

Submission

No 28

INQUIRY INTO MANAGEMENT OF DOMESTIC WASTEWATER

Organisation: Yass Valley Council
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16 December 2011

Legislative Assembly
Committee on Environment and Regulation
Parliament House
Macquarie Street
SYDNEY NSW 2000

Attention: Mr Chris Patterson MP

Dear Sir,

Inquiry into Management of Domestic Wastewater

I refer to your letter dated 1 November, 2011 and provide the following submission in relation to the regulation of domestic wastewater in accordance with your terms of reference.

(a) The adequacy of safeguards to ensure food safety and to protect against the risk of localised contamination in food production areas

The Yass Valley Council Local Government Area (LGA) is rural in nature with pockets of densely populated communities not connected to reticulated sewer. Accordingly, it contains many viable agricultural production areas that grow food for the consumption of humans. The LGA does not contain a large number of intensive food production areas such as market gardens that require additional monitoring or safeguarding.

Given the above, the main problems faced in relation to the regulation of domestic wastewater result from the potential public health and environmental risks of onsite sewage management facilities that are installed, operated and maintained in an unsatisfactory manner.

(b) The appropriateness of current regulatory arrangements in relation to the management of domestic wastewater

(i) Inconsistent Implementation and Clarity of Existing Legislation

Following the introduction of the Local Government (Approvals) Amendment (Sewage Management) Regulation 1998 and subsequent amendments, Yass Valley Council developed and adopted an On-Site Sewage Management Strategy in 2000 using the provisions of the *Environment and Health Protection Guidelines: On-Site Sewage Management for Single Households*. To develop and implement this strategy a consultant was hired to prepare all the necessary documentation and devise a framework to carry out the inspection of all on-site sewage management systems within the Local Government Area.

Enforcing a strategy of this nature is made more difficult when there are neighbouring local government areas that have not developed a strategy or implemented an inspection regime. Under these circumstances residents are often of the view that Yass Valley Council is being over litigious and just raising more revenue. As such, it appears that the importance of the obligation to develop a strategy for onsite sewage management in each Local Government Area and the implementation of a registration and inspection regime has been lost by a majority of Council's. Therefore it is suggested that Clause 29(3) and 43 of the Local Government (General) Regulations 2005 need to be more detailed and prescriptive to reinforce this requirement.

Similarly, there appears to have been little or no follow up action from the Department of Local Government who have not developed a strategy to ensure that Council's prepare and enforce legislation in relation to the regulation of On-Site Sewage Management Systems. Until this occurs, the issue is not going to be given priority nor the resources required to complete the task.

Yass Valley Council's experience in developing and implementing a strategy for the ongoing registration and inspection of onsite sewage management systems has established that a full-time officer is required to achieve the desired results. If the "full" costs of hiring a full-time officer, inclusive of vehicle expenses and on costs, etc. were funded by State Government this would encourage more Local Government Areas to comply with the provisions of the existing legislation.

(ii) Licensing of Service Contractors, Information Reported and Ability to Enforce Compliance

It is a general condition of all Certificates of Accreditation issued for Aerated Wastewater Treatment Systems by the NSW Department of Health that *"The Council shall require the owner/occupier of a premises to enter into an annual service contract with a representative of AWTS Maintenance Services Pty Ltd or a service contractor or company acceptable to the Council"*. In addition, the system is required to be serviced at three or four monthly intervals by this service contractor who is required to ensure the system is operating in accordance with the manufacturers specifications by checking all mechanical, electrical and functioning parts of the system.

Currently, under existing legislation, regulations and guidelines, there are no defined or minimum standards of criteria that a service contractor is required to meet. Local Government Areas that have tried to introduce criteria to "standardise" the process have been successfully challenged in court. This leaves Council Officers in a powerless situation where service contractors in their Local Government Area are not performing required system maintenance in a satisfactory manner. This situation can exacerbate existing issues with a malfunctioning system and can result in system failure leaving system owners with no recourse of action. Unfortunately this more often than not leaves home owners out of pocket substantially.

To address this issue, a licensing system needs to be introduced by NSW Fair Trading, the Division of Local Government or NSW Department of Health to control the performance of service contractors or as a minimum, establish a legally based set of criteria which enables Council Officers to successfully control and regulate service contractors operating in their area. These criteria should include penalty provisions and the ability to issue service contractors with Penalty Infringement Notices where they do not comply or falsely allow system owners to believe their system is operating in accordance with legislation.

Any new criteria should also be extended to standardise the level of information provided on a service report that a service contractor completes following a system service. This would alleviate the current problem with the service reports which are submitted to Council's in many different forms with various levels of information. A standardised service report would greatly benefit the processing of the information and the identification of issues immediately.

Similarly, Council's also have problems with service contractors not providing a copy of the service report to Council until payment for the service is received. This can often result in an extensive time delay in the notification of serious threats to public health and the environment.

(iii) Related Effluent Applications Areas – Design and Installation

The design and installation of effluent disposal areas, especially irrigation areas by way of surface spray, surface drip or sub-surface drip irrigation is an area that is exceptionally over looked by many installers. In particular, it is common for disposal areas to be established without adequate regard to the recommendations of a site and soil analysis report which leaves insufficient space to effectively and safely dispose of the effluent.

On a broader scale, the design and installation of effluent disposal areas is also required to be standardised given that at present there is no information outlining who can design and install a disposal area. This could be addressed by including a link to supporting technical information such as AS/NZS 1547:2000.

(iv) Revision of Supporting Technical Documentation

The *Environment and Health Protection Guidelines: On-Site Sewage Management for Single Households* whilst still very useful, have been in existence since 1998. It is often indicated that a review of these guidelines remains in draft format. To enable Council Officers to ensure their on-site sewage management strategies contain the most up to date technical information it would be useful for this document to be reviewed and a new draft, adopted, published and made available for use.

It would also be useful to have a clause developed and inserted into legislation that directly references or calls up these documents to reinforce the ability of Council to require On-Site Sewage Management Facilities and all of their associated components to be designed, installed, operated and maintained in accordance with the Guidelines and associated Australian Standards.

(v) More detailed guidance on Systems not Accredited by NSW Department of Health

The lack of detailed legislation and guidance on the design and installation of systems catering for greater than 10 equivalent persons and less than 2500 equivalent persons creates great potential for significant system failure that could result in the health of the public on a large scale being affected. Commercial premises, youth camps and caravan parks for example often have systems installed that are inadequately designed and are not operated or maintained in a satisfactory manner.

Substantial technical information or guidelines need to be introduced into legislation to prompt the consistent design and installation of systems that have the potential to be a serious threat to public health and the environment.

(c) The adequacy of inspection procedures and requirements to report incidents

Currently, service contractors report incidents to Council. These incidents could include the need for maintenance work to be carried out on a particular system or where a system has failed.

At a local government level, most incidents are identified during the routine inspection of systems by a Council Officer or as a result of a complaint. There are no legislated provisions for the reporting of "incidents" and this means that there are no mechanisms in place that collect and analyse data that could generate statistics which could be used to identify recurring issues.

In this regard, it would not be an unrealistic imposition on Council to report at least annually on its inspection program and the findings as a result of these inspections.

(d) Any other related matter

Clause 41 of the Local Government (General) Regulations 2005 empowers the NSW Department of Health to issue a Certificate of Accreditation for Sewage Management Facilities following testing and compliance with the Sewage Treatment Accreditation Guidelines, May 2005.

There are a number of areas within these guidelines that require strengthening to provide for the development and installation of systems that more adequately reflect the actual daily operational conditions they are subjected to from average households rather than the ideal condition scenario that is currently used as a basis for the guidelines.

One major flaw is that the accreditation of systems does not include the final land application system. This is evidenced in the quote below from the Sewage Treatment Accreditation Guidelines, May 2005:

"It should be noted that NSW Health accreditation does not include approval to install nor approval of the final land application system. This is a matter for the local authority which should consider relevant Australian Standards, site assessments, recommendations from the Department of Local Government, and its own sewage management strategy".

The method of final land application greatly influences the operational performance of a system. The testing performed to accredit a system does not take into account the numerous site constraints that are generally encountered. A common example is the under sizing of irrigation pumps which do not achieve required pressures to adequately and uniformly apply effluent to a surface spray irrigation disposal area, let alone a sub-surface irrigation disposal area. These issues often lead to poor functioning systems or system failure.

This creates an unenviable situation for Council officers and service contractors as a system is not supposed to be altered outside the original design that achieved accreditation. This is made clear in the Sewage Treatment Accreditation Guidelines, May 2005 which state:

"Any modification or variations to the accredited design of the facility shall be submitted for separate consideration and variation of the Certificate of Accreditation by the Director-General of the NSW Department of Health".

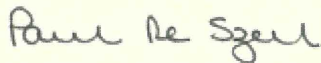
There is also no evidence to suggest that accredited systems are being audited by NSW Health as outlined in their accreditation guidelines. This combined with a lack of reporting requirements contributes to the re-accreditation of poor performing systems that can contribute to public health and environmental risks. In accordance with Clause 10.1 of the Sewage Treatment Accreditation Guidelines, May 2005 the following monitoring program should be enforced:

10.1 *At the anniversary of accreditation date the manufacturer shall participate in a monitoring program of installed SMF to determine field performance as follows:*

- *The manufacturer shall supply the addresses of installed SMF to NSW Health;*
- *Selection of SMF: A 10% of the first 100 SMF model installed and an additional 1% per 100 installed thereafter for each year of manufacture shall be selected.*
- *the SMF shall be selected at random by NSW Health from a complete list of installations in yearly order in NSW.*
- *BOD₅, TSS, thermotolerant coliforms, and disinfectant concentration are to be determined, together with a service history.*
- *Sampling is to be performed by the JAS-ANZ accredited product certification body that issued the product licence. Samples for BOD₅, TSS, and thermotolerant coliforms are to be determined by a NATA registered laboratory with the appropriate scope of accreditation, and samples for disinfectant concentration are to be determined on site.*

Thank you for taking the time to consider the information provided in relation to the regulation of domestic wastewater. Should you require any further information in relation to any of the above matters please do not hesitate to contact Mrs Tabitha Holliday on (02) 6226 9234.

Yours sincerely



Paul De Szell
Director Planning & Environmental Services