



Government of **Western Australia**
Department of **Health**

Consultation Summary Report

For the discussion paper – A new regulatory framework for drinking water in Western Australia

Contents

Glossary	ii
Acronyms	iii
Summary	1
Methodology	2
Consultation findings	2
Findings on regulatory options	2
Option 3 - Develop a new public health regulatory framework for drinking water under the Public Health Act.	3
Recommendation	4
Findings on proposed inclusions in the drinking water regulatory framework	5
Proposal One – Registration and Licensing framework for drinking water suppliers	5
Proposal Two – Set health related drinking water quality standards	16
Proposal Three – Set risk management requirements for registerable and licensable water suppliers	17
Proposal Four – Set monitoring and reporting requirements	19
Proposal Five – Set auditing requirements	23
Proposal Six – Declare the supply of unsafe drinking water to be serious or material public health risks	28
Proposal Seven – Set general public health duty provisions	29
Additional Questions – Intermediary Tanks	31
Additional proposed inclusions in the regulations	31
Definitions and application	31
High Risk populations	32
Next steps	33

Glossary

Auditor

A suitability skilled reviewer, whose principal role is to assess a registered drinking water supplier's performance against the regulatory framework.

Inspector

A suitability skilled inspector/checker, whose principal role is to inspect a registered drinking water supplier's performance against the regulatory framework.

Drinking water

Water intended primarily for human consumption, either directly, as supplied from the tap, or indirectly, in beverages, ice or foods prepared with water, but which may have other uses.

Also sometimes referred to as potable water.

Drinking water supplier

A person who supplies drinking water to another person.

Drinking water treatment process

Any process that is applied to water that is supplied, or is to be supplied, as drinking water, which is intended and designed to beneficially render the water suitable for supply as drinking water, including any physical, chemical or microbiological treatment, filtration or disinfection of water, or the containment of drinking water in a water tank, reservoir or other containment structure.

Drinking water quality standards

In the context of this paper the term drinking water quality standard refers to a microbiological, chemical, physical or radiological measured parameter of the quality of water supplied to consumers.

Hazard

A biological, chemical, physical or radiological agent that has the potential to cause harm.

Hazardous event

An incident or situation that can lead to the presence of a hazard.

Non-drinking water

Water that is not intended for drinking.

Also sometimes referred to as non-potable water.

Premises

As defined in Section 4 of the Public Health Act 2016. Premises includes:

- a) land (whether vacant or not); and
- b) land covered by water, whether permanently or
- c) temporarily or from time to time; and
- d) the whole or any part of a building or other structure, of whatever type and whether of a permanent or temporary nature; and
- e) a vehicle.

Risk management plan and system

Holistic and comprehensive management strategy for the quality of drinking water from catchment to tap. It considers all management and operational procedures and practices implemented to ensure that the drinking water supplied is safe, that it continuously meets specified standards and that the drinking water supplier is managing hazards and risks to the water supply with due care and diligence. This incorporates water quality information plans and systems and incident management plans and systems.

Water Carter

Business or legal person who undertakes the transport of water (bulk water cartage). This service may or may not be for remuneration.

Water service provider

A person who has been granted a licence to provide a water service under the Water Services Act 2012.

Acronyms

ADWG	Australian Drinking Water Guidelines
CHO	Chief Health Officer
DOH	Department of Health
DWER	Department of Water and Environment Regulation
DMIRS	Department of Mines, Industry Regulation and Safety
ERA	Economic Regulation Authority
MOU	Memorandum of Understanding
NHMRC	National Health and Medical Research Council

Summary

This report summarises the information received by the Western Australian Department of Health (DOH) as part of its Drinking Water Regulation public consultation. This summary report captures the main issues and themes raised during the consultation and the key points of contention and provides details on the DOH's proposed next steps.

The discussion paper '[A new regulatory framework for drinking water in Western Australia](#)' was released at the beginning of June 2019 for a three (3) month consultation period with a number of interested parties granted extensions as required.

In accordance with the Western Australian State Government's Better Regulation Unit requirements, the paper discussed three (3) options

- Option 1: Maintain the status quo
- Option 2: Deregulate the drinking water supply industry
- Option 3: Develop a new public health regulatory framework for drinking water

The DOH's preferred option was Option 3 and the consultation paper presented proposed options for future regulations. Options included five (5) key features which stakeholders were asked to provide comment on; these were:

1. Registration and licensing framework for drinking water suppliers
2. Health-related drinking water quality standards
3. Risk management obligations for drinking water suppliers
4. Transparency and public disclosure of water quality information
5. Flexibility to ensure requirements are appropriate for each specific water supplier

The DOH received 62 responses during the consultation period. **There was strong support (89%) for Option 3: Develop a new public health regulatory framework for drinking water** and varying levels of support for the key features of proposed regulations. The comments in this document represent the views of respondents only, and should not be taken as the views of the DOH. Recommendations by the DOH have been provided in italics.

Methodology

The paper was circulated to all 138 WA Local Governments, 17 State Government Agencies, 15 service providers, ~ 600 industry stakeholders (including representative bodies and a variety of special interest groups such as labs, campgrounds, wineries, consultants and potentially impacted businesses), ~ 500 resource sector contacts and over 400 subscribers to the DOH Environmental Health mailing list.

Stakeholders were asked to read the DOH's consultation paper 'A new regulatory framework for drinking water in Western Australia' (made available on the DOH website) and provide comment via:

1. Online survey
2. Emailing publichealthact@health.wa.gov.au
3. Mailing a response to the DOH's Environmental Health Directorate

Consultation findings

The DOH received a total of 62 responses. 51 of these were received via the online survey and 11 were received via email. Respondents were asked to identify which of seven sectors provided they belonged to with the breakdown of respondents as follows.

Stakeholder	Responses
Local Government	26
State Government	11
Industry representative	7
Resource Sector (Mining/Petroleum)	1
Public	7
Other	10
Prefer not to say	0
Total	62

Findings on regulatory options

Respondents were asked to indicate their preferred option for managing public health risks associated with drinking water supply from 3 supplied options;

- **Option 1:** Maintain the status quo, that is, replicate as far as is practicable the relevant provisions of the *Health (Miscellaneous Provisions) Act 1911* in regulations under the *Public Health Act 2016* and retain the arrangement with DWER to condition the licence of any drinking water service providers to enter into a binding Memorandum of Understanding with the DOH.
- **Option 2:** Deregulate the drinking water supply industry, that is, repeal without replacement the relevant provisions of the *Health (Miscellaneous Provisions) Act 1911* and remove the requirement (in the licence issued under the *Water Services Act 2012*) for licensed water service provider to enter into a binding Memorandum of Understanding with the DOH. Drinking water suppliers will be allowed to self-regulate and will only be bound by the general public health duty provisions of the *Public Health Act 2016*.

- **Option 3:** Develop a new public health regulatory framework for drinking water under the *Public Health Act 2016*. The new regulatory framework will introduce a holistic approach to the management of public health risks associated with the supply of drinking water that would apply to the delivery chain from the catchment to consumer for all drinking water supplies in WA, including those not currently captured by other regulatory frameworks.

The majority (89%) of respondents supported the regulation of drinking water. The breakdown of stakeholders who supported each option is shown in Figure 1 below.

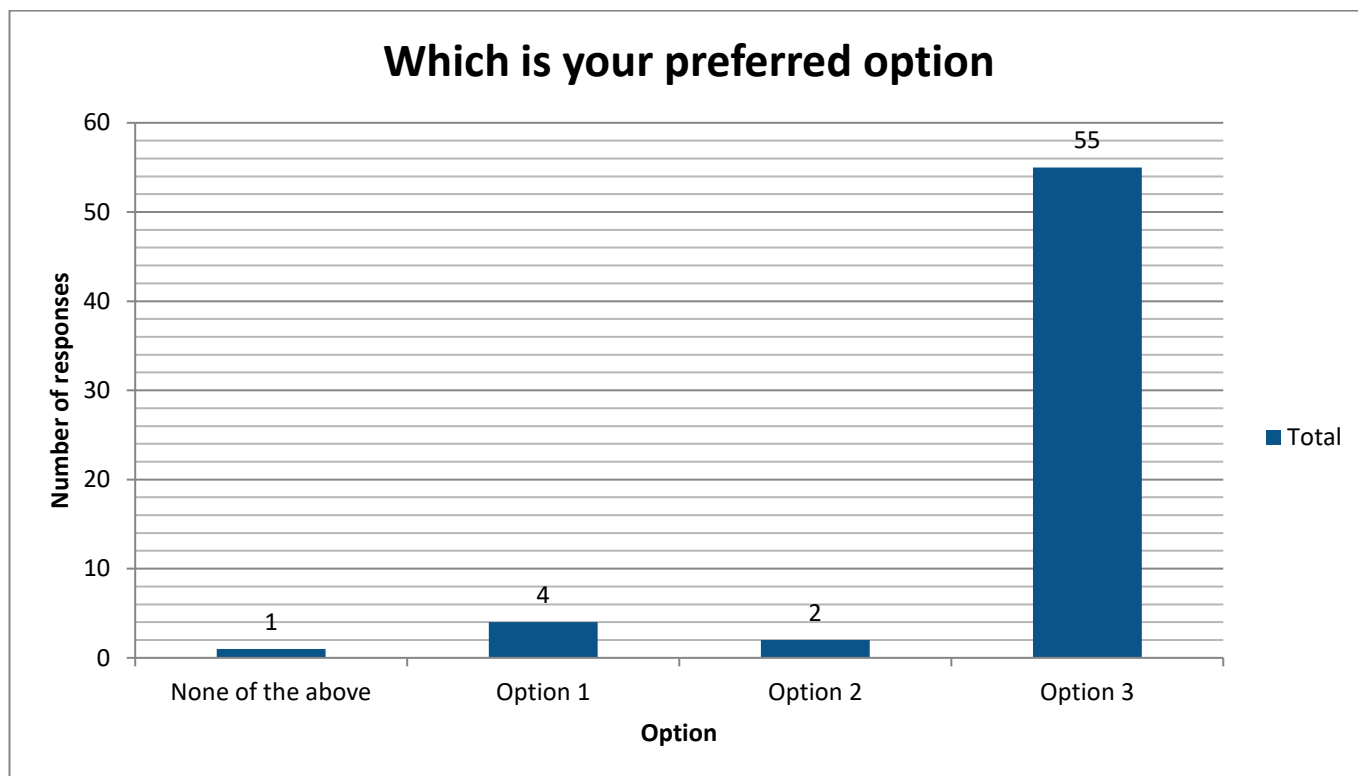


Figure 1 Respondents preferred option

6% respondents supported Option 1: Maintain status quo, 3% of respondents supported Option 2: Deregulate the drinking water supply industry and one (1) respondent indicated that none of the options presented were suitable.

The reasons for supporting either Option 1 or Option 2 were generally as follows

- Have had no quality/health issues under the current system
- Additional regulatory burden/testing requirements will be onerous/costly for small suppliers/small businesses

One respondent indicated that they didn't support any of the three options presented. Their reasoning was because they felt that the options focused on public health and didn't adequately provide for protection surface and groundwater sources.

Option 3 - Develop a new public health regulatory framework for drinking water under the Public Health Act.

The majority (89%) of respondents supported the regulation of drinking water. The respondents represented a wide variety of sectors with the majority of respondents from Local Government (Figure 2)

Option 3 support broken down in to respondent type

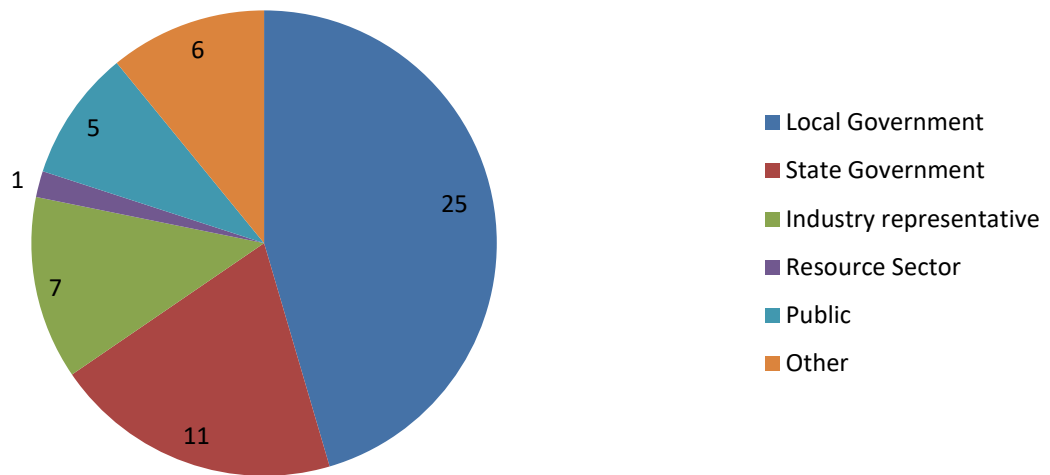


Figure 2 Number of people from each respondent group who support the creation of Drinking Water Regulations

Reasons for supporting the creation of regulations include:

- It aligns WA with other states
- The current system has failures and would benefit from clearer requirements and a more contemporary way of managing risks

A good quote from a respondent which summarises why the DOH is proposing regulation is as follows:

“Regulation under the Public Health Act, provides a single point of regulation employing appropriate qualification, experience, and skills in assessing and managing health risks associated with drinking water quality. The single point of regulation will reduce red tape and ensure uniformity in providing safe drinking water for all Western Australians.”

Whilst there was general support for regulating, stakeholders raised concerns that new regulations may impact smaller drinking water suppliers; particularly in regard to costs and testing requirements.

Recommendation

The DOH recommends that ‘Option 3: Develop a new public health regulatory framework for drinking water under the Public Health Act’ is adopted.

The risks and concerns raised by stakeholders particularly for small and low risk water suppliers are valid and this will be explored further in the paper to ensure that small businesses are not adversely affected by new regulations whilst still ensuring that public health risks are minimised and people across the state can be sure that they are receiving safe drinking water.

Findings on proposed inclusions in the drinking water regulatory framework

The discussion paper made a number of proposals for what Option 3 – Develop a new public health regulatory framework for drinking water under the Public Health Act could look like. The proposals were designed to meet the five key regulatory features:

1. The requirement that specific public health risk activities be either licenced or registered.
2. Setting health-related drinking water quality standards
3. Setting risk management requirements for water suppliers
4. Requiring that water suppliers disclose information
5. Provision of flexibility to ensure that it is not overly onerous

Comments on the regulatory proposals are provided below, along with the DOH responses. It is recommended that all the proposals are adopted with amendments, as supported by the consultation feedback.

Proposal One – Registration and Licensing framework for drinking water suppliers

The discussion paper proposed that the following activities associated with the supply of drinking water be declared a public health risk activity and should be managed using a registration/licensing framework.

1. The supply of drinking water to another person by means of reticulated conduits to any premises that is not under the management or control of the drinking water supplier. **(Licensable drinking water suppliers)**
2. The supply of drinking water to another person on a premises not connect to a drinking water supply of a licensed drinking water supplier. **(Registrable drinking water suppliers)**
3. The supply of water intended for human consumption to a drinking water supplier. **(Licensable source water suppliers)**

The paper defined a **drinking water supplier** as any person supplying drinking water to another person.

Regarding proposal one, respondents were asked if they agreed that:

- The “supply of drinking water to another person by means of reticulated conduits to any premises that is not under the management or control of the drinking water supplier” is a public health risk activity?
- that any person/entity that carries on this public health risk activity must first be licensed to do so?
- that the CHO be prescribed as the “appropriate enforcement agency” for public health risk activity; and
- that the CHO should be given powers to exempt any person or a person within a class of persons that carries on this public health risk activity from the requirement to hold a registration or licence

Licensable drinking water suppliers

Response summary

The discussion paper proposed that the supply of drinking water to another person by means of reticulated conduits to any premises that is not under the management or control of the drinking water supplier:

- Is classified as a public health risk activity that is licensable
- Requires a licence under the *Public Health Act 2016*
- Is enforced by the Chief Health Officer

It was also proposed that the CHO be able to exempt any person or class of persons from having to hold a licence.

There was strong support for this proposal, however less support for the proposal to allow the CHO to issue exemptions

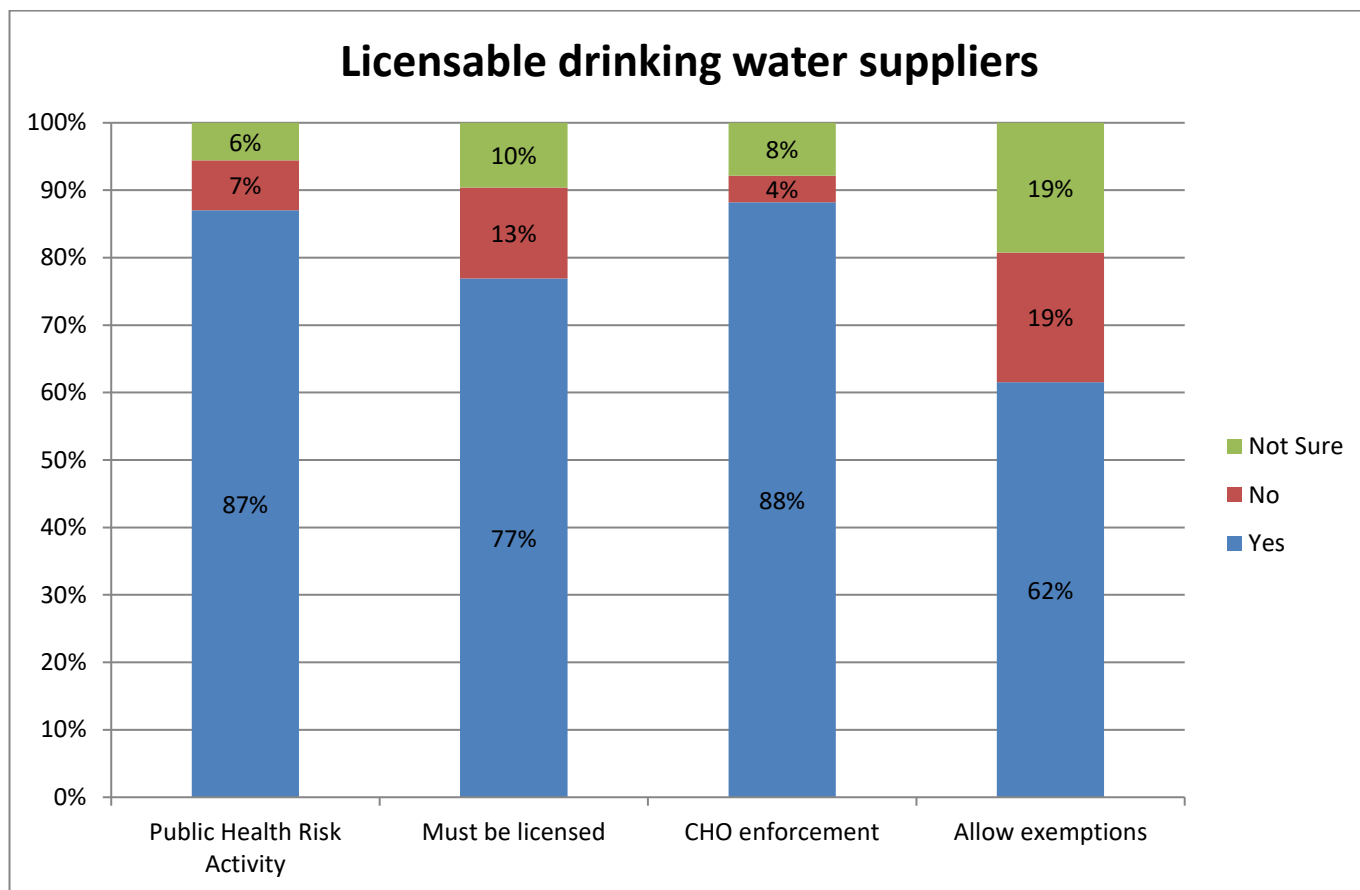


Figure 3 Summary of responses to the licensable drinking water suppliers proposal

Public Health Risk Activity

There was strong support for this part of the proposal. Support fell into four main categories:

1. The supply of drinking water is a high risk activity
2. The proposal provides management options and ensures safe drinking water
3. Current system only really manages source water
4. The current system is perceived to be weak and lack appropriate enforcement options should something go wrong

Although it was supported there were concerns raised they were about who would be impacted and how they would manage meeting the requirements.

Must be licensed

There was strong support (77%) for this part of the proposal. The majority of comments fell into three main categories

1. This provides for a level of accountability and control

2. It ensures drinking water quality and safety of the supply
3. It's a good way to minimise and manage public health risks.

Concerns were raised about what licensing would require and what costs licensing might bring to smaller providers. Concerns were also raised about who exactly would be licensed.

Stakeholders were asked to provide details on entities that they believe should be exempt from licensing. The majority of suggestions were entities that wouldn't need to be licensed under the proposed regulations but rather would be registered.

The Chief Health Officer as the enforcement agency

There was strong support (88%) for this part of the proposal. Support fell into two categories:

1. The Chief Health Officers (CHO) has the required knowledge and resources and doesn't have a conflict of interest
2. They cover the whole state providing a consistent state wide approach.

Concerns were raised about the ability of the CHO to undertake inspections and whether the CHO has the capacity for the additional workload that this work will create.

Allow exemptions

This part of the proposal had less general support (62%). Where respondents agreed that the CHO should be able to grant exemptions it was generally understood that this requirement was included to build flexibility into the regulations.

Where respondents were in disagreement or weren't sure it was because:

- The provision of drinking water is a high risk activity
- There should be the same rules across the board
- Of concerns that this will put public health at risk

At this time the DOH does not anticipate anyone being exempt from this requirement, however seeks to include this requirement should it be required in the future. Currently it is felt that the only time when exemptions may be required would be during emergency situations.

Licensable Drinking Water Recommendation

Advice received on registration and licensing under the Public Health Act 2016 indicated that licensing is for people undertaking an activity and it is therefore more appropriate that all activities related to drinking water supply are classified as registerable activities. The DOH recommends that that above drinking water supplier types are classified as registerable drinking water suppliers. Details on what the DOH is proposing for registerable drinking water suppliers is provided in the

Registerable drinking water suppliers recommendation section below.

Registerable drinking water suppliers

Response summary

The discussion paper proposed that the supply of drinking water to another person at a premises not connected to a drinking water supply from a drinking water supplier licensed under the Public Health Act:

- Is classified a public health risk activity
- Is classified as a registerable activity
- Is enforced by Local Governments

It was also proposed that the following classes of persons to be exempted from the need to be registered:

- Owner or join-owners of a private residential property
- Owner or join-owners of holiday homes or short stay accommodations with an approved (by the local government) maximum occupancy of 12 persons.
- Any person or a class of persons exempted by the CHO.

Examples of premises that may not be connected to a drinking water supply of a licensed drinking water supplier include caravan parks and camping grounds, lifestyle/retirement villages, local government facilities (such as town halls, community centres, airports) and remote mine site accommodation villages. Typical alternatives that are used as a drinking water source in such instances include borewater, rainwater collected off the roofs of buildings and carted water.

There was strong support for this activity to be a public health risk activity and to be registerable. There was less support for the proposed exemptions, the ability for the CHO to grant exemptions and for the Local Government to be the appropriate enforcement agency (Figure 4).

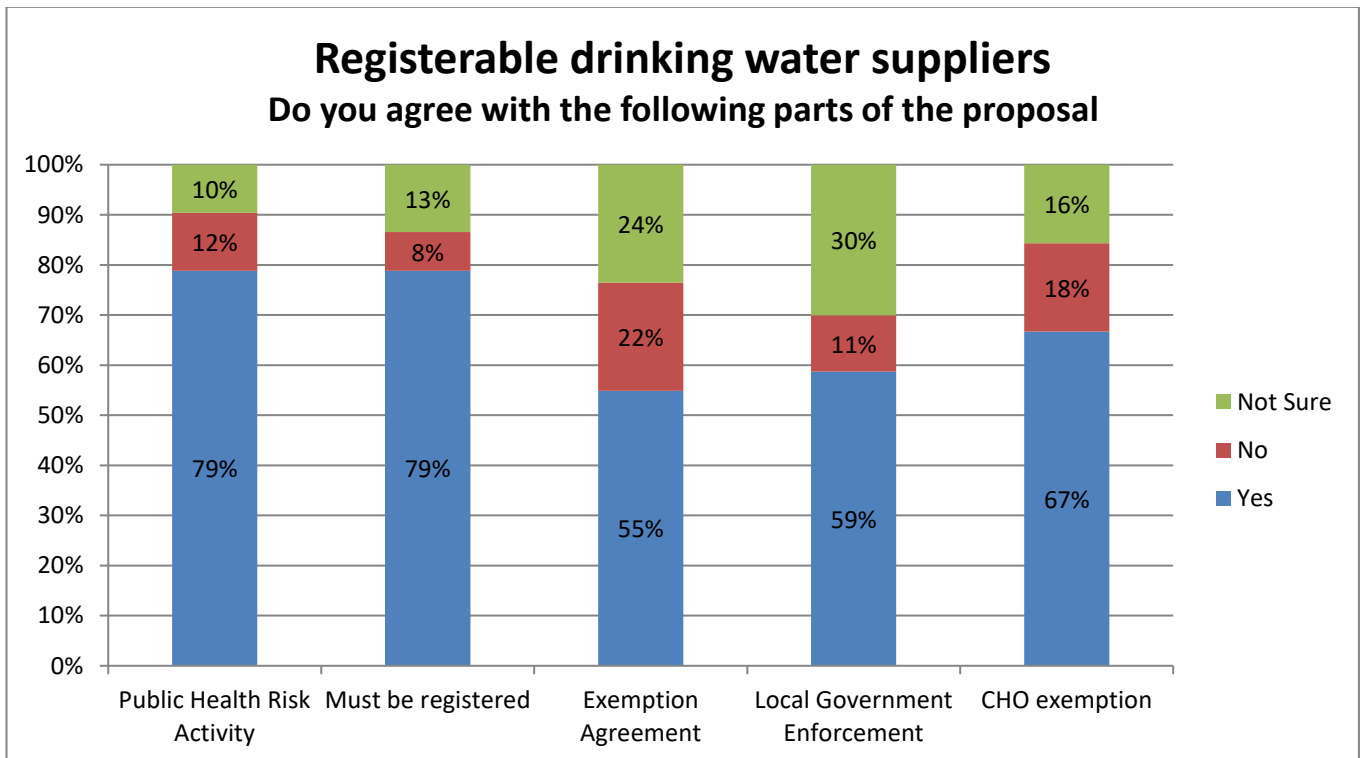


Figure 4 Summary of responses to the registerable drinking water suppliers proposal

Public Health Risk Activity

79% of respondents supported this proposal; the main theme of support was that the provision of drinking water is a high risk activity that needs to be managed. Support was generally on the condition that any requirements that are then placed on persons undertaking this activity would have to be appropriate for the risk level and not be too onerous.

Where there was disagreement it was generally due to the potential for additional workload/regulatory requirements.

Must be registered

There was strong agreement (79%) that persons undertaking this activity should be registered. There were two key themes of support.

1. The requirements are proportionate to the risk level/size of the supplier
2. It provides a way to manage the health risks associated with this activity.

Support for registration was caveated with concerns about the registration requirements, potential fees and other costs associated with meeting the registration requirements. Supports hoped that the registration requirements would be scaled according to the size/risk level of the drinking water supplier and that a small farm stay would not be subject to the same requirements as the Water Corporation. There was some concern about how the proposed regulations will affect agriculture and primary industry. The DOH will need to provide further clarification and guidance for this sector in the future.

Exemption agreement

The paper suggested two exemptions from registration:

- Owner or join-owners of a private residential property
- Owner or join-owners of holiday homes or short stay accommodations with an approved (by the local government) maximum occupancy of 12 persons.

There was only low (55%) support for these proposed exemptions.

The support fell into two key themes

1. These are acceptable due to the risk level
2. Additional exemptions are also required

Opposition to this proposal generally fell into two key themes:

1. No one should be exempt
2. Additional exemptions are required

Not sure comments fell into two key themes:

1. Need more information about what the proposal would entail
2. The public health risks are still high even though the numbers affected are low

The comments indicated that respondents felt there was a lack of clarity about who was going to be exempt and why. There was concern about the volume of work registration may have on the enforcement agency, particularly on regional local governments, however there was also concern that exempting these smaller suppliers such as short stay accommodation would put the public who stay at these locations at risk.

Should any exemptions be granted by the DOH the reasoning for the exemption needs to be clear. It needs to be noted that in situations where drinking water suppliers are exempt they

would still need to comply with the general public health duty provisions of the Public Health Act. Anyone who provides water of a quality that puts the health of others at risk is in breach of general public health duty and can be prosecuted.

Suggested additional exemptions

Stakeholders were asked to provide suggestions for additional allowable exemptions if any. Suggestions included:

- Farmers, as they may provide reticulated water to multiple properties across their site
- Premises used for primary production with less than 13 persons.
- Situations where a primary producer has only a seasonal workforce of more than 12 persons e.g fruit and vegetable growers, livestock handlers and shearers
- Low use club buildings where appropriate signage is provided.
- Nature based parks

Local Government as the enforcement agency

The DOH proposed that local governments be prescribed as the enforcement agency for these suppliers. This would mean that registrable drinking water suppliers would apply to their local government to be registered and all enforcement would be undertaken by that local government.

Only 59% of respondents agreed with this proposal, 30% weren't sure and 11% disagreed. The main issues/concerns raised about Local governments being the appropriate enforcement agency were

- Their ability to manage the workload. Particularly regional local governments who would have a lot more registerable drinking water suppliers than metropolitan local governments.
- Concerns about the levels of expertise in Local Government. It was felt that the agency with the most knowledge should be the responsible agency and that there should be a single contact/responsible agency to avoid confusion for drinking water suppliers.

Allow exemptions

The DOH proposed that the CHO be given the powers to exempt any person or class of persons that undertakes this public health risk activity from the requirement to be registered. 67% of respondents agreed with this proposal.

Where concerns were raised about allowing exemptions they were generally about whether being granted an exemption might put the public at risk and if the process would be transparent, equitable and appropriate.

Registerable drinking water suppliers recommendation

The DOH recommends that the Drinking Water Regulations:

Declare that the supply of drinking water to a person requires a registration; except in the circumstances listed below:

- 1. The supply of packaged drinking water*
- 2. The supply of drinking water within a private residential property; except where the private residential property is used for short stay accommodation and does not receive its drinking water from registered drinking water supplier.*
- 3. Regulated food businesses under the Food Act 2008*
- 4. Downstream of a meter/connection point of a premises that is supplied drinking water by a registered drinking water supplier*
- 5. Drinking water supply which occurs on land where federal legislation applies such as Defence properties*
- 6. Oil and Gas facilities who operate at a distance greater than 3 nautical miles from the coast of Western Australia*

An entity supplying drinking water is classified as a Drinking Water Supplier.

The DOH will liaise with Parliamentary Counsel's Office when drafting the regulations to ensure that the application of the regulations is appropriate.

It is recommended that the CHO will be the appropriate enforcement agency for the following types of drinking water suppliers:

- A potable water supplier licensed under the Water Services Act 2012*
- Mine sites and Oil and Gas Facilities*
- Any bulk water supplier/Water Carter*
- Any drinking water supplier who supplies drinking water across local government boundaries*
- Any drinking water supply done by a crown agency or on crown land*
- Any drinking water supply undertaken by a local government agency*

It is recommended that Local Government will be the appropriate enforcement agency in the following situations.

- Any water supplier not on the list above who supplies water within the boundaries of that local government (i.e. water supply by a supplier which does not cross local government boundaries). This includes chains/businesses who have multiple sites across WA but operate those sites independently (e.g. petrol stations).*

The reason for the separation in enforcement is because:

- Often drinking water supply occurs across local government boundaries and local governments cannot undertake enforcement outside of their boundary*
- The local government may be the drinking water supplier and self-regulation is not appropriate*
- There may be no local government (such as Rottnest Island and Kings Park)*
- Water carters/bulk water suppliers work across local government boundaries*
- There was low support for the proposal for the local government to be the appropriate enforcement agency in some situations*

It is recommended that the regulations give the CHO powers to exempt any person or class of persons from requiring a registration. Exemptions would be granted on a case by case basis. There are currently no examples of suppliers who would be granted exemptions.

Should a registerable drinking water supplier be granted an exemption the name and the reasoning will be made available to the public on the DOH's website. In addition, the drinking water supplier who has been granted an exemption will also be required to provide that information to their consumers in a format deemed suitable (such as on their website). Exemptions will also have to be reviewed and reissued on a regular basis to ensure that the exemption is still appropriate for the supplier. The review and reissue period is yet to be determined, but will most likely occur annually.

The Public Health Act contains provisions that allow for registrations to be able to be cancelled. It is recommended that a registration be cancelled in the following situations:

- Where a drinking water supplier fails an audit or inspection and fails to undertake any actions to work towards rectifying the issues identified within the allocated time frame*
- Where the drinking water supplier continually provides water that does not meet health standards over an, as yet to be determined, timeframe and has not undertaken any actions to try and fix the water quality*

Licensable source water suppliers

Response summary

The ADWG introduces a multiple barrier approach as a foundation for ensuring safe drinking water. The supply of water intended for human consumption to a drinking water supplier has been identified as a significant public health risk and it was therefore proposed that this:

- Is classified as a public health risk activity
- Requires a licence under the *Public Health Act 2016*
- Is enforced by the Chief Health Officer

It was also proposed that the following classes of persons to be exempted from the licensing requirements:

- Any water carter that sources its supply from a licensed drinking water supplier licensed under the *Public Health Act 2016*
- Any person that formally declares the water supplied is non-drinking water and not to be used for human consumption
- Any person or class of persons exempted by the CHO

There was strong support for this to be a public health risk activity, for it to require a licence and for the CHO to undertake enforcement. Less than 50% of respondents agreed with the proposed exemptions from this proposal and only 68% of respondents agreed that the CHO should be able to grant exemptions (Figure 5).

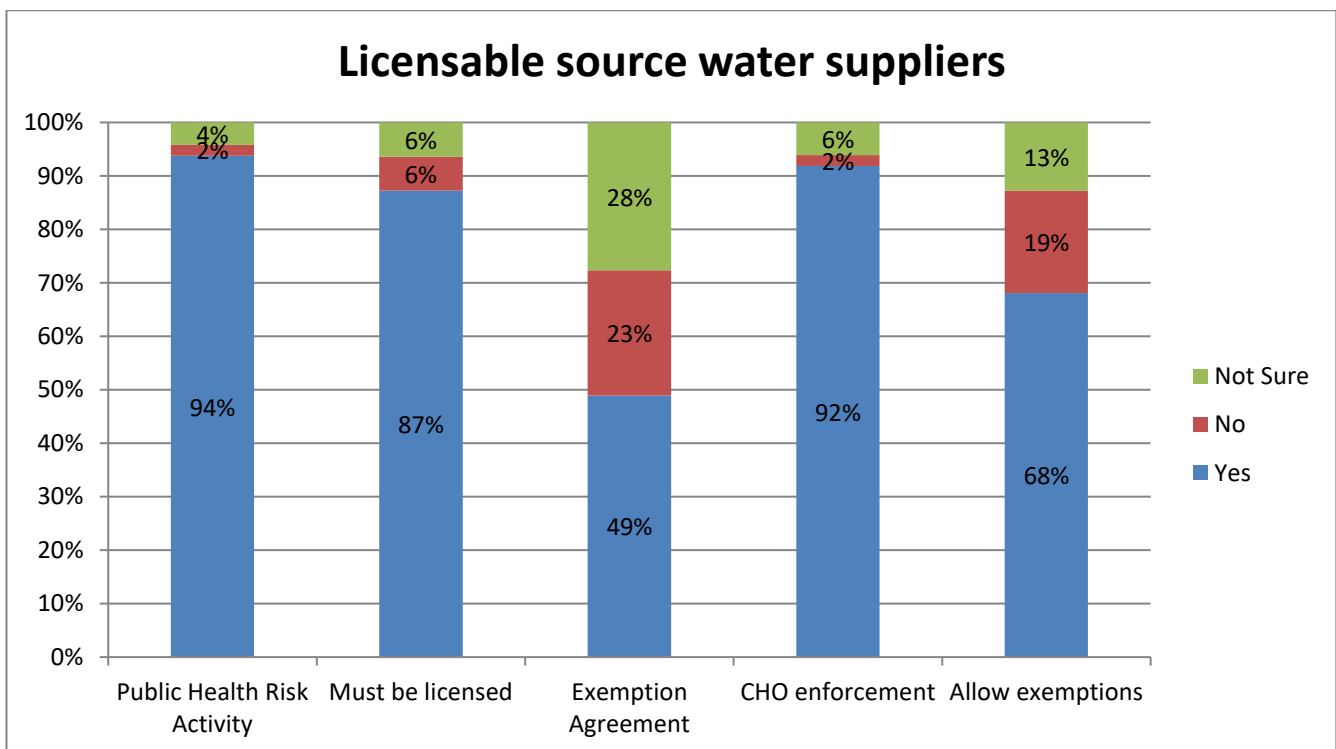


Figure 5 Summary of responses to the licensable source water suppliers proposal

Licensable Public Health Risk Activity and appropriate enforcement agency

There was strong support for the supply of water intended for human consumption to a drinking water supplier to be classified as a public health risk (94%) and 87% of respondents agreed that this activity should be licensable. Source water protection is currently managed by the Health

(MP) Act and protection of source water supplies is a key part of ensuring that the drinking water is of a quality that does not pose a risk to the public.

92% of respondents supported the proposal that the CHO be prescribed as the appropriate enforcement agency mainly because having a centralised enforcement agency will ensure consistency across the state and it will support efficient, clear lines of communication and one source of information for potential suppliers.

Exemption Agreement

The DOH proposed that the following be exempt from the licensing requirements:

- Any water carter that sources its supply from a licensed drinking water supplier licensed under the *Public Health Act 2016*
- Any person that formally declares the water supplied is non-drinking water and not to be used for human consumption

Less than 50% (49%) of respondents agreed with this proposal. The rest of the respondents were fairly evenly split between no (23%) and not sure (28%).

The majority of respondents (including respondents who agreed) noted that water carting is a high risk activity and allowing them to be exempt has the following issues:

- There may be implications from non-potable schemes operated by a licensed service provider that should be considered as there is a risk that customers/carters may use these supplies for potable service without disinfecting, by falsely assuming the water is potable at the transfer point despite efforts by the licensed service provider to communicate this risk to the water carter."
- If a water carter that sources its supply from a licensed drinking water supplier is exempted, who will ensure the tanker is suitable and maintained at a standard appropriate for carting drinking water?
- Water carters have potential to contaminate the water through poor hygiene practices and/or cross-carting of non-potable and potable water.
- The water carter, even if carting water from a licensed water supplier, must be accountable for the way in which that water is carted, from the holding time, to the condition of the tanks, to the temperature, to the sanitary use of piping to decant etc. Even if the water is declared safe from the original supplier, it must be delivered in the same manner to the end-user.
- Water carters may pose a high risk

The proposal to exempt any person who declares the water supply is non-drinking water was also met with concern because it was felt that declaring it is non-potable does not guarantee that it won't be consumed and there are situations where it is known that people will consume it.

Suggestions for alternative arrangements included registration or a scalable licensing system where water carters and/or non-potable water suppliers are still required to be licenced but the licensing requirements are different based on the level of risk.

Additional exemptions

A proposed additional exemption provided by stakeholders was where source water is required to be used for emergency drinking purposes and treated/managed for that purpose and safe. e.g. water from a farmer's property normally used for stock, irrigation or fire-fighting that is the only available source in an emergency situation. The Public Health Act allows for the

authorisation to exercise emergency powers. It is envisioned that these powers will be used in emergency situations and as such provisions do not need to be included in the regulations.

Allow the CHO to grant exemptions

The DOH proposed that the CHO be given the power to exempt any person or a class of persons that carries on this public health risk activity from the requirement to hold a license. There was some support for this proposal (68%) and the rest of the respondents were split between no (19%) and not sure (13%). Stakeholders agreed that the regulations should have the ability to be flexible, however the provision of source water is a high risk activity and any granting of exemptions should be transparent and have considered the public health risks. At this time the DOH does not anticipate anyone being exempt from this requirement. However seeks to include this requirement should it be required in the future. Currently it is felt that the only time when exemptions may occur might be during emergency situations.

Licensable source water supplier recommendations

The concept of source water suppliers overlaps with water source protection requirements already covered by Department of Water and Environment Regulation legislation the Metropolitan Water Supply, Sewerage and Drainage Act 1909 and the Country Areas Water Supply Act 1947.

For this reason, the concept of regulating an entity who supplies a raw/untreated water product to a drinking water supplier under the Public Health Act would have to be limited to regulating the relationship between the source water supplier and the drinking water supplier. The reason to do this would be so that the DOH could ensure that the source water being provided to the drinking water supplier does not suddenly change quality to such an extent that the drinking water supplier's treatment system will not be able to treat it to drinking water quality standards without additional treatment measures or investment.

Currently the DOH is not aware of any source water suppliers in Western Australia. This is something that might occur in the future, however many of the risks that the DOH would be regulating to manage would be mitigated by a good contract between the source water supplier and the drinking water supplier.

The DOH is recommending that the concept of source water suppliers is not included in the drinking water regulations. Once the DOH becomes aware of a situation where a source water supplier is supplying raw water to a drinking water supplier they will review the regulations to see if regulation is required.

Proposal Two – Set health related drinking water quality standards

The discussion paper proposed that the Australian Drinking Water Guidelines (ADWG) are used as the basis for the required quality and safety of drinking water supplied in WA, this includes the use of the guideline values for microbial, chemical and physical characteristics of drinking water.

88% (50 of 57) of respondents indicated support for this proposal stating that it is nationally recognised and aligns with the World Health Organization and that adoption would align Western Australia with other states.

Where there was concern respondents noted the following:

- The ADWG does not provide details on which analytes to test for and what monitoring schedule to use.
- Clear guidance, particularly for smaller suppliers, would need to be provided to ensure that the requirements placed on a provider are appropriate for the size, scale and risk level of the supplier.

Based on the comments received it is felt that the references to the ADWG need to include details on what the specific health related requirements will be.

Proposal Two – recommendation

The regulations will adopt the ADWG as the guiding document for setting policy on the quality and safety of drinking water supplied in WA.

*The regulations will provide clarity on the quality requirements expected. It is proposed that this will be in the form of a schedule in the Regulations as shown in **Error! Reference source not found.** This schedule has been approved by the Chief Health Officer and is currently a requirement of the MOUs that ERA licenced potable water suppliers enter into with the DOH.*

Table 1 Proposed Schedule for inclusion in the Drinking Water Regulations

<p>Health-related characteristics of drinking water</p> <p>Drinking water supplied to any person must not contain any toxin, pathogen, substance or chemical, whether alone or in combination with another toxin, pathogen, substance or chemical, in such amounts that may pose a risk to human health.</p> <p>Drinking water supplied to another person must also comply with the following criteria:</p> <p>With respect to <i>Escherichia coli</i>:</p> <ul style="list-style-type: none">• no sample of drinking water should contain <i>Escherichia coli</i>; and• if detected, immediate corrective action must be taken. <p>With respect to <i>Naegleria</i> species:</p> <ul style="list-style-type: none">• no sample of drinking water should contain <i>Naegleria fowleri</i>;• no more than one water sample collected in any 12 month period in each locality supplied by the water supplier shall contain <i>Naegleria</i> species tolerant to 42° Celsius or above; and• if <i>Naegleria</i> species tolerant to 42° Celsius or above are detected, immediate corrective action must be taken. <p>With respect to chemicals other than pesticides:</p> <ul style="list-style-type: none">• the Health guideline values for chemicals set out in Table 10.6 of the Guidelines. <p>With respect to pesticides:</p> <ul style="list-style-type: none">• the Health value for pesticides set out in Table 10.6 of the Guidelines, having regard to the "Pesticides Monitoring Exclusion Policy" attached. <p>With respect to radiological quality of drinking water:</p> <ul style="list-style-type: none">• the guideline value for radiological quality set out in Table 10.7 of the Guidelines. <p>Aesthetic characteristics of drinking water</p> <p>Drinking water suppliers should aim to supply drinking water in each locality that complies, as far as practicable, with the Aesthetic guideline values for physical and chemical characteristics set out in Table 10.6 of the Guidelines.</p>

Proposal Three – Set risk management requirements for registerable and licensable water suppliers

The DOH proposed that the regulations align with the 12 element risk management framework set out by the ADWG. A key management measure of this framework is the creation of a risk management plan.

The DOH proposed that both licensable and registerable drinking water suppliers be required to create a Drinking Water Risk Management Plan (DWRMP) and that Licenced source water suppliers be required to create a Drinking Water Source Protection Plan (DWSPP). There were high levels of support for this proposal (Figure 6).

A great comment about the benefit of risk management plans was:

“Adequacy and implementation of the DWRMP is key. DOH will need to ensure that licensees have a good understanding of the requirement for the DWRMP and what exactly their responsibilities are. I have found in my auditing and DWRMP work (regionally, nationally and internationally, including for the WHO), that water quality awareness and responsibilities are often not well-understood. Once people really understand why they are doing what they are doing, it makes a big psychological difference to how well they implement their role-specific controls. I recently completed training for a regional utility on drinking water quality awareness and roles and responsibilities and the level of understanding before and after the training was amazing - and a good public health risk outcome.”

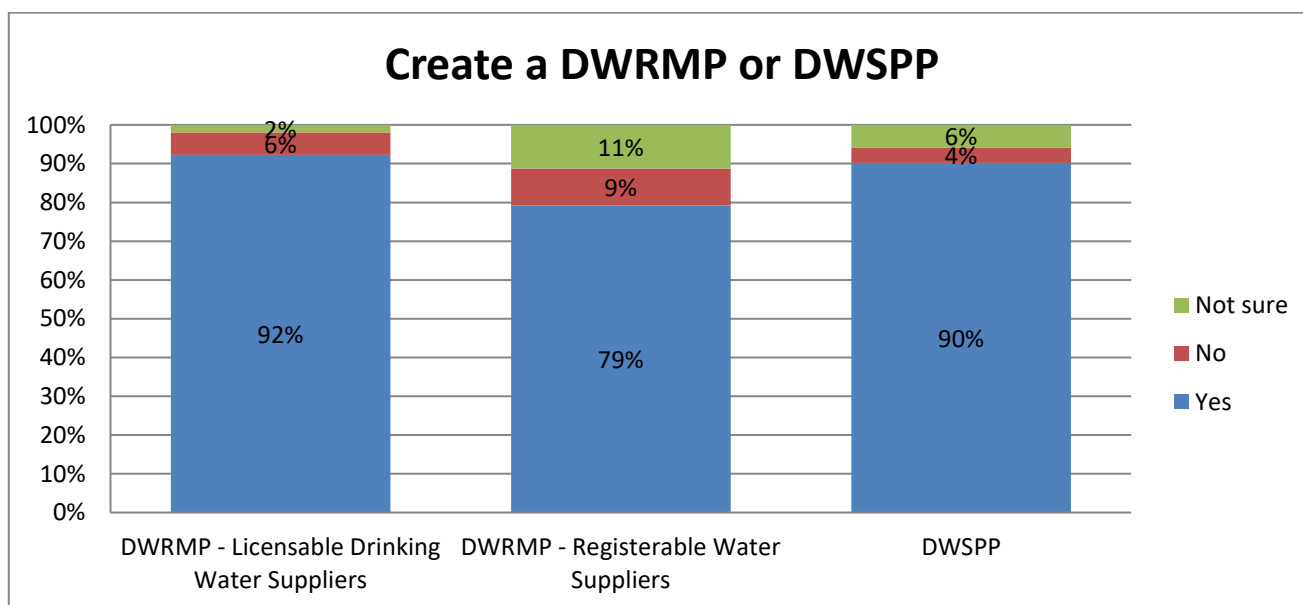


Figure 6 Summary of responses to the concept of risk management plans

The DOH proposes that the details required by the DWRMP will be tailored to the drinking water supplier’s risk profile. The DOH will make guidelines available to assist drinking water suppliers develop their DWRMP. It was also proposed that the DOH will publish pre-prepared templates that can be utilised by smaller drinking water suppliers.

Stakeholders had the most concern about the requirement for registerable water suppliers to have to create a DWRMP. Comments indicated that stakeholders were:

- Concerned that the requirement to create a DWRMP may be too onerous for smaller drinking water suppliers
 - The DOH would have to provide support and guidance to both the suppliers and local governments about DWRMP requirements

- Concerned that this may be costly for smaller suppliers
- Concerned about the review/approval process for the plans
 - Would local governments be responsible for approving plan? If so would they be liable if something went wrong?
 - This has the potential to increase the workload for local governments and do they have the capacity?

Proposal three – summary

There was strong support for the proposal to create a risk management plan. The proposal needs to be amended slightly based on the findings of previous sections.

1. The regulations will apply to drinking water suppliers only
2. All drinking water suppliers will be registered (not licenced)
3. Water Carters will be captured.

Proposal three – recommendation

It is recommended that the regulations require all drinking water suppliers to create a risk management plan.

Risk management plans for drinking water suppliers will need to contain the following:

- *Detailed description of the system of supply*
- *Details about expected consumers of the water, including if the water will be provided to high risk populations such as Childcare centres, Kindergartens, Aged Care Facilities and Hospitals.*
- *Identification of the risks to the quality of the water and the risks that may be posed by the quality of the water*
- *An assessment of the risks*
- *The steps to manage those risks*
- *The monitoring and testing requirements associated with the quality of the water (a **monitoring plan**)*
- *The incident identification, notification and response procedures (an **Incident identification and notification protocol**).*
- *The maintenance schedules (if relevant)*

The complexity of the plan will be based on the complexity and risk level of the supply system. For example, a risk management plan for a supply system which has good quality source water (such as rain water) and supplies that water to one building will be simpler than a drinking water supply system which gets water from a low quality source and then supplies the water to multiple premises via a reticulated network.

The DOH will replicate the system that the [South Australian Department of Health](#) uses and provide templates for risk management plans online and base these templates on the water source type or activity. Complex suppliers such as the Water Corporation will be expected to complete a custom risk management plan.

In addition to providing templates the DOH will also provide guidance documents to assist with the completion of risk management plans. The NHMRC has developed an [Online Community Water Planner](#) which provides resources for remote and regional drinking water suppliers to create their risk management plans. It is expected that a plan created through this tool will meet the requirements of the regulations.

It is proposed that plans will not be assessed/approved as part of the registration process rather they will be assessed during the auditing process.

Proposal Four – Set monitoring and reporting requirements

The DOH proposed that all drinking water suppliers and source water suppliers be required to have a water quality monitoring program. The program should take into consideration the risks from the source water through to consumers which includes: catchments, source waters, treatment systems, distribution systems and consumer.

It was proposed that monitoring results are to be provided to the CHO at the required timing and format set out in their licence or registration and that licensed drinking water suppliers be required to publish their annual drinking water quality information.

The DOH also proposed that certain items be classed as “notifiable events”. Notifiable events would occur when water quality results exceed the standards set out in the regulations or when an incident occurs that could significantly impact the quality of the water or public health. Drinking water suppliers would have to notify the appropriate enforcement agency when one of these notifiable events occurs.

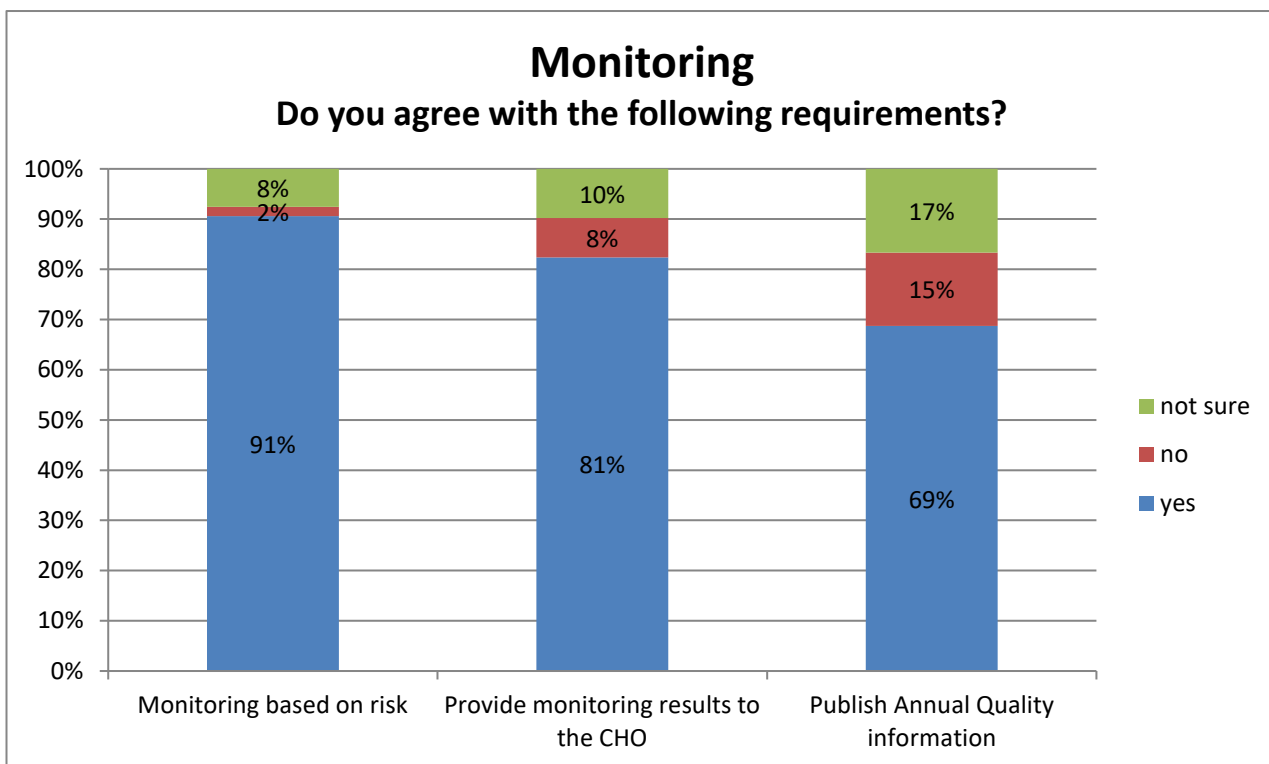


Figure 7 Summary of responses to the monitoring requirements proposal

Establish monitoring programs based on the overall risk of their system

91% of stakeholders agreed with this proposal. There were additional comments that need to be noted and considered by the DOH including:

- Changing testing frequency in response to an incident.
- Making sure that location and logistics are considered when determining testing frequency.
- Allowing alternative types of *E. Coli* testing such as:
 - In-house
 - Online
- Need to ensure that the baseline (lowest level of testing required) is appropriate
- Keeping up to date with changing testing/monitoring equipment/technology changes and allowing alternative/new testing technologies if appropriate.

- Ensuring that any monitoring program is tailored so that the information provided is useful and so that timely remedial actions can occur if an adverse result is obtained.
- Provision of clear information on risk levels and expected monitoring requirements so that suppliers clearly understand their requirements.
- Considering whether any form of monitoring and testing requirements need to be applied to large water providers downstream from a drinking water supplier's connection point, such as: Hospitals, public buildings and the like with large holding tanks

Provide compliance monitoring results to the CHO

81% of respondents agreed with this proposal. There were additional comments that need to be noted and considered by the DOH including:

- What about situations where the data may be commercial in confidence?
- The reporting and associated actions must be timely
- Shouldn't registerable drinking water suppliers provide their results to the LG?
- Potential for this to be too much information and water quality results which need follow up may be missed unless the CHO has an automated system of submission and analysis

Publish monitoring results annually

There was less agreement with this proposal (only 69%) with many who disagreed or were not sure, questioning the reasoning for this requirement. In general stakeholders agreed that it was required to ensure transparency; however some respondents were concerned that results may be misconstrued by the public who do not understand what they mean.

Proposal Four – Summary

There was support for the regulations to require monitoring. Respondents wanted clarity on how the monitoring would work and what would be expected. The proposal needs to be amended slightly based on the findings of previous sections.

1. The regulations will apply to drinking water suppliers only
2. All drinking water suppliers will be registered (not licenced)
3. Water Carters will be captured.

Proposal Four – Recommendation

The DOH recommends that the regulations require that all drinking water suppliers undertake compliance monitoring.

For drinking water suppliers who have entered into a MOU with the DOH under the Water Services Act 2012 their monitoring requirements will not change. This is also the case for drinking water suppliers who have already submitted a Drinking Water Risk Management Plan to the DOH and had it approved.

For Drinking water suppliers who are currently not captured/currently do not have a risk management plan in place it is proposed that:

1. *Exact chemical testing requirements would be based on based on a discussion with the appropriate enforcement agency. The Department of Health will provide guidance for enforcement agencies on their website.*
2. *Microbiological testing is undertaken based on the recommended minimum monitoring frequencies in the Australian Drinking Water Guidelines (Table 2 below).*

It is noted that a number of locations in Western Australia are remote and the drinking water supplier may not have the ability to meet the suggested minimum sampling frequencies. In these situations it is envisioned that the appropriate enforcement agency would determine appropriate monitoring frequencies based on the population serviced, the source water quality and the risk management measures in place. The Department of Health will provide guidance for enforcement agencies on their website.

Table 2 ADWG recommended minimum frequency of E. Coli monitoring

Population in Monitoring Zone	Minimum number of samples
>100,000	Six samples per week per monitoring zone, plus one additional sample per month per monitoring zone for each 10,000 above 100,000
5,000 – 100,000	5,000–100,000 One sample per week per monitoring zone plus one additional sample per month per monitoring zone for each 5,000 above 5,000
1,000-5,000	One sample per week per monitoring zone (52 samples per year)
<1000	One sample per week per monitoring zone (52 samples per year). Where the water supply in this category is remote, the recommended sampling frequency needs to be balanced against the logistics of collecting the samples, the risk profile for the supply, and the risk mitigation processes that are operating on the supply. With remote water supply systems, regular physical inspections and operational monitoring are more beneficial to ensuring water quality than infrequent E. coli sampling.

*ADWG recommends that the sampling frequency is increased at times of flooding or emergency operations and following repair work or interruptions to supply

The DOH understands that a number of drinking water suppliers will be undertaking operational monitoring (inline, telemetry etc). The DOH will work with drinking water suppliers to determine if their operational monitoring will meet the requirements of compliance monitoring or if additional compliance monitoring is required. This will be on a case by case basis. The DOH will provide Local Governments with information regarding any decisions so that they are able to apply the same rational should they decide to.

Monitoring results

All drinking water suppliers will be required to keep a record of their monitoring results. Where the DOH is the enforcement agency the drinking water supplier will be expected to provide the DOH with a summary of their water quality results annually. This is a continuation of the requirement that many of these suppliers already have as part the MOU that they have with the DOH. Where the Local Government is the enforcement agency they can decide if they would like to be provided with results annually or during the audit only.

Where a drinking water supplier is licenced under the Water Services Act 2012 they will be required to publish their water quality results annually and make that report available to the public. This is a continuation of the requirement of their MOU. Where a drinking water supplier is not licenced under the Water Services Act 2012, the DOH is recommending that they are required to make their water quality results available to public on request only.

Where there is a quality issue found through monitoring the reporting requirements will be as summarised in the ‘Incident Reporting’ section below.

Incident reporting 'Notifiable events'

It is proposed that the regulations require that Drinking Water Suppliers report to their appropriate enforcement agency in the following situations:

- *When water quality results exceed the standards set out by the regulations*
- *When a hazardous event occurs that could impact the quality of the water or could affect public health that the drinking water supplier cannot adequately manage, for example:*
 - *Pollution event which has affected the water supply*
 - *Natural disaster such as flooding or fire which has impacted the drinking water supply system or the source water*
 - *Any breach of water supply security where forced entry, trespass and contact with and/or contamination of raw water or drinking water occurs*
 - *Any change or hazardous event in the water catchment that may have an imminent adverse effect upon the quality of water supplied to consumers*
 - *Cyanobacteria bloom in source water supply*

Where a notifiable event occurs, the drinking water supplier will be required to rectify the situation or implement alternative water supply arrangements until a safe supply can be resumed.

It needs to be noted that having a 'notifiable event' is not cause for a registration to be cancelled and is not a breach of the regulations. It is how the drinking water supplier deals with an event and its aftermath which is most important.

Proposal Five – Set auditing requirements

The DOH proposed that licensed source water suppliers and licensed and registered drinking water suppliers be audited. It was proposed that the audit schedule and scope was based on the suppliers risk profile and that independent auditors be allowed to undertake the auditing.

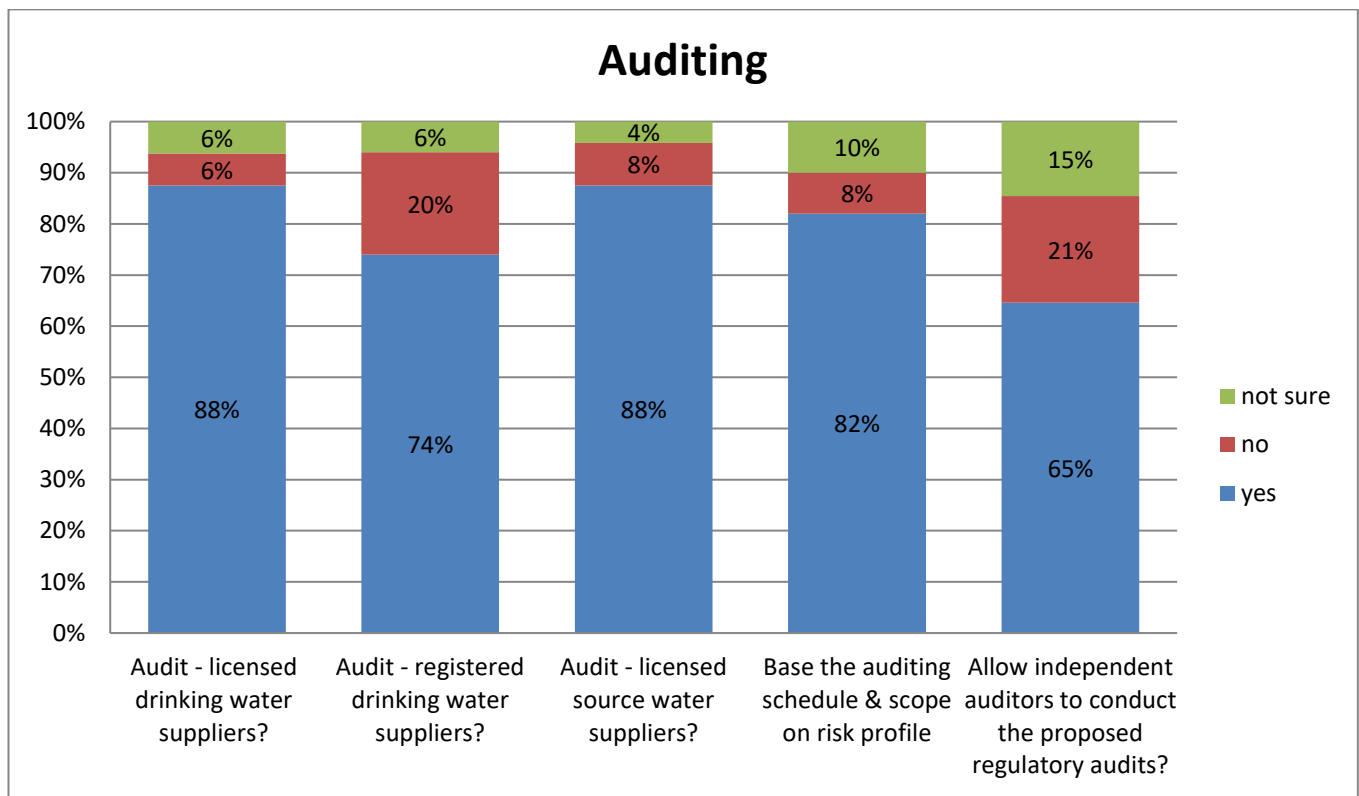


Figure 8 summary of responses to the auditing proposal

Proposal Five – response details

Licensed and registerable drinking water suppliers and licensed drinking source water suppliers

88% of respondents agreed that both licensed drinking water suppliers and licensed source water suppliers should be audited, while 74% agreed that registerable drinking water suppliers should be audited.

Agreement was because it is a key part of the ADWG 12 element framework and provides a way to:

- Ensure compliance with regulations
- Ensure that suppliers are acting in line with their risk management plan
- Reduce dishonesty
- Provide transparency
- Provide assurance that drinking water quality is not posing a risk to public health

Where there was disagreement, it was generally because it was felt that audits may be a cost burden for smaller suppliers and may prove to be overly onerous.

Some suggestions for the DOH to consider included:

- Issuing of audit guidelines

- Support for regional and remote auditors. Having auditors in the area may reduce the cost of having an audit done
- Consider basing the audit schedule/requirement on size as well as risk profile (i.e. small suppliers have a less onerous audit schedule).

Audit schedule based on risk profile

The DOH proposed that the audit schedule for a supplier should be based on the risk profile of that supplier with lower risk suppliers being required to be audited less frequently than high risks suppliers. 82% (41) of respondents agreed with the proposal. It was also suggested that the audit schedule should also be able to be changed based on the audit results. Where a supplier has failed an audit and also has had more quality result issues then they should be audited more frequently.

It was also suggested that a set schedule is trialled for the first few rounds of audits and then the audit schedule for each supplier is adjusted based on the audit findings. Clarity on what risk profiles the DOH would be basing the audit schedules on was also requested.

Independent auditors

The DOH proposed to allow independent auditors to undertake the proposed regulatory audits. The DOH asked for ideas on how the independent auditors should be approved, what qualifications they should have and what types of checks and controls are required.

65% of respondents agreed that the new regulatory framework should allow for independent auditors.

Where there was disagreement or respondents were not sure and it was generally felt that further work/clarification was required.

The DOH asked stakeholders for ideas on how the process should be managed, what qualifications auditors should have and what checks and balances should be in place to ensure auditor independence. One of the main concerns that the DOH has is making sure that the auditors undertaking the audit are independent; i.e. did not write the risk management plans for the company they are auditing.

To ensure auditor independence the DOH proposed that any person undertaking an audit cannot:

- Have prepared the risk management plan or any other relevant documentation for the drinking water supplier or source water supplier they are auditing
- Have any other form of conflict of interest (ownership/personal connections etc) with the drinking water supplier or source water supplier they are auditing.

Auditor approval process

Most respondents agreed that the DOH should be the approving agency and should make a list of approved auditors available to water suppliers in some form. A number of additional suggestions for the management of approving allowable auditors were made including:

- ISO 9001 certification
- Following the same process as either:
 - Approved auditors under the *Food Act 2008*
 - DWER auditors of contaminated sites
 - DMIRS safety auditors
- Demonstration of experience in the water industry and DOH assessment

Auditor qualifications

The following were suggested by stakeholders:

- Exemplar Global - Drinking Water Auditor Status / Lead Drinking Water Auditor Status
- Degree qualified in hydrology/hydrogeology/environmental with demonstrated experience (more than 5 years) in water quality and public/rural water supply.
- Science university degree
- As determined by the CHO. Competency based industry knowledge, experience or equivalent. Work with sector to develop competencies/qualifications required.
- Licensed source water suppliers should be done by auditors with the highest qualifications possible. Registrable source water suppliers could be done by auditors with lesser qualifications.
- EHO's should be included for auditing registrable source water suppliers as they can audit providers in rural areas where they are not working in the same LG.
- Follow the same framework that is in place now for water quality auditors i.e. Exemplar Global qualifications, relevant professional qualifications and relevant auditing experience.
- Qualifications would need to be in relation to management of water quality including testing/sampling process and risk more broadly
- Look at what other States are doing but keep in mind that there are limited trained people in the region. An online course would allow people from the region to obtain qualifications as opposed to have to go the Perth.
- Minimum ISO 9001 or ISO 14000

Proposal Five – Summary

Responses indicated that there is support for auditing, with concerns about the cost of auditing on registerable drinking water suppliers and the viability of allowing independent auditors.

The proposal needs to be amended slightly based on the findings of previous sections, plus needs to provide additional clarity on how it is expected that auditing will work.

1. The regulations will apply to drinking water suppliers only
2. All drinking water suppliers will be registered (not licenced)
3. Water Carters will be captured.

Proposal Five – Recommendation

The DOH recommends that this proposal is amended slightly so that the regulations require either Audits or Inspections. This follows the South Australian model and provides a way to help alleviate concerns about costs and auditor availability for smaller regional suppliers.

It is proposed that the audit or inspection process will:

- *Ensure that a drinking water supplier has complied with their risk management plan*
- *Review monitoring results*
- *Review maintenance records*
- *Provide opportunity to remedy any deficiencies identified*

It is recommended that the regulations require that all drinking water suppliers are either audited or inspected as shown in Table 3 below.

Table 3 proposed audit and inspection schedule for drinking water suppliers.

Drinking water supplier type	
A potable water supplier licenced under the Water Services Act 2012	Audit
Mine site	Audit
Any bulk water supplier/Water Carter	Inspection
Any drinking water supplier who supplies drinking water across local government boundaries	Inspection
Any drinking water supply done by a crown agency or on crown land	Audit or Inspection (DOH to decide case by case basis)
Any drinking water supply undertaken by a local government agency	Audit or Inspection (DOH to decide case by case basis)
Any water supplier not on the list above who supplies water within the boundaries of that local government (i.e. water supply by a supplier which does not cross local government boundaries)	Inspection

It is recommended that there are levels of auditors and inspectors (similar to South Australia) and that any appropriately qualified person can apply to be an auditor or inspector. These proposed levels are:

- Auditor Level 1
- Auditor Level 2; and
- Inspector

The DOH expects that the qualification and certification requirements for each of these levels will be similar to what is done in South Australia. Table 4 shows examples of what types of qualifications and certifications will be required. A person wishing to become an auditor or inspector will need to apply to the DOH providing proof of their qualifications and that the DOH will provide a list of approved auditors and inspectors online. The DOH will determine what evidence is required and may provide a training session at a later date.

The DOH will also provide guidance material for auditors and inspectors such as:

- Report template
- Guidance for Inspections
- Guidance for Audits

If the auditor/inspector has any concerns during their inspection/audit that the drinking water may be unsafe then they will be required to immediately report their concerns to the appropriate enforcement agency.

The DOH is proposing that independent auditors and inspectors are allowed.

The DOH is proposing that the Audit and inspection schedule is every three (3) years. The DOH is recommending that the Regulations allow for the CHO to amend the audit or inspection schedule based on audit/inspection results and monitoring results (i.e. if a supplier keeps failing/having issues then they should be audited more frequently).

Table 4 Expected Auditor and Inspector requirements

	Qualification
<p>Auditor Level 1</p> <p>An Auditor-level 1 will be approved to carry out any audit or inspection (i.e the functions of an auditor level 1, auditor level 2 and inspector</p> <p>Can carry out audits of ERA licenced drinking water suppliers</p>	<p>Certified lead Auditor under Exemplar Global Water quality management Systems</p>
<p>Auditor – Level 2</p> <p>An auditor level 2 will be approved to carry out any audit or inspection except for ERA licenced drinking water suppliers</p>	<p>Certified Auditor under Exemplar Global Water quality management Systems</p> <p>Independent auditor as approved by the DOH</p>
<p>Inspector</p> <p>Carry out inspections of all drinking water suppliers for whom an inspection has been deemed appropriate.</p>	<p>Public Health Act Authorised Officers employed by that local government</p> <p>Independent inspector as approved by the DOH.</p>

Proposal Six – Declare the supply of unsafe drinking water to be serious or material public health risks

The DOH proposed that the supply of unsafe drinking water by:

1. A licenced drinking water supplier to be a serious public health risk
2. A registered drinking water supplier to be a material public health risk.

These two proposals were strongly supported with the first supported by 96% of respondents and the second supported by 85% of respondents.

Recommendation

Advice indicated that while there was support for this proposal, specifying what constitutes a material or serious public health risk actually limits the court's ability to charge people who put the public's health at risk. This is because if the offence causes a risk to public health but does not meet the definition specified in the regulations then the perpetrator may not be able to be charged.

Therefore, it is recommended that the DOH does not specify what constitutes a material or serious public health risk in the regulations.

Proposal Seven – Set general public health duty provisions

The *Public Health Act 2016* sets out the general public health duty. It stipulates that “a person must take all reasonable and practicable steps to prevent or minimise any harm to public health that might foreseeably result from anything done or omitted to be done by the person (s34(1)). A breach in the general public health duty may constitute grounds for action to be taken under the Act, including the issue of an improvement notice and/enforcement order.

The DOH proposed that the regulatory framework declares that:

- Anyone who supplies drinking water to another person must ensure the drinking water is safe to drink; and
- Anyone who supplies non-drinking water to another person has a general public health duty to ensure the non-drinking water cannot be reasonably mistaken as being drinking water by the recipient.

This proposal is not intended to compel the supply of drinking water in any specific circumstance, but requires that, if drinking water (or non-drinking water) is supplied, then the water supplier has the duty to ensure all reasonable and practicable steps to prevent or minimise harm to public health have been taken.

To test the viability of this requirement, the DOH asked if there were any instances where the supply of drinking water is neither practicable nor achievable.

Responses indicated that whilst technically there are enough treatment technologies available which can turn any quality of source water into drinking water the costs associated with providing drinking water quality may be debilitating in some instances. Instances where the provision of drinking water may not be viable/necessary included:

- Situations where demand for drinking water is seasonal
- National parks and camping grounds
- Remote work sites
- Remote recreation sites

It is noted that in these situations it may be viable to either provide bottled water (or equivalent) or require that people cart in their own drinking water if they wish to use the site.

It is also noted that there are rapid improvements occurring in decentralised system design and technology, remote monitoring and operation and the generation of near-real-time water quality information, the bar has been significantly lifted in what qualities can be achieved for lower and lower costs.

Proposal Seven – recommendation

Advice indicated that stipulating what constitutes a breach of the general public health duty actually limits enforcement options for situations which do not meet the prescribed definition. It is therefore recommended that the regulation states that:

- *Anyone who supplies drinking water to another person must ensure the drinking water is safe to drink; and*
- *Anyone who supplies non-drinking water to another person must ensure the non-drinking water cannot be reasonably mistaken as being drinking water by the recipient.*

The DOH acknowledges that the cost of providing drinking water in some situations may be prohibitive, for example in remote locations and as such the regulations are not requiring that drinking water quality water is provided in all situations. Where water is provided that is not

drinking water quality, the regulations will require that it is clearly indicated that the water is non-potable and that it cannot be easily confused for drinking water.

Additional Questions – Intermediary Tanks

The DOH posed additional questions on how to manage intermediary tanks. Intermediary tanks may be used to buffer the flow of drinking water supplied to a large reticulation network contained within a lot. This will enable fixtures connected to the reticulation network to be pressurised sufficiently to meet the water flow demands for the entire lot.

Premises that may require the use of intermediary tanks includes, but not limited to the following:

- Large public buildings such as function venues, schools, hospitals, shopping centres, large office blocks.
- High density grouped dwellings contained within a lot such as apartment blocks, large strata lots, caravan parks.

The suggested two main options to manage this public health risk:

- CHO to publish guidelines on how the drinking water quality can be maintained and managed at premises that use intermediary tanks that are connected to a drinking water supply of a licensed drinking water supplier and enforced through the general public health duty provisions in the Public Health Act.
- Declare “the use of intermediary tanks at premises connected to a drinking water supply of a licensed drinking water supplier” as a public health risk activity that requires to be registered with the appropriate enforcement agency. The regulations will set out the requirements for this registrable public health risk activity.

Stakeholders were asked to state what they believed is the best way to manage the public health risks associated with intermediary tanks. Because stakeholders were not given check boxes to tick it was not clear which option was the most supported. Eleven (11) responses indicated support for guidelines whereas seven (7) responses indicated support for registration. All other responses provided technical ideas on how to manage the risks. These ideas could be included in either a guideline or as part of required inclusions in a risk management plan required as part of the registration process.

Intermediary tanks – Recommendation

The DOH will publish a guideline for managing the risks associated with intermediary tanks. This guideline will be made available on the DOH website.

Additional proposed inclusions in the regulations

Through the review of the responses the DOH became aware of some gaps in the proposed regulations and has proposed some additional inclusions.

Definitions and application

Based on the consultation the DOH realised that further clarification of a number of terms and who the regulations will and will not apply to is required. While the definitions of terms in the legislation will be drafted by Parliamentary Counsel, it is the DOH’s intention that the following be captured:

Drinking Water - water that is intended for human consumption or for purposes connected with human consumption (such as the washing, preparation or cooking of food or the making of ice intended for human consumption, or for the preservation of unpackaged food), whether or not the water is used for other purposes. It will not include water that has been packaged in a bottle, cask or other container;

Drinking water supplier

will capture a person who supplies drinking water to members of the public—

- (i) by means of a reticulated water system; or
- (ii)** after the water has been extracted from, or has formed part of, a body constituting a water resource (without being supplied by means of a reticulated water system); or
- (iii)** after the water has been collected or stored by means of a tank or other form of infrastructure or works for the collection or storage of water (without being supplied by means of a reticulated water system); or
- (iv)** after obtaining water in circumstances described in a preceding subparagraph and then supplying the water in bulk

Bulk water suppliers will be taken to be drinking water suppliers who supply in volumes of water greater than 100L.

High Risk populations

It was noted that in South Australia drinking water suppliers includes the operators of high risk facilities such as Childcare Centres, Preschools, Kindergartens, Aged Care Facilities and Hospitals and they have additional regulatory requirements.

The DOH is not planning to adopt this form of control rather the DOH is proposing that it creates guidance materials for these types of facilities about management measures that they can undertake to ensure that the potential risks are minimised. The guidance material will be made available on the DOH website. This is because in Western Australia the majority of these types of facilities are located in cities and towns and would receive their drinking water from a registered drinking water supplier.

Next steps

The information gathered in this consultation indicated that there is a majority preference for regulation of drinking water supply under the Public Health Act.

The DOH will take the information gathered as part of this stakeholder consultation and commence developing a Preliminary Impact Assessment for the Department of Treasury's Better Regulation Unit. This is required as part of the Regulatory Impact Assessment process.

For more information on the DOH's public Health Act regulation review program visit the [WA Health Website](#) or sign up to the [Environmental Health Directorate newsletter](#).

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