



**muswellbrook
shire council**

Muswellbrook Shire Council

ORDINARY COUNCIL MEETING

SUPPLEMENTARY BUSINESS PAPER

13 JUNE 2017



Order of Business

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19.6	FUTURE FUND AND SEWER FUND BORROWING FACILITIES <i>Item 19.6 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.</i>	

10 ENVIRONMENTAL SERVICES

10.2 REGIONAL CONTAMINATED LAND POLICY

Attachments:	A. Regional Contaminated Land Policy
Responsible Officer:	Fiona Plesman - Director - Planning, Community & Corporate Services
Author:	Donna Watson - Development Planner
Community Plan Issue:	<i>Progressive leadership</i>
Community Plan Goal:	<i>That Muswellbrook Shire is well led and managed</i>
Community Plan Strategy:	<i>Sound policy development</i>

PURPOSE

The report has been prepared to consider adopting the Regional Contaminated Land Policy prepared by Hunter Councils.

OFFICER'S RECOMMENDATION

Council approves the following:

1. **The Regional Contaminated Land Policy be placed on public exhibition for a minimum of 28 days.**
2. **A further report be prepared for Council at the conclusion of the public exhibition period.**

Moved: _____ **Seconded:** _____

BACKGROUND

Council currently has a Contaminated Land Policy which was adopted in 2010. Since the adoption of this policy, there have been changes to legislation and best practice processes regarding dealing with contaminated land.

The Hunter Joint Organisation of Councils received funding from the NSW Environmental Trust for a Regional Program Manager – Contaminated Lands in 2015. The purpose of the position is to liaise with Council's and provide guidance and feedback with regard to contaminated lands.

One of the projects associated with this position was to prepare a Regional Contaminated Land Policy for Council's to consider adoption in order to provide regional consistency.

REPORT

Since the adoption of Council's Contaminated Land Policy in 2010, there have been changes to the National Environmental Protection Measures (NEPM), Contaminated Land Management Act and Regulations. As a result, the current policy is out date and needs to be reviewed to be compliant with the requirements of the applicable legislation.

The Hunter Joint Organisation of Council's Regional Program Manager – Contaminated Lands has prepared a Regional Contaminated Lands Policy which will provide a regional consistency with regard identifying and managing contaminated land / sites.

In this regard, the main purpose of the Regional Contaminated Land Policy is to provide a framework for Council to appropriately manage land contamination through the land use planning process, and in doing so, ensure Council acts in “good faith” with its legislative obligations.

The Policy sets out the preferred practice of Council Officers in relation to:

- *Identifying, evaluating and managing contaminated land through the land use planning process*
- *Recording, managing and disclosing contaminated land information*
- *Reporting contamination to the NSW EPA*
- *Preventing or minimising the potential for contamination.*

From the restructure of Council in September 2015, the previous position of Manager Environment and Natural Resources, was removed from the Organisational Chart. In this regard, Council's Planning and Regulatory Services Department, who is predominately responsible for identified, reviewing and managing contaminated land and sites, does not have the resources to undertake a review of the policy to ensure compliance with applicable legislation.

The Regional Policy incorporates a range of areas relating to contaminated land and provides for regional consistency when dealing with contamination matters. Below is an extract from the Policy which outlines the key areas.

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Muswellbrook Shire Council currently has identified 417 contaminated sites which have varying degrees of contamination. These properties are listed on Council's Contaminated Land Geographic Information System. Of the 417 known sites, 16 of these are under Council's ownership / control.

With the adoption of the regional policy there will be clearer guidance for Council staff and the public with regard to the legislative requirements for identifying and managing contaminated land / sites.

Further to this, the Environmental Protection Agency (EPA) will be transferring responsibility of regulation and compliance of all Underground Petroleum Storage Systems (UPSS) to Council in July 2019. This will require staff to undertake regular compliance inspections of all UPSS sites which the EPA has identified.

With the responsibility of the UPSS compliance being transferred to Council, there will be additional sites which were not identified by EPA which will require upgrade work in order to achieve compliance. The Regional Policy, attached, does not include a UPSS component, however when the Regional Policy is reviewed this will be included.

CONCLUSION

It is recommended that Council support the adoption of the Regional Contaminated Land Policy as it will:

- Ensure a regional approach and provide consistency between Council's;
- Ensure that changes in land use will not increase the risk to human health or the environment;
- Consider the likelihood of land contamination as early as possible in the planning and development control process;
- Link decisions about the development of land with the information available about possible contamination;
- Ensure Council exercise its functions relating to the development of contaminated land with a reasonable standard of care and diligence;
- Ensure that site investigations and remediation works are carried out in a satisfactory manner, and where appropriate, are independently verified by a Site Auditor;
- Avoid inappropriate restrictions on land use arising from contamination; and
- Provide information to support decision making, and to inform the community of potential restrictions on property arising from contaminated land matters.

It is therefore recommended that Council place the Regional Contaminated Land Policy on public exhibition for a minimum of 28 days.

SOCIAL IMPLICATIONS

The public exhibition of this policy will not have any social implications for Council.

FINANCIAL IMPLICATIONS

The Hunter Joint Organisation of Council's has sought additional funding from the members of Hunter Council's in order to further extend the Regional Contaminated Land Program for a 12month period. A proposal was discussed at the May 2017 General Managers Advisory Committee (GMAC) meeting. Following on from this meeting, Muswellbrook Shire Council has agreed to contribute \$11,000 towards this program.

This money will be allocated in the 2017/2018 budget.

POLICY IMPLICATIONS

By supporting the public exhibition of the Regional Policy, Council will therefore be providing a valuable tool to ensure and demonstrate adherence to the Planning Guidelines and applicable legislation. The adoption and implementation of the policy will directly assist Councils to ensure they act in "good faith" with their legislative obligations.

STATUTORY IMPLICATIONS

There are no statutory implications relating this policy.

LEGAL IMPLICATIONS

There are no legal implications for Council relating to this policy. However, it is recommended that the policy be adopted in order to provide a consistent regional approach to contaminated land.

OPERATIONAL PLAN IMPLICATIONS

There are no direct links to Council's Operational plan which requires a Contaminated Land Policy.

RISK MANAGEMENT IMPLICATIONS

There is no associated risk management implications for Council at this stage.

Regional Contaminated Land Capacity Building Program

Hunter
Joint Organisation
Councils



MODEL Regional Contaminated Land Policy - Land Use Planning

APRIL 2017

This publication was produced by the Hunter Joint Organisation of Councils



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Disclaimer

The development of this Model Contaminated Land Policy has been coordinated by the Hunter Joint Organisation of Councils. It is designed as a model for Councils to consider when developing their Contaminated Land Policy. The content of this model policy is current at the time of publication. While every effort has been made to ensure accuracy and completeness, no responsibility is taken, nor guarantee given, by the Hunter Joint Organisation of Councils with respect to errors or omissions in the materials contained in the model policy. The contents do not constitute legal advice, are not intended to be a substitute for legal advice, and should not be relied upon as such. The Hunter Joint Organisation of Councils does not accept any responsibility or liability in regard to your use of any information given in this model policy.

FOREWORD

The appropriate management of contaminated land is important to protect human health and the environment. Since contaminated land can restrict the development and certain uses of land it has economic, legal and planning implications for the community and for regulatory authorities.

Contaminated land in New South Wales (NSW) is primarily managed through two avenues:

1. Sites where contamination is considered significant enough to warrant regulation are the management responsibility of the NSW Environment Protection Authority (EPA) through the powers provided to it under the *Contaminated Land Management Act 1997*.
2. Other sites are managed by Councils via land use planning instruments, through the powers provided to it under the *Environmental Planning and Assessment Act 1979*.

Why develop a Local Contaminated Land Policy?

The NSW Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land 1998 (“the Planning Guidelines”) strongly recommend that “each local council develop and adopt a formal policy for managing land contamination to provide a local context for decision making” and that “the policy should be consistent with the Guidelines and either adopt or be based on them, with variations based on local conditions and procedure”.

The Planning Guidelines also identify that “council’s policy on contaminated land may be contained within a number of documents, such as planning instruments that contain land use restrictions relevant to contamination and a DCP or plans. However it is also advisable to have a formal “stand alone” policy document”.

The development and consistent application of a local contaminated land policy by Council therefore provides a valuable tool to ensure and demonstrate adherence to the Planning Guidelines. Its implementation will directly assist Councils to ensure they act in “good faith” with their legislative obligations.

How to Use This Model Policy

This model policy should be tailored by Councils in the Hunter Region to develop their own Contaminated Land Policy – Land Use Planning.

Advice and instructions are provided in dotted boxes throughout the Model Policy. It is intended that all dotted boxes be removed from the final policy adopted by Council, as they are provided for development purposes only.

Policy statements are provided in boxes for easy identification and differentiation from the contextual text, which is also provided for each section of the policy. Council may choose to keep the contextual text in its own policy, or only adopt the policy statements.

The following table provides instructions to Council (for each section of the Model Policy) to assist them adapt the Model Policy to their individual Local Government Area.

Section	Instructions for Adapting to Local Policy
1. Scope 2. Purpose 3. Objectives 4. Application	These sections are recommended to be included in their entirety
5. Responsibility	Council to insert Council specific roles and responsibilities
6. Relationship to other Policies, Procedures and Guidelines	Council to insert references to relevant local documents. References to documents applying to all the NSW Councils are included, and it is recommended that the list is adopted for the final local policy
7. Review of this Policy	Council to insert relevant timeframe for policy review
8. Managing Land Contamination through the Planning Process in the Local Government Area 8.1 Land Use Planning Functions 8.2 Information Management 8.3 Certification Requirements 8.4 Investigation and Reporting Standards 8.5 Site Investigation, Remediation and Validation 8.6 Site Audits 8.7 Control of Remediation Works 8.8 Duty to Report 8.9 Preventing Contamination	Adoption of all policy statements is recommended. Council to choose whether or not to include the contextual text as part of their Local Contaminated Land Policy
Attachment A - Notations for s.149 Certificates	Notations advising of matters included under Section 59(2) of the <i>Contaminated Land Management Act</i> are recommended to be included in their entirety. Two different options advising of matters included under Schedule 4 of the <i>Environmental Planning and Assessment Regulation</i> are provided (<i>i.e.</i> notifying that Council has adopted a policy that restricts the development of the land due to potential contamination). Council is to select one option and exclude the other from its final policy.
Attachment B - Potentially Contaminating Activities Attachment C - Category 1 Remediation Works	These attachments are recommended to be included in their entirety
Attachment D - Site Management Requirements Remediation Works	Council to tailor this attachment to its specific requirements

The model policy is accompanied by supporting guides and resources, as described in the flowchart below, which are designed to assist Councils effectively implement the Model Policy at the local level.

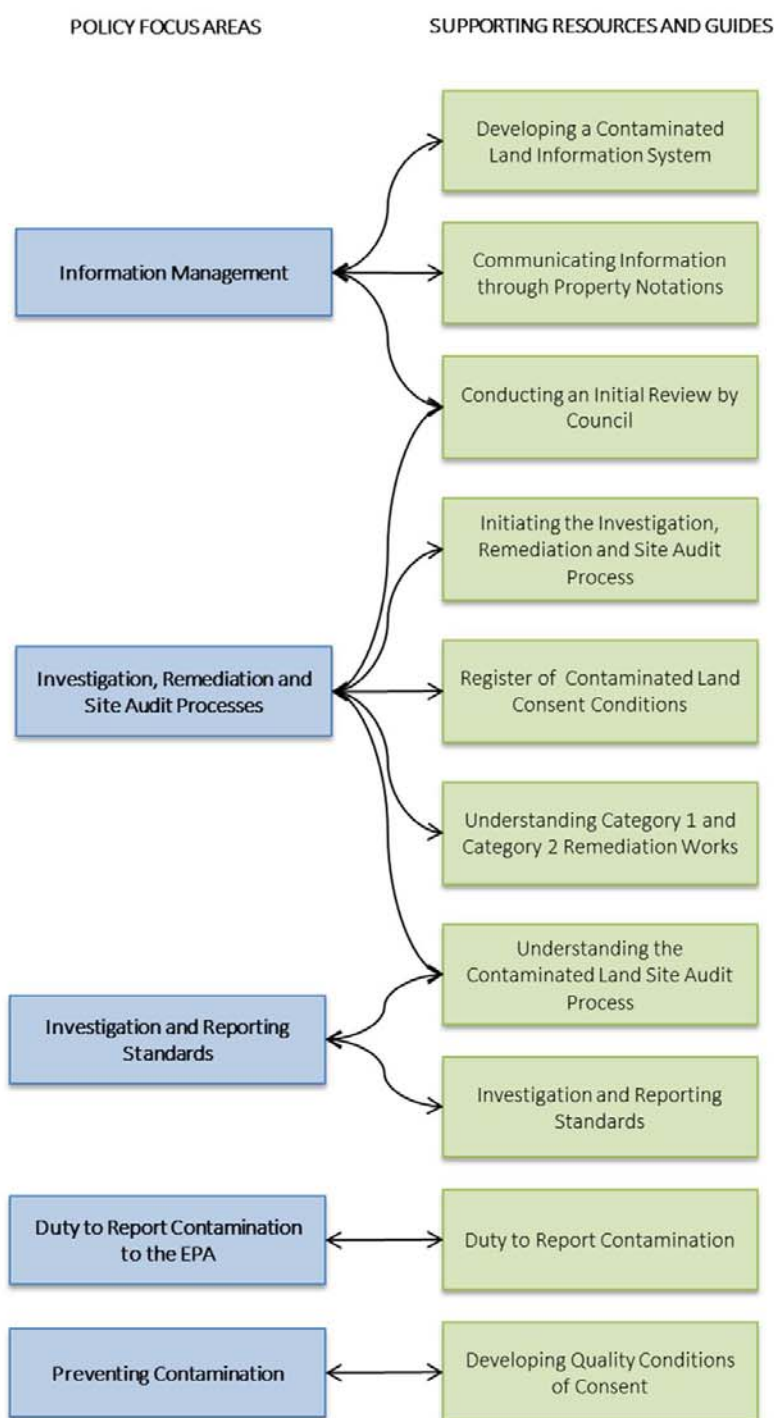


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Key Terms and Acronyms

Category 1 Remediation	Remediation works requiring Development Consent
Category 2 Remediation	Remediation works that do not require Development Consent (but must be notified to Council)
Contamination	The condition of land or water where any chemical substance or waste has been added as a direct or indirect result of human activity at above background level and represents, or potentially represents, an adverse health or environmental impact
CLM Act	<i>Contaminated Land Management Act 1997</i> (NSW)
Detailed Site Investigation (DSI)	An investigation with the objective to define the nature, extent and degree of contamination; assess potential risk posed by contaminants to health and the environment; and obtain sufficient information to develop a Remedial Action Plan (if needed)
Development Application	A Development Application is a formal request for consent to carry out development and is considered under Part IV of the <i>Environmental Planning & Assessment Act 1979</i>
Development Consent	Formal approval from Local Councils to proceed with a development. Development Consent is required prior to commencement of any works associated with development governed by Part IV of the <i>Environmental Planning & Assessment Act 1979</i>
Duty to Report	The duty to report significant contamination to the NSW EPA is a requirement under the <i>Contaminated Land Management Act 1997</i> , with updates provided in the <i>Contaminated Land Management Amendment Act 2008</i> . The triggers for reporting are presented in the "Guidelines on the Duty to Report Contamination under the <i>Contaminated Land Management Act 1997</i> " (2015)
EPA	Environment Protection Authority
Initial Evaluation	An evaluation undertaken by Council to determine whether contamination is likely to be an issue, and to assess whether further information is required for it to conduct its planning functions in good faith
Land Contamination	Land contamination may be the result of past or current uses. The land may be contaminated by a current or historical land use activity directly on that site or through migration of contamination from adjacent sites. See also definition of "contamination"
LEP	Local Environmental Plan. An LEP guides planning decisions for Local Government Areas through zoning and development controls, which provide a framework for the way land can be used. LEPs are Planning Instruments from the <i>Environmental Planning & Assessment Act 1979</i>
LGA	Local Government Area

Ongoing Environmental Management Plan (OEMP)	A plan outlining monitoring and management requirements where contamination remains on site, and there is uncertainty as to its potential to migrate; and / or the effectiveness of the management measures implemented to contain the contamination following remediation and validation; and / or monitoring and ongoing management forms part of the remediation strategy
Planning Application	A Development Application or Planning Proposal made to Council in accordance with the <i>Environmental Planning and Assessment Act 1979</i> (NSW)
Planning Guidelines	NSW Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land (1998)
Planning Proposal	A formal application submitted to Council that proposes to rezone land
POEO	<i>Protection of the Environment Operations Act 1997</i> (NSW)
Preliminary Site Investigation (PSI)	An investigation to identify any past or present potentially contaminating activities, to provide a preliminary assessment of any site contamination, and if required, to provide a basis for a more detailed investigation
Remedial Action Plan (RAP)	A plan that sets objectives, and documents the process, for remediating a contaminated site
s149 Certificate	Planning Certificate under Section 149 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW)
SEPP 55	State Environmental Planning Policy No 55 – Remediation of Land
Significantly Contaminated Land	A site is declared Significantly Contaminated Land by the EPA where contamination is considered significant enough to warrant regulation under the <i>Contaminated Land Management Act 1997</i> (with changes made through the <i>Contaminated Land Management Amendment Act 2008</i>) given the site's current or approved use
Site Audit	An independent review by a Contaminated Land Auditor, accredited by the NSW EPA, of any or all stages of the site investigation process, conducted in accordance with the requirements of the <i>Contaminated Land Management Act 1997</i>
Site Audit Report (SAR)	A report which summarises the report(s) audited, and provides the Auditor's opinion and conclusions. A Site Audit Report must be accompanied by a Site Audit Statement
Site Audit Statement (SAS)	A statement which outlines the conclusions of a site audit. A Site Audit Statement must be accompanied by a Site Audit Report
Table 1 of the Planning Guidelines	List of Potentially Contaminating Activities included in Table 1 of the "NSW Managing Land Contamination Planning Guidelines" (1998)
Validation	The objective of the validation stage of the contaminated land process is to demonstrate whether or not the objectives stated in the Remedial Action Plan have been achieved

Key Legislative Instruments, Regulations, Policies & Guidelines

<i>Contaminated Land Management Act 1997</i>	Sets out the role of the EPA and the rights and responsibilities of parties it might direct to manage land where contamination is significant enough to warrant regulation
<i>Contaminated Land Management Amendment Act 2008</i>	Introduced amendments aimed to allow sites to be cleaned up more efficiently while reinforcing the 'polluter pays' principle
<i>Contaminated Land Management Regulation 2013</i>	Sets out the recovery of administrative costs for the EPA relating to regulated sites and the auditor system. It also sets out timeframes for administrative matters under the <i>CLM Act</i>
Duty to Report Guidelines	Details the circumstances that can trigger the requirement to notify the EPA about contamination under Section 60 of the <i>CLM Act</i>
<i>Environmental Planning & Assessment Act 1979</i>	Provides the overarching structure for regulation of planning and development in NSW together with the <i>Environmental Planning and Assessment Regulation 2000</i>
<i>Environmental Planning and Assessment Regulation 2000</i>	Provide the overarching structure for the regulation of planning and development in NSW together with the <i>Environmental Planning and Assessment Act 1979</i>
National Environment Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013)	Establishes a nationally consistent approach to the assessment of site contamination to ensure sound environmental management practices by the community which includes regulators, site assessors, site auditors, landowners, developers and industry
NSW Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land (1998)	The Planning Guidelines support SEPP55 and address the policy framework, identification and investigation of contamination, the decision making process, management of contaminated sites and remediation, information management, and principles for proactively preventing future contamination
State Environmental Planning Policy No 55 – Remediation of Land	Ensures planning decisions take into account possible land contamination, and promotes remediation to reduce risk of harm

1 Scope

This document outlines Council's Policy in relation to the management of Contaminated Land that is under the regulatory control of Local Government, as stipulated by the *Environmental Planning and Assessment Act 1979* and Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land (1998) ("the Planning Guidelines").

This Policy seeks to align Council activities and management processes to the Planning Guidelines and achieve the key principles of:

- Ensuring any land use changes will not increase risk to human health or the environment
- Avoiding inappropriate restrictions on land use
- Providing information to support decision making and to inform the community of Council's requirements.

2 Purpose

The purpose of the Contaminated Land Policy is to provide a framework for Council to appropriately manage land contamination through the land use planning process, and in doing so, ensure Council acts in "good faith" with its legislative obligations.

The Policy sets out the preferred practice of Council Officers in relation to:

- Identifying, evaluating and managing contaminated land through the land use planning process
- Recording, managing and disclosing contaminated land information
- Reporting contamination to the NSW EPA
- Preventing or minimising the potential for contamination.

It is not the intent of this Policy that an act or omission of any Officer of the Council shall be called into question or held to be invalid on the grounds of failure to comply with this Policy.

3 Objectives

The objectives of this policy are to:

- Ensure that changes in land use will not increase the risk to human health or the environment
- Consider the likelihood of land contamination as early as possible in the planning and development control process
- Link decisions about the development of land with the information available about possible contamination
- Ensure Council exercise its functions relating to the development of contaminated land with a reasonable standard of care and diligence
- Ensure that site investigations and remediation works are carried out in a satisfactory manner, and where appropriate, are independently verified by a Site Auditor
- Avoid inappropriate restrictions on land use arising from contamination
- Provide information to support decision making, and to inform the community of potential restrictions on property arising from contaminated land matters.

4 Application

This Policy relates to Council's responsibility in contaminated land matters as the regulatory authority for land use planning.

This Policy applies to all land within the Local Government Area.

5 Responsibility

Advisory Note

Each Council to insert specific staff roles and responsibilities for policy implementation in the following table. Current information included in the table is for guidance only. It is recommended that Council include role descriptions that are unlikely to date following potential Council restructures.

Position Title	Responsibility
[COUNCIL TO INSERT, FOR EXAMPLE: Manager, Development & Environment Compliance]	[COUNCIL TO INSERT, FOR EXAMPLE: Responsible for the implementation and regular review of the policy, and for ensuring staff are sufficiently trained to implement the policy]
[COUNCIL TO INSERT, FOR EXAMPLE: Environmental Health Officer]	[COUNCIL TO INSERT, FOR EXAMPLE: Provide support and advice on implementation of the policy]
[COUNCIL TO INSERT, FOR EXAMPLE: Planning and Development Staff]	[COUNCIL TO INSERT, FOR EXAMPLE: Ensure adherence to the policy when undertaking planning functions under the <i>Environmental Planning and Assessment Act 1979</i>]
[COUNCIL TO INSERT, FOR EXAMPLE: Information Officer]	[COUNCIL TO INSERT, FOR EXAMPLE: Provide information on Section 149 Planning Certificates that is consistent with the policy]

6 Relationship to other Policies, Procedures and Guidelines

Advisory Note

Insert relevant local policies and procedures below that relate specifically to implementation of the Contaminated Land Policy for Land Use Planning.

Documents relevant to all Councils are presented in the below section.

Note. The Model Policy is supported by a number of guides and resources to assist Councils effectively adapt and implement the Model Policy at an LGA level. Individual Councils may also wish to reference these resources in this section of their local policy.

This Policy is supported by a number of legislative instruments, regulations, guidelines and other relevant Council documents, as listed below:

1. Contaminated Land Management Act 1997
2. Contaminated Land Management Regulation 2013
3. Environmental Planning and Assessment Act 1979
4. Environmental Planning and Assessment Regulation 2000
5. Government Information (Public Access) Act 2009
6. Guidelines provided or endorsed by the NSW EPA under the CLM Act.
7. Local Government Act 1993
8. Local Government (General) Regulation 2005
9. Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land
10. National Environment Protection (Assessment of Site Contamination) Measure 1999, amended in 2013
11. State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55), 1998
12. [COUNCIL TO INSERT REFERENCES TO RELEVANT LOCAL DOCUMENTS]

7 Review of this Policy

This policy will be reviewed on [COUNCIL TO INSERT REVIEW DATE]. The policy will also be subject to review at an earlier time in response to amendments to legislation, policy or guidelines that may directly affect the intent and application of the Policy.

8 Managing Land Contamination through the Planning Process in the Local Government Area

8.1 Land Use Planning Functions

When carrying out planning functions under the *Environmental Planning and Assessment Act 1979*, Council must consider the possibility that the previous and / or current land uses, and / or a nearby land use, has caused contamination of the site, and the potential risk to human health and the environment from that contamination.

Policy Statement:

1. Council shall not approve a Development Application or support a Planning Proposal unless it is satisfied on the basis of information available to it under this Policy that:
 - Contamination has been considered;
 - If the land is contaminated, that the land is suitable in its contaminated state (or will be suitable following remediation) for all the uses permissible under the approval; or
 - If the land is contaminated, that conditions can be placed in planning instruments or on development consents and approvals under Part IV of the *Environmental Planning and Assessment Act 1979* that will ensure any contaminated land can be remediated to a level appropriate to its intended use, prior to, or during the development stage.

8.2 Information Management

Council has an important role in supplying the community with information regarding land use history, land contamination and remediation activities. Council also has a statutory responsibility to include certain information on certificates issued for the purposes of s149 of the *Environmental Planning and Assessment Act 1979*. The information required is defined in:

- s59 of the *Contaminated Land Management Act 1997* (i.e. information provided to Council by either the NSW EPA or Accredited Auditors).
- Schedule 4 of the *Environmental Planning and Assessment Regulation 2000* (i.e. whether there is a policy adopted by Council or any other public authority that restricts the development of the land, in this case due to actual or potential contamination).

The development and maintenance of a corporate Contaminated Land Information System will assist Council to meet its legislative obligations. Whilst there is no legislative requirement for Council to notify a land owner when their land is included as potentially contaminated in a Contaminated Land Information System, notifying the landowner provides the opportunity for them to establish that the land is not contaminated and should not be notified on a Section 149(2) Planning Certificate, or alternatively, to manage or undertake remediation of the land. Notifying the property owner of a site's inclusion also allows the owner the opportunity to reduce the potential risk of harm to the health of the land's occupants and to the environment.

Information held in the Contaminated Land Information System is also to be provided to the public by access to documents on request in accordance with the requirements of the *Government*

Information (Public Access) Act 2009. This includes making publicly available and free of charge land contamination consultants reports filed in the system.

Policy Statements:

2. Council will develop and maintain a Contaminated Land Information System to facilitate compliance with statutory obligations, support its planning functions, and provide relevant and accurate information on contaminated land to the community in accordance with the *NSW Government Information (Public Access) Act 2009*.
3. Where Council has a Contaminated Land Information System in place, and inclusion of a property in the system has the potential to restrict the development of the land, the property owner will be notified of the inclusion.
4. Council will request that all contaminated land reports provided exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the *Government Information (Public Access) Act 2009* and *Contaminated Land Management Act 1997*.

Information to be provided on Section 149(2) Planning Certificates

Information to be disclosed on a Section 149(2) Planning Certificate is specified in the *Environmental Planning and Assessment Regulation 2000* (Schedule 4) and s59(2) of the *Contaminated Land Management Act 1997*. Council therefore has a legal obligation to provide certain information through Section 149(2) Planning Certificates in relation to land contamination.

Policy Statement:

5. Section 149(2) Planning Certificates issued by Council are to:
 - Contain information on matters prescribed under Section 59(2) of the *Contaminated Land Management Act 1997* that are relevant to the property
 - Identify whether or not any adopted policy of Council or any other public authority restricts the development of the land (the subject of the certificate) because of the likelihood of any risk of contamination
 - Provide notations on the certificates as per Attachment A.

Information to be provided on Section 149(5) Planning Certificates

Section 149(5) Planning Certificates are governed by s149(5) of the *Environmental Planning and Assessment Act 1979*, which states that "a council may include advice on such other relevant matters affecting the land of which it may be aware". As such, there is no specific legislative requirement for Council to provide information pertaining to land contamination issues on s149(5) Certificates. However, this needs to be balanced with the fact that the Council owes the applicant a duty to take reasonable care when issuing planning certificates.

Policy Statements:

6. Section 149(5) Planning Certificates issued by Council are to provide information that is provided to Councils by the NSW EPA in accordance with s 58 of the *Contaminated Land Management Act*, that is not already included in a s149(2) Planning Certificate.
7. If Council is aware that a site has been notified to the NSW EPA under S.60 of the *Contaminated Land Management Act*, but is currently in various stages of being reviewed by the NSW EPA to assess if the contamination is significant enough to warrant regulation, it will provide information to this effect on the s149(5) certificate.
8. Where Council has a Contaminated Land Information Management System in place, the following additional information included in the system will be provided on Section 149(5) Planning Certificates:
 - Contamination category
 - Any activities listed in Table 1 of the Planning Guidelines that Council records show have occurred on the land
 - Any information to Council's knowledge, that indicates the property may be affected by emerging contaminants or contaminating activities of concern
 - References to any site investigations included in the register
 - Any notifications of remediation.

8.3 Certification Requirements

Contaminated site assessments are inherently complex and usually present a wide range of issues. Engaging professionals who have the relevant qualifications, competencies and experience is important when investigating and managing contaminated sites. For this purpose, Contaminated Land Consultant certification schemes have been developed to ensure those Consultants dealing with contaminated sites have the necessary competencies to carry out the work. Certification under a recognised scheme should be interpreted as the Consultant meeting at least an acceptable minimum standard of competency. Currently, the certification schemes recognised by NSW EPA and the Council are:

- Site Contamination Practitioners Australia (SCPA) scheme for Certified Practitioner – Site Assessment and Management (CP SAM)
- Environment Institute of Australia and New Zealand's (EIANZ) Contaminated Land Assessment Specialist Certified Environmental Practitioner (CLA Specialist CEnvP) scheme
- Soil Science Australia (SSA) Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification.

Policy Statement:

9. Contaminated land reports are to be prepared, or reviewed and approved by an appropriately qualified and certified Environmental Consultant (for any reports submitted from 1 July 2017 and onwards). Currently, the certification schemes recognised by NSW EPA and the Council are (noting other schemes may become recognised):
 - Site Contamination Practitioners Australia (SCPA) scheme
 - Environment Institute of Australia and New Zealand's (EIANZ) Contaminated Land Assessment Specialist Certified Environmental Practitioner (CLA Specialist CEnvP) scheme
 - Soil Science Australia (SSA) Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification.

8.4 Investigation and Reporting Standards

Given the complexity and technical nature of contaminated land reports, it is essential that Consultants complete investigations and reporting in accordance with the EPA prepared and adopted guidelines. To further assist Council staff when assessing planning applications, an accompanying report synthesis, presenting project background, scope, objectives, key issues, investigation findings and recommendations is to be provided with each report.

Policy Statements:

10. All investigations and accompanying reports provided to Council are to be completed in accordance with NSW EPA prepared and adopted guidelines.
11. All contaminated land reports provided to Council are required to include a summary report synthesising key findings and recommendations.

8.5 Site Investigation, Remediation and Validation

To ensure Councils satisfy their legislative obligations when considering planning applications, an appropriate investigation process based on the following stages is required.

Initial Evaluation

An Initial Evaluation is to be completed by Council. It aims to determine whether contamination needs to be addressed during the assessment of a Planning Application (as required by clauses 6 and 7 of SEPP 55), and to therefore determine whether further information is required for Council to conduct its planning functions in good faith.

Policy Statement:

12. An initial evaluation is to be completed by Council for all land use Planning Applications.

Preliminary Site Investigation

A Preliminary Site Investigation is provided by the Proponent. The main objectives are to identify any past or present potentially contaminating activities, provide a preliminary assessment of any site contamination, and if required, provide a basis for a Detailed Site Investigation.

Policy Statement:

13. A Preliminary Site Investigation is required when an Initial Evaluation identifies that contamination is, or may be present on the site, or if potential or actual contamination on an adjacent area has the potential to migrate to the site.

Detailed Site Investigation

A Detailed Site Investigation is provided by the Proponent. The objectives are to define the nature, extent and degree of contamination, to assess potential risk posed by contaminants to human health and the environment, and to obtain sufficient information to develop a Remedial Action Plan, if required. It should be noted that the Detailed Site Investigation Stage of the process may entail several investigations and reports.

Policy Statement:

14. A Detailed Site Investigation is required:
 - Where the Preliminary Site Investigation indicates that the land is, or may be contaminated
 - When the site is, or was, formally used for an activity listed in Table 1 of the Managing Land Contamination Planning Guidelines (refer Attachment B), or other potentially contaminating activities known to Council, and a land use change is proposed that has the potential to increase the risk of exposure to contamination
 - To accompany a remediation proposal or notification.

Remedial Action Plan

A Remedial Action Plan is provided by the Proponent. The objectives are to set remediation objectives and document the process to remediate the site. The proposed remediation is to (as a minimum) reduce the risk from contamination to acceptable levels for the proposed land use scenario. The Remedial Action Plan should be based on the information from previous investigations.

Policy Statements:

15. A Remedial Action Plan is required where the Detailed Site Investigation identifies that remediation or management is needed to render the site suitable for its intended land use.
16. A Remedial Action Plan (and accompanying investigation reports) must accompany the Planning Application where development consent is required for remediation (i.e. Category 1 Remediation Works as defined in Attachment C).
17. A Remedial Action Plan (and accompanying investigation reports) must accompany any notification to Council for proposed Category 2 Remediation work.

Validation and Monitoring

Validation and / or Monitoring Reports are provided by the Proponent. The objective of Validation is to demonstrate whether or not the objectives stated in the Remedial Action Plan and any conditions of development consent have been achieved. At times, this may include monitoring following the completion of remediation. Monitoring undertaken for a limited time is typically incorporated into the Validation Report.

In situations where full clean-up is not feasible or on-site containment of contamination is proposed, the need for an On-going Environmental Management Plan including monitoring, maintenance and management measures should be determined by both the Proponent's Consultant and the Planning Authority.

SEPP 55 requires a Notice of Completion to be provided to Council for all remediation work. The Notice of Completion is to include the Validation Report (with monitoring results if monitoring was undertaken).

Policy Statements:

18. A Validation Report (including monitoring results where applicable) is required to validate the completion and effectiveness of all remediation works for which consent has been provided by Council (i.e. Category 1 Remediation Works).
19. The Notice of Completion provided to Council for any Category 2 remediation works is to include the Validation Report.
20. An On-going Environmental Management Plan is required to be provided to Council and implemented where contamination remains on site, and there is uncertainty as to its potential to migrate; and / or the effectiveness of the management measures implemented to contain the contamination following remediation and validation; and / or monitoring and ongoing management forms part of the remediation strategy.

8.6 Site Audits

A Site Audit is an independent review of any or all stages of the site investigation process, conducted by a Site Auditor accredited by the NSW EPA in accordance with the *Contaminated Land Management Act 1997*. Engaging a Site Auditor can provide greater certainty about the information on which the planning authority bases its decision, particularly where sensitive uses are proposed, and / or where contamination is complex. The outcome of a Site Audit is a Site Audit Statement, stating the purpose and outcome of the Site Audit, and accompanying Site Audit Report providing the information on which the outcome was based.

Policy Statements:

21. Council may require a Site Audit to be carried out where Council:
 - Believes on reasonable grounds that the information provided by the Proponent is incorrect or incomplete;
 - Wishes to verify whether the information provided by the Proponent has adhered to appropriate standards, procedures and guidelines; or
 - Does not have the internal resources to conduct its own technical review.
22. All costs associated with providing a Site Audit are to be borne by the Proponent.

8.7 Control of Remediation Works

Remediation is generally considered beneficial as it improves the quality of the environment, reduces health risks and restores land to productive use. However, in some situations remediation work itself has the potential for environmental impact, and the planning process must ensure that these impacts are adequately identified and mitigated. SEPP 55 provides consistent state wide planning and development controls for the remediation of contaminated land. Remediation work which requires development consent is known as Category 1 Remediation Work. All other remediation work may be carried out without development consent and is known as Category 2 Remediation Work, however Council must be notified prior to commencement and upon completion of Category 2 Remediation Works. The triggers for Category 1 Remediation Works are presented in Attachment C.

Policy Statements:

23. Development consent is required for the following remediation work:
 - Category 1 Remediation Work requiring consent as defined by SEPP 55 Section 9 (refer to Attachment C)
 - Proposed works that are inconsistent with the requirements of this policy (i.e. remediation works that do not comply with the conduct of remediation works specified in Attachment D, and are thereby reclassified as Category 1 Remediation Work).
24. Council must be notified of proposed Category 2 Remediation Works no less than 30 days prior to their scheduled commencement.

8.8 Duty to Report

The duty to report contamination to the NSW EPA is a requirement under the *Contaminated Land Management Act 1997*, with updates provided in the *Contaminated Land Management Amendment Act 2008*.

The following people are required to report contamination as soon as practical after they become aware of any contamination that meets the triggers for the duty to report:

- Anyone whose activities have contaminated land
- An owner of land that has been contaminated.

It should be noted that although the above people have the duty to report contamination, anyone can at any time report suspected contamination to the NSW EPA.

Policy Statement:

25. Where Council considers that contamination on a site triggers the duty to report contamination, and it is not clear if the polluter or site owner has reported the contamination, it will notify the EPA for possible action under the *Contaminated Land Management Act 1997*.

8.9 Preventing Contamination

Proactive measures to prevent possible contamination at its source can help to reduce the need for remedial action in the future. Preventing contamination occurring in the first place can therefore have significant environmental and financial benefits for Council and the Community.

Advisory Note

The primary legislation governing the prevention and management of pollution incidents is the *Protection of Environment Operations (POEO) Act 1997*. A *Regional Compliance Assurance Policy and Guidelines* are available from the Hunter Joint Organisation of Councils that:

- Encourage voluntary compliance
- Provide guidance on best practice decision making principles
- Assist Councils minimise risks to the environment
- Inform the community about Council's management of environmental compliance responsibilities

These can be accessed at <http://www.hccrems.com.au/product/regional-compliance-assurance-policy-and-guidelines/>

Policy Statements:

26. For potentially polluting activities, Council will apply and enforce conditions of development consent that ensure effective and ongoing control measures are implemented.
27. Council will proactively undertake risk-based compliance inspections of potentially contaminating industries / activities to ensure compliance with consent conditions and environment protection legislation.

Attachment A - Notations for s.149 Certificates

The following notations will be provided on Section 149(2) Planning Certificates

1. Notations advising of matters included under Section 59(2) of the Contaminated Land Management Act

Where Council records identify:	Notation to be included on Section 149(2) Certificate
That the property is declared as significantly contaminated under the CLM Act (as at date certificate issued)	<i>The land to which this certificate relates is within land declared to be significantly contaminated land under Part 3 of the Contaminated Land Management Act 1997 at the date of issue of the certificate</i>
That the property is subject to a management order under the CLM Act (as at date certificate issued)	<i>The land to which this certificate relates is subject to a management order within the meaning of the Contaminated Land Management Act 1997 at the date of issue of the certificate</i>
That the property is subject to an approved voluntary management proposal	<i>The land to which this certificate relates is the subject of an approved voluntary management proposal within the meaning of the Contaminated Land Management Act 1997 at the date of issue of the certificate</i>
That the property in question is subject to an ongoing maintenance order under the CLM Act (as at date certificate issued)	<i>The land to which this certificate relates is subject to an ongoing maintenance order within the meaning of the Contaminated Land Management Act 1997 at the date of issue of the certificate</i>
That a site audit statement has been provided to Council <i>at any time</i>	<i>The land to which this certificate relates has been the subject of a site audit statement provided to [INSERT COUNCIL NAME]</i>

2. Notations advising that Council has adopted a Policy that restricts the development of the land due to potential contamination

Advisory Note

Two potential options for s149(2) notations are provided below. Each Council is required to identify which of these options best suit their local circumstances and capacity and remove the other option from their local policy document.

Option 1. General Policy Notation

Where Council records identify:	Notation to be included on Section 149(2) Certificate
That a potentially contaminating activity may have previously occurred or is currently occurring on the property; however no further information is available.	<p>"Council has adopted by resolution a policy on contaminated land which may restrict the development of the land to which this certificate relates. This policy is implemented when zoning or land use changes are proposed on lands which:</p> <ul style="list-style-type: none"> • are considered to be contaminated; or • which have previously been used for certain purposes; or • which have previously been used for certain purposes but Council's records do not have sufficient information about previous use of the land to determine whether the land is contaminated; or • have been remediated for a specific use. <p>Consideration of Council's adopted policy and the application of provisions under relevant State legislation is warranted".</p>

Option 2. Specific Policy Notations

Where Council records identify:	Suggested Notation
<p>That the property has:</p> <ul style="list-style-type: none"> • A previous land use history which could have involved use of contaminants on the site. For example, land which may have been used for an activity listed in Table 1 of the Planning Guidelines (refer Attachment A), or • The property is known to be contaminated, but has not been remediated 	<p>Council has adopted by resolution a policy on contaminated land which may restrict the development of the land to which this certificate relates. This policy is implemented when zoning or land use changes are proposed on lands which have previously been used for certain purposes. Consideration of Council's adopted policy and the application of provisions under relevant State legislation is warranted.</p>

That the property is known to contain contaminants, but has been remediated for a particular use or range of uses and some contamination remains on the site, for example, encapsulated.	<i>Council has adopted by resolution a policy on contaminated land which may restrict the development of the land. This policy is implemented when zoning or land use changes are proposed on lands which are considered to be contaminated, or on lands which have been remediated for a specific use. Consideration of Council's adopted policy and the application of provisions under relevant State legislation is warranted.</i>
That the property does not contain a clear site history without significant gaps in information . As a consequence Council cannot determine whether or not the land is contaminated, and therefore the extent to which Council's policy should apply. In these circumstances Council may decide to take a cautious approach.	<i>Council has adopted by resolution a policy on contaminated land which may restrict the development of the land. This policy is implemented when zoning or land use changes are proposed on lands which have previously been used for certain purposes. Council records do not have sufficient information about previous use of this land to determine whether the land is contaminated. Consideration of Council's adopted policy and the application of provisions under relevant State legislation is warranted.'</i>
That the property has been contaminated but has been remediated to an extent that no restriction on land use is necessary.	<i>No notation is necessary¹</i>
That there is a history of non-contaminating activities on the land and there is no contrary evidence to suggest that the land has been used for a purpose listed in Table 1 of the Planning Guidelines (refer Attachment A) or other potentially contaminating activity.	<i>No notation is necessary</i>

¹. While no notation may be necessary in these circumstances on a Section 149(2) Certificate it is recommended that information of this nature be provided on the s149(5) Certificates (refer section 8.2).

Attachment B - Potentially Contaminating Activities

Source: Managing Land Contamination. Planning Guidelines SEPP 55 – Remediation of Land (1998)

Table 1. Some Activities that may Cause Contamination

- acid/alkali plant and formulation
- agricultural/horticultural activities
- airports
- asbestos production, disposal and demolition
- chemicals manufacture and formulation
- defence works
- drum re-conditioning works
- dry cleaning establishments
- electrical manufacturing (transformers)
- electroplating and heat treatment premises
- engine works
- explosive industry
- gas works
- iron and steel works
- landfill sites
- metal treatment
- mining and extractive industries
- oil production and storage
- paint formulation and manufacture, including lead paint contamination
- pesticide manufacture and formulation
- power stations
- railway yards
- scrap yards
- service stations
- sheep and cattle dips
- smelting and refining
- tanning and associated trades
- waste storage and treatment
- wood preservation

Note: It is not sufficient to rely solely on the contents of this Table to determine whether a site is likely to be contaminated or not. This Table is a guide only. A conclusive status can only be determined after a review of the site history and, if necessary, sampling and analysis.

Attachment C - Category 1 Remediation Works

State Environmental Planning Policy No 55—Remediation of Land, Clause 9 defines Category 1 Remediation Work as:

“Category 1 remediation work: work needing consent

For the purposes of this Policy, a category 1 remediation work is a remediation work (not being a work to which clause 14 (b) applies) that is:

- (a) designated development, or*
- (b) carried out or to be carried out on land declared to be a critical habitat, or*
- (c) likely to have a significant effect on a critical habitat or a threatened species, population or ecological community, or*
- (d) development for which another State environmental planning policy or a regional environmental plan requires development consent, or*
- (e) carried out or to be carried out in an area or zone to which any classifications to the following effect apply under an environmental planning instrument:*
 - i. coastal protection,*
 - ii. conservation or heritage conservation,*
 - iii. habitat area, habitat protection area, habitat or wildlife corridor,*
 - iv. environment protection,*
 - v. escarpment, escarpment protection or escarpment preservation,*
 - vi. floodway,*
 - vii. littoral rainforest,*
 - viii. nature reserve,*
 - ix. scenic area or scenic protection,*
 - x. wetland, or*
- (f) carried out or to be carried out on any land in a manner that does not comply with a policy made under the contaminated land planning guidelines by the Council for any local government area in which the land is situated (or if the land is within the unincorporated area, the Western Lands Commissioner).*

Note.

See Section 5A of the Environmental Planning and Assessment Act 1979 for the factors to be taken into account in assessing whether there is likely to be a significant effect as referred to in paragraph (c) above. The terms used in that paragraph are defined in that Act by reference to both the Threatened Species Conservation Act 1995 and the Fisheries Management Act 1994.”

Attachment D - Site Management Requirements Remediation Works

All Category 2 remediation works must be carried out in accordance with the following site management requirements. These have been established to prevent Category 2 work adversely impacting on the environment and public amenity.

Category 2 remediation works that do not comply with these requirements will be classified as Category 1 remediation work and will require development consent.

Advisory Note

The details in this Attachment need to be reviewed and tailored to each Council's specific requirements.

Remediation Work

All remediation work must be carried out in accordance with:

- Managing Land Contamination Planning Guidelines SEPP 55- Remediation of Land
- Any guidelines published by the NSW Environment Protection Authority under the *Contaminated Land Management Act 1997*.

Hours of Operation

All remediation work must be carried out between the following hours:

Monday – Friday [COUNCIL TO INSERT HOURS OF OPERATION]

Saturday [COUNCIL TO INSERT HOURS OF OPERATION]

No work is permitted on Sundays or Public Holidays

Site Signage

A sign displaying the contact details of the remediation contractor and site manager (if different from the remediation contractor) must be displayed on the site adjacent to the site access, including a contact telephone number that is available 24 hours a day, 7 days a week. The sign must be clearly legible from the street and be displayed for the duration of the remediation works.

Notification of Adjacent Owners and Occupiers

The occupiers of all adjacent premises must be notified of the proposed remediation works at least [COUNCIL TO INSERT NOTIFICATION PERIOD] before the works commence.

Site Security

The site must be securely fenced and any other necessary precautions taken, to prevent unauthorised entry to the site for the duration of the remediation works.

Toilet Facilities

Toilet facilities must be provided for workers in accordance with the publication titled *Code of Practice: Amenities for Construction Work* (WorkCover, 1996).

[Note: Toilets for workers must be connected to the sewerage system where practicable. Alternatively, Council approval is required under Section 68 of the *Local Government Act 1993* to install an accredited sewage management facility (e.g. portable chemical closet) on the site.]

Soil and Water Management

All remediation work must be carried out in accordance with a soil and water management plan. A copy of the soil and water management plan must be kept on-site and be made available to Council Officers on request.

Sediment and Erosion Controls

Appropriate sediment and erosion controls must be installed before remediation works are commenced and be maintained in a functional condition until site stabilisation works have been completed.

Prior to the commencement of any remedial work, an erosion and sediment control plan prepared by a suitably qualified person in accordance with *"The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction"* (Landcom) must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices including (and not limited to) catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins.

Stockpiles

No stockpiles of soil or other materials are to be placed on footpaths or nature strips without the prior written approval of Council.

All stockpiles of soil or other materials must be placed away from drainage lines, gutters, stormwater pits or inlets, trees or native vegetation and be provided with appropriate erosion, sediment and leachate management controls.

All stockpiles of soil or other materials likely to generate dust or odours must be covered (where practical).

All stockpiles of contaminated soil must be stored in a secure area.

Site Access

Vehicular access to the site must be restricted to a stabilised access point.

Protection of Public Roads

Appropriate measures must be taken to prevent the spreading of mud, soil or sediment by vehicles leaving the site. These measures could include the installation of shaker grids or wash-down bays to minimise the transportation of sediment.

Any wastewater from washing the wheels and underbodies of vehicles must be collected and disposed of in a manner that does not pollute waters.

Any mud, soil or sediment tracked or spilled on the roadway must be swept or shoveled up immediately. Hosing of the roadway is not permitted.

Disposal of Water from Excavations

All excavation pump-out water must also be analysed for suspended solids, pH and any contaminants of concern identified during the contamination assessment phase, and comply with relevant EPA and ANZECC water quality criteria prior to discharge to the stormwater system.

Other options for the disposal of excavation pump-out water include disposal to sewer with the prior approval of the relevant water utility, or off-site disposal by a licensed liquid waste transporter at an appropriately licensed liquid waste treatment or processing facility.

Site Stabilisation and Revegetation

All exposed areas shall be progressively stabilised and revegetated or resealed on the completion of remediation works.

Bunding

All land farming areas of hydrocarbon contaminated soils must be bunded to contain surface water runoff and to prevent the leaching of contaminants into the underlying soils. This will typically require placement on a sealed surface or on durable plastic.

All contaminated water from bunded areas must be discharged to sewer with the prior approval of the relevant water authority, or be disposed of off-site by a licensed liquid waste transporter at an appropriately licensed liquid waste treatment or processing facility.

Protection of Trees

Trees on the site must not be removed, lopped or otherwise trimmed without the prior approval of Council.

Trees to be retained on the site must be protected from damage to their foliage and root systems. Suitable measures may include erecting fences or barriers to keep earthmoving equipment and heavy vehicles well clear of trees.

Noise

Noise must be minimised as far as practicable, by the selection of appropriate methods and equipment, and by the use of silencing devices where practicable.

Noise from remediation work must comply with the guidelines for construction site noise specified in the *interim Construction Noise Guideline* (OE&H- EPA 2009).

[INSERT COUNCIL NAME] is the appropriate regulatory authority for noise from non-scheduled construction activities in its area, except as described in Section 6(2) of the *POEO Act 1997*, and thus has discretion in dealing with noise.

Any noise monitoring must be carried out by a suitably qualified Acoustical Consultant if complaints are received, or if directed by Council, and any noise control measures recommended by the Acoustical Consultant must be implemented throughout the remediation work.

Vibration

The use of plant or machinery must not cause vibrations to be felt on any other premises.

Air Quality

Dust Control

Dust emissions must be confined within the site boundaries. The following dust control measures may be employed to comply with this requirement:

- Erection of dust screens around the perimeter of the site
- Use of water sprays across the site to suppress dust
- Keeping excavation surfaces moist
- Covering of all stockpiles of soil and other materials likely to generate dust (where practical)
- Securely covering all loads entering or exiting the site.

Asbestos

Works involving the potential disturbance of asbestos containing materials must be carried out in strict accordance with SafeWork NSW requirements.

Odour Control

Remediation work must not result in the emission of odours that can be detected at any boundary of the site by an Authorised Council Officer. The following measures may be employed to comply with this requirement:

- Use of appropriate covering techniques, such as the use of plastic sheeting to cover excavation faces or stockpiles
- Use of fine mist sprays
- Use of mitigating agents on hydrocarbon impacted areas or materials
- Maintaining equipment and machinery to minimise exhaust emissions.

If odours are detected, the site is to be inspected by a suitably qualified Environmental Consultant and any recommended control measures are to be implemented throughout the remediation process.

Burning of Materials

No materials are to be burned on site.

Transport

All haulage routes for trucks transporting soil, materials, equipment or machinery to and from the site must be selected to meet the following objectives:

- Comply with all road traffic rules
- Minimise noise, vibration and odour to adjacent premises
- Minimise use of local roads.

All transport operators and drivers transporting soil, materials, equipment or machinery to and from the site must:

- Use the designated haulage routes and site access points
- Make all deliveries and pick-ups between the hours specified in Hours of Operation
- Securely cover all loads to prevent any dust or odour emissions during transportation
- Not track soil, mud or sediment onto the road.

Hazardous Wastes

Hazardous wastes arising from the remediation work must be removed, stored and disposed of in accordance with the requirements of the EPA and SafeWork NSW, including the following legislation and guidelines:

- *Work Health & Safety Act 2011*
- *Work Health & Safety Regulation 2011*
- *Protection of the Environment Operations Act 1997*
- *Protection of the Environment Operations (Waste) Regulation 2005*
- Waste Classification Guidelines (NSW EPA, 2014), and associated addenda (available on <http://www.epa.nsw.gov.au/wasteregulation/classify-waste.htm>), resource recovery orders and exemptions (current list available on <http://www.epa.nsw.gov.au/wasteregulation/orders-exemptions.htm>)
- *Environmentally Hazardous Chemicals Act 1997*.

Documentary evidence verifying that all wastes have been classified and disposed of appropriately must be included in the Monitoring and Validation report for the site.

Disposal of Contaminated Soil

Contaminated soil must be disposed of in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and Regulations and any relevant NSW EPA guidelines such as the publication titled Waste Classification Guidelines (NSW EPA, 2014) and associated addenda (available on <http://www.epa.nsw.gov.au/wasteregulation/classify-waste.htm>), and resource recovery orders and exemptions (current list available on <http://www.epa.nsw.gov.au/wasteregulation/orders-exemptions.htm>)

NOTE: If contaminated soil or other waste is transported to a site unlawfully, the owner of the waste and the transporter are both guilty of an offence.

Containment / Capping of Contaminated Material

On-site containment or capping of contaminated soil is not permitted if the concentrations of contaminants are statistically above the soil investigation levels specified in *The National Environment Protection (Assessment of Site Contamination) Measure 1999*, amended in 2013 (ASC NEPM, 2013) for the range of land-uses permitted on the site (unless otherwise agreed with Council or other relevant authority through the endorsement of a Remedial Action Plan and an On-going Environmental Management Plan).

Importation of Fill

Fill material must be validated (at its source if practicable), prior to being imported onto the site. The validation must indicate that the material is free of contaminants (i.e. comprises Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM)) or as otherwise approved by the NSW EPA, or the relevant resource recovery exemptions and orders. Fill imported on to the site should also be compatible with the existing soil characteristic for site drainage purposes.

Fill material may be validated by one or both of the following methods:

- The fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material or the known past history of the site where the material is obtained
- The fill should be sampled and analysed in accordance with the relevant EPA Guidelines, to ensure that the material is not contaminated.

Documentary evidence verifying that any fill material has been appropriately validated must be included in the Validation Report for the Site.

Groundwater

An appropriate licence must be obtained from the NSW Office of Water for approval to extract groundwater. Prior to discharge to the stormwater system, site groundwater must be analysed for any contaminants of concern and comply with relevant EPA and ANZECC water quality criteria.

Other options for the disposal of groundwater include disposal to sewer with the prior approval of the appropriate water authority, or off-site disposal by a liquid waste transporter at an appropriately licensed liquid waste treatment or processing facility.

Removal of Underground Storage Tanks

The removal of underground storage tanks (UST) must be undertaken in accordance with the requirements of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014*, WorkSafe NSW and relevant Australian Standards.

Following the removal of USTs, the tank pits must be remediated and validated in accordance with *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014* and relevant guidelines provided under the Regulation.

Excavation and Backfilling Work

All excavation and backfilling work must be carried out by competent persons in accordance with WorkSafe requirements, including the publication titled *Excavation Work Code of Practice: (WorkCover, 2015)*.

If it is necessary to excavate adjacent to an adjoining building or structure, and the excavation work may damage or impair the stability of the building or structure, the person proposing to carry out the work must:

- Take all necessary precautions to protect the building or structure from damage, including any shoring or underpinning where appropriate
- Provide details of the proposed work to the adjoining owner at least seven (7) days before the works commence.

Building and Demolition Work

Development consent may be required from Council for any associated building or demolition work.

12 CORPORATE AND COMMUNITY SERVICES

12.4 SPONSORSHIP REQUEST - ACO AT BAERAMI PINES RETREAT

Attachments:	A. Sponsorship Request - ACO at Baerami Pines Retreat
Responsible Officer:	Fiona Plesman - Director - Planning, Community & Corporate Services
Author:	Joshua Brown - Co-Ordinator Executive Services
Community Plan Issue:	<i>Promote and support economic growth and diversity within Muswellbrook Shire through policy development and action</i>
Community Plan Goal:	<i>That local government policies support business growth and diversity</i>
Community Plan Strategy:	<i>Work with relevant partners to share our brand, provide facilities and services that attract and retain local business in Muswellbrook Shire</i>

PURPOSE

For Council to consider a request for sponsorship for the Australian Chamber Orchestra, which will be performing at the Baerami Pines Retreat in September 2017.

OFFICER'S RECOMMENDATION

That Council:

1. Approve the request for sponsorship of \$2,500 towards the Australian Chamber Orchestra Masterclass to be held at the Baerami Pines Retreat to be held on Sunday, 17 September 2017.

Moved: _____ Seconded: _____

BACKGROUND

Baerami Pines Retreat, in partnership with the Australian Chamber Orchestra (ACO) and the Upper Hunter Conservatorium of Music has planned a free community event where three string musician students from the UHCM will take part in a special Masterclass led by two ACO musicians. The organisers are seeking \$15,000 in sponsorship of the event, with sponsorship packages available for \$2,500.

REPORT

Council has received a request for sponsorship of a special Masterclass led by two ACO musicians for three string musician students from the Upper Hunter Conservatorium of Music, following an evening performance by the ACO. The request is for \$2,500 for a gold package. The event will be promoted to ACO subscribers in Sydney, Newcastle and the wider Hunter region. It is expected the event will attract visitors to the region and assist in the development of future such events.

OPTIONS

Councillors have a number of options with respect to the request for additional sponsorship:

1. approve sponsorship of \$2,500;
2. decline the request; or

3. determine to provide a different amount of sponsorship.

CONCLUSION

The visit of the ACO to the Upper Hunter provides an excellent opportunity to showcase the Shire and assist in the development of the area a location for the performance of music by world renowned ensembles. It is recommended that Council support the request for sponsorship.

SOCIAL IMPLICATIONS

Growth in the tourism sector is to be encouraged and will contribute to jobs growth and economic development opportunities.

FINANCIAL IMPLICATIONS

Council's 2017/18 budget includes an allocation for sponsorship and donations which will accommodate the cost of the sponsorship.

POLICY IMPLICATIONS

The request is consistent with Council's sponsorship and donations policy.

STATUTORY IMPLICATIONS

No known statutory implications.

LEGAL IMPLICATIONS

No known legal implications.

OPERATIONAL PLAN IMPLICATIONS

Recommendation is consistent with Delivery Program Action: Maintain existing and develop new tourism events and promotions with associated funding.

RISK MANAGEMENT IMPLICATIONS

No known risk management implications.

THE AUSTRALIAN CHAMBER ORCHESTRA

AT

BAERAMI PINES RETREAT



1531 Bylong Valley Way, Baerami, NSW 2333 Ph : 0467 977 876



23rd March 2017

**Mr. Martin Rush and Mr. Scott Martin
Muswellbrook Council
Hobden 106 Hill Street
Muswellbrook NSW 2333**

Dear Mr. Martin Rush and Mr. Scott Martin,

I am thrilled to announce that I will be hosting a very special event featuring the internationally acclaimed Australian Chamber Orchestra at Baerami Pines Retreat this coming spring. Over the weekend of 16 and 17 September we will hold an intimate fundraising concert for the Orchestra's National Education Program, with a very special Masterclass for talented young musicians the following day.

Baerami Pines Retreat is a premium accommodation venue in the upper Hunter Valley. Built in 1936, the original church structure has been adapted and extended providing luxury accommodation which is nestled in the beautiful Wollemi National Park. We are delighted to be able to partner with the ACO for this very special weekend.

The Events

Event 1: Concert and Long Lunch – Saturday 16 September, 2017

An intimate concert for just 50 people will be presented at Baerami Pines Retreat to raise money for the ACO's National Education Program. This intimate concert will be followed by a long lunch in the beautiful gardens, sponsored by Baerami Pines Retreat and Two Rivers Winery. Attendees will have the rare opportunity to experience these exciting players in a uniquely serene environment, before meeting them over a superb long lunch, prepared by Gerard Geiser from Gerard's Restaurant in Denman.

Tickets for this event will be \$150 for the concert and lunch (plus the ACO requests an additional voluntary tax deductible donation of \$350 – total cost is \$500).

Staff and students from the Upper Hunter Conservatorium of Music (UHCM) will help on the day.

Events 2: ACO Masterclass – Sunday 17 September

Baerami Pines Retreat, in consultation with the ACO and the Upper Hunter Conservatorium of Music in Muswellbrook, has also planned a **free** community event the following day, where three string musician students from the UHCM will take part in a special Masterclass led by two ACO musicians.

The ACO National Education Program

The ACO's National Education Program includes a wide range of activities focused on bringing music to young people regardless of background – from primary school children in significantly disadvantaged communities to talented young musicians at the post-tertiary level. Further information on the ACO National Education Program is available in their 2017 education brochure:<https://au-com-aco-assets.s3-ap-southeast2.amazonaws.com/files/PDFs/2017%20Brochures/ACO%20Education%20Brochure%202017-Web.pdf>.

Event Goals

1. To expand on the spirit of educational opportunities for the ACO in rural regions
2. Bring a world class series of musical events to the Upper Hunter Valley
3. To foster educational opportunities for local young aspiring musicians

4. Promoting tourism with its associated community and business benefits
5. Model the development and coordination of similar events for the future

Opportunity for Your Support

To initiate this project, I have personally contributed \$16,000 and committed another \$5,000 to the ACO to enable them to perform at Baerami Pines Retreat and promote the fundraising event for the National Education Program.

To enable the Masterclass to proceed and bring the ACO with its inspiring teachers to the Conservatorium of Music in Muswellbrook, additional support of \$15,000 is required. This will be fully tax deductible as a charitable donation to the ACO.

At least five 'Gold' sponsorships of \$2,500 are required to enable delivery of the Masterclass. In return, sponsors will:

1. Be acknowledged as primary supporters of this local community initiative
2. Have their business logo on invitations and advertisement flyers about the Masterclass, and;
3. Receive two complimentary tickets to the special concert and Long Lunch at Baerami Pines Retreat, valued at \$1,000.

This is a unique sponsorship opportunity and one that will directly benefit the students of the UHCM. Please contact me directly if you are interested in becoming one of the five 'Gold' sponsors.

Where to From Here

Promotion of this special weekend of activities will commence by email and mail to ACO supporters and subscribers in the Sydney, Newcastle and Upper Hunter Regions. We also intend to reach out to local businesses and personal contacts from the Upper Hunter Valley, as well as Sydney and Newcastle environs in late April to early May 2017.

See below for more information on how you can make a donation to the ACO's National Education Program, and enable this series of musical events in the Upper Hunter Valley

Given the timing of this event, it would be appreciated that donations and sponsorships are received as soon as is convenient. Any 'Gold Sponsors' wanting their logo placed on the advertising as well as two complimentary tickets to the concert and long lunch at Baerami Pines Retreat, will need to make their submissions by 30 April 2017.

Yours Sincerely,



Thomas O'Neill
0439 905693
thomasoneill@smartchat.net.au

Baerami Pines Retreat

queries@baeramipinesretreat.com.au
www.baeramipinesretreat.com.au

The Australian Chamber Orchestra Pty Ltd is listed on the register of Cultural Organisations under Section 78(1)(a) of the Income Tax Assessment Act 1936. All donations of \$2.00 or over are tax-deductible.

EFT

BSB: 062 014

Account number: 0013 2222

Account name: Australian Chamber Orchestra

Please include in the description surname, postcode, donation in the transaction. Please contact sally.crawford@aco.com.au or 02 8274 3830 once the donation has been transferred and include your name and contact number so we can get in touch to provide a thank you letter and tax receipt.

Cheque

Please make cheques payable to Australian Chamber Orchestra Pty Ltd and post to:

Australian Chamber Orchestra

Att: Sally Crawford

PO Box R21

ROYAL EXCHANGE NSW 1225

Phone

Credit card donations can be taken over the phone by contacting Sally Crawford, Patrons Manager, on 02 8274 3830.

Online

www.aco.com.au/support/donate

12.5 UPDATE OF INVESTMENT (FINANCIAL SECURITIES) POLICY

Attachments:	A. Details of Investments against policy limits B. Amended Investments Policy June 2017
Responsible Officer:	Fiona Plesman - Director - Planning, Community & Corporate Services
Author:	Ross Franklin - Chief Finance Officer
Community Plan Issue:	<i>Progressive leadership</i>
Community Plan Goal:	<i>That Muswellbrook Shire is well led and managed</i>
Community Plan Strategy:	<i>Effective governance of Muswellbrook Shire</i>

PURPOSE

The purpose of this report is to update Council's Investment Policy following advice from Council's professional advisors. Recent events where a number of regional banks credit ratings for long term securities have been downgraded have highlighted deficiencies with the current policy which need to be addressed.

OFFICER'S RECOMMENDATION**Council**

- 1. Adopt the updated investment policy as attached to this report**
- 2. Acknowledge that currently the policy limit of 10% for funds held with the Bank of Queensland is outside the policy limit and that the funds with this institution be invested with another issuer when the next deposit matures on 31 August, 2017 to ensure compliance with the policy limit.**

Moved: _____ **Seconded:** _____

BACKGROUND

Councils are required to have in place an investment policy that meets the requirements of the Ministerial investment order 2011. The current policy was adopted in 2015.

The existing policy refers specifically to the Standard and Poor's (S & P) rating. Recently S & P have downgraded a number of regional banks and the consequence of this is that the specific S & P limits in the existing policy are now not compliant.

We have sought advice and have been advised that the existing policy wording is too restrictive and the recent event, of a single agency downgrading institutions should not have caused a policy non-conformance. Amended policy wording based on best practice and similar wording adopted by other councils has been recommended by Council's advisors.

CONSULTATION

Not Applicable

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Cr Scott Bailey

REPORT

Rating agencies provide two ratings for financial institutions. A short-term rating (for investments with a maturity of less than 12 months) and a long-term rating (for investments with a maturity of greater than 12 months). The existing investment policy limits are based on the S & P long-term ratings. Council's investment advisors CPG Advisory recommend that council only focuses on the long-term ratings, as set out in the current policy.

There are 3 rating agencies, Fitch, Moody's and S & P. The current policy relies on the S & P ratings alone in setting limits for investments in each category.

Recently S & P downgraded 23 regional banks whilst leaving the ratings of the four major banks intact. The other rating agencies have not changed their ratings for any Australian banks.

Due to the S & P downgrade and the specific reliance on the S & P long-term ratings in the current policy the effect of the downgrade was to change the council's portfolio mix so that the limit on some individual institutions is breached. Council has investment holdings with 4 issuers which will exceed the policy limits under the 2015 policy settings. After the adoption of the proposed amended policy there will be only one issuer where the value held exceeds the policy parameters.

Currently council has investments with a value of \$6.43m with the Bank of Queensland. This represents 13.85% of the portfolio. Both ratings (old A- and new BBB+) have a limit of 10%. As the investments are term deposits they cannot be broken without break fees. As a \$2 million investment matures in 2 months on 31 August, 2017 the recommendation is that council acknowledge that the value with this issuer is temporarily outside the policy parameters and will become compliant on maturity of the term deposit on 31 August.

The attached summary of investments shows the position against the existing policy settings before and after the ratings downgrade. Those issuers where the existing policy would be breached have been highlighted.

As well as addressing the current issue caused by the bank downgrades council's advisors have also made some other minor changes which reflect best practice. One of these is that the policy should be reviewed on an annual basis.

The proposed changes are shown in a marked up version of the policy which is attached to this report.

OPTIONS

Options available to council are to:

1. Amend the policy as recommended and
 - a. Acknowledge the breach with the Bank of Queensland and that this will be remedied on 31 August, 2017.
 - b. Instruct officers to withdraw a term deposit with the Bank of Queensland of sufficient value to bring the issuer within the 10% policy limit.
2. Continue with the existing policy and instruct officers to sell sufficient investments so that the council portfolio has a mix that meets the current policy limits.
3. Continue with the existing policy and acknowledge the policy breach and instruct officers to adjust the portfolio as investments mature.

CONCLUSION

Recent events with a S & P downgrade for a number of banks have highlighted shortcomings with the current policy. An instance where the value held with a single issuer exceeds the policy parameters.

Council's advisors, CPG Advisory, have reviewed the current policy and have suggested a number of changes. In addition some wording has been added to acknowledge that at times council may decide to borrow internally.

The revised policy is more robust and reflects the current best practice based on council's advisors considerable experience in advising a number of councils and wording on other policy documents.

Following the adoption of the revised policy council still has one issuer where the total value of investments exceeds the policy parameter. As an investment with this issuer will mature on 31 August, 2017 it is recommended that the breach be acknowledged and remedied when the next deposit matures on 31 August, 2017.

SOCIAL IMPLICATIONS

There are no social implications

FINANCIAL IMPLICATIONS

There are no direct financial implications

POLICY IMPLICATIONS

This amends an existing policy

STATUTORY IMPLICATIONS

An investment policy is a statutory requirement.

LEGAL IMPLICATIONS

There are no legal implications

OPERATIONAL PLAN IMPLICATIONS

nil

RISK MANAGEMENT IMPLICATIONS

This policy deals with the risks associated with council's investment portfolio

Muswellbrook Shire Council - Investments Summary as at 31 May 2017

Issuer	New S & P rating	OLD S & P rating	Market Value	Face Value	%age Market value	%age Face Value	NEW Limit - 2015 Policy	OLD Limit - 2015 Policy	REVISED LIMIT - 2017 policy update	Notes
AMP Bank Ltd	A	A+	1,386,755	1,350,342	2.98%	2.97%	20%	20%	20%	
ANZ banking Group Ltd	A1+	A1+	1,003,233	1,000,000	2.16%	2.20%	20%	20%	20%	
Bank of Queensland Ltd	BBB+	A-	6,432,355	6,250,000	13.84%	13.74%	10%	10%	10%	10% \$2m matures 31/8/2017
Bendigo & Adelaide Bank Ltd	BBB+	A-	1,002,270	1,000,000	2.16%	2.20%	10%	10%	10%	
Commonwealth Bank of Australia	AA-	AA-	3,063,755	3,000,000	6.59%	6.59%	20%	20%	20%	
Credit Suisse Sydney	A	A	2,047,540	2,000,000	4.40%	4.40%	20%	20%	20%	
Credit Union Australia Ltd	BBB	BBB+	2,769,595	2,750,000	5.96%	6.04%	5%	10%	10%	10% \$2m matures 22/12/2017
Greater Bank Ltd	BBB	BBB+	2,012,680	2,000,000	4.33%	4.40%	5%	10%	10%	
Heritage Bank Ltd	A3/P2	A3/P2	3,430,724	3,399,500	7.38%	7.47%	10%	10%	10%	Moody's rating only
ING Bank Australia Limited	A-	A-	4,161,898	4,000,000	8.95%	8.79%	10%	10%	10%	
Macquarie bank	A	A	760,282	750,000	1.64%	1.65%	20%	20%	20%	
Members Equity Bank Ltd	BBB	BBB+	1,007,820	1,000,000	2.17%	2.20%	5%	10%	10%	
National Australia Bank Ltd	AA-	AA-	3,165,684	3,000,000	6.81%	6.59%	20%	20%	20%	
Newcastle Permanent Building Society L	BBB	BBB+	3,004,985	3,000,000	6.46%	6.58%	5%	10%	10%	10% \$500k matures 27/2/2018
P & N Bank Ltd	BBB	BBB	3,142,718	3,000,000	6.76%	6.59%	5%	5%	5%	
Rabobank Australia Ltd	Unrated	Unrated	2,057,469	2,003,041	4.43%	4.40%	5%	5%	5%	
Rabobank Nederland Australia Branch	A+	A+	2,037,780	2,000,000	4.38%	4.40%	20%	20%	20%	
Suncorp Bank	AAA	AAA	1,986,770	2,000,000	4.27%	4.40%	20%	20%	20%	
UBS Australia	A-	A-	1,002,770	1,000,000	2.16%	2.20%	10%	10%	10%	
Westpac Banking Corporation	AA-	AA-	1,010,115	1,000,000	2.17%	2.20%	20%	20%	20%	
Totals By policy category			46,487,198	45,502,883	100%	100%				

Totals By policy category

	New S & P rating	OLD S & P rating	Policy Maximum
AA- or higher	10229557	10229557	22%
A+	2037780	3424535	7%
A	4194577	2807822	9%
A-	5164668	12599293	11%
BBB+	10,865,349	12,225,804	23%
BBB	11937798	3142718	26%
Unrated	2057469	2057469	4%
Totals	46487198	46487198	100%



muswellbrook shire council

Investment (Financial Securities) Policy

Policy I20/1

Authorisation Details:

Authorised by:	Council
Minute No:	
Date:	
Review timeframe:	Earliest of Alteration of relevant Ministerial Investment Order, or 12 months
Department:	Finance
Document Owner:	Chief Finance Officer

Details History;

Version No.	Date changed	Modified by	Amendments made

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POLICY OBJECTIVE

To provide for the investment of Council funds in a manner that addresses the following considerations:-

- Compliance with legislation and regulations, as well as the 'Prudent Person' test
- Independence and transparency of advice and costs
- Ensuring the security of the capital invested including the management of credit risk.
- The management of cash flow, ensuring that Council can meet its financial obligations in a timely manner.
- The allowing for the investment of funds to act as a hedge against changing borrowing costs.
- The generation of a monthly return that exceeds the 90 Day Bank Bill Swap Rate.

POLICY STATEMENT*Delegation of Authority*

Authority for implementation of the Investment Policy is delegated to the General Manager in accordance with the *Local Government Act 1993*. In turn, this authority has been delegated to the Responsible Accounting Officer.

Prudent Person Standard

The investment of funds will be managed with the care, diligence and skill that a prudent person would exercise in the investment of public monies. As such, the principle of preservation of capital is to take precedence over the generation of return. The main aim of this policy is to prevent the investment of Council's funds in any speculative manner.

Borrowing to invest (leverage) is considered speculative. However, nothing will limit Council from short-term investment of loan proceeds, where a single loan is raised for a specific purpose but then staged payments made.

Ethics and Conflicts of Interest

Officers shall refrain from personal activities that would conflict with the proper execution and management of Council's investment portfolio. The policy requires officers to disclose any conflict of interest to the General Manager. Advisors are to certify their compliance with the Office of Local Government's guidelines, as well as certifying that they do not take any conflicted remuneration from sources other than Council.

Allowed Investments

Investments are limited to those allowed by the current Ministerial Investment Order as issued by the New South Wales Minister for Local Government. (Copy attached). Council may invest in the full range of securities allowed under the Order. No security or instrument that is not allowed under the Order will be acquired by Council. In addition council can make internal investments, lending funds to meet council borrowing requirements, providing the appropriate guidelines are followed.

Investment Security

It is accepted that if the twin principles of capital security and the generation of a worthwhile return are to be achieved, Council will need to invest in securities with a range of credit ratings. Council may only invest in financial organisations that are authorised deposit taking

organisations in Australia. These are regulated by the Australian Prudential Regulation Authority and subject to Australian banking legislation, and this, of itself provides a high level of security for Council's capital. However, Council will take further steps to ensure a level of capital security that is also commensurate with an acceptable rate of return. As such, Council will invest in a range of securities that comply with order and in accordance with a range of credit ratings (as assessed by Standard and Poor's) as outlined below:-

Credit Rating	Minimum Holding of Securities with this Credit Rating	Maximum Holding of Securities Up to This Credit Rating
AA- or higher; Australian major banks*	10%	100%
A+	0%	80%
A	0%	60%
A-	0%	60%
BBB+	0%	40%
BBB	0%	30%
Unrated**	0%	10%

In the acquisition of each security, Council will ensure that the counter party, or the group that is ultimately responsible for the payment of revenue and the security of capital amounts is clearly identified. In order to minimise the risk of the failure of a counter party to pay, causing a major capital loss, Council will limit its exposure to counter parties as outlined below:

Counter Party's Credit Rating	Maximum Holding of Securities Issued by single Counter Parties with this Credit Rating
AA- or higher; Australian major banks*	30%
A+	20%
A	20%
A-	10%
BBB+	10%
BBB	5%
Unrated**	5%

* Regardless of any future downgrades, during the term of this Policy, major banks will be eligible for inclusion in the highest category. These are defined as ANZ, Commonwealth, National Australia and Westpac banks, as well as any subsidiaries or brands (such as St George, UBank etc).

** Unrated securities must still comply with all the other requirements outlined in the Order.

Where a downgrade by S&P would take Council's investments outside the range of the current Policy, but this is not supported by other agencies Moody's and Fitch Ratings ("split ratings"), then it will be sufficient for Council to be advised of the affected holdings. Council can continue to invest in the affected institutions on the basis of the other agencies' ratings.

Investment Advisor

The Council's investment advisor must be licensed by the Australian Securities and Investment Commission. The advisor must be independent and have no actual or potential

conflict of interest in relation to investment securities being recommended, either for sale or acquisition.

The advisor's role will remain to advise and recommend. The advisor may not transact on Council's behalf. Council retains the obligation to make decisions in regard to the sale or acquisition of securities.

Valuation

Council has periodically sold securities where prudent and beneficial to do that. In such a case, "amortised cost" treatment is no longer available.

Council will value securities on the basis of "Fair Value" accounting at year end, but can for convenience report amortised cost basis for unaudited monthly reporting.

All valuations will be conducted in accordance with the relevant and applicable Australian Accounting Standards.

Security Trading

As outlined above, Council's general intention is to hold a security until maturity; however, in order to meet liquidity requirements or to take advantage of a significant opportunity for profit, Council may choose to sell an investment. However, Council will not acquire securities with aim of generating a short term capital return.

Return Benchmarking

Council is aiming to generate an annual return from its assets that exceeds the 90 Day Bank Bill Swap Rate.

Reporting and Reviewing of Investments

Documentary evidence must be held for each investment and a listing of currently held securities maintained in the investment register. Documentary evidence must provide Council with evidence of Council's legal title to the investment.

Certificates must be obtained from the financial institutions confirming the face value and holding of investments on Council's behalf as at 30 June each year and reconciled to the Investment Register.

All investments are to be appropriately recorded in Council's financial records and reconciled on a monthly basis.

A monthly report will be provided to Council. The report will list the current holdings and performance of the portfolio.

Policy Review

The policy will be reviewed upon the issue of a new or amended Ministerial Investment Order, or in any case at least annually.

LEGISLATION

Local Government Act 1993

Local Government (General) Regulation 2005

Ministerial Investment Order

Local Government Code of Accounting Practice and Financial Reporting.

Australian Accounting Standards

Office of Local Government Circulars

ASSOCIATED COUNCIL DOCUMENTATION

Ministerial Investment Order as at 11 February 2011

Text of Ministerial Investment Order as at 11 February 2011

LOCAL GOVERNMENT ACT 1993

Investment Order

(Relating to Investments by Councils)

I, the Hon. BARBARA PERRY, M.P., Minister for Local Government, in pursuance of section 625 (2) of the Local Government Act 1993 and with the approval of the Treasurer, do, by this my order, notify for the purposes of section 625 of that Act that a council or county council may only invest money (on the basis that all investments must be denominated in Australian Dollars) in the following forms of investment:

- a) Any public funds or securities issued by or guaranteed by, the Commonwealth, any State of the Commonwealth or a Territory;
- b) Any debentures or securities issued by a council (within the meaning of the Local Government Act 1993 (NSW));
- c) Interest bearing deposits with, or any debentures or bonds issued by, an authorised deposit-taking institution (as defined by the Banking Act 1959 (Cwth)), but excluding subordinated debt obligations;
- d) Any bill of exchange which has a maturity date of not more than 200 days; and if purchased for value confers on the holder in due course a right of recourse against a bank which has been designated as an authorised deposit-taking institution by the Australian Prudential Regulation Authority;
- e) A deposit with the New South Wales Treasury Corporation or investments in an Hour Glass Investment facility of the New South Wales Treasury Corporation.

All investment instruments (excluding short term discount instruments) referred to above include both principal and investment income.

Transitional Arrangements

- i. Subject to paragraph (ii) nothing in this order affects any investment made before the date of this Order which was made in compliance with the previous Ministerial Orders, and such investments are taken to be in compliance with this Order.
- ii. Paragraph (i) only applies to these investments made before the date of this order and does not apply to any restructuring or switching of investments or any reinvestment of proceeds received on disposal or maturity of such investments, which for the avoidance of doubt must comply with this Order.

Key Considerations

An investment is not in the form of an investment notified by this order unless it also complies with an investment policy of council adopted by resolution of council.

All councils should by resolution adopt an investment policy that is consistent with this order and any guidelines issued by the Chief Executive (Local Government), Department of Premier and Cabinet, from time to time.

The General Manager, or any other staff member, with delegated authority by a council to invest funds on behalf of a council must do so in accordance with the council's adopted investment policy.

Councils have a fiduciary responsibility when investing. Councils should exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

When exercising the power of investment councils should consider, but not be limited by, the risk of capital or income loss or depreciation, the likely income return and the timing of income return, the length of the term of the proposed investment, the liquidity and marketability of the proposed investment, the likelihood of inflation affecting the value of the proposed investment and the costs (including commissions, fees, charges and duties payable) of making the proposed investment.

Dated this 12th Day of January 2011

The Hon. BARBARA PERRY, M.P.

Minster for Local Government

18 ADJOURNMENT INTO CLOSED COUNCIL

In accordance with the Local Government Act 1993, and the Local Government (General) Regulation 2005, in the opinion of the General manager, the following business is of a kind as referred to in Section 10A(2) of the Act, and should be dealt with in a Confidential Session of the Council meeting closed to the press and public.

RECOMMENDATION

That Council adjourn into Closed Session and members of the press and public be excluded from the meeting of the Closed Session, and access to the correspondence and reports relating to the items considered during the course of the Closed Session be withheld unless declassified by separate resolution. This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the following provisions:

19.5 MARKETPLACE MANAGEMENT

Item 19.5 is classified CONFIDENTIAL under the provisions of Section 10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.6 FUTURE FUND AND SEWER FUND BORROWING FACILITIES

Item 19.6 is classified CONFIDENTIAL under the provisions of Section 10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Moved: _____ **Seconded:** _____