



Proposed Changes to the Public Health Act 1997

Local Government Submission

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Contents

Contents	2
Introduction	3
General Comments	4
Specific Comments	4
Summary	7

Introduction

The Local Government Association of Tasmania (LGAT, the Association) is the representative body of Local Government in Tasmania. Established in 1911, the LGAT is incorporated under the *Local Government Act 1993* with membership comprising 28 of the 29 Tasmanian councils.

The objectives of the Association are:-

- To promote the efficient administration and operation of Local Government in the State of Tasmania;
- To watch over and protect the interests, rights and privileges of municipal Councils in the State of Tasmania;
- To foster and promote relationships between Local Government in the State of Tasmania with both the Government of Tasmania and the Government of the Commonwealth of Australia;
- To represent the interests of the members of the Association generally, and in such particular matters as may be referred to the Association by its members; and
- To provide such support services to the members of the Association as the Association may by resolution in meeting determine.

General Comments

LGAT would like to thank the Department of Health and Human Services (DHHS) for the opportunity to comment on the proposed amendments to the *Public Health Act 1997*.

This submission has been developed following collaboration with member councils. Particular focus is made on proposed changes to registration and renewal arrangements for private water suppliers and carriers as outlined in section 5, Part 2 of the *Public Health Act 1997* amendments consultation paper. Comment in support of proposed amendments to the management of human pathogenic organisms and contaminants in food or water is also made.

A number of councils have made direct submissions to DHHS. Where comments made directly to DHHS have been omitted in this submission, this should not be viewed as a lack of support by the Association for that specific issue. Where councils are not in agreement on a particular issue, this is reflected in the text.

Specific Comments

Proposed amendments to Part 3 of the Act relating the framework for the management of human pathogenic organisms and contaminants in food or water.

“amend section 49 so that the decision to provide a council with a report on the presence of a notifiable contaminant in food or water within its municipal area is at the discretion of the Director (rather than being mandatory as is currently the case), unless that presence presents a threat to public health, in which case the Director is to inform the council of the threat”
(consultation paper pg 18)

It is understood that DHHS are planning to consolidate the reporting of notifiable contaminants on a state-wide basis for issue to all councils on a three monthly basis. The state-wide recording of all notifiable contaminants will enable broad monitoring of threats to public health and the notification of affected councils accordingly. LGAT understands that DHHS will deal with minor notifications and in the case of large or significant notifications, seek assistance from Environmental Health Officers (EHOs) at the affected councils. Advice from members is that this regime will see improvement in the reporting of data to local government and the amendment is welcomed.

Proposed amendments to Part 6 of the Act contains the framework for the management of recreational and drinking water in Tasmania.

“The proposed amendments to Part 6, which are included in the draft Bill and marked-up Act, appear quite lengthy, though their purpose is relatively straightforward. In summary, the amendments:

- *amend the notification requirements where there is a threat or likely threat to public health from drinking water;*
- *introduce a framework for water quality auditors who audit water quality management plans prepared by persons managing or in control of water;*
- *refine some provisions relating to the council registration process for private drinking water suppliers; and*

- *introduce a council registration framework for water carriers.*

Many of the changes clarify the matters that guidelines can relate to. Guidelines are issued by the Director under the Act and contain mandatory requirements (under the existing section 184, a fine may be imposed for non-compliance). The Director is presently in the process of preparing for consultation revised drinking water guidelines” (consultation paper pg 23)

Issues

The main issue of concern centres on the proposed 12 month registration and renewal process for private water suppliers and a mirroring of this process for private water carriers. In discussions between the Association and DHHS, it was also indicated that the drinking water guidelines currently under review would also be likely to require annual inspections of private water suppliers and carriers.

The response from LGAT members on this issue was varied, as the likely effects of the proposed reforms are disproportionate. For some councils there is little or no impact and therefore little concern, while for others there will be significant impact and consequently concerns are held.

The following issues were raised with the Association:

1. There is concern regarding the information provided as part of the engagement process.

The information that the review of the drinking water guidelines is likely to result in a requirement for annual inspections was only gained in discussions between LGAT and DHHS; it was not noted in the consultation package for the proposed *Public Health Act 1997* amendments. While it is understood that DHHS intends to consult on the revised drinking water guidelines, it would have been preferable to have at least had informal advice regarding the proposed impacts of the guidelines in the first instance.

Councils may have responded that they were supportive of an annual registration and renewal framework, without being aware of the likely annual inspection regime under the guidelines. It is the inspection regime that places the greatest burden on resources. Having this information in the first instance may change views on whether an annual registration and renewal scheme is supported.

2. The need or benefit for the proposed amendments has not been demonstrated in the context of a likely risk or improvements in public health;

A number of members questioned the need for an annual testing/renewal/inspection regime when there has not been a significant threat or event identified as a likely risk to public health. Similarly, the proposed benefits or positive public health outcomes of the proposed reforms has not been clearly articulated.

As it is a requirement under the current drinking water guidelines, councils have registration systems in place for private water suppliers. In some cases registration may be undertaken as part of food business registration. Registration processes vary from once off, to 12 month to 3 year, with varying renewal models. In general, all systems have the requirement for private suppliers to demonstrate water quality. Methods include a requirement for regular water quality sampling, random inspections by council

or inspections as part of the registration and renewal process. Councils also have some form of registration or permit process for private water carriers. Similar to private water suppliers these vary in registration duration and may or may not include testing, however water quality must be demonstrated.

Within local government, there are differing views on the proposed 12 month registration and inspection regime for private water supplier and carriers. There are those supportive of an annual registration and renewal model, but against annual inspection due to the resourcing impact this would have. Other councils are against the proposal as they have other registration systems that are deemed to be working, due to the fact there have been no incidents or identified threats to public health.

The point made by a number of members is that for the costs of implementation, what improvement in public health outcomes would the proposed increase in regulation deliver?

3. The cost impacts of the proposed 12 month registration and inspection regime

Registration and renewal processes bring with them costs to council associated with administration, customer service, compliance and enforcement. They are generally therefore, fee based services. The requirement for an annual registration and renewal model would require an increase in administration for some councils and therefore an increase in fees for applicants. The addition of an annual inspection regime would further increase costs as it would require site visits by EHOs.

A number of members cite concern with the likely reaction of water suppliers and carriers to increased fees, when a justification in terms of the likely risk to public health basis cannot necessarily be provided. In particular, members site small business operators such as bed and breakfasts that would find both the increase in paper work and increased fees a significant burden.

One member (who will be making an individual submission) has in the vicinity of 150 private water suppliers. They currently have a once off registration system, with requirements for the supplier to demonstrate water quality. The cost impact for this member of implementing annual registration including inspections would be significant. The resourcing involved is estimated at almost six weeks per year of EHO time, excluding administrative processing.

Another member is firmly in support of the proposed amendments and a strong regulatory framework. This council has no private suppliers and only one approved commercial water carrier, so the proposed changes will have little impact. This member makes the point, however, that Environmental Health is an area that needs to be adequately resourced by council in order to protect residents.

Councils have a limited ability to generate revenue and a large number of services to deliver. In the case of a council that has numerous private water suppliers and does not currently carry out annual registration renewal and inspections, the cost of introducing such a regime can only be passed onto the user of that service. In turn, it is likely this cost is likely to be passed on to the end user, eg the person staying at a bed and breakfast or eating at a local cafe. Where a public health risk is not immediately

apparent, a council is likely to come under criticism from the community for increasing costs and red tape.

4. The burden of regulation and 'red tape'

Councils are often accused of being responsible for red tape, yet councils often implement legislation developed by Commonwealth and State Governments and have little control over regulatory activities. In addition to concerns about increased fees, private water supplier and carriers are likely to be upset about the increased administrative burden of an annual renewal process with criticism directed at council. Again the question is asked: for the costs of implementation, what improvement in public health outcomes would the increase in regulation delivered through proposed amendments deliver?

Summary

This submission was developed by the Association following collaboration with members in regard to proposed amendments to the *Public Health Act 1997*.

The proposed amendments to Part 3 of the *Public Health Act 1997*, relating the framework for the management of human pathogenic organisms and contaminants in food or water, are welcomed by local government.

LGAT members provided varying responses in relation to proposed registration and renewal arrangements for private water suppliers and carriers as outlined in section 5, Part 2 of the *Public Health Act 1997* amendments consultation paper. This is due to the fact that the likely effects of the proposed reforms are disproportionate for members depending on a) current registration arrangements and b) the number of private water supplier and carriers.

Concerns raised by members included issues regarding the:

- information provided as part of the engagement process;
- need or benefit for the proposed amendments has not been demonstrated in the context of a likely risk or improvements in public health;
- cost impacts of the proposed 12 month registration and inspection regime; and
- the burden of regulation and 'red tape'.

Overall local government in Tasmania is supportive of a registration process for private water suppliers and carriers in order to supply safe water to the community. What is evident, however, is that current arrangements appear to be enabling the supply of safe water, so long as a registration process that includes some form of testing or demonstration of maintenance of water quality is in place.

It is understood that DHHS will be conducting further engagement with local government in regards to the review of the current drinking water guidelines. The Association would suggest that the matter of annual registration, renewals and a potential annual inspection regime in regards to private water suppliers and carriers is discussed thoroughly, with the potential for an implementation approach that takes into account the disproportionate impacts across local government.