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# A new regulatory framework for drinking water in Western Australia

## Overview

The key focus of this consultation is to obtain feedback on the most effective option to manage the public health risks associated with the supply of drinking water in Western Australia (WA).

Please read the discussion paper on “A new regulatory framework for drinking water in Western Australia” before completing this survey.

The discussion paper provides a summary of the current regulatory framework for drinking water in WA and highlights the improvements that can be made to manage the public health risks associated with the supply of drinking water in WA more effectively. The three options for the new regulatory framework are:

- **Option 1: Retain the status quo**, that is, to replicate as far as is practicable the relevant provisions of the *Health (Miscellaneous Provisions) Act 1911* (Health (MP) Act) in regulations under the *Public Health Act 2016* (Public Health Act) and retain the arrangements with Department of Water and Environmental Regulation to condition the license of any drinking water service providers to enter into a binding Memorandum of Understanding with the Department of Health (DOH).
- **Option 2: Deregulate the drinking water supply industry**, that is, to repeal without replacement the relevant provisions of the Health (MP) Act. Drinking water suppliers will be allowed self-regulate and will only be bound by the general public health duty provisions of the Public Health Act.
- **Option 3: Develop a new public health regulatory framework** for drinking water under the Public Health Act which introduces a holistic approach to the management of public health risks associated with the supply of drinking water that would apply to the delivery chain from the catchment to consumer for all drinking water supplies in WA, including those not currently captured by other regulatory frameworks.

DOH's preferred option is to develop a new public health regulatory framework for drinking water under the Public Health Act. A proposed regulatory framework that aligns with the principles and provisions of the Public Health Act is also presented in the discussion paper.

The survey should take approximately 30 minutes to complete. There are 53 questions. You do not have to comment on all the questions, and can focus on those areas that are important to you.

You will also be able to save your responses and return at a later time to complete the survey before submitting it.

You can read the survey questions here prior to completing the online survey.

When you complete each section, you will be returned to this page. Once you have completed at least one section, a submit button will appear.

***At the completion of the survey, please make sure that you click the 'Submit' button at the bottom of this page in order to submit your responses.***

## Why we are consulting

With the introduction of the Public Health Act in WA, the provisions in the Health (MP) Act relating to the safety of drinking water, must be reviewed and either repealed or replaced with new regulations in accordance with the new regulatory framework.

As part of the review process, this consultation will provide the DOH with valuable feedback on the most effective option to manage the public health risks associated with the supply of drinking water and the proposed regulatory framework. The feedback will also be presented to the Better Regulation Unit to assist in future management decision making.

You are welcome to provide additional feedback that may not be related to any of the questions or ideas for options that have not been considered.

Please explain the reasons behind your suggestions, and where possible evidence to support your views, estimates of any costs that may relate to the proposal, and examples of solutions.

## Introduction

Please read the discussion paper “A new regulatory framework for drinking water in Western Australia” before attempting to answer these questions.

You must complete the mandatory questions in the “Introduction” and “Future management options” sections. However, for the rest of the survey you do not have to comment on all of the questions and can focus on the areas that are important to you.

Unless marked as confidential, all correspondence will be regarded as public documents and be made available on the Department of Health website or be viewed by members of the public on request. If you wish for your response to remain confidential please check the box at the beginning of the survey.

**1** Would you like your responses to be confidential?

(Required)

*Please select only one item*

Yes  No

**2** What is your name?

Name

Email

**3** Which sector/group/category do you associate yourself with the most?

(Required)

*Please select only one item*

Local Government  State Government  Industry Representative  
 Resource sector (Mining / Petroleum)  Member of the public  Other  
 Prefer not to say

**4** What is the name of the organisation you represent? If you are a member of the public please type "public".

## Future management options

The three (3) regulatory options that have been considered by the DOH for the management of public health risks associated with the supply of drinking water were:

- **Option 1: Maintain the status quo**, that is, replicate as far as is practicable the relevant provisions of the Health (MP) Act in regulations under the Public Health Act and retain the arrangement with DWER to condition the license of any drinking water service providers to enter into a binding Memorandum of Understanding with the DOH.
- **Option 2: Deregulate the drinking water supply industry**, that is, repeal without replacement the relevant provisions of the Health (MP) Act and to remove the requirement (in the licence issued under the *Water Services Act 2012*) for licensed water service provider to enter into a binding Memorandum of Understanding with the DOH. Drinking water suppliers will be allowed to self-regulate and will only be bound by the general public health duty provisions of the Public Health Act. (Refer to Section 9.10 for details on the general public health duty)
- **Option 3: Develop a new public health regulatory framework** for drinking water under the Public Health Act which in part reflects the obligations currently set out in the binding Memorandum of Understanding for Drinking Water Quality between the DOH and each licensed water service provider. The new regulatory framework will also introduce a holistic approach to the management of public health risks associated with the supply of drinking water that would apply to the delivery chain from the catchment to consumer for all drinking water supplies in WA, including those not currently captured by other regulatory frameworks.

**5 Please indicate your preferred option for managing public health risks associated with drinking water supply.**

(Required)

*Please select only one item*

Option 1: Maintain the status quo



Option 2: Deregulate the drinking water supply industry. Drinking water suppliers will be allowed to self-regulate and will only be bound by the general public health duty provisions of the Public Health Act.



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

None of the above.

Why is this your preferred option? (Required)

# Proposed drinking water regulatory framework

To align WA with the rest of Australia and to ensure that the public health risks associated with the supply of drinking water are managed appropriately the DOH's preferred option is to progress Option 3 and make new regulations under the Public Health Act.

The five (5) key features of the proposed regulations are:

1. Set out the registration and licensing framework for drinking water suppliers.
2. Clearly defined health-related standards for the quality of drinking water.
3. General risk management obligations placed on drinking water suppliers that are based on public health risk analysis, due diligence, hazard management and auditing.
4. Transparency and public disclosure of water quality information.
5. Provide flexibility to ensure that the framework is not overly onerous for smaller drinking water suppliers.

DOH proposes the following activities associated with the supply of drinking water be declared a public health risk activity and be managed under the Public Health Act's registration/licensing framework:

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

For the purpose of the proposed regulatory framework, a **drinking water supplier** "is any person supplying drinking water to another person".

## What is a public health risk and how is it managed under the Public Health Act?

The Public Health Act defines "public health risk" as "a risk of harm to public health". Under section 304(3)(c) of the Public Health Act, regulations made under the Public Health Act can declare an activity to be a public health risk activity.

Once declared a public health risk activity, the regulations may also declare the activity to be either registrable, licensable or both. A person, other than an exempt person, must not carry on a registrable / licensable activity unless the activity is registered / licensed by the appropriate enforcement agency prescribed in the regulations.

## Licensable drinking water suppliers

The Department of Health (DOH) proposes that ***“the supply of drinking water to another person by means of reticulated conduits to any premises that is not under the management or control of the drinking water supplier”*** to be declared a public health risk activity that is licensable. Once declared a public health risk activity that is licensable in the proposed regulations, it will be an offence to carry on the licensable activity without an activity license issued under the Public Health Act. This is independent of whether a drinking water supplier is licensed or not under the *Water Services Act 2012*.

For the purpose of licensing and the enforcement of the regulatory requirements of a licensable activity, the regulations will need to prescribe an "appropriate enforcement agency". DOH proposes that the Chief Health Officer (CHO) be prescribed as the "appropriate enforcement agency" for the licensing of the licensable drinking water suppliers.

To obtain the activity license, the licensable drinking water supplier will be required to apply to the CHO for an activity license. As part of the application process, the licensable drinking water supplier will have to provide any documents and information on how the requirements prescribed in the proposed regulations will be met. The proposed requirements that will be prescribed in the Regulations are detailed in Sections 9.5 to 9.11 of the discussion paper “A new regulatory framework for drinking water in Western Australia”.

DOH proposes that the regulations give powers to the CHO to exempt any person or a person within a class of persons from having to hold an activity license when carrying out this licensable public health risk activity.

6 Do you agree that the “supply of drinking water to another person by means of reticulated conduits to any premises that is not under the management or control of the drinking water supplier” is a public health risk activity?

**For example**

- Reticulated drinking water service supplying large communities (such as Water Corporation, Busselton Water, AqWest)
- Reticulated drinking water service supplying small remote communities.
- Reticulated drinking water service supplying remote aboriginal communities.
- Communal reticulated drinking water supplies that are not part of a strata lot.

*Please select only one item*

Yes    No    Not Sure

Please explain why?



**7** If yes, do you agree that any person/entity that carries on this public health risk activity must first be licensed to do so?

**What is the difference between licensing and registration?**

The key difference between the licensing and registration mechanism proposed in Part 8 of the Public Health Act is that a registration is specific to a premises where the registrable activity is carried on.

In contrast, licensing is specific to a licensable activity and not limited to any specific premises where the licensable activity is carried on.

*Please select only one item*

Yes    No    Not Sure

Please explain why?

**8** Are there any examples of persons/entities that carry on this public health risk activity that should be exempted from the licensing requirement? If yes, please provide examples and reasons.

**9** Do you agree for the Chief Health Officer to be prescribed as the "appropriate enforcement agency" for this licensable public health risk activity?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**10** Do you agree that the CHO should be given powers to exempt any person or a class of persons that carries on this public health risk activity from the requirement to hold a license?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

## Registrable drinking water suppliers

In areas that are not supplied by licensed drinking water suppliers, the premises will need to source an alternative drinking water supply. Typical alternatives that are used as a drinking water source in such instances include: borewater, rainwater collected off the roofs of buildings, carted water.

Department of Health (DOH) proposes that **“the supply of drinking water to another person at a premises not connected to a drinking water supply of a licensed drinking water supplier (licensed under the Public Health Act)”** to be declared a public health risk activity that is registrable. Once declared a public health risk activity that is registrable in the proposed regulations, it will be an offence to carry on the registrable activity at any premises without being registered under the Public Health Act.

For the purpose of registration and the enforcement of the regulatory requirements of a registrable activity, the regulations will need to prescribe an "appropriate enforcement agency". DOH proposes that the local government be prescribed as the "appropriate enforcement agency" for the registration of registrable drinking water suppliers.

The registrable drinking water supplier will be required to apply to the local government to be registered. As part of the application process, the registrable drinking water supplier will have to provide any documents and information on how the requirements prescribed in the proposed regulations will be met. The proposed requirements that will be prescribed in the Regulations are detailed in Sections 9.5 to 9.11 of the discussion paper “A new regulatory framework for drinking water in Western Australia”.

DOH proposes the following classes of persons to be exempted from the need to be registered:

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

## Drinking water safety for premises not connected to a scheme supply

When water is collected/abstracted and stored on the premises, the water source will need to undergo further treatment to treat it to drinking water quality standards. An adequately designed and well operated drinking water treatment system that accounts for the characteristics of the source water is required for the supply of safe drinking water.

**11** Do you agree that “the supply of drinking water to another person on a premises not connected to a drinking water supply of a licensed drinking water supplier” is a public health risk activity?

**For example**

Premises that may not be connected to a reticulated drinking water supply of a licensed drinking water supplier:

- Caravan parks and camping grounds
- Lifestyle / retirement villages
- Local government facilities (such as town halls, community centres, airports)
- Prisons
- Remote minesite accommodation villages
- Roadhouses
- Schools
- Strata lots under the management of a body corporate

*Please select only one item*

Yes    No    Not Sure

Please explain why?

**12** If yes, do you agree that any person/entity that carries on this public health risk activity must first be registered to do so?

**What is the difference between licensing and registration?**

The key difference between the licensing and registration mechanism proposed in Part 8 of the Public Health Act is that a registration is specific to a premises where the registrable activity is carried on.

In contrast, licensing is specific to a licensable activity and not limited to any specific premises where the licensable activity is carried on.

*Please select only one item*

Yes    No    Not Sure

Please explain why?

**13** Do you agree with the proposed list of persons/entities that will be exempted from the registration requirement?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

Are there any other persons/entities that should be exempted from the registration requirement? If yes, please provide examples and reasons.

**14** Do you agree for the local government to be prescribed as the "appropriate enforcement agency" for this registrable public health risk activity?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**15** Do you agree that the Chief Health Officer should be given powers to exempt any person or a person within a class of persons that carries on this public health risk activity from the requirement to be registered?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

## Licensable source water supplier

The Australian Drinking Water Guidelines (ADWG) introduces a multiple barrier approach as a foundation for ensuring safe drinking water. As no single barrier is effective against all conceivable sources of contamination, the most effective barrier is the protection of source waters. The ADWG dictates that “the prevention of contamination provides greater surety than removal of contaminants by treatment”.

The supply of water intended for human consumption to a drinking water supplier has been identified as a significant public health risk. When water is sourced externally for use as a drinking water supply, there is an interruption in the risk mitigation measures from catchment to tap. Drinking water suppliers that source their water externally have no control over the management, monitoring or protection of the drinking water catchment where the water supplied to them comes from. By implementing effective risk mitigation measures to protect the drinking water source, a safe and reliable supply of source water can be provided to drinking water suppliers.

DOH proposes that **“the supply of water intended for human consumption to a drinking water supplier”** to be declared as a public health risk activity that is licensable in the new regulatory framework and for the "appropriate enforcement agency" to license a person/entity that supplies water intended for human consumption to a drinking water supplier to be the CHO.

The following source water suppliers are proposed to be exempted from the licensing requirements:

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



**16** Do you agree that “the supply of water intended for human consumption to a drinking water supplier” is a public health risk activity?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**17** If yes, do you agree that any person/entity that carries on this public health risk activity must first be licensed to do so?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**18** Do you agree with the proposed list of persons/entities that will be exempted from the licensing requirement?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

Are there any other persons/entities that should be exempted from the licensing requirement? If yes, please provide examples and say why.

**19** Do you agree for the Chief Health Officer to be prescribed as the "appropriate enforcement agency" for this licensable public health risk activity?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**20** Do you agree that the Chief Health Officer should be given powers to exempt any person or a person within a class of persons that carries on this public health risk activity from the requirement to hold a license?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

## Standards for water quality

The Australian Drinking Water Guidelines (ADWG) has been endorsed by the WA Minister for Health and the Minister for Water and currently being used as the basis for setting policy on the quality and safety of drinking water supplied in WA.

The DOH proposes that the new regulations formalises the use of the ADWG as the guiding document and basis for setting policy and requirements on the quality and safety of drinking water supplied in WA. The regulations will set out the water quality standards requirements basing on the "health-related guideline values" in the ADWG, and will provide for an obligation that the drinking water supplied must be safe to drink.

## Health-related guideline values in the ADWG

The ADWG sets out guideline values for microbial, chemical and physical characteristics of drinking water.

A "health-related guideline value" is the concentration or measure of a water quality characteristic that, based on present knowledge, does not result in any significant risk to the health of the consumer over a lifetime of consumption.

**21** Do you agree for the Australian Drinking Water Guidelines to be used as the guiding document and basis for setting policy on the quality and safety of drinking water supplied in WA?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

## Requirements to manage risks

The ADWG introduces a 12 element risk management framework for the management of drinking water quality. (Refer to Section 3.2 of the discussion paper for further details)

The DOH proposes that all licensable and registrable drinking water suppliers are required to develop and implement a drinking water risk management plan (DWRMP) in lines with the risk management framework of the ADWG. The scope of the DWRMP is detailed in Section 9.6 of the discussion paper on “A new regulatory framework for drinking water in Western Australia”.

The detail required in the DWRMP will be tailored to the drinking water supplier’s risk profile. DOH will make available guidelines to assist drinking water suppliers in the development of their DWRMP that is proportionate to the risk of their system.

In addition, DOH will also publish pre-prepared templates that can be utilised by smaller drinking water suppliers to reduce the administrative burden associated with their registration process.

The DOH also proposes that all source water suppliers are required to develop and implement a Drinking Water Source Protection Plan (DWSPP). The scope of the DWSPP is detailed in Section 9.6 of the discussion paper on “A new regulatory framework for drinking water in Western Australia”.

**22** Do you agree that licensable drinking water suppliers should be required to establish and implement a Drinking Water Risk Management Plan?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**23** Do you agree that registrable drinking water suppliers should be required to establish and implement a Drinking Water Risk Management Plan?

**Further information for small privately managed drinking water systems**

The detail required in the DWRMP will be tailored to the drinking water supplier's risk profile. DOH will make available guidelines to assist drinking water suppliers in the development of their DWRMP that is proportionate to the risk of their system.

In addition, DOH will also publish pre-prepared templates that can be utilised by smaller drinking water suppliers to reduce the administrative burden associated with the registration process.

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**24** Do you agree that source water suppliers should be required to establish and implement a Drinking Water Source Protection Plan?

*Please select only one item*

Yes    No    Not Sure

Please explain why?

## Monitoring and reporting requirements

A drinking water quality monitoring program must be established basing on the overall risk of the system which takes into consideration the risks from the source water through to the consumers which include: catchments, source waters, treatment systems, distribution systems and consumers. As part of the license/registration application, the appropriate enforcement agency will review the applicant's proposed monitoring program to ensure it is established based on the overall risk of their system.

DOH proposes that compliance monitoring results are to be provided to both the CHO and the appropriate enforcement agency at the required timing and format set out in their licence/registration.

The new regulations will formalise the requirement for drinking water suppliers and source water suppliers to report to the CHO AND the appropriate enforcement agency in situations which are classified as "notifiable events". Notifiable events would be when water quality results exceed the standards set out in the regulations or an incident that could significantly impact the quality of the water, or affect public health.

In addition to the reporting of "notifiable events", DOH proposes that the regulations to require licensed drinking water suppliers to publish an annual report on the quality of their drinking water supply. This is a key aspect of public transparency and meets obligations expected of the licensed drinking water supplier to ensure that consumers are able to obtain detailed information about the quality of drinking water supplied.

## Why must drinking water quality be monitored?

Drinking water quality monitoring and testing provides an assessment of the overall performance of the system and the ultimate quality of drinking water being supplied to consumers. A monitoring program serves the purpose of a “final check” to verify that the barriers and preventive measures implemented to protect public health associated with the supply of drinking water is working effectively.

**25** Do you agree that the drinking water quality monitoring and testing program for licensable and registrable drinking water suppliers should be established based on the overall risk of their system?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**26** Do you agree that licensable and registrable drinking water suppliers should provide their drinking water quality compliance monitoring results to the CHO at the required timing and format set out in their licence/registration?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**27** Do you agree that licensed drinking water suppliers should be required to publish their annual drinking water quality information?

*Please select only one item*

Yes    No    Not Sure

Please explain why?



## Auditing requirements

The DOH proposes to require licensed and registered drinking water suppliers and licensed source water suppliers to be audited. The audit scope and frequency would be set in consultation with the drinking water supplier or source water supplier and will be based on their risk profile. This means that a supplier with a lower risk profile will expect to have audits with a narrower scope at a lesser frequency.

The proposed regulation will set out the audit scope which would involve auditing of their Drinking Water Risk Management Plan (DWRMP) / Drinking Water Source Protection Plan (DWSPP), systems and records to determine whether these plans and systems have been implemented. Costs of the audit must be covered by the drinking water supplier or the source water supplier.

Following an audit, any matters that require attention will be identified. The appropriate enforcement agency will negotiate with the drinking water supplier or source water supplier on the schedule to remedy the identified deficiencies. The schedule and remediation priorities will be based on the public health risk caused by the deficiency. Failing to meet the agreed schedule and remediation priorities will constitute a breach in the conditions of their registration/license and further actions will be taken in accordance with the provisions of the Public Health Act.

In the implementation of the proposed audit framework, the DOH will liaise with other regulatory agencies that are already auditing drinking water suppliers (such as the Economic Regulation Authority) to ensure that there will be no overlap of scope or clashes in audit schedules.

The DOH proposes that the new regulatory framework allow the auditing to be done by independent auditors. The purpose to allow for independent auditors is to avoid a conflict of interest in an audit. Independent auditors will need to be approved by the appropriate enforcement agency prior to being able to undertake audits.

To ensure auditor independence, it is proposed that any person undertaking an audit cannot:

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

## Transition and implementation of the new regulatory framework

As there will be a transition period required for the implementation of the proposed regulatory framework, the audit schedule will be negotiated at the registration and licensing application stage. The appropriate enforcement agency should give regard to time required for the proposed regulatory framework (in particular the requirement to develop and implement DWRMP/DWSPP) to mature to the extent required for the audit function to be effectively carried out, and for the audit framework to be established.

**28** Do you agree that licensed drinking water suppliers should be audited?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**29** Do you agree that registered drinking water suppliers should be audited?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**30** Do you agree that licensed source water suppliers should be audited?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**31** Do you agree that the auditing schedule and scope should be based on risk profile of the drinking water supplier/source water supplier?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**32** Do you agree that the new regulatory framework should allow independent auditors to conduct the proposed regulatory audits?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

If yes, how should the appropriate enforcement agencies manage the approval of the independent auditor?

If yes, what qualifications/certifications should the independent auditors have?

If yes, are there any other checks and controls that should be in place to ensure auditor independence?

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# Supply of unsafe drinking water

DOH proposes that the new regulatory framework declares the supply of unsafe drinking water by:

- a licensed drinking water supplier to be a serious public health risk
- a registered drinking water supplier to be material public health risk.

The supply of drinking water by a licensed drinking water supplier involves the reticulation of the drinking water supply to a large population. Therefore, the supply of unsafe drinking water in these instances can potentially cause a large population to be harmed.

In contrast, the supply of drinking water by a registrable water supplier is confined to a specific premises. The impact and population that can potentially be affected is significantly less than a reticulated scheme supply. Nonetheless, the supply of unsafe drinking water in such instances can potentially cause harm to public health that is neither trivial nor negligible.

Part 4 of the Public Health Act defines what constitutes as offences relating to serious and material public health risks and sets out the penalties for the offences. If an offence under Part 4 has been committed, the Public Health Act requires the licensed/registered drinking water supplier to prove that they:

- took reasonable steps to prevent or avoid the circumstances that gave rise to the public health risk, including by putting in place any systems or safeguards that might reasonably be expected to be provided; and
- complied with the requirements of any notice or order under this Act that related to the public health risk; and
- as soon as becoming aware of the circumstances that gave rise to the public health risk reported those circumstances to an appropriate enforcement agency; and took all reasonable steps necessary to prevent or reduce the public health risk.

There are instances where the supply of drinking water is neither practicable nor achievable. An example is in isolated remote locations where no reliable systems can be operated to guarantee the quality of water. In such instances, management measures have to be in place to ensure the water supply cannot be confused for drinking water.

## Definition of serious and material public health risks

- Serious public health risk is defined as “public health risk involving potential harm to public health that is irreversible, of a high impact or on a wide scale”.
- Material public health risk is defined as “public health risk involving potential harm to public health that is neither trivial nor negligible.

**33** Do you agree that the supply of unsafe drinking water by a licensed drinking water supplier to be a serious public health risk?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**34** Do you agree that the supply of unsafe drinking water by a registered drinking water supplier to be a material public health risk?

*Please select only one item*

Yes  No  Not Sure

Please explain why?

**35** Are there any other public health risk activities or activities associated with the supply of drinking water that should be declared either a serious or material public health risk?

## General public health duty

Part 3 of the *Public Health Act 2016* sets out the general public health duty. It stipulates that “a person must take all reasonable and practicable steps to prevent or minimise any harm to public health that might foreseeably result from anything done or omitted to be done by the person” (s34(1)).

Although, Section 35 of the *Public Health Act 2016* stipulates that a failure to comply with the general public health duty does not of itself give rise to any right or remedy or constitute an offence, a breach in the general public health duty may constitute grounds for action to be taken under the Act, including the issue of an improvement notice and/or enforcement order.

The DOH proposes that the regulatory framework declare that:

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

The general public health duty in relation to supplying drinking water is by definition general in nature, and universal, but is not intended to contradict any specific requirement under any other regulatory framework. It does not compel the supply of drinking water in any specific circumstance, but requires that, if drinking water (or non-drinking water) is supplied, then the water supplier has the duty to ensure all reasonable and practicable steps to prevent or minimise harm to public health has been taken.

There are instances where the supply of drinking water is neither practicable nor achievable. An example is in isolated remote locations where no reliable systems can be operated to guarantee the quality of water. In such instances, management measures have to be in place to ensure the water supply cannot be confused for drinking water.



**36** In your opinion, what are some examples where the supply of drinking water is neither practicable nor achievable?

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**37** In your opinion, what is the most appropriate option to manage the public health risks associated with the use of intermediary tanks at premises connected to a drinking water supply of a licensed drinking water supplier?

### **Risks associated with the use of intermediary tanks**

Although the drinking water is supplied by a licensed drinking water supplier, contamination can be reintroduced back into the drinking water supply when there is an air break in the plumbing system. The decrease in disinfection residuals in a tank can increase the likelihood of recontamination and microbial regrowth.

Where drinking water is stored for extended periods of time in tanks, it will also be necessary to install water treatment systems to maintain the minimum disinfection residuals in a drinking water supply.

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

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

### **Proposal implications**

Section 10 of the discussion paper on “A new regulatory framework for drinking water in Western Australia” outlines the key benefits and potential costs associated with the proposed changes in regulatory framework. Feedback and opinion from the community, industry and enforcement agencies will provide a more holistic view on the practicalities, relevance and impact of the proposed changes. This is to ensure that the benefits brought about by the proposed changes are outweighed by the costs. The feedback received will also provide the DOH with valuable information on what resources, tools and support that needs to be developed and provided to implement the regulatory framework effectively.

**38** Do you agree with the listed benefits of the proposed regulatory framework to the community?

*Please select only one item*

Yes  No  Not Sure

Please provide any further comments that you have, including any other benefits that were not listed.

**39** Do you agree with the listed costs of the proposed regulatory framework to the community?

*Please select only one item*

Yes  No  Not Sure

Please provide any further comments that you have, including any other costs that were not listed.

**40** Do you agree with the listed benefits of the proposed regulatory framework to industry and businesses?

*Please select only one item*

Yes  No  Not Sure

Please provide any further comments that you have, including any other benefits that were not listed.

**41** Do you agree with the listed costs of the proposed regulatory framework to industry and businesses?

*Please select only one item*

Yes  No  Not Sure

Please provide any further comments that you have, including any other costs that were not listed.

**42** Do you agree with the listed benefits of the proposed regulatory framework to enforcement agencies?

*Please select only one item*

Yes  No  Not Sure

Please provide any further comments that you have, including any other benefits that were not listed.

**43** Do you agree with the listed costs of the proposed regulatory framework to enforcement agencies?

*Please select only one item*

Yes  No  Not Sure

Please provide any further comments that you have, including any other costs that were not listed.

**Other comments**

**44** Please provide any further comments you have.

A large, empty rectangular box with a thin black border, intended for providing further comments. The box is currently blank.