

## Site contamination audit system

### Interim audit system guidance: Groundwater prohibition areas (GPA)

**Date: 4 November 2024**

This interim audit system guidance (interim guidance) describes the process a site contamination auditor<sup>1</sup> (auditor) accredited pursuant to Part 10A of the *Environment Protection Act 1993* (the EP Act) is to use when the health-based triggers for a groundwater prohibition area (GPA) are identified during a site contamination audit<sup>2</sup> (audit). This interim guidance also describes the documentation required to support an audit recommendation that the Environment Protection Authority (EPA) should prohibit or restrict the taking of groundwater<sup>3</sup> in a site contamination audit report<sup>4</sup> (audit report).

The interim guidance applies when the GPA triggers, informed and supported by the application of the GPA health-based criteria and key factors, described in the [EPA GPA information sheet](#), are identified by an auditor during an audit.

The interim guidance comprises an updated five-step audit process with requirements prior to and on audit completion, an updated Interim Audit Advice (IAA) form and an [audit GPA checklist](#). The audit GPA process is supported by four interim mandatory guideline requirements (MGRs).

This interim guidance augments and supersedes the current EPA guidance to auditors in relation to GPAs, currently described in the EPA publication [Guidelines for the site contamination audit](#) system (the audit guideline).

Sections of the audit guideline relevant to this interim guidance include the following:

- Section 11 Interim audit advice
- Section 12 Audit conditions and recommendations
- Section 14 Assessment considerations
- Section 16 Community engagement and risk communication
- Appendix 3 Format and content of audit reports, audit statements and interim audit advice.

## Application

The *Environment Protection Regulations 2023* (the Regulations) require the EPA to place a condition on every accreditation which requires auditors to comply with any relevant guideline issued by the EPA (as far as they may be relevant in the circumstances of any case) when acting as an auditor<sup>5</sup>. The EP Act requires that audit reports

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<sup>1</sup> Defined in s.3(1) of the EP Act.

<sup>2</sup> Defined in s.3(1) of the EP Act.

<sup>3</sup> Pursuant to s.103S of the EP Act

<sup>4</sup> Defined in s.3(1) of the EP Act.

<sup>5</sup> Regulation 56(2). Refer also to section 6.8 of the audit guideline.

comply with guidelines issued from time to time by the EPA<sup>6</sup>. This interim guidance is a relevant guideline for both purposes. It specifies mandatory requirements for auditors which are identified and highlighted below. MGRs are indicated using the word 'must'. Refer to section 1.4 of the audit guideline for further information.

The interim guidance comes into effect on **4 November 2024** and will remain in effect until advised by the EPA.

In circumstances where audits may already be substantially completed and audit reports are in the process of being prepared at the time of publication and a GPA is expected to be recommended, the EPA is to be contacted prior to audit completion and submission of the audit report to discuss the specific circumstances and seek approval from the EPA for transitional arrangements to be implemented.

## Discussion

The EPA may prohibit or restrict the taking of water affected or threatened by site contamination and action is necessary to prevent actual or potential harm to human health or safety, through the establishment of a GPA. A GPA is an institutional or statutory tool which acts as a regulatory control to manage groundwater contamination which poses a risk to human health. Therefore, auditors can only recommend to the EPA that such an action be undertaken.

To date the EPA has established GPAs where off-site contamination was 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, where groundwater contamination was identified but 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 (refer to section 12.8 of the audit guideline).

This interim guidance seeks to improve the current EPA guidance and audit process in circumstances when an auditor identifies the need to make an audit GPA recommendation, to better manage current and future risk to the community in relation to groundwater contamination. It seeks to ensure that persons with liability for offsite contamination effectively engage with affected communities at an appropriate time and prior to audit completion, and that auditors, when making GPA recommendations, provide concise detail on the nature and extent (including vertical) of groundwater contamination to support EPA's determinations. Such a recommendation, following the process outlined below and in the attached figures, will then be used by the EPA in determining whether to exercise its statutory discretion to establish a GPA under s.103S of the EP Act.

The revised audit GPA recommendation process builds upon existing guidance and is based on the following principles and objectives:

- the polluter pays principle and assigning responsibilities in relation to off-site contamination to liable persons (where they exist)
- improve the level of information and detail being provided in audit reports where audit GPA recommendations are being made to ensure the nature and extent of the groundwater contamination is delineated and clearly understood
- ensure that appropriate engagement with impacted landowners has been undertaken by liable persons prior to the completion of the audit report
- support the timely establishment of a GPA by the EPA when recommended by an auditor in an audit report to improve risk management of communities affected by site contamination
- GPAs remain an institutional control following appropriate assessment and remediation in accordance with relevant guidelines including the *National Environment Protection (Assessment of site contamination) Measure*

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<sup>6</sup> Section 3(1) of the EP Act. Refer also to section 2.3 of the audit guideline.

1999 as amended in 2013 (the ASC NEPM), and the EPA Publication [Site contamination: Guidelines for assessment and remediation](#).

## 5-step audit GPA process

The process comprises two main stages, during an audit and on audit completion, with five steps which require actions to be undertaken by auditors, liable persons and the EPA, as appropriate:

- **Stage 1 Audit in progress**
  - Step 1 GPA triggers identified by auditor
  - Step 2 Submission of interim audit advice when GPA triggers identified when carrying out an audit
  - Step 3 Community engagement
- **Stage 2 Audit completion**
  - Step 4 Audit GPA recommendations
  - Step 5 EPA GPA determination.

Steps 1 to 3 involve actions to be taken during an audit. When the GPA triggers are identified during an audit and the audit client is the liable person for the off-site contamination, an auditor is required to submit an audit GPA information package to the EPA, in the form of interim audit advice (IAA). The IAA is required to be supported by a community engagement plan (CEP) and sufficient information to describe the groundwater contamination and conditions which have triggered the audit GPA process. Following the submission of the IAA, the liable person is responsible for implementing the CEP and the audit can progress to completion.

Steps 4 and 5 involve actions to be taken at the time of and following audit completion. The audit GPA process concludes following a single round of community engagement by the EPA and the establishment of the GPA.

Each of the five steps are described below and shown in Figure 1.

### Stage 1 Audit in progress

#### Step 1 GPA health-based triggers identified by auditor

Where the auditor identifies the GPA health-based triggers exist during an audit and expects to make a GPA recommendation within the audit report, where the audit client has liability for the site contamination the auditor must submit a supporting GPA information package to the EPA and community engagement is to be undertaken by the audit client prior to the completion of the audit (refer to step 2).

If the audit client does not have liability for the off-site contamination, the auditor is to advise the EPA prior to completion of the audit (refer to **MGR-GPA1**). As currently described in the audit guideline, the known nature and extent of site contamination and supporting auditor determinations are to be clearly documented in the audit report at the time of audit completion. In circumstances when the audit client only has liability for on-site contamination, audit conditions relating to the control of on-site groundwater use would be an expected audit outcome. Refer to section 14 of the audit guideline for further information.

In both circumstances, site contamination affecting off-site landowners would be expected to trigger notification requirements under s.83A of the EP Act and may also trigger hazardous circumstances notifications during the audit. The EPA will undertake prioritisation and initial liability determination of any notifications in accordance with the [EPA Site Contamination Regulatory Framework](#) and identify any potential need for EPA assessment in accordance with the [EPA Orphaned Site Contamination Management Framework](#).

Remediation of any on-site sources is expected to be undertaken in accordance with the EPA publication [Site contamination: Guidelines for assessment and remediation](#).

An auditor should contact the EPA in circumstances where there is any uncertainty of the liability status of the audit client for the site contamination.

### **MGR-GPA1 Notification of GPA triggers when carrying out an audit and the audit client only has liability for on-site site contamination**

In circumstances when the GPA triggers, informed and supported by the application of the GPA health-based criteria and key factors described in the [EPA GPA information sheet](#), are identified by an auditor in the carrying out of audit and the audit client only has liability for on-site site contamination, the auditor must formally advise the EPA at that time, and prior to completion of the audit and preparation of the audit report.

### **Step 2 Submission of audit GPA information**

When the GPA triggers, informed and supported by application of the GPA health-based criteria and key factors described in the [EPA GPA information sheet](#), are identified by an auditor during an audit, Interim Audit Advice (IAA) is to be prepared by the responsible auditor<sup>7</sup> and submitted to the EPA (refer to **MGR-GPA2** and revised **MGR18**) to:

- inform the EPA of the identification of the GPA triggers relating to groundwater contamination identified during the audit process
- demonstrate how a GPA is triggered by the groundwater contamination
- provide details of the proposed community engagement to be undertaken by the audit client
- indicate a likely outcome of the audit will be an audit recommendation that a GPA is required to manage risk.

Sufficient assessment of the nature and extent of any site contamination is to have been completed to allow the auditor to make informed risk-based decisions and determine that a GPA recommendation is necessary. Refer to Section 11 of the audit guideline for further guidance on the preparation of IAA.

Key components of the audit GPA information required to be submitted to the EPA include:

- IAA form and supporting audit GPA checklist
- a supporting summary statement which includes:
  - a well-developed groundwater-focussed conceptual site model (CSM)
  - delineation of the lateral and vertical extent of the groundwater contamination
  - justification of the GPA recommendation boundaries
  - identification of each certificate of title (CT) within the area, and whether the CT is included as full or portion<sup>8</sup>

<sup>7</sup> Where an auditor is personally carrying out an audit or directly supervising another person in the carrying out of an audit, the auditor is identified as the responsible auditor. Refer to sections 103Y(4) and 103Z(5) of the EP Act.

<sup>8</sup> The EPA expects that full CTs would always be included in the subject area, except where this may not be practicable, for example when the CT includes more than parcel of piece of land or when the CT describes a large area of land.

- plan(s) clearly showing the mapped boundaries of the area, including road and suburb boundaries<sup>9</sup>
- tabulated groundwater quality summary tables
- A shapefile containing the details of the groundwater contamination area and buffer if required (the anticipated auditor recommended GPA)
- supporting community engagement plan (CEP) – refer to step 3 and MGR-GPA3
- any additional information the auditor considers relevant.

#### **MGR-GPA2 Submission of interim audit advice when GPA triggers identified when carrying out an audit**

When the GPA triggers, informed and supported by the application of the GPA health-based criteria and key factors described in the [EPA GPA information sheet](#) are identified during an audit and the audit client has liability for the off-site contamination, auditors must appropriately complete and then submit interim audit advice to the EPA for review, prior to the completion of the audit. The IAA must be prepared using the specified EPA form and supported by a completed auditor GPA checklist.

#### **REVISED 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.

The supporting information for the relevant triggers as identified on the interim audit advice form, must be provided as specified in either the summary statement or as appendices.

Where required to be implemented, copies of relevant plans (for example SAQP, SRP, SMP, CEMP, CEP) reviewed and/or endorsed by the auditor must 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, and where inconsistent include justification and a summary of the changes during implementation.

<sup>9</sup> The EPA expects that mapped boundaries would follow road and suburb boundaries, except where this may not be practicable.

### Step 3: Community engagement

Risk communication and community engagement is a key component of the assessment and remediation of site contamination (refer to section 16 of the audit guideline).

Where off-site contamination is identified, and the audit client is the person with liability for the off-site contamination, the EPA expects that appropriate community engagement with any landowners known to be, or potentially, affected by the site contamination, is carried out by or on behalf of the audit client prior to audit completion and documented in the audit report (refer to section 16 of the audit guideline). This includes communicating and engaging with any affected residential and business communities and landowners.

To support the submission of an audit GPA information package, the proposed engagement to be undertaken by the audit client (liable person) is to be documented in a CEP that has been reviewed by the auditor and found to be consistent with the relevant EPA guidelines (refer to **MGR-GPA3**).

The EPA expects that engagement activities and key messages are clearly documented in the CEP and be consistent with the EPA's expectations. Where off-site groundwater contamination affecting other properties exists, the EPA expects the audit client (liable person) to have undertaken, prior to audit completion:

- the preparation of a Community Engagement Plan consistent with the ASC NEPM and relevant EPA guidelines
- appropriate engagement with the community to:
  - confirm the presence/absence of groundwater bores within the delineated plume and 'buffer zone'
  - recommend groundwater should not be used for any purpose
  - advise of the audit process and potential for a GPA to be recommended to the EPA by the auditor.

This may involve one or more direct door knocks and/or letterbox drops undertaken by or on behalf of the liable party.

#### MGR-GPA3 Auditor review of community engagement plans

When reviewing a community engagement plan (CEP), a responsible auditor must consider the consistency of the CEP with the EPA publications *Industry – Guideline for community engagement* (July 2021) and *Site contamination: Guideline for Communication and Engagement*, in addition to Schedule B8 of the *National Environment Protection (Assessment of Site Contamination) Measure 1999* (as amended in 2013). A supporting statement of the CEP consistency with the required guidelines is to be documented by the auditor in interim audit advice and/or audit reports, as applicable.

## Stage 2 Audit completion

### Step 4 Audit GPA recommendations

When and if appropriate, the responsible auditor is to complete the audit and prepare and submit an audit report to the EPA. A summary of the implementation and engagement outcomes of the CEP submitted with the IAA, and any changes to what was known and/or implemented as documented in the IAA to the final conditions of the site (including off-site) is to be documented in the audit report.

A final audit GPA recommendation (if considered applicable by the auditor) which clearly describes the recommended GPA consistent with EPA guidance is to be documented in the audit report (refer **MGR-GPA4**, also refer to MGR 22 and Appendix 3 of the audit guideline).

#### **MGR-GPA4 GPA recommendations in audit reports**

A GPA recommendation in an audit report (if considered applicable by the auditor) must be supported by the information identified in the audit GPA checklist. In circumstances where there are material changes to what was known and/or implemented as documented in the IAA supporting the audit GPA process to the final conditions of the site (including off-site contamination) this is to be clearly documented in the audit report.

#### **Step 5 EPA GPA determination**

The EPA will undertake an administrative review of each audit report consistent with current processes (refer to section 17 of the audit guideline) to confirm the compliance of the audit report with relevant legislation and EPA guidelines, and to determine if the requirements for GPA establishment have been adequately satisfied. Once the audit report has been confirmed to be complying by the EPA, the EPA will notify the auditor, audit client / liable person(s) of the outcomes of the compliance review and the EPA's determination that GPA establishment under s.103S of the EP Act will be implemented.

The EPA will then undertake engagement on the proposed GPA with the community within the proposed groundwater prohibition area as defined in the audit report. Information will also be made available on the EPA website. At the end of the nominated engagement period, the EPA will formalise the GPA establishment<sup>10</sup>.

There may be exceptional circumstances where additional information may have become available to the EPA prior to audit completion (for example another audit or recent EPA assessment area may be impacting the same area). The EPA will consider if the information is likely to affect the audit GPA recommendation being implemented. In such circumstances, the EPA would engage with the auditor, audit client / liable person(s) as applicable. Depending on the circumstances, this may also trigger community engagement by the EPA. Figure 1 Overview of auditor GPA process

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<sup>10</sup> As required in s.103S of the EP Act

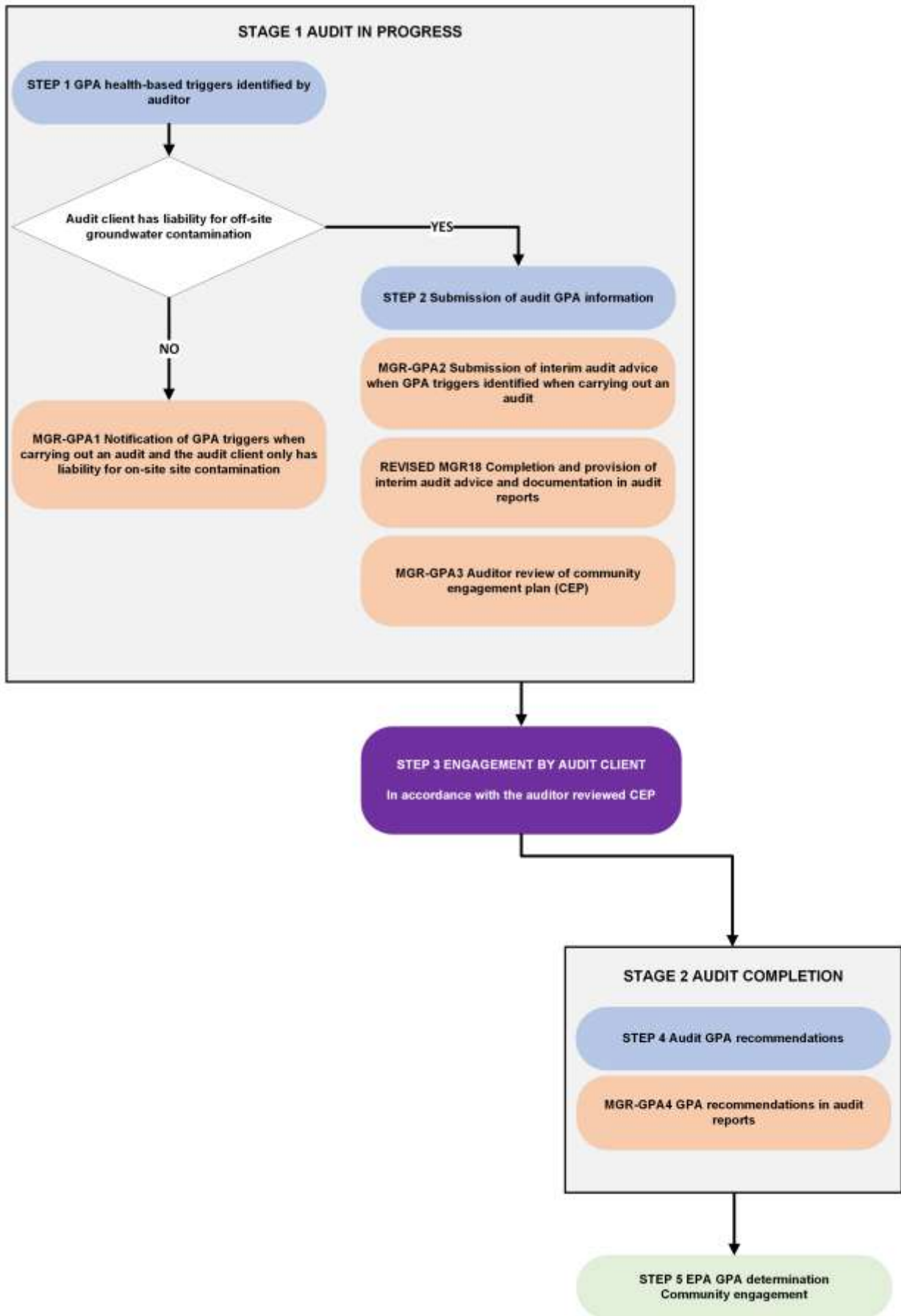


Figure 1 Overview of audit GPA process