



## Contaminated Land Management Amendment Bill.

### Second Reading

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.37 p.m.]:  
I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

#### Leave granted.

The Contaminated Land Management Act 1997 provides the regulatory framework for notification, investigation, and clean-up of sites where contamination presents a significant risk to human health and the environment. It also provides for the accreditation of site auditors to ensure that contaminated land is cleaned up to appropriate standards through their independent auditing and that the land is safe to use. The proposed amendments relate, for the most part, to the provisions dealing with the accreditation and ongoing supervision of site auditors by the Environment Protection Authority [EPA] under the New South Wales site auditor scheme. The scheme forms one of the linchpins to contaminated site clean-up in the State.

Contaminated site auditors have as their primary responsibility the protection of human health and the environment. Their integrity and work quality are paramount. There can be no room for compromise in this regard. The EPA's experience with the site auditor scheme over the last five years has made the EPA aware of the need for amendments to the scheme's legislative framework. Performance reviews of auditors' work undertaken by the EPA have made it clear that the scheme as it stands has some gaps. In particular, the EPA's ability to take effective action against an underperforming auditor is constrained by disciplinary grounds that are too restrictive. This is undesirable, as users of the site auditor scheme need to have confidence in the standard of a site auditor's work and that an underperforming auditor can be dealt with decisively and appropriately.

The EPA also needs a better range of tools to be able to strategically manage a site auditor's performance. The bill will provide these tools. The possibility of making changes was first aired in mid-2002, when the EPA issued a public discussion paper on the proposed amendments. The comments received as a result of that paper and subsequent consultation with stakeholders have been considered in the preparation of the bill before the House. The Government's aim through the proposed amendments to part 4 of the Act is to ensure that accredited site auditors are of the highest calibre, and that they maintain a high professional standard during the term of their appointment. The amendments provide the EPA with better means with which to enforce this standard. This will strengthen the community's confidence in the site auditors' work and their conclusions about the suitability of land use.

The amendments will enhance the EPA's discretion to grant and renew accreditation. The EPA will be able to place comprehensive requirements on a site auditor to ensure that his or her attention is focused on crucial aspects of the audit process. The amendments also make it an offence for site auditors to indicate that they can undertake certain types of audits if the conditions of their accreditation exclude them from this work. The EPA will have discretion to refuse an application for accreditation as a site auditor if the auditor's accreditation was revoked in the past two years.

The power for the EPA to issue binding directions to site auditors will now be an express power in the Contaminated Land Management Act. Any conditions or directions made by the EPA can be applied to both statutory audits—those that are required for the purposes of a legislative requirement—and to non-statutory audits—those that are carried out for other purposes. Those provisions can be used to ensure that auditors focus on improving specific areas of their performance in conducting site audits. The proposed amendments make the grounds for revoking or suspending a site auditor's accreditation consistent with the grounds for refusing to renew accreditation.

The existing grounds for EPA action are expanded to include a number of new matters. These new matters include: if a site auditor contravenes a condition of accreditation or a direction; if a site auditor provides false or misleading information in connection with an application for accreditation or renewal of accreditation; if a site auditor's work is of an unacceptable standard; or if there are other relevant matters that make the auditor unsuitable for accreditation. I note that, to ensure procedural fairness, the proposed amendments require the EPA to give notice to site auditors of its intention to revoke, suspend or decide not to renew an auditor's accreditation, specifying reasons and giving the auditor an opportunity to respond to the EPA's decision. The response must be taken into account by the EPA.

The amendments have also given the Government an opportunity to clarify the position in relation to conflicts of interest for site auditors. The clarification will provide clearer guidance for the auditor by more closely defining "conflict of interest". In particular, it prohibits a site auditor carrying out a site audit if it involves the auditor reviewing any aspect of

work carried out by the auditor or a person who is related to the auditor. This amendment will assist the users of site auditors, such as land-holders and councils, to have confidence in the independence of the advice provided by the site auditor.

The amendments also make it clear that a corporation may be convicted of the offence of knowingly providing false or misleading information in connection with a site audit. The maximum penalty for the offence is increased to \$137,500 in the case of a corporation, and to \$66,000 or imprisonment for two years, or both, in the case of an individual. This will standardise penalties for offences that apply to the scheme. Another amendment relates to the site auditor panel. Its role will now focus on advising the EPA about the suitability of new applicants only. The amendment brings the function of the panel into line with the role of the accreditation panel that is used for a similar auditor scheme in Victoria.

Finally, I draw attention to an amendment to part 3 of the Act that does not pertain directly to the site auditor scheme. It will clarify that landowners who are partially responsible for contamination can recover a proportion of their clean-up costs from any other contaminations. The proposed amendments will give the EPA improved power to regulate the site auditor scheme to ensure it continues to be robust and effective. Amendments to the Act will ensure a stronger basis for trust in the site auditor's scheme, and in the processes used to evaluate and manage contaminated land. Local government can remain confident that its reliance on site auditors in the planning process has a firm foundation. Industry will be able to make commercial decisions with greater certainty, and the community will have greater assurance that the environment is being protected. I commend the bill to the House.

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