

# Proposal to require the use of certified site contamination professionals



## 1 Background

Site contamination is an important environmental, health, economic and planning issue and can have implications for landowners and occupiers, developers, councils, planning authorities, government and local communities.

The assessment and remediation of site contamination is complex and requires professionals with specialist knowledge, experience, skills and competencies as described in the NEPM<sup>1</sup>.

Persons may hold themselves out as a site contamination professional without having the necessary qualification or experience to do so. This has and continues to pose a significant risk to human health (from inappropriate assessment and 'sign-off'), may contribute to financial loss to property owners and future owners, cause severe personal hardship to unaware property owners and future property owners and result in the inappropriate development of land impacted by site contamination.

In South Australia it is an offence to practice in many professions without being appropriately qualified and registered/certified. The EPA considers that decisions around site contamination are significant (both in cost and risk to human health) and as such warrants a certification scheme.

Many Australian jurisdictions have legislative schemes to accredit site contamination auditors. The requirements for a person to be accredited as an auditor are set intentionally high. However the audit schemes do not (and are not intended to) address site contamination practitioners.

Until 2014 there was no scheme for the certification of site contamination practitioners. This may be due to there being no single degree or tertiary qualification for a person to be a qualified site contamination practitioner. Historically, practitioners have 'evolved' or emerged from a science/engineering undergraduate degree or other related professions.

Site contamination practitioners typically come from a multitude of professions. These include, chemists, hydrogeologists, ecologists, toxicologists, engineers, physicists, soil scientists, microbiologists, geologists and environmental scientists. Typically small and large teams are formed to solve the complexities of site contamination.

## 2 Proposed recognition of a certification scheme

The following elements and standards are considered essential for any site contamination certification scheme to be recognised by the EPA:

- National scheme
- Independent scheme
- Transparent and documented procedures (application, assessment, certification, appeal and governance)
- Testing of all applicants who request certification (written application, case study assessment, and interview) except in special circumstances when the applicant is an accredited auditor
- Ability to withdraw certification (not simply annual membership, ability to hear, resolve and act on complaints)
- Minimum education requirements (3-year relevant degree in science or engineering)
- Minimum professional practice requirements (> 5 years or pro rata equivalent)
- Proven competency standards in:
  - the nature, causes and significance of site contamination
  - preliminary site assessment of contamination
  - detailed site assessment involving the characterisation of contamination
  - risk assessment of site contamination
  - remediation and management approaches

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<sup>1</sup> Schedule B9 of the *National Environment Protection (Assessment of Site Contamination) Measure 1999*

- professional practice relevant to consulting on contaminated site issues (all assessed through the presentation of relevant reports and nomination of professional referees).
- Requirement for continuing professional development (>50 hours per annum or pro rata equivalent)
- Standards for ethical and professional conduct.

The only scheme that is currently satisfactory to the EPA is Site Contamination Practitioners Australia (SCPA). It is the only scheme that currently meets all of the requirements described above.

In addition it is also the only scheme that:

- seeks regulator feedback for applicants
- uses auditors as assessors
- has clear methods for suspending or withdrawing certification
- has relevant ethical and professional conduct requirements
- governance consists of independent chair, regulator, consultant, industry and academia.

The EPA acknowledges that there are two other schemes (EIANZ and Soil Scientists Australia) that have a certification process. However at this time these schemes are not able to demonstrate that they meet our requirements.

### **3 Relevant legislation**

The *Environment Protection Act 1993* (the Act) provides the Authority with conditions<sup>2</sup> that it can use when drafting site contamination orders. The Act states that a site contamination assessment order 'may include a requirement that a person with specified qualifications be appointed or engaged to carry out the assessments required by the order or to prepare the written report or the assessments'. A similar provision exists for site remediation orders.

Similarly the Act states<sup>3</sup> that the Authority may, on application by a person, approve a voluntary proposal if satisfied that the terms of the proposal are appropriate.

The EPA is able to require the use of certified practitioners in certain circumstances.

### **4 Proposal to require the use of certified practitioners**

It is proposed that from 1 July 2016, all reports submitted to the EPA are to be prepared, or reviewed and approved, by a certified practitioner. The requirement includes reports associated with:

- site contamination assessment orders
- site remediation orders
- voluntary site contamination assessment proposals
- voluntary site remediation proposals
- any site contamination work commissioned by the EPA
- any site contamination reports presented to the EPA for its review or approval (excluding site contamination audit reports).

This proposal does not affect the requirements for site contamination audits and site contamination audit reports which are completed by a site contamination auditor.

This proposal does not affect a person's duty, under section 83A of the Act, to notify the EPA of site contamination of underground water.

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<sup>2</sup> Sections 103H(2)(f) and 103J(2)(i)

<sup>3</sup> Sections 103I(3) and 103K(3)

## 5 Proposed EPA recommendation to planning authorities

It is proposed that from 1 July 2016, the EPA will recommend to planning authorities, as part of the site contamination planning framework that with the exception of site contamination audit reports, they only accept reports prepared, or reviewed and approved, by a certified practitioner.

## 6 Other jurisdictions

At this time, the following jurisdictions have published policies in relation to certification of practitioners:

- Tasmanian EPA policy

From 1 July 2015, where a contaminated sites report is to be submitted for the Tasmanian EPA Director's approval or input, this document must include proof that the report's author or reviewer is certified under SCPA, or is an interstate auditor.

- NSW EPA policy

The NSW EPA recognises both the SCPA and CLA Specialist CEnvP certifications.

From 1 July 2017, all reports submitted to the NSW EPA to required to comply with the requirements of the *Contaminated Land Management Act 1997* to be prepared, or reviewed and approved, by a certified practitioner. The requirement includes reports associated with a:

- preliminary investigation order
- management order
- voluntary management proposal
- ongoing maintenance order
- duty to report contamination.

## 7 Consultation period

Commencement date: 24 August 2015

Conclusion date: 28 September 2015

## 8 Consultation responses and queries

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