

Developing Property and the Environment in Victoria

Frequently Asked Questions (FAQs)

When do I need an Environmental Audit?

An Environmental Audit may be required (triggered) when:

- you are redeveloping a potentially contaminated site to a more sensitive use (e.g. from a former petrol station to residential or a childcare centre);
- you are developing land that is covered by an Environmental Audit Overlay;
- there is a planning permit requirement relating to a site located in a landfill buffer zone;
- it is requested by local council as a condition in your development application;
- you are wanting to assist in reducing future risk and understand potential contamination management measures (due diligence);
- EPA requests to understand the risk of harm caused by an activity; or,
- compliance is to be demonstrated with an EPA licence.

What's a 53X Environmental Audit?

Generally, a 53X audit is required to verify that potentially contaminated land can be used for a specific use (industrial, commercial, residential or mixed), or when the proposed land is covered by an EAO within a planning scheme.

From a 53X audit comes either a certificate or a statement of environmental audit.

- **Certificate of Environmental Audit** - is issued for a property where, following an audit, an environmental auditor believes the environmental condition of the land is suitable for any beneficial use.
- **Statement of Environmental Audit** - is issued where, following an audit, an environmental auditor believes the land isn't suitable for all possible beneficial uses, but is suitable for specific uses or developments. It will typically contain conditions for management of contamination. If the land use changes for a property

which has been issued a statement of environmental audit, a new audit may be needed.

What's a 53V Environmental Audit?

53V audits are most commonly used by the EPA to understand the risk to the environment posed by an industrial activity or to validate that clean-up of contaminated land or groundwater has occurred.

The 53V audit assesses the risk of any possible harm to a site caused by an industrial process or activity, waste substance or noise. This includes audits associated with the construction and operation of landfills.

A 53V audit can be used to demonstrate compliance with an EPA licence or to assess the remaining contamination on a site to support the scope of a clean-up plan. It can be required by a planning authority (local government) when there is a planning permit application relating to a site located in a landfill buffer zone.

What's an Environmental Audit Overlay (EAO)?

An EAO is a planning tool applied by local government to identify that a site is known to be potentially contaminated. This may be because it was once used for industry, the storage of chemicals or wastes.

An EAO requires an environmental audit before any works commence on that site; prior to the land being used for any 'sensitive uses' such as housing or a childcare centre.

An EAO does not prevent an assessment and approval of a planning scheme amendment. However, it does prevent planning permits being issued until a 53X audit is completed and a certificate or statement of environmental audit is produced.

When do I engage an Auditor?

To avoid delays to a development, the auditor should be engaged as early as possible.

When engaged early, the auditor can help minimise any uncertainties by offering pragmatic advice on the scope of work required to assess the nature and extent of contamination. This may also avoid the need for extra data collection later in the process.

What do I need to consider when appointing an Auditor?

Auditors are a key part of the development approval process and careful consideration should be exercised in appointing the right auditor. Each auditor is different as they come with varying experiences and areas of expertise. Whilst they all try to enforce and uphold the same rules, regulations and practices, matching an auditors experience and/or area of expertise with the project is typically beneficial.

Experience, communication, outcome-focused, integrity, quality; are qualities that form a good, reliable auditor.

How can I make the most out of my property value?

Conduct simple due diligence and risk assessment – What was the site historically used for? Is there an environmental audit overlay? What is the potential environmental liability? What are the potential cost requirements? What is the clean-up, damages and business risk?

If purchasing a suspected contaminated site, understand the extent of contamination issues and factor this into your budget for assessment, remediation and auditing.

Engage a suitable auditor early on in the process to avoid delays and regulatory constraints. The auditor will work with you and use his/her experience and knowledge for creative ways to help deliver your project with the best environmental outcome.

How long does an Environmental Audit take?

The timeframe for an audit is highly dependent on the nature and extent of contamination and the level of assessment and monitoring required. The audit period can be further extended if clean-up works or regulator involvement are required prior to completion of the audit.

Generally, the hold up for the auditor is the time it takes for the provision of information requested to satisfy the auditor and the outcomes.

The entire process can take anything from a few months to more than a year.

How much does an Environmental Audit cost?

The cost varies from site to site, factoring in the nature and extent of contamination, the timing and quality of the consultants assessment and remediation work, the

complexity of the site and future use, and the number of documents for audit review.

If you engage an auditor early in the process then this may result in significant cost savings by reducing any possible project delays. Auditors generally charge per hour and do not provide lump sum quotes.

Best case scenario would be a site that has undertaken due diligence prior to purchasing and has resulted in minimal contamination impact to human health and the environment, complemented with good quality consultant reports for auditor review.

A more complicated scenario may be a proposed mixed-use site purchased on a contaminated property without any due diligence (resulting in further testing and remediation works) together with poor quality consultant reports and engaging an environmental auditor late in the process.

Audit costs can be as low as \$20k to more than \$100k depending on the complexity of the project (not including assessment or remediation by the consultant).

At what step can the greatest uncertainty of unaccounted costs occur?

The uncertainty rests with the outcome of sampling works and whether this encounters unexpected contamination or not.

Generally, the challenge is not so much the cost of collecting samples (although these may be high), but dealing with contamination that has been identified from the sampling which in return may require remediation. Understanding the extent of risk can benefit and possibly be minimised through appropriate due diligence by experts qualified in this area.

What sort of documents do Auditors review?

Results from soil sampling and analysis, groundwater monitoring events, remediation action plans, site environmental management plans, planning and development plans, any other relevant documents at the request of the auditor to assist in the audit outcome.

Does a statement of environmental audit mean the land is badly contaminated?

A statement of environmental audit indicates the nature of the remaining contamination and the steps required to manage it for specified uses.

This outcome is quite common and does not mean that you can't develop on this property, but depending on the beneficial uses, it will require specific conditions to be met.

What do statement conditions mean? Do I have to follow them? How are they enforced?

Statement conditions must be followed in order to continue to develop on that site for a specific use.

A development application will not be accepted without these statement conditions being met and signed off by an auditor. This is enforced local council under the Planning and Environment Act 1987.

Statement conditions are typically enforced by the local authority.

What's the difference between an Auditor and a Consultant?

Environmental auditors are appointed by the EPA and are highly qualified and skilled individuals who have met strict EPA criteria and guidelines. Auditors are independent and are accountable for any audit report or associated documents they prepare. Auditors are backed by a team of expert and specialist auditor assistants.

Environmental consultants are professionals who have expertise in environmental science or engineering. The consultant undertakes the physical sampling, assessment, remediation and management plans to then provide to auditors for verification. The environmental consultant cannot be the auditor at the same site as this would be seen as a conflict of interest.

Can an auditor add value?

Experienced auditors can add value by providing advice prior to purchasing a site to point out any environmental liabilities and potentially avoid ongoing or minimise financial costs.

When you engage an auditor early in the process you can save on time and costs associated with investigations, avoiding unnecessary re-work. The auditor can help guide you from the start.

Auditors can also offer creative ways to manage issues that pose a potential threat to human health and the environment. For example, methods of vapour intrusion ventilation in a basement carpark of a multi-storey residential apartment.

Additionally, auditors interact with the many stakeholders and understand the processes and legislation to help move things along quickly and effectively.

Does being under audit mean that the EPA have interest in the site?

The auditor must send EPA a written statement within seven days of being appointed by the client. This is merely

registered in their system but is not flagged as requiring attention from EPA necessarily.

EPA may express interest in a site if a CUTEP (Clean Up to Extent Practicable) submission is required. CUTEP may be requested if the auditor determines the site investigations report to still show contamination exceeding specified regulations and policy. From here, the EPA or Auditor assesses whether CUTEP has been achieved and makes a determination.

What are some former industry examples that could potentially have contamination issues?

- Service stations
- Market gardens
- Drycleaners
- Automotive and engine workshops
- Manufacturing workshops
- Landfills
- Quarries
- Gasworks
- Timber preservation and tanneries
- Rifle ranges
- Abattoirs
- Airports
- Railway yards
- Cattle dips