Engaging site contamination consultants and certified site contamination practitioners

Updated August 2020

EPA 665/20: This information sheet has been prepared to provide guidance to persons selecting a site contamination consultant or a certified site contamination practitioner to undertake assessment and remediation of site contamination in South Australia.

Definition of a site contamination consultant

A site contamination consultant (consultant) is defined[1] in the *Environment Protection Act 1993* (EP Act) as a person other than a site contamination auditor[2] who for fee or reward, assesses the existence or nature or extent of site contamination.

The *National Environment Protection (Assessment of Site Contamination) Measure 1999* or ASC NEPM (as amended 2013), provides further information on defining a consultant, which includes an environmental consultant. The Environment Protection Authority (EPA) considers a site contamination consultant and an environmental consultant to have a similar meaning for the purposes of assessment and remediation of site contamination.

A consultant's role is to design, prepare and carry out the assessment and/or remediation work in accordance with the requirements as set out by a client, an auditor and/or the EPA.

Use of a site contamination consultant

A consultant can be engaged to assess or remediate site contamination for a range of purposes. Assessment is usually undertaken where site contamination exists or where there is a reasonable suspicion that site contamination may exist due to a potentially contaminating activity[3] having occurred on the land.

A consultant may also be engaged to undertake a due diligence assessment as part of the purchase or sale of a site to facilitate a transfer of liability for site contamination under section 103E of the EP Act.

Finding a site contamination consultant

The EPA recommends considering the following methods to assist in finding an appropriately experienced site contamination consultant:

1 Section 3(1)

2 Site contamination auditor is defined in section 3(1) of the EP Act

3 The definition of a prescribed potentially contaminating activity is also described in clause 50 of the *Environment Protection Regulations 2009*

- Contact the South Australian branch of the Australian Contaminated Land Consultants Association for a list of current members on 08 8353 8151 or visit its website; and
- Seek advice from a trusted person who has previously engaged a site contamination consultant who has successfully demonstrated acceptable standards of competency and completed similar projects successfully.

When engaging a site contamination consultant consideration should be given as to whether the use of a certified site contamination practitioner will be required. Appendix 1 of this fact sheet provides details when the EPA will require or recommend a certified site contamination practitioner be used and for what purpose.

Definition of a certified site contamination practitioner

A certified site contamination practitioner is a person who has been certified as suitably qualified and experienced professional by certification body or scheme as recognised by the EPA's *Site contamination policy: certification of practitioners*.

A certified site contamination practitioner is comparable to a charted engineer or charted accountant being a professional who has been recognised by an independent body to have a high level of expertise and experience.

For the purposes of the EP Act, a certified site contamination practitioner may meet the definition of a site contamination consultant. It is important to note that while a certified site contamination practitioner can be practising as a site contamination consultant, not all site contamination consultants are certified site contamination practitioners.

The use of certified site contamination practitioners will ensure high quality and reliable site contamination reports and documentation are provided to the EPA, SA government, planning authorities, land-owners and those who have liability for the assessment and remediation site contamination.

In most instances a certified site contamination practitioner will work in conjunction with a broader team of site contamination consultants providing oversight and review of deliverables.

Use of certified site contamination practitioners

Section 6 of the policy details the specific instances when the EPA will require a certified site contamination practitioner is engaged and for what purpose.

Appendix 1 provides a useful flowchart for checking whether a certified site contamination practitioner is required.

A certified site contamination practitioner may review and approve reports via a third party engagement. However, the EPA recommends that the certified site contamination practitioner is involved in the work from the inception and throughout the course of any assessment or remediation.

If you are unsure whether a certified site contamination practitioner is required, please contact the EPA.

Finding a certified site contamination practitioner

Links to EPA recognised certification schemes, which include the contact details of certified site contamination practitioners, can be found at the EPA website.

Alternatively, when contacting a consultancy you can enquire whether they employ any certified site contamination practitioners prior to seeking a quote.

Seeking quotes and selecting a site contamination consultant

Selecting a consultant should be undertaken with care, as the quality and results of the assessment or remediation undertaken are dependent on the competency of the consultant. Selection should be similar to the process used when acquiring any professional service.

Appendix 2 sets out a general guide that can be used for seeking quotes and selecting a site contamination consultant.

Engaging a site contamination consultant

Once you have selected a consultant, you will need a contract that sets out the services they will provide. The contract should include:

- A clearly defined scope of work and project objectives.
- Methodology for assessment and data quality objectives.
- Details of any requirements made by the EPA (eg order or agreed voluntary proposal).
- A statement of compliance with or any deviation (or exclusions) from:
  - the EP Act
  - tThe *National Environment Protection (Assessment of Site Contamination) Measure 1999* (as amended 2013), or deviations from the ASC NEPM
  - relevant EPA site contamination guidelines.
- When deliverables will be completed and provided.
- The role of the certified site contamination practitioner (if required to be engaged).
- Indemnities and limits on liability and insurance.
- Information flow.
- Document ownership and retention procedures.
- Methods of costing.
- Clear process for any variations to scope or cost.

Consultants may attach a standard contract to their proposal. It is recommended if you are not familiar with contracts that you ask a solicitor or trusted experienced person for advice.

Before you sign the contract, ensure that the consultant identifies any changes to their quote if some time has passed since it was initially submitted.

Outcomes of engagement of a site contamination consultant

The outcome of the engagement of a consultant is the completion of the specified scope of work and in most instances the provision of a report. In all site contamination reports consultants should provide an opinion as to the existence of site contamination. When making these determination consideration must[4] take in to account and qualify the land uses contemplated in forming such opinion.

[4] Section 103ZA of the *Environment Protection Act 1993*

If requested, most consultants will provide a draft report for review prior to finalisation. It is important to note that it is an offence to provide the EPA with false or misleading information (whether by reason of the inclusion or omission of any particular)[5] and this should be considered if any significant changes are requested between a draft and final report.

If the EPA becomes aware of site contamination at a site, it is likely that it will request a copy of the report for review.

Legislative requirements and considerations

You and your engaged consultant have obligations under EP Act, including in some instances mandatory notification requirements. Most consultants in South Australia are aware of these requirements and can manage them on your behalf.

It is important to clarify with your consultant that:

- They are aware of the mandatory notification and other requirements under the EP Act.
- They can and will manage mandatory notification and other requirements on your behalf.

You should note that it is an offence to make statements in any information furnished to a site contamination consultant that is false or misleading (whether by reason of the inclusion or omission of any particular) that a site contamination consultant might rely upon in preparing a report related to site contamination[6] and this should be considered whenever providing information to a site contamination consultant.

Further information

Legislation

Online legislation is freely available. Copies of legislation are available for purchase from:

Service SA Government Legislation Outlet
Adelaide Service SA Centre
108 North Terrace
Adelaide SA 5000

Telephone: 13 23 24
Facsimile: (08) 8204 1909
Website: https://service.sa.gov.au/12-legislation
Email: ServiceSAcustomerservice@sa.gov.au

General information

Environment Protection Authority
GPO Box 2607
Adelaide SA 5001

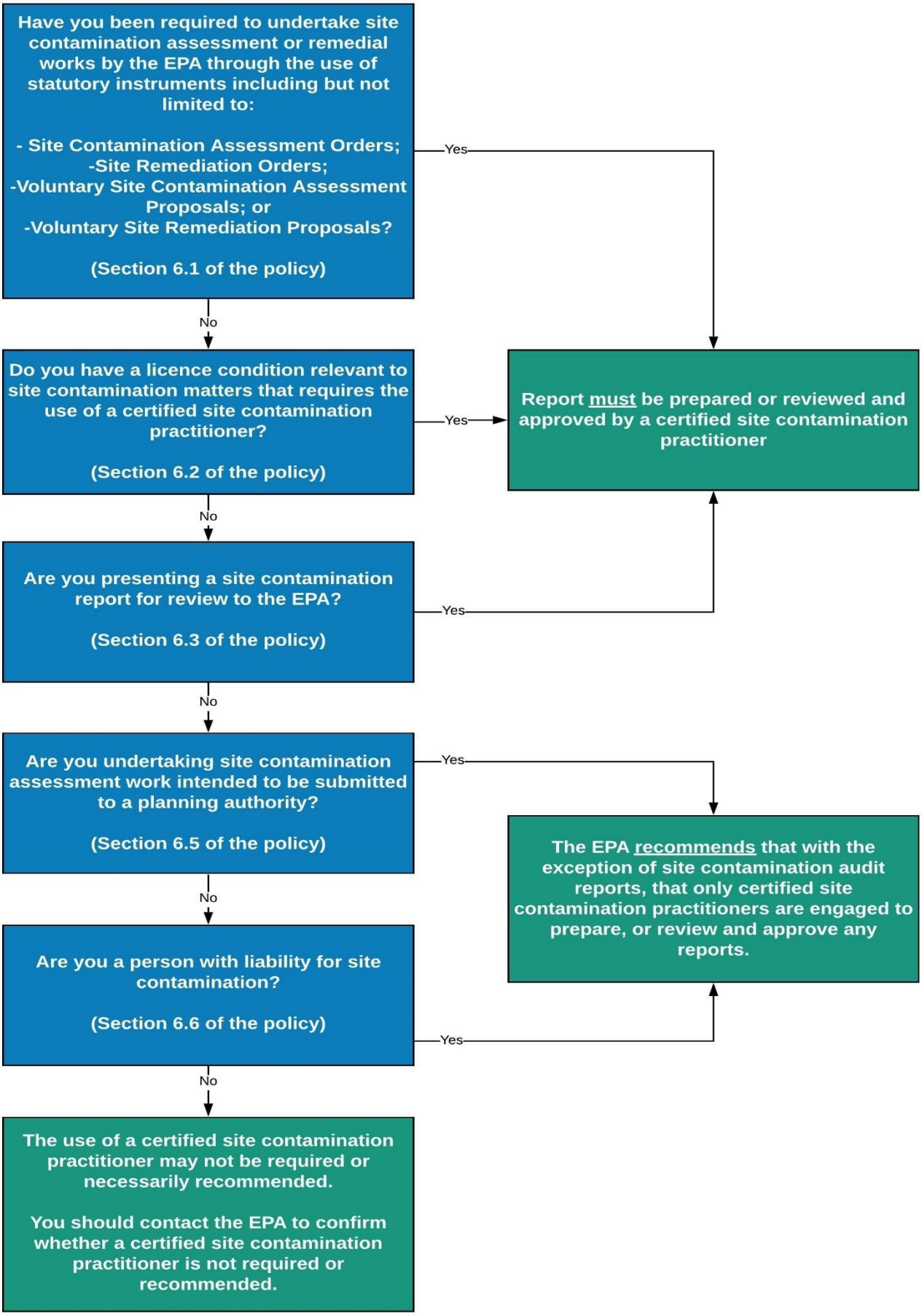
Telephone: (08) 8204 2004 (call centre)
Facsimile: (08) 8124 4670
Freecall: 1800 623 445 (country)
Website: www.epa.sa.gov.au
Email: EPAsitecontam@sa.gov.au

The EPA welcomes written comments on and suggestions for improvements to any of its site contamination publications. These should be addressed to the Manager Site Contamination by email: EPAsitecontam@sa.gov.au

5 Section 119 of the *Environment Protection Act 1993*

6 Section 103ZB of the *Environment Protection Act 1993*

Appendix 1 Instances when the EPA require or recommend the use of a certified site contamination practitioner



Appendix 2 Approach to the selection and engagement of a site contamination consultant

Step 1: Set objectives

When seeking quotes it is critical to have a clear understanding as to what you wish to achieve from any assessment or remediation and to set a clear objectives that reflect this. This information should be included in your request for quote provided to consultants.

In some instances the EPA may request you to undertake assessment or remediation in relation to requirements under the EP Act. In these instances it is recommended that you confirm with the EPA its expectations in regards to the objectives of any assessment or remediation.

If you are unsure of what the objective of the assessment or remediation should be you should contact the EPA.

Step 2: Determine whether a certified site contamination practitioner is required

Prior to seeking quotes consideration should be given to whether the use of certified site contamination practitioner will be required.

Appendix 1 of this fact sheet outlines when the EPA will require or recommend a certified site contamination practitioner be used and for what purpose.

If you require a certified site contamination practitioner you should clearly state on your request for quote:

- You require a certified site contamination practitioner.
- The purpose for which they are required.
- Evidence of their certification, including currency, be provided.
- Their nominated project role be clearly stated.

If you are unsure whether a certified site contamination practitioner is required you should contact the EPA.

Step 3: Determine whether any specific type of assessment, remediation or deliverable is required

If a specific type of assessment, remediation or deliverable is required, this should be included in your request for quote.

Typically consultants will be able to develop a scope of works based on your objectives and the need to specify types of assessment or remediation will not be required.

In some instances the EPA may request or require that a specific type of report is prepared (eg a detailed site investigation) or a specific type of assessment or remediation is undertaken (eg sampling of indoor air). In these instances it is critical that this information is included in your request for quote.

Step 4: Seeking quotes

It is recommended to ensure quality and value for money that a minimum of three quotes are sought from consultants.

Information you should include in your request for quote

At a minimum when issuing your request for quote you should include details of:

- The site [eg address and certificate(s) of title].

- Any correspondence from the EPA that requests or requires assessment or remediation be undertaken.
- The objectives of assessment or remediation.
- Whether a certified site contamination practitioner is required..
- Any specific assessment, remediation or deliverables that are required.
- Any timing requirements.

In addition to above to ensure accurate quotes are prepared you should provide as much information as you can about the site to the quoting consultants, including but not limited to:

- Any previous environmental assessment reports.
- Site plans.
- Brief description of site use and operations.

Information you should request be provided by quoting consultants

At a minimum you should ask for the consultant to provide details in their quote regarding:

- Appreciation of the objectives of the assessment and remediation.
- Proposed scope of works.
- Methodologies for assessment and data quality objectives.
- Details of nominated site contamination consultants including nominated certified site contamination practitioner if necessary.
- A statement of compliance with:
  - the EP Act;
  - the *National Environment Protection (Assessment of Site Contamination) Measure 1999* (as amended 2013), or deviations from the ASC NEPM
  - relevant EPA site contamination guidelines.
- Experience and qualifications.
- Details of deliverables (eg reports).
- Timing including milestone and deliverable dates.
- Cost estimates, including details of any assumptions or exclusions.
- Details of indemnities and limits on liability and insurance.
- Details of referees.

Step 5: Evaluating quotes

The selection of a preferred consultant is subject to discretion. It is recommended that when evaluating quotes consideration is given to:

- Whether the consultant has demonstrated a good understanding of the objectives of the required assessment or remediation.
- That all specified requirements have been met (eg inclusion of a certified site contamination practitioner, specification of deliverables etc).

- The qualifications and experience of nominated personnel (Appendix 3 provides additional information and factors that should be considered with respect to qualifications and experience of site contamination consultants).
- Previous performance as detailed by referees.

It is important to note that in some circumstances the cheapest quote may not always be the best value for money. Consideration should always be given to whether the proposed works will satisfy the objectives of the assessment or remediation.

Appendix 3 Qualifications and experience

It is important that a site contamination consultant has and is able to demonstrate a broad range of appropriate competencies, knowledge and experience.

Section 6.1 of Schedule B9 of the ASC NEPM provides details of key competencies for professionals undertaking the assessment of site contamination. It is recommended that consideration is given to this section when evaluating the competency of site contamination consultants.

Other factors that should be considered when evaluating a site contamination consultant's qualifications and experience include:

- Whether the site contamination consultant is a certified site contamination practitioner.
- Relevant qualifications and experience in the assessment of site contamination in accordance with the Schedules of the ASC NEPM.
- Knowledge of the EP Act and associated legislation, policies and guidelines.
- Knowledge of relevant scientific literature for the assessment and remediation of site contamination for human health and the environment.
- Comprehensive knowledge of the site contamination audit system used in South Australia.
- Knowledge and experience in engaging with the community.

Use of supporting professionals

The EPA expects site contamination consultants will recognise circumstances where advice is required from supporting professionals (as needed on a case-by-case basis).

If this should be necessary, it is recommended that the consultant clearly identify such professionals including their position, who will be supervising them, and exactly what portion of the assessment or remediation work they will be undertaking. For example, in some instances specialist soil gas (vapour) sampling may be necessary at a site, which may require a supporting professional with specialist expertise.

Demonstration of a supporting professional's qualifications, experience and overall costs associated with any work (especially when subcontracted) should be clearly outlined in any provided quote.