

OFFICIAL

A3058942



Health
Department for
Health and Wellbeing

Office of the Chief Executive

Citi Centre Building
11 Hindmarsh Square
Adelaide SA 5000

PO Box 287, Rundle Mall
Adelaide SA 5000
DX 243

Tel 08 8226 0795
Fax 08 8226 0720

ABN 97 643 356 590

www.health.sa.gov.au

Ms Christine Bierbaum
Inquiry Lead
South Australian Productivity Commission
GPO Box 2343
ADELAIDE SA 5001

Email: sapc@sa.gov.au

Dear Ms Bierbaum

RE: SUBMISSION FROM HEALTH PROTECTION AND LICENSING SERVICES IN SA HEALTH TO THE DRAFT REPORT - SA'S REGULATORY FRAMEWORK INQUIRY - AND THE DRAFT REPORT ON TOURISM REGULATION REVIEW

Thank you for the opportunity to respond to the recommendations of the Draft Report of the Inquiry into the Reform of SA's Regulatory Framework (the Inquiry) and the Draft Report for the Tourism Regulation Review.

The Health Protection and Licensing Services Division (HPLS) in SA Health has a large portfolio of regulatory responsibilities which aims to protect the community from preventable health risks and administers regulatory licensing of private health services.

HPLS also works closely with local government and other state regulators to ensure enforcement and compliance activities are as co-ordinated and consistent as possible, while maintaining the highest possible protection for the SA community from the risks to public health.

The draft recommendations from both reports are in general supported by HPLS. Please find attached HPLS' submissions to both Reports which provide specific comments on the draft recommendations and information requests.

Should you required any further information, please do not hesitate to contact Ms Jo Cammans on (08) 8226 7858 or at Joanne.Cammans@sa.gov.au.

Yours sincerely


DR CHRISTOPHER MCGOWAN
Chief Executive

20110121

Att: Submissions to the Inquiry and Tourism Regulation Review – Health Protection and Licensing Services, SA Health

OFFICIAL

SOUTH AUSTRALIAN PRODUCTIVITY COMMISSION – TOURISM REGULATION REVIEW 1 September 2021

SA HEALTH SUBMISSION

FOOD SECTION

Preliminary

The Food and Controlled Drugs Branch within Health Protection and Licensing Services in SA Health is responsible for protecting the community from preventable health risks associated with the consumption of unsafe food and ensures the legitimate use of prescribed drugs of dependence. We work closely with local government and other regulators to ensure enforcement and compliance activities are as co-ordinated and consistent as possible, while maintaining the highest possible protection for the SA community from the risks of foodborne illness.

The Minister for Health and Wellbeing is responsible for the carriage of the *SA Food Act 2001* (Food Act) and for ensuring appropriate oversight of food safety in SA. The department and the 68 Local Government (council) areas in SA are defined, as enforcement agencies for businesses captured by the Food Act (and Food Regulations 2017). A Memorandum of Understanding (MOU) with the Local Government Association sets out the agreed responsibilities for food safety between SA Health (the Department) and Local Government.

The MOU stipulates that Local Government will monitor and enforce the Food Act provisions and relevant Food Standards in their areas, while SA Health undertake administration of the Food Act in all unincorporated areas of SA and assist Local Government as needed, including in food safety incidents that are significant or widespread.

The *SA Food Regulations 2017* automatically adopt the Australia New Zealand Food Standards Code as law in SA and the Food and Controlled Drugs Branch work closely with other jurisdictions in Australia and New Zealand to develop, implement, manage and maintain Food Standards and food policy initiatives.

Information request 5.3

The Commission requests feedback on:

- whether the Commission's characterisation of issues related to processing and serving fish on charter boats is accurate;
- the experiences of tourism operators who have attempted to obtain fish processing licences; and
- the processes and mechanisms that are available for businesses to provide feedback to the regulators

SA Health Response

As stated in the Report in Section 5.2, all businesses selling food in SA need to comply with the Food Standards Code. On page 73, the Report states that the stakeholders indicated that compliance costs are too high for small charter boat operators. It is difficult to comment on this statement without more information about the specific costs and impacts experienced by operators. More evidence should be produced to support this statement.

The Food Standards Code requires all food service businesses to comply with minimal mandatory food safety requirements such as cleanliness, good handling practices, and appropriate food handler knowledge. These requirements are in place to protect the consumer from the impacts of foodborne illness. Food businesses are classified according to the [SA Food Business Risk Classification](#) and the recommendation is that local government environmental health officers inspect food businesses in line with this classification. The framework allows for inspections to be carried out as often as every 3 months depending on risk and compliance, but a compliant business is likely to be inspected only once per 12 to 18 months. These inspections may incur a fee (\$131 – \$327). More information would be required to understand what other compliance costs are being imposed by the food regulations.

Fish processing licences are not food safety related and not captured under the Food Act. They are covered by primary industries legislation which is managed by PIRSA.

In regard to mechanisms available to businesses to provide feedback to regulators, this mechanism currently exists for businesses captured under the Food Act.

Draft Recommendation 8.7

That the remit of the SA Health food safety regulation function be expanded to:

- build on the regulatory capability of local government, with specific attention to environmental health officers, by providing on-going professional development advice and support;
- establish a central and independent process for receiving feedback on, and reviewing, the enforcement of food safety regulations by local government, and responding to complaints from businesses; and
- provide advice to local government on improving their regulatory practice arising from analysis of the feedback.

SA Health Response

As stated above, the Food and Controlled Drugs Branch already work closely with local government including the following activities:

- Ongoing Food MOU working group with representatives from the LGA, local government, SA Health and Environmental Health Australia (the professional organisation for environmental health officers), to work on agreed projects to improve the consistency and efficiency of the administration of the Food Act provisions in SA
- Requirement for each local government area to report on enforcement and compliance activities under the Food Act which contributes to the Annual SA Health Report.
- Ongoing training and information sessions run by SA Health, including Risk Classification and Risk Based Inspection Training for all officers.
- Establishment of the Food Safety Rating Scheme which aims to improve compliance in food service businesses by scoring the major risk elements of the legislative requirements. Although not mandatory, this scheme has also improved the consistency of local government inspections.
- Standardised inspection sheets for food premises co-developed by SA Health and Local Government representatives.

In response to draft recommendation 8.7, we have no specific objections to expanding the remit of the Food and Controlled Drugs Branch to help build the regulatory capacity of local government but would question the evidence base for this perceived problem, and the proposed solution.

Authorised officers in local government have a broad suite of regulatory powers in line with the important responsibility that they undertake in protecting the public. By their nature, food businesses vary in their operations and levels of compliance, even when they are part of a chain. Any action taken by an authorised officer in a specific food premise is considered on balance to the level of risk posed and the evidence of non-compliance.

In exploring this proposal going forward, it would be helpful to fully explore what impact is created on the operators in the tourism sector by the perceived inconsistent application of food safety regulations. Complaints about the enforcement actions of councils are received by SA Health or the

Minister from time to time and any common or persistent issues are addressed directly with the council or raised as an issue in other forums such as the Food Special Interest Group (SIG). An important factor in this discussion is that local government is not directed by SA Health in undertaking compliance activities, but work in partnership as co-regulators of the Food Act provisions.

WASTEWATER SECTION

Background

The Wastewater Management Section consists of 5 fulltime equivalent staff who are authorised under the *South Australian Public Health Act 2011* (the Act) and are delegated on behalf of the Minister for Health and Wellbeing to act as the relevant authority for the administration of the *South Australian Public Health (Wastewater) Regulations 2013* (the Regulations).

The Wastewater Management Section within Health Protection and Licensing Services in SA Health is responsible for a broad portfolio including;

- development and administration of legislation, prescribed codes, protocols, guidelines and public health policy for wastewater management, treatment, disposal and recycled water use.
- assessment and approval of wastewater systems and recycled water schemes including;
 - Community Wastewater Management Systems (CWMS)
 - CWMS Wastewater Treatment Plants (WWTP)
 - Recycled water systems from SA Water regional WWTPs and CWMS WWTPs
 - On-site wastewater systems (capacity >40EP)
 - Individual recycled water use
 - On-site wastewater system products

Information request 6.2

The Commission requests feedback on:

- Is the Commission's characterisation of the requirements for water and sewerage infrastructure accurate? Are there any regulatory requirements the Commission has missed?
- Are timeframes for approval reasonable and is sufficient guidance provided by regulators? Are these timeframes achieved in practice? How can these times be reduced?
- Are infrastructure costs placed on businesses reasonable?
- How could the requirements placed on businesses be improved while still protecting public health and the environment?

Is the Commission's characterisation of the requirements for water and sewerage infrastructure accurate? Are there any regulatory requirements the Commission has missed?

The characterisation of the requirements for sewerage infrastructure is reasonably accurate. To provide additional context relating to the approval of wastewater products referred to in the review as 'drop in' systems, the following information is provided:

- Product approvals that are issued by the Department for Health and Wellbeing (DHW) apply to onsite wastewater treatment units with a capacity of 40 equivalent persons (EP) or less that are certified against Australian Standard 1546 (Part 1,2,3 and 4).
- As mentioned in the review, local councils are the relevant authority for installation approvals of wastewater systems with a capacity of 40 EP or less in their council area.
- The list of approved products enables local council environmental health officers to approve wastewater treatment units that have already undergone a certification and approval process.
- DHW publishes a list of these approved wastewater products (including septic and holding tank units and secondary treatment systems) on the SA Health website.
- The method of disposing wastewater from these units will depend on the type of treatment system selected and whether treated effluent will be discharged to an underground disposal system (soakage trenches/beds) or via a surface/subsurface irrigation system. The design of this part of the system is undertaken by a wastewater engineer.
- Premises with a capacity of greater than 40 EP or 6,000L a day, usually require a site-specific wastewater system which is designed by a wastewater engineer to ensure it is fit for purpose.

- The type of treatment and land disposal system will depend on the site and soil characteristics, the premises type and the wastewater design flow.
- These systems are designed by a wastewater engineer and are assessed and approved by the DHW.
- These systems are often highly complex and require rigorous assessment in order to ensure that they are suitable for the site in question and are effective in safeguarding people and the environment from potential harm associated with exposure to inadequately treated effluent.

Are timeframes for approval reasonable and is sufficient guidance provided by regulators? Are these timeframes achieved in practice? How can these times be reduced?

- Timeframes for the assessment of a wastewater works application can be affected by various factors including the quality of the report, design and supporting documentation provided by the applicant.
- Where wastewater engineers reports and/or supporting documentation is insufficient or clarification is required, further information will be requested by the relevant authority.
- To improve this process the Department for Health and Wellbeing is currently developing a portal for the online submission of applications.
- This is intended to provide applicants with more clarity in relation to the level of detail of information required in order for the application assessment to progress.
- This is expected to streamline the application process for both the applicant and the assessing officer and to reduce delays associated with the assessment of applications which are not supported by associated information and documentation.
- The average timeframe for the assessment and approval of a standard wastewater application is 6-8 weeks. Highly complex or large-scale applications may take longer.

Are infrastructure costs placed on businesses reasonable?

- Costs associated with onsite wastewater management may be significant and early consideration of options and costs by applicants is encouraged.
- Engaging a suitably qualified wastewater engineer or consultant early in the planning process can assist with designing the most cost effective and sustainable solution for managing wastewater over the long term that is fit for purpose.
- Consideration should be given if there are plans for the business to expand over time to enable a modular approach to increase capacity of the system.

- Relative to the cost of an onsite wastewater treatment system, prescribed application fees are nominal (\$523 maximum irrespective of the size of system) and fall significantly short in covering associated processing costs.

How could the requirements placed on businesses be improved while still protecting public health and the environment?

- The On-site Wastewater Management Systems Code 2013 (the Code), which is prescribed under the South Australian Public Health (Wastewater) Regulations 2013 (the Regulations), is currently under review.
- The Code prescribes the requirements for the design, installation, operation and maintenance of on-site wastewater systems.
- The revision of the Code is expected to provide a more flexible, risk-based approach to design, installation, operation and maintenance requirements for onsite wastewater treatment systems.
- The updated Code will incorporate contemporary, best practice information and contain tools and templates to guide applicants in key aspects of system design respective to individual site and soil conditions.
- The Code will also be updated to contain more robust information relating to the operation and maintenance of the system, which is essential in ensuring safe and sustainable wastewater management.
- The review of the Code will take into consideration the relevant recommendations of the Social Development Committee arising from the recent review of the *South Australian Public Health Act 2011* and subordinate legislation.

Information request 7.2

The Commission requests feedback on:

- Is the Commission's characterisation of the requirements for accommodation businesses accurate? Are there any other regulatory issues accommodation businesses face?
- Is there consistency across local governments in enforcing operational requirements on accommodation businesses? How is this consistency monitored? What reporting requirements are in place?
- How can the regulatory requirements for tourist accommodation businesses be improved?

Information request 7.2

Is the Commission's characterisation of the requirements for accommodation businesses accurate? Are there any other regulatory issues accommodation businesses face?

- Section 7.2.1 on Tiny cabins states *"Because these cabins are usually installed in remote areas, they often face issues with not being connected to public infrastructure. This means that they must be able to store and remove their grey water and effluent, thus likely to require approval from the Environment Protection Authority (EPA), which is discussed in Chapter 6."*
- As a point of clarification, greywater and wastewater management from these cabins requires approval from the relevant authority under the South Australian Public Health (Wastewater) Regulations 2013.
- The EPA will be only become involved in applications for systems approvals if these cabins are in/proposed for installation within the Mount Lofty Ranges watershed catchment area.