

## DIT:Planning Reform Submissions

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**From:** [REDACTED]  
**Sent:** Thursday, 17 December 2020 11:03 PM  
**To:** DIT:Planning Reform Submissions  
**Subject:** Draft Practice Direction Site Contamination Assessment Consultation

**Categories:** John

Hello,

I have read through and considered the draft Practice Direction in relation to Site Contamination Assessment issued for consultation in November 2020 and offer the following feedback:

### Part 1

- Footnote – It is stated that “*The South Australian Property and Planning Atlas (the SAPPA) shows notifications of site contamination of underground water and Groundwater Prohibition Areas*”. To my knowledge this is currently not the case, however these notifications and areas are currently shown on the Government’s [Location SA Viewer](#) website. The South Australian Property and Planning Atlas is also referenced in this regard elsewhere in the draft Practice Direction, including the Site Contamination Declaration Form. These references will require amendment if it is intended not to also include this information on the Property and Planning Atlas in the future

### Part 2

- Section 6 – The sentence starting in (1) half way down page 5 as “*If an application.....*” does not appear to be completed until half way down page 6 in (3) as “*.....A preliminary site investigation must be prepared by a site contamination consultant*”, despite the presence of several full stops and capital letters in the intervening text. This may be very confusing for a layperson. I suggest this is amended to be in clearer, plainer English. Perhaps simply start the sentence at (1) with “*A preliminary site investigation must be prepared by a site contamination consultant if an application.....*” and delete “*A preliminary site investigation must be prepared by a site contamination consultant*” from the beginning of (3). If this amendment is made the sentence starting in (1) will end in (1).
- Section 6 – It is unclear why Class 3 activities are excluded from (2) (B). Such activities could cause significant site contamination over a five year period following completion of a site contamination audit that could result in impact of the health of future residents. Also it is apparent that (2) (B) just relates to activities that have “*taken place at the land*” over a period of up to 5 years since completion of an audit report and does not consider adjacent land. This lack of consideration could also result in impact of the health of future residents should chemical substances migrate from adjacent land during and following this period. Furthermore, site contamination audit reports are often only valid at the time of signing as they relate to conditions and if relevant, Development Applications submitted, at that time. To simplify the Practice Direction, I suggest the clause is significantly modified or even deleted (perhaps with the first half of the initial sentence included elsewhere in the draft Practice Direction). If a site contamination audit report already exists for the site, a certified site contamination practitioner should identify this as part of the Preliminary Site Investigation. The information within the audit report could then be utilised to simplify the investigation process, but a certified site contamination practitioner should also give due consideration to changes in site conditions since audit completion and complete the site contamination declaration form on that basis.
- Section 6 – With regard to clause (3), the sentence “*The preliminary site investigation should be sufficient to provide a preliminary assessment of whether site contamination exists*” appears to be confusing and

inconsistent with other parts of the draft Practice Direction because the Site Contamination Declaration Form requires a statement of whether site contamination is “*unlikely to exist*” or whether site contamination “*exists or may exist*” and the second use of the word “preliminary” is not always relevant particularly if it is apparent the site contamination is unlikely to exist then the assessment process would generally end there (it would not be preliminary, it would be conclusive). I suggest this sentence is amended to read “*The preliminary site investigation should be sufficient to provide an assessment of whether site contamination exists, may exist or is unlikely to exist*”. This amendment should make it consistent with the requirements the Site Contamination Declaration Form.

- Section 6 – Clause (6) indicates that the Site Contamination Declaration Form is to be completed by “*an appropriately qualified and experienced site contamination consultant*”. The term “*site contamination consultant*” is defined in Part 1 of the draft Practice Direction (as the same meaning as in the Environment Protection Act 1993, i.e. *a person other than a site contamination auditor who, for fee or reward, assesses the existence or nature or extent of site contamination*), but the meaning of “*appropriately qualified and experienced*” is not defined. This I believe to be a major short coming in the draft Practice Direction. In 2018 the EPA published their “*Site contamination policy: certification of practitioners*”. This document states that “*prior to the publication of this policy, it has been possible for persons to identify themselves as a site contamination practitioner (or site contamination consultant) without having the necessary qualifications or experience to do so. In the past, this has been a regulatory issue for the EPA resulting in the following outcomes:*”
  - *preparation of poor quality risk assessments resulting in potential significant risk to human health and the environment (from the inadequate assessment and remediation of site contamination)*
  - *contribution to significant financial loss to property owners and future owners*
  - *severe personal hardship to unaware property owners and future property owners*
  - *confusion and the presentation of unreliable information for planning authorities*
  - *inappropriate development of land affected by site contamination.*”

Section 6.5 of the EPA’s policy states that “*From the date of commencement of this policy, the EPA will recommend to planning authorities, as part of the site contamination planning framework that with the exception of site contamination audit reports, they only accept reports prepared, or reviewed and approved by a certified site contamination practitioners*. In order to help prevent the adverse outcomes listed above from continuing to occur within the planning regime, it is strongly suggested that the EPA’s recommendation is reiterated within the Practice Direction, so that relevant stakeholders are fully aware of this recommendation.

- Section 7 – With regard to clause (1), please refer to my comment in relation to Section 6 clause (3) above. I suggest this sentence is also amended to read “*The preliminary site investigation should be sufficient to provide an assessment of whether site contamination exists, may exist or is unlikely to exist*”, or it is deleted as it is simply a repetition of a sentence in Section 6 clause (3).
- Section 7 – With regard to clause (3), for consistency with the other parts of the draft Practice Direction, I suggest the phrase “*....indicate that site contamination is present, or is likely to be present....*” is changed to “*....indicate that site contamination exists or may exist....*”

Please feel free to contact me if you wish to discuss any of the above comments.

Kind regards,

**Dr David Tully**

Director

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