



New South Wales

Local Government (Approvals) Amendment (Sewage Management) Regulation 1998

under the

Local Government Act 1993

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Local Government Act 1993*.

ERNIE PAGE, M.P.,

Minister for Local Government

Explanatory note

The object of this Regulation is to make further provision in Part 3 (Approvals relating to management of waste) of the *Local Government (Approvals) Regulation 1993* (the “Approvals Regulation”) for the management of human waste.

In particular, this Regulation:

- (a) prescribes the *operation of a system of sewage management* (defined in clause 95C, inserted in the Approvals Regulation by Schedule 1 [10]) for the purposes of item 10 of Part F of the Table to section 68 of the *Local Government Act 1993* (“the Act”)—that is, the operation of a system of sewage management is made an activity that may be carried out only with the prior approval of the relevant local council (Schedule 1 [10]—clause 95D), and
- (b) inserts transitional provisions that allow the requirement to obtain approval to operate a system of sewage management to be phased in over a period of several months, and makes it clear that concurrent owners and occupiers may operate such a system on the basis of the same approval (Schedule 1 [10]—clauses 95H–95J), and

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- (c) repeals 2 clauses of the Approvals Regulation that currently specify the matters that are to accompany applications for approval to install certain *human waste storage facilities* (defined in the Act), and remakes those clauses as clauses specifying the matters that are to accompany applications for approval to install or construct any *sewage management facility* (as defined in clause 70A, which is inserted by Schedule 1 [5])—Schedule 1 [6], and
- (d) specifies the matters that a council must take into consideration in determining an application for approval to install, construct or alter a sewage management facility (Schedule 1 [7]), and
- (e) replaces the current system of approvals of waste treatment devices by the Director-General of the Department of Health (under clause 75, which is repealed by Schedule 1 [7]) with a system of accreditation by that Director-General of plans and designs for certain sewage management facilities (clauses 95A and 95B, inserted by Schedule 1 [10]), and
- (f) requires the council, in determining an application for approval to operate a system of sewage management, to consider matters specified in certain guidelines and directions issued by the Director-General of the Department of Local Government (clause 95E, inserted by Schedule 1 [10]), and
- (g) sets a condition that attaches to an approval to install, construct or alter a sewage management facility (Schedule 1 [8]), and
- (h) sets both the performance standards for the operation of a system of sewage management and certain conditions that attach to an approval to operate such a system (clauses 95F and 95G, inserted by Schedule 1 [10]), and
- (i) provides for certain exemptions from the requirements to obtain the approvals referred to in Part 3 of the Approvals Regulation (Schedule 1 [11]), and
- (j) repeals all but one of the very detailed provisions of Division 4 (Performance standards) of Part 3 of the Approvals Regulation and replaces them with standards expressed in more general terms (Schedule 1 [9]).

This Regulation also repeals clause 6B of the Approvals Regulation (which exempts most temporary buildings from the operation of all but one clause of the Approvals Regulation) and remakes that clause as clause 6D within

Part 2 (Approvals relating to buildings and temporary structures) of the Approvals Regulation in such a way as to exempt the buildings concerned from all but one clause of that Part only (Schedule 1 [1] and [2]). Accordingly, Part 3 (Approvals relating to management of waste) of the Approvals Regulation will apply to temporary buildings.

This Regulation also amends clause 36 (Temporary closets) of the Approvals Regulation so as to make the requirements relating to the temporary toilet facilities required to be provided in conjunction with the erection of a building consistent with those relating to sewage management generally (Schedule 1 [3] and [4]).

This Regulation is made under the *Local Government Act 1993*, and, in particular, under section 748 and Schedule 6 (the general regulation-making power).

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Clause 1 Local Government (Approvals) Amendment (Sewage Management) Regulation 1998

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(Sewage Management) Regulation 1998**

1 Name of Regulation

This Regulation is the *Local Government (Approvals) Amendment (Sewage Management) Regulation 1998*.

2 Amendment of Local Government (Approvals) Regulation 1993

The *Local Government (Approvals) Regulation 1993* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 2)

[1] Clause 6B Limited application of Regulation to temporary buildings

Omit the clause.

[2] Part 2, Division 1AA

Insert after the heading to Part 2:

Division 1AA Preliminary

6D Limited application of Part to temporary buildings

- (1) This Part (except clause 35) does not apply to temporary buildings.
- (2) In this clause, *temporary building* does not include:
 - (a) a building designed for use for residential purposes, or
 - (b) a building erected by way of alteration, addition or extension to an existing building, or
 - (c) a building more than one storey in height.

[3] Clause 36 Temporary closets

Omit clause 36 (3). Insert instead:

- (3) Wherever practicable, each closet must contain a standard flushing toilet that connects directly to a public sewer.
- (3A) If it is not practicable for a closet to contain a standard flushing toilet that connects directly to a public sewer, the closet must, if practicable, contain a sewage management facility to which Division 4A (Accreditation of sewage management facilities) of Part 3 (Approvals relating to the management of waste) applies.

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- (3B) If it is not practicable for a closet to contain either a standard flushing toilet that connects directly to a public sewer or a sewage management facility referred to in subclause (3A), the closet must contain an alternative sewage management facility approved by the council.

Note. Part 3 (Approvals relating to the management of waste) does not apply to or in respect of a standard flushing toilet that connects directly to a public sewer because such a toilet is neither a waste treatment device nor a human waste storage facility (referred to in item 5 of Part C of the Table to section 68 of the *Local Government Act 1993*).

[4] Clause 36 (5)

Insert at the end of the subclause:

public sewer and *sewage management facility* have the same meanings as they have in Part 3.

[5] Part 3, Division 1AA

Insert after the heading to Part 3:

Division 1AA Preliminary

70A Definitions

public sewer means a sewer operated by a council or a county council, a water supply authority (within the meaning of the *Water Supply Authorities Act 1987*), a state owned corporation listed in Schedule 1 to the *State Owned Corporations Act 1989* (or a subsidiary of such a corporation) or any other public or local authority.

related effluent application area, in relation to a sewage management facility, means the area of land (if any):

- (a) where it is intended to dispose of the effluent and any by-products of sewage from the facility, or
- (b) to which the effluent and by-products are intended to be applied.

sewage includes any effluent of the kind referred to in paragraph (a) of the definition of *waste* in the dictionary to the Act.

sewage management facility means:

- (a) a human waste storage facility, or
- (b) a waste treatment device intended to process sewage,

and includes a drain connected to such a facility or device.

[6] Clauses 72 and 73

Omit the clauses. Insert instead:

72 Matters to accompany applications for approval to install or construct sewage management facilities

- (1) An application for approval to install or construct a sewage management facility on any premises must be accompanied by the documents specified in this clause.
- (2) **Plan.** The application must be accompanied by a plan, to scale, showing the location of
 - (a) the sewage management facility proposed to be installed or constructed on the premises, and
 - (b) any related effluent application areas, and
 - (c) any buildings or facilities existing on, and any environmentally sensitive areas of, any land located within 100 metres of the sewage management facility or effluent application areas.
- (3) **Specifications.** The application must be accompanied by full specifications of the sewage management facility proposed to be installed or constructed on the premises concerned.
- (4) **Site assessment.** The application must be accompanied by details of the topography, soil composition and

vegetation of any effluent application areas related to the sewage management facility together with an assessment of the site in the light of those details.

- (5) **Statement.** The application must be accompanied by a statement of:
 - (a) the number of persons residing, or probable number of persons to reside, on the premises, and
 - (b) such other factors as are relevant to the capacity of the proposed sewage management facility.
- (6) **Operation and maintenance.** The application must be accompanied by details of:
 - (a) the operation and maintenance requirements for the proposed sewage management facility, and
 - (b) the proposed operation, maintenance and servicing arrangements intended to meet those requirements, and
 - (c) the action to be taken in the event of a breakdown in, or other interference with, its operation.

[7] **Clause 75**

Omit the clause. Insert instead:

75 Matters to be taken into consideration in determining applications for approval to install, construct or alter sewage management facilities

Note. This Regulation does not prescribe the matters that are to accompany an application for approval to *alter* a sewage management facility. Section 81 of the *Local Government Act 1993* provides that an application for an approval under Part 1 of Chapter 7 of that Act (in which category such an application falls) must be accompanied by “such matters as may be prescribed by the regulations and such matters specified by the council as may be necessary to provide sufficient information to enable the council to determine the application”.

- (1) In determining an application for approval to install, construct or alter a sewage management facility, the council must take into consideration the matters specified in this clause.

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- (2) **Environment and health protection matters.** The council must consider whether the proposed sewage management facility (or the proposed sewage management facility as altered) and any related effluent application area will make appropriate provision for the following:
- (a) preventing the spread of disease by micro-organisms,
 - (b) the prevention of the spread of foul odours,
 - (c) preventing contamination of water,
 - (d) preventing degradation of soil and vegetation,
 - (e) the discouragement of insects and vermin,
 - (f) ensuring that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises concerned,
 - (g) the re-use of resources (including nutrients, organic matter and water),
 - (h) the minimisation of any adverse impacts on the amenity of the land on which it is installed or constructed and other land in the vicinity of that land.
- (3) **Guidelines and directions.** The council must consider any matter specified in guidelines or directions issued by the Director-General in relation to the matters referred to in subclause (2).

[8] Clause 78A

Insert after clause 78:

78A Use of sewage management facilities

it is a condition of an approval to install, construct or alter a sewage management facility that the facility is not used (or used as altered) until the council has given the applicant for approval notice in writing that it is satisfied that the facility has been installed, constructed or altered in substantial accordance with the approval.

[9] Clauses 81–94

Omit the clauses. Insert instead:

81 Sewage management facilities generally

A sewage management facility:

- (a) must be made of durable and non-corrosive components, each having an expected service life of at least:
 - (i) 5 years, in the case of a mechanical or electrical component, and
 - (ii) 15 years, in any other case, and
- (b) must be installed or constructed:
 - (i) in accordance with the appropriate specifications and in accordance with good trade practice, and
 - (ii) so as to allow ease of access for maintenance, and
 - (iii) with regard to the health and safety of users, operators and persons maintaining the facility, and
- (c) must be installed or constructed so as to make appropriate provision for access to and removal of contents in a safe and sanitary manner, and
- (d) must, if it is intended to be a permanent fixture, be anchored to prevent movement.

82 Closets for certain toilet systems

- ① A human waste storage facility must not be installed in any part of a building unless that part of the building complies with the following requirements:
 - (a) it is adequately ventilated to the outside air,
 - (b) the walls and roof are of weatherproof material,
 - (c) the floor is of material that is impervious to water and is drained.

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- (2) The part of the building in which a human waste storage facility (other than a water closet) is permanently installed must be designed and located so as to allow human waste to be removed without being carried through any dwelling-house or public building or any building in which any person may be, or may be intended to be, employed in any manufacture, trade or business.

83 Cesspits

- (1) A cesspit:
- (a) must be deep, dark and fly-proof, and
 - (b) must be constructed and maintained so as to prevent both the access of surface waters to it and the escape of matter from it, and
 - (c) must not be located where it can possibly pollute any water used or likely to be used for human consumption or for any domestic or dairy purposes, and
 - (d) must not be located where the normal level of the ground water is less than one metre below the bottom of the cesspit.
- (2) If a cesspit is emptied, its contents must be disposed of in a sanitary manner and in accordance with any requirements of the council.

[10] Bart 3, Divisions 4A, 4B and 4C

Insert after clause 95:

Division 4A Accreditation of sewage management facilities

95A Application of Division

- (1) This Division applies to such models of the following sewage management facilities as are generally available for purchase by retail:
- (a) chemical closets,
 - (b) combustion closets,

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- (c) wet composting closets,
 - (d) waterless composting closets,
 - (e) septic closets,
 - (f) septic tanks,
 - (g) holding tanks and collection wells used for the receipt and storage of effluent (other than those intended to be emptied after each use, such as chamber pots),
 - (h) waste treatment devices designed to comminute or macerate and discharge sewage to a reticulated sewerage system,
 - (i) waste treatment devices that mechanically recirculate sewage through a bed of sand to produce treated effluent,
 - (j) waste treatment devices that receive and treat sewage before discharging effluent to a common effluent drainage scheme,
 - (k) waste treatment devices that use aeration to produce treated bio-solids and effluent from sewage,
 - (l) any other kind of sewage management facility specified in a notice published in the Gazette by the Director-General for the purposes of this clause.
- (2) However, this Division does not apply:
- (a) to the part of a sewage management facility that consists of a drain connected to the facility, or
 - (b) to any other component of such a facility that is specified in a notice published in the Gazette by the Director-General of the Department of Health for the purposes of this clause.

95B Facilities to be accredited

- (1) A council must not approve the installation or construction of a sewage management facility to which this Division applies unless the council is satisfied that the facility is to be installed or constructed to a design or

plan that is the subject of a certificate of accreditation from the Director-General of the Department of Health, being a certificate that is in force.

- (2) Subclause (1) does not apply to or in respect of a sewage management facility:
- (a) that is to be installed or constructed as a model for the purposes of testing, or
 - (b) that is designed, and is to be constructed, by the owner or occupier of the premises on which it is to be installed, or
 - (c) that is specifically designed, by a person other than the owner or occupier of the premises on which it is to be installed, for those premises.

Division 4B Approval required to operate system of sewage management

95C Meaning of “operate a system of sewage management”

- (1) In this Part, *operate a system of sewage management* means hold or process, or re-use or otherwise dispose of, sewage or by-products of sewage (whether or not the sewage is generated on the premises on which the system of sewage management is operated).
- (2) Without limiting subclause (1), *operate a system of sewage management* includes the following:
 - (a) use artificial wetlands, transpiration mounds, trenches, vegetation and the like in related effluent application areas,
 - (b) hold or process sewage that is to be subsequently discharged into a public sewer.
- (3) However, *operate a system of sewage management* does not include any of the following:
 - (a) any action relating to the discharge of sewage directly into a public sewer,
 - (b) any action relating to sewage or by-products of sewage after their discharge into a public sewer.

95D Prescribed activity under section 68 of the Act

- (1) On and from 6 April 1998, the operation of a system of sewage management is a prescribed activity for the purposes of item 10 of Part F of the Table to section 68 of the Act.

Note. The effect of this subclause is to require a person to obtain local council approval to operate a system of sewage management. See clause 98 (e) for exemptions.

- (2) Subclause (1) extends to the operation of a system of sewage management involving the use of sewage management facilities that were installed or constructed on the premises concerned before 6 April 1998.

95E Matters to be taken into consideration in determining applications for approval to operate system of sewage management

Note. This Regulation does not prescribe the matters that are to accompany an application for approval to operate a system of sewage management. Section 81 of the *Local Government Act 1993* provides that an application for an approval under Part 1 of Chapter 7 of that Act (in which category such an application falls) must be accompanied by "such matters as may be prescribed by the regulations and such matters specified by the council as may be necessary to provide sufficient information to enable the council to determine the application".

In determining an application for approval to operate a system of sewage management, the council must consider any matter specified in guidelines or directions issued by the Director-General in relation to the environment and health protection matters referred to in clause 75 (2).

Division 4C Operation of system of sewage management

95F Performance standards for operation of system of sewage management

- (1) A system of sewage management must be operated in a manner that achieves the following performance standards:

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- (a) the prevention of the spread of disease by micro-organisms,
 - (b) the prevention of the spread of foul odours,
 - (c) the prevention of contamination of water,
 - (d) the prevention of degradation of soil and vegetation,
 - (e) the discouragement of insects and vermin,
 - (f) ensuring that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises concerned,
 - (g) the minimisation of any adverse impacts on the amenity of the premises and surrounding lands,
 - (h) if appropriate, provision for the re-use of resources (including nutrients, organic matter and water).
- (2) Failure to comply with subclause (1) is not a breach of that performance standard if the failure was due to circumstances beyond the control of the person operating the system of sewage management (such as a fire, flood, storm, earthquake, explosion, accident, epidemic or warlike action).
- (3) A system of sewage management must be operated:
- (a) in accordance with the relevant operating specifications and procedures (if any) for the sewage management facilities used for the purpose, and
 - (b) so as to allow the removal of any treated sewage (and any by-product of any sewage) in a safe and sanitary manner.

95G Further condition of approval in relation to operation of system of sewage management

- ① It is a condition of an approval to operate a system of sewage management that this clause is complied with.

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- (2) The sewage management facilities used in the operation of the system must be maintained in a sanitary condition and must be operated in accordance with the relevant requirements of this Regulation.
- (3) A sewage management facility used in the operation of the system must not discharge into any watercourse or onto any land other than its related effluent application area.
- (4) The conditions (if any) of any certificate of accreditation issued by the Director-General of the Department of Health under this Division in respect of the plans or designs for any components of the sewage management facilities must be complied with.
- (5) The person operating the system of sewage management must provide details of the way in which it is operated, and evidence of compliance with the relevant requirements of this Regulation and of the conditions of the approval, whenever the council reasonably requires the person to do so.

95H Approval to operate system of sewage management extends to concurrent owners and occupiers

If an owner or occupier of land is the holder of an approval to operate a system of sewage management on the land (being an approval that is in force), any other owner or occupier of that land may operate the system of sewage management (without obtaining a further approval) in accordance with the conditions of the approval.

95I Transitional provision—temporary exemptions in relation to operation of system of sewage management

- (1) Despite the other provisions of this Regulation, a person may operate a system of sewage management without the approval required under section 68 of the Act until (and on) 30 June 1998 if the system of sewage management uses or involves sewage management facilities that were installed or constructed on the premises concerned before 6 April 1998.

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- (2) Further, if the person duly applies, on or before 30 June 1998, for approval to operate the system of sewage management concerned, the person may continue to operate that system of sewage management without approval until the application is finally determined.

95J Transitional provision—temporary exemption for purchaser of land

- (1) Despite the other provisions of this Regulation, a person who purchases (or otherwise acquires) land on which any sewage management facilities are installed or constructed may operate a system of sewage management without the approval required under section 68 of the Act for the period of 3 months after the date on which the land is transferred or otherwise conveyed to the person (whether or not an approval is in force, as at that date, in relation to the operation of a system of sewage management on that land).
- (2) Further, if the person duly applies, within the period of 2 months after the date on which the land is transferred or otherwise conveyed to the person, for approval to operate the system of sewage management concerned, the person may continue to operate that system of sewage management without approval until the application is finally determined.

[11] Clause 98 Activities for which approval is not required

Insert after clause 98 (c):

(d) Install, construct or alter a waste treatment device

The installation, construction or alteration of a waste treatment device, if that installation, construction or alteration is done:

- (i) under the authority of a licence granted, or a pollution control approval given, under the *Pollution Control Act 1970* for the purposes of the *Clean Waters Act 1970*, or a licence under the *Waste Minimisation and Management Act 1995*, being a licence or approval that is in force, or

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- (ii) in a vessel used for navigation, or
- (iii) in a motor vehicle registered under the *Traffic Act 1909* that is used primarily for road transport.

(e) **Operate a system of sewage management**

So much of the operation of a system of sewage management as is limited to an action carried out:

- (i) under the authority of a licence granted, or a pollution control approval given, under the *Pollution Control Act 1970* for the purposes of the *Clean Waters Act 1970*, or a licence under the *Waste Minimisation and Management Act 1995*, being a licence or approval that is in force, or
- (ii) in a vessel used for navigation, or
- (iii) in a motor vehicle registered under the *Traffic Act 1909* that is used primarily for road transport.