

SEPP Comments

Please note that all comments are made in the context of an Environmental Auditor conducting audit works.

Section	Wording	Comments/Suggestions
6 Definitions (pg 7)		<ul style="list-style-type: none"> Please consider including a definition for pollution.
12.0 Assessing practicability (pg 12)	<p>Regards must be given to:</p> <p><i>Risk to existing and potential beneficial uses</i></p> <p><i>Proportionality of actions...</i></p> <p><i>What actions and practices are practicable in minimising risks to Beneficial Uses need to be considered on a case by case basis to ensure that the environmental principle of integration of environmental, social and financial aspects of actions are considered...</i></p>	<ul style="list-style-type: none"> Please clarify wording 'potential' beneficial use? Does this mean protected but not likely to be realised? We have not used the wording "potential BU" for many years – wording is typically Existing, Likely or Unlikely. Who decides whether actions are appropriate? Will the Auditor be able to decide this or does it revert to EPA? Again, who decides 'what is practicable'. The Auditor or EPA?
15.0 Beneficial Uses of Groundwater	<p><i>The Authority may determine that a beneficial use specified in Table 2 of Schedule 2 does not apply to groundwater if—</i></p> <p><i>(a) there is insufficient aquifer yield to sustain the beneficial use;</i></p> <p><i>(b) the application of groundwater, such as for irrigation, may be detrimental to beneficial uses of land or the broader environment due to the soil properties;</i></p> <p><i>(c) a groundwater attenuation zone has been determined by the Authority under clause 58, or a groundwater quality restricted use zone has been determined by the Authority under clause 59;</i></p> <p><i>(d) it is within any landfill cell;</i></p> <p><i>(e) the beneficial use specified in the definition of water dependent ecosystems and species relates to cave ecosystems and subterranean fauna; or</i></p> <p><i>(f) it is in circumstances where the background level or an environmental quality indicator would not provide for the protection of the beneficial use.</i></p>	<ul style="list-style-type: none"> How much does yield actually account for in determining BU relevance? Yield is used by all assessors as reasoning for relevance however often not sufficient evidence to prove. Is there any way the explanatory notes can include additional discussion on yield. It is noted that any of these can be independently used to assess relevance, however only the Authority may determine that a BU does not apply.

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17 Enviro Quality Indicators	<p>Explanatory Notes:</p> <p><i>No specific environmental quality indicators or objectives are provided for the two beneficial uses of Traditional Owners' and Aboriginal Victorians' cultural values; and Cultural and spiritual values. Objectives for other beneficial uses such as water dependant ecosystems and their species go some way to protecting the cultural and spiritual values, including spiritual relationships, sacred sites and customary use. Where indicators and objectives specified for other beneficial uses do not adequately protect cultural and spiritual values or Traditional Owners' and Aboriginal Victorians' cultural values then sub-clause (4) applies. Traditional Owners should be engaged in the development of environmental quality indicators and/or objectives through local management and planning processes for waterways and catchments.</i></p>	<ul style="list-style-type: none"> • Is this valid in all areas or only where aboriginal heritage has been identified e.g. in a planning scheme? • Will EPA publish areas of significance for Traditional Owners' and Aboriginal Victorians' cultural values? • Please consider including some level of guidance regarding the level of engagement required with traditional owners. • Cultural and Spiritual values however will be applicable everywhere. • Do EPA anticipate any other practices that would require specific assessment? How would this be undertaken practicably – e.g. HHRA?
42 Management of Construction Activities	<p>(1) <i>Persons responsible for construction activities must, so far as practicable, ensure that their activities do not impact on beneficial uses, including from dewatering, land disturbance, soil erosion and the discharge of sediments and other pollutants to waters consistent with current best practice or approved guidance from the Authority.</i></p> <p>(2) <i>Persons responsible for construction activities must monitor surface waters where construction activities adjoin or cross surface waters, to assess if beneficial uses are being protected.</i></p>	<ul style="list-style-type: none"> • May require some clarification around ongoing dewatering of basements – post-completion of construction. • No mention of basement dewatering throughout document but this has become a significant issue on many sites around Melbourne.
55 NAPL	<p>(1) <i>An occupier of premises where non-aqueous phase liquid is present in an aquifer, must—</i></p> <p>(a) <i>remove or control the source of the non-aqueous phase liquid; and</i></p> <p>(b) <i>clean up the pollution, to the extent practicable, consistent with current best</i></p>	<ul style="list-style-type: none"> • Use of AND implies remove/control and CUTEP (i.e. Must clean up pollution and remove or control the source and must be cleaned up to extent practicable). This does not allow for CUTEP to be achieved for non-source sites where the source cannot be removed or controlled.

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	<p><i>practice or relevant guidelines approved by the Authority.</i></p> <p>Explanatory Notes: <i>Clause 55 provides that where non-aqueous phase liquid pollution is present in the aquifer, the occupier of premises must clean-up the pollution and remove or control the pollution source.</i></p> <p><i>The pollution must be cleaned up to the extent practicable, consistent with current best practice or with any relevant best practice environmental management guidelines approved by the Authority, including:</i></p> <ul style="list-style-type: none"> • <i>The Cleanup and management of polluted groundwater (EPA Publication 840);</i> • <i>Environmental auditor (contaminated land): Guidelines for issue of certificates and statements of environmental audit (EPA Publication 759); and</i> • <i>The design, installation and management requirements for underground petroleum storage systems (UPSS), (EPA Publication 888).</i> <p><i>The assessment of practicability must be consistent with clause 12 of this Policy.</i></p>	<ul style="list-style-type: none"> • Remove or control the source – not practicable or achievable if a non-source site, impacted by pollution (NAPL) from an up-gradient, off-site source. • Use of the word ‘and’ here suggests that CUTEP cannot be achieved without access to the source. Not practicable for achieving CUTEP on a non-source site. • Control – good to include, as not practicable to ‘remove’ from all sites e.g. fractured rock aquifer. • Present in an aquifer – does this mean specifically beneath their property (title boundary?) • Occupier reference – not land owner? • Reference to CUTEP and remediation is more consistent with practice. • Added reference to EPA Publication 840 is a good inclusion. • However, the explanatory notes are targeted towards audit sites that have NAPL. May need some more guidance around sites that are not under audit and what likely requirements would be.
59 GQRUZ	<p>(1) <i>If the Authority is satisfied that an existing level of contamination of groundwater precludes one or more beneficial uses that would otherwise apply to that groundwater, the Authority may identify a groundwater quality restricted use zone.</i></p> <p>(2) <i>The Authority must require groundwater within the groundwater quality restricted use zones to be managed to contain polluted groundwater within the zone.</i></p> <p>(3) <i>To protect the beneficial uses set out in this Policy, the Authority may require a person to clean up, to the extent practicable,</i></p>	<ul style="list-style-type: none"> • (1) Link to preclusion of BUs however NO link to CUTEP or 53X Audit and a GQRUZ can only currently be designated through this process – good if this does open up GQRUZ designation for other sites. • On this basis - Can the Authority designate a GQRUZ for any site now? • Consistency between previous SEPP – Clause 59 (4) replaces 19 (3) on SoEA – glad to see this unchanged.

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	<p><i>groundwater within a groundwater quality restricted use zone.</i></p> <p><i>(4) The Authority may periodically require the reassessment of the practicability of a clean-up required by subclause (3).</i></p> <p><i>(5) The Authority must not issue or amend a works approval or licence, or transfer a licence in respect of premises situated within a groundwater quality restricted use zone, unless it is satisfied that there will be no—</i></p> <p><i>(a) risk of further degradation of groundwater quality in the groundwater quality restricted use zone as a result of an activity or proposed activity at the premises, beyond a proposed or currently designated attenuation zone; and</i></p> <p><i>(b) impact to a beneficial use of surface waters or groundwater, beyond the boundaries of the groundwater quality restricted use zone.</i></p>	
Schedule 1 Groundwater Segments	<i>Table 1: TDS ranges</i>	<ul style="list-style-type: none"> It is noted that the changes to TDS ranges will be very confusing when utilising previous data from historical audits.
Schedule 1 Groundwater Segments	<i>Figure 1</i>	<ul style="list-style-type: none"> Please consider updating to be clearer. The map should also be made available for download, as GIS defined coordinates that can be easily identified.
Schedule 2 Beneficial Uses for Groundwater		<p>Water dependent Ecosystems and Species</p> <ul style="list-style-type: none"> Cave ecosystems and subterranean fauna – assumed this will only be relevant in certain areas? <p>Agriculture and Irrigation</p> <ul style="list-style-type: none"> The relevance of these needs to be able to be addressed in inner city Melbourne – we have current examples of GQRUZ being applied to housing estates for stock watering. Again, further note/discussion on relevance would be beneficial moving forward.

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<p>Schedule 2 Beneficial Uses for Groundwater</p>	<p><i>Traditional Owners & Aboriginal Cultural Values</i></p> <p><i>Cultural and Spiritual Values</i></p> <p><i>Geothermal Properties</i></p>	<ul style="list-style-type: none"> • These BUs have not been appropriately defined which leaves them open to interpretation/ misinterpretation and potential for a vast difference between assessors and auditors. Who is required to determine what is a cultural or spiritual value that legitimately requires protection? • How are these assessed? Based on the examples provided, it is assumed that the existing BU's protect against these uses e.g. PW, PCR. • Are there any examples where existing criteria and BU's would not protect a use for these purposes? • Would it be anticipated that a GQRUZ would be required for preclusion of Cultural & Spiritual Values (C&SV) only? (i.e. if you adopt potable water supply (PWS) criteria for C&SV, but PWS is not protected, you may end up in the situation where the only BU precluded is C&SV. Would a GQRUZ be designated on this basis? • The relevance of C&SV is likely to be highly subjective, would EPA be required to determine relevance as per other BU's? • Potential for significant differences between assessments of these BUs without further guidance.
<p>Schedule 3 - 7. Groundwater</p>	<p>(10) <i>For the purposes of geothermal—</i> (a) <i>no activity must affect the geothermal properties of groundwater; and</i> (b) <i>specific indicators include temperature between 30 and 70 degrees Celsius.</i></p>	<ul style="list-style-type: none"> • Will guidance regarding areas of Geothermal significance be provided? If so please reference in this document.
<p>Other</p>	<p>Vapour</p>	<ul style="list-style-type: none"> • No reference/link to vapour throughout the document. • Vapour intrusion risks or potential human health risks associated with elevated groundwater concentrations should be included or a clear reference to where this links back to Land SEPP or other guidance.

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Other	<i>IMPLEMENTATION TIMELINE</i>	<ul style="list-style-type: none"> • Please consider a transition process for current audits, current CUTEPs etc. • For example sites with new data (post SEPP implementation) must refer to the new guidelines? • Will data, collected pre-gazette, be allowed to apply old guidelines? i.e. for ongoing audits or CUTEPs? • Will there be a revocation period?
Other		<ul style="list-style-type: none"> • Explanatory notes next to the Clauses are very useful, much better than in the rear of the document