not testing for asbestos
- Almost half of industry were retesting (this includes asbestos)

# Consumer feedback

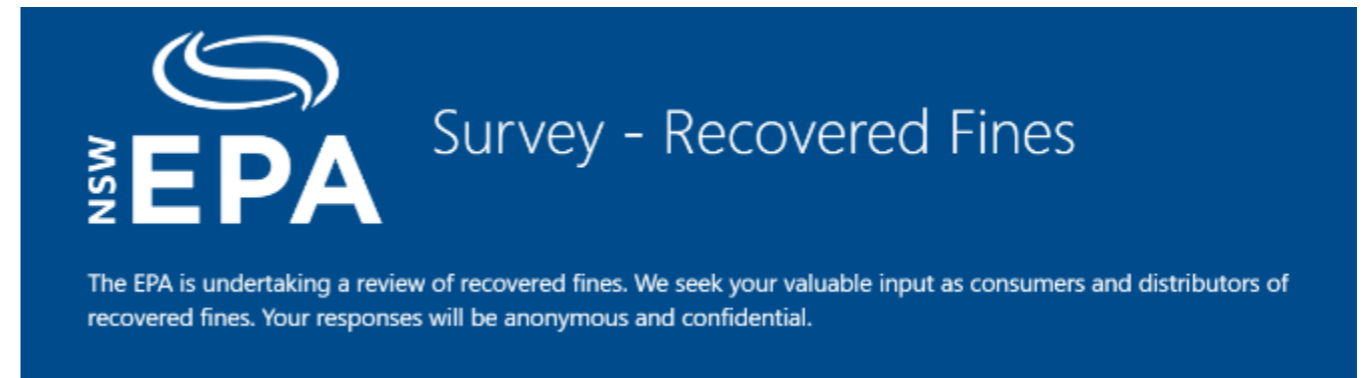


## 5 min 'snapshot' survey

Sent to a range of different consumers and distributors to:

- Seek general feedback on recovered fines
- Ask what waste residues they've observed
- Ask what waste residues they want to receive

A third of consumers and distributors responded.



### **Distributor A**

*"The product is suitable for its intended use."*

### **Consumer A**

*"It's a good product that I like to use instead of mined products"*

### **Consumer B**

*"I have experienced 'Turf underlay' or recovered fines from retail landscape suppliers who supply a product littered with plastic and saw dust which has no benefits for quality plant or turf growth. These companies should have greater quality control..."*

### **Consumer C**

*"The material had an odour of hydrocarbons and contained a lot of foreign matter including asbestos fragments"*

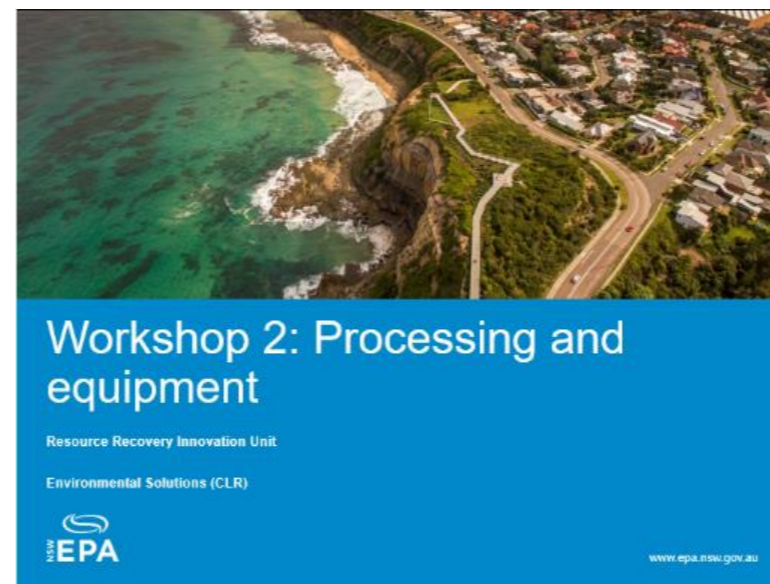
### **Consumer D**

*"The quality of the material differs greatly from batch to batch, both in texture, and its reaction to wetting, It can be free draining to moisture absorbent."*

# EPA & industry workshops



- 3 workshops with industry in 2020



- Externally facilitated - Waste facilities, WMRR, WCRA, EPA, DPIE, and consultants invited by industry

# Key workshop themes & discussions

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## Improvements upstream

- Better waste tracking
- Improve DA/ planning conditions about waste
- Consultant accreditation
- Standardise sampling and testing of waste
- Better asbestos training & education for generators

## New concepts

- Segregation procedure for non-compliant material
- Better QA/QC of material
- Introduce recovered soil order and exemption
- Batch sampling & testing
- Require asbestos testing

# Review outcomes – current consultation

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## **The EPA is currently consulting until 29 October on the following:**

1. Conditions of proposed new recovered soil order and exemption
  - Key parameters include processing, batch testing, asbestos testing, desktop assessment
2. Intent to revoke general orders and exemptions for recovered fines
3. Public consultation open until 29 October 2021

## **Things to note:**

- EPA may consider specific orders and exemptions for some recovered fines
- Existing specification for recovered fines as Alternative Daily Cover at 75% levy rate
- Further work (see next preso)