

# The Regulatory Environment

Neil Shaw  
Senior Policy Analyst  
Environmental Health Regulation Unit

On-site Wastewater Management Training Course, Penrith, May 2024



## Legislation

- What legislation applies?
  - Local Government Act 1993
  - Local Government (General) Regulation 2021
- Who is the Regulator?
  - Local Council
- What is "on-site"?
  - When not exempt under section 48 of the Regulation (see later slide)



## Legislative Environment – 5 Actions Plus

- Three Approvals
  - Installation of Sewage Management Facilities
  - Operation of Sewage Management Facilities
  - Installation of Greywater Diversion Devices
- One Accreditation
  - Accreditation of Sewage Management Facilities
- Orders
- Plus Bits and Pieces



## Act vs. Regulation vs. Policy

- Act: Parliament
- Regulation: Minister and Governor (Gazette)
- Policy: Government Agency
  - Accreditation Guideline
  - Local Approval Policy
  - Sewage Management Strategy



## Local Government Act 1993

- Dictionary
  - "human waste storage facility" means a device for holding or disposing of human waste, including a cesspit, septic tank, septic closet, water closet, chemical closet, humus closet and combustion closet.
  - "waste" (a) effluent being any matter or thing whether solid or liquid or a combination of solids and liquids, which is of a kind which may be removed from a human waste storage facility, sullage pit or grease trap, or from any holding tank or other container forming part of or used in connection with a human waste storage facility, sullage pit or grease trap.



## Local Government Act 1993 (2)

- Section 68 Activities requiring Council Approval Table: Part C
  - 5. Install, construct, alter a waste treatment device or human waste storage facility or connected drain
  - 6. Operate a system of sewage management
- Section 68 Activities requiring Council Approval Table: Part F
  - 10 Prescribed activity (Greywater Diversion)
- Section 68A Meaning of "operate a system of sewage management" (repeated in Section 42 Reg)
  - Holding or processing or reusing of sewage (or by product) and includes land application areas but excludes direct discharge to sewers
  - See definitions of "related land application area" and "sewage management facility."



## Local Government Act 1993 (3)

- Section 124 Orders
  - 15. Health threatening activities on premises {16 & 17}
  - 21. Refrain or ensure premises are kept healthy
  - 22. Handle waste (not a POEO matter)
  - 22A. Remove waste (hoarders)
  - 24. Connect to sewer
  - 25. Use of a human waste storage facility
  - 30. Comply with approval



## Local Gov't (General) Regulation 2021 Approvals - Installation

- Section 3 - Definitions
  - Sewage management facility (SMF) = human waste storage facility or a waste treatment device and drains
  - Related effluent application area in relation to a SMF
- Approvals
  - 26. Matters to accompany applications
    - (5) Statement → persons → bedrooms (5.5 m<sup>2</sup>/p) → L/d
  - 29. Matters to be considered for installation approval
    - (2) Environment & health protection: (a) → (h)
    - (3) Guidelines and directions
      - Silver bullet ✓
      - AS/NZS 1547:2012 ✗



## Local Gov't (General) Regulation 2021 Approvals – Installation (2)

- 34 Use of SMF only after Council written satisfaction
- 35 Position of human waste storage facility - amenity
- 36 Performance standards construction
- 37 Closets building requirements
- 38 Cesspits "deep, dark and fly-proof"

### Accreditation of SMF by NSW Health

- 40 Application to types of "retail" SMF and does not apply to non-domestic, more than 10 person per premises or where daily flow >2,000 L
- 41 Council approval only of accredited SMF but does not apply to SMF under testing or "unique" designs.



## Local Gov't (General) Regulation 2021 Approvals – Operation of SMS

- 42 Meaning (repeat of S68A)
- 43 Matters to be considered in determining applications
- 44 Performance standards
- 45 Further conditions
  - Maintained in a sanitary condition
  - Only discharge to land application area
  - Accreditation conditions
  - Details of operation to be provided
- 46 Concurrent approvals
- 47 Temporary Exemption
- 48 Exemptions – PoEO Act 1997 (Schedule 1: Item 36), vessel, vehicle



## Local Gov't (General) Regulation 2021 Orders

- 90 A circumstance for making Order 15
- 94 For Order 22 refer to Schedule 2, Part 6, Standards for disposal of certain waste (pans, cesspits, vehicles)
- 96 Connection to sewer using Order 24 and 146 where council carries out the work
- Schedule 2 – Standards Enforceable by Orders – Part 6 Standards for disposal of certain waste. 22 - 27



## Greywater Treatment System vs Greywater Diversion Device vs Greywater Processing Device

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>● Greywater Treatment System           <ul style="list-style-type: none"> <li>– A SMF</li> <li>– Approved S68 C5/C6</li> <li>– Accredited by NSW Health</li> <li>– Clause 75A does not apply</li> <li>– Silver Bullet</li> <li>– Very low sales</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>● Greywater Diversion Device           <ul style="list-style-type: none"> <li>– Not a SMF</li> <li>– S68 F10; no approval needed if complies with PCA</li> <li>– WaterMark</li> <li>– Clause 75A applies</li> <li>– Complex but installations unknown</li> </ul> </li> </ul> |
|---|---|



## Greywater Treatment System vs Greywater Diversion Device vs Greywater Processing Device (2)

- **Greywater Processing Device**
  - A SMF
  - Approved S68 C5/C6
  - Not Accredited by NSW Health
  - Clause 75A does not apply
  - Not in Silver Bullet

- NSW Health Advisory Note 7
- <https://www.health.nsw.gov.au/environment/domesticwastewater/Documents/adnote7.pdf>



## The Regulatory Environment Office of Local Government Guidelines

- **E&HP Guidelines: On-site Sewage Management for Single Households, Mar 1998. DLG (Silver Bullet or Book)**
- <https://www.olg.nsw.gov.au/wp-content/uploads/Onsite-sewage-management-guide.pdf>
  - **WATCH THIS SPACE**
  - Developed to help local councils to assess, regulate and manage NEW on-site sewage management systems
  - Promote ESD while protecting the environment, public health and community amenity
  - Supporting Principles
  - Performance Objectives
  - Discussions commenced for review



## The Regulatory Environment Guidelines – NSW Health

<http://www.health.nsw.gov.au/environment/domesticwastewater/Pages/default.aspx>

- **Accreditation Guidelines**
  - Sewage Management Facility Vessels 2016
  - Secondary Treatment System 2018
  - Waterless Composting Toilets 2005
  - Greywater Treatment System 2005
- **9 Advisory Notes**
- **Registers of Accredited Systems**
  - No separate STS register
- **Neil Shaw (02) 9424 5973 Mon & Tue**
  - [Neil.Shaw@health.nsw.gov.au](mailto:Neil.Shaw@health.nsw.gov.au)



## The Regulatory Environment Australian Standards

**AS/NZS 1547: 2012 On-site Domestic Wastewater Management**

- AS/NZS 1546.1:2008 Septic Tanks**
- AS/NZS 1546.2:2008 Waterless Composting Systems**
- AS 1546.3:2017 Secondary Treatment Systems**
- AS 1546.4:2016 Greywater Treatment Systems**

**AS MP101:2017 Miscellaneous Publication**



## The Regulatory Environment Gossip

- **Advisory Note 5 → Servicing of STS came into effect on 1/1/2021. Includes IPART – Report Form to Councils. Some councils investigating electronic reporting.**
- **Accreditation Guidelines (commenced review)**
  - Greywater Treatment Systems (2022)
  - Waterless Composting Toilets (2023)
- **AWTS non-AS1546.3 no longer accredited.**



## The Regulatory Environment More Gossip

- **Bushfires Advisory Note**  
<https://www.health.nsw.gov.au/environment/domesticwastewater/Documents/adnote9.pdf>
- **Flooding Advisory Note**  
<https://www.health.nsw.gov.au/environment/domesticwastewater/Documents/adnote8.pdf>
- **Controversy about “passive soil disposal systems”:**
  - Disposal System OR Secondary Treatment System?
  - Regulators’ opinion is that they are disposal systems that do provide treatment. Advisory Note 6 applies.
- **Worm Farm and Biological Filter Standards**



Questions?

THANK YOU FOR YOUR ATTENTION



# Local Government Act 1993 No 30

---

## Dictionary

**human waste** means human faeces and urine.

**human waste storage facility** means a device for holding or disposing of human waste, including a cesspit, septic tank, septic closet, water closet, chemical closet, humus closet and combustion closet.

**sewerage work** means the construction, alteration, extension, disconnection, removal, ventilation, flushing, cleansing, maintenance, repair, renewal or clearing of any sewerage service pipes or fittings or fixtures communicating or intended to communicate, directly or indirectly, with:

(a) a septic tank, an effluent or a sullage disposal system, or

(b) any sewer of a council,

and includes work of sanitary plumbing and work of house drainage.

**waste** means:

(a) effluent, being any matter or thing, whether solid or liquid or a combination of solids and liquids, which is of a kind that may be removed from a human waste storage facility, sullage pit or grease trap, or from any holding tank or other container forming part of or used in connection with a human waste storage facility, sullage pit or grease trap, or

(b) trade waste, being any matter or thing, whether solid, gaseous or liquid or a combination of solids, gases and liquids (or any of them), which is of a kind that comprises refuse from any industrial, chemical, trade or business process or operation, including any building or demolition work, or

(c) garbage, being all refuse other than trade waste and effluent,

## SECTION 68 What activities, generally, require the approval of the council?

- (1) A person may carry out an activity specified in the following Table only with the prior approval of the council, except in so far as this Act, the regulations or a local policy adopted under Part 3 allows the activity to be carried out without that approval.

**Note.** A person who fails to obtain an approval or who carries out an activity otherwise than in accordance with an approval is guilty of an offence—see secs 626 and 627.

Table	Approvals
-------	-----------

### Part C Management of waste

5 Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility

6 Operate a system of sewage management (within the meaning of section 68A)

### Part F Other activities

10 Carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations

**SECTION 68A      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 discharge, 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 subsection (1), **operate a system of sewage management** includes the following:
  - (a) use artificial wetlands, transpiration mounds, trenches, vegetation and other effluent polishing, dispersal or re-use arrangements in related land 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.
- (4) In this section:
 

**public sewer** means a sewer operated by a council or county council, a water supply authority (within the meaning of the Water Management Act 2000), a State owned corporation specified in Schedule 1 or 5 to the State Owned Corporations Act 1989 (or a subsidiary of such a corporation) or any other public or local authority.

**related land application area**, in relation to a sewage management facility, means the area of land (if any) where it is intended that effluent and bio-solid waste from the facility will be re-used, applied or dispersed into the environment.

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

**SECTION 124      Orders**

A council may order a person to do or to refrain from doing a thing specified in Column 1 of the following Table if the circumstances specified opposite it in Column 2 of the Table exist and the person comes within the description opposite it in Column 3 of the Table.  
 A person who fails to comply with an order is guilty of an offence—see sec 628.

**Table Orders**

**Orders requiring that premises be used or not used in specified ways**

Column 1	Column 2	Column 3
To do what?	In what circumstances?	To whom?
<p><b>15</b>            Not to conduct, or to cease conducting, an activity on premises (whether or not the activity is approved under this Act)</p>	<p>The activity constitutes or is likely to constitute:</p> <ul style="list-style-type: none"> <li>(a) a life threatening hazard, or</li> <li>(b) a threat to public health or public safety</li> </ul>	<p>Any person apparently engaged in promoting, conducting or carrying out the activity</p>

and is not regulated or controlled under any other Act by a public authority

<b>16</b> To cease the use of premises or to evacuate premises	A person to whom order No 15 is given has failed to comply with the order	The person to whom order No 15 is given
<b>17</b> To leave premises or not to enter premises	A person to whom order No 15 is given has failed to comply with the order	Any person

**Orders requiring the preservation of healthy conditions**

<b>Column 1</b> <b>To do what?</b>	<b>Column 2</b> <b>In what circumstances?</b>	<b>Column 3</b> <b>To whom?</b>
<b>21</b> To do or refrain from doing such things as are specified in the order to ensure that land is, or premises are, placed or kept in a safe or healthy condition	The land or premises are not in a safe or healthy condition	Owner or occupier of land or premises
<b>22</b> To store, treat, process, collect, remove, dispose of or destroy waste which is on land or premises in the manner specified in the order, provided that it is not inconsistent with regulations made under the <u>Protection of the Environment Operations Act 1997</u>	Waste is present or generated on the land or premises and is not being dealt with satisfactorily, and is not regulated or controlled by, or subject to, a licence or notice granted or issued under the <u>Protection of the Environment Operations Act 1997</u>	Owner or occupier of land or premises, owner of or person responsible for the waste or for any receptacle or container in which the waste is contained
<b>24</b> To connect premises with a sewerage system by a specified date	The premises are situated within 75 metres of a sewer of the council	Owner or occupier of premises
<b>25</b> Not to use or permit the use of a human waste storage facility on premises after a specified date	It is necessary for the purpose of protecting public health	Owner or occupier of premises

**Orders requiring compliance with approval**

<b>Column 1</b> <b>To do what?</b>	<b>Column 2</b> <b>In what circumstances?</b>	<b>Column 3</b> <b>To whom?</b>
<b>30</b> To comply with an approval	The approval is not being complied with	Person entitled to act on the approval or person acting otherwise than in compliance with the approval

# Local Government (General) Regulation 2005

---

## 3 Definitions

(1) In this Regulation:

**pan** means any moveable receptacle kept in a closet and used for the reception of human waste.

**public sewer** means a sewer operated by a council or a county council, a water supply authority (within the meaning of the Water Management Act 2000), a State owned corporation specified in Schedule 1 or 5 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.

**septic tank** means a fixed receptacle of watertight material used in connection with the storage or bacterial treatment of sewage.

**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.

**sewage of a domestic nature** includes human faecal matter and urine and waste water associated with ordinary kitchen, laundry and ablution activities of a household, but does not include waste in or from a sewage management facility.

**sewer main** means a sewer main forming part of the council's sewerage system, and:

(a) includes risers or junctions provided by the council to enable a sewerage service to be connected to the main, and

(b) if the main is located outside premises that are to be served—includes risers and the sewers and fittings connecting the main to the premises, but only up to the boundary of the premises or, if a boundary trap or interceptor trap is installed, up to the trap.

**sewerage service**, in relation to premises:

(a) means the pipes, fittings or fixtures used or intended to be used in connection with the premises for the purpose of conveying sewage or permitted discharges from the premises to the council's sewerage system, and

(b) if a septic tank is installed on the premises and connects or is intended to connect (directly or indirectly) with the council's sewerage system—includes a septic tank (other than a septic tank intended to discharge to a related effluent application area), an effluent tank or a sullage tank.

### Division 4 Approvals relating to management of waste

#### Subdivision 1 Applications for approvals

## 26 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 related effluent application areas, and
  - (d) any related drainage lines or pipework (whether natural or constructed).
- (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 climate, geology, hydrogeology, topography, soil composition and vegetation of any related effluent application areas 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) This clause does not apply to an application for approval to install or construct a sewage management facility on any premises if the applicant declares in the application that the facility will remain on the premises for no more than 12 months.

**Note.** The information that is to accompany such applications (and applications for approval to *alter* a sewage management facility) is to be determined by the council in each particular case. Section 81 of the Act provides that an application for an approval under Part 1 of Chapter 7 of that Act (in which category such applications fall) 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”.

### **Subdivision 2 Determination of applications for approvals**

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

- (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.
- (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) preventing the spread of foul odours,
  - (c) preventing contamination of water,
  - (d) preventing degradation of soil and vegetation,
  - (e) discouraging 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).

### **30 Standards to be met for approval**

The council must not grant an application for an approval to install, construct or alter a waste treatment device or sewage management facility unless it is satisfied that the activity as proposed to be carried out will comply with any applicable standards established by this Regulation or by or under the Act.

### **Subdivision 3 Conditions of approvals**

#### **31 Compliance with standards**

- (1) It is a condition of an approval referred to in item 4 of Part C of the Table to section 68 of the Act (Dispose of waste into a sewer of the council) that:
- (a) the activity approved, and
  - (b) any building or work associated or carried out in connection with the activity, complies with any applicable standards established by any regulation in force under the Act or the *Environmental Planning and Assessment Act 1979*.
- (2) It is a condition of an approval referred to in item 5 of Part C of the Table to section 68 of the Act (Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility) that:
- (a) the activity approved, and
  - (b) any building or work associated or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by or under the Act.

#### **34 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.

#### **35 Position of closets**

The council may, as a condition of an approval to install, construct or alter a human waste storage facility, require the alteration of its design and proposed position, having regard to its effect on the amenity of the locality.

### **Subdivision 4 Performance standards**

#### **36 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.

### **37 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.
- (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.

### **38 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.

## **Subdivision 5 Accreditation of sewage management facilities**

### **40 Application of Subdivision**

- (1) This Subdivision applies to such models of the following sewage management facilities as are generally available for purchase by retail:
  - (a) wet composting closets,
  - (b) waterless composting closets,
  - (c) septic closets,
  - (d) septic tanks,
  - (e) 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),
  - (f) waste treatment devices designed to comminute or macerate and discharge sewage to a sewerage system,
  - (g) waste treatment devices that receive and treat sewage before discharging effluent to a common effluent drainage scheme,

(h) waste treatment devices that treat sewage using a specific process to produce biosolids and disinfected effluent to a standard suitable, either separately or in combination, for recycling by surface or sub-surface irrigation or by internal or external household use,

(i) 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 Subdivision does not apply:

(a) to a sewage management facility intended to treat:

(i) sewage of a non-domestic nature, or

(ii) sewage from premises normally occupied by more than 10 persons, or

(iii) an average daily flow of sewage exceeding 2,000 litres, or

(b) to the part of a sewage management facility that consists of a drain connected to the facility, or

(c) to any other component of a sewage management 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.

#### **41 Facilities to be accredited**

(1) The council must not approve the installation or construction of a sewage management facility to which this Subdivision 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 designed, by a person other than the owner or occupier of the premises on which it is to be installed, specifically and uniquely for those premises.

### **Subdivision 6 Approval required 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 Act 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”.

#### **42 Meaning of “operate a system of sewage management”**

(1) In this Subdivision, **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.

### **43 Matters to be taken into consideration in determining applications for approval to operate system of sewage management**

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 29 (2).

### **Subdivision 7 Operation of system of sewage management**

#### **44 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:
  - (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.

#### **45 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.
- (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 Secretary of the Ministry of Health under this Subdivision 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.

#### **46 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.

#### **47 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.

### **Subdivision 8 Exemptions**

#### **48 Activities for which approval is not required**

The following activities may be carried out without the prior approval of the council subject to such conditions as are specified:

- (a) **Transport waste** The transporting of waste over or under a public place for fee or reward if:
  - (i) the activity is licensed under the Protection of the Environment Operations Act 1997, or
  - (ii) the activity is being carried out in the Sydney metropolitan area as defined in Part 3 (Interpretative provisions) of Schedule 1 to that Act, or
  - (iii) the waste is being transported through the area of the council and is not being collected or deposited in that area.

**Note.** A person who transports waste for fee or reward in circumstances that do not require a pollution control licence issued by the Environment Protection Authority must comply with the relevant requirements of the Regulations made under the Protection of the Environment Operations Act 1997.

- (b) **Place waste in a public place** The placing of waste in a public place, if it is done in accordance with arrangements instituted by the council.
- (c) **Discharge of domestic sewage into sewer** The discharge of sewage of a domestic nature into a sewer of the council, if it is done in accordance with arrangements instituted by the council.
- (d) **Dispose of effluent into sewer** The disposal of septic tank effluent into a sewer of the council, if the premises are within a Common Effluent Drainage District declared by the council.
- (e) **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 in force under the Protection of the Environment Operations Act 1997, or
- (ii) in a vessel used for navigation, or
- (iii) in a motor vehicle registered under the Road Transport Act 2013 that is used primarily for road transport.

(f) **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 in force under the Protection of the Environment Operations Act 1997, or
- (ii) in a vessel used for navigation, or
- (iii) in a motor vehicle registered under the Road Transport Act 2013 that is used primarily for road transport.

## Part 2, Division 5

### Subdivision 6 Domestic greywater diversion

#### 75A Approval required for domestic greywater diversion

- (1) For the purposes of item 10 of Part F of the Table to section 68 of the Act, domestic greywater diversion is prescribed as an activity that requires the prior approval of the council.
- (2) However, domestic greywater diversion may be carried out without the prior approval of the council if:
  - (a) it is carried out in accordance with the Plumbing Code of Australia, and
  - (b) a sewage management facility is not installed on the premises concerned, and
  - (c) the following performance standards are achieved:
    - (i) the prevention of the spread of disease by micro-organisms,
    - (ii) the prevention of the spread of foul odours,
    - (iii) the prevention of contamination of water,
    - (iv) the prevention of degradation of soil and vegetation,
    - (v) the discouragement of insects and vermin,
    - (vi) 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,
    - (vii) the minimisation of any adverse impacts on the amenity of the premises concerned and surrounding lands.
- (3) Failure to comply with subclause (2) (c) is not a breach of that performance standard if the failure was due to circumstances beyond the control of the person carrying out the domestic greywater diversion.
- (4) In this clause:

**domestic greywater diversion** means the installation and operation of a system for diverting greywater generated on residential premises to a garden or lawn on those premises, but does not include the manual collection and re-use of greywater (for example, by means of a bucket or similar receptacle).

**greywater** means waste water from washing machines, laundry tubs, showers, hand basins and baths, but does not include waste water from a kitchen, toilet, urinal or bidet.

**residential premises** does not include premises comprising more than one dwelling.

## Division 2 Orders requiring that premises be used or not used in specified ways

### 90 Septic tank or closet

Without limiting Order No 15, a circumstance in which a septic tank or a septic closet is being constructed, or used, on premises after the date specified (in Order No 24 served on the owner or occupier of the premises) as the date by which the premises were required to be connected with a sewerage system constitutes a circumstance that is taken to be included in the circumstances specified in Column 2 of the Table to section 124 of the Act as circumstances in which Order No 15 may be made.

#### **94 Disposal of certain waste**

For the purposes of Order No 22, and without limiting that Order, failure to comply with the standards for the disposal of certain waste set out in Part 6 of Schedule 2 is taken to be a circumstance in which waste is not being dealt with satisfactorily.

#### **96 Connection of premises to a sewerage system**

(1) Without limiting Order No 24 in the Table to section 124 of the Act, the following acts are taken to be included in Column 1 of that Table as acts that may be required by that Order:

(a) the construction of all necessary pipes, and the installation of all necessary fixtures and fittings,  
(b) the construction or installation of a separate service pipe to the premises, or to each of the premises concerned.

(2) The circumstances specified in Column 2 of the Table to section 124 of the Act in relation to Order No 24 of the Table are taken to include the following:

The sewerage system of a public authority or a State owned corporation is available and the premises can be connected to the system by gravity, pumping or other means considered by the council to be suitable. This applies to all areas in which a public authority or a State owned corporation maintains a sewerage system.

#### **Schedule 2; Part 6 Standards for disposal of certain waste**

#### **22 Disposal of human waste**

(1) Human waste brought to a depot is to be disposed of by emptying the contents of the human waste pans directly into a trench and by covering the human waste with at least 250 mm of earth.

(2) Human waste is not to be left exposed in the trench, and the trench is not to be used again for the disposal of human waste until the contents of the trench have become assimilated with the soil.

(3) A trench:

(a) must be of adequate length, and

(b) must be not more than 600 mm wide, and

(c) must be not more than 600 mm or less than 250 mm deep (or of a depth approved by the Director-General of the Department of Health).

(4) If the Director-General of the Department of Health has given (and not withdrawn) written approval of a method of disposal of human waste different from the method specified in subclause (1), that method may be used.

(5) Except as otherwise provided in this Schedule, human waste is not to be spilt, emptied or deposited elsewhere than at a depot.

#### **23 Emptying of cesspits and chemical closets**

(1) Cesspits and chemical closets are to be emptied at least once every 6 months.

(2) However, if the council considers it necessary for cesspits and chemical closets to be emptied more often, they are to be emptied as often as the council requires.

(3) The contents of cesspits are to be removed to a depot in a watertight covered vehicle or in airtight covered pans.



- (4) The vehicle or pans are to be emptied at the depot and must be thoroughly cleansed before they are used again.
- (5) Cesspits are not to be emptied between 5 am and 10 pm.

#### **24 Accumulation of sludge**

- (1) The receptacle of a septic closet is to be emptied and cleansed when the sludge accumulates to a height of 100 mm below the bottom inlet opening of the square junction outlet pipe.
- (2) However, if the council considers it necessary for receptacles to be emptied and cleansed more often, they are to be emptied and cleansed as often as the council requires.

#### **25 Removal and cleaning of pans**

- (1) The pan of every closet and urinal (with its contents) is to be removed and replaced with a cleansed, empty pan at least once every 7 days.
- (2) However, if the council considers it necessary for pans to be removed and replaced more often, they are to be removed and replaced as often as the council requires.
- (3) On removal, the pan is to be covered with an airtight lid, taken in a closed vehicle (or other vehicle approved by the Director-General of the Department of Health) to a depot and emptied.
- (4) Before it is removed from the depot or supplied for use on any premises, the pan is to be thoroughly washed and cleansed with hot water and subjected to steam under pressure in an apparatus approved by the Director-General of the Department of Health.
- (5) Alternatively, the pan is to be thoroughly washed and cleansed with hot water in an automatic washing and tarring machine in which the pan is immersed in a bath of molten tar at a minimum temperature of 127°C for at least 2½ minutes.
- (6) If airtight pans of a pattern or description that has been approved by the Director-General of the Department of Health are used, the council may authorise the removal of human waste to be carried out at any hour of the day, but otherwise removal is not to take place between 5 am and 10 pm.
- (7) This clause does not apply where the sanction of the Director-General of the Department of Health and the consent of the council have been given to the removal of human waste by the occupier of the premises on which it is stored.

#### **26 Removal and cleaning of pans by owner or occupier**

- (1) An owner or occupier is to empty and cleanse:
  - (a) the pan of every closet on his or her premises at least once every 7 days, and
  - (b) the receptacle of a chemical closet when directed to do so by the council, and
  - (c) the receptacle of a septic closet when the sludge accumulates to a height of 100 mm below the bottom inlet opening of the square junction outlet pipe (or more often, if the council so requires).
- (2) The owner or occupier is to dispose of the human waste as provided by clause 22.

#### **27 Vehicle, utensils and apparatus to be kept clean**

- (1) Vehicles used for conveying pans, and receptacles, utensils and apparatus used in the collection or disposal of human waste, are to be thoroughly washed on arrival at a depot after the day's use and are to be maintained in a clean condition.
- (2) The steaming and washing appliances are to be properly set up in a suitable structure with a weatherproof roof and enclosed on at least 2 sides. The structure is to be kept clean.
- (3) The structure is to have a cement concrete floor rendered to a smooth surface and evenly graded to a drain.

(4) Drainage from washing and steaming appliances is to be disposed of in shallow trenches of the kind used for the disposal of human waste.