



Audit Unit Update

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Conditions of Consent

- DPIE developing model conditions for development consent
- EPA contributing to ensure conditions in line with the Auditor Scheme
- Help to ensure consent conditions requiring auditors are appropriate
- EPA attendance at DPIE roadshow – July – Nov 2019

Health Check Recommendations - Conflict of Interest & Alleged Wrongdoings

- Develop a conflict of interest declaration form
- Identification of potential alleged wrongdoings
- Include as a requirement in the Guidelines for the NSW Site Auditor Scheme
- Public consultation on minor amendments to Guidelines

Update on other Health Check Recommendations

- Minutes from auditors' meetings now published on the EPA website
- Format of minutes determined by results from auditors' survey after last meeting
- Example application form on EPA website had been updated to include feedback options
- Actively working with other jurisdictions on the harmonisation of the accreditation process

Communications with the EPA

- Relates to mainly to section 4.4.2: ***assessing land-use suitability where groundwater contamination is present***
- Discussion with EPA is required where groundwater contamination is migrating off-site
- Purpose is to give opportunity to EPA to consider if a regulatory mechanism may be required to manage off-site contamination

Feedback

- Location and time of future auditor meetings
- Waste – development of a “How to Guide / FAQs”
- The “soft skills” required for auditing
- Recurring issues / inconsistencies in audits

Topics for Future Auditors' Meetings

Auditor presenter	EPA or Other presenter
<i>Preparation and application of a s88B covenant on title related to an EMP</i>	Presentations from EPA Waste/Legal on their illegal dumping work. E.g. how investigations are planned and executed with some examples - eg the Grafil case
Approach to applying EILs and ESLs	Complying development SEPP55
Asbestos in waste materials	Building demolition and impacts on site contamination audits
The Sampling Design Guidelines	CLM Act review
<p>Topics of the practice of being a site auditor dealing with things not in the EPA guidelines "what I would do differently now (lessons learned)" ... presented by a >15 year experience auditor.</p> <p>The challenges of being an auditor - from an Auditor perspective</p> <p>Some Auditor presentations on topical issues and how they were addressed in an Audit.</p> <p>Interesting findings / practices eg. how unusual situations have been dealt with.</p>	NHMRC changes to blood lead levels, and why HILs have not moved to forecast lower values?



Restructure of the EPA

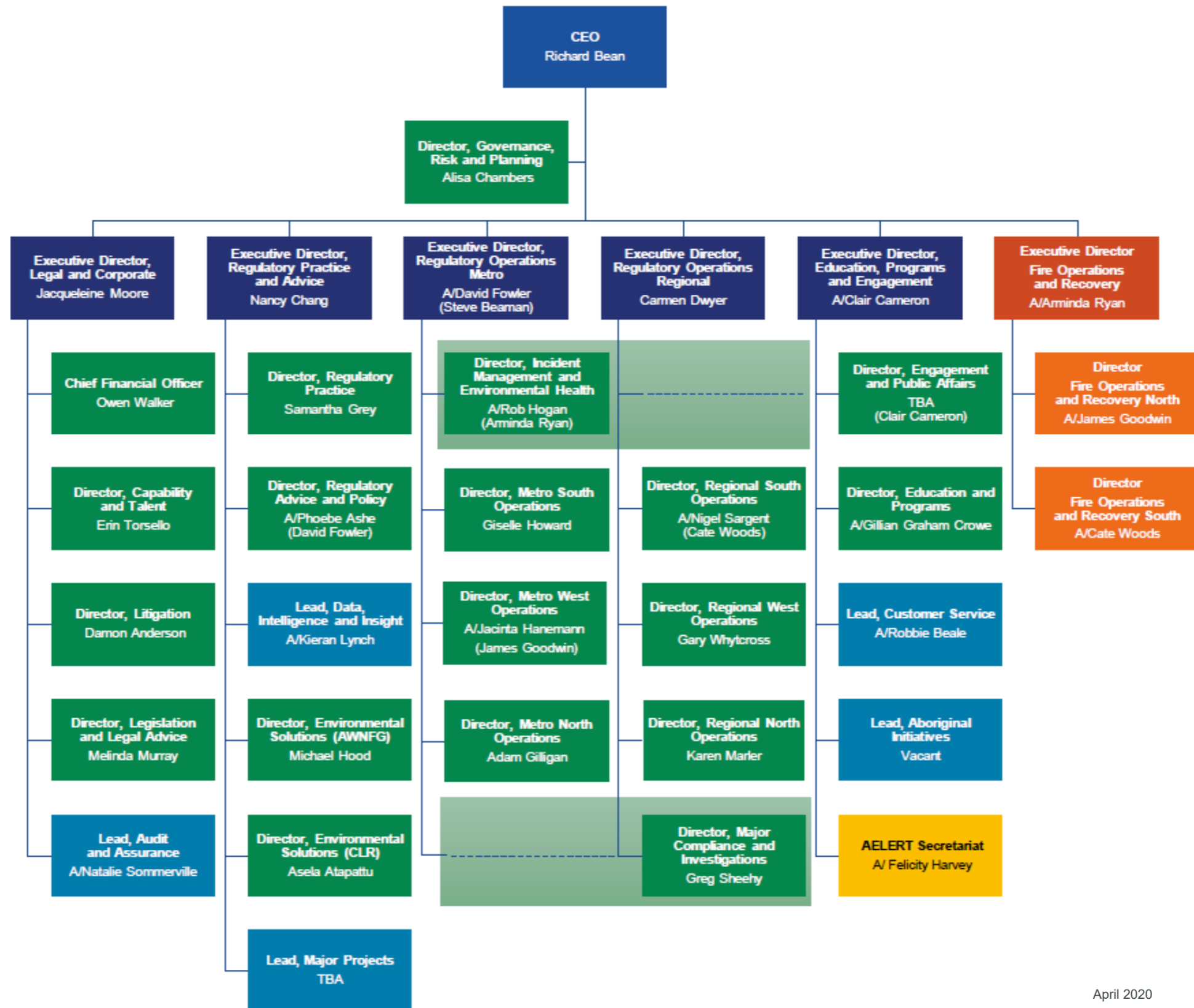
Asela Atapattu

Director Environmental Solutions – Chemicals, Land and Radiation

Reasons for Restructure of EPA

- **address the Auditor General's report findings** that strongly recommended reform of the EPA organisational structure
- **provide more consistency in our regulation** across NSW and across all our activities
- **be even more responsive to incidents** and emergencies and **provide better customer service** to the citizens of NSW as well as licensees
- have **better access to technical expertise, data and systems** to support and inform our operational and policy work
- **be more future-ready and allow us to more easily adapt and grow** in response to emerging environmental issues and future changes in regulatory directions.

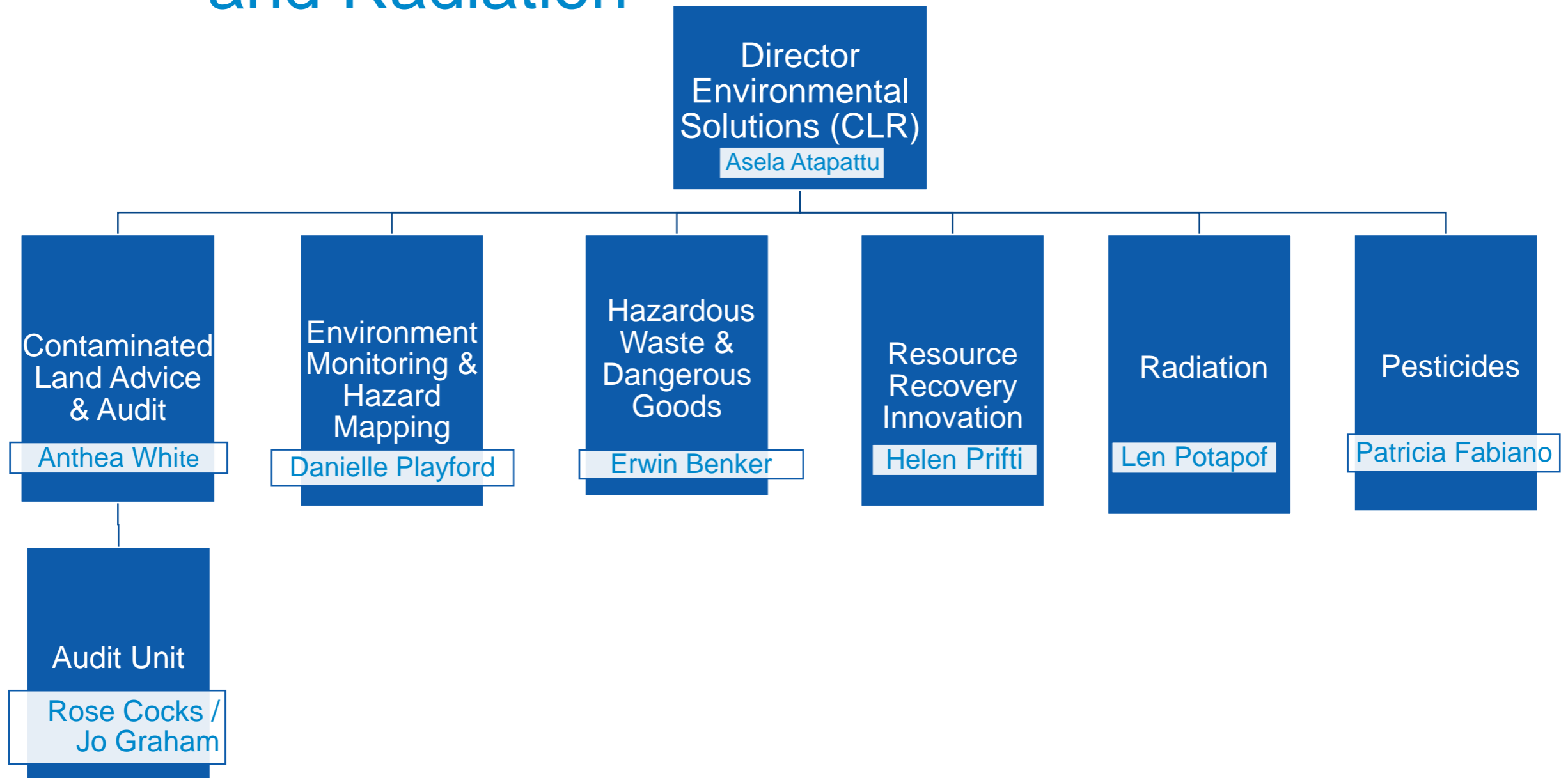
EPA Executive & Senior Leadership Team Structure



What are we moving from and to?

	From	To
Divisions	<p>7 thematic divisions</p> <ul style="list-style-type: none">•Corporate Services•Chief Environmental Regulator•Stakeholder Engagement and Communications•Waste Operations•Hazardous Incidents and Environmental Health•Legal Services•Office of the CEO	<p>6 functional divisions</p> <ul style="list-style-type: none">•Legal and Corporate•Regulatory Operations Metro•Regulatory Operations Regional•Education, Engagement & Programs•Regulatory Practice & Advice•Governance, Risk & Planning

Environmental Solutions – Chemicals, Land and Radiation



What does this mean for Auditors?

- Business as usual
- Possible changes to project officers for CLM regulated sites
- Opportunities – auditors provide important role



Policy Update

Joanne Stuart

Manager Land and Resources Policy

Regulatory Policy and Reform Branch



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Consultants reporting guidelines

Consultants reporting guidelines

The guidelines have been revised to reflect current legislation, technical guidance and best practice as well as public submissions on the consultation draft and improve useability.

- Consultants reporting on contaminated land guidelines:
 - Will be published in the NSW Govt Gazette today
 - Take effect under section 105, CLM Act today
 - Replace the Guidelines for Consultants Reporting on Contaminated Sites (2011 edition)
 - All site auditors should receive formal advice by email of this information from the EPA

Consultants reporting guidelines

- Summary of submissions and EPA responses also published today.
- 35 submissions in total – mostly from councils.
- Small number submissions received from environmental consultancies (some with input from site auditors)
- EPA appreciates the detailed and considered feedback received.
- Extensive revisions were made to the draft in consultation with internal contaminated land experts.
- Some issues raised outside the scope of the guidelines: e.g. tailored guidance for councils including more on environmental management plans.

EMP Practice Note

The EPA is working on an EMP Practice Note to guide, assist and encourage best practice by anyone preparing an EMP so plans are fit for purpose and enforceable.

- The EPA is seeking to provide guidance to address:
 - Site auditors concerns about EMPs - poor quality, badly written, unclear and lacking enforceability mechanisms.
 - Council concerns and request for more guidance on EMPs.
 - Highlight key features of a quality EMP.

- Land consultants, site auditors, followed by planning authorities including councils are the key audience for the practice note.
- The EPA anticipates it will circulate a consultation draft for a four week period of targeted consultation in April/May 2020.
- Targeted groups will include site auditor representatives and anyone, including councils, who raised this issue in submissions on the consultant reporting guidelines.

Draft financial assurance documents

Environmental liabilities are the real or potential costs of managing pollution and contamination to reduce risks to human health and prevent degradation of the environment

- EPA's approach based on polluter pays principle
- EPA has discretionary powers to manage financial risk of environment liabilities by requiring a financial assurance

Who do the proposals apply to?

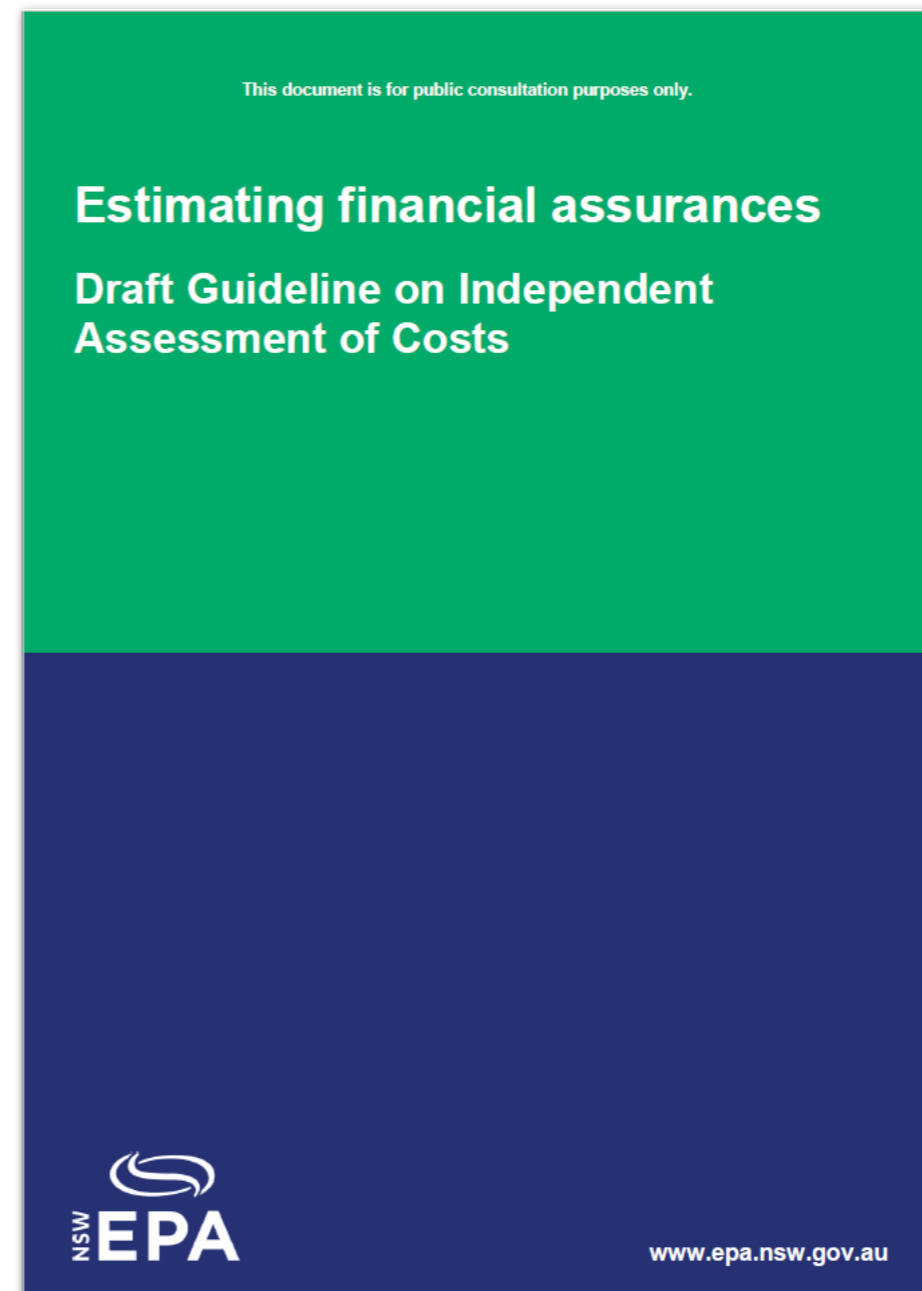
A person or company that holds or is applying for:

- a management order issued under the *Contaminated Land Management Act 1997*
- an environment protection licence issued under the *Protection of the Environment Operations Act 1997*
- a radiation management licence issued under the *Radiation Control Act 1990*

where the EPA requires them to provide a financial assurance for certain actions required by their licence or management order.

03

What are the EPA's proposals for managing environmental liabilities?



Draft financial assurance policy

- A financial assurance is a type of security provided by the responsible person or company
- It secures and guarantees funds for the actions required by a responsible person or company under their licence or management order if the responsible person or company fails to carry them out
- This includes the likely costs and expenses of the EPA in directing and supervising the carrying out of actions
- The EPA may require financial assurance in the form of a bank guarantee or a surety bond.
- EPA will take a risk-based approach in deciding a financial assurance is likely to be required

03 Draft guideline on estimating financial assurances

The guideline will help persons or companies estimate their potential environmental liabilities

The guideline proposes a two-step process involving:

1. a **cost estimate** to calculate a reasonable approximation of the costs of carrying out the activity if the EPA must step in and carry these out because a responsible person or company fails to do so
2. an **independent assessment** to provide the EPA with confidence that the cost estimate is reasonable

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Submissions close 14 April 2020

<https://yoursay.epa.nsw.gov.au/assurances>



Other matters

Sampling design guidelines

- Draft being edited in preparation for public consultation
- In two parts – application and interpretation
- Workshopped in December with three auditors and three consultants
- Substantial changes to current guidelines
- Consultation in the next couple of months





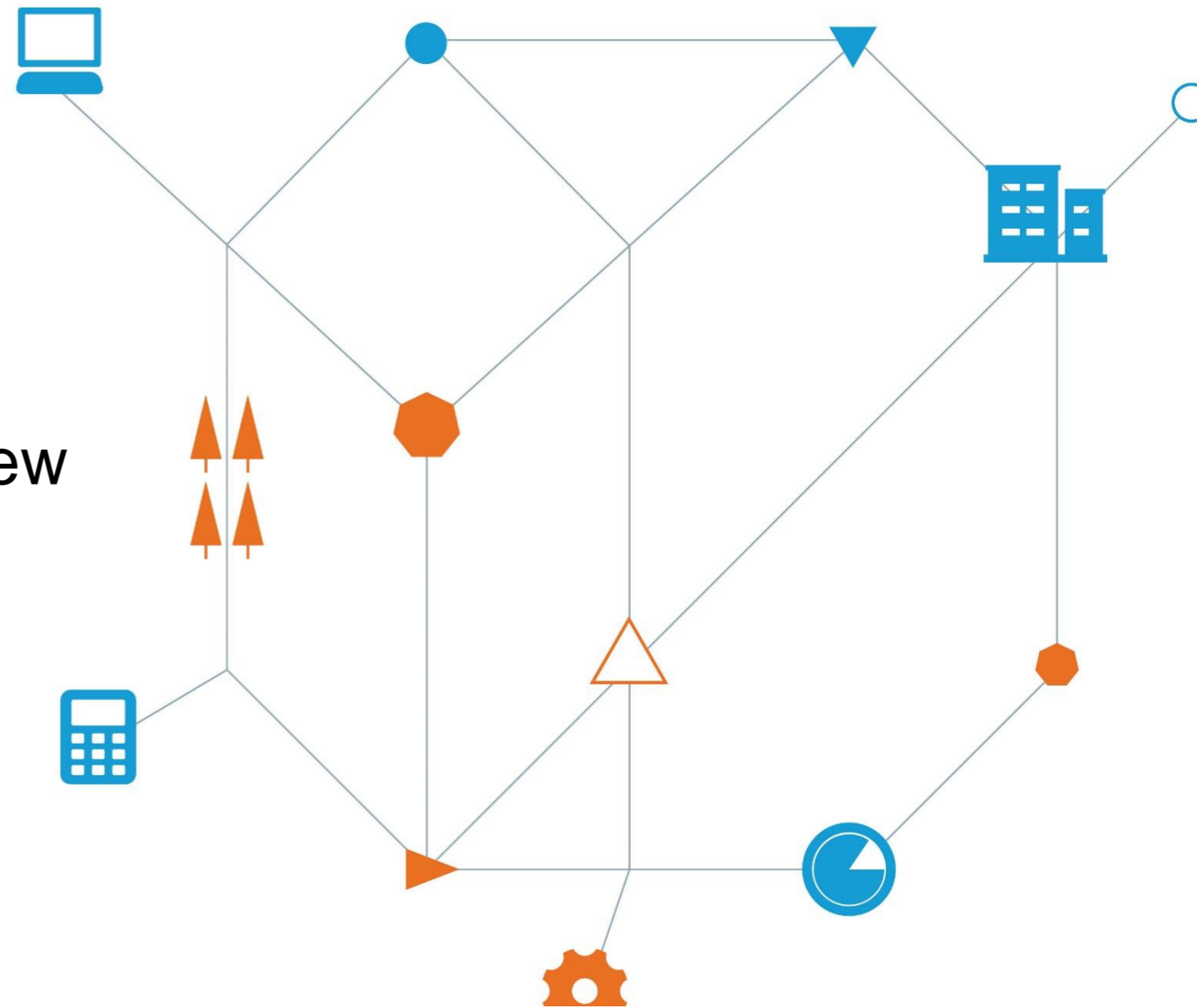
04 Land and Resources Policy Section

- Contaminated land policy matters: legislative amendments and guidelines plus other policy matters – same people who were originally in CLM policy team
- Waste policy: Waste regulation amendments, asbestos strategy regulatory reforms, Energy from Waste – four new team members from other parts of the organisation

Simplicity
is complexity's
only adversary

Coal Washery Rejects – an overview

Presented to NSW Site Auditors' Meeting
April 2020



Let's break this into smaller bits:

- Coal – carbonaceous mineral
- Washery – needs some type of cleaning or separation process?
- Rejects – likely to be the least valuable component of a process



Geoscience Australia informs us coal is:

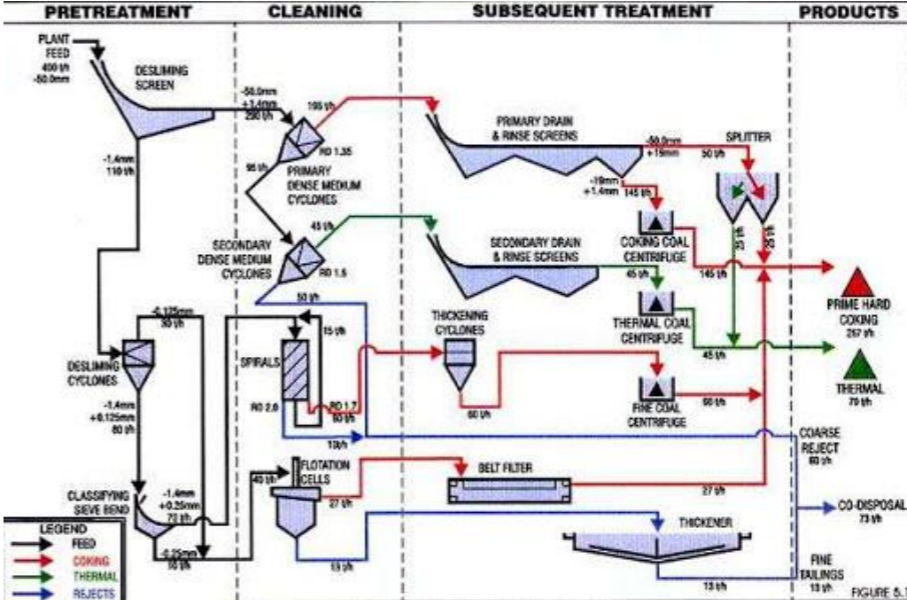
- a combustible sedimentary rock formed from ancient vegetation which has been consolidated between other rock strata and transformed by the combined effects of microbial action, pressure and heat over a considerable time period.
- composed mostly of carbon (50–98 per cent), hydrogen (3–13 per cent) and oxygen, and smaller amounts of nitrogen, sulfur and other elements.
- The valuable bits are made of carbon and hydrogen. Coal is lighter than rock.

Coal Washery Rejects Coal Washing

The coal washing process is quite dirty:



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Just a bit of background:

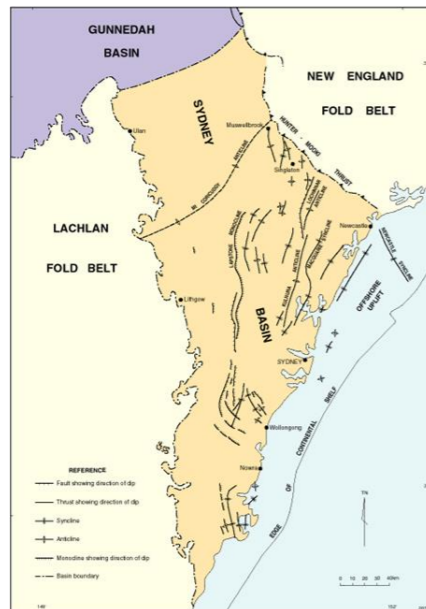
- Sedimentary processes are a bit variable. We mine coal, but the earth minerals reduce the carbon content and also the value of the coal.
- Keep as much carbon as you can and reject the remainder.
- Valuable coal is at least 70% carbon. Ash can be up to 30%. The non-valuable rejects is a carbonaceous soil-like material which may have a carbon content up to 50%.
- In 2018, Australian mines produced about 300 million tonnes of coal. If this was 80% of the run-of-mine coal, we have also produced 75 million tonnes of rejects (50 million cubic metres – a road embankment 25 m wide and 2 m high between Sydney and Melbourne).

Coal Washery Rejects

Why should auditors be aware of CWR?

The Sydney Basin, including coal measures, stretches from Newcastle to south of Nowra. The Hunter Valley and Illawarra regions have economic deposits with mining activity close to cities. Steelworks at Newcastle and Port Kembla both had coal washeries. The CWR was washed – how clean is that?

Use of CWR as fill material



A presentation to NSW Site Auditors' Meeting

In this order, coal washery rejects means the waste resulting from washing coal (including substances such as coal fines, soil, sand and rock resulting from that process).

Chemicals and other attributes	Max. average concentration for characterisation	Max. average concentration for routine testing	Absolute maximum concentration
1 to 9. 8 priority Heavy Metals + Selenium	Refer to Table 1	Refer to Table 1	Refer to Table 1
10. Electrical Conductivity	1 dS/m	1 dS/m	2 dS/m
11. pH	8 to 11	Not required	7 to 12
12. Combustible content (AS 1038 – Coal and coke)	30%	30%	40%
13. Sulfur (AS 1038 – Coal and coke)	0.5%	0.5%	1.0%