

**NSW Government Response to Report No. 1/55 of the Legislative Assembly Committee on Environment and Regulation – Inquiry in to the Regulation of Domestic Wastewater.**

**Recommendation 1: Support-in-Principle**

The NSW Food Authority will continue to keep abreast of the latest research and standard development activities being undertaken in shellfish, ensuring requirements for shellfish harvest are nationally consistent, appropriate for local conditions and adhere to NSW better regulation principles. The NSW Food Authority will also continue to monitor for heavy metals in shellfish harvest areas. Where the budget permits, the NSW Food Authority will explore funding opportunities for shellfish food safety research.

**Recommendation 2: Support**

The *Food Regulation 2010* establishes the NSW Shellfish Committee to provide advice to the Minister for Primary Industries and the NSW Food Authority on operational matters relating to the NSW Shellfish Program. The NSW Food Authority will continue to share knowledge and information with industry through such avenues as the NSW Shellfish Committee, workshops, seminars and conferences.

**Recommendation 3: Note**

Subject to the outcomes of the Independent Local Government Review Panel and the Local Government Acts Taskforce.

**Recommendation 4: Agree not to pursue**

Although the Committee put forward a recommendation to amend the definition of 'food' in the *Food Act 2003 (NSW)*, paragraph 3.66 of Report 1/55 notes that it was the Committee's opinion that the current definition of 'food' is adequate and an amendment was only suggested to resolve any doubt.

The current definition of 'food' in the *Food Act 2003 (NSW)* sufficiently enables authorised officers to seize and seek withdrawal of food from the market place and/or place prohibition orders on a food business including the unharvested food crops of a business.

**Recommendation 5: Note**

The NSW Food Authority currently acts promptly and uses appropriate powers to ensure food safety standards when notified of improper practices. The NSW Food Authority has received two enquiries relating to horticultural crop contamination. The NSW Food Authority worked with the relevant councils, NSW Health and the Food Regulation Partnership State liaison group to address the issues.

**Recommendation 6: Not supported**

The *Protection of the Environment Operations Act 1997 (POEO Act)* requires the notification of any pollution incidents to be reported to the appropriate regulatory authority. Issues relating to food safety can be reported to the NSW Food Authority.

The NSW Food Authority has an existing relationship with local councils, the Food Regulation Partnership, and will use the Partnership's Forum to encourage councils to report incidents of crop contamination with human sewage promptly to the NSW Food Authority to protect public health. The establishment of an expert panel is not needed.

**Recommendations 7 – 11: Note**

Subject to the outcomes of the Independent Local Government Review Panel and the Local Government Acts Taskforce.

**Recommendation 12: Not supported**

The Environment Protection Authority (EPA) and councils already have powers to use clean-up and prevention notices to rectify or prevent pollution from on-site sewage systems under Part 4.2 and 4.3 of the PEOA Act. In addition, incidents from on-site sewage treatment systems that meet the definition of 'material harm' as defined in Part 5.7 of the POEO Act must already be reported to the EPA, local councils and three other agencies (as relevant authorities under the Act). If the incidents are not considered to have caused or have the potential to cause 'material harm' then the immediate notification requirements do not apply. Specifying the types of incidents that a notice could be used to address would most likely be counterproductive and restrict the use of these instruments into the future.

The EPA does not consider that the Act needs to be amended to enable councils to manage pollution incidents from sewage management systems.

**Recommendations 13 and 14: Note**

Subject to the outcomes of the Urban Water Review, which will review the *Water Industry Competition Act 2006* and the *Local Government Act 1993*.

**Recommendations 15 – 18: Note**

Subject to the outcomes of the Independent Local Government Review Panel and the Local Government Acts Taskforce.