

**EXAMINATION OF THE AUDITOR-GENERAL'S
PERFORMANCE AUDIT REPORTS SEPTEMBER
2013 – JULY 2014**

Organisation: NSW Environment Protection Authority

Date Received: 31 August 2015

DOC15/303821-05

31 AUG 2015

Bruce Notley-Smith MP
Chair
Legislative Assembly Public Accounts Committee
Parliament of New South Wales
SYDNEY NSW 2000

Attention: Mr Bjarne Nordin, Acting Director Committees

Dear Mr Notley-Smith MP

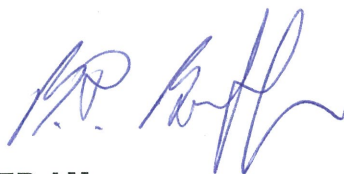
Auditor-General's Report on Managing Contaminated Sites

I write in response to your letter to the NSW Environment Protection Authority (EPA) of 6 August 2015 seeking details on the EPA's response to the Auditor-General's Report on Managing Contaminated Sites, tabled on 10 July 2014.

The EPA submitted a response to the Auditor-General's Office on 7 July 2014 indicating that all 13 of the report's recommendations relating to the EPA were accepted. This response was tabled with the report. I am pleased to advise that the majority of the recommendations have been implemented including all those with timeframes for implementation due within the 12 months since the report was tabled. Two remaining recommendations with longer timeframes for implementation are ongoing and on track.

Please find at Attachment A the completed template, which provides details of the EPA's response to each recommendation.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'B. Buffier'.

BARRY BUFFIER AM
Chair and CEO
Environment Protection Authority

Enclosure

Contact officer: CRAIG LAMBERTON
9995 5593

NSW AUDITOR-GENERAL'S REPORT - IMPLEMENTATION OF RECOMMENDATIONS

NSW Environment Protection Authority
Managing Contaminated Sites

Recommendation	Actions to be taken	Accepted or Rejected	Due Date	Status & Comment (completed, on track, delayed)	Responsibility (section of agency responsible for implementation)
The EPA should:					
1. by September 2015, in consultation with key landholding agencies, develop a set of model procedures for the identification and management of contaminated sites (page 28 of Audit Office report)	Discussion within existing Public Land Managers Forum (Forum for Government Agencies with substantial land assets) to develop guidelines for internal use by these agencies	Accepted	30-Sep-15	On-track	EPA - Contaminated Sites Section
2. by December 2014, review its process for dealing with sites brought to its attention without a notification form being completed and its means of recording the details, including how each lead is acquitted (page 31)	-Revised process for dealing with sites brought to EPA attention without a notification form incorporated into EPA's Contaminated Sites Procedures.	Accepted	31-Dec-14	Completed on 24 December 2014	EPA - Contaminated Sites Section

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Recommendation	Actions to be taken	Accepted or Rejected	Due Date	Status & Comment (completed, on track, delayed)	Responsibility (section of agency responsible for implementation)
The EPA should:					
5. by March 2015, develop a program, including timeframes, to eliminate the backlog of notified sites that are yet to be assessed. This should include the issuing of preliminary investigation orders for those sites that fail to provide the necessary information in a timely manner (page 35)	- Backlog program commenced in late 2014. Preliminary investigation orders used where necessary to obtain required information. - Treasury bid for two year funding for Backlog Program (\$1.4 M per annum) successful for 2015-16 year only. -Assessment of approximately 150 sites progressed by August 2015.	Accepted	31-Mar-15	Completed on 31 March 2015 Program developed and initiated. Funding for year two of the program to be sought from NSW Treasury.	EPA - Contaminated Sites Section

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The EPA should:					
7. by March 2015, implement a more standardised approach to the declaration of contaminated sites including: • declaring all sites where the contamination meets criteria set out in the Duty to Report guidelines that classify the contamination significant enough to warrant regulation (or establish and communicate clear rules around whether a significantly contaminated site should be declared and when it can be managed under some other regulation or instrument) • reviewing the need for draft declarations and timeframes for responses (page 38)	- Declaration process revised and incorporated into Contaminated Sites internal procedures. - Draft declarations to continue to be issued consistent with the principles of natural justice and procedural fairness. Timelines for responses specified.	Accepted	31-Mar-15	Completed on 31 March 2015	EPA - Contaminated Sites Section

NSW AUDITOR-GENERAL'S REPORT - IMPLEMENTATION OF RECOMMENDATIONS

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9. by June 2015, should implement the combined database, currently being developed, to better manage the: • prioritising and s.12 assessments of potentially contaminated sites • monitoring of progress against agreed actions and milestones for declared sites • storage and analysis of information needed to: - measure the EPA's performance against established timeframe targets - enable the EPA to construct accurate and complete record of its interventions • public reporting including improved availability of information on the status of sites • process for dealing with sites brought to its attention without a notification form being completed, which is not kept in the current system (page 40)	- The EPA Contaminated Sites (EPACS) database is being used to draw together relevant management information to track sites and to make improved information available to the community.	Accepted	30-Jun-15	Completed on 25 June 2015	EPA - Contaminated Sites Section
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The EPA should:					
11. by December 2015: - gain a better understanding of its costs and develop procedures that support the recovery of costs - begin recovering costs for those sites that require additional administrative work because of their complexity or the non-cooperation of owners/ polluters. (page 44)	- Analysis and procedures to support cost recovery have been prepared and are being implemented. - Legislative amendments have been passed to allow the EPA to retain these funds for complex sites. - Ongoing monitoring and review of cost recovery base and structure	Accepted	31-Dec-15	Completed June 2015	EPA - Contaminated Sites

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The EPA should:					
12. by December 2015, implement a clear escalation policy that covers the issuing of warning letters, management orders and/or penalty notices on sites for failures to meet certain conditions (that is, proportional to the severity of those failures) (page 46)	- EPA Compliance Policy and Prosecution Guidelines is used to guide regulatory decisions. Operational guidance on escalation approach has been developed and is being evaluated.	Accepted	31-Dec-15	On-track.	EPA - Contaminated Sites
13. by March 2015, develop plans, guidelines and tools to ensure a more structured approach to communication with key stakeholders and the public during the assessment and remediation of sites (page 48)	- Contaminated Sites Section Stakeholder Communications and Engagement Strategy document prepared and implemented.	Accepted	31-Mar-15	Completed on 31 March 2015	EPA - Contaminated Sites

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The EPA should:					
10. by June 2015, revisit the oversight of cattle dip sites and derelict mines to satisfy itself that these sites are being well managed (page 43)	- The Contaminated Sites Section has reviewed the current oversight of cattle tick dip sites within the NSW Department of Trade (formerly the Department of Trade and Investment, Regional Infrastructure and derelict mines) under the existing programs and is satisfied with the management of these sites within the available funding and resource limitations	Accepted	30-Jun-15	• Derelict mines - completed on 12 June 2015 • Cattle Dip Sites -completed on 12 June 2015	EPA - Contaminated Sites

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The EPA should:					
8. improve and clarify public information on contaminated sites such that (page 40): - management classes are revised to minimise confusion (by December 2014) - progress on notified and regulated sites is clearer and more accessible (by June 2015) - geographical information on the location of notified and regulated sites is available (by June 2015)	- Revision of site status classification system and updating of list of notified sites on the EPA website. - Progress on notified and regulated sites is clearer and more accessible to community. - Geographical information on the location of notified and regulated sites is available.	Accepted	31-Dec-2015 30-Jun-2015 30-Jun-2015	- Completed on 24 December 2014 - Completed on 30 June 2015. - Completed on 30 June 2015	EPA - Contaminated Sites Section

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The EPA should:					
6. by March 2015, revisit the status of sites characterised by significant contamination that have been classified a being managed through the planning process (that is, management class F sites) (page 36)	- Review of former significantly contaminated sites being managed through the planning process completed and follow up action initiated where relevant.	Accepted	31-Mar-15	Completed on 31 March 2015	EPA - Contaminated Sites Section

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The EPA should:					
3. by June 2015, develop and implement key performance indicators to measure its success, including target timeframes for acknowledging notified sites, conducting s.12 assessments, issuing declarations, finalising voluntary management proposals and management orders, and monitor its performance through its newly developed database (page 32)	- Stage 1 and Stage 2 of the EPA Contaminated Sites (EPACS) database project has been completed allowing monitoring and reporting of site progress. - Specific key performance indicator requirements have been developed and are detailed in the Contaminated Sites Procedures.	Accepted	30-Jun-15	Completed on 30 June 2015	EPA - Contaminated Sites Section
4. by December 2014, implement a streamlined process for prioritising and assessing sites notified under the CLM Act (page 35)	- Streamlined site assessment tools have been developed and incorporated into the new EPACS database.	Accepted	31-Dec-14	Completed on 23 December 2014	EPA - Contaminated Sites Section