



Government of **Western Australia**
Department of **Health**

Discussion Paper

Managing sanitation provision and maintenance at construction sites and mobile, temporary or remote worksites under the *Public Health Act 2016*

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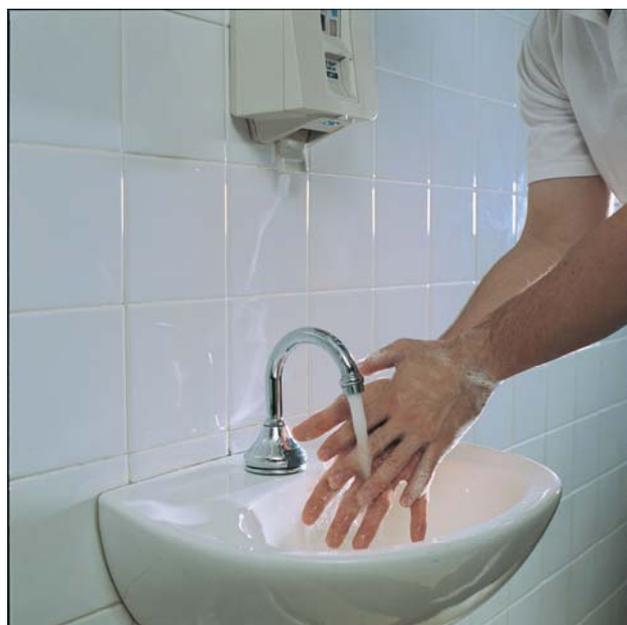
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Disclaimer

The views expressed in this document may not, in any circumstances, be interpreted as stating an official position of the Department of Health.

This document is intended to serve as the basis for further discussion with interested stakeholders.



Summary

The reform of Western Australia's public health legislation is an important step towards better protecting and promoting public health as well as preventing illness and injury. The WA Government is developing public health regulations to complement the new *Public Health Act 2016* which will allow for the assessment of public health issues that are currently regulated and also new and emerging risks.

The DOH has used this process to examine the management of sanitation provision and maintenance on construction sites and mobile, temporary or remote worksites in Western Australia (WA) and reviewed a number of options as to how the public health risks could be managed on implementation of the *Public Health Act 2016*.

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Consultation on managing sanitation provision and maintenance at construction sites and mobile, temporary or remote worksites under the *Public Health Act 2016*

How we will consult

This consultation paper has been created to allow for the WA Department of Health (DOH) to engage the community and key stakeholders on how the management of public health risks associated with sanitation provision on construction sites and mobile, temporary or remote worksites should occur in the future. The paper focuses on the Department's preferred option which is to repeal the *Health (Construction Work) Regulations 1973* and Part 3 of the *Health (Temporary Sanitary Conveniences) Regulations 1997* and replace them with a guideline relating to sanitation provision on construction sites and mobile, temporary or remote worksites.

Stakeholder consultation promotes transparency, improves design and ensures risk are identified and managed early. It also allows for innovative ideas to be proposed for consideration. You are invited to read through the following paper and provide feedback via an [online survey](#) or by a written submission to the Department.

This consultation provide an opportunity for industry and the public to raise issues, concerns and opportunities about the proposed options and provide advice on how the proposed guideline will affect them, their business or working experience. This paper contains a series of questions related to the proposals. You do not have to comment on all the questions, and can focus on those areas that are important to you. You are also welcome to provide additional feedback that may not be related to any of the questions. Please explain the reasons behind your suggestions, and where possible evidence to support your views (such as statistics), estimates of any costs that may relate to the proposal, and examples of solutions.

Information provided will be collated into a publically available report on the Department of Health website. Please note, that because your feedback forms part of a public consultation process, the Government may quote from your comments in future publications. If you prefer your name and organisation to remain confidential, please indicate that in your submission. As submissions made in response to this paper will be subject to Freedom of Information requests in accordance with the requirements of the [Freedom of Information Act 1992](#), please do not include any personal or confidential information that you do not wish to become available to the public.

This consultation paper is to be read in conjunction with the [DOH Public Health Guideline: Sanitation provision on construction sites and mobile, temporary or remote worksites in WA](#).

Key dates

1 July 2018 – Consultation Period open,

31 August 2018 – Submissions closed,

How to make a submission

Online Survey

The online survey may be accessed at <https://consultation.health.wa.gov.au/>. The survey closes on **31 August 2018**.

Written submissions

Written submissions must be received by 5pm (WST) on **Friday 31 August 2018**. No late submissions will be considered.

Written submissions can be lodged by email (preferred) to publichealthact@health.wa.gov.au

Hard copies can be mailed to:

Sanitation Provision at Construction Sites and Mobile Temporary or Remote Worksites Consultation
Environmental Health Directorate
Department of Health
PO Box 8172,
Perth Business Centre, WA 6849

For further information

Email: publichealthact@health.wa.gov.au

Website: <http://ww2.health.wa.gov.au/Improving-WA-Health/Public-health/Public-Health-Act/Regulation-review-program>



Introduction

There are a number of situations where people may have to work where no permanent toilet facilities are available. These situations could include:

- Construction Sites
- Roadside clean ups, road works or road maintenance works
- Tree planting or other natural resource management work
- Archaeological digs
- Geological surveys or other mining exploration related work
- Fruit picking/Seasonal farm work

Where permanent facilities are not available and temporary toilets are not provided, workers face public health risks associated with either reducing fluid intake to reduce the need to use the toilet or choosing inappropriate places to go to the toilet.

The provision of toilets is important for ensuring workers have a healthy workplace with adequate employment options. Maintenance of the toilets provided is also of importance to ensure that the waste is adequately removed and the risk of contact with human waste is reduced.

Historically the requirement to provide a toilet in situations where no permanent facilities are available has been through the [Health \(Construction Work\) Regulations 1973](#) and Part 3 of the [Health \(Temporary Sanitary Conveniences\) Regulations 1997](#). The implementation of the [Public Health Act 2016](#) necessitates the repeal and possible replacement of these regulations.

Review of the current WA legislative environment indicates that many of the requirements of these regulations are also covered by the [Occupational Safety and Health Regulations 1996](#) and the WA Code of Practice for Workplace Amenities and Facilities 2002 and continued regulation by the DOH may not be required.

Construction sites and mobile, temporary or remote worksites

Using proper toilets and hand washing - preferably with soap - prevents the transfer of bacteria, viruses and parasites found in human excreta which otherwise may contaminate the soil, water resources and food. It also decreases the risk of contact transfer of diseases by infected persons.

Where permanent facilities are not available and temporary toilets are not provided, workers face public health risks associated with either reducing fluid intake to reduce the need to use the toilet or choosing inappropriate places to go to the toilet. The provision of toilets is important for ensuring workers have a healthy workplace with adequate employment options.

Construction sites and mobile, temporary or remote worksites are identified as being the most common situations where people may not have access to toilets unless a temporary toilet is provided by the company managing the site. Mobile, temporary or remote worksites include a non-permanent worksite not located in a town or city where there is no toilet facility within

- A 200 m radius of that site where workers only option to get the toilet is walking; OR
- A 2 km radius of that site where transportation vehicles that can be used to access the toilet are provided.

It is a site where people have been employed (this could be paid employment or volunteer employment) and they will remain on that site for the period of the working shift.

Health Risk Factors

The DOH identified four areas of health concern relating to the provision of toilets at construction sites and mobile, temporary or remote worksites:

1. Provision and maintenance of toilets
2. Toilet types and their design
3. Toilet locations
4. Wastewater overflows and other health emergencies

Provision and Maintenance of toilets

The provision of toilets is important for ensuring workers have a healthy workplace with adequate employment options. When the number of toilets and the ratio of male to female toilets are not specified there is a risk that not enough toilets will be provided for the number of workers. Overuse can result in toilet failure, an unhygienic environment in which to use the toilet and an increased risk of contact with human waste.

Where male to female ratios are not specified, workers, particularly female workers, may not be provided with facilities that meet their needs and this may result in unequal employment opportunities.

Maintenance of the toilets provided is also of importance to ensure that the waste is adequately removed and the risk of contact with human waste is reduced. This is generally done through weekly or fortnightly servicing to remove the waste and to reset the system.

Toilet types and their design

Conditions in WA can be harsh for temporary toilets. The toilets may have to withstand a number of months of being on site without breaking or failing or may have to survive extreme weather events. The design of a toilet is important in ensuring that waste is adequately removed throughout the period for which the toilet is used.

Workers and visitors may also require alternative toilet types such as accessible temporary toilets. The lack of specific requirements for accessible facilities may be discriminatory and poses a public health risk for workers and visitors to construction sites and mobile, temporary or remote worksites who require accessible toilets. The 2012 Census found that disability affects just under one in five people in Australia. People who identified as having specific limitations or restrictions were found to make up 16.3% of the total Australian population (Australian Bureau of Statistics, 2013). This could mean that up to 16% of any population attending a site with temporary toilets could require accessible temporary toilets rather than standard temporary toilets.

Some temporary toilets are able to be connected to a sewer. This is a good option in situations where a sewer is available. Sewer connection allows for a greater assurance that removal of human waste is occurring. It reduces the likelihood of wastewater overflow which may occur in temporary toilets with tanks due to the requirement for regular emptying and maintenance of the tank.

Toilet locations

The location of a toilet is important in ensuring that workers can easily access and use the toilet as needed.

This is of particular concern in multistorey/high rise construction sites due to the distances between the storeys. In addition, cranes are used at these types of sites. The distance and effort required to reach the top of a crane on a construction site might mean that a crane

operator will spend their whole shift up in the cab without leaving. This is of particular relevance for tower cranes, which are the large cranes seen on building sites associated with tall buildings and they are often operated from a cab at the top of the crane. There are public health risks associated with this work if operators are not leaving the cab to go to the toilet and are using bottles, buckets or similar or trying to control their fluid intake to avoid using the toilet during a shift.

Where allowable locations and distances to the toilet are not specified, there is the risk that the location of the toilet will be too far away for staff to use when needed.

Where workers are at mobile, temporary or remote worksites where the site is only being used for a day or the workers move along during the day such as road construction, tree planting or rubbish collection there is a risk that the distances between workers and the toilet will be too great, particularly in situations where staff do not have access to a car. Poor toilet location may also discourage people from entering a profession or may reduce employment opportunities.

Wastewater overflows and other health emergencies

Where temporary non-sewered toilets are provided, there is the risk of wastewater overflow and other health emergencies. Assigning responsibility for dealing with wastewater overflow and other health emergencies is important to ensure that adverse outcomes are minimised due to timely responses.

In situations where a wastewater overflow or other health emergency occurs, the site manager is to ensure that the wastewater overflow or other health emergency is dealt with in a timely manner.

The Current Western Australian situation

As the responsible agency for the *Health (Miscellaneous Provisions) Act 1911*, the DOH has two sets of regulations that are currently used to manage the public health risks relating to inadequate sanitation provision at construction sites:

- *Health (Construction Work) Regulations 1973*,
- Part 3 of the *Health (Temporary Sanitary Conveniences) Regulations 1997*.

These regulations will be repealed once the *Public Health Act 2016* has been fully implemented and may need to be replaced depending on the feedback received in response to this discussion paper.

Health (Construction Work) Regulations 1973

The *Health (Construction Work) Regulations 1973* outline requirements in regard to the provision and maintenance of temporary sanitary facilities where construction work is being carried out on a structure that **exceeds 3 storeys**. Specifically the regulations:

- Prohibit construction work from commencing until temporary sanitary facilities (temporary toilets) are erected on site.
- Provide a ratio for the number of temporary toilets for staff.
- Require that the toilet should be connected to sewer should sewer be available, and if not, require that the tank is emptied regularly.
- Provide details on required capacity if sewer is not available.
- Provide maintenance requirements for temporary toilets.
- Specify where the temporary toilets should be located on a worksite by stating that temporary toilets shall be installed at a distance from a work place that does not exceed 90 metres or the height of 2 storeys (whichever is the lesser).

- Require temporary sanitary conveniences to be removed once permanent facilities are installed and approved by the local authority.

Part 3 of the Health (Temporary Sanitary Conveniences) Regulations 1997

Part 3 of the *Health (Temporary Sanitary Conveniences) Regulations 1997* deals with ‘Sanitary conveniences in relation to sites of work on the construction, erection, installation, alteration, repair, maintenance, cleaning, painting, renewal, removal, excavation, dismantling or demolition, of, or in addition to, any building or structure that **does not exceed 3 storeys..**’

Specifically the regulations:

- Require that toilets need to be provided and maintained.
- Provide a ratio of the number of toilets required based on the number of employees.
- Provide details on the allowable location of the toilets, stating ‘the toilet must be situated within 90m of the work place from the person for whom it is required’ as well as stating where it is allowed on site in relation to the surrounding environment.
- Provide allowances for contiguous sites of works.
- Provide details on allowable types of toilets.
- Provide details on facility requirements, specifically related to women.
- Provide details on who is responsible for the servicing and maintenance of the toilet, the maintenance schedule and what to do in the case of a sewerage spill.

Other relevant legislation

In addition to the DOH regulations the following regulations, codes of practice and guidelines inform the management of public health risks associated with the provision of toilets and washbasins at construction sites. These pieces of legislation are not currently up for repeal.

Occupational Safety and Health Regulations 1996 (WA)

The Department of Mines, Industry Regulation and Safety (DMIRS - formerly the Department of Commerce) is the responsible agency for the [Occupational Safety and Health Regulations 1996](#) and WorkSafe WA enforces these regulations. Regulation 3.20(2) states that ‘A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that there are provided at the workplace for the use of persons working at the workplace —

- a) Reasonable sanitary facilities, having regard to the reasonable requirements of the persons working at the workplace; and
- b) Convenient access to sanitary facilities; and
- c) Any other facility if the safety or health of a person working at the workplace would be at risk if the facility were not provided.’

In this regulation, ‘other facility’ refers to an area for the changing of clothes, showering, eating, drinking or resting and ‘sanitary facilities’ means toilets (including urinals), hand-wash basins and units for the disposal of sanitary items.

These regulations define ‘construction site’ as a workplace at which construction work is done and includes any adjoining area where plant or other materials used or to be used in connection with that work are located or kept and over which the main contractor has control for the purpose of doing the construction work.

This definition of construction site implies a crossover between these regulations and the requirements of the DOH regulations. This indicates that on repeal of the DOH regulations, the

risk of a toilet and wash basin not being provided on a construction site or mobile, temporary or remote worksites and the associated public health risks are low.

Mines Safety and Inspection Regulations 1995 (WA)

DMIRS are the responsible agency for the [*Mines Safety and Inspection Regulations 1995*](#). Regulation 7.12 states that 'Each responsible person at a mine must ensure that suitable sanitation and hygiene facilities are provided at the mine and that those facilities are properly maintained'. Regulation 7.13 states that 'Each responsible person at a mine must ensure that appropriate toilet facilities are provided within a reasonable distance from each workplace at the mine'.

These regulations indicate that on repeal of the DOH regulations, the risk of a toilet and washbasin not being provided and associated public health risks on a mine site (as a mobile, temporary or remote worksite) are low.

WA Code of Practice for Workplace Amenities and Facilities 2002

The Minister for Commerce and Industrial Relations approves codes of practice under section 57 of the *Occupational Safety and Health Act 1984* (OSH Act). After approval takes place, a code applies to all workplaces in WA covered by the OSH Act.

A code of practice is described in the OSH Act as a document prepared for the purpose of providing:

- Practical advice on preventive strategies; and
- A practical means of achieving any code, standard, rule, provision or specification relating to occupational safety and health in WA.

A code of practice may contain explanatory information. The preventive strategies outlined do not represent the only acceptable means of achieving a certain standard.

The [*Code of Practice for Workplace Amenities and Facilities*](#) is an approved code of practice under the OSH Act. A code does not have the same legal force as an Act or a regulation and non-compliance with this code is not sufficient reason, of itself, for prosecution under the OSH Act. However, during a prosecution case, codes may be used by the courts as the standard when assessing methods or practices used at a workplace.

This Code of Practice states that consideration needs to be given to how highly mobile workers who work away from a base location, such as bus and transport drivers, police, council and government inspectors and security personnel, can access toilets.

In addition, reasonable access to toilet facilities needs to be provided for workers at temporary or outdoor work sites such as those carrying out road maintenance, construction workers, emergency services personnel, park rangers and gardeners, bridge builders, rural workers, seasonal workers and loggers. Other examples of workers who need access to toilets include cleaners, security personnel, sales representatives, and delivery personnel. This may be in the form of access to public toilets.

Toilets should:

- Be separated from any other room by a soundproof wall, or by a reasonable distance, and by a separate entrance that is clearly marked;
- Be separated from another room by an airlock;
- Be provided with adequate lighting and ventilation;
- Be supplied with toilet paper;
- Incorporate a stable toilet pan that is fitted with a seat and lid;

- Provide an adequate and hygienic means for the disposal of sanitary items for female workers;
- Provide an adequate means of washing and drying hands; and
- Provide rubbish bins for the disposal of hand towels.

Reasonable access to toilet facilities needs to be provided at temporary or outdoor work sites such as construction sites, workplaces away from base locations or remote areas where a sewer connection is not available. The code specifies that the structural design of a temporary toilet must comply with the *Building Code of Australia* and the *Health (Temporary Sanitary Conveniences) Regulations 1997*.

Building Regulations 2012 (WA)

DMIRS are the responsible agency for the [Building Regulations 2012](#). The [Building Act 2011](#) and its subsidiary regulations adopt the National Construction Code as the code for how buildings should be constructed in WA.

Regulation 41(4) of the 2012 regulations states that ‘A builder who constructs, erects, assembles or places a temporary office, shed or sanitary facility [...] must not, without the written approval of the permit authority, allow the office, shed or sanitary facility to remain on the land after the completion of the building work in connection with which it was constructed, erected, assembled or placed.’

These regulations do not require a building permit for the construction, erection or assembly of a sanitary facility to be used by a building in connection with building work carried out on the land on which the sanitary facility is, or is proposed to be, located.

This indicates that on repeal of the DOH regulations, the risk of a temporary toilet remaining on site and the associated public health risks are low.

Hire and Rental Industry Association Ltd Portable Toilets Division Code of Practice – Guidelines for the provision of portable toilets on construction sites and at events where connection to a sewer is not practical 2015

This industry [Code of Practice](#) (HRIA COP) sets a minimum standard for portable toilets including manufacture, delivery and collection, on-site use and servicing. The HRIA COP places emphasis on hygiene and safety for public users and personnel who transport, service and maintain these units.

It provides details on the provision of temporary toilets on construction sites as shown in Table 1 and Table 2 below. The HRIA COP does not specify any details relating to Accessible Temporary Toilets.

Table 1 Pump out schedules at construction sites dependent on toilet type

Construction Site Toilet type	Best Practice	Acceptable
Fresh Water Flush (FF)	Weekly full pump and reset	Fortnightly pump and reset
Open Closer (straight drop) (SD)	Fortnightly pump and reset	Fortnightly pump and reset
Chemical Recirculating Flush (RF)	Not Suitable for Construction Site	Not suitable for Construction Site

Table 2 Recommended toilet numbers based on servicing schedule and number of people on site

No. of People on Site	No. of Toilets based on Weekly Service	No. of Toilets based on Fortnightly Service
1 – 5	1	1
6 – 10	1	2
11 – 20	2	4
21 +	Add 1 toilet for every 10 additional people	Not recommended

The HRIA COP is widely accepted by the temporary toilet industry, with the suggested numbers and pump out timeframes determined through industry consultation; however there is no consequence if providers fail to comply.

If the maintenance schedule within the HRIA COP is followed, on repeal of the DOH regulations the risk of inadequate maintenance of temporary toilets provided on Construction Sites is low.

Disability Discrimination Act 1992 (Commonwealth)

This Commonwealth Act cannot be enforced by the DOH however it is a tool for patrons with disabilities to use when facilities do not meet their needs.

This Act makes it unlawful for access to premises to not be provided to persons with a disability; where premises include:

- (a) a structure, building, aircraft, vehicle or vessel; and
- (b) a place (whether enclosed or built on or not); and
- (c) a part of premises (including premises of a kind referred to in paragraph (a) or (b)).

Lack of provision of adequate toilets for employees or visitors at construction sites and mobile, temporary or remote worksites is likely to mean that the site owner or manager may be liable for prosecution under this Act. Therefore the risk of provision of inadequate toilets on construction sites and mobile, temporary or remote worksites, particularly in relation to accessible toilets, on repeal of the DOH regulations is likely to be low.

The Human Rights Commission is the agency that deals with complaints made under the [Disability Discrimination Act 1992](#). They received one complaint from 2011 – 2016 relating to inadequate accessible temporary toilet design, construction and location. This low number of complaints suggests people with a disability are not using this mechanism to raise concerns.

The DOH ran a survey to assess if this low number of complaints were representative of the lived experience for people with disability. The survey assessed if the designs of two of the most common accessible temporary toilets are working for persons with disability.

The survey was conducted from 1 December 2016 to 3 March 2017 (the WA summer). The [survey results](#) indicated that in general the provision of accessible temporary toilets at WA events is not adequate with 59% of respondents indicating that they are never or not really adequate and 69% of respondents indicating that they have been to an event where they could not go to the toilet as the toilet was not suitably designed for them.

The survey identified that the two designs (Style A - Figure 1 and Style B - Figure 2) included are not catering to the needs of persons with severe disability, continence requirements or persons who require carers. Areas of concern that were identified from the survey include:

- Door width such that wheelchair could not enter the toilet
- Door width circulation space such that patron could not manoeuvre around the toilet with the door shut
- Having to place toileting items on an unclean floor due to no provision of shelves or other storage options for medical supplies and other items
- Not being able to change clients due to no provisions of adult changing options (such as adult change table)
- Issues with toileting due to there not being room for more than one person to be in and manoeuvre in the toilet with the door closed
- Issues with toileting due to lack of adequate transfer options (Left, right or front self-transfer, multiple person transfer or hoist options)
- Issues with toileting due to flimsy/inadequately designed grabrails
- Issues with toileting due to the heights and locations of items such as soap dispensers
- Issues with toileting due to the flushing and washbasin mechanisms (the force needed to use them, lack of leg space underneath and the fact that they are sometimes foot operated)
- Issues related to privacy when using the toilet (separation for the carer and toilet user)
- Issues related to privacy due to lack of options for carers to go to the toilet if the person they are caring for cannot be left alone
- Issues with access due to presence of steps or ledges, door locking mechanisms or other issues with access and egress
- Issues in emergency situations due to lack of emergency options.



Figure 1 WA accessible temporary toilet Style A
(Photo DOH Dec 2016)



Figure 2 WA accessible temporary toilet Style B
(Photo DOH Dec 2016)

Safe Work Australia: Model Work Health and Safety Laws

Safe Work Australia is an Australian Government statutory agency established in 2009. It is a national policy body, rather than a regulator of work health and safety. Safe Work Australia has created model work health and safety laws to provide options for a harmonised approach to work health and safety across Australia. The models include a *Work Health and Safety Act*, *Work Health and Safety Regulations* and Codes of Practice.

In late 2016, WorkSafe WA informed the DOH that it had recently completed a public consultation process for the creation of a WA specific version of the Work Health and Safety Regulations, however the outcome of this process has not been finalised.

The Model Code of Practice for construction work is the relevant code of practice for sanitation provision on construction sites and mobile, temporary or remote worksites.

Safe Work Australia: Model Work Health and Safety Regulations November 2016

These regulations, if adopted, require the provision and maintenance of adequate and accessible facilities (section 41). Specifically:

- (1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, the provision of adequate facilities for workers, including toilets, drinking water, washing facilities and eating facilities.
- (2) The person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that the facilities provided under subregulation (1) are maintained so as to be:
 - (a) in good working order; and
 - (b) clean, safe and accessible.
- (3) For the purposes of this regulation, a person conducting a business or undertaking must have regard to all relevant matters, including the following:
 - (a) the nature of the work being carried out at the workplace;
 - (b) the nature of the hazards at the workplace;
 - (c) the size, location and nature of the workplace;
 - (d) the number and composition of the workers at the workplace.

Safe Work Australia: Construction Work Model Code of Practice July 2012

The Construction Work Code of Practice (Safe Work Australia, 2012) was created by Safe Work Australia as a model code of practice under the Council of Australian Governments' *Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety* for adoption by the Commonwealth, State and Territory governments. WA has not adopted the code of practice; however it has been adopted by the Australian Capital Territory (ACT), New South Wales (NSW) and the Northern Territory (NT).

The model code of practice can be used for guidance to see what the construction industry recommends. The sanitation requirements are as summarised below:

A person conducting a business or undertaking must ensure, so far as is reasonably practicable:

- The provision of adequate facilities for workers, including toilets, drinking water, washing facilities and eating facilities, and
- That the facilities are maintained in good working order and are clean, safe and accessible.
- When providing facilities, all relevant matters must be considered, including:
 - the nature of the work being carried out at the workplace
 - the nature of the hazards at the workplace
 - the size, location and nature of the workplace
 - the number and composition of the workers at the workplace.

For workplaces within buildings, the National Construction Code of Australia sets out the ratio of toilets to the number of workers, and the specifications for toilets. Generally, separate toilets

should be provided in workplaces where there are both male and female workers. However, one unisex toilet may be provided in workplaces with both male and female workers where:

- the total number of people who normally work at the workplace is 10 or less
- there are two or less workers of one gender.

Any female toilet, including unisex facilities, should have adequate means for disposing of sanitary items.

This Code of Practice covers a number of the public health risks identified by the DOH. Should this Code of Practice be endorsed by WorkSafe WA then on repeal of the current DOH regulations many of the public health risks would be mitigated.



Other Australian Jurisdictions

Australian Capital Territory, New South Wales, Northern Territory, South Australia and Tasmania

ACT [Work Health and Safety Regulations 2011](#)

NSW [Work Health and Safety Regulation 2017](#).

NT [Work Health and Safety \(National Uniform Legislation\) Regulations 2017](#)

SA [Work Health and Safety Regulations 2012](#).

TAS [Work Health and Safety Regulations 2012](#).

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, the provision of adequate facilities for workers, including toilets, drinking water, washing facilities and eating facilities.

ACT, NSW and NT have all adopted the national Model Code of Practice. In ACT it is titled the [Work Health and Safety \(Managing the Work Environment and Facilities\) Code of Practice 2011](#), in NSW, it is titled the [Construction work code of practice 2014](#) and in the NT it is the [Construction Work Code of Practice](#).

Queensland

In Queensland construction sites are regulated through the [Work Health and Safety Regulation 2011](#). Part 2 of schedule 5A 'Principal contractors – particular amenities for construction work' provides specific details about toilets including:

- Numbers of toilets to be provided
- Location requirements for the toilets, with specific requirements for multistorey buildings
- What type of toilet is required and when (sewerage connected or portable)
- When connection to sewer is required (within 2 weeks of sewer becoming available)
- Privacy, ventilation and toilet paper requirements.
- Sanitary bin requirements

Victoria

There are no regulations regarding the provision of toilets on construction sites and mobile, temporary or remote worksites.



Options to manage sanitation provision and maintenance at construction sites and mobile, temporary or remote worksites

The Department has identified four options for the manage sanitation provision and maintenance at construction sites and mobile, temporary or remote worksites.



Option 1 – Retain status quo;

In this option retaining status quo would involve replicating the current *Health (Construction Work) Regulations 1973* and Part 3 of the *Health (Temporary Sanitary Conveniences) Regulations 1997* management systems across to the *Public Health Act 2016*.

This option means that DOH will retain regulations which overlap regulatory responsibility with the enforcement agency for the *Occupational Safety and Health Regulations 1996*. It would also mean that site managers would have multiple sets of regulatory requirements that they need to meet. This approach is inconsistent with other states and territories.

Option 2 – Repeal without Replacement

In this option the DOH would repeal the *Health (Construction Work) Regulations 1973* and Part 3 of the *Health (Temporary Sanitary Conveniences) Regulations 1997* without replacement.

By repealing without replacement the DOH would be leaving a number of public health risks without any form of management measure in place. These include:

- The requirement to connect the toilet to sewer if and when sewer becomes available
- Minimum allowable distances between worker and toilet
- The ratio of number of toilets required for workers of each gender
- The types of toilets allowable on a construction site
- The types of toilets required at mobile, temporary and remote worksites
- Responsibility and offence details related to wastewater overflow

This option has the potential to reduce the ability for DOH and its enforcement agencies to have input when public health risk management relating to sanitation provision on construction sites and mobile, temporary or remote worksites fails.

In this option the provision of toilets and washbasins on construction sites and mobile, temporary or remote worksites would be informed by the following Acts, guidelines and codes:

- *Mines Safety and Inspection Regulations 1995*
 - Requiring toilets to be provided at mine sites (as a worksite)
- Hire and Rental Industry Association Code of Practice
 - Providing details on the numbers of toilets required at a construction site
- *Disability Discrimination Act 1992*
 - Requiring that an accessible temporary toilet would need to be provided if required.

Option 3 – Repeal and replace with regulations

In this option the DOH would repeal the *Health (Construction Work) Regulations 1973* Part 3 of the *Health (Temporary Sanitary Conveniences) Regulations 1997* and develop regulations under the *Public Health Act 2016* for the provision of toilets on construction sites and mobile, temporary or remote worksites. Regulations are a legal instrument that can be made under the *Public Health Act 2016* in order to prescribe or provide for all matters specifically required.

This option is a high level of legislation for a low to medium public health risk activity and does not reduce the number of regulations that the construction industry need to comply with. It does allow for the use of *Public Health Act 2016* enforcement tools such as infringement notices, improvement notices and enforcement orders.

Regulations would allow for enforceable DOH requirements for provision of toilets on construction sites and mobile, temporary or remote worksites which are not contained within other guidelines, codes or regulations.

Option 4 – Repeal and replace with a guideline

In this option the DOH would repeal the *Health (Construction Work) Regulations 1973* and Part 3 of the *Health (Temporary Sanitary Conveniences) Regulations 1997* and develop a DOH guideline for the provision of toilets on construction sites and mobile, temporary or remote worksites.

This is the Department's preferred option for ensuring management of the public health risks associated with sanitation provision on construction sites and mobile, temporary or remote worksites for the following reasons:

- It reduces the number of regulations that the construction industry needs to comply with.
- It removes the duplication of regulations currently occurring
- It provides consistency with other states and territories
- It allows for the DOH to have input into the provision of toilets on construction sites including DOH specific requirements not contained within other guidelines, codes or regulations such as:
 - Ratios of number of toilets required based on employee numbers and gender of employees.
 - Allowable distances between employee and toilets
 - Allowable toilet types based on employee abilities
- It would ensure that wastewater overflows are dealt with correctly
- It provides clarification on the toilet provision requirements for mobile, temporary or remote worksites which currently do not have guidance
- It gives the DOH and its enforcement agencies to have the ability to have input when public health risk management relating to sanitation provision on construction sites and mobile, temporary or remote worksites fails.
- It provides clarification about the application of the general public health duty.
- It allows the DOH to provide public health risk specific guidance on the provision of toilets on construction sites and mobile, temporary or remote worksites.

A public health guideline would provide guidance on how to manage the public health risks by providing information on:

- Provision and maintenance of toilets and washbasins
- Allowable toilet types
- Allowable toilet construction
- Allowable distances between workers and toilets

- Numbers of toilets needed at a site
- What to do in the case of a wastewater overflow

Public Health Guideline

The DOH has written a draft public health guideline which is provided in conjunction with this discussion paper. It is proposed that this guideline will be released by the DOH and become the main public health related guidance document once the *Health (Construction Work) Regulations 1973* and Part 3 of the *Health (Temporary Sanitary Conveniences) Regulations 1997* are repealed.

Consultation Questions

Questions relating to the options considered

Question 1

Workers at construction sites and mobile, temporary or remote worksites face the public health risks if the following are not managed correctly:

1. Provision and maintenance of toilets
2. The types of toilets provided and their design
3. The numbers of toilets provided (including ratio of female/male facilities)
4. The locations of toilets provided
5. Wastewater overflows and other health emergencies

Are there other situations that the DOH has not considered which may pose public health risks for workers?

Question 2

Do you agree with the DOH's preferred proposal to create a public health guideline for sanitary provision at construction sites and mobile, temporary or remote worksites?

If not, which of the other options do you prefer?

Do you have a suggestion for an alternative option(s)?

Question 3

Do you have any feedback on anything that might have been overlooked or missed as part of this review?

Guideline related questions

Question 1

The draft guideline will apply to construction sites and mobile, temporary or remote worksites.

A mobile, temporary or remote worksite is a non-permanent worksite that is not located in a town or city where there are no toilet facilities within a 2 km radius of that site.

Do you agree with the definition of mobile, temporary or remote worksites?

If you don't agree with the definition, please provide further information on why not and what amendments you believe are required.

Question 1a

Mobile, temporary or remote worksites could include:

- Roadside clean up, road works or road maintenance works
- Tree planting or other natural resource management work
- Archaeological digs
- Geological surveys or other mining exploration related work
- Fruit picking/seasonal farm work.

Do you agree with the included worksites?

Are there any types of worksites that have been missed?

Question 2

The guideline would not apply to:

- Operational minesites (minesites under construction are classified as construction sites).
- A permanent worksite located in a remote area
- A worksite that involves multiple locations located more than 500m apart that will be visited by a worker at various times throughout the working day (e.g. groundwater sampling sites)
- Employer provided accommodation
- Remote construction sites (these are captured by the construction site definition)

Do you agree with the above?

Are there any types of worksites that have been missed?

Question 3

The guidelines require the numbers of toilets to be provided (below - based on the Safe Work Australia Construction Work Model Code of Practice):

- 1 toilet per 15 males (or fraction of)
- 1 urinal per 20 males (or fraction of – where there are more than 10 employees)
- 1 toilet per 10 females (or fraction of)

Do you agree with these proposed toilet numbers?

Question 4

When a temporary toilet that is not connected to a sewer is provided, it is to be a Fresh Water Flush or Straight Drop Toilet (in line with the HRIA COP)

Do you agree that Fresh Water Flush and Straight Drop temporary toilets are to be used on construction sites and mobile, temporary or remote worksites where connection to a sewer is not practical?

Question 5

Do you agree that site managers should consider the provision of accessible facilities for construction sites and mobile, temporary or remote worksite and provide accessible facilities where required?

Question 6

Do you agree that site managers are to connect a temporary toilet to the sewer within two weeks of the sewer becoming available?

Question 7

Do you agree that any toilet provided is to be maintained in a clean and serviceable condition?

Question 8

Pump out rates as follows are recommended

Construction Site Toilet type	Best Practice	Acceptable
Fresh Water Flush	Weekly full pump and reset	Fortnightly pump and reset
Open Closer (straight drop)	Fortnightly pump and reset	Fortnightly pump and reset

Do you agree with the recommended pump-out rates?

Question 9

Site managers are to ensure that toilets provided will be able to withstand the conditions on site for the duration of the work. When an issue arises due to the construction of the toilet the site manager is to fix or replace the toilet as required.

Do you agree with this proposal?

Question 10

Do you agree that Standard temporary toilets are to be provided on any construction site in line with the *Occupational Safety and Health Regulations 1996* and the *WA Code of Practice for Workplace Amenities and Facilities 2002*?

If not – what should the DOH require in regards to standard temporary toilets?

Question 11

Do you agree with the requirement for toilets to be located within 100 m of construction workers?

Do you agree that when a construction site is a multistorey building a toilet is to be located on every second floor?

Question 12

Where a construction site has a tower crane, site managers are to consider providing a fast access option to crane operators, such as a construction hoist, to give operators quick access to toilets. In situations where this is not feasible, site managers should consider the provision of toilet breaks during a shift where they can leave the cab every 1 - 2.

Do you agree with this proposed standard for cranes?

Question 13

A Standard Temporary Toilet is to be provided on a mobile, temporary or remote worksite where there is not a toilet facility within 2 km of the site.

Standard Temporary Toilets are to be provided on a mobile, temporary or remote worksite where:

- there is not a toilet facility within 2 km of the site or

- where the workers do not have access to a means of transport to travel to the toilet facility.

Do you agree with this proposed standard for mobile, temporary or remote worksites?

Question 14

Where staff do not have access to a car or transport, a toilet is to be provided within 200 m of the main site of work. If staff have access to a car or transport, a toilet is to be provided within 2 km of the main site of work.

Do you agree with this proposed standard?

Question 15

The guidelines propose the inclusion of the following 'Site managers are to remove the toilet once construction is completed in accordance with the requirements of the *Building Regulations 2012*.'

Do you agree with this inclusion?

Question 16

In situations where a wastewater overflow or other health emergency occurs, the site manager is to ensure that the wastewater overflow or other health emergency is dealt with in a timely manner.

Do you agree with this inclusion?

Question 17

This guideline sets out the generally accepted practices relating to the provision of toilets and washbasins on construction sites and mobile, temporary or remote worksites. Where a site manager or equivalent fails to follow these generally accepted practices, this may be considered a failure to comply with the general public health duty. This may constitute grounds for action to be taken under the Public Health Act, including the issue of an improvement notice or enforcement order.

Do you agree with this inclusion?

Glossary

Word	Definition
Construction site	Any piece of land when construction work is being undertaken.
Construction work	<p>Any work carried out in connection with the construction, alteration, conversion, fitting-out, commissioning, renovation, repair, maintenance, refurbishment, demolition, decommissioning or dismantling of a structure. It does not include any of the following:</p> <ul style="list-style-type: none"> A. the manufacture of plant; B. the prefabrication of elements, other than at a place specifically established for the construction work, for use in construction work; C. the construction or assembly of a structure that once constructed or assembled is intended to be transported to another place; D. testing, maintenance or repair work of a minor nature carried out in connection with a structure; E. mining or the exploration for or extraction of minerals.
Mobile, temporary or remote worksite	<p>This is a non-permanent worksite that is not located in a town or city where there is not a toilet facilities within a 2 km radius of that site. It is a site where people have been employed (this could be paid employment or volunteer employment) and they will remain on that site for the period of the working shift.</p> <p>Examples of mobile, temporary or remote worksites include:</p> <ul style="list-style-type: none"> • Roadside clean up, road works or road maintenance works • Tree planting or other natural resource management work • Archaeological digs • Geological surveys or other mining exploration related work <p>For the purposes of this paper mobile, temporary or remote worksites do not include:</p> <ul style="list-style-type: none"> A. A permanent worksite located in a remote area B. A worksite that involves multiple locations located more than 500m apart that will be visited by a worker a various times throughout the working day (e.g. groundwater sampling sites) C. Remote construction sites (as they are covered by the construction site definition)
Sanitation provision	<p>Where a way to remove human waste is provided. This is mainly done through the provision of toilets and handwashing facilities.</p> <p>Other sanitation related terms include: Water Closet, Closet Pan, Sanitary Compartment, Sanitation Facilities and Ablution Facilities.</p>
Temporary Toilet	<p>A portable toilet of a temporary nature that is designed and constructed so that –</p> <ul style="list-style-type: none"> • it may be connected to the sewerage system on a temporary basis; or • it is connected to a sewage storage tank.

Word	Definition
Standard Temporary Toilets	Temporary toilets designed for able-bodied patrons.
Accessible Temporary Toilets	Temporary toilets designed for patrons with disability who have greater access requirements such as wheelchairs, walking aids or require carer assistance.



References

- Australian bureau of statistics. 2013. *4430.0 - Disability, Ageing and Carers, Australia: Summary of Findings, 2012* [Online]. Canberra: Australian Government. Available: <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/3A5561E876CDAC73CA257C210011AB9B?opendocument> [Accessed 12 August 2016].
- Safe work australia 2012. *Construction Work Model Code of Practice*.



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