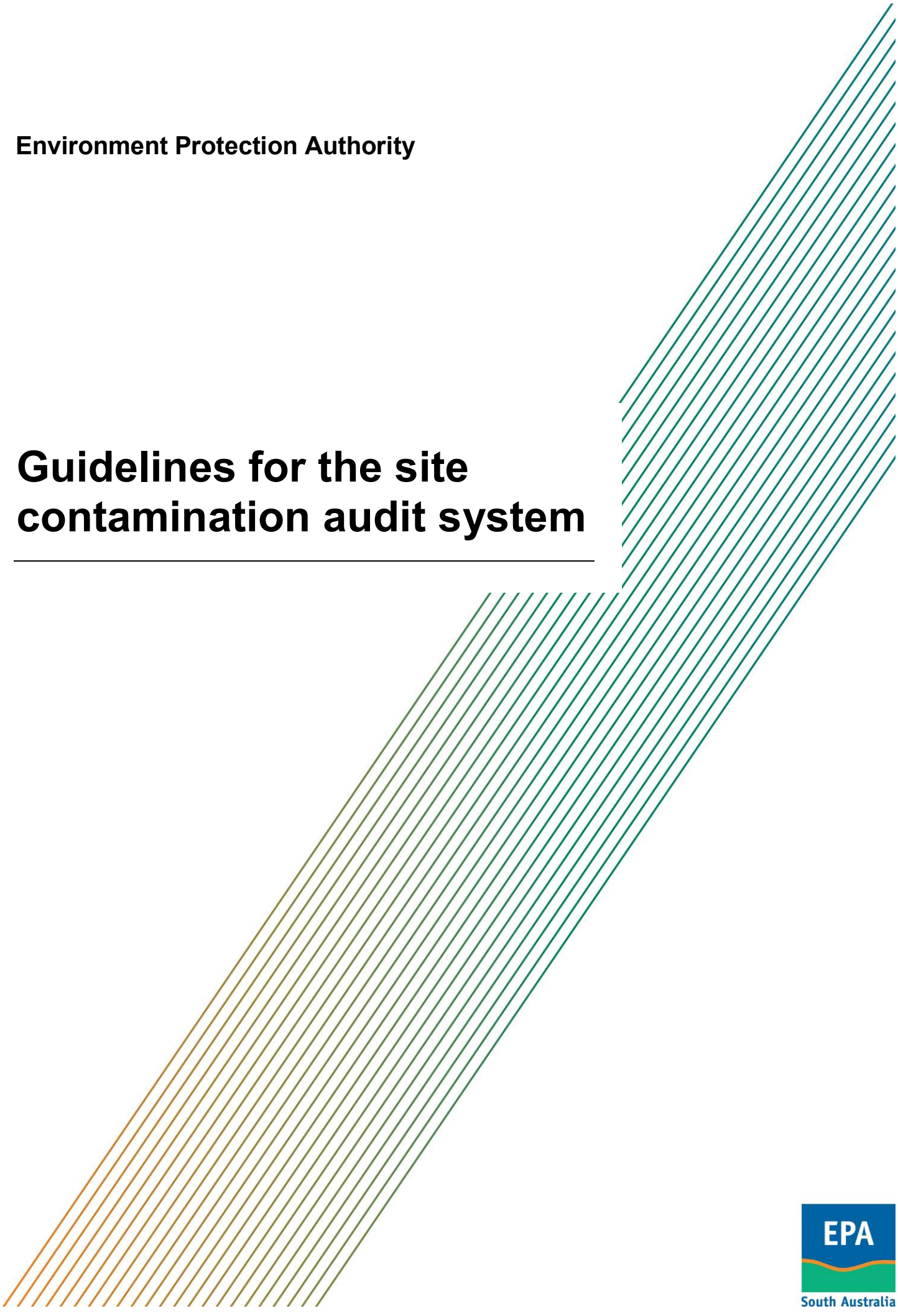
Environment Protection Authority

Guidelines for the site contamination audit system



EPA
South Australia

Guidelines for the site contamination audit system

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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 at epasitecontam@sa.gov.au

Disclaimer

This publication is a guideline for the purposes of the Environment Protection Act 1993. This publication seeks to explain site contamination auditor obligations in a helpful and accessible way. In doing so, however, some detail may not be captured. It is a guide only and does not necessarily provide adequate information in relation to every situation. It is important, therefore, that auditors seek information from the EPA itself regarding your possible obligations and, where appropriate, that you seek your own legal advice.

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Abbreviations

ASC NEPM	*National Environment Protection (Assessment of Site Contamination) Measure 1999* (as amended in 2013)
ASS	acid sulfate soils
CEMP	construction environment management plan
CPD	continued professional development
CSM	conceptual site model
CT	certificate of title
DQO	data quality objectives
DSI	detailed site investigation
EMP	environment management plan
EPA	South Australian Environment Protection Authority
EP Act	*Environment Protection Act 1993*
EPP	environment protection policy
ERA	ecological risk assessment
EP Regulations	*Environment Protection Regulations 2009*
ESD	ecologically sustainable development
GIL	groundwater investigation level
GPA	groundwater prohibition area
HIL	health investigation level
HHRA	human health risk assessment
IAA	interim audit advice
LFG	landfill gas
MGR	mandatory guideline requirement
MR Act	*Mutual Recognition Act 1992*
NATA	National Association of Testing Authorities
NEPC	National Environment Protection Council
PCA	potentially contaminating activity
PCLUA	potentially contaminating land use and activity
PII	professional indemnity insurance
PSI	preliminary site investigation
QA	quality assurance
ROA	remediation options assessment
RVR	remediation validation report
SAQP	sampling and analysis quality plan
SCAO	site contamination assessment order
SCAR	site contamination audit report
SCAS	site contamination audit statement
SMP	site management plan
SRP	site remediation plan
SRO	site remediation order

SSRA	site-specific risk assessment
TCE	trichloroethene
UXO	unexploded ordinance
VSCAP	voluntary site contamination assessment proposal
VSRP	voluntary site remediation proposal

Summary

In South Australia, the *Environment Protection Act 1993* (EP Act) and the *Environment Protection Regulations 2009* (EP Regulations) establish the legislative framework for managing site contamination and the site contamination audit system (audit system). The legislative obligations of auditors are set out in the Act and Regulations.

The audit system and the accreditation and use of site contamination auditors are strategies in the management of site contamination in South Australia. The audit system is a key tool where site contamination poses a risk to sensitive receptors. It is also a critical link between the site contamination status of land, the suitability of land for its current or proposed use, and planning and development processes.

The South Australian Environment Protection Authority (EPA) regulates site contamination and is responsible for the administration of the audit system and the accreditation of auditors.

The document provides detailed guidance on the audit system. It describes the application process for persons seeking accreditation as an auditor, the responsibilities and obligations of auditors and general guidance for other persons in relation to the audit system.

The EP Regulations mandate a condition of auditor accreditation requiring all auditors to comply with any relevant guideline issued by the EPA (insofar as they may be relevant in the circumstances of any particular case) when acting as an auditor. The EP Act requires that site contamination audit reports comply with guidelines issued from time to time by the EPA. This document is a relevant guideline for those purposes. Legislative obligations and mandatory guideline requirements have been identified throughout the document.

This guideline is intended to assist auditors and others, in understanding and complying with legislative requirements. In addition, it specifies additional mandatory requirements for auditors, and general guidance for other persons in relation to the audit system.

This guideline describes in detail:

- the background, overall aims of the audit system, relationship with assessment and remediation, legislative framework, mandatory guideline requirements and relevant guidance
- key components of the audit system
- the audit process including commissioning an audit, reasons for carrying out audits, purpose of audits, when an audit should be commissioned and audit completion
- audit determinations and outcomes including land-use descriptions and suitability statements
- the role and responsibilities of auditors including requirements for independence, conflict of interest and honesty, primary duty of care, risk-based decision making, professional conduct and provision of false or misleading information
- the auditor accreditation process including eligibility criteria, accreditation process, terms and conditions of accreditation, and the mutual recognition process
- the renewal and maintenance of accreditation including annual reporting and fees, change in circumstances, continued professional development, voluntary suspension and the lapse and surrender of accreditation
- audit authorisation and notification requirements
- requirements and considerations for auditors in defining the audit site, elements of the environment and restricted scopes
- requirements and considerations for auditors in carrying out audits including the detail of information required and other considerations
- provision of interim audit advice prior to audit completion
- audit conditions and recommendations of audit reports including objectives and considerations, consultation and implementation considerations

- the format, provision and other requirements of audit reports and audit statements
- assessment and other issues to be considered when auditing including reviewing assessments of risk to human health and the environment, groundwater, soil vapour and soil gas, surface and marine waters, off-site contamination issues, asbestos, acid sulfate soils, separation distances from landfills, elevated concentrations of naturally occurring substances, other issues (such as aesthetics and other specialised issues) and work health and safety
- remediation issues to be considered when auditing including the role of the auditor and providing determinations on what remediation is or remains necessary, reviewing and endorsing remediation option assessments and plans, on-site retention and containment, and ongoing site remediation and monitoring
- community engagement and risk communication relating to the role of the auditor and EPA expectations
- the role of the EPA in administering the audit system including the quality assurance program, review of accreditation and issues relating to disciplinary action
- the availability and access to information relating to the audit system including the listing of auditors, recording of information on the Public Register and EPA responses to 'Particulars Relating to Environment Protection under the *Land and Business (Sale and Conveyancing) Regulations 2010*'.

The guideline also provides a glossary of key terms and appendices on audit references, penalties and fees, requirements for audit report and audit statement formats, electronic format of documents to be provided to the EPA and a summary of the mandatory guideline requirements.

Part 1

Legislative and policy framework

1 Introduction

1.1 Background

In South Australia, the *Environment Protection Act 1993* (EP Act) and the *Environment Protection Regulations 2009* (EP Regulations) establish the legislative framework for managing site contamination and the site contamination audit system (audit system). The legislation allows the South Australian Environment Protection Authority (EPA) to regulate site contamination whether it was caused before or after the commencement of the EP Act.

The EPA is responsible for the administration of the audit system which came into full operation on 1 July 2009. It was developed taking into consideration an earlier system operating in South Australia[1], equivalent systems operating in other jurisdictions, guidance provided in the *National Environment Protection (Assessment of Site Contamination) Measure 1999* (as amended in 2013) or ASC NEPM and the legislative provisions.

Site contamination is an important environmental, health, economic and planning issue. If it is not adequately recognised, considered and addressed there may be a resulting risk to human health and/or the environment. The audit system and the accreditation and use of site contamination auditors are key strategies in the management of site contamination in South Australia. The audit system is a critical link between the site contamination status of land, the suitability of land for its current or proposed use, and planning and development processes.

The ASC NEPM is the principal national guidance document for the assessment of site contamination in Australia[2]. This guideline is intended to be consistent with the policy framework and guidance provided in the ASC NEPM.

This guideline provides detailed information on the audit system and is intended primarily for use by auditors in carrying out audits, those who are interested in applying for accreditation as an auditor and persons relying on the audit system. It is also intended to assist auditors and others, in understanding and complying with their legislative obligations and other mandatory requirements. It may provide general guidance for other persons in relation to the operation of the audit system in South Australia.

Guidance on the determination of the existence of site contamination and the EPA's expectations for assessment and remediation is provided in the EPA publication *Guidelines for the assessment and remediation of site contamination* (2018). The EPA regulates site contamination in accordance with the EPA publication *Regulatory and orphan site management framework* (2017).

Other selected publications relevant to the assessment and remediation of site contamination are also identified in this document and listed in Appendix 1.

1.2 Aim of the audit system

The audit system comprises:

- the accreditation of expert and experienced individuals as site contamination auditors[3] by the EPA[4]
- the carrying out of site contamination audits and issuing site contamination audit reports and site contamination audit statements[5]
- the EPA administration and quality assurance program.

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1 In South Australia, between October 1995 and the audit system coming into operation in 2009, the EPA endorsed the use of environmental auditors (contaminated land) appointed by the Victorian EPA.

2 Information about the ASC NEPM is available from the National Environment Protection Council (NEPC) website http://www.nepc.gov.au/nepms/assessment-site-contamination

3 Defined in section 3(1) of the EP Act

4 Pursuant to section 103V of the EP Act

5 The terms audit, audit report and audit statement are defined in section 3(1) of the EP Act

The aims of the audit system are to support the Objects of the Act[6] which promote the principles of ecologically sustainable development (ESD)[7]. They seek to ensure that all reasonable and practicable measures are taken to protect, restore and enhance the quality of the environment with consideration of both long- and short-term economic, environmental, social and equity considerations.

The audit system has been established to provide:

- for the protection of human health and the environment where site contamination exists or may exist
- rigour, independence and objectivity in the assessment and remediation (including management) of site contamination
- a body of accredited persons whose independent and expert opinions can be relied upon by all sectors of the community when making determinations in relation to site contamination
- greater certainty to the community, developers, industry, planning authorities and regulators that land is suitable for its intended use through the independent review of the assessment and remediation of site contamination by accredited experts
- a framework to facilitate sustainable development with due consideration of economic, social and environmental aspects of site contamination assessment and remediation.

The audit system is also intended to support the purpose and desired environmental outcome, and the attainment of environmental outcome, described in principle 16 of the ASC NEPM (refer to the Measure).

1.3 Legislative framework

The legislative framework that establishes the audit system is contained within Division 4 of Part 10A (sections 103T to 103Z) of the EP Act and Part 5 Division 2 of the EP Regulations. Information in relation to the definition of site contamination section 5B of the EP Act) and related definitions [section 3(1) of the EP Act] can be found in the *Guidelines for the assessment and remediation of site contamination*. Key definitions relevant to auditing are included in the Glossary.

The EPA regulates liable persons in accordance with the *Regulatory and orphan site management framework*.

Auditors are referred to the EP Act and Regulations in relation to an auditor's legislative obligations. Auditors are required to be aware of, and familiar with, all relevant provisions of the legislation. However, where considered appropriate, selected legislative obligations have been highlighted in this guideline. Not all legislative requirements or auditor obligations are highlighted. Legislative obligations are generally indicated by the words 'require' or 'required'.

There are also legislative obligations for people who provide assistance or advice to an auditor through an auditor's instrumentality[8] and these can also apply to the auditor's employer or company.

1.4 Mandatory guideline requirements

The EP Regulations require the EPA to place a condition on every accreditation which requires auditors to comply with any relevant guideline issued by the EPA (insofar as they may be relevant in the circumstances of any particular case) when acting as an auditor[9]. The EP Act requires that audit reports comply with guidelines issued from time to time by the EPA[10]. This document is a relevant guideline for both purposes. It specifies mandatory requirements for auditors in relation to these matters. Where this is the case, the mandatory guideline requirements (MGR) have been clearly

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6 Refer to section 10 of the EP Act

7 Development which meets the needs of the present without compromising the ability of future generations to meet their own needs (World Commission on Environment and Development 1987, *Our Common Future*, Oxford University Press).

8 Section 103U of the EP Act. Refer also to section 2.2 of this guideline

9 Regulation 56(2). Refer also to section 6.8 of this guideline

10 Section 3(1) of the EP Act. Refer also to section 2.3 of this guideline

identified and highlighted in text boxes. Mandatory guideline requirements are indicated by the use of the word 'must'. A summary of all mandatory guideline requirements specified in this guideline is included in Appendix 5.

Failure to comply with the mandatory guideline requirements is a breach of the legislation and there are significant penalties for offences and breaches (refer to Appendix 2). Penalties include expiations, fines and/or imprisonment. The EP Act also allows the EPA to take disciplinary action against an auditor (refer to section 17.12 of this guideline).

The aspects of this guideline which are recommendations to auditors are indicated as something that an auditor 'should' or 'should not' do, or 'is expected' to do. Auditors are expected to exercise their professional judgment in these areas and clearly document in audit reports the reasoning that supports their conclusions.

1.5 Currency of this guideline

This guideline was first published in January 2009 with a minor update in May 2010 and major revisions in December 2015. This version of the guideline has been updated as part of the EPA's release of updated site contamination guidance in 2018 and also incorporates additional audit guidance which has been subsequently developed by the EPA. It supersedes all previous versions of this guideline.

This guideline may be replaced, amended or updated periodically by the EPA. Auditors will be notified of, and provided with, updates of this guideline. Other persons should refer to the EPA website for details of the most recent version of this guideline and other EPA publications related to auditing and site contamination.

1.6 Additional information on the audit system

A series of general information sheets on the audit system has also been published. These documents provide general guidance for people using the audit system and are available from the EPA website:

- *Overview of the site contamination system* (2015)
- *Site contamination auditor* (2015)[11]
- *Site contamination audit reports and audit statements* (2015)[12].

[11] Supersedes the EPA publication *Using site contamination auditors*

[12] Incorporating the EPA publication Implementing conditions of a site contamination audit report

2 Key audit components

2.1 Assessment, remediation and auditing

The assessment of site contamination may identify the need for remediation[13] and/or for an audit to be completed. The extent and duration of the assessment/remediation/auditing processes that are required to be implemented will vary depending on the reason or trigger for investigation (refer to section 3.4 of this guideline), the nature of potentially contaminating activities, the complexity of issues associated with the site and any identified risks.

These factors will influence the level or tier of risk assessment required, which may include a preliminary site investigation (PSI), detailed site investigation (DSI) and/or a site specific risk assessment (SSRA). The results of the assessments will identify whether remediation is or remains necessary which may involve the preparation of a remediation option assessment (ROA), site remediation plan (SRP), remediation and validation report (RVR) and ongoing site or environmental management plan (SMP/EMP). Refer to the EPA publication *Guidelines for the assessment and remediation of site contamination* for further information.

If an audit is to be carried out the audit is completed with the preparation of a site contamination audit report (SCAR). Where appropriate, interim audit advice (IAA) may be issued prior to audit completion (refer to section 11 of this guideline). Information on the audit process is provided in section 3 of this guideline.

The relationship and stages of the assessment, remediation and auditing of site contamination are shown in Figure 1.

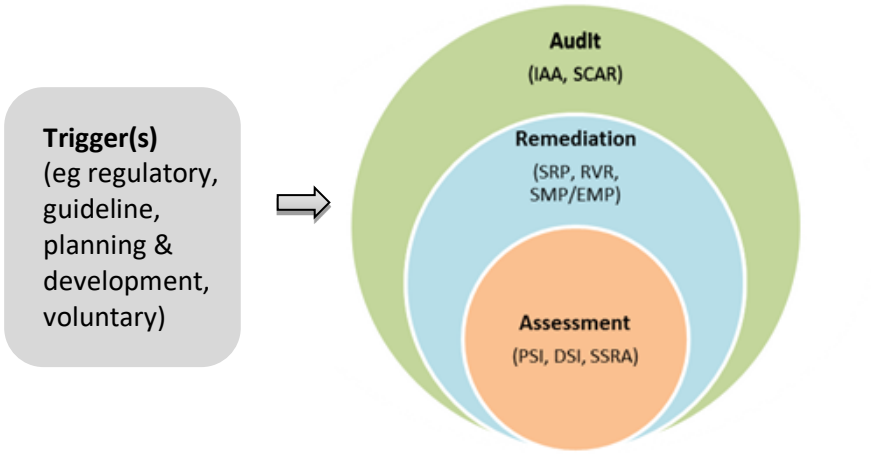


Figure 1 Indicative relationship and stages in the assessment, remediation and auditing of site contamination

2.2 Site contamination auditor

A site contamination auditor is defined in section 3(1) of the EP Act as meaning a person accredited under Division 4 of Part 10A as a site contamination auditor. Auditors are experienced professionals accredited by the EPA (refer to section 6 of this guideline), who undertake the independent review (audit) of assessment and/or remediation work carried out by consultants.

[13] Remediation is defined in section 3(1) of the EP Act. Refer to section 15 of this guideline.

Section 103V of the EP Act provides that:

Section 103V – Accreditation of site contamination auditors
(1) Only a natural person may be granted accreditation as a site contamination auditor.

The Act provides significant penalties in section 103W for a person illegally holding themselves out to be an auditor:

Section 103W – Illegal holding out as a site contamination auditor
(1) A person must not hold himself or herself out as a site contamination auditor unless the person is accredited under this Division as a site contamination auditor. Penalty: Division 4 fine. (2) A person must not hold out another as a site contamination auditor unless the other person is accredited under this Division as a site contamination auditor. Penalty: Division 4 fine.

Where an auditor is personally carrying out an audit or directly supervising another person, the auditor is identified as the responsible auditor for legislative purposes[14].

2.3 Site contamination audit

A site contamination audit is defined in section 3(1) of the EP Act as meaning:

Section 3(1) – Interpretation, site contamination audit
a review carried out by a person that: (a) examines assessments or remediation carried out by another person in respect of known or suspected site contamination on or below the surface of a site; and (b) is for the purpose of determining any one or more of the following matters: (i) the nature and extent of any site contamination present or remaining on or below the surface of the site; (ii) the suitability of the site for a sensitive use or another use or range of uses; (iii) what remediation is or remains necessary for a specified use or range of uses.

Key related definitions include ‘sensitive use’ and ‘remediation’, which are also defined in section 3(1) of the EP Act. Guidance on land-use descriptions is provided in section 4.6, and remediation in section 15 of this guideline.

Considerations for audit purposes are discussed further in section 3.8.

[14] Refer to sections 103Y(4) and 103Z(5) of the EP Act

Section 103U of the Act requires that:

Section 103U – Requirement for auditors to be accredited

A person must not carry out a site contamination audit unless –

(a) the person is a site contamination auditor and personally carries out or directly supervises the work involved in the audit; or

(b) the person carries out the audit through the instrumentality of a site contamination auditor who personally carries out or directly supervises the work involved in the audit.

Penalty: Division 4 fine.

Section 103U(b) is intended to recognise that audits are commissioned between an individual (or a company) and a company that employs, has an agreement with or is owned by an auditor. The EP Act allows for this by defining a 'prescribed person'[15] to be a natural person or a body corporate. Similarly, this section allows for persons to assist or to provide specialist advice to the auditor. However, the legislation requires that the auditor is responsible for personally carrying out or directly supervising the work involved in the audit and certifying the findings of the audit.

An audit is completed with the preparation of an audit report and corresponding audit statement for the site by the auditor carrying out the audit.

2.4 Site contamination audit report

A site contamination audit report is defined in section 3(1) of the EP Act to mean:

Section 3(1) – Interpretation, site contamination audit report

a detailed written report that –

(a) sets out the findings of the audit and complies with the guidelines issued by the Authority from time to time; and

(b) includes a summary of the findings of the audit certified, in the form prescribed by regulations, by the auditor who personally carried out or directly supervised the audit (the site contamination audit statement).

Regulation 67(1) requires that:

Regulation 67(1) – Site contamination audit report summary and statement

(1) A site contamination audit report required under section 103Z(4)(a) and (b)(i) of the Act must include a summary of the findings of the site contamination audit to which it relates that –

(a) is in the form set out in Schedule 3 clause 8 for site contamination audit statements; and

(b) is certified by the responsible auditor in accordance with the directions contained in the form set out in Schedule 3 clause 8.

Refer to section 13 and Appendix 3 of this guideline for the preparation and submitting of audit reports.

[15] A prescribed person is defined in section 3(1) of the EP Act

2.5 Site contamination audit statement

A site contamination audit statement is defined in section 3(1) of the EP Act as meaning, in relation to a site contamination audit:

Section 3(1) – Interpretation, site contamination audit statement
a copy (that must comply with the regulations) of the summary of the findings of the audit certified, in the prescribed form, by the site contamination auditor who personally carried out or directly supervised the audit.

Refer to section 13 and Appendix 3 of this guideline for the preparation and submitting of audit statements.

2.6 Site contamination consultants

The assessment of site contamination is carried out by site contamination consultants[16]. The EPA publication *Site contamination policy: certification of practitioners* (2018) details the EPA's policy on the recognition of site contamination schemes (certification bodies). It describes the circumstances when the EPA will require the use of certified site contamination practitioners in accordance with the EPA publication Regulatory and orphan site management framework (2017).

Auditors should seek information from their clients in relation to any current regulatory controls (for example a voluntary proposal) that may overlay a specific audit site as this will set requirements for consultants preparing reports. Otherwise, appropriate procedures are expected to be put in place to ensure that assessment (and remediation) is being undertaken by suitably qualified and experienced consultants consistent with Schedule B9 of the ASC NEPM and the EPA publication *Guidelines for the assessment and remediation of site contamination*.

2.7 Role of auditors and consultants

The assessment and remediation of site contamination is carried out by consultants and specialist remediation contractors.

The consultant's role is to design, prepare and carry out the assessment and/or remediation work in accordance with the scope of works. When an audit is being carried out, the results of the assessment and remediation completed by the consultant are provided to the auditor for the auditor's independent review.

Auditors are expert individuals who are accredited by the EPA to carry out and complete audits and are subjected to specific legislative obligations and guideline requirements (refer to sections 2.2 and 5). Their role also entails the independent review of consultant's reports (including sampling and analysis quality plans, assessment and remediation reports, and site management plans), preparation of interim audit advice if needed, and completion of the audit with the preparation of a site contamination audit report (refer to section 5.6).

Once accredited, auditors are required to consider the Objects of the Act (refer to section 5.3) in fulfilling their role and responsibilities.

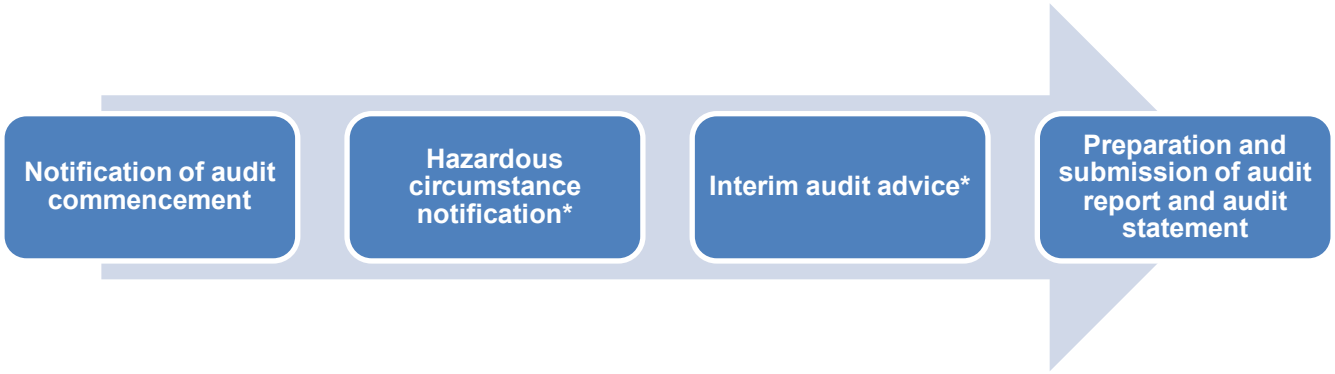
[16] A definition of a site contamination consultant is provided in section 3(1) of the EP Act. For further information refer to the EPA publication *Site contamination consultants* (2014).

3 Audit process

3.1 Overview

Once it has been identified that an audit is required, the required steps and duration of the audit process may vary depending on the point at which the audit is commissioned and the complexity of issues associated with the audit site.

Figure 2 shows the steps in audit notification and reporting for auditors (refer to section 8 of this guideline for further details) that may be involved in the course of carrying out and completing an audit.



*Indicates step may not be necessary/required in completing an individual audit

Figure 2 Indicative audit process

Auditors may be able, on the basis of the appropriate assessment of site contamination, to provide interim audit advice (IAA) prior to the completion of the audit. An IAA is not an audit report (refer to section 11 for guidance on when IAA may be provided). Once an audit has been commenced, if an auditor is unable to proceed with or finalise it for any reason, it may be terminated by the auditor prior to its completion.

The EP Act requires that auditors notify the EPA of the termination of the audit[17] (refer to section 8.3). In addition, it may be necessary for auditors to notify the EPA of site contamination that affects or threatens underground water under section 83A of the Act (refer to section 14.3).Auditors may also be required to notify the EPA of a hazardous circumstance (refer to section 8.4). Risk communication and stakeholder engagement are key components of the assessment of site contamination and may be necessary in the course of an audit being completed (refer to section 16).

A general overview of the audit process, its relationship to the stages of assessment and remediation as well as EPA regulation and administration, is shown in Figure 3.

3.2 Commissioning an audit

An audit should be commissioned as early as possible, prior to or at the same time as the engagement of the consultant and preferably before any assessment and/or remediation of site contamination is carried out at a location. This is normally expected to improve the efficiency of the assessment, remediation and audit processes.

Advice provided by an auditor to the person commissioning the audit (client) may facilitate the selection of a consultant with the appropriate expertise and experience relevant to the specific issues at and/or arising from a site. Discussions between an auditor, client and consultant prior to commencing the audit can be beneficial in clarifying the requirements, determinations and scope of an audit and identifying potential critical data requirements and time pressures. The involvement of the auditor at this stage is limited to providing advice on their information requirements and the criteria for determining the audit purpose. Discussions and advice provided by auditors to clients and/or consultants prior to the commissioning of an audit should not pre-empt or constrain the outcomes of the audit.

The commissioning of an audit (when an auditor receives and accepts a request to carry out an audit) is considered to mark the commencement of an audit. It would usually be demonstrated by the entering into of a formal contract or

[17] Section 103Z(2) of the EP Act

agreement between the auditor and the client[18]. Guidance on the notification of commencement requirements for auditors is given in section 8.2.

An audit will typically be commissioned by:

- the site owner, or their representative
- the site occupier
- another person (for example a developer, financial institution or prospective purchaser) who is legally authorised to enter the audit site or has written consent from the site owner
- a person who is not the current site owner or occupier but who has been issued with an order from the EPA. This person needs to gain permission from the owner/occupier to enter the land[19] (if permission is withheld or withdrawn, the owner/occupier may then become the appropriate person to be issued with an order[20])
- a government agency.

Auditors should assure themselves that persons commissioning an audit have legal access to the audit site and have the authority to provide for legal access to the auditor and auditor's representatives and other parties involved in the assessment and/or remediation, and to allow any intrusive assessment and/or remediation works to be undertaken.

The cost of carrying out an audit will generally be at the expense of the client.

Once commissioned, auditors should be kept regularly informed by their clients and the consultants regarding the status of works at an audit site and for the audit to remain active. This should ensure the best outcome for the audit as ineffective or inadequate communications between one or more of these parties will likely result in unnecessary time and cost burdens to the client. Lengthy delays investigating a known risk to human health or the environment may result in a hazardous circumstance (refer to section 8.4).

3.3 Liability for site contamination

Liability for site contamination is assigned by the EP Act in accordance with the 'polluter pays' principle[21]. Provisions of the Act allow for the effect of limiting liability for site contamination in certain circumstances, such as where the person who commissioned the audit is not the original polluter or through a transfer of liability under the Act.

Liability for site contamination may be transferred under section 103E subject to certain provisions. For further information on liability considerations refer to the *Guidelines for the assessment and remediation of site contamination*. For information regarding considerations in and the transfer of liability process, refer to the EPA information sheet *Site contamination: Transfer of liability* (2010).

Auditors should consult with their client in order to understand if any limitations on liability for site contamination may exist, particularly in circumstances where off-site contamination is identified as this will determine the extent of investigations to be undertaken. Refer to section 6.5 and Table 6 of the *Guidelines for the assessment and remediation of site contamination* for further information.

3.4 Reasons for an audit

An audit may be necessary for the following reasons:

- to satisfy requirements under the EP Act
- to satisfy the requirements of planning and development processes under the *Development Act 1993*
- other reasons, for example:

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18 Section 103X(2)(d) of the EP Act states that an auditor must not undertake an audit on the instructions of, or under a contract with, a consultant involved in the assessment of site contamination at the site. Refer to section 5.2 of this guideline.

19 Section 103L(1) of the EP Act

20 Section 103L(2) of the EP Act

21 Liability for site contamination is described in sections 103C to 103G of the EP Act

- as required by EPA standards or guidelines
- due diligence and other reasons not specifically required by legislation or EPA standards or guidelines.

Refer to section 6.5 of the *Guidelines for the assessment and remediation of site contamination* for further information on the reasons for an audit and the circumstances when the EPA may require an audit.

3.5 Audits required under the *Environment Protection Act 1993*

The EPA may require an audit to be carried out under the EP Act, for example as:

- a condition of an order such as a site contamination assessment order (SCAO)[22] or site remediation order (SRO)[23]
- part of an agreement based on a voluntary site contamination assessment proposal (VSCAP)[24] or voluntary site remediation proposal (VSRP)[25]
- a condition of an environmental authorisation, environment improvement program, environmental performance agreement or works approval.

The regulatory requirements may also include audit status updates and/or auditor review and endorsement (refer section 10.4 and MGR 17) of deliverables within specified timeframes.

In instances where an audit is required as part of a VSCAP or VSRP, the EPA expects that:

- the persons party to the voluntary proposal will actively engage the auditor in the development of the voluntary proposal to ensure that proposed assessment and/or remediation and milestones are reasonable and practical prior to it being agreed to; and
- deliverables provided to the EPA are reviewed and endorsed by the auditor prior to provision of that deliverable, as appropriate.

Where an audit site is subject to regulatory requirements, auditors should discuss any audit requirements, including matters related to restricting the scope of the audit, with the EPA at the time of audit commencement.

Refer to the *Regulatory and orphan site framework* for information on the EPA's regulation of site contamination.

3.6 Audits under the *Development Act 1993*

The site contamination audit system provides a mechanism for planning authorities to satisfy themselves of the suitability of a site for an intended use, as required by relevant planning and development legislation and policy frameworks. The audit system subsequently provides a mechanism by which landowners, occupiers and others in the community can be assured that land is suitable for its intended use in particular where site contamination is suspected or is known to exist and a change to a more sensitive use is proposed.

Where appropriate, to facilitate planning and development processes, interim audit advice may be provided by an auditor prior to the completion of the audit with the preparation of an audit report and audit statement. Interim audit advice (IAA) is not an audit report but provides the interim opinion of the auditor based on the information available at that time (refer to section 11.2).

3.7 Other reasons

Landowners, occupiers or other interested persons may commission an audit to determine one or more of the audit purposes, depending on their specific requirements. Such reasons could include due diligence for land acquisition or divestment.

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22 Section 103H(2)(g) of the EP Act

23 Section 103J(2)(j) of the EP Act

24 Section 103I of the EP Act

25 Section 103K of the EP Act

Standards and guidelines issued by the EPA may require audits in certain circumstances, for example to demonstrate suitability of a remediation options assessment or implementation of a remediation strategy, as part of determining what remediation is or remains necessary for a specified use or range of uses (refer section 15 of this guideline).

An audit may be carried out in relation to the risk to one or more specified elements of the environment from any known or suspected site contamination arising from an activity. In these circumstances, an auditor may complete an audit with a restricted scope (refer to section 9 of this guideline).

Where off-site contamination originating from a source site has been identified, the EPA may seek persons with the liability for the site contamination (refer to section 3.3 of this guideline) to engage an auditor to provide determinations in relation to the nature and extent of site contamination and what remediation is or remains necessary.

3.8 Audit purpose

As specified in the EP Act and described in section 2.3 of this guideline, an audit is for the purpose of determining any one or more of the following matters:

- the nature and extent of any site contamination present or remaining on, or below, the surface of the site
- the suitability of the site for a sensitive use or another use or range of uses
- what remediation is or remains necessary for the specified use or range of uses at the audit site.

The purpose(s) relevant for an audit must be identified at the time of notification of audit commencement. Table 1 provides details of which purposes need to be selected, depending on the reason for the audit.

Table 1 Consideration of audit reasons and purpose determinations

Reason for audit	Audit purpose*		
	Nature and extent of any site contamination present or remaining on or below the surface of a site	Suitability of a site for a sensitive use or another use or range of uses	What remediation is or remains necessary for a specified use or range of uses
Environment Protection Act 1993	yes	case-by-case basis	case-by-case basis
Development Act 1993	yes	yes**	yes
Other§:	–	–	–
• Remediation options assessment	yes	case-by-case basis	yes
• Due diligence	yes	case-by-case basis	case-by-case basis
• Off-site contamination	yes	case-by-case basis for audit site, not applicable for land outside the audit site boundaries	yes
Restricted scope	yes	not applicable	case-by-case basis

* It is assumed that the client has liability for the site contamination. Refer to Table 6 of the EPA publication *Guidelines for the assessment and remediation of site contamination* for further information.

** An audit subject to a restricted scope is not suitable to be relied upon by a planning authority for the purpose of making determinations as to whether land is suitable for a sensitive or another use or range of uses.

§ There may be other reasons for an audit – with the exception of the nature and extent of any site contamination, the remaining audit purposes would need to be considered on a case-by-case basis.

Site contamination may originate from an audit site (source site) and extend outside the site boundaries (off-site contamination) affecting another site. Where this is identified and there is no limitation on the client's liability for the off-site contamination (refer to section 3.3), the EPA expects that for any sites affected by the off-site contamination, the audit will address the audit purposes indicated in Table 1. This will be in addition to any other purposes based on the original reason for the audit.

MGR1 Audit reason and purpose determinations
Auditors must identify and make determinations on the relevant purpose(s) of an audit in a manner consistent with Table 1 of the EPA publication, *Guidelines for the site contamination audit system*.

Refer to sections 14 and 15 of this guideline and also Table 6 of the *Guidelines for the assessment and remediation of site contamination* for information on the EPA's expectations in relation to the circumstances when the EPA may require an audit and the extent of investigation where off-site contamination is identified.

3.9 Audit completion

On completion of an audit, the EP Act requires an audit report and related audit statement to be prepared and provided by the responsible auditor to the persons specified in the legislation. Refer to section 13 for the requirements relating to the provision of audit reports and audit statements.

EPA

- reviews any submissions under section 103X of the EP Act and may issue authorisation to an auditor to carry out an audit
- records audit commencement notifications and places notification details on the EPA Public Register
- confirms the audit commencement with the auditor and client/site owner and notifies the local council/planning authority
- reviews any section 83A notifications and notifies liable persons of any regulatory requirements
- reviews any hazardous circumstance notifications and notifies liable persons of any regulatory requirements (if a public health risk is identified and there is no identified liable person, the EPA may undertake orphan site assessments)
- reviews any audit termination notifications and places notification details on the EPA Public Register
- confirms receipt of any IAA with the auditor, client/site owner, notifies the local council/planning authority, reviews the IAA to ensure its consistency with relevant legislation and EPA guidelines and notifies all parties of the outcome
- confirms receipt of an audit report with the auditor and client/site, notifies the local council/planning authority, reviews the audit report to ensure it complies with the EP Act, Regulations and relevant EPA guidelines, notifies all parties of the outcome and places a complying audit report on the EPA Public Register
- may request notation of the audit report against relevant certificates of title and notifies site owners following notation
- may initiate any regulatory and other actions considered appropriate and necessary, including community engagement
- may monitor compliance with audit conditions

Auditor

- is commissioned to carry out an audit
- considers conflict of interest issues under section 103X
- confirms the audit reason and purposes
- identifies if a restricted scope may be applied and confirm objectives
- notifies the EPA within 14 days after audit commencement
- is subject to notification requirements under section 83A of the EP Act
- is subject to mandatory guideline requirements to notify the EPA of hazardous circumstances
- if unable to complete the audit, the auditor notifies the EPA within 14 days of the audit termination
- establishes audit criteria
- reviews and provides comments on SAQPs
- reviews and provides comments on PSI, DSI and SSRA reports
- identifies requirements for further assessment and whether remediation is necessary
- reviews, provides comments on and if appropriate endorses ROA, SRP and other plans (if remediation necessary)
- may issue IAA prior to completion of the audit
- reviews and provides comments on RVRs, determines if remediation goals have been met and whether remediation remains necessary
- reviews, provides comment on and if appropriate endorses SMPs or other plans
- determines the audit outcomes and considers the need for audit conditions
- prepares and issues the audit report and provides a copy to the client/site owner and EPA, and a copy of the audit statement to the local council/planning authority

Consultant*

- is engaged to carry out assessment
- designs, carries out and reports assessment in accordance with the ASC NEPM and relevant EPA guidelines
- is subject to notification requirements under section 83A of the EP Act
- should notify the EPA if a hazardous circumstance is identified at any time
- prepares one or more SAQPs to document the assessment design and methodology
- prepares one or more assessment reports for each tier or stage of assessment (assessment may be carried out in multiple stages and would generally include a PSI and DSI, and may also require an SSRA)
- if remediation is necessary, identifies remediation goals, prepares a ROA and develops a remediation strategy
- prepares an SRP to document the remediation goals, options and strategy
- prepares RVRs to document the remediation and validation
- if remediation remains necessary, prepares an SMP to be implemented by responsible persons (it may also be necessary to prepare other plans including monitoring plans and a CEMP)

* Multiple consultants may be engaged over the period of assessment and remediation

Figure 3 Overview of the audit process showing key stages and requirements for auditors, consultants and the EPA

4 Audit determinations and outcomes

4.1 Overview

The audit outcomes being determined will depend on the reason for commissioning the audit and the audit purposes being considered (refer to section 3.8 of the guideline). Audit outcomes appropriate for each audit purpose are discussed in this section.

In some cases, in order to support an audit outcome, the auditor may need to specify conditions in the audit report, which require implementation to adequately protect human health and the environment (refer to section 12).

4.2 Nature and extent of any site contamination present or remaining on or below the surface of the site

An audit may be undertaken solely for this purpose. In this case, the audit is an independent review of work carried out by another person (eg consultant) to determine whether site contamination exists (or not) at a site and, if so, whether the nature and extent of the site contamination have been adequately delineated. A person may commission such an audit to confirm or negate the existence of site contamination. The audit can go no further than considering the nature and extent of site contamination. Refer to the *Guidelines for the assessment and remediation of site contamination* for information on determining the existence of site contamination.

Audits carried out solely for this purpose, or in conjunction with what remediation is or remains necessary, may consider specified elements of the environment as part of a restricted scope (refer to section 9).

The EP Act requires auditors to clearly qualify any statements as to the existence of site contamination by specifying the land uses that were taken into account in forming that determination[26] (refer to section 4.5 of this guideline).

MGR2 Considerations in determining the nature and extent of site contamination

In making a determination on the nature and extent of site contamination present or remaining on or below the surface of the site, the auditor must consider whether site contamination does or does not exist and provide clear statements in relation to whether the delineation of the extent of site contamination has been determined.

In making a determination on whether site contamination is present or remaining on or below the surface of the site, the auditor must consider the definition of site contamination in the *Environment Protection Act 1993* (the Act).

The specified land use(s), environmental values of water and elements of the environment considered by the auditor in making the determination must be clearly documented.

Generic land-use descriptions and elements of the environment are to be consistent with the land uses described in the EP Act and the ASC NEPM. Descriptions of groundwater environmental values are to be consistent with the environmental values described in the EPA publication *Guidelines for the assessment and remediation of site contamination*.

An audit carried out solely for the purpose of determining the nature and extent of site contamination present or remaining on or below the surface of the site, must not condition requirements associated with the remaining audit purposes – the suitability of the site for a sensitive use or another use or range of uses, and what remediation is or remains necessary for a specified use or range of uses.

An example of an outcome for this purpose may be:

> Site contamination is considered to exist and the nature and extent of site contamination present on or below the surface of the site has been adequately determined in soil, groundwater and soil vapour.
>
> In relation to human health and the environment, site contamination is not considered to exist in soils or vapour remaining on or below the surface of the site. The land uses that were taken into account in forming this opinion

[26] Section 103ZA of the EP Act

include residential land use with minimal opportunities for soil access, including dwellings with fully and permanently paved yard space, and commercial/industrial use.

Site contamination exists in relation to groundwater. The environmental values of groundwater that were taken into account were freshwater aquatic ecosystems, potable water, recreation/aesthetics and also agriculture (irrigation). The site contamination relates to the presence of trichloroethene.

This outcome may be qualified by the requirement for audit conditions to be implemented (refer to section 12 of this guideline).

In some circumstances, the auditor may consider a subsequent audit to be necessary if the nature and extent of site contamination have not been fully determined and/or if it has been determined that remediation is or remains necessary for a specified use or range of uses (refer to section 4.4 of this guideline).

4.3 The suitability of the site for a sensitive use or another use or range of uses

Audits carried out for this purpose will typically be for planning/development requirements.

MGR3 Considerations in determining the suitability of a site for a sensitive use, another use or range of uses

In making a determination on the suitability of a site for a specified use, an auditor must have also considered the following audit purposes:

- the nature and extent of site contamination present on or beneath the surface of the audit site, and
- what remediation is or remains necessary for the specified use or range of uses at the audit site.

Generic land-use descriptions are to be consistent with the land uses described in the *Environment Protection Act 1993* and the ASC NEPM.

Where land use suitability is subject to restrictions on the usual use of land, or the site is not suitable for any use(s), this must be clearly stated and the nature of the restrictions of land uses clearly indicated (for example through audit conditions).

Where the audit site is only suitable for the specified use(s) subject to remediation being carried out, this must be clearly stated. Verification confirming the remediation has been appropriately carried out (as specified in the audit condition) must be required to be undertaken and documented by an auditor.

This outcome may be qualified by the requirement for audit conditions to be implemented (refer to section 12 of this guideline).

The description of land uses taken into account in making this determination and any restrictions on that use or range of uses are required to be clearly specified[27] (refer to section 4.6 and Appendix 3). It may be appropriate to include a clear statement specifying any land uses for which the site is not suitable.

An example of an outcome for this purpose may be:

The audit site is suitable for the following sensitive uses or another use or range of uses including:

(a) Sensitive use – residential with minimal opportunities for soil access; includes dwellings with fully and permanently paved yard space such as high-rise buildings and apartments.

(b) Sensitive use – childcare centres, kindergartens, preschools and primary schools.

(c) Public open space such as parks, playgrounds, playing fields (eg ovals), secondary schools and footpaths.

(d) Commercial use such as shops, offices, consulting rooms, petrol stations, warehouses and any other commercial uses

(e) Industrial use such as light, service, general or special industry.

[27] Section 103ZA of the EP Act

The audit site is not suitable for sensitive use – residential with garden/accessible soil (home-grown produce <10% fruit and vegetable intake, no poultry).

The above land uses are as defined in the generic land use scenarios in the ASC NEPM.

In making this determination it is expected the auditor would also take into account any other relevant issues as appropriate (refer to section 14 of this guideline).

In some circumstances, it may be that an auditor considers the site is not suitable for any land uses at the time of audit completion. If this is the case, auditors are advised to discuss the audit with the EPA prior to completing the audit.

4.4 What remediation is or remains necessary for a specified use or range of uses

Remediation considerations in auditing are addressed in section 15 of this guideline. Refer also to Part 4 of the *Guidelines for the assessment and remediation of site contamination* for information on determining when remediation is necessary, the remediation hierarchy, remediation goals, objectives, endpoints and practicability considerations.

MGR4 Considerations in determining what remediation is or remains necessary for a specified use or range of uses

In making a determination on what remediation is or remains necessary for a specified use or range of uses, an auditor must:

- demonstrate they have considered the determined nature and extent of site contamination present on or beneath the surface of the audit site
- demonstrate they have taken into account the remediation hierarchy described in the *Guidelines for the assessment and remediation of site contamination*
- clearly specify what (if any) remediation is or remains necessary to:
  - eliminate or prevent actual or potential harm to the health or safety of human beings that is not trivial taking into account the current or proposed land uses, and
  - eliminate or prevent as far as reasonably practicable actual or potential harm to water that is not trivial, and
  - eliminate or prevent as far as reasonably practicable any other environmental harm that is not trivial taking into account the current or proposed land uses.
- clearly specify the current or proposed land uses subject to any remediation that is or remains necessary.

If remediation is or remains necessary for a specified use or range of (current or proposed) land uses and is required to be implemented following the completion of an audit by an audit condition in an audit report, an auditor must review and endorse relevant remediation, management and/or monitoring plans prepared by consultants and provide the endorsed documents as appendices to the audit report.

The outcome for this purpose will be either that remediation is or remains/is not or does not remain necessary for a specified use or range of uses.

An example of an outcome for this purpose may be:

In relation to human health and the environment, no further remediation is or remains necessary for soil or soil vapour, with the exception of maintaining the existing barrier that prevents direct access to the site soils.

Remediation is or remains necessary for groundwater to prevent potential exposure via extraction and use of groundwater at the site. The land uses that were taken into account in forming this opinion include residential land use with minimal opportunities for soil access, commercial use and industrial use.

In relation to water, remediation does not remain necessary.

The description of land uses taken into account in making this determination and specify any restrictions on that use or range of uses are required to be clearly specified[28] (refer to section 4.6).

An auditor may determine that remediation is or remains necessary to support a sensitive use to be implemented in accordance with a remediation plan which has been endorsed by the auditor. In these circumstances the audit report should include a condition requiring verification of the completion of the remediation works by an auditor. This is to confirm that the necessary remediation has been satisfactorily accomplished and that the site is suitable for the specified sensitive use(s). In some circumstances, the auditor may consider a subsequent audit to be necessary.

Where, due to the existence of site contamination, ongoing site or environmental management plans are required to be implemented following the completion of the audit through an audit condition (refer to section 12 of this guideline), such plans are considered to represent the need for remediation as defined in section 3(1) of the EP Act. Refer to section 15.5 for guidance to auditors on ongoing remediation and monitoring.

Site activities can cause the disturbance and consequent exposure to and/or mobilisation of naturally occurring chemical substances, which may pose a risk to human health and/or the environment and result in the existence of site contamination. An audit report may also include recommendations for the ongoing management and/or monitoring of those chemical substances to support specific land use(s).

4.5 Opinions on the existence of site contamination

The determination of whether site contamination exists in relation to human health and safety, and the environment takes into account the current or proposed land uses for a site and whether or not the harm is trivial. The determination of whether site contamination exists based on actual or potential harm to water that is not trivial, is not dependent on land-use considerations.

In relation to opinions on the existence of site contamination which contemplate land uses, section 103ZA of the EP Act states:

Section 103ZA – Reports by site contamination auditors and consultants

A site contamination auditor or site contamination consultant must, in any written report that the auditor or consultant prepares in relation to a site, clearly qualify any statement of the auditor's or consultant's opinion as to the existence of site contamination at the site by specifying the land uses that were taken into account in forming that opinion.

Penalty: Division 5 fine.

Guidance on the determination of the existence of site contamination is provided in the *Guidelines for the assessment and remediation of site contamination*.

4.6 Land use descriptions

Sensitive use is defined in section 3(1) of the Act to mean:

Section 3(1) – Interpretation of sensitive use

(a) use for residential purposes[29]; or

(b) use for a pre-school[30] within the meaning of the *Development Regulations 2008*; or

(c) use for a primary school; or

(d) use of a kind prescribed by regulation[31].

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28 Section 103ZA of the EP Act

29 Refer to the Glossary

30 Under the *Development Regulations 2008*, the definition of pre-school includes a nursery, kindergarten or childcare centre

31 Currently there is nothing prescribed for this purpose

The EPA considers that any land use which includes or allows for a sensitive use component (for example multi-storey, mixed use developments comprising ground floor commercial premises with a childcare and/or upper level residential use) is to be considered as a sensitive use.

The following generic land use settings[32] (consistent with those defined in the ASC NEPM) are appropriate for use by auditors in audit reports:

- sensitive use:
  - residential with garden/accessible soil (home-grown produce <10% fruit and vegetable intake and no poultry)
  - residential with minimal opportunities for soil access; includes dwellings with fully and permanently paved yard space such as units, high-rise buildings and apartments
  - childcare centres, kindergartens, preschools and primary schools.
- public open space/recreational areas
- commercial use such as shops, offices, consulting rooms, petrol stations, warehouses and any other commercial uses
- industrial use such as light, service, general or special industry.

Where these generic land use descriptions are not broadly consistent[33] with the land uses being considered for the audit site, the other land uses must be clearly specified.

Statements about land-use suitability should consider the current or proposed land uses and take into account uses contemplated under current zoning.

32 Refer to Schedule B7 of the ASC NEPM

33 As above

Part 2

Auditor role, responsibilities and accreditation

5 Role and responsibilities of auditors

5.1 Independence of the auditor

The independence of auditors is a fundamental aspect of the audit system. The integrity of the audit system is based on auditors providing an independent and expert evaluation of the condition of a site.

The EP Act requires auditors to ensure that in conducting audits they are not subject to a conflict of interest (refer to section 5.2 of this guideline).

Regulation 56(2)(a) also requires through a prescribed condition of accreditation[34] that:

Regulation 56(2)(a) – Conditions of accreditation
the holder of the accreditation will, when acting as a site contamination auditor, act diligently, impartially and conscientiously

5.2 Conflict of interest and honesty

The obligations of auditors with regard to conflict of interest and honesty are detailed in section 103X of the EP Act. These obligations also apply to any person carrying out the audit through the instrumentality of an accredited auditor, for example an auditor's support team[35], specialist team and employer.

The conflict of interest provisions of the EP Act ensure that auditors do not place themselves in a position where he or she (or his or her employer, specialist team or support team) may gain benefit (beyond normal professional fees and expenses) that alters the outcome of the audit.

Similarly the provisions require that the auditor (and each member of an auditor's specialist team and support team) do not (unless authorised in writing by the EPA) audit their own work or work undertaken by the company that employs the auditor (refer to section 8.1).

Section 103X of the EP Act states:

Section 103X – Conflict of interest and honesty

(1) This section applies to –

- (a) a site contamination auditor; or
- (b) a person who carries out a site contamination audit on behalf of another through the instrumentality of a site contamination auditor.

(2) A person to whom this section applies must not, unless authorised by the Authority in writing, carry out a site contamination audit of a site –

- (a) if the person is an associate of another person by whom any part of the site is owned or occupied; or
- (b) if the person has a direct or indirect pecuniary or personal interest in any part of the site or any activity that has taken place or is to take place at the site or part of the site; or
- (c) if the person has been involved in, or is an associate of another person who has been involved in, assessment or remediation of site contamination at the site; or
- (d) on the instructions of, or under a contract with, a site contamination consultant who has been involved in the assessment of site contamination at the site.

Penalty: Division 6 fine or imprisonment.

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[34] There are seven conditions of accreditation prescribed in regulation 56(2). Refer to section 6.8 of this guideline

[35] An auditor's support team is distinct from the specialist team (refer to section 6.12). An auditor is required to have thorough conditions of accreditation (refer to section 6.8). Refer to section 5.6 of this guideline

(3) A person to whom this section applies must not, in or in relation to a site contamination audit, site contamination audit report or site contamination audit statement, make a statement that the person knows to be false or misleading in a material particular (whether by reason of the inclusion or omission of any particular).

Penalty:

If the offender is a body corporate – Division 1 fine.

If the offender is a natural person – Division 3 fine or Division 6 imprisonment.

The responsibility to ensure that there is no conflict of interest rests with the auditor. However, auditors may contact the EPA for advice as to whether an authorisation under section 103X(2) may be necessary.

MGR5 Becoming aware of a potential conflict of interest when carrying out an audit

When carrying out any function as an auditor, if a potential or actual conflict of interest comes to the auditor's knowledge, the auditor must notify the EPA as soon as is practicable after becoming aware of the issue.

Where an auditor may have been subsequently authorised by the EPA under section 103X of the EP Act to carry out an audit, the auditor must include details of the authorisation in the audit report.

Some activities carried out by an auditor would not be considered by the EPA to constitute a conflict of interest for which an authorisation under section 103X would be required. Examples of discussions and/or advice provided by an auditor that would not preclude an auditor from subsequently carrying out an audit include:

- the review of information, discussions and advice provided in the context of preparing a proposal to undertake an audit
- the review of information, discussions and advice provided to assist a landowner or developer to determine the requirements for, and likely process and timing of, an audit prior to the commissioning of the audit
- the provision of advice to prospective purchasers of a site, including advice regarding the audit process and issues, subject to the requirements that such advice does not constrain the auditor in determining the outcome of the audit and should not deliberately prejudice any subsequent decision making of third parties.

MGR6 Statement of independence

Auditors must include a statement in interim audit advice and in audit reports which documents that in carrying out the audit they have exercised their own professional judgment and that their audit determinations have been reached independently and have not been unduly influenced by the views or actions of others, particularly those who may have an interest in the outcome of the audit.

In order to ensure compliance with section 103X of the EP Act, the auditor and the auditor's company cannot enter into discussions with any party during the audit with a view to undertaking further work (of any kind) that is contingent on a particular audit outcome, such that the auditor or the auditor's company may have an interest in a specific audit outcome.

The EPA considers that auditors acting in the following ways would constitute examples of non-compliance:

- in a manner which is self-serving (for example, over-servicing or requiring that any site assessment work that may be necessary is to be undertaken by the auditor – not including verification sampling considered necessary by the auditor)
- as an advocate for the proponent of any development.

5.3 Risk-based decision making

In carrying out audits (refer to Part 3 of this guideline), auditors should ensure adequate assessment and remediation have been completed to the point needed for the auditor to make appropriately informed risk-based decisions in accordance with the guidance provided in the ASC NEPM and relevant guidelines issued by the EPA from time to time.

MGR7 Risk-based decision making

Auditors must consider the Objects of the *Environment Protection Act 1993* and apply the principles of risk-based decision making as described in the *National Environment Protection (Assessment of site contamination) Measure 1999* (as amended in 2013) and relevant EPA guidelines, when carrying out an audit. Auditors must include a statement in each audit report which documents this consideration.

Consistent with the aims of the audit system and MGR 7, auditors should be able to explain to any person why the auditor has requested any aspect of work (see also MGR 15). Auditors should also be able to identify where any works (proposed by a consultant) are beyond that which is reasonably needed for the auditor to make that decision.

5.4 Duty of care

The EPA considers that, while auditors are engaged by their client and are subject to contractual obligations, auditors have a broader primary duty of care as, in exercising their duties, auditors have to take into account the Objects of the Act and the aims of the audit system[36].

MGR8 Duty of care

In exercising their function and duties pursuant to the *Environment Protection Act 1993*, auditors must demonstrate a primary duty of care to the health and safety of the people of South Australia above all others (including any duty to the person who has commissioned them to conduct the audit). Auditors must also demonstrate a duty of care to ensure the protection of the environment of South Australia.

Refer to section 1.2 of this guideline for guidance on the aims of the audit system and the Objects of the Act.

5.5 Professional conduct of an auditor

Auditors are expected to provide informed guidance to their client in relation to auditing, assessment and remediation processes. They are also expected to demonstrate leadership during the course of an audit, while maintaining their independence. Guidance and leadership may be demonstrated by:

- informing clients, who may be unfamiliar with site contamination issues, of the assessment, remediation and auditing processes
- participating in discussions and engagement with stakeholders where the outcomes of the audit may need to be properly understood to inform decision-making processes
- providing information to consultants where they may not be aware of relevant technical requirements.

In fulfilling their role and responsibilities, auditors should demonstrate a range of professional behaviours:

- act at all times in a professional manner, upholding the independence and integrity of the audit system
- exercise due care and diligence to the standard which may be reasonably expected of qualified and experienced environmental practitioners who are performing duties conferred upon them by the EP Act
- exercise their professional and independent judgment, applying their expert knowledge, skill and experience appropriately to each audit they undertake

[36] This is distinct from the the general environmental duty established under section 25 of the EP Act, which applies to a person undertaking an activity

- advocate and implement risk assessment methods and approaches consistent with good practice for the assessment, remediation and management of site contamination
- commit to ongoing professional training and development to update and maintain relevant knowledge, skills and expertise, and actively assist and encourage those assisting in carrying out audits under their direct supervision.

Auditors are also expected to maintain and demonstrate a professional relationship with other auditors, consultants, their clients, the community and the EPA.

5.6 Role of an auditor

The role of an auditor is to independently and objectively examine and review the accuracy and completeness of the assessment and/or remediation work carried out by others and to complete an audit, in accordance with the requirements of the EP Act, Regulations and relevant guidelines issued or approved by the EPA.

In carrying out an audit (refer to Part 3 of this guideline), auditors are expected, as appropriate, to:

- review assessment and/or remediation work carried out by others
- evaluate the adequacy and sufficiency of the available information, which may include site visits during the assessment and/or remediation works and the taking of independent verification samples (refer to section 10.3)
- seek further information about the condition of the site if necessary
- refer to relevant members of their specialist team as required (refer to section 6.12)
- provide an independent opinion on the assessment and/or remediation in respect of known or suspected site contamination on or below the surface of a site
- provide determinations on any one or more of the following matters:
  - the nature and extent of site contamination remaining on or below the surface of the site
  - suitability of the site for a sensitive use or another use or range of uses, and
  - what remediation is or remains necessary for a specified use or range of uses
- fulfil the requirements relevant to the reason for the audit being carried out and the audit purpose (as detailed in section 3 of this guideline).

The opinion of the auditor is not limited to an evaluation of the adequacy or quality of any assessment work undertaken by others. Rather, the auditor expresses their independent opinions regarding the actual condition of the site at the time the audit is completed, based on the available information.

An auditor may choose to directly supervise other staff to support the auditor in carrying out the audit. Support staff are distinct to the specialist team that an auditor is required to have through conditions of accreditation. Staff supporting the auditor are individuals, usually from within the same company employing the auditor, whose role is to assist the auditor in carrying out the audit and who are directly supervised by the auditor.

An auditor may rely heavily on their support staff, but remains personally responsible for the audit and is expected to retain an ongoing and direct involvement in the audit process. The EPA expects that any opinions prepared or provided by support staff on assessment and/or remediation work, as well as requirements for further work provided during the course of an audit, are reviewed and clearly endorsed by the responsible auditor. The EPA expects that where an auditor is providing feedback on a consultant's work or requesting further work, this correspondence should be signed and/or issued by the auditor.

5.7 Use of the title 'site contamination auditor'

An auditor is entitled to use the title 'site contamination auditor (accredited pursuant to Division 4 of Part 10A of the Act)' when acting in the capacity of an auditor.

A person accredited as an auditor only acts in the capacity of an auditor when they are carrying out an audit or performing the role of an auditor. In all other situations, for example when that person is involved in any other site assessment or remediation or validation, that person is considered to be acting as a consultant.

Auditors should not use their title to provide opinions on the suitability of land for a proposed or intended use if not carrying out an audit of that land (refer to Part 3 of this guideline).

Auditors must only use their title in the following documents they have prepared in their capacity as an auditor:

- notification of audit commencement forms
- notification of audit termination forms
- interim audit advice forms
- audit reports
- audit statements
- annual returns
- renewal of accreditation applications
- correspondence confirming implementation and compliance with conditions of an audit report (unless the condition required a subsequent audit report to be completed)
- correspondence confirming compliance with conditions of auditor accreditation
- any other formal written communication acting in their capacity as an auditor relating to:
  - correspondence (including marketing materials) related to audit proposals
  - business cards and other professional materials
  - carrying out an audit (for example communication to the EPA, consultants or planning authorities)
  - opinions on assessment and/or remediation work and requirements for further work provided during the course of an audit
  - letters of auditor review and/or endorsement
  - provision of expert witness testimony
  - auditor accreditation
  - legislation, the audit system, or guidelines issued by the EPA.

MGR9 Use of the title 'site contamination auditor'
An auditor must only use the title 'site contamination auditor' in accordance with the EPA publication *Guidelines for the site contamination audit system*.

5.8 Honesty in reporting

Section 103ZB of the EP Act places requirements on people providing information to auditors and consultants. Sections 119 and 120A describe penalties for persons providing false or misleading information and reports to the EPA. Auditors should inform their clients and the consultants of these provisions prior to commencing an audit. For further information refer to the *Guidelines for the assessment and remediation of site contamination*.

6 Auditor accreditation

This section outlines the requirements that individuals[37] must satisfy before they can be considered for accreditation as a site contamination auditor and have accreditation granted under the EP Act. These requirements are based on the guidance provided in Schedule B9 of the ASC NEPM. The Commonwealth process for mutual recognition is also described (refer section 6.10).

6.1 Application process for initial accreditation

Applications for initial accreditation as an auditor are required to be made in accordance with the provisions set out in Division 4 of Part 10A of the EP Act, Regulations and this guideline. The key steps in the initial accreditation process are shown in Figure 4.

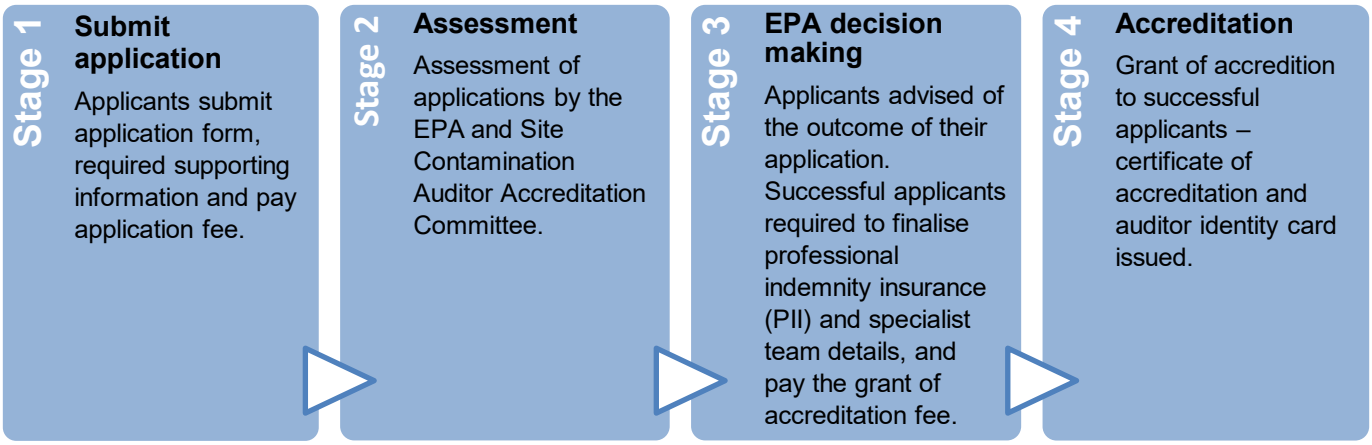

Figure 4 Key steps in the initial auditor accreditation application process

The application requirements and eligibility criteria are detailed in sections 6.2 to 6.4 of this guideline.

The EPA will call for applications from persons interested in becoming accredited by public advertisement and through relevant organisations and associations. Details on open application periods will also be placed on the EPA website. It is envisaged that applications for accreditation will be called once every two years. There is no restriction on the number of auditors who are accredited in SA.

Persons who are already registered as an auditor in equivalent schemes in other Australian jurisdictions may apply for accreditation in SA under the provisions of the Commonwealth *Mutual Recognition Act 1992*. Details on how to apply under these provisions are provided in section 6.10.

6.2 Submitting an application

Application requirements for auditor accreditation are detailed in the EP Regulations.

Applications are to be made using the appropriate application form made available from the EPA website during an open application period.

Completed and signed applications including supporting information and the prescribed application fee are to be:

- sent to the EPA and marked to the attention of the person identified on the form
- received by the EPA no later than the advertised deadline.

In completing their applications, applicants should:

- include all information and documents identified on the relevant form
- ensure that all information is clearly expressed and logically set out

[37] Under section 103V(1) of the EP Act, only a natural person may be accredited as a site contamination auditor

- clearly and directly address the requirements.

It is important for applicants to note that if all application requirements and eligibility criteria (refer to sections 6.3 and 6.4) are not addressed, then it is likely that the applicant will not progress to an interview. Guidance is provided in the application form. If unsure, applicants are welcome to contact the EPA to discuss the level of detail that is expected. The EPA also holds information sessions for persons interested in submitting applications at the commencement of an application period. Details of these sessions will also be placed on the EPA website.

Applicants should be aware there are significant penalties under the EP Act in relation to provision of false or misleading information or reports to the EPA[38].

6.3 Eligibility for accreditation

Eligibility criteria for auditor accreditation are in the EP Regulations as follows:

Regulations 53(1) and 53(2) – Eligibility for accreditation

(1) A person is eligible for accreditation as a site contamination auditor if the person –

  (a) has the qualifications, experience, knowledge, understanding and ability set out in subregulation (2); and

  (b) is a fit and proper person to be accredited.

(2) An applicant for accreditation must –

  (a) have a tertiary qualification approved by the Authority in a relevant discipline; and

  (b) have a total of at least eight years of experience in the assessment and remediation of site contamination; and

  (c) have knowledge and understanding at a level satisfactory to the Authority of –

    (i) the provisions of the Act and these regulations relating to site contamination assessment, remediation, audits and auditors; and

    (ii) codes of practice, guidelines and standards prepared or approved by the Authority that apply to site contamination assessment, remediation, audits and auditors; and

    (iii) the field of site contamination assessment and remediation; and

  (d) have a demonstrated ability to put the knowledge and understanding referred to in paragraph (c) into practice, to a degree satisfactory to the Authority.

An applicant will be expected to be able to demonstrate their knowledge and understanding, competencies and abilities, at a level to the satisfaction of the EPA, in both their written applications and interviews.

6.4 Demonstrating the eligibility criteria

6.4.1 Academic qualifications

Applicants are required to hold qualifications relevant to the field of site contamination assessment and remediation in order to address the eligibility criteria identified in regulation 53(2)(a). Applicants may provide details of any additional relevant qualifications.

6.4.2 Relevant professional experience

Applicants are required to demonstrate that they have at least eight years of experience relevant to the field of site contamination assessment and remediation to address the eligibility criteria identified in regulation 53(2)(b). It is considered desirable (but not essential) that the applicant's experience include at least two years of relevant work in Australia.

[38] Section 119 of the EP Act. Refer also to section 5.8 of this guideline

A current and detailed curriculum vitae is required to be included with the application that:

- identifies relevant qualifications and shows the number of years of relevant experience held by the applicant
- details the applicant's relevant employment history
- demonstrates the applicant's expertise (including relevant project experience, professional organisation memberships and relevant publications).

6.4.3 Knowledge and understanding

Applicants are required to provide detailed statements which address the eligibility criteria identified in regulation 53(2)(c). Detailed statements are required to demonstrate the following:

- sound knowledge and understanding of the relevant provisions of the EP Act and Regulations – it is expected that this statement will also address relevant policies and aspects of other legislation that may be relevant to site contamination assessment, remediation and auditing
- sound knowledge and understanding of codes of practice, guidelines and standards prepared or approved by the EPA that apply to site contamination assessment, remediation, audits and auditors – it is expected this statement will also address relevant guidance published in other jurisdictions, in addition to relevant national and international publications[39], including a sound understanding of the ASC NEPM
- knowledge and understanding of the field of site contamination assessment and remediation – it is expected that this statement will demonstrate the applicant's thorough understanding of relevant principles and methods for conducting risk-based assessments of site contamination in accordance with the ASC NEPM, remediation and auditing
- up-to-date knowledge of relevant scientific and technical developments, and regulatory and legal developments relevant to site contamination, identifying how this knowledge is maintained and a commitment to continued professional development relevant to site contamination
- ability to meet the required technical competencies (refer section 6.4.4 of this guideline) – it is expected that this statement will address the key technical issues, challenges and complexities associated with the competencies in addition to demonstrating the expertise of the applicant to the required level (it is not appropriate to simply refer to sections of a report as demonstration). If competencies are not held by the applicant to the required level, the applicant is expected to address how these competencies will be demonstrated (eg through nomination of people who will provide expertise as a specialist team member – refer to section 6.12 of this guideline).

6.4.4 Technical competencies

A person who applies for accreditation must be able to demonstrate that they hold the following specified levels of experience and competencies:

- extensive experience and a high level of expertise in the core competencies:
  - assessment of contaminant exposure pathways
  - site contamination assessment and remediation including management
  - evaluation and interpretation of chemical and analytical data
  - soil sampling design and methodology
  - soil gas sampling design and methodology
  - groundwater sampling design and methodology
  - identification of potential human health and environmental risks
  - quality control/quality assurance procedures

[39] Key documents considered relevant by the EPA to site contamination auditing are described in Appendix 1 of this guideline

  - risk communication.

- high level of expertise and demonstrated experience in at least five of the following competencies, and otherwise, basic proficiency and proven theoretical and practical knowledge in the remaining competencies and demonstration of how all of the remaining specialist technical competencies will be addressed to a high level of expertise in the conduct of an audit:
  - air quality (volatile emissions and dust) assessment relating to site contamination
  - assessment of impacts on groundwater from site contamination
  - contaminant fate and transport
  - environmental chemistry
  - environmental sampling
  - environmental toxicology
  - geology
  - human health and ecological risk assessment relating to site contamination
  - human toxicology
  - hydrogeology
  - identification of contaminants of concern from past industrial land uses
  - work health and safety relating to site contamination
  - remediation technologies and geo-technology
  - soil science
  - statutory and environmental planning.

Where applicants do not hold a high level of expertise and demonstrated experience in one of the identified competencies, this technical expertise is to be demonstrated through access to a nominated specialist team member. Details of specialist team members will be required to be provided using the appropriate EPA form if an application for accreditation is successful. It is considered desirable that as much supporting information regarding a nominated specialist team member is provided in an application to support the applicant's statement (refer to section 6.12 of this guideline).

It is desirable that applicants (and specialist team members), nominating in the specialist technical competencies such as soil science, geology, hydrogeology, human toxicology and environmental toxicology, are able to demonstrate that they hold directly relevant:

- qualifications
- experience (at least eight years)
- individual certification or memberships with professional bodies.

6.4.5 Demonstrated abilities

In order for an applicant to demonstrate their ability to a degree satisfactory to the EPA, as required in regulation 53(2)(d), an applicant must provide summary details demonstrating that their professional knowledge, understanding and experience in site contamination assessment and remediation is broadly based in terms of:

- the scale of work carried out
- the range of chemical substances encountered
- the scope of work performed.

Applicants are expected to be able to demonstrate that their experience includes the following:

- site contamination or environmental auditing experience (for example as an auditor's representative or support team member, auditor's specialist team member and/or consultant for a site which has been subject to an audit)
- assessment and remediation of complex environmental issues involving land, air and/or aquatic environments
- complex sampling design, data collection and interpretation
- at least two years in the role of a supervisor or project manager responsible for forming and managing multi-disciplinary teams for site assessment and remediation which contain the appropriate balance of expertise for complex assessments.

Applicants should also be able to demonstrate they have carried out and delivered site contamination work consistent with relevant legislation and guidelines.

6.4.6 Professional development

Applicants should be able to demonstrate a commitment to continued professional development (CPD) relevant to site contamination. Applicants should provide details of training or other professional development undertaken, particularly relating to the applicant's skills required to become an auditor. This may include active membership of and/or certification by one or more relevant professional societies or organisations; private study or relevant publications; and attending relevant conferences, seminars and training courses. Refer to section 7.6 of this guideline for auditor CPD requirements in maintaining their accreditation.

6.4.7 Additional supporting information

Applicants are to provide the following supporting information with their application:

- Two or more relevant reports or studies on site contamination, which were authored or substantially prepared by the applicant. The reports should be final reports and have been completed no more than two years prior to the date of application. The role of the applicant in conducting the studies and in preparing the reports is to be clearly indicated. The reports should clearly support the statements and the information provided in the application.
- Before the application is submitted, consent to release the reports to the EPA should be obtained from the client(s) (unless the report is available on the EPA Public Register, refer to section 18.3). All reports will be treated as confidential and be kept by the EPA unless it is requested they are to be returned. Summary information about additional reports and studies in which the applicant has made a major contribution may also be presented.
- A commitment that a professional indemnity insurance policy (PII) is, or will be, held by the applicant, or on the applicant's behalf by the company employing the applicant, which demonstrates an appropriate level of cover (refer to section 6.9 of this guideline).
- Nominated referees who are not directly associated with the applicant, or the company employing the applicant, and who have direct and recent knowledge of the applicant and can confirm their experience and expertise.

As prescribed by the EP Regulations[40], applicants are asked to consent to allowing the EPA to make enquiries with other jurisdictions and to make declarations regarding offences under legislation, disciplinary actions against accreditation and bankruptcy. Applicants may also be requested to complete a National Police Records Check during the application process.

6.5 Site contamination auditor accreditation committee

The site contamination accreditation committee (accreditation committee) was established under section 17 of the EP Act, to advise the EPA in relation to accreditation[41]. The accreditation committee comprises a Chair (EPA Director), a human health toxicologist from the Department of Health, a senior officer from a similar committee in another jurisdiction

40 Regulation 54(3)

41 The accreditation committee is defined in regulation 3

in Australia, and up to two non-regulatory persons considered to be experts in site contamination. The Manager Site Contamination and Principal Adviser Site Contamination (Audit) advises and supports the accreditation committee.

The role of the accreditation committee is to:

- review and assess auditor applications (which may include applications for renewal of accreditation) referred to it by the EPA against the auditor application requirements and eligibility criteria prescribed in the EP Regulations (and described in section 6 of this guideline)
- interview selected applicants
- make written recommendations on the suitability of a person to be accredited as an auditor to the EPA Chief Executive.

Members of the accreditation committee are subject to the conflict of interest provisions of the EP Act. Accreditation committee members are required to disclose any direct or indirect pecuniary or personal interest between themselves and the applicant[42].

6.6 Assessment of applicants

The EPA's assessment of the eligibility of an applicant seeking auditor accreditation has been designed to be consistent with the national guidance provided in Schedule B9 of the ASC NEPM. The process is designed to assess the competency of an applicant consistent with EPA policy and legislative requirements, and is based on both written and oral examinations.

The assessment process involves two stages:

- the review of a person's written application firstly through a preliminary screening by the EPA, followed by consideration of the written application by the accreditation committee (stage 1); and, if selected:
- a written exam and interview with the accreditation committee, if selected (stage 2).

6.6.1 Screening of written applications

The submission of application forms, supporting documentation and the prescribed application fee will be checked by the EPA on receipt and assessed against relevant provisions of the EP Act and Regulations. Applications will be screened against the criteria described in the preceding sections.

As prescribed in the EP Regulations:

Regulation 54(4) – Application for accreditation
The Authority may, on receipt of an application for accreditation under this regulation, refer the application to an accreditation committee and request the committee's written recommendations in relation to the application within a period specified in the notice (being not less than 14 days after referral of the application to the committee).

All applications will be referred to the accreditation committee (refer to section 6.5) for review.

Written applications are expected to clearly and directly address all application requirements and eligibility criteria and should:

- be logically set out
- demonstrate the depth and breadth of the applicant's knowledge, understanding and ability
- include concise detailed statements addressing the eligibility criteria prescribed in regulation 53(2)c and d – statements should contain sufficient detail to demonstrate an applicant's knowledge, understanding an ability in relation to the specific criteria/competency

[42] Section 18 of the EP Act

- be clearly and accurately referenced, linked and cross-referenced
- not contain numerous and/or systemic quality issues such as typographical and spelling errors.

Applications which are incomplete or have not satisfactorily met the application requirements or demonstrated the eligibility criteria set out in the EP Act, Regulations or this guideline, will not be considered for interview.

Applicants will be informed in writing by the EPA whether they have been selected to progress to the interview stage. Selected applicants will be provided with further details of the interview process at that time and informed of the accreditation committee membership prior to the interview. This will enable consideration of potential conflict of interest issues by the applicant. Where there is an actual or perceived conflict of interest, the applicant should notify the EPA.

If the EPA and/or accreditation committee requires further information to properly assess an application, this will be requested by written notice to the applicant.

6.6.2 Further assessment of applicants

Applicants who are considered to have satisfactorily met the application requirements and who appear to have demonstrated the eligibility criteria in their written applications to a satisfactory level and be eligible for accreditation, will be invited for further assessment. Applicants who are selected to progress to further assessment will be invited to sit an open-book written examination. Applicants who pass will be invited to attend an oral interview with the accreditation committee.

Applicants whose applications are incomplete or do not satisfactorily meet the application requirements or demonstrate the eligibility criteria set out in the EP Act, Regulations or this guideline, will typically not be considered for further assessment.

The selected applicants will be provided with a written overview of the examination and interview process, and informed of the accreditation committee membership prior to the examination and interview taking place. This enables applicants to consider and report any potential conflict of interest issues. Where there is an actual or perceived conflict of interest, applicants are advised to notify the EPA.

Applicants will be asked advise the EPA whether they have any medical or other needs to assist the EPA in making any necessary arrangements during the assessment stage, as may be appropriate. Where possible and practicable to do, the EPA will seek to accommodate the applicant's needs.

The accreditation committee will interview selected applicants using a case study as the basis for the interview. Applicants will be provided with the case study immediately prior to the commencement of the interview. The applicant will then be allowed a period of time to review the case study and asked to address a series of questions. If desired, the applicant is welcome to bring notes, texts and other documents to the interview to assist with this process. The EPA will also provide selected reference materials. Applicants should be aware that the accreditation committee may ask to examine any documents brought to the interview. At the conclusion of the interview the applicant will be asked to return the case study and any notes.

Applicants are not permitted to contact another person, by any method, at any time during the interview process.

During the interview, the accreditation committee will test the applicant's knowledge, understanding and ability to deal with issues associated with site contamination assessment, remediation, management and auditing. This process is intended to assess the applicant against the eligibility criteria prescribed in the Regulations. It is also intended to assess the applicant's knowledge and understanding described in their written application.

The applicant's responses will be assessed on their ability to:

- demonstrate the knowledge, understanding and ability described in their written application
- competently and objectively review data relating to the assessment
- correctly identify the key risks posed to the environment and human health
- communicate their knowledge and understanding effectively while demonstrating the logical basis of the decision-making processes used

- carry out the role and responsibilities of an auditor.

One or more persons who are not members of the accreditation committee may be present during an accreditation committee meeting with the consent of the accreditation committee.

The accreditation committee will then make recommendations in relation to the accreditation of each applicant to the Authority.

6.6.3 Determination to grant accreditation

As prescribed in the EP Regulations:

Regulation 55 – Grant of accreditation

(1) The Authority may refuse an application for accreditation if –

  (a) the person has not made due application for accreditation under this Division; or

  (b) the applicant has not complied with a requirement of this Part or a requirement of the Authority made in connection with the application; or

  (c) the Authority is not satisfied that the applicant is eligible for accreditation.

(2) The Authority is not required, if it has assessed a person's qualifications, experience, knowledge, understanding or ability to be appropriate for accreditation, to assess the person's qualifications, experience, knowledge, understanding or ability again on a subsequent application by the person for accreditation (or renewal of accreditation).

(3) The Authority may decline to grant accreditation unless or until the fee for the grant of accreditation as set out in Schedule 4 is paid.

The Authority will make its determinations on the grant of accreditation taking into account the recommendations of the accreditation committee and other matters, as prescribed in the EP Regulations:

Regulation 53(3) – Eligibility for accreditation

For the purposes of determining whether a person is eligible for accreditation under subregulation (1), the Authority may, without limitation, take into account –

  (a) any recommendations made in relation to the person by an accreditation committee; or

  (b) any offence committed by the person against the Act, these regulations or legislation similar to these regulations in force in another State or a Territory of the Commonwealth; or

  (c) any offence punishable by imprisonment committed by the person; or

  (d) the cancellation or suspension of accreditation or similar authority held by the person, or the disqualification of the person from practising as a site contamination auditor, under these regulations or under legislation similar to these regulations in force in another State or a Territory of the Commonwealth; or

  (e) whether, during the period of 10 years preceding the application for accreditation, the person has been an undischarged bankrupt or subject to a composition or deed or scheme of arrangement with or for the benefit of creditors.

Both successful and unsuccessful applicants will be advised in writing by the EPA of the outcome of their application. All applicants will be offered the opportunity to receive direct feedback from the EPA regarding the outcome of their application. Applicants who may have been unsuccessful in their application are advised to seek this feedback as it may assist in any future applications.

A person may seek a review of a decision of the EPA[43] (refer to section 6.13).

Where successful, applicants will also be advised of the term and conditions of their accreditation and required actions to enable their accreditation to proceed. For accreditation to be granted, successful applicants will be required to first:

- pay the prescribed grant of accreditation fee[44]
- provide relevant professional indemnity insurance details (refer to section 6.9)
- provide details of their specialist team (refer to section 6.12).

Newly accredited auditors will then be provided with a certificate of accreditation and an auditor identity card (refer to section 6.11). Newly accredited auditors are expected to attend an induction session for an overview of the legislation, the audit process and the relevant guidelines issued by the EPA.

6.7 Term of accreditation

As prescribed by regulation 59(1), accreditation remains in force for a term not exceeding five years. The term of accreditation is determined by the EPA and specified on the grant and renewal of accreditation. Initial accreditation will usually be granted for a period of one year. Longer terms of accreditation may be granted where an auditor has been previously granted accreditation for several continuous terms, is actively participating in a significant number of audits and substantive issues have not been identified in the conduct of the auditor's work.

6.8 Conditions of accreditation

As prescribed in regulation 56 of the EP Regulations:

Regulation 56(1) – Conditions of accreditation

(1) The Authority may impose –

(a) a condition requiring the person to undertake ongoing professional development; and

(b) any other conditions the Authority thinks fit.

There are seven conditions of accreditation prescribed in regulation 56(2)[45], which the EPA is required to apply to every accreditation:

Regulation 56(2) – Conditions of accreditation

(2) Without limiting the effect of subregulation (1), the Authority must make it a condition of every accreditation that –

(a) the holder of the accreditation will, when acting as a site contamination auditor, act diligently, impartially and conscientiously; and

(b) the holder of the accreditation will maintain arrangements enabling him or her to have access, from time to time as necessary in the course of carrying out site contamination audits, to a team of persons, constituted in a manner approved by the Authority, to provide technical expertise in fields outside his or her personal expertise; and

(c) the holder of the accreditation will not, when acting as a site contamination auditor, fail to comply with any guidelines issued from time to time by the Authority (insofar as they may be relevant in the circumstances of any particular case); and

(d) the holder of the accreditation will hold or be covered by a professional indemnity insurance policy approved by the Authority; and

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43 Regulation 63

44 As prescribed in regulation 55(3), the Authority may decline to grant accreditation unless, or until, the fee for the grant of accreditation is paid

45 Regulation 56(2)(a) to (g)

(e) the holder of the accreditation will have an identity card issued by the Authority available for inspection at all times when present as a site contamination auditor at a site the subject of site contamination assessment or remediation; and if the holder of the accreditation is charged with or convicted of –

(i) an offence against the Act, this Part or legislation similar to this Part in force in another State or a Territory of the Commonwealth; or

(ii) an offence punishable by imprisonment,

he or she will, within 14 days, give written notice of the charge or conviction to the Authority containing details of the offence; and

(f) if the holder of the accreditation –

(i) is dismissed from employment in response to allegations of misconduct; or

(ii) resigns from employment following allegations of misconduct,

he or she will, within 14 days, give written notice of that fact to the Authority.

These conditions have been highlighted where relevant throughout this guideline.

Regulation 56 further prescribes:

Regulations 56(3) and 56(4) – Conditions of accreditation

(3) The Authority may, by written notice, vary or revoke a condition, or impose a condition, of a person's accreditation as a site contamination auditor.

(4) A condition may only be imposed or varied –

(a) on application by the site contamination auditor or with the auditor's agreement; or

(b) after giving the site contamination auditor reasonable notice of the proposed condition or variation and allowing the auditor at least 14 days within which to make submissions to the Authority in relation to the proposed condition or variation.

Conditions may be imposed by the EPA at the time of grant or renewal of accreditation, or during the term of an accreditation.

Non-compliance with conditions of accreditation may be grounds for disciplinary action by the EPA[46] (refer to section 17.12) and as prescribed in the EP Regulations:

Regulation 57 – Offence to contravene certain conditions of accreditation

If a site contamination auditor contravenes a condition of the person's accreditation that requires the Authority to be notified of a matter or imposes a restriction on the work undertaken by the person, the person is guilty of an offence.

Maximum penalty: $4,000.

Expiation fee: $300.

A person may seek a review of a decision of the EPA[47] (refer to section 6.13).

46 Regulation 60 prescribes causes for disciplinary action against an auditor by the EPA

47 Regulation 63

6.9 Professional indemnity insurance

It is a prescribed condition of accreditation that the holder of auditor accreditation will have or be covered by a professional indemnity insurance (PII) policy approved by the EPA[48].

In approving a policy, the EPA will take into account:

- whether the PII specifically covers for auditor activities undertaken according to the EP Act
- any exclusions of the PII policy limit cover for work carried out as an auditor.

At the time of application, applicants are asked to provide an undertaking that they, or their employer on the applicant's behalf, will obtain such cover if their application is successful.

Successful applicants will be required to provide evidence of this cover prior to the grant of accreditation. No accreditation will be granted until evidence of adequate PII (ie a certificate of currency) and relevant details of the cover are provided to, and approved, by the EPA.

Applicants should satisfy themselves as to the level and duration of insurance that will be adequate to cover their activities as an auditor. The EPA would generally expect a minimum level of cover of $5 million in the aggregate.

The amount of cover is required to be adequate in respect of any liability for claims for damages for professional negligence on their part arising out of auditing activities under the EP Act. The professional indemnity insurance policy may be written on either an occurrence or claims-made basis. If the PII policy is written on a claims-made basis, auditors should also undertake to hold run-off (or equivalent) insurance that provides PII insurance cover for work conducted during the period of accreditation and for an adequate period after accreditation has ended.

The minimum period of cover from the end of accreditation should be seven years. Auditors should obtain professional advice to determine if a longer period of run-off cover is appropriate for their circumstances. Auditors also need to ensure that the cost for excess is acceptable, should a claim be made.

6.10 Applications under mutual recognition

Any auditor registered/accredited in an equivalent occupation[49] in another state or territory of Australia may, at any time, apply for accreditation in SA under the Commonwealth *Mutual Recognition Act 1992* (MR Act) in accordance with the mutual recognition principle. The *Mutual Recognition (South Australia) Act 1993* adopts the MR Act in SA.

The mutual recognition principle is that a person who is registered in one state or territory for an occupation is entitled to apply for registration to carry out an equivalent occupation in another state or territory, subject to the provisions of Part 3 of the MR Act. Registration includes accreditation.

An application under mutual recognition provisions may be made at any time in writing, in accordance with section 19 of the MR Act.

Applications under mutual recognition are required to be submitted to the EPA accompanied by the information and documentation specified in the MR Act. The statements and other information in the notice are required to be verified by a statutory declaration. To assist in this process, it is expected that mutual recognition applications will be made using the application form available from the EPA website.

Applications made under mutual recognition are exempt from payment of the application fee[50] but applicants are required to pay the grant of accreditation fee in order to carry out the activities of an auditor.

Once a mutual recognition application is lodged, the EPA will evaluate the application in accordance with the MR Act (usually within one calendar month after lodgement).

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48 Regulation 56(2)(d)

49 Determined in accordance with Division 4 of the Commonwealth *Mutual Recognition Act 1992*

50 Regulation 54(2).

The applicant will receive notification of the decision in accordance with section 24 of the MR Act. If successful, the auditor will receive a certificate of accreditation and auditor identity card as outlined in section 6.11 of this guideline. The term and conditions of accreditation is explained in sections 6.7 and 6.8.

Subsequent payment of annual fees, application for renewal of accreditation, annual returns and other aspects relating to accreditation will follow the normal processes set out in the EP Act, Regulations and this guideline.

6.11 Certificate of accreditation and identity card

Following payment of the statutory fee an auditor will be presented with a certificate of accreditation by the EPA. This certificate will include:

- the auditor's accreditation number
- a statement that the person is a site contamination auditor accredited under the EP Act
- the accreditation term including start and end date, and
- any conditions imposed on the auditor's accreditation where applicable.

An auditor identity card will also be issued containing the auditor's name and a current photograph in addition to the statement and expiry date of the accreditation term.

The certificate of accreditation and identity card are subject to prescribed conditions of accreditation (refer to section 6.8 of this guideline).

6.12 Auditor's specialist team

It is a prescribed condition of accreditation that auditors have access to individuals, as part of an specialist team:

Regulation 56(2)(b) – Conditions of accreditation
the holder of the accreditation will maintain arrangements enabling him or her to have access, from time to time as necessary in the course of carrying out site contamination audits, to a team of persons, constituted in a manner approved by the Authority, to provide technical expertise in fields outside his or her personal expertise.

Auditors are to ensure that members of this team of persons (specialist team) have relevant qualifications and expertise in the nominated competencies as described in section 6.4 and below.

Information required to be provided for each nominated specialist team member includes:

- a current, detailed curriculum vitae demonstrating the person's expertise in the area(s) nominated
- a signed agreement to provide expert support from nominated team members not employed by the same company as the environmental auditor – the area(s) of expertise in which support will be provided are to be clearly indicated.

Auditors are to ensure that individuals nominated as a members of an auditor's specialist team:

- are able to demonstrate a high level of expertise or knowledge in the competencies where the applicant does not personally possess such expertise or knowledge to the level required
- hold qualifications/certifications relevant to and supporting the nominated competencies (refer to section 6.4.4 of this guideline)
- have at least eight years relevant experience
- are actively working in the field of the nominated competencies
- are current members of professional organisations/associations relevant to the field of the nominated competencies
- are able to demonstrate an ongoing commitment to professional training and development.

Auditors should satisfy themselves that team members, or team member's employers, hold adequate PII.

Auditors should inform specialist team members that in performing their role they are subject to the provisions and penalties of the legislation in relation to the carrying out of an audit and also the conflict of interest provisions (refer to section 5.2 of this guideline).

Auditors should also advise specialist team members of the provisions relating to providing false or misleading information and reports in the EP Act[51].

The EPA is to be advised of any changes in the details of an auditor's specialist team using the form available from the EPA website. Submission of the form in either printed or digital (in PDF or Microsoft Word format) format is acceptable.

6.13 Reviews of a decision by the EPA

A person can make a submission to the EPA and seek a review in certain circumstances:

Regulation 63 – Reviews [section 103V(2)(i)]

(1) A person may seek a review by the South Australian Civil and Administrative Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* of a decision of the Authority—

  (a) refusing to grant an application by the person for accreditation or renewal of accreditation; or

  (b) determining the term of the person's accreditation; or

  (c) imposing or varying a condition of the person's accreditation or determining a matter in relation to such a condition; or

  (d) suspending or cancelling the person's accreditation or imposing a disqualification on the person.

(2) Subject to this regulation, an application for review must be made within 1 month after the making of the decision.

(3) The Authority must, if so required by the person, state in writing the reasons for the Authority's decision.

(4) If the reasons of the Authority are not given in writing at the time of making the decision and the person to whom the decision relates (within 1 month of the making of the decision) requires the Authority to state the reasons in writing, the time for making an application for review runs from the time at which the person receives the written statement of those reasons.

If a person disagrees with a decision made by the EPA, the person is encouraged to contact the Manager Site Contamination to discuss the decision in the first instance. If the issue remains unresolved it may be raised with the EPA Chief Executive.

[51] Sections 103ZB, 119 and 120A of the EP Act. Refer also section 5.8 of this guideline.

7 Renewal and maintenance of accreditation

This section outlines the requirements that auditors must satisfy for the renewal and maintenance of their accreditation and annual reporting. The key stages for an auditor in maintaining their accreditation is shown in Figure 5.

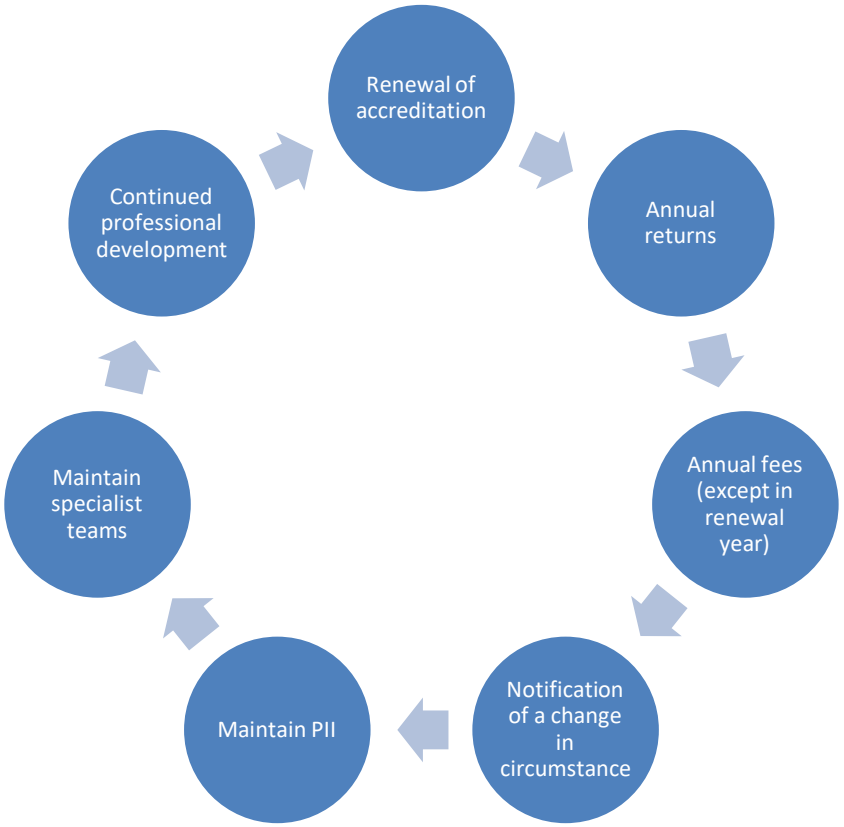

Figure 5 Key components in the maintenance of auditor accreditation

7.1 Application for renewal

Application requirements for renewal of auditor accreditation are prescribed in the Regulations as follows:

Regulation 59(2) – Term and renewal of accreditation
An application for renewal of accreditation must – (a) be made not less than 90 days before the expiry of the accreditation; and (b) be made to the Authority in the manner and form approved by the Authority; and (c) be signed by the applicant and completed in accordance with the instructions contained in the form; and (d) be accompanied by the fee for renewal of accreditation as set out in Schedule 4.

The EPA will send renewal reminders to auditors prior to the expiry date of their accreditation. Applications for accreditation renewal are to be made using the application form available from the EPA website. Renewal applications are preferred in digital (in PDF or Microsoft Word format) format.

Applicants are to include relevant information and documents as identified on the relevant form. This information includes:

- details of relevant training or other professional development undertaken by the auditor during the accreditation term
- details of any changes to the auditor's specialist team – auditors should also consider whether their specialist team members can continue to demonstrate relevant ongoing professional development, memberships and affiliations
- evidence of current professional indemnity insurance

- a recent passport-sized photograph (in colour).

Auditors are asked to consent to enquiries by the EPA and make declarations regarding offences under legislation, disciplinary actions against accreditation and bankruptcy. Applicants may also be requested to complete a National Police Records Check.

Late applications may be considered at the discretion of the EPA, as prescribed in the Regulations:

Regulation 59(3) – Term and renewal of accreditation

The Authority may, at the Authority's discretion, determine a late application for renewal provided that the applicant pays, in addition to the fee for renewal of accreditation, a late fee comprised $20 plus 1% of the fee for renewal of accreditation for the first month (or part of a month) for which the application is late and 2% of the fee for renewal of accreditation for each further month (or part of a month) for which the application is late.

Auditors should note that there are legislative requirements and significant penalties under the EP Act in relation to the provision of false or misleading information or reports[52].

7.2 Renewal determination

As prescribed in the EP Regulations:

Regulation 59(4) – Term and renewal of accreditation

The Authority may, on receipt of an application for renewal under this Division –

(a) refer the application to an accreditation committee and request the committee's written recommendations in relation to the application within a period specified in the notice (being not less than 14 days after referral of the application to the committee); and

(b) require the applicant to provide any information required by the Authority (verified, if the Authority so requires, by statutory declaration) for the purposes of determining the application including (without limitation) criminal record checks relating to the applicant; and

(c) refuse to renew the applicant's accreditation on any ground on which an application for accreditation may be refused under regulation 55 or on which accreditation may be cancelled under regulation 60.

In assessing an auditor's application for renewal, the EPA will consider the information provided with the application for renewal. In addition, the EPA will review all information compiled as a result of the quality assurance program carried out by the EPA as described in section 17.3 of this guideline.

Auditors seeking renewal of their accreditation may be requested to participate in an interview with the accreditation committee and/or the EPA. The interview may be conducted in person or via teleconference.

The determination to renew an auditor's accreditation, including the renewal term of accreditation and any other conditions, will take into consideration matters such as:

- the auditor's performance and conduct during their current accreditation term and any previous accreditation terms
- the results of the EPA quality assurance program relevant to that auditor
- the recommendations of the accreditation committee, if referred.

Auditors will be advised in writing of the outcome of the renewal application. Where successful, auditors will also be advised of the intended term and conditions of their renewed accreditation and any required actions to enable their renewal of accreditation to proceed.

[52] Section 119 of the EP Act. Refer also to section 5.8 of this guideline.

If unsuccessful, auditors will be advised by the EPA in writing of the reason(s) why their accreditation was not renewed. The EPA may refuse to renew the accreditation if for example outstanding issues regarding the auditor's performance during his or her previous period of accreditation are identified, such as:

- audits not completed in accordance with relevant legislation or guidelines
- identified breaches of legislation and/or conditions of accreditation.

A person may seek a review of a decision of the EPA[53] (refer to section 6.13 of this guideline).

7.3 Annual fees

Auditors are required to pay annual fees as part of their accreditation as prescribed in the EP Regulations:

Regulation 58 – Annual fee

(1) A site contamination auditor must, on or before the date falling one month after each anniversary of the grant of accreditation (other than in a year in which the accreditation is due to expire), pay to the Authority the annual fee for accreditation as set out in Schedule 4.

(2) If an accredited site contamination auditor fails to pay a fee in accordance with this regulation, the Authority may, by written notice, require the auditor to make good the default and, in addition, to pay to the Authority as a penalty for default $20 plus 1% of the annual accreditation fee for the first month (or part of a month) for which the default continues and 2% of the annual fee for accreditation for each further month (or part of a month) for which the default continues.

The EPA will send annual fee reminders to auditors. When annual fees are not paid, this may result in disciplinary action by the EPA (refer to section 17.12 of this guideline).

7.4 Annual returns

Once a year, auditors are required to provide the EPA with an annual return. Section 103Y(1) of the EP Act requires:

Section 103Y(1) – Annual returns and notification of change of address, etc

A site contamination auditor must, during the prescribed period each year, furnish the Authority with a return relating to site contamination audits for which the auditor is or was the responsible auditor, listing each such audit commenced, in progress, completed or terminated before completion during the period commencing—

(a) in the case of an auditor in his or her first year of accreditation—on the day on which accreditation was granted; or

(b) in any other case—on the first day of the prescribed period in the preceding year.

Penalty: Division 5 fine.

The prescribed period is defined in section 103Y(4) as the period commencing eight weeks before and ending four weeks before the anniversary of the day on which the auditor's accreditation was granted or last renewed.

Auditors are to complete and submit annual returns to the EPA using the form prescribed in Schedule 3 clause 5 of the EP Regulations[54] and available from the EPA website. The EPA will send reminders to auditors prior to the due date of the annual return.

Auditors should refer to section 17.13 for guidance on submitting annual returns where an auditor's accreditation may have been suspended either voluntarily or by the EPA.

53 Regulation 63

54 Provided for by section 103Y(2) of the EP Act and regulation 65

7.5 Change in circumstances

Section 103Y(3) of the EP Act requires:

Section 103Y(3) – Annual returns and notification of change of address, etc

A site contamination auditor must, within 14 days after any change of address or any other change relating to his or her activities as a site contamination auditor that affects the accuracy of particulars last furnished to the Authority, notify the Authority of the change.

Penalty: Division 5 fine.

This is considered by the EPA to include:

- any change in circumstance which may affect an auditor's eligibility for accreditation including changes to accreditation status in other jurisdictions
- any change to an auditor's specialist team
- any change to an auditor's or auditor employer's professional indemnity insurance
- changes to an auditor's employment status, eg if an auditor:
  - becomes unemployed
  - becomes self-employed
  - changes to another employer that is not the one they were employed by when they became accredited.
- where an auditor becomes aware of any information that is materially relevant to their accreditation which they have not previously disclosed to the EPA.

Failure to notify may result in disciplinary action being taken by the EPA (refer to section 17.12 of this guideline).

Additional notification requirements are specified in the EP Regulations. It is also a prescribed condition of accreditation (refer to section 6.8 of this guideline) that:

Regulations 56(2)(f) and (g) – Conditions of accreditation

(f) if the holder of the accreditation is charged with or convicted of –

(i) an offence against the Act, this Part or legislation similar to this Part in force in another State or a Territory of the Commonwealth; or

(ii) an offence punishable by imprisonment,

he or she will, within 14 days, give written notice of the charge or conviction to the Authority containing details of the offence; and

(g) if the holder of the accreditation –

(i) is dismissed from employment in response to allegations of misconduct; or

(ii) resigns from employment following allegations of misconduct,

he or she will, within 14 days, give written notice of that fact to the Authority.

7.6 Continued professional development

A commitment to continued professional development (CPD) activities enables auditors to:

- maintain their technical competence
- be better able to influence and lead others by example
- better serve the community of South Australia.

MGR10 Commitment to continued professional development
Auditors must be able to demonstrate to the EPA a structured commitment to ongoing training and continued professional development (CPD) relevant to site contamination that extend or update their knowledge, skill or expertise. The CPD is to be directly relevant to technical aspects of site contamination.

The EPA expects an auditor's structured CPD plan would include one or more of the following within a 12-month period:

- formal postgraduate study in an area relevant to site contamination
- short courses, workshops, seminars, and discussion groups, conferences, technical tours and technical meetings
- learning activities in the workplace that extend an auditor's competence base in the technical competencies identified in section 6.4.4
- private study which extends an auditor's knowledge and skills
- service activities to the site contamination industry profession including pro bono and structured mentoring activities
- the preparation and presentation of material for courses, conferences, seminars and symposia
- practitioners employed in tertiary teaching or academic research
- any other structured activities with the objective of building an auditor's knowledge and skills.

It is expected that auditors undertake a minimum of 50 hours of relevant CPD per calendar year.

Auditors are required to provide details of their CPD at the time of applying for accreditation renewal and when submitting annual returns. The details provided are expected to include:

- the activities undertaken
- which criteria/technical competencies the activities are relevant to (refer to section 6.4.4)
- the hours claimed
- the date the activity was completed
- the key learning outcome(s) of the activity
- details of the provider (if relevant)
- verification of participation (if requested by the EPA).

7.7 Voluntary suspension

An auditor may apply in writing to the EPA for their accreditation be voluntarily suspended for a specified period of time as prescribed in the Regulations:

Regulation 60(6) – Disciplinary action against site contamination auditors and voluntary suspension
The Authority may, on application by a site contamination auditor, suspend the auditor's accreditation for a specified period of not less than three months and not more than two years or the term of the accreditation, whichever is the shorter period, if the Authority is satisfied that the auditor does not intend to undertake site contamination audits during that period.

The EPA will consider applications for voluntary suspensions taking into account circumstances such as where an auditor is not able to carry out their role of auditor due to sickness, extended leave of absence from their employer or unavailability. The EPA will inform the auditor of the outcome of their application in writing.

The effects of a voluntary suspension will otherwise be the same as for suspension arising from disciplinary action, described in section 17.13 of this guideline.

7.8 Lapse of accreditation

If an auditor's accreditation lapses due to failure to renew then he/she is no longer an auditor accredited under the EP Act, and they must not:

- act in the capacity of an auditor
- issue an audit report or audit statement
- in any other way hold himself/herself out to be an auditor accredited under the EP Act.

Each of the above activities is an offence against the EP Act (refer to section 2.2 of this guideline).

7.9 Surrender of accreditation

The EP Regulations allow that an auditor may, with the approval of the EPA, surrender their accreditation[55] which must be submitted in writing.

7.10 Auditor meetings

The EPA will hold regular meetings or roundtables with auditors to discuss a range of topics relevant to auditor roles and responsibilities, such as the introduction of new guidelines and policy development. All auditors are expected to attend these meetings to ensure they maintain an up-to-date knowledge and understanding of legislation, policy and guidance.

Additional meetings may be held with individual auditors at any time.

[55] Regulation 61

Part 3

Carrying out audits

8 Audit authorisations and notifications

The legislation requires auditors to seek authorisation from and to notify the EPA in certain circumstances including potential conflict of interest, and audit commencement and termination. This section describes these notification requirements and also the circumstances which trigger mandatory guideline requirements for the notification of hazardous circumstances to the EPA.

Auditors also have legislative obligations in certain circumstances to notify the EPA of site contamination that affects or threatens underground water pursuant to section 83A of the EP Act (refer to section 14.2 of this guideline). Refer to the *Guidelines for the assessment and remediation of site contamination* for guidance on section 83A notification requirements.

8.1 Conflict of interest authorisation

The conflict of interest requirements which apply to auditors are described in section 5.2 of this guideline. An auditor may apply to the EPA in writing for an authorisation from section 103X(2) of the EP Act prior to the notification of audit commencement, setting out the reasons why the audit should proceed.

The EPA will consider each application on a case-by-case basis taking into account issues such as the nature of the potential conflict of interest and the potential for the integrity of the audit system to be compromised, as well as the following matters:

- any impact the auditor's prior involvement, or that of the company employing the auditor or an associate[56] of the auditor, may have in constraining the outcome of the audit
- if work previously carried out by the auditor (or the company employing the auditor or associate of the auditor) would not form part of the body of information that would ordinarily be reviewed and relied upon as part of the audit (ie would not be used to form an opinion on the condition of the site). This may include:
  - whether the scope of the previous work was limited in extent or not relevant to the audit
  - if significant time has elapsed since the work was completed, and the work is superseded by other more recent and relevant work.

If a conflict of interest is identified following commencement of an audit and authorisation from section 103X(2) is not subsequently granted by the EPA, the auditor should terminate the audit to ensure compliance.

If work has previously been carried out at the site by the auditor and/or the auditor's company, and the work is unrelated to the environmental condition of the site (eg geotechnical investigations), this may not prevent the auditor from carrying out the audit.

Auditors should also consider if any support staff under the auditor's supervision have previously conducted related assessment and/or remediation work at a site and whether this may result in a conflict of interest.

A potential for a conflict of interest exists if an auditor undertakes primary information collection (including sampling and analysis). However, an auditor may seek authorisation from the EPA under section 103X(2) where the auditor/auditor's company is seeking to carry out the primary collection of information (including sampling and analysis) in certain circumstances.

The EPA considers these circumstances would typically be limited and occur where:

- a site history report indicating that either a potentially contaminating land use or activity[57] had never occurred on the audit site or, if they had occurred, that any potential for site contamination to exist should be minimal, and
- the potential for the audit site to be impacted by chemical substances originating from another site where potentially contaminating land uses or activities have occurred or are occurring, is considered minimal.

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56 A definition of 'associate' is provided in section 3(2) of the EO Act

57 Including any potentially contaminating activity (PCA) as defined in the EP Regulations

The EPA will make a decision on each application (for authorisation) taking into account the following matters:

- whether there are factual grounds for believing that site contamination is unlikely to exist (for example through a site history and PSI)
- remediation would not be required for the specified intended use
- the need for any audit conditions to be imposed is unlikely.

When an auditor (or auditor's company) commences the primary information collection (including sampling and analysis) and subsequently the existence of site contamination is identified and/or a need for remediation becomes apparent, one of the following options should then be adopted by the auditor:

- continue as the auditor, requiring the immediate cessation of assessment and allowing the assessment and/or remediation to be completed by another person (not connected with the auditor or auditor's company). Where this occurs the auditor should advise the EPA as soon as reasonably practicable
- terminate the audit, and depending on the client's and/or the auditor's company agreement, either:
  - continue with the further assessment and/or remediation, or
  - cease any further work.

It is important to note that independent verification sampling by the auditor (refer to section 10.3 of this guideline) is not considered to constitute a conflict of interest and EPA authorisation is not required for this activity.

8.2 Audit commencement

The EP Act states:

Section 103Z(1) – Requirements relating to site contamination audits
A site contamination auditor must, within 14 days after the commencement of a site contamination audit for which the auditor is the responsible auditor, notify the Authority in writing of the person who commissioned the audit and the location of the land to which the audit is to relate. Penalty: Division 5 fine.

The obligation for an auditor to notify the EPA arises when an auditor is engaged to carry out an audit. This would generally be considered to be when:

- the auditor receives, and accepts, a request in writing or verbally to issue an audit report, or
- the auditor receives, and accepts, a request, in writing or verbally, to undertake audit work (independent review) with a view to issue an audit report.

An auditor is to then complete and submit a notification of commencement to the EPA using the notification form prescribed in Schedule 3 clause 6 of the EP Regulations[58] and available from the EPA website.

Required details include:

- current certificates of title (CTs) for the audit site identifying the portions of CTs are being audited. If portions of one or more CTs are being audited that do represent full plan parcels then an accurate survey plan prepared by a licensed surveyor should be provided to the EPA as soon as possible and also be included in the audit statement[59] and audit report.
- an audit site plan indicating the location and extent of the audit site.

Where a restricted scope is to be applied to the audit, the objectives form part of the audit details to be notified to the EPA (refer to sections 9.4 and 9.5).

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58 Provided for by section 103Z(3) of the EP Act and regulation 66(a)

59 Schedule 3 clause 8 of the EP Regulations. Refer also to section 13 and Appendix 3

Following notification, the EPA will:

- respond in writing to the auditor (with a copy to the client/site owner) acknowledging receipt of the notification, and provide an unique EPA reference number that will be assigned to the audit. This reference is to be used by the auditor in all subsequent correspondence relating to the audit and included in all records retained by the auditor and/or the company. The auditor's own reference should also be included.
- confirm the audit site details with the auditor and advise whether the EPA holds any information that may be relevant to the audit site
- inform the relevant local council and planning authority of the audit commencement
- record audit commencement details in the EPA Public Register (refer to section 18.3).

If there are any changes to the details of the audit such that the commencement no longer accurately reflects the audit being carried out (eg additional parcels of land have been added to the area being audited), an updated notification should be provided to the EPA. Other minor changes may be identified in the audit report.

If the audit is being commenced to comply with the requirements of an audit condition of a previously completed audit, a new commencement notification will need to be submitted to the EPA.

8.3 Termination of an audit before completion

The EP Act requires that if an auditor is unable to proceed with, or complete, an audit for any reason the EPA is required to be notified of the termination of the audit:

Section 103Z(2) – Requirements relating to site contamination audits
A site contamination auditor must, within 14 days after the termination before completion of a site contamination audit for which the auditor was the responsible auditor, notify the Authority in writing of the termination and the reasons for the termination. Penalty: Division 5 fine.

Auditors are expected to act in a risk-based manner in managing audits in progress (refer to section 5.3 of this guideline). If after reasonable enquiry, an auditor is not provided with requested information and/or updates or works are not being completed, the EPA would expect the auditor to terminate the audit. Information regarding the reasons for termination is to be provided to the EPA by the auditor. If there is any evidence of, or reason to believe that, site contamination exists at the site that is not being appropriately managed by a person(s) who has liability for that site contamination, the EPA is likely to initiate regulatory action with that person(s).

An auditor is to complete and submit notifications of termination to the EPA using the notification form prescribed in Schedule 3 clause 7 of the EP Regulations[60] and available from the EPA website.

Following notification, the EPA will:

- respond in writing to the auditor (with a copy to the client/site owner) acknowledging receipt of the notification
- inform the relevant local council and planning authority of the audit termination
- record audit termination details in the EPA Public Register (refer to section 18.3).

If the EPA is aware at the time of audit termination that site contamination exists at the audit site, particularly where off-site contamination originating from the audit site has been identified, the EPA may communicate directly with the person who has liability for the site contamination and, where considered necessary, initiate regulatory action.

60 Prescribed by section 103Z(3) of the EP Act and regulation 66(b)

8.4 Hazardous circumstances

A hazard that poses an imminent risk to human health or the environment, or a chronic risk to human health, is considered to be a 'hazardous circumstance'. Where a hazardous circumstance is identified in the course of undertaking assessment or remediation at a site, the EPA considers that the appropriate authorities should be notified. The hazardous circumstances should be addressed as a priority above other assessment or remediation work (refer also to section 17.2 of this guideline).

Examples of details that represent hazardous circumstances and relevant notification timeframes are provided in Table 5 of the *Guidelines for the assessment and remediation of site contamination*.

The EPA considers that if the additional examples below are identified by an auditor in the course of an audit they are also taken to be hazardous circumstances. Such circumstances include:

1 the audit has become inactive[61] due to continued and/or lengthy delays to the timely progression of work and where off-site contamination originating from the audit site has been identified which is known to represent a risk to human health and/or the environment

2 soil containing chemical substances not subject to management, present at the surface or near surface, which due to their concentration and properties pose a significant risk to human health and/or the environment off site

3 off-site transport of contaminated soil that results in harm or site contamination at the property of another person (excluding transport to a facility licensed by the EPA to accept the soil)

4 inappropriate management of remediation activities that results in significant impacts or risk to adjacent and nearby land and the community.

MGR11 Notification of hazardous circumstances and documentation in reports

Auditors must notify the EPA as soon as reasonably practicable if a hazardous circumstance described in the EPA publication *Guidelines for the site contamination audit system* is identified in the carrying out of an audit. Auditors must also at the same time, notify the audit client of the hazardous circumstances, to ensure that persons in control of the site implement, if possible, measures to eliminate or mitigate the hazardous circumstances as soon as reasonably practicable.

Notifications must be supported by the provision of relevant information which demonstrates that the hazardous circumstances exist. This information is expected to include: relevant field/analytical data; site plans; identification of sources, receptors and exposure pathways, and any proposed and/or completed actions and associated timeframes.

Notification of a hazardous circumstance must be made in accordance with the timeframes provided in the EPA publication *Guidelines for the assessment and remediation of site contamination* in order to safeguard human health and the environment.

Where the audit is being undertaken or has been completed subject to a hazardous circumstance notification the auditor must include a statement in interim audit advice and audit reports (as applicable) which documents the details of the notification, the actions taken in response to the hazardous circumstance and an opinion as to whether or not the hazardous circumstances still exist at the time of report completion.

Determining whether a particular situation represents a hazardous circumstance will require the auditor to exercise their independent professional judgement. Auditors are advised to discuss specific issues with the EPA if they are unsure as to whether a notification is warranted.

[61] The EPA considers an audit to be inactive when there has been no auditor activity within the last six months and/or where information or actions which have been required by the auditor have not been provided or completed, despite repeated requests by the auditor.

9 Audit site, elements and scope

This section describes considerations for auditors including defining the audit site, elements, audit scope, detail of information required and other considerations in carrying out audits based on the reason and purpose(s) of the audit.

9.1 Definition of the audit site

The audit site is to be a defined area of land[62] which by default, includes all land, water and ambient air (where the condition of the site may affect air quality) within the specified audit site boundaries.

The depth to which the condition of land is considered as part of an audit should be determined by the auditor having regard to:

- the likely depth of impact from activities conducted at the audit site
- the potential for any contamination present at depth to practically affect the intended use(s) of the audit site
- the potential for any contamination present at depth to affect or threaten water occurring naturally under the ground.

9.2 Elements of the environment

An element (or media) of the environment[63] means any of the principal constituent parts of the environment that may be impacted by site contamination.

Auditors should consider each of the following principal elements of the environment in an audit including:

- land (includes soil, sediments and soil vapour)
- air (includes any layer of the atmosphere) – in relation to site contamination it is expected this will typically consider air quality (volatile emissions and dust)
- water, meaning:
  - water occurring naturally above or under the ground
  - water introduced to an aquifer or other area under the ground
  - an artificially created body of water or stream for public use or enjoyment.
- organisms
- ecosystems
- human-made or modified structures or areas
- amenity values (eg odour, aesthetics).

Any other elements of the environment should also be considered where relevant, taking into account the reason and purpose of the audit. For further information on elements of the environment, refer to the *Guidelines for the assessment and remediation of site contamination*.

All relevant elements of the environment should be considered as part of the audit scope, unless a restricted scope is being applied.

For a restricted scope, one or more individual elements of the environment may be specified as being considered. In identifying the elements to be included for a restricted scope, consideration should be given to the likely or known impact of site contamination on each of the principal elements of the environment, taking into account the reason and purpose of the audit. For guidance on restricted scopes, refer to sections 9.3 to 9.5 in this guideline.

62 Definitions for land, water and air are provided in section 3(1) of the EP Act

63 A definition of environment is provided in section 3(1) of the EP Act, also refer to the Glossary

9.3 Application of a restricted scope

The applicability of a restricted scope will be informed by the reason and purpose(s) of the audit.

An audit scope may be restricted in relation to the potential impact of known or suspected site contamination resulting from an activity[64] on one or more elements of the environment. An activity may be taken to include all or specified parts of that activity. An audit scope may also be restricted to one or more of the chemical substances comprising the site contamination. These issues are to be considered as part of identifying the objectives of a restricted scope.

MGR12 Application of a restricted scope
Restricted scopes must not be applied to audits where a determination is to be made on the matter of whether a site is suitable for a sensitive use or another use or range of uses.

An audit subject to a restricted scope is not suitable to be relied upon by a planning authority for the purpose of making determinations as to whether land is suitable for a sensitive use or another use or range of uses.

A restricted scope may be applied at a site subject to regulatory requirements under the EP Act, for example a voluntary proposal or order (refer section 3.5 of this guideline). Where this is the case, the restricted scope will be subject to EPA approval to ensure consistency with the regulatory requirements.

Examples of when a restricted scope may be applied to audits include assessing:

- the nature and extent of one or more chemical substances in groundwater contamination originating from a site
- risks from known or suspected site contamination to receptors outside the site (ie off site)
- risk for landfill gas migration from a landfill to adjacent land
- effectiveness of a remediation plan following its implementation.

The process for applying a restricted scope is shown in Figure 6.

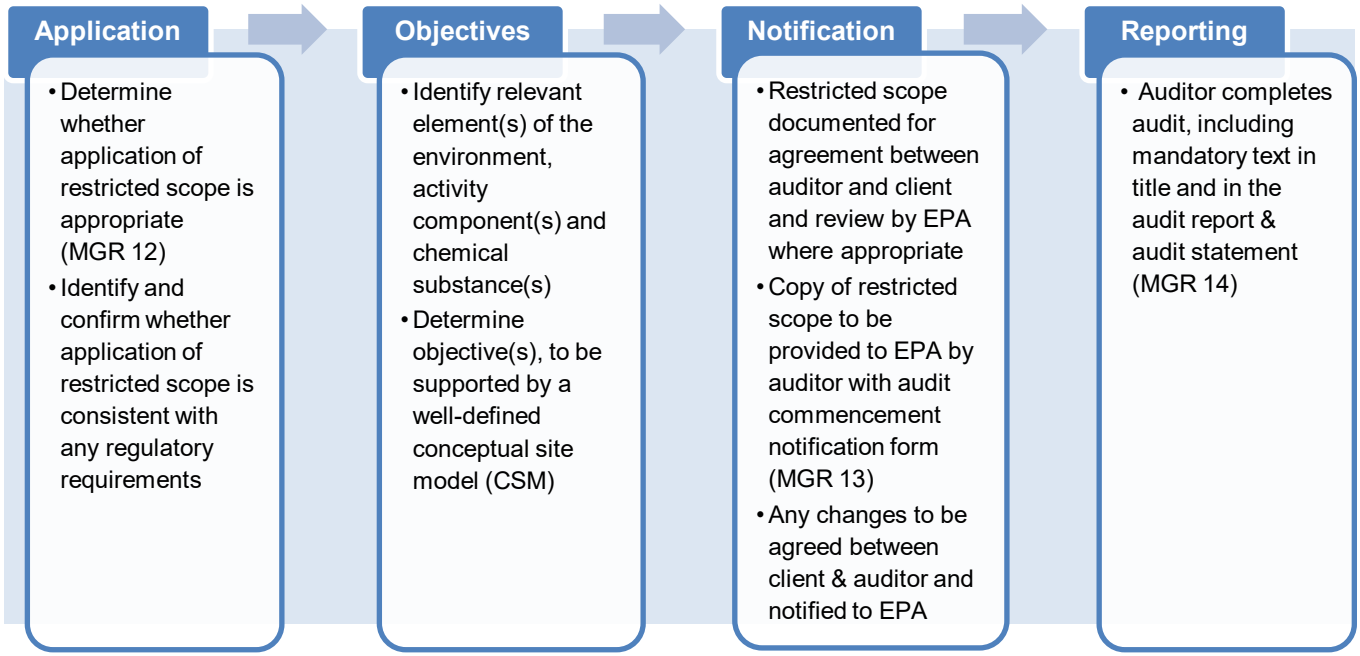

Figure 6 Restricted scope process

64 Section 3(1) of the EP Act

9.4 Identifying the objectives for a restricted scope

The objectives of restricting the scope of an audit may range from an assessment of multiple elements for a complex activity (such as large industrial premises) to a focused assessment of the impacts of a specific activity on a single element of site contamination. The objectives of a restricted scope should be supported by a well-defined conceptual site model prepared in accordance with the ASC NEPM.

A restricted scope may have multiple objectives and include:

- assessment as to whether risks from known or suspected site contamination have been adequately remediated
- identification of risks from known or suspected site contamination arising from an activity and an order of priority by which they should be addressed
- an independent assessment of the environmental performance of an activity and its relationship to known or suspected site contamination.

If a restricted scope is being applied to assess risks associated with off-site contamination arising from the audit site, auditors should discuss the restricted scope with the EPA prior to the commencement of an audit.

Where a restricted scope is being applied for an audit required through condition of a voluntary proposal or an order agreed to or issued under the EP Act, auditors are expected to consider and demonstrate the restricted scope objectives are consistent with and the support any relevant regulatory requirements.

9.5 Documenting a restricted scope

The matters to be identified in the restricted scope are to include, as appropriate:

- the objective(s) of the restricted scope
- the activity undertaken (in respect of which the restricted scope is to be applied)
- specific component(s) of the activity to be considered
- specific element(s) of the environment to be considered
- specific chemical substances to be considered
- the period of time over which the restricted scope is to be conducted
- any exclusions from the restricted scope.

MGR13 Provision of details of a restricted scope to the EPA

Where a restricted scope is to be applied to an audit, a copy of the restricted scope agreed to by the auditor and the client must be provided to the EPA by the auditor at the time of the notification of commencement of audit, or if this is not practicable in any case within three months of the audit commencement, as part of the details of the commencement.

If application of a restricted scope is identified as appropriate following a notification of audit commencement to the EPA, the additional audit details must be provided to the EPA by the auditor within 14 days of its agreement and, in any case, prior to audit completion.

Any subsequent variation to a restricted scope agreed to by the auditor and the client, must be documented and be provided to the EPA by the auditor within 14 days of its agreement and, in any case, prior to audit completion.

Review of the CSM and risk assessment in accordance with the ASC NEPM may be used to refine which elements of the environment or components of the activity are to be included in the restricted scope during the audit process. It may result in the restricted scope being varied to focus on those issues which present the most significant risk of harm to human health and/or the environment. Generally, this would involve a process of hazard identification, analysis of risks (assessment of likelihood, consequence and impact) and categorisation of the risks. The restricted scope may then focus on high-risk areas. If proposed, it is important to document how this process will be used.

Where a restricted scope is being applied at a site subject to regulatory requirements, the EPA will review the restricted scope to ensure consistency with the regulatory requirements. In these circumstances, discussions with the EPA in preparing the scope would be beneficial to ensure that any relevant regulatory requirements are being addressed.

MGR 14 Details of restricted scope to be included in audit report
Where a restricted scope has been applied to an audit, the restricted scope details and objectives must be clearly identified and described in any audit report and audit statement. The auditor must also include a statement which demonstrates the consistency of the audit with the restricted scope.

Refer to section 13 and Appendix 3 for further details regarding the format of audit reports where a restricted scope has been applied.

10 Considerations in carrying out audits

10.1 Issues for consideration

Auditors carry out audits and provide audit determinations taking into account the current condition of the site (ie the condition of the site at the time of audit completion).

Auditors are expected to take into account whether the assessment and/or remediation works carried out by others is consistent with relevant legislation, environment protection policies (EPPs) and relevant guidelines issued or endorsed by the EPA. Auditors are encouraged to provide comment in audit reports on the extent to which the assessment and remediation complies and/or is consistent with the requirements of any relevant EPPs and/or guidelines issued or approved by the EPA.

MGR15 Consideration of the *National Environment Protection (Assessment of site contamination) Measure 1999* (ASC NEPM) and relevant EPA guidelines

In carrying out audits, auditors must take into account whether the assessment of site contamination has been carried out in accordance with the ASC NEPM. Auditors must also take into account whether the assessment and remediation of site contamination has been carried out in accordance with relevant EPA guidelines.

Where the assessment and/or remediation approach differs or varies, the auditor must exercise their independent professional judgement in determining whether or not to accept the approach and provide in any audit report adequate and explicit justification for doing so.

Auditor risk assessments and risk characterisations need to be adequately justified by auditors through multiple lines of evidence consistent with the ASC NEPM.

Auditors must include a statement in audit reports which documents their compliance with the ASC NEPM and relevant EPA guidelines.

In carrying out an audit, auditors are expected to:

- make every reasonable effort to identify and review all relevant information available from the person who commissioned the audit, or which is readily available from other sources. This includes any previous assessments of the condition of the site (including any remediation and validation works)
- exercise independent and professional judgment in deciding whether or not they have sufficient information to provide an opinion regarding the nature and extent of any site contamination present, or remaining on or below the surface of the audit site
- determine relevant and appropriate audit criteria
- determine the need for additional information to adequately define the nature and extent of any site contamination on or below the surface of the audit site
- provide clear, objective and independent advice and feedback to consultants and clients in relation to the works being undertaken
- exercise independent and professional judgment in the adoption or endorsement of any approach that significantly differs from guidelines issued or approved by the EPA
- review conceptual site models and the results of assessment
- review and endorse any remediation options assessment, remediation strategy and plans for the audit site prior to the commencement of remediation
- obtain advice from appropriate specialist team members on specific issues as necessary, and document in the audit report where and from whom advice has been obtained
- satisfy themselves regarding the independence of their specialist team members when using them for a specific audit

- provide an independent opinion on the assessments and/or remediation in respect of known or suspected site contamination on or below the surface of a site
- exercise independent and professional judgment in making determinations and providing outcomes regarding the nature and extent of any site contamination remaining on or below the surface of the site, the suitability of the site for a sensitive use or another use or range of uses, and what remediation is or remains necessary for a specified use or range of uses (as appropriate)
- review and endorse any site or environmental management plans (SMP or EMP) that may be required by audit conditions
- assess compliance with legislation and guidelines issued by the EPA
- provide a clear, logical discussion of issues covered in the audit and substantiate the rationale for the auditor's determinations in the audit report.

10.2 Relevant information

An auditor should review any information relevant to the audit site including previous assessment, remediation or audit reports carried out by another person in order to satisfy the purpose of the audit. The information must be sufficient to satisfy the auditor's requirements.

Relevant information to be considered by the auditor may include:

- the location and definition of the audit site and its physical characteristics
- audit site history, land use (including adjacent land uses), and identifying any potentially contaminating activities and land uses carried out at the site (PSI)
- planning, zoning and development information
- statutory authorisations and exemptions relating to environmental, waste and wastewater management practices, and dangerous goods (including under other legislation) issued for the site
- the condition of, and activities conducted in the vicinity of the audit site to the extent that it may act as a source of contamination at the site (including where a site has been subdivided for audit purposes). For example, the auditor should consider the compatibility of land uses during staged developments and take reasonable steps to ensure that sections that have been certified as suitable for a proposed use are not re-contaminated by ongoing site works or adjacent contamination. The auditor should also consider separation distances from current activities surrounding the audit site[65] and proximity of former or current landfills (refer to section 14.9)
- relevant information held by the EPA and recorded in its Public Register in relation to, or in the vicinity of, the audit site
- geology and hydrogeology of the area
- quality of water resources, including groundwater and stormwater runoff and any sensitive receiving water environments
- chemical and physical characteristics of air, soils and waters
- nature (ie chemical and physical characteristics) and mobility of relevant chemical substances, their depth and spatial distribution
- sample and analysis quality plans (SAQP)
- data quality objectives (DQO)
- sample collection, handling and sample transport procedures

[65] Refer to the EPA publication *Evaluation distances for effective air quality and noise management* (2019)

- assessment of data quality
- field measurements and observations
- laboratory analyses of samples
- impacts of chemical substances and mixtures on human health and the environment
- fate and transport modelling
- potential for off-site migration of chemical substances
- data collection, evaluation and interpretation
- human and ecological risk assessments (DSI/SSRA)
- remediation options assessments (ROA) and site remediation plans (SRP)
- remediation and validation reports (RVR)
- environmental monitoring
- construction environmental management plans (CEMP)
- ongoing monitoring and/or site management plans (SMP).

It is expected that the auditor and/or the auditor's representative or a member of the auditor's support team would carry out site visits and be present during critical stages of assessment and/or remediation being undertaken by others, as considered needed and/or appropriate by the auditor, as part of auditor independent verification processes.

Auditors are expected to refer to their specialist team members as necessary in the carrying out of audits (for example where an auditor does not hold a high level of expertise and demonstrated in a relevant technical competency). Auditors should review, consider and document the advice provided by a specialist team member (whether they are a member of the same company or an external specialist) as part of the auditor's risk assessment and when making audit determinations and outcomes.

The extent to which the process of the provision of specialist advice should be documented within an audit report is expected to be informed by the specific nature of the advice. Normally, a summary description of the process should be sufficient. In instances where a specialist adviser has provided formal written advice to an auditor and this has been relied upon in addition to or as a supplement to information provided by the consultant, it is expected that the written specialist advice would be documented and appended to the audit report.

MGR16 Documentation of use of specialist team and support team members in audit reports

The auditor must document in an audit report the involvement of any members of the auditor's specialist team involved in the carrying out of the audit including the role or activity of each specialist team member and any process undertaken by the auditor in considering their advice.

The auditor must also document in an audit report the involvement of any other persons involved in carrying out the audit under the personal supervision of the auditor, including the role or activity of each support team member.

10.3 Obtaining sufficient information to complete an audit

The auditor should be involved in reviewing the scope and nature of assessment and remediation works prior to their commencement to ensure the resulting information is adequate.

If the auditor is not provided with sufficient information to allow the completion of the audit, then the auditor should consider terminating the audit unless resolution of the outstanding issues is achievable. In some instances, the auditor may be able to fill data gaps or complete reviews (by themselves and/or using their specialist team), where it may not be practicable or possible for the consultant to do so. This is generally expected to be in the form of independent verification sampling which may be undertaken by auditors as part of their data quality assessment and review and/or to confirm the reliability of results.

In circumstances where substantive data gaps remain and the auditor is of the opinion the assessment and/or remediation is inadequate or insufficient information has been provided to the auditor but the audit is still able to be completed, the critical data gaps are expected to be clearly identified and documented in the audit report. If the auditor is of the opinion the audit cannot be completed, the audit may be terminated (refer section 8.3). Auditors are advised to contact the EPA for assistance should such circumstances arise.

When the auditor is of the opinion that further assessment and/or remediation is or remains necessary, the auditor should discuss this with the client and consultant(s) to enable it to be undertaken prior to the completion of the audit where practicable. Otherwise the auditor may complete the audit, identifying in the audit outcomes the assessment or remediation that is or remains necessary.

10.4 Other considerations

10.4.1 Change of auditor

In some circumstances it may be necessary for an auditor to terminate an audit and for the client to engage another auditor. In these situations, auditors should advise their clients that while the new auditor may refer to the work of the previous auditor and inform themselves of available information, the new auditor is required to comply with the independence requirements of the legislation. Where possible, any information should be made available to the new auditor by the client (where the same).

10.4.2 Progressive or staged development and auditing of a site

Where a large site subject to an audit notification of commencement is to be developed progressively, audit reports may be issued in relation to smaller, individual sub-areas within the whole site. This is to allow for circumstances where the auditing of the land comprising the whole site may need to be staged to facilitate effective assessment and/or remediation, and development.

As each discrete sub-area is audited, the auditor may issue an audit report concerning the suitability of that area for the proposed land use. The land parcel subject to each audit report is to be clearly and accurately identified, for example as a separate lot in a deposited plan, or – where it is part of a lot or certificate of title – depicted clearly and accurately on a survey plan.

Where a staged audit approach is anticipated at audit commencement, this is to be identified in the notification to the EPA. If it is realised at a later date that a staged approach is to be adopted, the EPA should be advised prior to issue of the first audit report. Updated details defining the extent of the subsequent stages of the audit site should be provided to the EPA as soon as the auditor obtains this information (ie prior to completion of the audit report for that stage).

Where a staged audit approach is adopted, adequate consideration and allowances should be made by the auditor to ensure subsequent assessment and/or remediation do not adversely impact on previously audited areas and to provide appropriate access for and implementation of assessment and/or remediation measures (if necessary). Auditors should also consider any responsibility, access or practical limitations which may arise where previously audited portions of the site may be sold prior to overall completion of the audit.

10.4.3 Changed conditions after audit completion

An auditor may be requested to undertake an additional or subsequent audit to account for changed conditions at a previously audited site. Typically, changed conditions would occur as a result of a potentially contaminating land use or activity being carried out at the audited site after the completion of the audit report. Changed conditions may also occur where audit conditions requiring for example a certain form of development, implementation of a construction environmental management or site management plan have not been implemented as required.

Such an audit is regarded as a new audit and the auditor is required to comply with all legislation applicable to the commencement of an audit.

10.5 Auditor review and endorsement

Auditors are expected to review and in some circumstances endorse a document (including for example an SAQP, ROA or SRP). Auditor endorsement is taken to be the statement of an auditor that the reviewed document is considered to be generally consistent with relevant legislation (including any specific regulatory requirements) and EPA guidance and should in the opinion of the auditor, be able to be relied upon for the purposes specified. A letter of auditor review and endorsement is not an audit report.

MGR17 Auditor review and endorsement

Where the review and endorsement by an auditor of a document is required, the auditor is to provide a summary of their review and their opinion with justification, based on the knowledge available at that time, on the following (as applicable):

- whether the assessment and/or remediation has been developed and/or carried out in accordance with relevant guidelines issued by the EPA
- consistency with the ASC NEPM
- consistency with any current regulatory requirements (such as a voluntary proposal or order)
- consistency with any other relevant legislative obligations
- any actions recommended or required to address any identified data gaps or inconsistencies with relevant legislation and EPA guidelines
- whether it can be relied upon for the specified purposes.

11 Interim audit advice

11.1 Overview

There may be circumstances where an auditor is not yet in a position to provide final audit determinations but is able to provide interim audit advice (IAA) based on the appropriate assessment of site contamination.

Interim audit advice is not an audit report. It is advice provided by the auditor prior to the completion of the audit. In providing interim audit advice, the auditor provides an opinion based on the knowledge available at that time. An audit report (and audit statement) is required to in order to complete the audit.

In some instances, unforeseen or unpredictable circumstances may occur following provision of the interim advice that may affect that advice. Interim audit advice does not pre-empt or constrain the final outcome(s) of the audit or any conditions that may be placed by the auditor in the audit report.

In order to provide interim audit advice, an auditor has to have been engaged to carry out an audit and be satisfied there has been sufficient assessment of the nature and extent of any site contamination to enable the auditor to make appropriately informed risk-based decisions. Further extensive assessment should generally not be required to delineate the nature and extent of site contamination however remediation will generally not yet have been completed or may not be necessary. If the site has been identified as a source of off-site contamination, it is expected the nature and extent will have been delineated (subject to liability considerations). Where remediation is or remains necessary, a remediation options assessment (ROA) and/or site remediation strategy/plan (SRP) which has been reviewed and endorsed by the auditor should be provided to support the auditor's opinion.

This determination by an auditor will be informed by the weight of evidence provided and the significance of any data gaps and uncertainties.

Where IAA is supported by an SRP, the auditor in reviewing and endorsing the SRP (refer to section 15.3 of this guideline) should ensure it includes appropriately informed contingencies.

Interim audit advice may, for example, be provided:

- to support a development application or development plan amendment (DPA)
- as required by a voluntary proposal (under sections 103I or 103K of the EP Act) or site contamination order (under sections 103H or 103J)
- to support a remediation options assessment (ROA) or site remediation plan/strategy
- to support a waste derived fill or waste soil enhancer proposal.

Following the provision of IAA, the auditor should subsequently prepare the audit report and audit statement, and complete the audit.

11.2 IAA to support planning/development

In this instance, by issuing IAA the auditor provides an opinion based on the knowledge available at that time, that it should be possible for the audit site to be made suitable for the proposed use(s). However until the audit is completed and the audit report submitted, the suitability of the site for a specified use has not been determined/confirmed.

Interim audit advice may be used as a means of informing planning authorities on the likely suitability of land for its intended use. Where relied upon, it should be followed by the audit report which is prepared at the completion of the audit, to fully satisfy the needs of a planning authority.

This approach is consistent with ensuring site contamination issues are appropriately considered and addressed where they may be fundamental to the decision of whether development plan consent is granted or refused. It also ensures that planning authorities have the appropriate opportunity to consider the need to include any conditions in their consents and approvals.

11.3 IAA required by the EP Act

Interim audit advice may be required to be issued through a condition of a voluntary proposal or an order issued under the EP Act (refer to section 3.5 of this guideline).

In such instances, in issuing the interim audit advice the auditor should consider and provide an opinion as to whether any relevant requirements have been met.

11.4 IAA to support remediation

Interim audit advice may be issued for the purpose of supporting an ROA or site remediation strategy and plan, prepared in accordance with relevant EPA standards and guidelines (refer to section 15 of this guideline).

In this instance, by issuing interim audit advice the auditor provides an opinion that, based on the knowledge available at that time, the proposed remediation methodology and strategies have been selected and developed in accordance with relevant guidelines issued by the EPA and that the remediation objectives should be able to be met.

11.5 Provision of interim audit advice

An auditor is to complete and submit interim audit advice using the IAA form available from the EPA website.

MGR18 Completion and provision of interim audit advice and documentation in audit reports

Interim audit advice must be completed using the appropriate form available from the EPA website and be provided to the EPA, the client, local council and any prescribed body by the auditor within 14 days of completion.

Auditors must ensure the completed interim audit advice is consistent with the format and content described in the EPA publication *Guidelines for the site contamination audit system* unless demonstrated by the auditor not to be appropriate. Justification for any significant deviations from this EPA publication must be clearly documented in the interim audit advice.

Auditors must ensure that the description of the audit site including identification of relevant certificates of title, is accurate and current at the time of interim audit advice completion.

Accurate, scaled and current plans (including survey plans for portions of CTs) which clearly identify the location and extent of the audit site, site infrastructure, locally significant features and land uses are to be provided.

Where required to be implemented, copies of relevant plans (for example SAQP, SRP, SMP, CEMP) endorsed by the auditor are required to be included as appendices to the interim audit advice.

Where interim audit advice has been completed for an audit, the interim audit advice details must be clearly identified and described in the audit report. The auditor must also include a statement which documents the consistency of the audit with the interim audit advice.

The EPA will perform an administrative review of interim audit advice to ensure it complies with the relevant legislation and guidelines. The review should generally be completed within 14 days following receipt of interim audit advice. If the EPA considers that interim audit advice may not comply with the relevant legislation and/or guidelines it will seek further information from the auditor. The EPA will formally advise relevant parties when the review has been completed and the outcome of the review.

It is expected that in normal circumstances the auditor commissioned to provide interim audit advice would be the same as the auditor submitting the audit report.

Auditors should advise the EPA as soon as reasonably practicable if they become aware of information, following the issue of interim audit advice and prior to audit completion, which would result in:

- the opinions of the auditor documented in the interim audit advice being valid no longer, or
- endorsed remediation plans being applicable no longer due to their being superseded by plans documenting substantially altered remediation strategies.

Where unforeseen or unpredicted circumstances subsequently arise such that the adopted remediation strategy is no longer applicable, revised strategies should be prepared and submitted for auditor review and endorsement as described in section 15.3. In such circumstances, it may be appropriate for an auditor to issue new or updated interim audit advice supported by the revised strategy.

12 Audit conditions and recommendations

12.1 Principles and objectives of audit conditions

There will be some occasions when auditors will consider it appropriate for audit outcomes to be subject to audit conditions, for example where land-use suitability statements are linked to specific uses, or where remediation is or remains necessary and requires implementation of a site management plan.

Audit reports should be issued with as few audit conditions as practical as they can have the effect of qualifying the audit determinations and outcomes and detract from the definitive nature of the audit report. An audit outcome being subject to a large number of conditions also raises the question of practicability and enforceability and whether the outcomes are achievable.

Audit conditions typically describe measures required to prevent exposure of site occupiers and/or users to residual chemical substances so that the site is suitable for the intended use(s). Audit conditions typically apply during construction and occupation/operation stages of site use.

MGR19 Objectives of audit conditions

Audit conditions specified in an audit report must be consistent with the following objectives:

- ensuring the adequate protection of human health and the environment taking into account current or proposed land use(s)
- minimising constraints on the reasonable and usual use of the site
- minimising the need for multiple parties to have responsibility for the implementation, management and monitoring of conditions
- being reasonable and practicable
- being verifiable and enforceable.

In order to be effective, audit conditions should describe any:

- preventative exposure measures intended to provide physical and/or administrative barriers such as certain works to be carried out prior to the land use commencing (eg construction of a pavement or building in accordance with a proposed development plan)
- management (remediation) measures to be implemented on an ongoing basis to prevent/minimise exposure to residual chemical substances through a site management plan
- restrictions on the use of land and/or waters (eg restriction on extraction and use of groundwater at the audit site).

Considerations in ensuring conditions meet these objectives are discussed in section 12.2 of this guideline.

12.2 Considerations in specifying audit conditions

Audit conditions should:

- be clear and easily understood
- be able to be readily implemented and maintained for the life of the specified use(s)
- be specific and provide a clear understanding to all interested persons, particularly owners and occupiers of the land, of the requirements for management of the audit site
- not place limitations on activities or use of the audit site that are inconsistent with the land use nominated in the audit report and audit statement
- be consistent with planning and building constraints on the land.

A condition is a requirement that 'must' be implemented, so using the word 'should' in an audit condition in relation to a required outcome is not appropriate.

If audit conditions are required to deal with uncertainty in the information about the condition of the site, they should be specific as to the nature of the uncertainty and area of the site impacted, for example an area of a site previously occupied by a building and not able to be accessed. Audit conditions should balance the need to achieve the outcome and the need to provide specific guidance on the measures necessary to support that outcome.

Audit conditions should be written in order to clearly identify:

- intention of the condition
- measurable outcome of the condition
- controls to achieve the nominated outcome.

Where audit conditions which require ongoing actions and/or controls are specified, auditors should consider (among other things):

- the need for ongoing access to proposed sampling points and other relevant locations (eg groundwater monitoring wells or production wells)
- the existence of, consultation with, and acceptance of, parties responsible for implementing the action and/or measure
- consistency with other requirements, including rights of owners/occupiers
- requirements that relevant information be provided to parties involved.

In considering the need for and practicality of audit conditions, auditors are expected to consider the potential for failure of the audit condition over time and/or the non-implementation of the audit condition, to affect the audit outcomes.

12.3 Audit condition content and structure

Audit conditions should be sufficiently clear to provide useful information to parties responsible for their implementation (eg land owners/occupiers), local government, EPA and any other person who may need to rely on or read the audit report. Highly technical terms in conditions should be avoided where possible.

Clearly structured conditions will assist parties to identify which conditions are of specific relevance or interest when relying on or reading the audit report and audit statement.

MGR20 Categories of audit conditions

Audit conditions in audit reports must be grouped to clearly identify whether they relate to the following categories:

- planning and development
- remediation and management
- environmental monitoring
- water restrictions
- other.

An audit condition may relate to more than one category.

Audit conditions cannot place an obligation on the decision-making functions of a government body, such as a planning authority, which may be subject to regulatory requirements or impose requirements upon them which may ultimately be seen as being outside their consideration.

If it is considered appropriate by an auditor to condition the restriction of the taking and use of groundwater at the site, this should be done based on the relevant guidance issued by SA Health on the testing and use of bore water: *Using bore water safely* and *Bore water quality testing*. Refer to section 15 on conditions relating to remediation.

12.4 Consultation with third parties

MGR21 Consultation on audit conditions and recommendations and documentation in audit reports

Auditors must ensure that all persons (where they exist at the time of audit completion) have been appropriately consulted with, by or on behalf of an appropriate person, to ensure they are informed of and accept any assigned responsibility for implementing proposed audit conditions prior to the completion of the audit. The auditor must include details of the consultation in the audit report.

Where compliance with an audit condition can only be ensured with the involvement of another person, for example a current land owner/occupier or body corporate (where they exist at the time), written approval from that person is to be included in the audit report.

Auditors must also ensure that relevant persons have been appropriately consulted with, by or on behalf of an appropriate person, in relation to any institutional controls that may be recommended to ensure they are reasonable and practicable and able to be implemented, where applicable. The auditor must include details of the consultation in the audit report.

Consultation with third parties would normally be expected to be undertaken by the client or another person (for example a consultant) on behalf of the client.

To facilitate compliance with planning and building approvals, auditors may consider it appropriate to consult with the relevant planning authority/ local council in regard to proposed audit conditions that relate to planning or development issues prior to completion of the audit (refer also to section 12.9 of this guideline). This is for the purpose of ensuring that planning and development requirements are reasonable from the planning authority's perspective.

12.5 Roles and responsibilities for audit conditions

12.5.1 Auditor

The auditor is responsible for completing the audit and preparing the audit report in accordance with the relevant legislation and this guideline, and specifying audit conditions where considered appropriate. The auditor is not responsible for ensuring the subsequent implementation or compliance with the conditions. Auditors must ensure parties to be assigned responsibility for implementing audit conditions have been consulted (refer to section 12.4 of this guideline).

12.5.2 EPA

The EPA is responsible for the operation and administration of the audit system as described in section 18 of this guideline. The EPA monitors compliance with audit conditions. Where audit conditions are not being implemented it may take appropriate action to ensure the protection of human health and the environment. This action may include issuing a site contamination assessment order or site remediation order to the appropriate person.

In some instances, the EPA may seek the notation of audit reports on relevant certificates of title (refer to section 13.5).

12.5.3 Planning or responsible authority

Audit conditions relating to planning and development are expected to be considered by planning authorities and local councils when reviewing planning policy and assessing development applications.

12.5.4 Developer

A person who brings about a change in the use of the audit site, ie the developer, may be assigned responsibility for implementing conditions. This person may also be liable for site contamination as provided in the EP Act and Regulations[66] if the change in use results in site contamination.

[66] Refer to section 103D of the EP Act and regulation 51

12.5.5 Owner/occupier of the audit site

The owner(s)/occupier(s) of the audit site may have the primary responsibility for implementing conditions in an audit report.

The person commissioning the audit is often not the long-term owner/occupier of a site or person responsible for implementing audit conditions. In many cases the owner of the site may be a land developer who will sell the site after development, with responsibility for condition implementation then being assigned to future owners/occupiers and/or body corporates.

Under the *Land and Business (Sale and Conveyancing) Regulations 2010*, relevant information is required to be made available to prospective purchasers at the time of the sale of land (refer to section 18.4 of this guideline).

Information provided to prospective purchasers should include a copy of the audit report (ie to any person who becomes or proposes to become an owner of the site). This information is also available through the EPA Public Register (refer to section 18.3 of this guideline).

12.5.6 Parties with assigned responsibilities (eg through site management plans)

In some instances, a person (such as a site owner/occupier, developer, body corporate or other party) may be assigned responsibility for implementing conditions in an audit report. Where a body corporate may be the nominated party but it does not exist at the time the audit is completed, auditors should be satisfied that appropriate interim and/or contingency mechanisms are put in place.

The EPA considers it appropriate that only a single entity, such as a community title strata group or an individual current land-owner, be assigned responsibility for the implementation of site management plans (SMPs).

Remediation and/or SMPs may be required to be implemented by conditions of an audit report. Management plans should be clear and concise to ensure the person who is to implement the plan will understand the requirements. Management plans should state what is required to be managed, who is required to manage it, how the plan is to be implemented, and how it should be reviewed and updated as necessary (refer to section 15 of this guideline).

12.6 Implementation of audit conditions

Failure to implement, or continue to implement, an audit condition may result in land no longer being suitable for its current or intended use. This may then result in the existence of site contamination and the EPA may take appropriate regulatory actions. Refer also to the EPA information sheet *Site contamination audit reports and audit statements* (2015).

12.7 Audit recommendations

An audit report may include recommendations where implementation by the client may not be mandatory but which provide additional advice and/or information relevant to the site.

Recommendations may be included to:

- highlight advice to the client, future owners or local council/planning authority
- address non-site contamination issues (eg the presence of elevated concentrations of naturally occurring substances) which may warrant management during demolition and/or construction
- identify actions which may be the responsibility of a government agency.

Recommendations should be prioritised and consistent with the outcomes of the audit.

Recommendations may also address issues such as:

- EPA requirements for the importation or disposal of waste fill
- provision of the audit report to all future land-owners (particularly where ongoing site management plans are required to be implemented, refer to section 15.5 of this guideline)
- testing of groundwater prior to use at the audit site to ensure its suitability

- a risk to human health and safety from site contamination of groundwater which cannot be managed by audit conditions (refer to section 12.8)
- institutional or statutory controls under the control of another government body on third party land (refer to section 12.9)
- the notation by the EPA of the audit report against the land under section 103P of the EP Act (refer to section 13.5).

12.8 Groundwater prohibition areas

Where considered warranted by an auditor, a recommendation may be included in an audit report identifying a risk to human health and safety from groundwater contamination which requires the consideration of the EPA. In determining whether it is appropriate to make such a recommendation, the auditor should be informed by the nature and extent of the site contamination which affects or threatens waters that is not trivial. Such a recommendation and the accompanying information in the audit report would then be used by the EPA in determining whether or not to exercise its statutory discretion to establish a groundwater prohibition area (GPA).

The EPA may prohibit or restrict the taking of water affected by site contamination where certain conditions are met and action is necessary to prevent actual or potential harm to human health or safety[67], through the establishment of a GPA. This is an institutional or statutory tool which acts as a regulatory control to manage groundwater contamination which poses a risk to human health. Further information is provided in the *Guidelines for the assessment and remediation of site contamination*.

An auditor's recommendation when made, should include a description of the nature and the extent (boundaries) of the groundwater contamination that is known and/or suspected to exist as identified during the audit. This may include groundwater contamination originating from another source site. The information used to inform an auditor's recommendation may be subject to limitations (eg liability for site contamination or a restricted scope).

The auditor's recommendation should be informed and supported by a range of factors including, but not limited to:

- the toxicity and behaviour of the chemicals of concern in the environment
- the properties of the aquifer(s) affected or likely to be affected by the contamination
- appropriate modelling (eg groundwater contaminant fate and transport)
- groundwater environmental and community value(s) in the area.

If it is appropriate for a GPA to be established, the boundaries will be determined by the EPA. In making this determination, multiple lines of evidence will be considered including the auditor's opinion about the nature and extent of contamination, the risk to human health and other factors which may be limited by or fall outside the scope of the audit process. The EPA will also take into account any available relevant information (eg audit reports and consultant environmental assessment reports) for other land in the vicinity of the site.

It would normally be expected that a GPA would be established where off-site groundwater contamination had been identified which poses a risk to human health, and affects multiple land parcels. The EPA would not normally establish a GPA for an individual site, for example an audit site where groundwater contamination was identified but where the contamination was contained within the audit site boundaries. In those circumstances, if considered appropriate, the auditor may include a condition to prevent the extraction and use of groundwater at the audit site.

The auditor is expected to address in the audit report any issues relating to environmental harm from site contamination of waters.

Information on established GPAs is available from the EPA website.

12.9 Institutional controls to be applied to third-party land

There may be instances where an auditor considers that residual off-site contamination arising from the audit site may pose a risk to human health under certain circumstances in relation to land outside the audit site boundaries. In this case,

[67] Refer section 103S of the EP Act

an auditor may include recommendations for the implementation of institutional or statutory controls to be considered by the relevant government body.

It is recommended auditors discuss these issues with the EPA prior to the completion of the audit (also refer to section 8.4 in relation to notification of hazardous circumstances). It is expected that discussions with the relevant government body would be held prior to audit completion to ensure the recommendations are practicable and able to be implemented.

Institutional controls are not a remediation strategy or method in themselves and should only be warranted where there is residual off-site contamination following implementation of appropriate and adequate assessment and remediation in accordance with the ASC NEPM and relevant EPA guidance (refer also to section 15 of this guideline).

It is not appropriate for institutional controls to be conditioned as they would normally be expected to be the responsibility of a government body. Audit conditions cannot place an obligation on a government body in relation to their decision making, which may be subject to regulatory requirements or other considerations.

An example of such circumstances would be where an auditor considers there to be a risk of vapour intrusion if habitable basements were allowed to be constructed on residential properties adjacent to an audit site due to the presence of residual off-site contamination.

Where such a recommendation is considered warranted by an auditor and the EPA assesses the audit client as the person with liability for the off-site contamination, it will be expected that appropriate engagement, including formal written communication with third-party land-owners affected by the off-site contamination, will be carried out by or on behalf of the client prior to the completion of the audit.

This expectation is considered to be consistent with the Objects of the Act and the approach of the EPA to community engagement (refer to section 16 of this guideline).

The EPA expects evidence of the engagement by or on behalf of the person with liability with all relevant parties to be clearly documented and included in the audit report.

In addition, the EPA expects that copies of formal written communications provided to individual affected third-party land-owners by, or on behalf of, the person with liability for the site contamination, would be included in the audit report.

13 Site contamination audit reports and audit statements

13.1 Site contamination audit reports

The EP Act requires that audit reports comply with guidelines issued by the EPA (refer to section 1.5 of this guideline).

MGR22 Format and content of audit reports

Auditors must ensure that audit reports completed by them are consistent with the format and content described in Appendix 3 of the EPA publication *Guidelines for the site contamination audit system* unless demonstrated by the auditor not to be appropriate. Justification for any significant deviations from this EPA publication must be clearly documented in the audit report. Auditors must include a statement in audit reports which demonstrates the compliance of the audit report with relevant legislation and mandatory guideline requirements of the EPA publication *Guidelines for the site contamination audit system*.

Audit reports should be concise and informative, with information being displayed in an easily interpreted fashion. They should contain sufficient information to enable the reader to understand the conclusions (in particular the outcomes and determinations) reached by the auditor regarding the condition of the site.

Audit reports document the information reviewed and relied upon by the auditor and conditions encountered at the site at the time the audit report is completed.

An audit report should:

- be an accurate, detailed, critical and independent technical review of the information gathered during the site assessment, remediation and validation process
- clearly set out the rationale and justification for the auditor's findings and determinations
- not simply be a narrative summary of the work conducted by others.

Audit reports should be substantially prepared by the responsible auditor and clearly identify that it is the report of the auditor rather than a report of the company employing the auditor.

In preparing and finalising the audit report, auditors are expected to:

- ensure as far as possible that the audit report is free of typographical, spelling and other errors – references to certificates of title, drawings and plans should be checked to ensure they are accurate and current
- check that documents are correctly appended to the audit report and audit statement such as site or environment management plans, or a consultant's report, where they have been referenced or relied upon by the auditor (as appropriate)
- include accurate and appropriate document quality control information – this should be provided in a separate section of both the audit report and audit statement
- keep a copy of each audit report and associated audit statement – auditors are expected to retain all files relevant to the carrying out of the audit[68].

MGR23 Document control information

Auditors must ensure that each page of an audit report and corresponding audit statement completed by them contains document quality control information which includes and clearly identifies the following information:

- the assigned EPA reference of the audit
- the auditor's reference name of the document

[68] Auditors are required to be covered by PII for a minimum seven years following the end of an auditor's accreditation. Auditors should retain files as long as they consider necessary

- the revision date or number of the audit report
- page numbering (in the preferred format 'page x of y').

Where minor amendment of an audit report occurs following its completion, auditors must ensure the amended audit report (and audit statement) includes updated document control information.

This requirement does not apply to reports prepared by others and included as attachments to the audit report and audit statement.

The document quality control information is also to be included in any interim audit advices.

Refer to Appendix 3 of this guideline for further guidance on the format and content of audit reports.

13.2 Site contamination audit statements

A site contamination audit statement is defined in section 3(1) of the EP Act (refer section 2.4 of this guideline). An auditor is required to provide the audit statement at the same time as the audit report. The legislation prescribes information which is required to be included in the audit statement.

An auditor is to complete and submit audit statements using the form prescribed in Schedule 3 clause 8 of the EP Regulations[69] and available from the EPA website.

The legislation requires that the audit statement be certified and signed by the responsible auditor and included in the audit report.

The audit statement can be relied upon and used separately from the audit report in the knowledge that it is a summary of the findings of the audit. Auditors should note the audit statement is particularly intended to be relied upon by the relevant planning authority in addition to current and future owners/occupiers of the site, and any other interested persons (eg financial institutions).

The format of information to be provided with the audit statement is described in Appendix 3 of this guideline and includes the reproduction of key information from the audit report.

MGR24 Format and content of audit statements

Auditors must ensure that audit statements include a complete and unaltered reproduction of the text of the following sections of the audit report in the 'Summary of findings' section:

- conceptual site model
- auditor determinations and audit outcomes
- audit conditions and recommendations (if any), including any supporting documents referred to in the audit conditions.

Auditors must ensure that the description of the audit site including identification of relevant certificates of title, is accurate and current at the time of audit completion.

Accurate, scaled and current plans (including survey plans for portions of CTs) which clearly identify the location and extent of the audit site, site infrastructure, locally significant features and land uses are to be provided.

All plans and documents (including management and monitoring plans) referred to and/or required to be implemented in any audit condition must be appended to the audit statement (and audit report).

Where the audit has been completed subject to a restricted scope, the title of the audit report must be identified as a 'Site contamination audit report (restricted scope)'. Auditors must also include the following text under the 'Summary of findings' section to be included in the audit statement:

[69] Prescribed by section 103Z(4) of the EP Act and regulation 67(2)

A restricted scope has been applied to this site contamination audit. The audit has not considered the suitability of the land for a sensitive use or another use or range of uses. This audit must not be relied upon for the granting of planning and development approvals.

Refer to Appendix 3 of this guideline for further information on the content of audit statements.

13.3 Limitations and disclaimers

The auditor is responsible for confirming that the information and data on which the auditor forms an opinion in relation to site contamination is adequate for the reason and purpose(s) for carrying out the audit. It is the role of the auditor to confirm that the data and information on which they rely constitutes an adequate basis for forming those determinations.

MGR25 Limitations statements

Interim audit advice and audit reports must be able to be used and relied upon by the person who commissioned the audit, the EPA, planning authorities, potential purchasers of the land and the general community.

An auditor must not qualify an interim audit advice or audit reports to limit the use or reliance only to the auditor's client or other specified persons.

The audit report may include a section providing information about uncertainties associated with the assessment, remediation and auditing process.

It should be identified that the audit report represents the condition of the site at the time of the audit and is based on the information reviewed in completing the audit by the auditor.

13.4 Provision of audit reports and audit statements

Section 103Z(4) of the EP Act specifies:

Section 103Z(4) – Requirements relating to site contamination audits

A site contamination auditor must, on the completion of each site contamination audit for which the auditor is the responsible auditor –

(a) provide a site contamination audit report to the person who commissioned the audit; and

(b) at the same time, provide –

(i) a site contamination audit report to the Authority; and

(ii) a site contamination audit statement to the council for the area in which the land to which the audit relates is situated and any prescribed body.

Penalty: Division 5 fine.

In addition, the EP Regulations prescribe that:

Regulation 68 – Site contamination audit statements to be provided to prescribed bodies

For the purposes of section 103Z(4)(b)(ii) of the Act, if –

(a) an application for approval of a proposed development under the *Development Act 1993* relates to land the subject of a site contamination audit; and

(b) a body other than the council for the area in which the land is situated is a relevant authority for the purposes of assessment of the proposed development under the *Development Act 1993*,

that body is a prescribed body to which a site contamination audit statement must be provided in relation to that audit.

In some instances, the State Commission Assessment Panel (SCAP) may be the relevant authority for development purposes.

To ensure compliance with section 103Z(4)(b)(i) and (ii):

MGR 26 Provision of digital copies of audit reports and audit statements to the EPA

Auditors must, within 14 days of audit completion, provide an accurate and complete, signed and dated digital copy of the audit report to the EPA.

An accurate and complete, signed and dated digital copy of the audit statement must also be provided to the EPA.

Digital copies of audit reports and audit statements must:

- be able to be searched
- be able to be printed
- not be copy protected or encrypted or require passwords to access, display, copy, search or print them.

Refer to Appendix 4 of this guideline for file naming conventions to be used in identifying audit reports.

13.5 Notation of audit reports

The EPA may apply to the Registrar General to include a notation on the relevant certificates of title, that an audit report has been prepared in respect to the land[70].

This is intended to ensure that, where the EPA considers it appropriate based on the site contamination status of the audit site at the time of the audit completion and the nature of any audit conditions, future owners are made fully aware of their responsibilities relating to the conditional use of the land.

This may be considered necessary by the EPA in circumstances where:

- the audit has identified the existence of remaining significant site contamination issues including where residual off-site contamination which has originated from the audit site remains outside the audit site boundaries
- the audit site is not suitable for its current use
- the audit site is suitable for a specific proposed development subject to a particular plan of development
- on-site retention or containment of chemical substances has been implemented as part of site remediation
- the auditor has recommended institutional controls on land outside of the audit site
- audit conditions require ongoing monitoring
- audit conditions require the implementation of site or environmental management plans.

70 Section 103P of the EP Act

14 Assessment considerations

This section provides the guidance and expectations of the EPA in relation to the role of the auditor in reviewing preliminary site investigations (PSI), detailed site investigations (DSI) and site-specific risk assessments and certain site assessment issues including groundwater, marine and surface water bodies, air quality, vapour assessment, asbestos, elevated concentrations of naturally occurring chemical substances and other issues. Refer also to section 10.1 of this guideline.

The assessment of site contamination is to be undertaken in accordance with Schedules A and B of the ASC NEPM and relevant EPA guidelines (refer to MGR 15). Guidance on the assessment of site contamination in South Australia is provided in the *Guidelines for the assessment and remediation of site contamination*.

14.1 Human health risk assessment

Guidance on how to carry out and review of human health risk assessments (HHRA) is provided by enHealth (see references provided below) and Schedule B4 of the ASC NEPM adopts the enHealth framework with additions intended to provide guidance specific to site contamination. Schedule B4 of the ASC NEPM takes precedence over enHealth in the assessment of site contamination, where there are contradictions.

As described in the ASC NEPM, HHRAs should be fully documented in order to ensure transparency, consistency in decision making and ease of understanding by interested parties (refer MGR 15). They should be supported with appropriate references to policy, scientific literature and other sources, eg expert opinions from auditors specialist team members in the fields of human toxicology and risk assessment (refer to section 6.12 of this guideline).

MGR27 Human health risk assessments

When reviewing Tier 3 or site-specific human health risk assessments, auditors must consider and document in the audit report whether the risk assessment has been undertaken in accordance with Schedules B4 and B7 of the ASC NEPM and any relevant guidelines made or approved by the EPA. If an auditor is not a risk assessment expert they must seek specialist advice from their specialist team member or provide appropriate justification in an audit report why specialist advice was not sought.

The auditor must check and document in the audit report whether the Tier 3 or site-specific human health risk assessment is scientifically valid, and that any site-specific criteria recommended by the consultant have been developed in accordance with the framework described in Schedule B4 of the ASC NEPM and the following guidance:

- enHealth 2012, *Environmental health risk assessment. Guidelines for assessing human health risks from environmental hazards*, enHealth Subcommittee of the Australian Protection Principal Committee, Canberra, Australia
- enHealth 2012, Australian exposure factors guidance, enHealth Subcommittee of the Australian Protection Principal Committee, Canberra, Australia.

A human health risk assessment checklist is provided in Appendix E of the NSW EPA Contaminated Land Management Guidelines for the NSW Site Auditor Scheme (3rd edition) dated October 2017 and should be used to assist auditors in documenting their review of site specific human health risk assessments.

14.2 Ecological risk assessment

Ecological risk assessment (ERA) comprises two levels – preliminary and definitive. Schedule B5a of the ASC NEPM provides guidance on the framework for conducting ERAs. Refer to the Guidelines for the assessment and remediation of site contamination for further information.

ERAs should be fully documented in order to ensure transparency, consistency in decision making and ease of understanding by interested parties (refer MGR 15). They should be supported with appropriate references to policy, scientific literature and other sources, eg expert opinions from auditors specialist team members in the fields of environmental toxicology and risk assessment (refer to section 6.12).

MGR28 Ecological risk assessments

When reviewing Tier 3 or site-specific ecological risk assessments, auditors must consider and document in the audit report whether the risk assessment has been undertaken in accordance with Schedules B5 and B6 (where applicable) of the ASC NEPM and any relevant guidelines made or approved by the EPA. If an auditor is not a risk assessment expert they must seek specialist advice from their specialist team member or provide appropriate justification in an audit report why specialist advice was not sought.

The auditor must check and document in the audit report whether the Tier 3 or site-specific ecological risk assessment is scientifically valid and that any site-specific criteria recommended by the consultant have been developed in accordance with the framework described in Schedule B5 of the ASC NEPM.

14.3 Groundwater

The potential for groundwater to be contaminated is expected to be considered as part of an audit. Groundwater may be excluded as an element in a restricted scope, for example where auditors are able to demonstrate multiple lines of evidence that groundwater is not likely to be contaminated.

Where groundwater contamination is identified at an audit site, the auditor should then consider whether:

- the audit site is the source[71] of the groundwater contamination, or whether the groundwater contamination arises from outside the audit site
- the groundwater contamination will have any adverse impacts on the land uses being considered at the site
- the groundwater contamination impacts, or has the potential to impact, on relevant environmental values
- the groundwater contamination has the potential to migrate, or has already migrated off-site

and then:

- what remediation is or remains necessary (refer section 15.2).

The auditor is also expected to consider the potential for groundwater contamination from other sites to impact on the audit site.

Where a groundwater prohibition area (GPA)[72] has been established by the EPA, auditors still need to consider all relevant environmental values of the relevant aquifer(s) when determining the existence of site contamination. Auditors need to consider whether notification of site contamination of underground water (groundwater) under section 83A of the EP Act is required[73]. Information and a process for the determination of the existence of site contamination is provided in the *Guidelines for the assessment and remediation of site contamination*.

Where the groundwater contamination adversely impacts on the land uses being considered at the audit site, the auditor should take into account whether alternative land uses would be more appropriate, based on the reason and purpose of the audit. The auditor could then complete the audit report stating what remediation is or remains necessary for a specified use or range of uses (refer to section 4 of this guideline).

Where residual chemical substances remain in the groundwater but do not adversely impact on land uses being considered at the audit site, the auditor is expected to clearly identify this in the audit report and indicate the area(s) impacted by the residual chemical substances.

When site contamination exists and the EPA considers that action is necessary to protect human health, the EPA may consider declaring a groundwater restriction or prohibition area under section 103S of the Act (refer to the *Regulatory and orphan site framework* – also section 12.8).

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71 Refer to the *Guidelines for the assessment and remediation of site contamination* for further information

72 Information in regards to established GPAs in South Australia can be found on the EPA website

73 A section 83A notification template is provided in the *Guidelines for the assessment and remediation of site contamination*

The auditor is also expected to consider non-site contamination issues in groundwater that may affect the suitability of the audit site for its proposed use and the identified environmental values, eg the potential for risk to human health and/or the environment to occur when activities are undertaken that disturb elevated concentrations of naturally occurring chemical substances in groundwater underlying the audit site (refer to section 14.10).

14.4 Soil vapour and soil gas assessment

Site contamination may exist due to the presence of vapours arising from volatile chemical substances or migration of hazardous bulk gases, eg landfill gas, at the audit site. Auditors should consider the potential for soil vapour and hazardous gases to migrate through the subsurface, enter buildings and move outside the audit site boundaries with the potential to impact adjacent land and land uses through vapour intrusion.

An assessment framework for vapour intrusion is described in Schedule B2 of the ASC NEPM. This section also provides a description of the basic requirements for the measurement of volatile organic compounds in soil vapour, indoor air and outdoor (ambient) air. It also provides key references for further information. A multiple-lines-of-evidence approach based on representative site data and well-defined conceptual site models is expected to be followed for the adequate assessment of vapour risk.

The assessment of vapour risk is a specialist area. Schedule B9 of the amended ASC NEPM provides updated guidance for environmental practitioners on demonstrating competencies relevant to work being undertaken. In relation to vapour assessment, this is now specifically addressed through the inclusion of ‘soil gas sampling design and methodology’ and ‘air quality (volatile emissions and dust) assessment relating to contamination’ as technical competencies.

Further guidance on soil vapour is provided in the *Guidelines for the assessment and remediation of site contamination*.

Limited guidance on the assessment of ground gas and landfill gas (LFG) is provided in the ASC NEPM. In addition to this guidance, where ground gases or LFG is an issue, consideration should also be given to the folllowing guidance as appropriate:

- Wilson S, Oliver S, Malett H, Hutchings H and Card G 2007 *Assessing risks posed by hazardous ground gases to buildings*, CIRIA665, Construction Industry Research and Information Association, London, UK
- SA EPA 2019, *Environmental management of landfill facilities – solid waste disposal*
- NSW EPA 2017, *Guidelines for the Assessment and Management of Sites Impacted by Hazardous Ground Gases* (in relation to technical guidance)

Where the investigation of fugitive landfill gas (LFG) emissions is needed, consideration should be given to the following guidance as appropriate:

- EPA Victoria 2018, *Landfill gas fugitive emissions monitoring guideline*
- SA EPA 2012, *Landfill gas and development near landfills – advice for planning authorities*.

14.5 Surface and marine waters

Where surface water (including marine waters) exists at or in the vicinity of the site being audited, auditors should consider the potential for, or existence of, site contamination arising from the audit site that affects or threatens this water body either within or outside the boundaries of the audit site. Further guidance on the protection of surface waters is provided in the Guidelines for the assessment and remediation of site contamination.

14.6 Off-site site contamination

When residual contamination in relation to one or more of the elements of the environment remains outside the audit site boundaries and the audit site was the source of the contamination, the full nature and extent of the off-site contamination are to be considered as part of the audit (assuming that the liability for the off-site contamination has been determined and is held by the audit client). The suitability of land outside the audit site boundaries, for a sensitive use or another use or range of uses is not to be determined (see Table 1 and section 3.8).

If the client is not responsible for the off-site contamination, auditors are advised to discuss the issues with the EPA prior to completion of the audit report (refer section 3.3). Further guidance is provided in the *Regulatory and orphan site management framework.*

Where off-site contamination from the audit site is identified, auditors need to consider the requirement to notify the EPA of any hazardous circumstance (refer section 8.4) and whether there may be a risk to public health (refer to section 17.2).

MGR29 Residual offsite contamination
Where contamination at the audit site may be able to be remediated to the boundaries of the audit site, the auditor must consider the potential for any residual off-site contamination to migrate back onto the site being audited. In this case, the potential for resulting site contamination and/or impacts on the land use(s) must also be considered.

The EPA expects that where off-site contamination is identified, and the client is the person with liability for the off-site contamination, appropriate community engagement with any land-owners known to be, or potentially, affected by the site contamination, is carried out by or on behalf of the client prior to audit completion and documented in the audit report. The identification of off-site contamination may also trigger community engagement directly by the EPA. Refer to section 16 for guidance on community engagement issues.

14.7 Asbestos

Specific guidance is provided by the ASC NEPM in relation to the assessment of asbestos site contamination (refer to Schedules B1 and B2). The guidance was developed with regard to the *Guidelines for the Assessment, Remediation and Management of Asbestos-Contaminated Sites in Western Australia*, published by the Western Australia Department of Health in May 2009. The WA guidelines also detail site remediation, management and reporting in relation to asbestos site contamination.

Auditors should refer to the ASC NEPM and WA guidelines (and supporting documentation) in the light of evidence indicating the presence of asbestos materials and the potential for risk to human health.

The site-specific assessment of sites contaminated by asbestos in soil should be aimed at describing the nature and quantity of asbestos present in sufficient detail to enable a risk management plan to be developed for the proposed or future land use. A comprehensive detailed assessment will not be required in many cases, as a management approach will be preferred. Remediation options which minimise soil disturbance and public risk are preferred by the EPA.

14.8 Acid sulfate soils

Acid sulfate soils (ASS) are described in the EPA guideline *Acid sulfate soil materials* (2007). This guideline outlines the expectations of the EPA in relation to on-site management of ASS and any off-site disposal or reuse[74]. The disturbance of actual or potential ASS as a result of an activity may result in site contamination. Where such soils are identified, auditors should consider the potential for the soils to be detrimental to the current or proposed use of a site. In general this would occur following excavation and subsequent oxidation after exposure to air.

14.9 Separation distances

Auditors should take into account appropriate evaluation or separation distances from the audit site and other activities.

In particular, auditors are to be aware of the EPA recommended buffer distances for landfills and have regard to the potential impact of historic, current and future activities, especially future location of landfill cells, within a 500-m buffer from the audit site[75].

There are a number of environmental issues associated with current and historic landfill sites, and landfill gas is an important contamination issue. Landfill gas is generated by decomposing material and includes methane. If not properly

[74] Refer prescribed condition of accreditation under regulation 56(2)(c)

[75] Refer to EPA publication *Landfill gas and development near landfills – advice for planning authorities and developers* (2012)

controlled the gas can travel underground and present an explosive or asphyxiation hazard at neighbouring properties. The extent of the risk will be influenced by the size and age of the landfill, the type of waste deposited, the presence of water, and atmospheric and geological conditions (refer section 14.3). Development near current and historic landfill sites may be impacted by landfill gas or aesthetic amenity issues.

Assessment may need to include investigations to determine the extent of in-situ waste on a site-specific basis, particularly for historic landfills where complete information may not be readily available. The outcomes of the risk assessment may require ongoing or additional monitoring and management measures at the landfill boundary and/or in the area proposed for development in addition to specific design and construction techniques.

14.10 Elevated concentrations of naturally occurring chemical substances

Auditors are expected to consider elevated concentrations of naturally occurring chemical substances (background concentrations[76]) at the audit site that through their disturbance may result in actual or potential harm to the health or safety of human beings or environmental harm taking into account current or proposed land use(s).

Where there are naturally occurring elevated chemical concentrations in soils, surface water and groundwater that may impact or potentially impact on current or proposed land use(s) outside the audit site, the auditor should seek advice from the EPA in developing appropriate management measures. Where this is the case and where necessary, the audit report should include recommendations on the use of the land for the management[77] of those chemical substances.

14.11 Other issues

An auditor is expected to consider other issues when carrying out audits in relation to understanding the condition of a site and its suitability for its current or intended use(s), where they have the potential to impact on human health or safety and the reasonable use and amenity of the land. Auditors are also expected to consider issues that may reasonably be expected to arise associated with the proposed land use post-audit completion, such as removal of soil/groundwater from the site, where residual site contamination may exist.

The auditor should consider:

- toxic, corrosive, flammable, explosive and infectious hazards
- any detrimental impacts of chemical substances and site contamination on buildings and other structures, eg pH and sulfate
- aesthetic impacts such as the discolouration of soil, presence of waste or other debris, or proximity to adjacent land uses (such as operating landfills) and odours.

The auditor is not required to provide an assessment of the geotechnical suitability of the site for foundations of structures, buildings or services.

General considerations and circumstances that would trigger an assessment of aesthetics are described in Schedule B1 of the ASC NEPM. Guidance on aesthetic considerations is also provided in the *Guidelines for the assessment and remediation of site contamination*. Auditors should undertake a balanced assessment of aesthetic issues taking into account factors including the nature, quantity and depth of the materials or issues, the need for ongoing management or controls, and whether their presence would be considered consistent with the aesthetic enjoyment and reasonable use of the land, taking into account the proposed land use(s).

Materials that are likely to result in aesthetic issues include waste materials that may present no health hazard (eg concrete or brick fragments), have some soil discolouration from a relatively inert chemical waste (eg ferric metals) or have a residual odour (eg natural sulfur odour). The presence of these materials alone at a site would not generally be expected to result in site contamination. Odour may not represent a health or ecological risk but may result in adverse amenity if evident during development or occupation of the site.

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[76] Background concentrations are required by section 3(1) of the EP Act to be determined in accordance with the *Guidelines for the assessment and remediation of site contamination*

[77] Refer to the definition of remediation in section 3(1) of the EP Act and section 15 of this guideline

Consideration should be given to the practicality of large quantities of fill materials, such as demolition rubble, being retained on land that is being assessed for its suitability for a sensitive use, where reasonable use of the land may result in these materials being exposed and having to be disposed of after being excavated. Any material excavated from the site for off-site disposal is to be classified and managed by the person(s) carrying out the activity in accordance with relevant statutory requirements and EPA guidelines.

A range of other factors may be identified that do not affect a proposed use of the site but may be relevant to development of, or activities at, a site. Examples include restrictions on off-site disposal of soil from excavations or groundwater from maintaining a dry sump. Such factors should be noted in the audit report and may inform audit recommendations.

14.12 Other specialised issues

The following issues are considered to represent potential safety hazards and require specialised forms of assessment and auditors should ensure appropriate expertise is utilised to assist in carrying out an audit:

- unexploded ordnance (UXO) – the Commonwealth Department of Defence should be contacted for advice where UXO is considered to be a potential issue at a site
- radioactive substances that may have been used or added to the site
- biological substances, eg pathogens that may have been used or added to the site
- any chemical substances (including wastes) on or added to the site that are noxious, poisonous or dangerous (eg explosive)
- contaminated sediments.

If these issues are encountered during the course of an audit, auditors should discuss them with the EPA. Refer also to section 8.4 of this guideline in relation to requirements for auditors to notify of hazardous circumstances.

14.13 Work health and safety

When making determinations on whether human health is protected at a site, an auditor should assess the risk to all users of the site, including workers and other personnel, involved in:

- remediation works (if the site is not currently suitable for the intended use)
- construction works
- installation and ongoing maintenance of subsurface utilities.

The risks associated with the audit site should not be considered in isolation from other exposures which workers may come in contact with including those related to other sites.

It is the preference of the EPA that remediation and management options leave the site in a condition that does not require specific occupational health and safety measures (above those normally employed by construction and/or maintenance workers) to render the site safe. Where this is impracticable, for example where a site or environmental management plan is required to be implemented, a work health and safety management plan should be included as part of that plan.

In considering possible impact on worker health, the entire tolerable exposure to a contaminant for a given worker or group of workers should not be allocated to remediation, construction and maintenance activities at one site, especially where these occur over a short period of time.

Where ordinary work practices would not fully protect the health of workers from the hazards associated with contaminated soil, other media or the presence of waste, the auditor should include conditions in any audit report that provide for the adequate protection of worker health. This may involve requiring specific precautions or work practices to protect worker health. Alternatively, the audit report may include a condition that a work health and safety plan addressing certain nominated hazards is prepared and implemented. Further guidance on work health and safety is provided in the *Guidelines for the assessment and remediation of site contamination.*

15 Remediation considerations

This section provides the guidance and expectations of the EPA in relation to the role of the auditor in reviewing remediation options assessments (ROAs) and remediation and validation reports (RVRs), endorsing site remediation plans (SRPs) and site management plans (SMPs), and providing determinations on what remediation is or remains necessary.

Critical to the concept of remediation is the elimination or prevention of the harm to health or safety of human beings, the environment and to water[78]. The definition of remediation requires consideration of current and proposed land uses in relation to the health or safety of human beings and the environment. The definition also requires consideration of reasonable practicability of remediation measures to eliminate or prevent harm to the environment or harm to water.

Guidance on remediation is provided in the EPA publication *Guidelines for the assessment and remediation of site contamination*.

15.1 Auditor role in remediation

Remediation is defined in section 3(1) of the EP Act (refer to the Glossary). Remediation may be carried out in the course of an audit (prior to completion) and/or following audit completion, for example where an audit condition requires the implementation of site remediation and/or management plans.

Where the purpose of the audit includes 'what remediation is or remains necessary for the specified use or range of uses at the audit site', the auditor will be required to provide a determination and audit outcome on this matter in the audit report

Prior to issuing an audit report, the auditor may provide interim audit advice (refer to section 11) about the likely effectiveness of a remediation strategy being implemented prior to audit completion. This is to assist in identifying whether remediation goals, objectives and endpoints are likely to be achieved, prior to providing final determinations on what remediation is or remains necessary in the audit report (refer to section 15.2).

In reviewing remediation options and strategies and providing determinations on whether remediation is or remains necessary, auditors must consider the Objects of the EP Act (refer to section 5.3)[79] and take into account the objectives of assessment and attainment of environmental outcome (remediation hierarchy) described in the ASC NEPM and EPA guidance in the Guidelines for the assessment and remediation of site contamination.

When reviewing remediation options, the sustainability[80] of each remediation option should be considered. In cases where no readily available or economically feasible method is available for remediation, it may be possible to adopt regulatory or institutional controls[81] (refer to section 12.9) or develop other forms of remediation.

Where remediation is required in the course of an audit, the auditor should review ROAs and endorse (if considered satisfactory) SRPs and other related documents prepared by consultants or remediation contractors, prior to the commencement and implementation of the remediation works. RVRs should subsequently be prepared by the consultant following completion of the remediation works and submitted to the auditor for review, prior to completing the audit.

15.2 Remediation that is or remains necessary

Where relevant, based on the reason and purpose of the audit, auditors provide their determination on what remediation is or remains necessary for a specified use or range of uses at the audit site (refer to section 4.6). This is not a determination on the suitability of a site for a specific use (refer to section 4.3 of this guideline). This determination is to be made taking into account the definition of remediation in the EP Act.

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78 Refer to the definition of 'remediate' as it appears in section 3(1) of the EP Act

79 Guidance on sustainable remediation is currently being developed by organisations in Australia, including the Sustainable Remediation Forum of Australia and New Zealand (SuRF)

80 Refer to principles 15 and 16 of the ASC NEPM

81 Refer to the *Regulatory and orphan site management framework* (EPA 2017)

The auditor's determination will be progressively informed by their review of the results and reports of each stage of assessment/remediation undertaken (PSI/DSI/SSRA, ROAs and SRPs and, where remediation has been implemented, RVRs).

In making this determination, auditors need to give consideration to whether remediation (to treat, contain, remove or manage chemical substances on or below the surface of the site) is or remains necessary so as to:

- eliminate or prevent actual or potential harm to the health or safety of human beings that is not trivial, taking into account a specified use or range of uses; and
- eliminate or prevent, as far as reasonably practicable:
  - actual or potential harm to water that is not trivial; and
  - any other actual or potential environmental harm that is not trivial, taking into account a specified use or range of uses.

Guidance on remediation options and practicability considerations is provided in Table 8 and section 8 of the *Guidelines for the assessment and remediation of site contamination*.

A determination that remediation is or remains necessary indicates that site contamination exists. In making this determination the auditor needs to ensure the assessment and remediation processes have been completed to the extent the audit report can be completed.

Where there has been interim audit advice (IAA) previously prepared by an auditor based on an endorsed ROA/SRP, the auditor should consider in the audit report whether the outcomes of the SRP as implemented were consistent with the considerations of the auditor as documented in the IAA. For example, a previously endorsed site remediation plan (SRP) may not have been able to be fully implemented due to difficulties of site access or additional contamination issues may have been subsequently identified.

In some instances, the auditor may determine that active remediation remains necessary to provide for the suitability of the site for the proposed use(s). If further active remediation in the form of treatment, containment or removal remains necessary, an audit condition should be included in the audit report which requires that remediation to be carried out. A subsequent audit or other appropriate form of verification that remediation has been implemented as required, would also be expected to be required.

The auditor may also determine that ongoing remediation in the form of site management measures and/or environmental monitoring are required to be implemented. Where further and/or ongoing remediation or monitoring is required the EPA expects that the auditor will include appropriate audit conditions which describe these requirements in the audit report.

The auditor may include audit conditions in the audit report on remediation issues including but not limited to the following:

- development and/or implementation of site remediation and/or management plans
- development/engineering controls to be placed over an area of the site to ensure that there is no risk to human health
- ongoing monitoring to be undertaken on a regular basis and that this information is appropriately reviewed
- controls on the abstraction and use of groundwater at the site
- verification or confirmation requirements.

If it is considered that development, engineering and/or institutional controls are warranted in the vicinity of the site to eliminate or prevent risk to human health based on current land uses, this should be discussed with the EPA prior to the completion of the audit (refer to section 12.9 of this guideline).

15.3 Reviewing and endorsing remediation option assessments and remediation plans

In reviewing and endorsing ROAs and endorsing SRPs, auditors are expected to take into account the Objects of the EP Act (refer section 5.3 of this guideline) and give consideration to sustainability issues as identified in section 15.1 of this guideline.

ROAs and SRPs should be prepared by consultants in accordance with the *Guidelines for the assessment and remediation of site contamination*. The appropriateness of any particular remediation strategy will depend on a range of site-specific factors. In reviewing ROAs and SRPs, auditors should consider whether the identified remediation goals, objectives and endpoints are likely to be met by a proposed remediation strategy. Interim audit advice may be used to support a proposed remediation strategy as documented in an SRP prior to its implementation (refer to section 11.3 of this guideline).

In endorsing SRPs, the auditor provides an opinion based on the knowledge available at that time the remediation options assessment and proposed remediation strategies have been developed in accordance with relevant guidelines issued by the EPA and the remediation goals, objectives and endpoints should be able to be met. This should be clearly justified by the auditor. In some circumstances, this may be subject to the completion of pilot trials and/or studies.

In determining whether or not to endorse any specific remediation strategy proposed by a consultant, the reasons for the auditor's endorsement should be clearly justified in terms of relative advantages. Where the auditor does not support any specific remediation strategy proposed by the consultant, the reasons for the rejection of particular options should also be clearly justified.

When endorsement of an ROA or remediation plan by an auditor is required for example in a voluntary proposal, a summary of the auditor's review, opinion and justification is expected to be provided.

In reviewing and endorsing management and/or monitoring plans, auditors should also have regard to whether:

- site owners, occupiers or other third parties assigned responsibilities in the plans have been consulted with (where possible) during the development and finalisation of the plan and accept the assigned responsibilities (documented evidence of this is provided) – refer to section 12.4 of this guideline
- the plan is able to be effectively implemented and maintained (eg the likely ability of those parties who have been assigned responsibilities to implement them)
- relevant authorities have been consulted during the development and finalisation of the plan as appropriate
- provisions are included to ensure that site contamination or chemical substances remaining within the audit site are managed or monitored so that they do not present an unacceptable risk to either the audit site or the off-site environment.

Auditors should be aware of the potential for impacts on adjoining and adjacent land uses (such as air quality, odour and aesthetics) when considering the appropriateness of remediation strategies, particularly remediation which occurs on large areas of land or over an extended time period. Considerations in preparing remediation plans include the potential for off-site impacts (eg environmental nuisance and/or harm) and the need to implement appropriate mitigation measures. Auditors, in reviewing and endorsing remediation plans, are expected to take these issues into account. Auditors should also consider the compatibility of land uses during staged developments and potential for land to be re-contaminated and/or adversely impacted by ongoing site works or adjacent site contamination.

Remediation activities may trigger legislative requirements under the EP Act and/or other legislation in some circumstances. If an auditor is unsure whether any requirements are triggered, this should be discussed with the EPA prior to the commencement of that activity.

An auditor should ensure that the following issues have been considered as part of the review of an ROA and SRP:

- the assessment reports have adequately considered the:
  - nature and extent of the site contamination
  - risk that the site contamination poses to human health and/or the environment.
- the adequacy of the data available to support the remediation methodology and design

- whether the remediation options assessment/remediation plan has examined the practicability of other remedial options and not just the preferred option
- the technical feasibility of the proposed remediation in being able to meet the remediation goals, objectives and endpoints
- whether the remediation strategy is likely to eliminate and prevent risks to human health, the environment and water (as required)
- if the remediation plan has site-specific target concentrations for the chemical substances identified at the site, whether those concentrations adequately reflect the level of risk at the site and have been derived in a manner consistent with the ASC NEPM and other relevant guidance (refer to sections 14.1 and 14.2 of this guideline)
- whether the likely timeframes are reasonable
- whether the monitoring requirements are adequate
- what validation requirements are in place for the remediation proposal.

In some instances, unforeseen or unpredictable circumstances may occur during remediation that affect the endorsed remediation strategy. In such circumstances, revised strategies should be prepared and submitted for auditor review and endorsement.

Auditors should note when endorsing SRPs that the EPA expects:

- remediation strategies will include well-designed risk communication and community engagement plans, as appropriate. This is necessary to ensure that where there is a potential for adjacent receptors and land uses to be impacted by the remediation project, the local community is informed of the nature and extent of the remediation prior to the commencement
- the community is made aware on an ongoing basis of any issues that may be of potential concern, and measures are put in place to address them while the remediation is being carried out.

Refer to section 16 of this guideline for information regarding auditor involvement and EPA expectations in community engagement

15.4 On-site retention and containment

Auditors should consult with the EPA at an early stage of an audit if on-site containment (which involves the design and construction of an engineered cell and which is considered to be distinct from on-site retention) is proposed as part of a remediation strategy at any audit site. Typically on-site containment may be considered for waste materials which meet or exceed the classification of low-level contaminated soil for off-site disposal[82]. In doing so, auditors are expected to have regard to the general requirements of the EPA in relation to the treatment and/or off-site disposal of these materials. Further guidance is provided in the *Guidelines for the assessment and remediation of site contamination*.

The suitability of the audit site for the on-site containment and consideration of the technical issues associated with on-site containment, capping or the use of other physical barriers to contain chemical substances should be clearly demonstrated in the audit report[83]. Consideration of issues related to the ongoing management and maintenance of the containment system should also be clearly demonstrated.

Such options should be considered only when other preferred approaches from the ASC NEPM remediation hierarchy[84] are not practicable/applicable.

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82 Refer to the EPA publication *Current criteria for the classification of waste – including Industrial and Commercial Waste (listed) and waste soil* (2010)

83 Information and guidance on the safe onsite retention of contaminants has been published by CRC CARE in Technical Report 16 Parts 1 and 2

84 Refer clause 16 Attainment of environmental outcome of the ASC NEPM

When considering remediation strategies which propose either on-site retention or containment, auditors are expected to check that the following issues have been satisfactorily considered and addressed:

- assessment has demonstrated the remaining chemical substances in regards to mobility, leachability and volatility will not affect soil and/or water quality and will not pose a risk to human health or the environment, taking into account the intended land use, or harm to waters that is not trivial
- any liquids or vapours arising from the remaining chemical substances will not migrate to the surface or elsewhere and pose a risk to human health or the environment taking into account the land use, or harm to waters that is not trivial
- one or more appropriate site or environment management and/or monitoring plan(s) have been developed which can be effectively maintained to prevent the potential for future risks to human health and/or the environment
- any necessary management and/or monitoring plan(s) have been endorsed by the auditor and can be readily implemented by clearly identified parties.

Before endorsing any on-site containment proposal, auditors should check that the remediation strategy:

- maximises the long-term stability of the containment system(s) and any proposed structures above it (from an engineering perspective) and, where applicable, minimises the potential for leachate formation and/or volatilisation
- does not include the erection of structures on the containment cell that may result in a risk of harm to human health and safety or the environment
- provides for ongoing maintenance and monitoring of the containment systems, including ongoing monitoring of the integrity of the system.

The auditor must also consider the consequences of failure of any of the components that comprise the entire system and ensure appropriate contingency measures are provided for in the strategy.

When taking these issues into account, auditors should also consider the likelihood of access to materials left on-site associated with the intended land use(s). Examples include installation or maintenance of services, and potential impacts or restrictions on plantings or surface water management at the audit site.

Where the audit criteria for soils at depth are different from those for shallower soils, an auditor should consider in the audit report the need for any ongoing management of the chemical substances at the various depths (refer also to section 9.1 of this guideline). The basis or rationale for the criteria should be clearly documented in the audit report.

15.5 Ongoing site remediation and monitoring

Where remediation remains necessary for a specified use or range of uses and is required to be implemented following the completion of the audit report, ongoing site management (which is considered to be a form of remediation as defined under the Act) and/or monitoring may be required. For example, if site contamination exists at a site but potential human health exposure pathways can be managed in conjunction with the proposed site use, remediation may be achieved through the site being required to be fully sealed with built-in engineering controls in order to prevent access to soils.

In these circumstances, SMPs and/or environmental management plans (EMP) should have been prepared by consultants (or remediation contractors) to document the required management measures and responsibilities for implementation, for review and endorsement by the auditor.

SMPs/EMPs should address the integration of environmental management, mitigation and monitoring measures for soil and groundwater (as appropriate), throughout a current or proposed land use. If properly implemented, such plans can be an effective means of ensuring that human health and the environment are protected, receptors at the site are not likely to be exposed to risk and the audit site will be and/or remain suitable for the specified use(s).

The use of this approach is appropriate when:

- complete remediation of chemical substances in soils affecting an area is not practicable (eg chemical substances under a concrete structure)

- chemical substances in soils are required to be retained under a final cap or fully contained on site within an engineered containment cell
- remediation is likely to cause a greater adverse impact than would occur if the site were left undisturbed
- actual or potential harm to waters that is not trivial remains.

The length and content of management plans will depend on the complexity of audit site issues and the nature of the proposed land use.

Following preparation by the consultant (or remediation contractor), the management plans are to be reviewed and endorsed (if considered adequate) by the auditor.

A condition in an audit report which requires the implementation of an SMP may result in the EPA seeking the notation of the audit report on relevant certificates of title. The decision of the EPA to request the notation of an audit report will be determined based on site-specific circumstances. Refer to section 13.5 of this guideline for further information.

The EPA considers it prudent that where SMPs are required in audit conditions, auditors include a recommendation that the audit report be provided to future owners and/or occupiers of the site as appropriate (refer also to sections 12.7 and 18.4 of this guideline).

16 Community engagement and risk communication

16.1 EPA guidance and expectations

Risk communication and community engagement are key components of the assessment and remediation of site contamination (refer to Schedule A of the ASC NEPM).

Where engagement with the community is to be carried out and an audit is in progress, the engagement should be planned, prepared and implemented in accordance with an appropriate community engagement plan, which has been reviewed by the auditor.

Guidance on community engagement can be found in Schedule B8 of the ASC NEPM. The approach and expectations of the EPA in relation to site contamination and community engagement are consistent with the ASC NEPM[85].

The EPA has published guidance on its engagement with the community on the EPA website[86], which seeks to ensure a consistent and timely approach to engaging with communities impacted by site contamination.

For information on the EPA's expectations on community engagement by or on behalf of persons liable for site contamination, refer to the *Guidelines for the assessment and remediation of site contamination* and *Site contamination: guideline for community engagement* (2016).

Risk communication is a technical competency identified in the ASC NEPM (refer to section 6.4 of this guideline). If complex site contamination issues need to be communicated, this will likely require practitioners with specialist communication skills.

16.2 Auditor role in community engagement

The primary responsibility for community engagement lies with the client. However, auditors are considered to have a role in identifying when community engagement should be undertaken and in assisting with the communication if considered appropriate. In some situations, particularly where sensitive receptors may be impacted by off-site contamination, the EPA considers it may be beneficial and/or expected for auditors to participate in community engagement activities.

Where community engagement is being undertaken and an auditor is engaged, the auditor's role may include:

- reviewing community engagement plans to ensure the information and technical content provided is accurate and reliable and reflects the guidance and expectations of the EPA
- participating in engagement processes where considered beneficial (eg attending stakeholder presentations and community meetings)
- explaining the aims of the audit system and the role and responsibilities of the auditor, both broadly and in the context of specific issues at the site.

When reviewing plans or participating in community engagement activities, auditors should ensure the audience is made aware of the role, responsibilities and independence of auditors, and comply with the conflict of interest provisions as described in section 5.2 of this guideline.

Auditors should be aware of the role and expectations of the EPA in community engagement particularly when the EPA becomes aware of site contamination issues with the potential to affect sensitive receptors.

Where engagement with stakeholders and/or the community is undertaken in the course of an audit, this is expected to be documented and summarised in the audit report. Refer to section 12 of this guideline for further guidance on engagement and consultation in relation to audit conditions and recommendations.

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85 Refer to Principle 7 of the ASC NEPM

86 Refer to *Regulatory and orphan site management framework* and the *Communications and Engagement Framework*

Part 4

EPA administration and information

17 Administration of the audit system

17.1 Role of the EPA

The EPA regulates the management of site contamination in South Australia. It has a statutory responsibility to administer the EP Act[87] and regulates site contamination through the provisions of the EP Act and Regulations.

The functions of the EPA include to facilitate the pursuit of the Objects of the Act by government, private sector and the public by advising on and assisting with the development of best environmental management practices (refer to section 1.2 of this guideline). In doing, the EPA is guided by the ASC NEPM which describes methods for the consistent assessment of site contamination.

In regard to the audit system, the role of the EPA is to ensure that an acceptable quality of auditing is maintained. The EPA is responsible for:

- developing, establishing and maintaining processes to support the audit system
- establishing a process for auditor accreditation
- establishing a site contamination auditor accreditation committee
- calling for applications from persons seeking initial accreditation
- assessing whether a person seeking initial accreditation has the requisite knowledge, understanding and demonstrated abilities; and is a fit and proper person to be accredited as an auditor and making recommendations in regard to this to the site contamination auditor accreditation committee
- granting auditor accreditation
- establishing roles and responsibilities of auditors
- when appropriate, requiring the use of auditors in statutory tools under the EP Act
- recording audit information on the EPA Public Register
- providing information on audits through the Form 1 prescribed in the *Land and Business (Sale and Conveyancing) Regulations 2010*
- maintaining a register of currently accredited auditors.

In administering the EPA Act, the EPA:

- implements a quality assurance program
- takes any necessary disciplinary action against auditors in accordance with the legislation
- develops, issues, updates and implements guidelines for use by auditors, consultants, industry, local government, planning authorities and the community on the assessment, remediation and auditing of site contamination.

Key aspects of the role of the EPA in the administration and regulation of the audit system are discussed in the following sections.

17.2 Public health risk

Human health is a primary concern in the assessment of site contamination[88].

In some instances, a risk to public health arising from site contamination may be identified during the course of auditing, assessment and/or remediation. These circumstances generally would involve situations where significant off-site contamination has been identified with the potential to affect sensitive receptors and where exposure prevention pathways are not currently in place to eliminate or prevent risk to human health.

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87 Section 13 of the EP Act

88 Refer to Principle 11 of the ASC NEPM

These circumstances would be expected to result in a hazardous circumstances notification to the EPA (refer to section 8.4 of this guideline).

Important issues for the EPA in considering and responding to such notifications include:

- nature and extent of the off-site contamination
- likelihood of an uncontrolled or uncontrollable exposure pathway to the public
- number of people being or likely to be impacted by the off-site contamination
- persistence of the offsite contamination
- duration of exposure
- community perception.

In doing so, the EPA may seek the scientific advice of SA Health[89]. In certain circumstances, it may be necessary to initiate actions including community engagement and targeted investigations as part of a whole-of-government response. The EPA will ensure all parties involved in the audit process are made aware and kept informed of any actions undertaken. For further information, refer to the *Guidelines for the assessment and remediation of site contamination*.

17.3 Quality assurance program

The EPA is responsible for implementing a quality assurance (QA) program for the audit system. The objective of the QA program is to ensure that a high quality of auditing is maintained in accordance with the EP Act and Regulations, and relevant guidelines issued by the EPA. The QA program is a means of achieving best practice in the administration of the audit system.

The QA program incorporates the following components:

- administrative reviews of audit reports (refer to section 17.4 of this guideline)
- detailed reviews of audit reports (refer to section 17.5 of this guideline).

17.4 Administrative review

Auditors have a personal responsibility for ensuring audit reports comply with the relevant legislation and EPA guidance. Third parties should be able to rely on audit reports from the time of their completion.

The EPA performs an administrative review of every audit report and audit statement. The purpose of the administrative review is to carry out a routine compliance check of the audit report against the EP Act and Regulations, and this guideline. The EPA will provide information on the administrative review process to auditors.

Administrative reviews should generally be completed within 21 days following receipt of an audit report. The time taken to address any minor amendments or resolve any potential non-compliance issue(s) will be the auditor's responsibility.

Figure 7 indicates the key steps in the administrative review process.

[89] Through a Working Together Agreement put in place between the EPA and SA Health in relation to site contamination

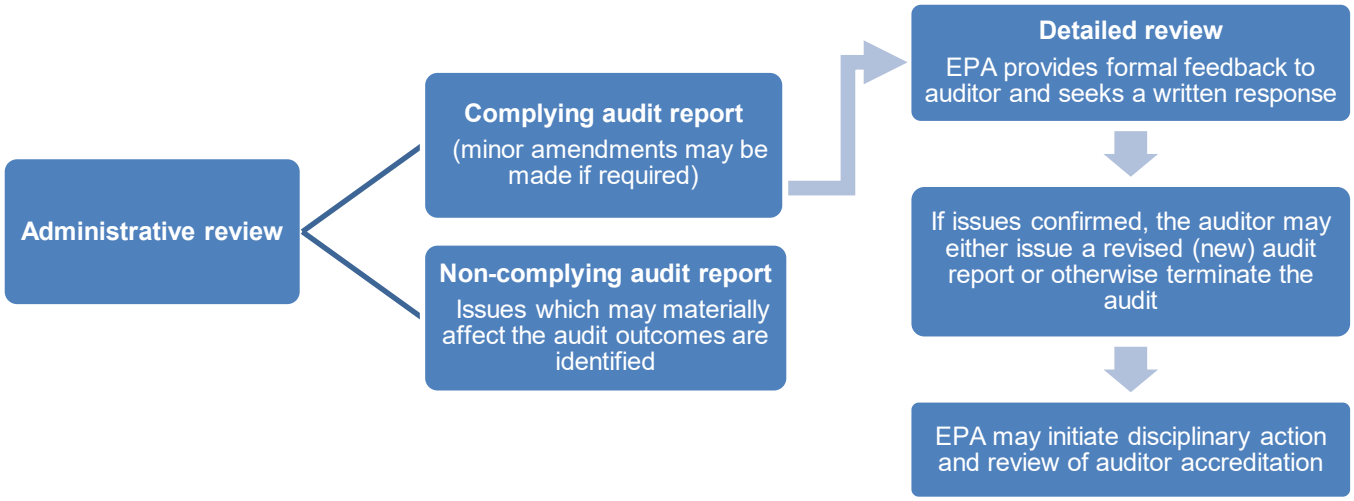

Figure 7 Key steps and outcomes of the EPA administrative review process

The EPA will formally advise the auditor, the relevant local council/planning authority and the client/site owner:

- when an audit report has been received
- where potential compliance issues are identified and if so, whether it has been possible to subsequently satisfactorily resolve the identified compliance issues
- when the details of the audit report have been placed on the EPA Public Register (refer to section 18.3 of this guideline).

Where non-compliance issues are confirmed the EPA may consider a review of accreditation and/or disciplinary action as provided for by the legislation (refer to sections 17.11 and 17.12 of this guideline).

17.5 Detailed review

The EPA may carry out a detailed review of an audit report at any time:

- when non-compliance issues and/or systemic errors are identified during the course of the administrative review
- as part of the ongoing assessment of an auditor's performance and when assessing an application to renew an auditor's accreditation, in order to assess the overall conduct and performance of an auditor and their compliance with the EP Act and Regulations, and relevant EPA guidelines
- if issues are subsequently brought to the attention of the EPA regarding an auditor's compliance with relevant legislation and guidance and/or the quality of the auditor's work.

The detailed review conducted by the EPA is a critical and thorough review of the audit report which considers the auditor's application and documentation of, and compliance with, relevant legislation, policy and guidance.

17.6 Minor amendments or revisions to audit reports

The need for minor amendments or corrections to an audit report would typically be identified following the completion of the administrative review carried out by the EPA at the time the audit report is submitted. When minor errors are identified in the audit report, the EPA may contact the auditor and seek appropriate amendments to correct these errors.

In general, audit reports should only be amended by the auditor to correct minor errors that do not materially alter the substance of the audit report or audit statement (ie the audit outcomes) but which affect the accuracy and/or reliability of audit reports. Examples of errors that would be expected to be corrected include property descriptors which are incorrect or no longer current and incorrect or inadequate site plans.

Addendums to audit reports will not be accepted by the EPA. Where minor amendments to an audit report are made, the audit report should be issued with the original audit completion date and updated document control information.

If non-compliance or other issues which may materially affect the audit outcomes are identified in the course of the administrative review, the EPA will provide feedback and seek a response from the auditor. Where this occurs, the time taken to resolve the issues will depend on the nature and significance of the issues identified and will be influenced by the auditor's ability to respond to and, if necessary, address them. Auditors may also require further time to resolve these issues with other parties.

A fully revised (new) audit report may be issued by the auditor where the compliance issues can be satisfactorily resolved. Where this occurs, the completion date of the revised audit report should be the new completion date. The EPA will commence a new administrative review of that audit report.

MGR30 Minor amendments or revisions to audit reports (and audit statements)

If minor amendments to the audit report are required, the amended audit report (and audit statement) with updated document quality control information which identifies the amendment and amended pages must be provided by the responsible auditor to the parties identified in section 103Z(4) of the EP Act, with a letter specifying the nature of the amendments. If any pages of the audit statement need to be amended, the complete amended audit statement must be provided to the local council (and any prescribed body). Updated document quality control information must be provided on each amended page.

Where a revised audit report is issued due to compliance issues the auditor must identify in the revised audit report that the previous version of the audit report was not accepted by the EPA and provide a summary of the reasons for and implications of the replacement.

17.7 Non-complying audit reports

Where non-compliances with the EP Act and Regulations or relevant EPA guidelines are identified, or if omissions or errors are identified which substantially alter the substance of the audit report or audit statement, or require the insertion of further or new information, the audit report will be considered to be non-complying and will not be accepted by the EPA.

All copies of a non-complying audit report and audit statement, except those submitted to the EPA, should be recalled by the auditor. If possible, the auditor may issue a revised audit report to address these issues..

17.8 Information which may materially affect the outcomes of a completed audit

Following the completion of an audit, the auditor or the EPA may become aware of new information about the condition of the audited site or land adjacent to the audit site which may materially affect the validity or appropriateness of the audit determinations and outcomes as documented in an audit report.

This information may have the effect that the audit report did not adequately reflect the condition of the site as determined by the auditor at the time of audit completion and as such that the site was not suitable for a specified use as indicated in the audit report, or that additional or modified conditions would have been required to render the site suitable for that use.

Such circumstances may arise, for example, where formerly unknown and unrecorded site history information becomes available after the audit report is completed. These circumstances have the potential to result in risk to human health.

Where the EPA becomes aware of these circumstances, it will consider the need for any actions that may need to be subsequently taken, and may advise the following relevant parties of the new information:

- the person who commissioned the audit
- current land-owners/occupiers
- the local council/relevant planning authority.

It may be appropriate that an auditor should be commissioned to issue a new audit report to take account of this changed information. In some cases this may require verification and/or further work on the part of the auditor and/or a consultant.

17.9 QA program compliance issues

In implementing any component of the QA program, if the EPA identifies significant and/or systemic compliance issues in an auditor's audit reports, it may write to the auditor advising them of the issue(s) and invite a written response from the auditor within a specified timeframe. The EPA will then review and consider the submission by the auditor.

If the EPA is satisfied in respect of the issues no further action will be taken. If it is not satisfied in respect of one or more of the issues, it will determine if it is necessary to initiate a review of accreditation and take disciplinary action in accordance with the EP Act and Regulations as described in sections 17.11 and 17.12 of this guideline. The EPA will then inform the auditor in writing of the outcome of the review.

17.10 Complaints regarding auditors

In administering the audit system, the EPA is obliged to respond to formal complaints in a consistent and transparent manner. If the EPA receives a formal complaint about the conduct of an auditor which indicates there may be cause for disciplinary action (refer to section 17.12 of this guideline), the EPA will provide details of the complaint in writing to the auditor, and review and discuss the complaint with the auditor.

If in the opinion of the EPA there are insufficient grounds to warrant an investigation, it will inform the complainant and the auditor that no further action will be taken and the reasons for that decision. Otherwise, the EPA will invite a submission from the auditor as well as from other relevant parties.

The EPA will then carry out a review of the complaint taking into consideration any submissions received from the auditor and determine if it is necessary to take any action in accordance with the EP Act and Regulations as described in sections 17.11 and 17.12 of this guideline. The EPA will then inform both the complainant and the auditor in writing of the outcome of the review.

The EPA will endeavour to resolve complaints as soon as reasonably practicable and in any case within three months of initially receiving the complaint. All documentation relating to a complaint and its outcomes will be recorded and kept by the EPA.

A person who is not satisfied with a decision of the EPA in relation to their accreditation may seek a review of that decision (refer to section 6.13). If a third party disagrees with a decision made by the EPA, the person is encouraged to contact the Manager Site Contamination to discuss the decision in the first instance. If after discussion, the issue remains unresolved, it may be raised with the Chief Executive.

17.11 Review of accreditation

The EPA may conduct a review of an auditor's accreditation to determine whether disciplinary or enforcement action against an auditor may be warranted in the EP Regulations. Where a review of accreditation indicates taking disciplinary action, the EPA will follow the processes described in the EP Act (refer to section 17.12 of this guideline).

A review may be conducted if any matter or circumstance comes to the attention of the EPA that casts doubt on the fitness of an auditor to be accredited or on the capacity of the auditor to carry out the functions of their accreditation.

Without limiting the grounds for review, the EPA may initiate a review of an auditor's accreditation when:

- the auditor has issued one or more non-complying audit reports
- a complaint is received and subsequently verified regarding the unprofessional conduct of an auditor
- an auditor behaves fraudulently or deceptively
- an auditor is declared bankrupt
- an auditor is found guilty of an offence under the EP Act, the Regulations or similar legislation in another state or territory
- an auditor is found guilty of any offence punishable by imprisonment
- an auditor is removed from accreditation as an auditor, or has been the subject of disciplinary action, under an equivalent audit system in another state or territory

- there is a significant change in circumstances relevant to the accreditation that was not advised to the EPA
- outstanding issues regarding the prior performance of the auditor remain unresolved
- an auditor is found to have been conducting audit work outside his or her areas of expertise or that of his or her specialist team
- any other reason the EPA considers relevant to the auditor's accreditation.

17.12 Disciplinary action

The EPA has the ability to take disciplinary action against an auditor as in the EP Regulations:

Regulations 60(1) and (2) – Disciplinary action against site contamination auditors and voluntary suspension

(1) The Authority may, if satisfied that there is cause for disciplinary action against a site contamination auditor, do one or more of the following –

  (a) suspend any accreditation held by the person;

  (b) cancel any accreditation held by the person;

  (c) disqualify the person from obtaining accreditation.

(2) There is cause for disciplinary action against a site contamination auditor if the Authority is satisfied that –

  (a) the person –

    (i) obtained accreditation improperly; or

    (ii) has contravened the Act or this Part; or

    (iii) has contravened a condition of accreditation; or

    (iv) has ceased to undertake the activities authorised by accreditation; or

    (v) has not paid fees or charges payable under this Part to the Authority within the required time; or

  (b) events have occurred such that the person would not, if he or she were to apply for accreditation, be eligible for accreditation.

As also prescribed in the EP Regulations:

Regulation 60(9) – Disciplinary action against site contamination auditors and voluntary suspension

In this regulation –

site contamination auditor means –

  (a) a person who is the holder of accreditation; or

  (b) a person who was formerly the holder of accreditation; or

  (c) a person who, although not the holder of accreditation, engaged in an activity for which accreditation was required (under section 103U of the Act).

The nature of the disciplinary action will be determined by the severity or significance of the issue identified.

The EPA may also decide that an auditor's accreditation should be made subject to conditions as provided for by regulation 56 of the EP Regulations. Refer to section 6.8 of this guideline for information on conditions of accreditation imposed by the EPA.

A person may seek a review of a decision of the EPA[90] (refer to section 6.13 of this guideline).

[90] Regulation 63

Before the EPA suspends, cancels or disqualifies an auditor's accreditation, it is required to provide the auditor with written notice informing them of the proposed action and reasons for the action as prescribed in the EP Regulations:

Regulation 60(5) –Disciplinary action against site contamination auditors and voluntary suspension

The Authority must, before acting under this regulation –

(a) give written notice to the site contamination auditor of the proposed action specifying the reasons for the proposed action; and

(b) allow the site contamination auditor at least 14 days within which to make submissions to the Authority in relation to the proposed action.

The EPA will consider any submissions received within the 14-day notice period. It may subsequently decide whether to take the proposed action and will provide formal written notice of that decision to the auditor.

17.13 Suspension

The EPA may suspend an auditor's accreditation[91] as prescribed in the EP Regulations:

Regulation 60(3) – Disciplinary action against site contamination auditors and voluntary suspension

A suspension under this regulation –

(a) may be for a specified period, or until the fulfilment of specified conditions, or until further order of the Authority; and

(b) may be expressed to have effect at a specified future time, or to have effect at a specified future time unless a specified condition is fulfilled.

The effect of suspension is prescribed in the Regulations:

Regulation 60(7) and (8) – Disciplinary action against site contamination auditors and voluntary suspension

(7) A person whose accreditation is suspended is taken not to hold accreditation for the period of the suspension.

(8) However –

(a) the person is taken to continue to hold accreditation for the purposes of the requirements of section 103Y of the Act (relating to furnishing the Authority with an annual return and notifying the Authority of a change in the person's particulars); and

(b) the date of expiry of the person's accreditation remains unchanged despite the suspension.

Refer to section 2.2 in this guideline for information on acting as an auditor when not accredited.

If the EPA is satisfied that the grounds for the suspension do not or no longer exist, the EPA will lift the suspension by giving formal notice in writing to the auditor.

17.14 Cancellation

The EP Regulations allow the EPA to cancel an auditor's accreditation during an accreditation term[92].

91 Regulation 60(1)

92 Regulation 60(1)

17.15 Disqualification

The EPA may disqualify a person from obtaining accreditation[93] as prescribed in the EP Regulations:

Regulation 60(4) – Disciplinary action against site contamination auditors and voluntary suspension

A disqualification under this regulation may disqualify a person from obtaining accreditation –

(a) permanently; or

(b) for a specified period or until the fulfilment of specified conditions; or

(c) until further order of the Authority.

17.16 Return of auditor certificate and identity card

It is prescribed in the EP Regulations:

Regulation 62 – Return of certificate of accreditation and identity card

(1) If accreditation of a person as a site contamination auditor is surrendered, suspended or cancelled, the person must, within 14 days, return the certificate of accreditation and any identity card to the Authority.

Maximum penalty: $2,500.

Expiation fee: $160.

(2) If, on an application under regulation 54, a certificate of accreditation or identity card has been issued to a person but the fee payable in respect of the person's application or accreditation has not been paid (whether because of the dishonouring of a cheque or otherwise), the person must, at the direction of the Authority, return the certificate or card to the Authority.

Maximum penalty: $2,500.

Expiation fee: $160.

(3) The Authority may issue to the holder of accreditation, on payment by the person of the fee for replacement of the certificate of accreditation or identity card as set out in Schedule 4, a certificate of accreditation or identity card in replacement of a current certificate of accreditation or identity card if satisfied that—

(a) the current certificate or card has been lost, destroyed or damaged; or

(b) any particulars appearing on the current certificate or card are incorrect.

(4) If the Authority issues a replacement certificate of accreditation or identity card to a person, the person must, at the direction of the Authority, return any original (or previous duplicate) certificate of accreditation or identity card in the person's possession to the Authority.

Maximum penalty: $2,500.

Expiation fee: $160.

[93] Regulation 60(1)

18 Audit information

18.1 Auditor register

A register of currently accredited auditors[94] is available on the EPA website or by contacting the EPA directly (refer to section 18.6 of this guideline). All auditors listed on the website are accredited by the EPA to carry out audits in South Australia, regardless of where they reside.

18.2 Administration of audit information

The EPA retains and holds copies of all audit reports and audit statements completed in South Australia. This information is recorded and identified in the:

- EPA Public Register
- Form 1 statement, required when land is sold in South Australia under section 7 of the *Land and Business (Sale and Conveyancing) Act 1994* and detailed in Schedule 1 of the *Land and Business (Sale and Conveyancing) Regulations 2010*.

Information in relation to the Public Register and Form 1 statements is provided below.

18.3 Audit information in the EPA Public Register

Certain information submitted to the EPA is required to be recorded in the Public Register under section 109 of the Act.

This information includes:

- details of each notification relating to the commencement or termination before completion of an audit under section 103Z of the EP Act[95]
- each audit report, including the audit statement, submitted to the EPA under section 103Z[96].

Documents recorded in the Public Register are public documents available on request from the EPA. Audit reports (and audit statements) can be copied or inspected from the Public Register. For further information on viewing or obtaining information, contact the EPA by email or telephone (08) 8204 2004 or 1800 623 445 (free call for country users).

A list of audit information in the Public Register is also available through the Site Contamination Index. Requests for copies of documents listed on the index will be provided at no charge.

18.4 Form 1 statements

The EPA is required by the *Land and Business (Sale and Conveyancing) Regulations 2010* to provide certain information relating to property.

In relation to site contamination this includes questions set out in Schedule 1 of the abovementioned regulations, incorporating the section 'Particulars Relating to Environment Protection' and certain information relating to particulars of mortgages, charges and prescribed encumbrances affecting the land.

This information is included in the 'Form 1 Statement' which forms part of the contract of sale documents for property sales.

In addition, appropriate persons under the *Land and Business (Sale and Conveyancing) Act 1994* can make a direct enquiry to the EPA with payment of a fee for a Section 7 search, which includes the information that the EPA is required to provide to assist in the preparation of the Form 1 statement. The request to the EPA is to be made in writing and is to include the current certificate of title reference of each parcel of land in question.

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94 The EPA is required to keep to an auditor register under regulation 64

95 Section 109(3)(ie) of the EP Act

96 Section 109(3)(if) of the EP Act

Further information can be obtained from the EPA information sheet *Section 7, Land and Business (Sale and Conveyancing) Act 1994 and the role of the EPA*.

18.5 Currency of audit reports and audit statements

Audit reports provide information useful to auditors, their clients, planning authorities, local councils, the EPA and the community. Audit reports contain information relating to site contamination and site management, and provide a history of site development. The level and quality of information contained within audit reports represents a key source of current and historical information about the audit site.

Audit reports and audit statements are based on the information reviewed by the auditor in carrying out the audit and the condition of the site at the time the audit report is completed by the auditor (refer to section 10.4.3 of this guideline). They do not represent any changes that may have occurred to the condition of the site since the date of completion of the audit. All persons who rely on audit reports and audit statements are advised to check the currency and details of the documents. If a person is unsure of the currency they should contact the EPA for advice.

18.6 Requesting advice

Persons can contact the EPA for enquiries or advice in relation to the audit system, auditors, an audit, audit report or an audit statement:

Manager Site Contamination
Environment Protection Authority
GPO Box 2607
Adelaide SA 5001

Telephone: (08) 8204 2004
Free call (country): 1800 623 445
Email: epasitecontam@sa.gov.au

Glossary

The following definitions are relevant to site contamination auditing. Where a definition is amended in the source document, the definition takes precedence over those presented below. Definitions taken from the *Environment Protection Act 1993* or *Environment Protection Regulations 2009* are identified by an asterisk (*).

audit	refer to site contamination audit*
auditor	refer to site contamination auditor*
audit report	refer to site contamination audit report*
audit statement	refer to site contamination audit statement*
background concentrations*	in relation to chemical substances* on a site or below its surface, means results obtained from carrying out assessments of the presence of the substances in the vicinity of the site according to the guidelines from time to time issued by the Authority
chemical substance*	any organic or inorganic substance, whether a solid, liquid or gas (or combination thereof), and includes waste
(the) client	the person who commissions an audit
commercial/industrial land use	includes premises such as shops, offices, factories and industrial sites
contamination	the condition of land of water where any chemical substance of waste has been added at above background level and represents, or potentially represents, an adverse health or environmental impact. This definition of contamination is provided in the ASC NEPM.
element	in relation to the environment* any of the principal constituent parts of the environment (land, air, water, organisms and ecosystems) that may be impacted by site contamination* and includes amenity values (such as aesthetic impacts) and human-built structures
environment*	land, air, water, organisms and ecosystems, and includes: (a) human-made or modified structures or areas; and (b) the amenity values of an area.
groundwater contamination	site contamination of underground water – refer to the EPA publication *Guidelines for the assessment and remediation of site contamination*
groundwater restriction or prohibition of use area	an area declared under section 103S of the EP Act
hazardous circumstance	a state of danger, to human beings or the environment whether imminent or otherwise, resulting from the location, storage or handling of any substance having toxic, corrosive, flammable, explosive, infectious or otherwise dangerous characteristics
land*	land as a physical entity, including land covered with water

liability* — for site contamination means –

(a) liability to be issued with an order under Part 10A of the EP Act in respect of the site contamination; or

(b) liability to pay an amount ordered by the Court under Part 11 of the EP Act in respect of the site contamination

media — see 'element'

notation — notation of an audit report against land under section 103P of the EP Act

occupier* — in relation to land –

(a) has the meaning assigned to the term by section 3 of the EP Act; and

(b) if, in accordance with the Regulations, a person of a particular kind is to be taken to be an occupier of the land in the circumstances of the case – includes a person of that kind

potentially contaminating activity* — an activity prescribed in regulation 50 of the Regulations

recreational land use — includes public open space such as parks, playgrounds, playing field (eg ovals), secondary schools and footpaths

remediate* — to remediate a site means treat, contain, remove or manage chemical substances* on or below the surface of the site so as to –

- eliminate or prevent actual or potential harm to the health or safety of human beings that is not trivial, taking into account current or proposed land uses; and
- eliminate or prevent, as far as reasonably practicable –
  - actual or potential harm to water that is not trivial; and
  - any other actual or potential environmental harm that is not trivial, taking into account current or proposed land uses.

remediation* — has a corresponding meaning to remediate*

residential purposes — land currently used or proposed for any form of residential use including:

- residential with garden/accessible soil; home-grown produce <10% fruit and vegetable intake, no poultry (eg this may typically include low-density residential developments)
- residential with minimal opportunities for soil access; includes dwellings with fully and permanently paved yard space such as high- rise buildings and apartments (eg may typically include medium and high-density residential developments)

It includes residential purposes where mixed land use is proposed, eg including combined residential and commercial/industrial use.

responsible auditor* — a site contamination auditor* is the responsible auditor for a site contamination audit* if the work involved in the audit is carried out personally by, or under the direct supervision of, the auditor

sensitive use*

means –

(a) use for residential purposes; or

(b) use for a pre-school within the meaning of the *Development Regulations 1993*. (note: the definition of pre-school includes a nursery, kindergarten or childcare centre); or

(c) use for a primary school; or

(d) use of a kind prescribed by regulation (note: no uses are currently prescribed).

site*

an area of land* (whether or not in the same ownership or occupation)

site contamination*

exists at a site if –

(a) chemical substances are present on or below the surface of the site in concentrations above the background concentrations (if any); and

(b) the chemical substances have, at least in part, come to be present there as a result of an activity at the site or elsewhere; and

(c) the presence of the chemical substances in those concentrations has resulted in –

(i) actual or potential harm to the health or safety of human beings that is not trivial, taking into account current or proposed land uses; or

(ii) actual or potential harm to water that is not trivial; or

(iii) other actual or potential environmental harm that is not trivial, taking into account current or proposed land uses.

site contamination assessment order*

means a site contamination assessment order issued under Part 10A of the EP Act

site contamination audit*

means a review carried out by a person that –

(a) examines assessments or remediation carried out by another person in respect of known or suspected site contamination on or below the surface of a site; and

(b) is for the purpose of determining any one or more of the following matters:

(i) the nature and extent of any site contamination present or remaining on or below the surface of the site;

(ii) the suitability of the site for a sensitive use or another use or range of uses;

(iii) what remediation is or remains necessary for a specified use or range of uses.

site contamination audit report*

a detailed written report that –

(a) sets out the findings of the audit and complies with the guidelines from time to time issued by the EPA; and

(b) includes a summary of the findings of the audit certified, in the prescribed form, by the site contamination auditor who personally carried out or directly supervised the audit.

site contamination audit statement*	a copy (that must comply with the regulations) of the summary of the findings of the audit certified, in the prescribed form, by the site contamination auditor who personally carried out or directly supervised the audit
site contamination auditor*	a person accredited under Division 4 of Part 10A of the EP Act as a site contamination auditor
site contamination consultant*	a person other than a site contamination auditor* who, for fee or reward, assesses the existence or nature or extent of site contamination
site remediation order*	a site remediation order issued under Part 10A of the EP Act
special management area*	a declaration under section 103N of the EP Act
water*	means – (a) water occurring naturally above or under the ground; or (b) water introduced to an aquifer or other area under the ground; or (c) an artificially created body of water or stream that is for public use or enjoyment.

Appendix 1 Audit references and guidance

Auditors should refer to state legislation, policy, guidelines and national guidance relevant to the assessment, remediation and auditing of site contamination when carrying out audits. A list of publications considered relevant to the assessment and remediation of site contamination is provided below. The list is not exhaustive and consultants and auditors are expected to refer to other published guidelines or standards as appropriate.

This list of guidelines/documents is correct at the time of issue of this guideline.

Legislation

Copies of the EP Act and Regulations, and all other South Australian legislation are available from the South Australian legislation website.

National environment protection measures

National environment protection measures are made under section 14 of the *National Environment Protection Council Act 1994* and the equivalent section of the *National Environment Protection Council (South Australia) Act 1994*. Auditors should have regard to any relevant national environment protection measure, in particular the *National Environmental Protection (Assessment of Site Contamination) Measure 1999* (ASC NEPM), amended in 2013.

The purpose of this measure is to establish a nationally consistent approach to the assessment of site contamination. South Australia is a participating state in the Intergovernmental Agreement on the Environment made on 1 May 1992, and is a participating jurisdiction in relation to the ASC NEPM, which was made on 10 December 1999 and amended in 2013. The ASC NEPM is required to be implemented by the state through the *National Environment Protection Council (South Australia) Act 1995*.

Other NEPMs likely to be relevant include:

- *National Environmental Protection (Air Toxics) Measure*
- *National Environment Protection (Ambient Air Quality) Measure*.

Refer to the National Environment Protection Council (NEPC) website for details.

Environment protection policies

Environment protection policies (EPPs) are a second level of environment protection legislation under the EP Act to secure the aims of the Act. EPPs may contain mandatory provisions that are enforceable under the EP Act, either in response to offences or by way of preventing an offence from occurring such as the issuing of an EPO. The following EPPs may also refer to, or require compliance with codes of practice:

- *Environment Protection (Water Quality) Policy 2015*
- *Environment Protection (Air Quality) Policy 2016*
- *Environment Protection (Waste to Resources) Policy 2010*

Refer to the EPA website for a listing of all EPPs.

Guidelines issued by the EPA

Guidelines issued by the EPA considered relevant in relation to site contamination in South Australia include this guideline and all publications in the site contamination series.

Refer to section 1.3 of the *Guidelines for the assessment and remediation of site contamination* for a summary of all publications in the site contamination series.

Other relevant guidelines issued by the EPA include the following waste guidelines:

- *Standard for the production and use of waste derived fill* (2013)
- *Landfill gas and development near landfills – advice for planning authorities and developers* (2012)

- *Current criteria for the classification of waste–including industrial and commercial waste (listed) and waste soil* (2010).

All publications issued by the EPA are available from its website, hard copies can be obtained on request.

Further reading and reference documents

Other reference guidelines and documents may be relevant to and useful for the assessment, remediation and auditing of site contamination assessment and remediation. It is the responsibility of auditors to identify and utilise such documents where relevant.

The ASC NEPM includes references to documents that provide supporting or further information. Consultants and auditors are expected to have regard to these references as appropriate.

In relation to human health risk assessment, the following guidance documents published by enHealth:

- enHealth 2012, *Environmental health risk assessment. Guidelines for assessing human health risks from environmental hazards*, enHealth Subcommittee (enHealth) of the Australian Protection Principal Committee, Canberra, Australia
- enHealth 2012, *Australian exposure factors guidance*, enHealth Subcommittee (enHealth) of the Australian Protection Principal Committee, Canberra, Australia.

The CRC CARE (Cooperative Research Centre for Contamination Assessment and Remediation of the Environment) has published a series of technical reports. Several of these technical reports are referenced in the ASC NEPM. The technical reports are available through the CRC CARE website.

Other national publications considered relevant are also referenced as appropriate in this and other EPA guidelines.

Appendix 2 Penalties and fees

There are a number of offences (and associated expiation fees and penalties) relating to the audit system. Selected key offences are identified throughout this guideline.

A number of maximum penalties and expiation fees are also specified in the EP Regulations for specific offences and some have also been identified throughout this guideline.

The penalties and fees are as provided by section 28A of the *Acts Interpretation Act 1915* and are correct at the date of publication of this guideline. The fees are subject to annual increases as provided by section 28A.

Appendix 3 Format and content of audit reports, audit statements and interim audit advice

As required by the EP Act and Regulations, an audit report must comply with relevant guidelines issued by the EPA.

EPA requirements for audit reports are summarised in this appendix (refer to MGR 22 in section 13.1 of this guideline). Issues to be addressed and information to be included in an audit report have also been identified throughout this guideline. EPA expectations for the format and content of interim audit advice is also provided. The format and content of information to be provided in audit reports, audit statements and interim audit advice needs to be read in conjunction with the whole of this guideline.

Table A3–1 Audit reporting format and content

Report/section	Information to be included	Comments
Interim audit advice	Interim audit advice must be prepared using the form provided by the EPA. The existing text, formatting and layout of the form must not be modified.	Refer to MGR18 The EPA will provide auditors with versions of the interim audit advice form for use.
	The structure, format and content of the interim audit advice is to be generally consistent with Appendix 3 of the audit guideline. Identification and justification for any deviation from relevant policies or published guidelines is required to be provided by the auditor.	Refer to MGR18
	Where the audit is being undertaken subject to a restricted scope, this must be identified in the title as a 'Site contamination interim audit advice (restricted scope)'. The following text must be included under the 'Summary of findings' section: A restricted scope is being applied to this site contamination audit. The audit does not considered the suitability of the land for a sensitive use or another use or range of uses. This interim audit advice should not be relied upon for the granting of planning and development approvals where site contamination is known or is suspected to exist and a change to a sensitive use is proposed.	Refer to MGR14
	Auditors must include the following in the interim audit advice: • accurate and scaled plans which clearly identify the extent of the audit site • where portions of certificates of title are being audited, or portions of a site are subject to remediation requirements, an accurate survey plan(s) prepared by a	Refer to MGR18

Report/section	Information to be included	Comments
	licensed surveyor which identifies those portions must be included, which also clearly and accurately identifies the extent of the audit site • copies of any site or environmental management plans, or other documents required to be implemented in any actions.	
Audit statement	As described in sections 2.4 and 13.2 of this guideline, an audit statement is a prescribed summary of the findings of the audit and must be prepared using the form prescribed in Schedule 3 clause 8 of the EP Regulations. A certified copy of the completed formal audit statement form must be included in the audit report.	The EPA will provide auditors with versions of the audit statement form for use. The existing text, formatting and layout of the form must not be modified. Refer section 3(1) of the EP Act
	The required 'Summary of findings' is to include an **exact reproduction** of the following sections of the audit report: • CSM • auditor determinations and audit outcomes • audit conditions and recommendations.	Refer MGR24
	If the audit statement is for an audit subject to a restricted scope, the following text must be included under the 'Summary of findings' section: A restricted scope has been applied to this site contamination audit. The audit has not considered the suitability of the land for a sensitive use or another use or range of uses. This site contamination audit report should not be relied upon for the granting of planning and development approvals where site contamination is known or is suspected to exist and a change to a sensitive use is proposed.	Refer MGR14
	Auditors must attach, as part of the audit statement required to be provided to persons under the Act, copies of the following: • accurate and scaled plans which clearly identify the extent of the audit site • where portions of certificates of title are being audited, or portions of a site are subject to ongoing management	Refer MGR24

Report/section	Information to be included	Comments
	requirements, an accurate survey plan(s) prepared by a licensed surveyor which identifies those portions must be included, which also clearly and accurately identifies the extent of the audit site • copies of any site or environmental management plans, or other documents referred to be implemented in any audit conditions.	
Audit report	The structure, format and content of the audit report is to be generally consistent with Appendix 3 of the audit guideline. Identification and justification for any deviation from relevant policies or published guidelines is required to be provided by the auditor.	Refer MGR22
	The audit report must be identified in the title as a 'Site contamination audit report'. Where the audit has been completed subject to a restricted scope, the audit report must be identified in the title as a 'Site contamination audit report (restricted scope)'.	Refer MGR22 Refer MGR14
	Auditors must include the following in the audit report: • accurate and scaled plans which clearly identify the extent of the audit site • where portions of certificates of title are being audited, or portions of a site are subject to ongoing management requirements, an accurate survey plan(s) prepared by a licensed surveyor which identifies those portions must be included, which also clearly and accurately identifies the extent of the audit site • copies of any site or environmental management plans, or other documents referred to be implemented in any audit conditions.	Refer MGR22
Document quality control	The document version information and the persons provided with copies of the audit report/audit statement (refer section 13.1 of this guideline) or interim audit advice.	Refer to MGR23 and MGR18 Document control information is to be updated as appropriate where minor amendments are made to the audit report/ audit statement or interim audit advice after issue.

Report/section	Information to be included	Comments
Introduction	Auditor's name, accreditation number and details of accreditation.	Refer to MGR22 Details of accreditation include date accredited and accreditation term.
	Assigned EPA reference	Refer to MGR22 The EPA reference is provided by the EPA following notification of commencement.
	Identify the parties involved in the audit – the name of the person who commissioned the audit and their relationship to the audit site (ie owner, occupier, developer). Details of the audit commencement including: • date the audit was commissioned • date the EPA was notified of commencement • the reason for the audit • the audit purpose and matters being determined.	Refer MGR22 Refer MGR22 Details to be consistent with those notified to the EPA on commencement. A copy of the commencement notification form is **not required** to be included.
Audit site information	Clear, current and accurate description of the audit site: • street number, street name and suburb • common title or name of site • other legal property description (ie allotment and plan numbers) • all current certificates of titles (CT) which describe the audit site identifying whether the audit site includes the full or potion only of each CT.	Refer to MGR22, MGR24 and MGR18
	Copies of certificate of title(s) identifying the audit site which are registered with the Lands Titles Office **at the time the audit report is completed** to be included.	Refer to MGR22, MGR24 and MGR18
	Locality map	Refer to MGR22, MGR24 and MGR18
	Accurate, scaled and current plans of the audit site clearly identifying the area of land audited and showing infrastructure, scale bar, north arrow and local environmentally significant features.	The plans must clearly and accurately identify the extent of the audit site. Plans of the audit site should be in a format that can be readily used and reproduced, such as clear black and white reproduction.

Report/section	Information to be included	Comments
	Where portions of certificates of title are being audited, or portions of a site are subject to ongoing management requirements, an accurate survey plan(s) prepared by a licensed surveyor which identifies those portions must be included, which also clearly and accurately identifies the extent of the audit site.	
	Where an audit report is one of several for a larger area of land which is being progressively audited, identify the related land (and including EPA references) and any other relevant audit reports where completed.	Include site plans which identify related land forming the other stages of the audit. Provided an appropriately licensed surveyor is used, the auditor does not need to include the surveyor on the auditor's specialist team.
	Identification of local government authority and current zoning information from the relevant Development Plan.	
	Current land uses of audit site and surrounding land.	
	Existing buildings and structures and their condition. Relevant observations from any site inspections carried out by the auditor or auditor's representative.	 Identify the person(s) who carried out the site inspections. Note any odours or visible signs of site contamination.
Independence	A statement documenting the independence of the auditor.	Refer to MGR6
Conflict of interest	A statement regarding the auditor's knowledge of, and compliance with, conflict of interest requirements.	Refer to MGR5. See also under 'Regulatory controls, authorisations and notifications'.
Audit compliance	A statement that the audit has been carried out in compliance with the requirements of relevant legislation, including consideration of the Objects of the Act, and any mandatory guideline requirements of relevant EPA guidelines. A statement that the audit has been generally carried out consistent with the ASC NEPM and the principles of risk-based decision, and relevant guidelines issued by the EPA.	Refer to MGR7 and MGR15

Report/section	Information to be included	Comments
Audit process	Whether a restricted scope has been applied to the audit, and if so the details of the restricted scope and an opinion whether the documented audit is consistent with the restricted scope.	Refer to MGR12, MGR13, MGR14, MGR18, MGR22 and MGR24 Describe the details (including the objectives) of the restricted scope including any agreed amendments (refer to section 9 of this guideline).
	Whether interim audit advice (IAA) was issued by the auditor prior to completion of the audit and, if so, the details of the IAA and an opinion whether the completed audit is consistent with the IAA.	Refer to MGR18 and MGR22 Describe and summarise the details of the IAA. A copy of the IAA is **not** required to be included in the audit report.
Audit teams	Details of any involvement of the auditor's specialist team.	Refer to MGR16 Identify any members of the auditor's specialist team who have contributed to the audit process and provide a summary of the nature of that person's involvement and advice. Any formal written advice provided by a specialist team member to an auditor should be appended to the audit report.
	Details of any involvement of the auditor's support team.	Refer to MGR16 Identify all persons who were directly supervised by the auditor in the carrying out of the audit.
Audited and related documents	Identify all reports and documents reviewed by the auditor as part of the audit including title, date and author. Copies of relevant reports and documents reviewed and relied upon by the auditor are to be included as appendices to the audit report.	Refer to MGR22
	Identify any other information relevant to the audit and append copies of correspondence between the auditor and consultant(s) relevant to the outcome of the assessment and/or remediation and validation works.	Refer to MGR22
	Where there has been a previous audit report(s) completed for the audit site, identification of the audit report. Clearly identify if the audit report supersedes any previous audit reports.	Refer to MGR22 Include previously assigned EPA references and audit report identification details.

Report/section	Information to be included	Comments
Audit criteria	Rationale for, and appropriateness of, the selection of audit criteria used.	Refer to MGR22 Refer to the *Guidelines for the assessment and remediation of site contamination* for information on criteria recognised by the EPA.
	Summary tables listing all audit criteria within the audit report.	Refer to MGR22
Site history ***Summary of information only***	Summary of site history information relating to the audit site and adjacent land use. This should include identification of the consultant and relevant report(s). Summary to include: • review of the adequacy of site history information • identification of all known historical and current potentially contaminating activities (PCAs) and land uses carried out on the audit site • review of potential chemical substances of interest from both on- and off-site sources, listing each specific chemical substance (taking into account if a restricted scope audit). Where the auditor considers that a chemical substance that would usually be expected to be of concern has not been considered, the auditor must clearly state this opinion and give reasons for this conclusion.	Refer to MGR22 Including owners, occupiers and users. Including reference to PCAs as prescribed in the Regulations.
Assessment review ***Summary of information only***	Summary and description of site assessments conducted (eg detailed site investigations). For each stage of assessment this should include: • identification of consultant and relevant report(s) • sampling and sampling plan methodology • laboratories used, laboratory analytical methods and whether NATA accredited • relevance of ecological and/or human health guidelines adopted for the assessment of risk	Refer to MGR22 Refer to section 14 of this guideline. Particular consideration to analyte selection, sample methodology, field and laboratory QA/QC, community consultation, risk identification and assessment. Where analytical methods other than those approved by the EPA, or described in the nominated guidelines have been used, include information that demonstrates the adopted method gives comparable results to the nominated reference method. Refer to Appendices B and C of the ASC NEPM Schedule B(2) for guidance on the DQO process and assessment of data quality respectively.

Report/section	Information to be included	Comments
	• evaluation of the DQO process and summary of data quality indicators used by the auditor	
	• evaluation of both field and laboratory quality assurance and quality control plans used (including appropriate implementation of sampling plan(s), sample handling, collection and transport processes) • summary of relevant analytical results highlighting where audit criteria were exceeded, and an evaluation of those results. The auditor's opinion of the adequacy, quality and completeness of the work of each consultant in relation to each assessment stage. A statement regarding whether the auditor is of the opinion that the assessment undertaken was generally consistent with the ASC NEPM and relevant EPA guidelines. Documentation of all cases where the consultants have departed from applicable guidelines with a justified statement on whether these departures are considered acceptable. A statement on whether the assessment (from both field and laboratory) overall is reliable and representative and the results can be relied upon. A statement detailing the limitations or extent of uncertainties of the assessment.	
	Copies of all assessment reports reviewed and relied upon by the auditor are to be included as appendices to the audit report.	Refer to MGR22
	Comment on the consistency of assessment works with any specific regulatory requirements (where applicable, eg a voluntary proposal or order)	Refer to MGR22

Report/section	Information to be included	Comments
Remediation review ***Summary of information only***	Identification of any remediation options assessments (ROA) and site remediation plans (SRP), and the auditor's role in reviewing or endorsing those plans. Copies of any ROA, SRP and/or RVR reviewed and endorsed / relied upon by the auditor are to be included as appendices to the audit report.	Refer to MGR22
	Summary and description of any remediation conducted. For each stage this should include: • identification of consultant and relevant report(s) • relevant site plans identifying remediation areas • summary of the remediation strategy and remediation goals • remediation methodology • laboratories used, laboratory analytical methods and whether NATA accredited • relevance of ecological and/or human health guidelines adopted for the assessment of risk	Refer to MGR22 Refer to section 15 of this guideline.
	• evaluation of the DQO process and summary of data quality indicators used by the auditor. • evaluation of both field and laboratory quality assurance and quality control plans used (including appropriate implementation of sampling plan(s), sample handling, collection and transport processes) • summary of relevant analytical results highlighting where audit criteria exceeded following remediation, and an evaluation of those results. Where relevant, a summary of information relating to any treatment, off-site transport or disposal of waste materials from the site. The auditor's opinion of the adequacy, quality and completeness of the work of each consultant in relation to each remediation stage.	Refer to Appendices B and C of the ASC NEPM Schedule B(2) for guidance on the DQO process and assessment of data quality respectively.

Report/section	Information to be included	Comments
	A statement regarding whether the auditor is of the opinion that the remediation undertaken was generally consistent with relevant EPA guidelines. Documentation of all cases where the consultants have departed from applicable guidelines with justified statement on whether these departures are considered acceptable. A statement on whether the remediation data (from both field and laboratory) is reliable and representative and can be relied upon. A statement detailing the limitations or extent of uncertainties of the remediation. The auditor's opinion of the adequacy of the remediation strategy as carried out in achieving the identified remediation goals, objectives and endpoints. Copies of remediation management and/or action plans endorsed by the auditor are to be included as appendices to the audit report.	Refer MGR22
	Comment on the consistency of remediation works completed with any specific requirements (where applicable, eg under an SRO).	Refer MGR22
Data quality assessment	Identify and describe any auditor verification sampling and analysis undertaken and provide a summary of the results.	Refer MGR22 If verification sampling was undertaken, include relevant supporting documentation including field sampling forms, chain of custody forms, laboratory reports etc and a data quality assessment.
	The auditor's opinion of the overall adequacy, quality and completeness of the works undertaken and whether data is considered reliable and representative and can be relied upon. A statement regarding whether the auditor is of the opinion that overall the works undertaken comply with requirements of relevant legislation. A statement regarding whether the auditor is of the opinion that overall the works undertaken were generally consistent with the ASC NEPM and relevant EPA guidelines.	Refer MGR22

Report/section	Information to be included	Comments
	Documentation of any cases where the consultants have departed from the ASC NEPM and/or relevant EPA guidelines with a justified statement on whether these departures are considered acceptable. A statement detailing any limitations or the extent of any remaining uncertainties or data gaps based on the works completed.	
Conceptual site model	Review and summary of the conceptual site model (CSM) representing final site conditions following assessment and/or remediation.	Refer to MGR22 and MGR18 A CSM is a representation of site-related information regarding known and potential contamination sources, receptors and exposure pathways between those sources and receptors. The development of a CSM is an essential part of all site assessments and provides the framework for identifying how the site became contaminated and how potential receptors may be exposed to contamination either in the present or in the future. Typically, the CSM should be presented in written format and illustrated with suitable graphics. Refer to the ASC NEPM and the *Guidelines for the assessment and remediation of site contamination* for guidance. Potential or known areas of variability and uncertainty (data gaps) within the CSM and their significance in relation to the objectives and reliability of the audit outcomes should be considered and clearly documented.
	A justified statement on the nature and extent of site contamination and site conditions following assessment and/or remediation regarding the following (as appropriate) both on and offsite (as applicable): • soil • groundwater • other waters • vapour and soil gas • any other relevant elements of the environment.	A statement on the final condition of the site. Site conditions include asbestos and non-site contamination issues (where relevant).
	A justified statement on the presence, or potential for migration, of any off-site contamination either arising from the audit site or identified from off-site sources and if	Where the auditor considers that offsite migration is not a potential issue, include a statement demonstrating the reasons for this conclusion.

Report/section	Information to be included	Comments
	so, the known nature and delineated extent of the off-site contamination.	Where contamination originating from another site has been identified, the known nature and extent of this contamination should be identified.
	Consideration of the potential for any residual off-site contamination to migrate back onto the site.	Refer to MGR29
	Consideration of any relevant non-site contamination issues. Assessment of risk to structures arising from the final condition of the audit site.	
Auditor risk assessment and risk characterisation	A risk statement on any actual or potential harm posed by the known site conditions both on and off-site (as applicable): • human health • water • environment • structures • aesthetics • any other issues.	Refer to MGR22
	The auditor's review of any Tier 2/3 or site-specific human health risk assessments (HHRA) and whether it is considered to be generally consistent with Schedule B4 of the ASC NEPM and relevant EPA guidelines. The auditor's opinion as to whether the HHRA is scientifically valid and the conclusion can be relied upon.	Refer to MGR27 It is recommended auditors use and complete the human health risk assessment checklist provided in Appendix E of the NSW EPA Audit Guidelines to document their review.
	The auditor's review of any Tier 2/3 or site specific ecological risk assessments (ERA) and whether it is considered to be generally consistent with Schedule B5 (and Schedule B6 as applicable) of the ASC NEPM and relevant EPA guidelines. The auditor's opinion as to whether the ERA is scientifically valid and the conclusion can be relied upon.	Refer to MGR28
	Documentation of the auditor's consideration and application of the Objects of the Act and the principles of risk-based decision making consistent with the ASC NEPM.	Refer to MGR7 and MGR8

Report/section	Information to be included	Comments
	Auditor risk statements must be justified with reference to multiple lines of evidence consistent with the ASC NEPM and be clearly and transparently documented and present a logical framework for risk-based decision making.	Refer to MGR15, MGR7 and MGR8
	Where the auditor has sought specialist advice this process must be documented and summarised including the auditor's review and consideration of the specialist advice.	Refer to MGR16, MGR27 and MGR28
Audit determinations and audit outcomes	The audit outcomes and determinations of the auditor and detailed justification of how they have been reached including any assumptions used in reaching the determinations. Depending on the audit purpose(s) a clear statement on one or more of the following audit outcomes: 1 the nature and extent of any site contamination present or remaining on or below the surface of the site 2 The suitability of site for a sensitive use or another use or range of uses 3 What remediation is or remains necessary for a specified use or range of uses Additional requirements for each of the above are described below. 1 *The nature and extent of any site contamination present or remaining on or below the surface of the site* An opinion on any actual or potential harm posed by the final site conditions to the following, both on- and off-site: • human health • water • environment. 2 *The suitability of site for a sensitive use or another use or range of uses.* Where land use suitability is subject to restrictions on the usual use of land and/or audit conditions this and the nature of any	Refer to section 4 of this guideline. Refer to MGR1 Refer to MGR2 Refer to MGR3 Refer to MGR4 Refer to MGR3 Land use suitability statements are to follow the format of the following example:

Report/section	Information to be included	Comments
	restrictions is to be clearly stated in the auditor's determination. If the audit site is not suitable for any uses in its current condition this is to be clearly stated.	The audit site is suitable for the following sensitive uses or another use or range of uses, including: (a) sensitive use – residential with garden/accessible soil (home-grown produce <10% fruit and vegetable intake, no poultry) (b) sensitive use – residential with minimal opportunities for soil access; includes dwellings with fully and permanently paved yard space such as high-rise buildings and apartments (c) sensitive use – childcare centres, kindergartens, preschools and primary schools (d) public open space such as parks, playgrounds, playing fields (eg ovals), secondary schools and footpaths (e) commercial use such as shops, offices, consulting rooms (f) commercial use such as petrol filling stations and warehouses (g) industrial use such as light, service, general or special industry (h) other (specify if relevant). The above land uses are intended to be consistent with the generic land use scenarios described in the ASC NEPM. Detail any restrictions relating to the use of the site, including land and groundwater (where applicable).
	3 What remediation is or remains necessary for a specified use or range of uses This determination is to be based on the nature and extent of site contamination as determined and be based on consideration of the definition of remediation in the EP Act. The audit report must include appropriate conditions requiring verification following the completion of the remaining remediation. Where groundwater contamination was remediated to the site boundaries, consideration of the potential for residual off-	Refer to MGR4 Statements are to follow the format of the example: *remediation is or remains necessary* or *remediation is not and does not remain necessary*. Guidance on remediation including practicability considerations and a remediation hierarchy is provided in the *Guidelines for the assessment and remediation of site contamination.* Detail the nature of any remediation that is or remains necessary (where applicable)

Report/section	Information to be included	Comments
	site contamination to migrate back onto the site and any impacts on land use. The auditor's opinion of the adequacy of any specified remediation that is or remains necessary in achieving the identified remediation goals, objectives and endpoints.	and how that remediation should be achieved. If further remediation remains necessary to render the site suitable for a specified use or range of uses(s), this must be clearly stated.
Audit conditions and recommendations	Any conditions required by the auditor relating to the audit site for: • planning and development • remediation and management • environmental monitoring • water restrictions • other. Any conditions should be demonstrated to be consistent with the required EPA objectives. Where conditions require the involvement (implementation) of a person, copies of letters documenting their agreement with, and commitment to, those conditions are to be included (where possible) as appendices to the audit report. Where conditions refer to implementation of a specific management plan, copies of site management plans endorsed by the auditor are required to be included as appendices to the audit report and audit statement. Copies of any proposed development plans referred to in conditions are required to be included in the audit report and audit statement. The audit report must include appropriate conditions requiring verification following the completion of the remaining remediation.	Refer to MGR20 Refer to section 12 of this guideline. Conditions should be sequentially numbered for ease of reference. Confirmation that consultation with relevant third parties has been undertaken by or on behalf of the client, as appropriate. Refer to MGR19 Refer to MGR21 Refer to MGR22 and MGR24
	Any recommendations considered appropriate by the auditor.	Refer to sections 12.8 and 12.9 of this guideline for guidance in relation to auditor recommendations on GPAs and offsite institutional planning controls.
Community/ stakeholder engagement	Documentation within the audit report of community/stakeholder engagement processes carried out during the course of the audit. Documentation within the audit report providing evidence of discussions with	Refer to MGR21

Report/section	Information to be included	Comments
	relevant persons in relation to implementation of audit conditions and recommendations as applicable. See also under audit condtions and recommendations. Any recommendations considered appropriate by the auditor.	
Signatures and declarations	Auditor's signature and date of completion of audit report.	Signed by the auditor as an individual, not the auditor on behalf of the company.
Appendices	Supporting information such as preliminary and/or detailed investigation reports, remediation and/or validation reports or and management plans relied upon by the auditor must be included as appendices to the audit report.	Refer to MGR22 Accurately cross-reference specific reports and sections in which the relevant information is contained.

Appendix 4 Electronic format of audit reports and audit statements

File format

Details regarding audits and audit reports are required to be placed on the EPA Public Register[97]. Audit reports require ongoing preservation by the EPA to support access and use over time.

Electronic versions of audit reports and audit statements should be provided to the EPA as two separate PDF files (Portable Document Format), which are regarded as suitable for long-term record preservation. The electronic files may be provided to the EPA on USBs or via another acceptable digital format.

PDF files should conform to the following requirements:

- all pages within the PDF are to be clearly and consecutively numbered (eg page 100 of 1250)
- page size is to be set to the ISO A-series standard eg A4, A3, A0, etc
- the resolution of the file should not be any lower than 300 dots per inch (DPI)
- any attachments, such as photos, figures, maps, etc are to be included within the PDF
- colour and black-and-white information should be able to be appropriately reproduced.

File naming

File name conventions ensure that audit reports can be stored and retrieved in an efficient manner. All notifications of audit commencements are recorded and administered by the EPA according to an assigned number, known as an EPA reference. The EPA reference is unique to a specific audit and is provided to auditors by the EPA following receipt of an audit commencement notification.

All hard and electronic copies of audit reports and audit statements submitted to the EPA are to follow the naming convention outlined below using the EPA reference assigned to the audit:

- the audit report is to be named using the assigned EPA reference followed by '_SCAR_001' – the suffix number allows for more than one audit report for one commencement notification
- the associated separate audit statement is to be named using the assigned EPA reference followed by '_SCAS_001'
- the audit statement will contain a copy of the certified and complete audit statement (including any relevant figures and plans).

When multiple audit reports and audit statements are issued for a single audit commencement notification, for example where the audit of a large site is being carried out in stages, each individual audit report and audit statement is to be assigned a number suffix denoting its place in the sequence of reports issued to date (eg 002, 003).

Where an audit report may need to be revised and issued as a new audit report due to non-compliance issues (and it not being accepted by the EPA), the suffix is to be designated with a sequential letter for each revision, starting from 'A'.

The following examples describe the application of the required file format.

Completion of audit report

An auditor notifies the EPA of the commencement of an audit. The EPA acknowledges the notification and assigns an EPA reference of '12345'. When the auditor has completed the audit report they provide the EPA with one hard copy of the complete audit report (including the audit statement) and two electronic PDF files identified as:

- 12345_SCAR_001.pdf
- 12345_SCAS_001.pdf

[97] Refer to section 109 of the EP Act

Minor amendments

Following the administrative review by the EPA, the audit report is found to require minor amendments and the auditor subsequently provides updated electronic versions of the amended audit report and audit statement, retaining the file names 12345_SCAR_001.pdf and 12345_SCAS_001.pdf. Both the audit report and audit statement are amended to contain updated document quality control information.

Audit report determined to be non-complying and revision of audit report

If the SCAR is determined to be non-complying by the EPA[98] and is not accepted, and a subsequent revised new audit report and audit statement is issued by the same auditor - this audit report is to be assigned the file name 12345_SCAR_001A.pdf. The audit statement is to be assigned the file name 12345_SCAS_001A.pdf.

Staged audit

Where the audit of a site is being carried out in progressive stages, the second stage audit report issued would be assigned the file name 12345_SCAR_002.pdf and similarly the audit statement would be assigned the file name 12345_SCAS_002.pdf.

Searchability and copy protection

The EPA will not accept electronic files of audit reports or audit statements that are not able to be searched or which are copy protected.

Where possible, appendices provided as PDF files should also text searchable, where text and images can be copied. Auditors should advise third parties of these requirements.

Encryption, passwords, and copy protection

The EPA will not accept electronic copies of audit reports or audit statements that are encrypted or that require passwords to access, display, copy, search or print them.

Printing options

The EPA will not accept electronic copies of audit reports or audit statements that are not able to be printed.

Other issues

Any file attachments, sound files, movie files, plug-in extensions or Javascript actions should be removed or disabled. Such features are difficult to preserve in the long term and may alter how the file is displayed in the future. There are several options in the PDF specification that allow components of a PDF document to be external to the PDF file. Such components are most likely to be lost during long-term preservation, so externally linked objects or referenced content should be removed or included/embedded in the PDF file.

[98] Refer to section 17.4 of this guideline

Appendix 5 Summary of mandatory guideline requirements

The following is a list of all the mandatory guideline requirements (MGR) that have been specified in this guideline:

MGR1 Audit reason and purpose determinations

Auditors must identify and make determinations on the relevant purpose(s) of an audit in a manner consistent with Table 1 of the EPA publication, *Guidelines for the site contamination audit system*.

MGR2 Considerations in determining the nature and extent of site contamination

In making a determination on the nature and extent of site contamination present or remaining on or below the surface of the site, the auditor must consider whether site contamination does or does not exist and provide clear statements in relation to whether the delineation of the extent of site contamination has been determined.

In making a determination on whether site contamination is present or remaining on or below the surface of the site, the auditor must consider the definition of site contamination in the *Environment Protection Act 1993* (the EP Act).

The specified land use(s), environmental values of water and elements of the environment considered by the auditor in making the determination must be clearly documented.

Generic land-use descriptions and elements of the environment are to be consistent with the land uses described in the EP Act and the *National Environment Protection (Assessment of site contamination) Measure 1999* (as amended in 2013) or ASC NEPM. Descriptions of groundwater environmental values are to be consistent with the environmental values described in the EPA publication *Guidelines for the assessment and remediation of site contamination*.

An audit carried out solely for the purpose of determining the nature and extent of site contamination present or remaining on or below the surface of the site, must not condition requirements associated with the remaining audit purposes – the suitability of the site for a sensitive use or another use or range of uses, and what remediation is or remains necessary for a specified use or range of uses.

MGR3 Considerations in determining the suitability of a site for a sensitive use, another use or range of uses

In making a determination on the suitability of a site for a specified use, an auditor must have also considered the following audit purposes:

- the nature and extent of site contamination present on or beneath the surface of the audit site, and
- what remediation is or remains necessary for the specified use or range of uses at the audit site.

Generic land use descriptions are to be consistent with the land uses described in the EP Act and the ASC NEPM.

Where land use suitability is subject to restrictions on the usual use of land, or the site is not suitable for any use(s), this must be clearly stated and the nature of the restrictions on land uses clearly indicated (for example through audit conditions).

Where the audit site is only suitable for the specified use(s) subject to remediation being carried out, this must be clearly stated. Verification confirming the remediation has been appropriately carried out (as specified in the audit condition) must be required to be undertaken and documented by an auditor.

MGR4 Considerations in determining what remediation is or remains necessary for a specified use or range of uses

In making a determination on what remediation is or remains necessary for a specified use or range of uses, an auditor must:

- demonstrate they have considered the determined nature and extent of site contamination present on or beneath the surface of the audit site
- demonstrate they have taken into account the remediation hierarchy described in the *Guidelines for the assessment and remediation of site contamination*

- clearly specify what (if any) remediation is or remains necessary to:
  - eliminate or prevent actual or potential harm to the health or safety of human beings that is not trivial taking into account the current or proposed land uses, and
  - eliminate or prevent as far as reasonably practicable actual or potential harm to water that is not trivial, and
  - eliminate or prevent as far as reasonably practicable any other environmental harm that is not trivial taking into account the current or proposed land uses.
- clearly specify the current or proposed land uses subject to any remediation that is or remains necessary.

If remediation is or remains necessary for a specified use or range of (current or proposed) land uses and is required to be implemented following the completion of an audit by an audit condition in an audit report, an auditor must review and endorse relevant remediation, management and/or monitoring plans prepared by consultants and provide the endorsed documents as appendices to the audit report.

MGR5 Becoming aware of a potential conflict of interest when carrying out an audit

When carrying out any function as an auditor, if a potential or actual conflict of interest comes to the auditor's knowledge, the auditor must notify the EPA as soon as is practicable after becoming aware of the issue.

Where an auditor may have been subsequently authorised by the EPA under section 103X of the EP Act to carry out an audit, the auditor must include details of the authorisation in the audit report.

MGR6 Statement of independence

Auditors must include a statement in interim audit advice and in audit reports which documents that in carrying out the audit they have exercised their own professional judgment and that their audit determinations have been reached independently and have not been unduly influenced by the views or actions of others, particularly those who may have an interest in the outcome of the audit.

MGR7 Risk based decision making

Auditors must consider the Objects of the Act and apply the principles of risk-based decision making as described in the ASC NEPM and relevant EPA guidelines, when carrying out an audit. Auditors must include a statement in each audit report which documents this consideration.

MGR8 Duty of care

In exercising their function and duties pursuant to the *Environment Protection Act 1993*, auditors must demonstrate a primary duty of care to the health and safety of the people of South Australia above all others (including any duty to the person who has commissioned them to conduct the audit). Auditors must also demonstrate a duty of care to ensure the protection of the environment of South Australia.

MGR9 Use of the title 'site contamination auditor'

An auditor must only use the title 'site contamination auditor' in accordance with the EPA publication *Guidelines for the site contamination audit system*.

MGR10 Ongoing commitment to continued professional development

Auditors must be able to demonstrate to the EPA a structured commitment to ongoing training and continued professional development (CPD) relevant to site contamination that extend or update their knowledge, skill or expertise. The CPD is to be directly relevant to technical aspects of site contamination.

MGR11 Notification of hazardous circumstances and documentation in reports

Auditors must notify the EPA as soon as reasonably practicable if a hazardous circumstance described in the EPA publication *Guidelines for the site contamination audit system* is identified in the carrying out of an audit. Auditors must also at the same time, notify the audit client of the hazardous circumstances, to ensure that persons in control of the site

implement, if possible, measures to eliminate or mitigate the hazardous circumstances as soon as reasonably practicable.

Notifications must be supported by the provision of relevant information which demonstrates that the hazardous circumstances exist. This information is expected to include: relevant field/analytical data; site plans; identification of sources, receptors and exposure pathways, and any proposed and/or completed actions and associated timeframes.

Notification of a hazardous circumstance must be made in accordance with the timeframes provided in the EPA publication *Guidelines for the assessment and remediation of site contamination* in order to safeguard human health and the environment.

Where the audit is being undertaken or has been completed subject to a hazardous circumstance notification the auditor must include a statement in interim audit advice and audit reports (as applicable) which documents the details of the notification, the actions taken in response to the hazardous circumstance and an opinion as to whether or not the hazardous circumstances still exist at the time of report completion.

MGR12 Application of a restricted scope

Restricted scopes must not be applied to audits where a determination is to be made on the matter of whether a site is suitable for a sensitive use or another use or range of uses.

MGR13 Provision of details of a restricted scope to the EPA

Where a restricted scope is to be applied to an audit, a copy of the restricted scope agreed to by the auditor and the client must be provided to the EPA by the auditor at the time of the notification of commencement of audit, or if this is not practiacable in any case within three months of the audit commencement, as part of the details of the commencement.

If application of a restricted scope is identified as appropriate following a notification of audit commencement to the EPA, the additional audit details must be provided to the EPA by the auditor within 14 days of its agreement and, in any case, prior to audit completion.

Any subsequent variation to a restricted scope agreed to by the auditor and the client, must be documented and be provided to the EPA by the auditor within 14 days of its agreement and, in any case, prior to audit completion.

MGR14 Details of restricted scope to be included in audit reports and audit statements

Where a restricted scope has been applied to an audit, the restricted scope details and objectives must be clearly identified and described in any audit report and audit statement. The auditor must also include a statement which demonstrates the consistency of the audit with the restricted scope.

MGR15 Consideration of the National Environment Protection (Assessment of site contamination) Measure 1999 (ASC NEPM) and relevant EPA guidelines

In carrying out audits, auditors must take into account whether the assessment of site contamination has been carried out in accordance with the ASC NEPM. Auditors must also take into account whether the assessment and remediation of site contamination has been carried out in accordance with relevant EPA guidelines.

Where the assessment and/or remediation approach differs or varies, the auditor must exercise their independent professional judgement in determining whether or not to accept the approach and provide in any audit report adequate and explicit justification for doing so.

Auditor risk assessments and risk characterisations need to be adequately justified by auditors through multiple lines of evidence consistent with the ASC NEPM.

Auditors must include a statement in audit reports which documents their compliance with the ASC NEMP and relevant EPA guidelines.

MGR16 Documentation of specialist team and support members in audit reports

The auditor must document in an audit report the involvement of any members of the auditor's specialist team involved in the carrying out of the audit including the role or activity of each specialist team member and any process undertaken by the auditor in considering their advice.

The auditor must also document in an audit report the involvement of any other persons involved in carrying out the audit under the personal supervision of the auditor, including the role or activity of each support team member.

MGR17 Auditor review and endorsement

Where the review and endorsement by an auditor of a document is required, the auditor is to provide a summary of their review and their opinion with justification, based on the knowledge available at that time, on the following (as applicable):

- whether the assessment and/or remediation has been developed and/or carried out in accordance with relevant guidelines issued by the EPA
- consistency with the ASC NEPM
- consistency with any current regulatory requirements (such as a voluntary proposal or order)
- consistency with any other relevant legislative obligations
- any actions recommended or required to address any identified data gaps or inconsistencies with relevant legislation and EPA guidelines
- whether it can be relied upon for the specified purposes.

MGR18 Completion and provision of interim audit advice and documentation in audit reports

Interim audit advice must be completed using the appropriate form available from the EPA website and be provided to the EPA, the client, local council and any prescribed body by the auditor within 14 days of completion.

Auditors must ensure that interim audit advice completed by them is consistent with the format and content described in the EPA publication *Guidelines for the site contamination audit system* unless demonstrated by the auditor not to be appropriate. Justification for any significant deviations from this EPA publication must be clearly documented in the interim audit advice.

Auditors must ensure that the description of the audit site including identification of relevant certificates of title, is accurate and current at the time of interim audit advice completion.

Accurate, scaled and current plans (including survey plans for portions of CTs) which clearly identify the location and extent of the audit site, site infrastructure, locally significant features and land uses are to be provided.

Where required to be implemented, copies of relevant plans (for example SAQP, SRP, SMP, CEMP) endorsed by the auditor are required to be included as appendices to the interim audit advice.

Where interim audit advice has been completed for an audit, the interim audit advice details must be clearly identified and described in the audit report. The auditor must also include a statement which documents the consistency of the audit with the interim audit advice.

MGR19 Objectives of audit conditions

Audit conditions specified in an audit report must be consistent with the following objectives:

- ensuring the adequate protection of human health and the environment taking into account current or proposed land use(s)
- minimising constraints on the reasonable and usual use of the site
- minimising the need for multiple parties to have responsibility for the implementation, management and monitoring of conditions
- being reasonable and practicable

- being verifiable and enforceable.

MGR20 Categories of audit conditions

Audit conditions in audit reports must be grouped to clearly identify whether they relate to the following categories:

- planning and development
- remediation and management
- environmental monitoring
- water restrictions
- other.

An audit condition may relate to more than one category.

MGR21 Consultation on audit conditions and recommendations and documentation in audit reports

Auditors must ensure that all persons (where they exist at the time of audit completion) have been appropriately consulted with, by or on behalf of an appropriate person, to ensure they are informed of and accept any assigned responsibility for implementing proposed audit conditions prior to the completion of the audit. The auditor must include details of the consultation in the audit report.

Where compliance with an audit condition can only be ensured with the involvement of another person, for example a current land owner/occupier or body corporate (where they exist at the time), written approval from that person is to be included in the audit report.

Auditors must also ensure that relevant persons have been appropriately consulted with, by or on behalf of an appropriate person, in relation to any institutional controls that may be recommended to ensure they are reasonable and practicable and able to be implemented, where applicable. The auditor must include details of the consultation in the audit report.

MGR22 Format and content of audit reports

Auditors must ensure that audit reports completed by them are consistent with the format and content described in Appendix 3 of the EPA publication *Guidelines for the site contamination audit system* unless demonstrated by the auditor not to be appropriate. Justification for any significant deviations from this EPA publication must be clearly documented in the audit report. Auditors must include a statement in audit reports which demonstrates the compliance of the audit report with relevant legislation and mandatory guideline requirements of the EPA publication *Guidelines for the site contamination audit system*.

MGR23 Document control information

Auditors must ensure that each page of an audit report and corresponding audit statement completed by them contains document quality control information which includes and clearly identifies the following information:

- the assigned EPA reference of the audit
- the auditor's reference name of the document
- the revision date or number of the audit report
- page numbering (in the preferred format 'page x of y').

Where minor amendment of an audit report occurs following its completion, auditors must ensure the amended audit report (and audit statement) includes updated document control information.

This requirement does not apply to reports prepared by others and included as attachments to the audit report and audit statement.

The document quality control information is also to be included in any interim audit advices.

MGR24 Format and content of audit statement

Auditors must ensure that audit statements include a complete and unaltered reproduction of the text of the following sections of the audit report in the 'Summary of findings' section:

- conceptual site model
- auditor determinations and audit outcomes
- audit conditions and recommendations (if any), including any supporting documents referred to in the audit conditions.

Auditors must ensure that the description of the audit site including identification of relevant certificates of title, is accurate and current at the time of audit completion.

Accurate, scaled and current plans (including survey plans for portions of CTs) which clearly identify the location and extent of the audit site, site infrastructure, locally significant features and land uses are to be provided.

All plans and documents (including management and monitoring plans) referred to and/or required to be implemented in any audit condition must be appended to the audit statement (and audit report).

Where the audit has been completed subject to a restricted scope, the title of the audit report must be identified as a 'Site contamination audit report (restricted scope)'. Auditors must also include the following text under the 'Summary of findings' section to be included in the audit statement:

> A restricted scope has been applied to this site contamination audit. The audit has not considered the suitability of the land for a sensitive use or another use or range of uses. This site contamination audit must not be relied upon for the granting of planning and development approvals.

MGR25 Limitation statements

Interim audit advice and audit reports must be able to be used and relied upon by the person who commissioned the audit, the EPA, planning authorities, potential purchasers of the land and the general community.

An auditor must not qualify an interim audit advice or audit reports to limit the use or reliance only to the auditor's client or other specified persons.

MGR26 Provision of digital copies of audit reports and audit statements to the EPA

Auditors must, within 14 days of audit completion, provide an accurate and complete, signed and dated digital copy of the audit report to the EPA.

A separate accurate and complete, signed and dated digital copy of the audit statement must also be provided to the EPA.

Digital copies of audit reports and audit statements must:

- be able to be searched
- be able to be printed
- not be copy protected or encrypted or require passwords to access, display, copy, search or print them.

MGR27 Human health risk assessments

When reviewing Tier 3 or site specific human health risk assessments, auditors must consider and document in the audit report whether the risk assessment has been undertaken in accordance with Schedules B4 and B7 of the ASC NEPM and any relevant guidelines made or approved by the EPA. If an auditor is not a risk assessment expert they must seek

specialist advice from their specialist team member or provide appropriate justification in an audit report why specialist advice was not sought.

The auditor must check and document in the audit report whether the Tier 3 or site-specific human health risk assessment is scientifically valid and that any site-specific criteria recommended by the consultant have been developed in accordance with the framework described in Schedule B4 of the ASC NEPM and the following guidance:

- enHealth 2012, *Environmental health risk assessment. Guidelines for assessing human health risks from environmental hazards*, enHealth Subcommittee of the Australian Protection Principal Committee, Canberra, Australia
- enHealth 2012, *Australian exposure factors guidance*, enHealth Subcommittee of the Australian Protection Principal Committee, Canberra, Australia.

A human health risk assessment checklist is provided in Appendix E of the NSW EPA *Contaminated Land Management Guidelines for the NSW Site Auditor Scheme* (3rd edition) dated October 2017 and should be used to assist auditors in documenting their review of site specific human health risk assessments.

MGR28 Ecological risk assessments

When reviewing Tier 3 or site specific ecological risk assessments, auditors must consider and document in the audit report whether the risk assessment has been undertaken in accordance with Schedules B5 and B6 (where applicable) of the ASC NEPM and any relevant guidelines made or approved by the EPA. If an auditor is not a risk assessment expert they must seek specialist advice from their specialist team member or provide appropriate justification in an audit report why specialist advice was not sought.

The auditor must check and document in the audit report whether the Tier 3 or site-specific ecological risk assessment is scientifically valid and that any site-specific criteria recommended by the consultant have been developed in accordance with the framework described in Schedule B5 of the ASC NEPM.

MGR29 Residual off-site contamination

Where contamination at the audit site may be able to be remediated to the boundaries of the audit site, the auditor must consider the potential for any residual off-site contamination to migrate back onto the site being audited. In this case, the potential for resulting site contamination and/or impacts on the land use(s) must also be considered.

MGR30 Minor amendments or revisions to audit reports (and audit statements)

If minor amendments to the audit report are required, the amended audit report (and audit statement) with updated document quality control information which identifies the amendment and amended pages must be provided by the responsible auditor to the parties identified in section 103Z(4) of the EP Act, with a letter specifying the nature of the amendments. If any pages of the audit statement need to be amended, the complete amended audit statement must be provided to the local council (and any prescribed body). Updated document quality control information must be provided on each amended page.

Where a revised audit report is issued due to compliance issues the auditor must identify in the revised audit report that the previous version of the audit report was not accepted by the EPA and provide a summary of the reasons for and implications of the replacement.