MidCoast Water’s response to:
Discussion Paper: Reforming arrangements for regulating plumbing and drainage in NSW

5 December 2008

Submission by:
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EXECUTIVE SUMMARY

MidCoast Water has assessed the options presented in the discussion paper prepared by the Department of Water and Energy (DWE). In response, MidCoast Water considers that whilst parts of some options have merit, we believe that no single option could be supported. Instead, MidCoast Water submits an alternative regulatory framework that draws on the strengths of parts of the options prepared by DWE that will ensure the delivery of effective onsite regulation and will facilitate technical and licensing reform in NSW.

Whilst we have answered the questions prepared in the Discussion Paper (starting from Page 10), MidCoast Water has supplied further information about our operating environment and role in plumbing management to put our comments in context.

Our alternate model would see onsite regulation remain the responsibility of the local water authority whilst technical standards and licensing would become the function of a new state agency, created within the Department of Water & Energy. This is indicated in the diagram below:

Central to our argument for this model is our position that local water authorities are best positioned to provide effective and efficient onsite regulation. Local water authorities, whether state owned corporations, constituted authorities, county councils or local councils must be permitted to maintain local onsite regulatory control, with state oversight and guidance, of the entire water cycle, including private plumbing and drainage.
Effective onsite regulation is an essential control over the risks presented by plumbing and drainage installations. Stormwater ingress, recycled water cross connection, trade waste and backflow all present significant risks to the operations of water utilities and to the protection of public health and are best managed by effective onsite regulation.

Importantly, onsite regulation of plumbing and drainage, especially trade waste installations, is critical in source protection for recycling projects under the Australian Guidelines for Recycling Water.

Some regulatory models rely on self certification of plumbing to deliver efficient onsite regulation. We believe self certification doesn’t provide an adequate level of customer protection, which is demonstrated by audit compliance results in other Australian jurisdictions reliant on this system.

DWE has suggested in its discussion paper that onsite regulatory functions should be removed from the existing water authorities to remove a conflict of interest. It is our position that Water Authorities are professionally managed, suitably experienced, well regulated and importantly, are in the best position to manage risks related to water supply, recycled water and sewerage operations. Water authorities must be empowered to control risk to their operations by regulating onsite plumbing, and controlling risks to public health. By comparison, conflict of interest is a minor risk, and is even less relevant in regional areas where the new Water Industry Competition Act does not currently operate.

Onsite regulation by water authorities adds further value, by taking a proactive, educational approach, engaging with industry and the community, local authorities offer inspections as a service rather than a regulatory burden. This service adds to customer protection by identifying problems at the time they can be best rectified – during construction – rather than entering into time consuming complaints processes via the Office of Fair Trading.

Local water authorities offer an efficient single point of contact to effectively administer all regulatory functions associated with water and sewerage services, plumbing and drainage, from applications to connect to approval of private works.

In relation to the nationalisation of technical standards, MidCoast Water supports the adoption of national codes as long as existing high standards are not compromised. Local water authorities should be better consulted regarding technical issues, a regionalised NSW water industry could support greater technical input to national codes.
INTRODUCTION

ABOUT MIDCOAST WATER

MidCoast Water (MCW) is a County Council constituted under the NSW Local Government Act and created by government proclamation in July 1997. MCW is responsible for reticulated water supply and sewerage in the Greater Taree and Great Lakes council areas covering some 7000 sq km and serving about 70,000 people on the mid north coast of NSW. Major regional centres served include Taree, Wingham, Forster/Tuncurry and Tea Gardens/Hawks Nest. MidCoast Water places great importance on our role as a service provider within the community, providing sustainable, high quality water services whilst always ensuring we remain accountable, supportive and provide best value for money to our customers. This is reflected in Our Mission, Vision and Values, which can be found in Attachment A. More information about MidCoast Water and its strategy can be downloaded from: http://www.midcoastwater.com.au/publications/files/StrategicPlan2006-30v2.pdf

OUR INSPECTION PHILOSOPHY

MidCoast Water has run a full inspection program for all plumbing and drainage since our proclamation in 1997. In our experience, this program delivers increased compliance within our operational area, with defects reduced from about 30% to less than 5%, with most of these being of a relatively minor nature and identified and rectified during construction. MidCoast Water has been able to deliver this result by supporting the local plumbing industry with information, education and advice. Our plumbing inspectors have built solid relationships with the plumbing industry demonstrating our stance as a proactive regulator, able and willing to offer practical advice and guidance, rather than regulation by rule and penalty.

MidCoast Water conducts inspections with full cost recovery whilst ensuring costs to customers have been kept low with effective administration, integration of inspections with other functions, and highly skilled and experienced plumbing inspectors, (our current inspection fee for a new single residential dwelling is $298, around 2-3% of the average plumbing cost or 0.15% - 0.20% of the average construction cost for a new dwelling). This inspection regime offers assurances to customers, including future property owners, that plumbing works have been completed to a high standard and future maintenance and operation will not create an unreasonable burden. It also provides the mechanism by which the authority can ensure protection of its ongoing operations from the risks associated with sub-standard plumbing installations.
THE NEED FOR PLUMBING INSPECTION BY A LOCAL WATER AUTHORITY
Local water authorities, be they a constituted authority, county council or local council responsible for water and sewer, must continue to be empowered to regulate the water cycle within their area of operations. Water service provision is a holistic exercise whereby the entire water cycle needs to be managed and regulated. The closing of the loop with the introduction of recycled water as a source of non-potable (and potentially potable) water further emphasises the need for local integration and regulation of onsite functions. Functions such as source control (liquid trade inspection) and contamination control (backflow prevention) will be very difficult for an authority to manage without inspection powers.

LEVELS OF SERVICE FOR PLUMBING INSPECTION
Plumbing inspections are integrated into the other business functions of MidCoast Water, especially the development application and approval process. MidCoast Water provides enhanced levels of service early in the DA application and approval process. Our specialist plumbing inspectors are called upon to review hydraulic plans, trade waste applications and backflow compliance prior to issuing of construction certificates. This proactive approach to managing plumbing quality ensures that design errors or omissions are corrected before construction commences and that the need for onsite alterations during construction, or upon final inspection, are greatly reduced. This reduces customer complaints as well as costly and time consuming rework.

One output of the inspection regime offered by MidCoast Water is a complete and accurate drainage diagram for the property prepared by the plumbing inspector which is retained by the authority. Enabling MidCoast Water to administer a system which can provide accurate drainage diagrams as requested by customers or required by the Conveyancing Act.

The capacity and knowledge developed within MidCoast Water by our plumbing inspectors translates directly into other areas of our business. Our Infiltration & Inflow reduction program identifies sources of stormwater ingress into the sewer system from private properties. Our experienced and empathetic plumbing inspectors are able to assist property owners to comply with correction orders and identify appropriate measures to rectify identified problems.

In regional areas there are many small villages awaiting the provision of water supply and sewerage services under our backlog sewerage program. As this program progresses, MidCoast Water inspectors liaise with property owners on backlog sewerage connections and provide early advice on the changes that need to be made to plumbing and drainage in preparation for mains connection. These schemes often provide services to disadvantaged communities and the negotiations often require a level of local awareness and understanding.
RISKS TO THE AUTHORITY AND COMMUNITY

With effective onsite regulation and inspections by the authority, specific risks to the authority and the consumer are able to be managed and controlled. Some of the specific risks managed and the controls include:

Risks to the Authority:
- Prevention of stormwater ingress by ensuring no cross connection of stormwater into the drainage via illegal connections
- Protection of water quality by ensuring no sewer connections into stormwater drainage.
- Prevention of stormwater ingress by ensuring yard gullies are suitably placed and at the appropriate height, relative to ground level
- Protection of public health by ensuring no cross connections of potable and alternate water supplies
- Protection of public water supply by ensuring appropriate backflow containment protection, and regular testing of backflow containment devices registered with the authority
- Minimisation of sewer blockages by ensuring proper trade waste installations or devices
- Protection of sewage treatment process and effluent qualities (recycled water qualities) from impacts of trade waste
- Preventing surcharge of vacuum and pressure sewerage systems from overload caused by pumped discharges to sewer from domestic pools
- Ensuring protection of assets by regulating building over sewer policy, maintaining the integrity of the assets and our ability to access for maintenance

Effective onsite regulation protects the consumer from:
- Lower standards of workmanship leading to failures and increased maintenance costs
- Expensive alterations or repairs for defects detected during audit only regulation
- Cross connections of potable and alternate water supplies with potential health impacts
- Contamination of internal potable water supply caused by insufficient zone or individual backflow protection devices
- Inappropriate material or equipment selection leading to increased failures
- Internal surcharge where yard gullies are placed too high compared with internal fixtures and floor drains
- Protecting consumers from the risk of burns and scalding from improper tempering valve installations or defective valves.
MidCoast Water accepts the need for change within the NSW water industry.

Our submission to the 2002 Interagency Committee Plumbing Regulation Reform Review recommended streamlining of administrative functions into a state-based group whilst retaining the responsibility for on-site regulation with the local water authority. Our previous submission can be accessed at: www.midcoastwater.com.au, navigating to forms and publications.

Our position remains essentially unchanged since 2002.

AN ALTERNATE REGULATORY MODEL FOR NSW

Our alternate model would take the strengths from a number of options provided by DWE.

Our model would seek to create of a new state-based agency responsible for the technical and administrative functions of regulation, licensing and training within NSW. This agency could be established within the Department of Water and Energy and would be responsible for:

- Determining the technical standards to apply to plumbing and drainage in NSW, in consultation with water authorities (as onsite regulators) and industry.
- Acting for NSW water authorities & industry on the preparation and adoption of national codes which would apply to plumbing and drainage in NSW.
- Administering licensing standards and competencies, and liaising with training providers to develop training packages, with a view to a single national standard or competency for licensing. Revenue from licensing would be directed towards this agency however, the Office of Fair Trade could be maintained as the ‘shop-front’ for licensing, utilising existing arrangements.
- Providing a proactive information service for the plumbing industry, as well as water authorities conducting onsite regulation, providing technical assistance and guidance to industry and onsite regulators.
- Administering consumer advocacy. Investigating consumer complaints and administering breaches of licensing. Again the Office of Fair Trading could be maintained as the shop-front for consumer complaints, utilising current community expectations.
- Providing technical support to water authorities to administer the acceptance of Alternate Solutions provided for in the National Plumbing Code of Australia.

Onsite regulatory functions would be performed by the local water authority. The local authority would be responsible for determining the level of onsite regulation required on a risk based approach. The local authority would administer the onsite inspection regime with the state based agency offering guidance and training opportunities.

Advantages:
- Maintains the ability of water authorities to regulate and inspect plumbing works connected to community assets. Enables an inspection regime based upon a risk analysis of local conditions.
- Maintains the existing synergies between the water authorities’ regulatory roles over connection, trade waste and backflow protection with the regulation of onsite plumbing and drainage.
• Provides a single local point of contact for the application and approval process for all works including onsite regulation. Does not require plumbing and drainage notifications separate to connection approvals, trade waste etc.
• In a rationalised regional water industry, where smaller authorities are agglomerated into regional authorities, this model would reduce existing fragmentation and increase consistency of onsite regulation. Larger regional authorities would be suitably resourced to administer onsite regulation with increased efficiencies and effectiveness whilst maintaining the benefits of having a local regulator.
• The state based agency would have access to a suitable source of revenue, from licensing, to finance an enhanced information service, with technical advice and guidance for industry.
• The state based agency would be suitably resourced to effectively deliver national consolidation of technical standards, licensing requirements and training needs.
• The state based agency would be suitably positioned, resourced and funded to investigate and address any perceived or real conflicts of interest between alternate service providers and water authorities. With the Department of Water & Energy as regulator of the authorities, this would appear no different to the current arrangements within the electricity sector.
SUBMISSION QUESTIONS AND ANSWERS

1. Are the current regulatory arrangements in NSW effective in minimising the risks associated with plumbing and drainage?

Onsite regulation by the authority is an effective mechanism for ensuring high levels of compliance within the plumbing and drainage industry. Other than the owner/resident, the local water authority has the greatest stake in the outcomes of plumbing and drainage installations and the most to gain from high levels of compliance with the standards.

Well resourced water authorities with experienced and qualified plumbing inspectors are further able to manage risk by applying their professional judgement to prioritise compliance issues and ensure high risk activities are controlled.

2. What is your view of the role and effectiveness of on-site regulators and the administrative costs incurred by on-site regulators?

The local water authority is the most effective on-site regulator, especially where the onsite regulator takes a proactive approach, engages industry and offers inspections as a service to the community and industry rather than a regulatory burden. In regional areas, water authorities are able to offer inspections at least cost by utilising local staff. In larger regional areas, and in a rationalised regional water industry, specialist plumbing inspections are cost effective in offering this service. In smaller regional areas or with smaller water authorities, inspection roles can be covered by local operational staff familiar with plumbing and drainage.

Logically, a rationalised regional water industry could offer administrative efficiencies whilst still being able to minimise costs by utilising local staff, specialist or operational, to conduct inspections. This model has enabled MidCoast Water to provide full plumbing inspections, at four critical stages of construction (internal drainage/external drainage/hot & cold/final inspection) at a cost to the customer of only 0.15% to 0.20% of the average construction cost of a new single dwelling.

3. What costs are associated with meeting the current technical requirements framework? Are there any specific costs that arise as a result of local variations? Please provide quantified costs where possible.

MidCoast Water supports the principle of harmonisation of technical requirements at the national level wherever practical to minimise the costs of local variations in standards. Apart from this, we cannot quantify costs.

4. In your view, is the potential conflict of interest likely to have significant impact on regulators, users or the community? Please provide examples.

The perceived risk of a conflict of interest between potential water service providers and the local water authority is simply not a reality on regional areas for a number of reasons:

1. Risks associated with a perceived or real conflict of interest are insignificant when compared with the risks of separating the water authority and its operations from the onsite regulation of plumbing and drainage.

2. The electricity industry and gas industry appear to be able to support competition whilst the supply authority retains an inspection role.
3. Regional water authorities, especially under a rationalised model, are professionally managed, suitably experienced and have mechanisms in place to manage conflicts of interest, corruption and other institutional risks.

4. Complaints from alternate water service providers of unreasonable demands or regulation by onsite regulators would logically be investigated and arbitrated by an independent body, such as the NSW Ombudsman or other review authorities. Under our proposed model, this function could be performed, or technically assisted, by the state based agency as the regulator of the authorities.

5. The Water Industry Competition Act doesn’t apply to authorities other than Sydney Water and Hunter Water.

6. Commercial realities are that alternate providers are unlikely to gather significant market share in regional areas and are therefore unlikely to have a significant impact.

5. What are the strengths and weaknesses of institutional models applied in other jurisdictions in the context of the NSW and national plumbing industries?

Whilst there are some obvious administrative efficiencies in the single agency models, the Victorian & Western Australian systems still require an application to the relevant water authority for approval to connect, in addition to the application and notification to the plumbing regulator.

These single agency models also rely heavily upon self-certification to deliver efficiency. We believe that this approach doesn’t adequately protect customers or provide high enough standards of compliance. The regularity audit of compliance is ineffective as most problems remain hidden, either below ground or within wall cavities and that problems identified in an audit process are difficult and expensive to rectify.

The dual agency approach of South Australia offers effective administration of licensing and technical standards whilst maintaining the role of the water authority for onsite compliance. This system delivers a risk based inspection regime that integrates effectively with the connection application and compliance requirements of the authority. This approach is similar to our suggested model.

6. What are the strengths and weaknesses of the different approaches to technical requirements in the context of the NSW and national plumbing industries?

Adoption of a uniform national code, or a uniform state code, would appear to simplify and standardise both onsite construction and onsite regulation in NSW.

Adoption of the National Plumbing Code of Australia offers appropriate provisions for unique design and innovation for specific circumstances. The approval of Alternate Solutions as prescribed by the code would require strong technical support from a state agency to the smaller local water authorities. A rationalised regional water industry would support plumbing inspection specialists in regional NSW.

7. What are your views on how appropriate each option is in terms of cost effectiveness, efficiency and policy effectiveness? What are the implications of the models for industry, consumers, government and regulators?

MidCoast Water believes that parts of a number of the DWE options need to be gathered up to make an effective regulatory model. We believe that any of the models where a single agency would be responsible for onsite regulation would not be as effective or efficient as
maintaining the water authority as the contact point for both connections and inspections. Given the size of NSW and the variety of local conditions involved it would not be practical to centralise on-site regulation. Efficiency would not equate to value for money as a centralised system would have to rely on self certification and reduced inspection regimes, which we believe will not sufficiently protect the customer or generate high enough levels of compliance.

Making metropolitan councils responsible for onsite regulation would be a poor outcome and not deliver any improvements to the current situation.

8. Do you have any alternative proposals for reforming the institutional arrangements for plumbing in NSW? Please provide details.

Yes, refer our Alternate Regulatory Model for NSW on page 8.

9. What is the most appropriate approach to implementation of the reformed institutional arrangements?

Appropriate implementation arrangements are completely dependant on the chosen model. The options of maintaining current arrangements with improvement or the alternate model suggested by MidCoast Water, would require relatively minor changes within the authorities or industry and the implementation could occur in a minimal timeframe.

The other options would require a fundamental shift in the onsite regulation model with significant transfer of roles from the existing water authorities to the alternate onsite regulators. This would need to occur as a phased implementation over a number of years to ensure that the onsite regulator is able to build capacity and that industry is educated/trained in the new regulatory regime and requirements. These models also inevitably raise redundancy issues within the existing water authorities which will need to be managed.

10. What are your views of the current operation of the NSW administrative framework for plumbing and drainage?

Whilst we acknowledge there are improvements which could be made, the fundamentals of the existing framework provide a well understood and effective system. Local onsite regulation by the water authority provides the greatest protection for the consumer and the authority.

Smaller regional Councils may struggle with the specialisation of plumbing inspections, and if they continue to retain water and sewerage functions, should consider engaging specialists as a part of regional alliances.

11. What are the costs and benefits of local variations?

The implementation costs of local variations can vary widely as can the benefits. At one end of the scale might be a local variation on the position of backflow protection to underground rainwater tanks, where the cost and benefit are both fairly insignificant. At the other end of the scale might be a local requirement to fit balance tanks to pool backwash in vacuum or pressure sewerage service areas. In this case the cost can be substantial, several hundred dollars, but the benefits are significant both to the public health and the authorities operations, by ensuring that raw sewerage doesn’t surcharge in the street.
The local water authority is best placed to determine if local variations are required given specific site conditions. Local variations should only be permitted for high risk circumstances.

12. **What are the likely costs and benefits of a NSW-specific approach for technical requirements compared to adopting the national approach?**

Adoption of a NSW specific approach for technical requirements would not appear to offer any advantages over a national approach. However there should always be provision for specific local variations, specified as conditions of approval to connect. These approval conditions must be administered by the local water authority to cater for site specific circumstances.

13. **Do you have any alternative proposals for applying technical standards to plumbing in NSW? Please provide details.**

MidCoast Water supports the nationalisation of technical standards.

14. **How practical would implementing a national technical requirements framework be in NSW? What would the potential costs be?**

MidCoast Water does not believe there are any significant barriers to implementing a national technical framework and potential costs to industry or regulators would be minor.

15. **Have you experienced any unnecessary delays caused by the current arrangements for making new connections to any water utility’s water services network? If so, please provide details of the problems you have faced plus any solutions that you propose.**

MidCoast Water has no evidence of complaints that suggest our new customers are experiencing unnecessary delays.

**Feedback on options presented in the Discussion Paper**

Please tick the box for your preferred option and comment as appropriate. If you have more than one preferred option, please indicate your order of preference from 1 to 4.

**Institutional framework**

**Option 1: Maintain current arrangements with improvements**

Of all the suggested options, this model most closely aligns with MidCoast Water’s suggested alternate model. Onsite regulation remaining the responsibility of the local water authority is fundamental to effective regulation, with administrative and technical issues managed by state based agencies. Improvements on the existing framework should be concentrated on improving consistency of standards and administration process, reducing or removing unnecessary local variations and improving communications between stakeholders. Rationalisation of smaller water authorities would reduce the existing fragmented nature of onsite regulators and enhance consistency.
Option 2: Single on-site regulator with a separate licensing regulator

MidCoast Water does not support any proposal which removes the onsite regulatory role of regional water utilities. A single onsite regulator would inevitably become heavily reliant on self certification and audit processes which offer inferior protections to the customer. A single regulator would not be able to offer existing levels of service in regional areas and would not have the intrinsic connection with community of a local water authority.

Option 3: Ministerial Advisory Committee plus separate licensing body plus on-site regulation by local councils

MidCoast Water does not support this option. In regional areas where local councils are the water authority on provides no improvement on the existing framework. In metropolitan areas it is unrealistic for local councils to perform onsite regulatory roles for plumbing & drainage, as they do not have suitable resources or experience and this would lead to further fragmentation of onsite regulation.

Option 4: All regulatory functions managed by a single agency

MidCoast Water does not support any proposal which removes the onsite regulatory role of regional water utilities. A single onsite regulator would inevitably become heavily reliant on self certification and audit processes which offer inferior protections to the customer. A single regulator would not be able to offer existing levels of service in regional areas and would not have the intrinsic connection with community of a local water authority.

Please tick the box for your preferred option and comment as appropriate. If you have more than one preferred option, please indicate your order of preference from 1 to 4.

Technical requirements framework

Option 1: Maintain current arrangements

Option 2: Maintain current arrangements without local variations

Option 3: NSW specific performance-based approach

Option 4: Plumbing Code of Australia performance-based approach

Please add any further comment below

The authority must retain the option to provide additional conditions of connection to control specific local risks.
Contact details

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If you are responding on behalf of an organisation or industry representation, please indicate:

Organisation: MidCoast County Council (trading as MidCoast Water)

Position: Development Engineer

Sector: Local Water Authority
Our Mission
Our purpose is to manage the provision of sustainable water related services to meet our community’s needs.

Our Vision
To be recognised as a leader in the water industry and community.

We Value
Our Business – Managing all aspects of our business in a transparent and sustainable manner, while providing best value for money to our community.
Community – Providing an essential service in a way that is accountable to our stakeholders and supports our regional community’s development.
Customers – Meeting the needs and expectations of our customers.
Relationships – Being open, supportive and constructive in all our relationships.
Employees – Developing staff committed to quality, professional service, teamwork, safety, striving for continuous improvement and accepting personal responsibility.
Environment – Conserving resources and protecting and enhancing our natural environment, particularly the water cycle.