



## NSW Accredited Site Auditor Scheme – Meeting Minutes

<b>Meeting:</b>	NSW Accredited Site Auditor Scheme – Auditor’s Meeting	<b>Date:</b>	29 October 2021																																																																
<b>Location:</b>	Online: Microsoft Teams Meeting	<b>Time:</b>	10am-12.15pm																																																																
<b>Last Meeting Date:</b>	30 April 2021	<b>Next Meeting Date:</b>	April 2022																																																																
<b>Present:</b>	<p><b>EPA accredited site auditors:</b></p> <table border="1"> <tr> <td>Charlie Barber</td> <td>Peter Beck</td> <td>Tim Chambers</td> <td>Jason Clay</td> </tr> <tr> <td>James Davis</td> <td>Michael Dunbavan</td> <td>Brad Eismen</td> <td>David Gregory</td> </tr> <tr> <td>Ian Gregson</td> <td>Adrian Hall</td> <td>Rebeka Hall</td> <td>Ian Hosking</td> </tr> <tr> <td>Chris Jewell</td> <td>Lange Jorstad</td> <td>Andrew Kohlrusch</td> <td>Anthony Lane</td> </tr> <tr> <td>Andrew Lau</td> <td>Peter Lavelle</td> <td>Amanda Lee</td> <td>Kylie Lloyd</td> </tr> <tr> <td>Brad May</td> <td>Alyson Macdonald</td> <td>Ross McFarland</td> <td>Colin McKay</td> </tr> <tr> <td>Graeme Miller</td> <td>Frank Mohen</td> <td>Paul Moritz</td> <td>Philip Mulvey</td> </tr> <tr> <td>Mike Nash</td> <td>Tom Onus</td> <td>Melissa Porter</td> <td>Peter Ramsay</td> </tr> <tr> <td>Fiona Robinson</td> <td>Marc Salmon</td> <td>Rowena Salmon</td> <td>Tony Scott</td> </tr> <tr> <td>Andre Smit</td> <td>Paul Steinwede</td> <td>Mark Stuckey</td> <td>Ian Swane</td> </tr> <tr> <td>Caroline Vernon</td> <td>Ben Wackett</td> <td>Louise Walkden</td> <td>Sophie Wood</td> </tr> </table> <p><b>Apologies:</b> Julie Evans; Rod Harwood</p> <p><b>Auditor Accreditation Panel Members:</b></p> <table border="1"> <tr> <td>Graeme Batley</td> <td>Damien Davidson</td> <td>Greg Davis</td> <td>Donald White</td> </tr> </table> <p><b>Apologies:</b> Paul Newell</p> <p><b>NSW EPA:</b></p> <table border="1"> <tr> <td>Rose Cocks</td> <td>Jo Graham</td> <td>Giselle Goloy</td> <td>Mark Hanemann</td> </tr> <tr> <td>Alan Ly</td> <td>Victoria Lee</td> <td>Karen Marler</td> <td>Carolina Olmos</td> </tr> <tr> <td>Olivia Paterson</td> <td>Donna Phelan</td> <td>Helen Prifti</td> <td>Miranda Rhodes</td> </tr> <tr> <td>Kate Sargent</td> <td>Aaron Spadaro</td> <td>Joanne Stuart</td> <td>Sam Waskett</td> </tr> </table>			Charlie Barber	Peter Beck	Tim Chambers	Jason Clay	James Davis	Michael Dunbavan	Brad Eismen	David Gregory	Ian Gregson	Adrian Hall	Rebeka Hall	Ian Hosking	Chris Jewell	Lange Jorstad	Andrew Kohlrusch	Anthony Lane	Andrew Lau	Peter Lavelle	Amanda Lee	Kylie Lloyd	Brad May	Alyson Macdonald	Ross McFarland	Colin McKay	Graeme Miller	Frank Mohen	Paul Moritz	Philip Mulvey	Mike Nash	Tom Onus	Melissa Porter	Peter Ramsay	Fiona Robinson	Marc Salmon	Rowena Salmon	Tony Scott	Andre Smit	Paul Steinwede	Mark Stuckey	Ian Swane	Caroline Vernon	Ben Wackett	Louise Walkden	Sophie Wood	Graeme Batley	Damien Davidson	Greg Davis	Donald White	Rose Cocks	Jo Graham	Giselle Goloy	Mark Hanemann	Alan Ly	Victoria Lee	Karen Marler	Carolina Olmos	Olivia Paterson	Donna Phelan	Helen Prifti	Miranda Rhodes	Kate Sargent	Aaron Spadaro	Joanne Stuart	Sam Waskett
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<b>Guests:</b>	<p>John Stewart and Kristin Wasley (Vic EPA) Penny Woodberry (WA DWER)</p>																																																																		

### Agenda items:

#### 1. Introduction – Karen Marler, NSW EPA

Welcome and Acknowledgment of Country

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

Refer to presentation attached.

The following items were discussed:

- **Site Audit Report (SAR) Reviews**

The EPA provided an overview on the types of issues the audit team consider when reviewing SARs. This included an outline of the things the EPA like to see in a SAR and common issues found across reports. The EPA has a checklist that it uses to ensure consistency of reviews. An auditor requested a copy of this checklist. The EPA advised that this is an internal checklist, however, the checklist effectively considers all the “musts” and “shoulds” listed in the auditor guidelines.

- **Annual returns**

An overview of the auditor annual returns for the period 2020-2021 was provided. In 2020-2021 246 statutory audits were completed, and 63 non-statutory audits. This shows a year-on-year increase in both statutory and non-statutory audits since 2017.

- **Automatic Mutual Recognition (AMR)**

The EPA has been granted a 12 month temporary exemption for AMR and is seeking a further 5-year exemption. NSW Treasury will be consulting with stakeholders on the issue, including the accreditation panel, accredited site auditors and the Australasian Land and Groundwater Association (ALGA). A suggestion was made that the Australian Contaminated Land Consultants Association (ACLCA) should also be included as a stakeholder. The EPA agreed to check if ACLCA were included as a stakeholder and if not to pass the request on to NSW Treasury.

- **Auditor meeting minutes**

The EPA intends to amend the way minutes are presented for auditor meetings going forward to align with the style and presentation used across the organisation. The EPA confirmed that all important matters will continue to be noted in the minutes. Auditors will be given the opportunity to raise any concerns at the end of the meeting or contact the EPA after the meeting.

- **Waste notifications**

The EPA requests that any auditor waste notifications relating to section 4.3.7 of the auditor guidelines now be sent to [info@epa.nsw.gov.au](mailto:info@epa.nsw.gov.au). Please continue to copy in the auditors’ mailbox as normal.

- **Auditor applications**

The EPA is anticipating advertising for new auditor applications early in 2022. The EPA maintains a list of interested applicants. More information will be provided once dates are confirmed.

- **Draft contaminated land conditions for Councils**

Planning have advised that the draft conditions are being revised following stakeholder feedback.

Action Item No	Action – Question on notice - completed after meeting	Person Responsible
2.1.	The EPA to identify if ACLCA has been identified as a stakeholder for AMR consultation or to recommend to NSW Treasury for possible inclusion.	NSW EPA
	Following the meeting it was confirmed that ACLCA had already been identified as a stakeholder to NSW Treasury for AMR consultation	Resolved

### 3. Policy Update – Joanne Stuart, NSW EPA

Refer to presentation attached.

The following items were discussed:

- **Revised Sampling Design Guidelines**

Submissions were received following the draft consultation, and changes are being made in response, including the inclusion of material to aid non-technical users and a move away from sampling density based on past land use. and more reliance on the conceptual site model (CSM). The EPA is currently finalising the position on asbestos in soils, as well as seeking to ensure consistency with it's position on the WA DOH Asbestos in Soils Guidelines before publishing.

- **Contaminated Land Consultant Certification Policy**

The review has been completed and the policy has been updated and should be published soon.

- **EMP Practice Note**

The note is currently being edited for publication soon. The note does not provide guidance on the enforcement of EMPs.

- **2021 WA DOH Asbestos in Soils Guidelines**

The EPA is currently finalising its position statement on this and this will be published soon. The EPA is also currently working with SafeWork and other agencies involved in asbestos regulation to develop further guidance on this, including a number of scenarios and EPA expectations.

- **Remake of the Contaminated Land Management Regulation**

The proposal is to consult publicly in March / April 2022 on the draft Regulation and Regulatory Impact Statement. Changes proposed include increase/align penalty notice offences with offences in other environmental legislation (for example, where a statutory site audit is completed by someone who is not an accredited auditor); prescribe financial assurance policy and guideline for calculating cost, and prescribe circumstances where the EPA might be able to refund or waive site auditor accreditation fees. in situations where an auditor is not actively working for example, due to ill-health or maternity leave.

- **Other regulatory reforms**

- The EPA has a staged reform program. Environment legislation amendment bill soon to be introduced into Parliament which will make some changes to the CLM Act. EMP Enforceability will not be a part of future reforms as the EPA does not have powers to amend other legislation (e.g. planning).
- Remediation of Land SEPP and Planning Guidelines not a current priority for Planning – update proposed in 2022
- The Waste Regulation remake is scheduled to be completed by 1 September 2023. There are currently no changes planned to the definition of asbestos waste. There will be opportunities for auditors to be involved in changes to the Waste regulation and consultation is likely to begin next year.

#### **4. Accreditation of waste classifiers & licensing of waste transporters – Miranda Rhodes**

**Aaron Spadaro, NSW EPA**

Refer to presentation attached.

- As part of the NSW Waste and Sustainable Materials Strategy 2041 and the desire to develop a circular economy, three priorities have been identified:
  - to meet future infrastructure and service needs
  - reduce carbon emissions through better waste and materials management; and
  - build on work to protect the environment and human health from waste pollution.

Management of hazardous wastes and stopping illegal dumping are major focuses. The EPA is proposing accrediting waste classifiers and licensing waste transporters. An Issues Paper has been developed and the EPA is seeking feedback from relevant stakeholders, including auditors.

- Following the presentation, a number of questions were raised by Aaron seeking feedback from the auditors.
- The auditors provided a number of comments regarding the proposed scheme and suggested approaches for implementation, including possible use of the existing certified practitioner schemes for certification or existing mechanisms that might achieve a similar outcome.
- A point was raised that it would be helpful if the Resource Recovery Orders/Resource Recovery Exemptions could be updated and harmonised. The EPA confirmed that this is in the pipeline and these proposed accreditation/licensing schemes will aim to align with that work.
- A point was raised that the industry needs consistency in tracking waste i.e., standardised landfill dockets, templates for tracking, reporting, waste naming from different landfills, and that feedback was given on this at the April 2021 Auditors' meeting. The EPA confirmed the auditor feedback was provided to the EPA team undertaking the proposed accreditation of waste classifiers and licensing of waste transporters work.
- It was noted that there would likely be a lot more comments once the auditors had the opportunity to consider the information provided in the issues paper.
- The EPA requested any further comments be directed to the consultation.

Action Item No	Action	Person Responsible
4.1.	The EPA is looking for auditor feedback on the issues paper to inform the design of the proposed accreditation and licensing schemes. You can provide your written feedback to the issues paper and the targeted consultation questions to <a href="mailto:majorprojects.initiatives_clr@epa.nsw.gov.au">majorprojects.initiatives_clr@epa.nsw.gov.au</a> by <b>Wed 24 Nov 2021</b>	Auditors to provide feedback as necessary

## 5. Waste Update - Helen Prifti, NSW EPA

Refer to presentation attached.

- **Recovered fines**

The EPA outlined the review undertaken of the skip bin and soil recycling sector producing "recovered fines". The review identified that skip bin residues in particular were not of a suitable quality. Recovered soils were generally found to be of a good quality. The EPA is now consulting (until 29 October but auditor feedback welcomed after this date) on the proposal to revoke the current existing recovered fines order and exemption and introduce a new recovered soil order and exemption.

- **General discussion of waste issues**

- Does the offence to exhume waste from a landfill site under section 110A of the Protection of the Environment (Waste) Regulation 2014 only apply to licensed landfills or also to historical, non-licensed landfills as well? Question taken on notice (response provided below in 5.1 actions).
- It would be useful for the EPA to put a "matrix" on the RRO website, illustrating in simple terms what RROs are intended to apply to what materials (particularly for VENM, ENM and the new recovered soil order).  
The EPA agreed this was a good idea and would look into it.
- Can landfill daily cover contain a "safe level of asbestos"? The EPA advised that it cannot.

- Many landscapers/recyclers offer blended soils which may contain various components but they rarely cite the respective RROs but only the relevant Australian Standards.  
The EPA advised that landscapers are not required to be licensed by the EPA if they are already receiving materials that are subject to a RRO/RRE if they are blending those products for a material that is permitted by that RRO/RRE. But they are required to keep records of where the material came from, including the RRO/RRE. This should be produced on request. The EPA is also working on new templates for RRO/RREs to attempt to improve record keeping in this industry.
- What is the position on crushing slag for analysis? The American Society for Testing & Materials (ASTM) is not specific and the laboratory would typically screen out the slag unless specified to crush (as they would for rocks/ gravel).

The EPA advise that OK as long as it can be demonstrated it is representative of the material being tested.

From a technical perspective, not crushing slag means that the results are subject to uncertainty attributable to heterogeneity. There won't be volatile contaminants in slag, so there should be no problem with crushing/grinding samples during analysis. There was a further comment that crushing changes the chemistry and is not consistent with the risk of the sample as is. A light grind (mortar and pestle) to break up aggregates is part of preparation to meet the definition of soil (NEPM). Presumably this will also apply to fines (<6mm).

The EPA advised it is happy to consider this offline if further consideration is needed.

- A question was asked whether the EPA could provide clarification in relation to asbestos remediation and land pollution offences, specifically:
  1. that on-site management of asbestos-contaminated soils (whether or not below NEPM HSLs) is not prescribed pollution of land; and
  2. that on-site re-use of asbestos contaminated soils is not “re-use of asbestos waste”, in cases where the soil is not a “discarded, rejected, unwanted, surplus or abandoned substance”.

The concern was raised that offences are being created in the waste framework that have unintended consequences to the contaminated land industry in terms of legitimate remediation.

The EPA confirmed that there is lots of work being done in this space and the guidance scheduled to be published on asbestos in soils next year should cover many of these issues.

Action Item No	Action – question on notice – completed after meeting	Person Responsible
5.1	The EPA to confirm whether the offence of exhuming waste from a landfill only applies to currently licensed landfills or also to historical unlicensed landfills. Also some explanation as to what the definition of a landfill is.	EPA
	<p>The EPA can confirm that the offence to exhume waste from a landfill under section 110A of the <i>Protection of the Environment (Waste) Regulation 2014</i> applies to all landfills which are or were used for the purposes of community/public waste disposal.</p> <p>A ‘landfill’ is generally considered to be an engineered, in-ground facility used for the disposal of society’s wastes. This does not include someone’s backyard or private property unless that had previously formed part of a previous public landfill.</p> <p>The offence does not apply if the waste is exhumed as a consequence of works authorised in writing by the EPA or authorised by an EPL.</p>	Resolved

## **6. Slido session - Jo Graham, NSW EPA**

The EPA asked the auditors to provide quick responses to a series of questions using a Slido ([www.slido.com](http://www.slido.com)) survey. The questions were seeking auditor input regarding a query raised on section 3.4.5 of the auditor guidelines (following on from the last auditors' meeting); auditor feedback on the future proposed revision of several guidelines (the vertical mixing of soil on former broad-acre agricultural land; assessing banana plantation sites; and assessing former orchards and market gardens); auditor suggestions for future topics at auditor meetings, and auditor feedback on the meeting.

## **7. Other Business**

No other business items were raised.

Next meeting is scheduled for April 2022 (date to be confirmed)