



muswellbrook
shire council

Muswellbrook Shire Council

ORDINARY COUNCIL MEETING

BUSINESS PAPER

TUESDAY 28 FEBRUARY 2023



MUSWELLBROOK SHIRE COUNCIL

P.O Box 122
MUSWELLBROOK
22 February, 2023

Councillors,

You are hereby requested to attend the Ordinary Council Meeting to be held in the Training Room, Level 2, 87 Hill Street, Muswellbrook, NSW 2333 Australia on **Tuesday 28 February 2023** commencing at 6:00 pm.

Derek Finnigan

ACTING GENERAL MANAGER



Council Meetings

Meeting Principles

Council and committee meetings should be:

- Transparent:* Decisions are made in a way that is open and accountable.
- Informed:* Decisions are made based on relevant, quality information.
- Inclusive:* Decisions respect the diverse needs and interests of the local community.
- Principled:* Decisions are informed by the principles prescribed under Chapter 3 of the Act.
- Trusted:* The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.
- Respectful:* Councillors, staff and meeting attendees treat each other with respect.
- Effective:* Meetings are well organised, effectively run and skilfully chaired.
- Orderly:* Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

Public Forums

The council may hold a public forum prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council.

To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by no later than 9.00 am two (2) days prior to the day of the meeting before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.

Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than 3 days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.

Each speaker will be allowed 2 minutes to address the council. This time is to be strictly enforced by the chairperson.



Declarations of Interest

Statement of Ethical Obligations

Councillors are reminded of their oath or affirmation of office, made under section 233A of the NSW Local Government Act 1993, to undertake the duties of the office of Councillor in the best interests of the people of Muswellbrook Shire and Muswellbrook Shire Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them, under the Local Government Act 1993 or any other Act, to the best of their ability and judgment. Pursuant to the provisions of the Muswellbrook Shire Council Code of Meeting Practice and the Muswellbrook Shire Council Code of Conduct, Councillors are reminded of their obligations to disclose and appropriately manage conflicts of interest.

Section 451 of the Local Government Act requires that if a Councillor or Member of a Council or committee has a pecuniary interest in any matter before the Council or Committee, he/she must disclose the nature of the interest to the meeting as soon as practicable and must not be present at, or in sight of, the meeting, when the matter is being discussed, considered or voted on.

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of financial gain or loss (see sections 442 and 443 of the Local Government Act).

A non-pecuniary interest can arise as a result of a private or personal interest which does not involve a financial gain or loss to the councillor or staff member (eg friendship, membership of an association, or involvement or interest in an activity). A Councillor must disclose the nature of the interest to the meeting as soon as practicable.

Council's Model Code of Conduct now recognises two forms of non-pecuniary conflict of interests:

- Significant
- Less than significant

A Councillor must make an assessment of the circumstances and determine if the conflict is significant.

If a Councillor determines that a non-pecuniary conflict of interests is less than significant and does not require further action, they must provide an explanation of why it is considered that the conflict does not require further action in the circumstances.

If the Councillor has disclosed the existence of a significant non-pecuniary conflict of interests at a meeting they must not be present at, or in sight of, the meeting, when the matter is being discussed, considered or voted on.



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- 1. Acknowledgement of Country**
- 2. Civic Prayer**
- 3. Apologies and Applications for a Leave of Absence or Attendance by Audio Visual Link by Councillors**
- 4. Confirmation of Minutes**

Ordinary Council Meeting held on 24 January, 2023

RECOMMENDATION

The Minutes of the Ordinary Council Meeting held on **24 January, 2023**, a copy of which has been distributed to all members, be taken as read and confirmed as a true record subject to the following amendment to the Minutes of the Olympic Park Precinct Development Committee Meeting held on 13 December, 2022:

Item 5.1 Olympic Park Precinct Development Advisory Committee – Independent Community Members

The recommendation to read:

RECOMMENDED on the motion of Cr S. Reynolds and Mr P. Benkovic:

1. The Committee recommends to Council that Mr Gus Mather be appointed as the nominated person for the Muswellbrook Senior Rugby League.
2. Council seeks two independent community representatives on the Committee through Expression of Interest.

Moved: _____ **Seconded:** _____

5. Disclosure of any Pecuniary or Non-Pecuniary Interests



6. Mayoral Minute

6.1. Mayoral Minute

Attachments: Nil

MAYORAL MINUTE

At the Local Government NSW 2018 and 2022 Conferences, councils resolved to support the Uluru Statement from the Heart and called for a referendum to be held in the current term of the Federal Parliament.

Later this year, Australians will have their say in a referendum on whether to update the Constitution to include an Aboriginal and Torres Strait Islander Voice to Parliament.

The referendum is part of the Federal Government's commitment to implementing the Uluru Statement from the Heart. It is proposed that the structure and role of the Voice will be decided by Parliament through legislation, with members to be chosen by First Nations people, and it will provide a permanent means to advise the Australian Parliament and Government on the views of Aboriginal and Torres Strait Islander peoples on matters that affect them.

This month, Council attended the Hunter Joint Organisation meeting, where the Mayors of the Hunter resolved to provide a report to their respective councils regarding progressing the proposed Voice to Parliament.

As the closest level of government to their communities, councils are well placed to seek feedback from Aboriginal and Torres Strait Islander peoples about the Voice to Parliament.

Locally, we have partnerships with the Wanaruah Local Aboriginal Land Council, Council's Aboriginal Advisory Committee and other stakeholders.

RECOMMENDATION

Council Officers commence consultation with the Wanaruah Local Aboriginal Land Council and the Aboriginal Cultural Inclusion Committee about how they wish Council to proceed in relation to progressing the Voice to Parliament and report the outcomes back to Council.

Moved: _____ **Seconded:** _____



7. Public Participation

8. Business Arising (From Previous Meetings)

Nil



9. Business

9.1. Planning and Environment

9.1.1. DA 2021-55 Planning Agreement for Waste Transfer Station at 32-36 Glen Munro Road, Muswellbrook

- Attachments:**
1. DA 2021-55 Draft Planning Agreement - 03-01-2022 [9.1.1.1 - 22 pages]
 2. DA 2021-55 - Planning Agreement Explanatory Note [9.1.1.2 - 2 pages]

Responsible Officer: Sharon Pope - Director - Planning & Environment

Author: Tanya Jolly (Project Planner)

Community Plan Issue: *Not Applicable*

Community Plan Goal: *Not Applicable*

Community Plan Strategy: *Not Applicable*

Not applicable

PURPOSE

The purpose of this report is to notify Council of the outcome of the public consultation completed in relation to the Planning Agreement for DA 2021-55 (Waste Transfer Station) and to seek confirmation of Council's support for the Acting General Manager to enter into the Planning Agreement included in Attachment A.

OFFICER'S RECOMMENDATION

Council endorses ;

1. The Planning Agreement included as Attachment A and delegates authority to the Acting General Manager to finalise the Planning Agreement on the terms detailed in the report.
2. The use of funds to the amount of \$297,000 from the Mine Affected Roads Reserve for the construction of the upgrade to the intersection of Thomas Mitchell Drive and Glen Munro Road.

Moved: _____ **Seconded:** _____

BACKGROUND

The Planning Agreement before Council relates to a development application approved by the Hunter and Central Coast Regional Planning Panel (the Planning Panel) for the establishment of a Waste Transfer Station at 32-36 Glen Munro Road, Muswellbrook (DA 2021/55). The application was approved by the Planning Panel on 4 August 2022 and the determination was subject to a condition of consent requiring the proponent to enter into a Planning Agreement with Council.

The terms of the Planning Agreement are consistent with the with draft terms offered by the proponent and reported to Council at its 26 July 2022 Meeting (Minute 16.6:28) and the related condition of consent in the Notice of Determination for DA 2021/55. This includes the



following lump sum and annual contribution to be paid to Council.

	Public Benefit	Amount	Due date	Additional specifications
1.	Monetary Contribution (Lump Sum)	\$135,000, plus GST. (GST inclusive amount of \$148,500)	Within 14 days of the date of this Agreement.	No Construction Certificate is to be issued prior to payment of the Lump Sum Contribution by the Developer.
2.	Monetary Contribution (Annual Contribution)	\$0.11 per tonne of Material delivered to the Land in accordance with the Development Consent, plus any applicable GST (see Clause 8.2).	15 August, annually, while the Development is in operation.	

Council is to use the lump sum paid toward the upgrade of the Glen Munro Road/Thomas Mitchell Drive intersection, with the annual contribution paid used for the Maintenance of Council's local road network.

CONSULTATION

Corporate Lawyer

Council's Corporate Lawyer advised they were satisfied with the technical drafting of the Agreement, and that it was suitable for consideration by Council.

Roads and Drainage Engineers

The terms of the Draft Agreement have been subject to extensive consultation with Council's Roads and Drainage Engineers. Council Engineers have informed the requirements of the Planning Agreement and the amounts to be paid to Council to support the improvement of Council Infrastructure. Other money has been budgeted for the improvement of the Thomas Mitchell Drive and Glen Munro Road intersection and the project is to be progressed following the proponent's payment of their contribution in accordance with the Planning Agreement.

Public Consultation

The Draft Planning Agreement has been publicly notified for twenty-eight (28) days between 3 January 2023 to 31 January 2023 in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2022*. Through this consultation period a notice was also placed in the local newspaper, the Hunter Valley News. Additionally, the draft Agreement and an explanatory Notice were notified at Council's website and publicised through Council's social media platform.

No submissions were received from members of the public in relation to this matter.



OPTIONS

Council may:

- A. Review and approve the terms and conditions specified in the Planning Agreement for DA 2021-55; or
- B. Modify the terms and conditions specified in the draft Planning Agreement and recommend alternative conditions. This is not the recommended option as the draft Planning Agreement reflects the previous decision of Council to support the terms offered.

FINANCIAL IMPLICATIONS

The draft Planning Agreement will:

1. Provide a lump sum toward the upgrade and improvement of the Thomas Mitchell Drive/Glen Munro Road intersection.
2. Provide an annual contribution toward the improvement and maintenance of the road network within the Muswellbrook Shire Council Local Government Area.
3. Council is to use the lump sum paid toward the upgrade of the Glen Munro Road/Thomas Mitchell Drive intersection. The upgrade is estimated to cost \$445,000 and Council's contribution would be the amount of \$297,000. The funding for Council's contribution could be sourced from the Mine Affected Roads Reserve.

LEGAL IMPLICATIONS

A Planning Agreement is a voluntary agreement between a planning authority and a person (the **developer**) who, in this instance, has made a development application, under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose.

The Planning Agreement in question relates to supporting road improvement upgrades and has resulted from previous negotiations between Council and the proponent for DA 2021/55 and the related conditions of consent imposed on the development by the Hunter and Central Coast Regional Planning Panel.

CONCLUSION

The Draft Planning Agreement has been publicly notified in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2022*. No submissions have been received by Council.

It is recommended that Council endorses the Planning Agreement and delegates authority to the Acting General Manager to finalise the Agreement.

Planning Agreement

Muswellbrook Shire Council and
Central Waste Station Pty Limited

Reference: DA 2022-55

October 2022

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THIS PLANNING AGREEMENT is made on

[**DATE**] October 2022.

BETWEEN:

Muswellbrook Shire Council ABN 86 864 180 944 of 60-82 Bridge Street, Muswellbrook NSW 2333 (the **Council**); and

Central Waste Station Pty Ltd ABN 44 604 989 433 of 8 Styles Street, Kurri Kurri NSW 2327 (the **Developer**).

BACKGROUND

- (A) The Developer is the owner of the Land and intends to undertake the Development on the Land.
- (B) The Developer has offered to enter into this document with the Council to provide the Public Benefits on the terms of this document.

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

Act means the *Environmental Planning and Assessment Act 1979 (NSW)*.

Adverse Affectation has the same meaning as in Part 3 of Schedule 3 of the *Conveyancing (Sale of Land) Regulation 2010 (NSW)*.

Authorisation
means:

- (a) an approval, authorisation, consent, declaration, exemption, permit, licence, notarisation or waiver, however it is described, and including any condition attached to it; and
- (b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken,

including any renewal or amendment.

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, Australia.

Council's Representative means the person named in Item 3 of Schedule 1 or his/her delegate.

Construction Certificate has the same meaning as in the Act.

Corporations Act means the *Corporations Act 2001 (Cth)*.

Dealing means selling, transferring, assigning, novating, mortgaging, charging, or encumbering and, where appearing, **Deal** has the same meaning.

Developer's Representative means the person named in Item 4 of Schedule 1 or his/her delegate.

Development means the development described at Item 2 of Schedule 1.

Development Application means the development application identified in Item 5 of Schedule 1 and includes all plans, reports models, photomontages, material boards (as amended supplemented) submitted to the consent authority before the determination of that Development Application.

Development Consent means the consent granted to the Development Application for the Development and includes all modifications made under section 4.55 of the Act.

Dispute means any dispute or difference between the parties arising out of, relating to or in connection with this document, including any dispute or difference as to the formation, validity, existence or termination of this document.

Environmental Laws means all laws and legislation relating to environmental protection, building, planning, health, safety or work health and safety matters and includes the following:

- (a) the *Work Health and Safety Act 2011 (NSW)*;
- (b) the *Protection of the Environment Operations Act 1997 (NSW)*; and
- (c) the *Contaminated Land Management Act 1997 (NSW)*.

Government Agency means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person; or

- (c) a person (whether autonomous or not) who is charged with the administration of a law.

Gross Floor Area has the meaning given to that term in the *Sydney Local Environment Plan* in effect at the date of this document.

GST means the same as in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Index Number means the Consumer Price Index (Sydney all groups) published by the Australian Bureau of Statistics from time to time.

Land means the land described in Item 1 of Schedule 1 of this document.

Laws means all applicable laws, regulations, industry codes and standards, including all Environmental Laws.

Material means any waste or other recycling material received by the Developer on the Land as part of the normal operation of the Development.

Monetary Contribution (Lump Sum) means that part of the Public Benefits described as “Monetary Contribution (Lump Sum)” in clause 1 of Schedule 3 to be paid by the Developer to the Council in accordance with this document. **Lump Sum** has the same meaning.

Monetary Contribution (Annual Contribution) means that part of the Public Benefits described as “Monetary Contribution (Annual Contribution)” in clause 1 of Schedule 3 to be paid by the Developer to the Council in accordance with this document. **Annual Contribution** has the same meaning

Occupation Certificate has the same meaning as in the Act.

Personal Information has the meaning set out in the *Privacy and Personal Information Protection Act 1998* (NSW)

Personnel means the Developer’s officers, employees, agents, contractors or subcontractors.

Privacy Laws means the *Privacy Act 1988* (Cth), the *Privacy and Personal Information Protection Act 1998* (NSW), the *Spam Act 2003* (Cth), the *Do Not Call Register Act 2006* (Cth) and any other applicable legislation, principles, industry codes and policies relating to the handling of Personal Information.

Public Benefits means the provision of benefits to the community by the Developer in the form and at the times specified in Schedule 3.

Regulation means the *Environmental Planning and Assessment Regulation 2021* (NSW).

Subdivision of Land has the same meaning as in the Act.

Tax means a tax, levy, duty, rate, charge, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge.

1.2 Rules for interpreting this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (a) A singular word includes the plural, and vice versa.
- (b) A word which suggests one gender includes the other genders.
- (c) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (d) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (e) A reference to **including** means “including, without limitation”.
- (f) A reference to **dollars** or **\$** is to an amount in Australian currency.
- (g) A reference to **this document** includes the agreement recorded by this document.
- (h) Words defined in the GST Act have the same meaning in clauses about GST.
- (i) This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself.

2. APPLICATION OF THE ACT AND THE REGULATION

2.1 Application of this document

This document is a planning agreement within the meaning of section 7.4 of the Act and applies to:

- (a) the Land; and
- (b) the Development.

2.2 **Public Benefits to be made by Developer**

Clause 5 and Schedule 3 set out the details of the:

- (a) Public Benefits to be delivered by the Developer;
- (b) time or times by which the Developer must deliver the Public Benefits; and
- (c) manner in which the Developer must deliver the Public Benefits.

2.3 **Application of sections 7.11, 7.12 and 7.24 of the Act**

- (a) This document excludes the application of section 7.11 of the Act to the Development.
- (b) This document excludes the application of section 7.12 of the Act to the Development.
- (c) This document does not exclude the application of section 7.24 of the Act to the Development.

2.4 **Council rights**

This document does not impose an obligation on the Council to:

- (a) grant Development Consent for the Development; or
- (b) exercise any function under the Act in relation to a change to an environmental planning instrument, including the making or revocation of an environmental planning instrument.

2.5 **Explanatory note**

The explanatory note prepared in accordance with clause 205 of the Regulation must not be used to assist in construing this document.

3. **OPERATION OF THIS PLANNING AGREEMENT**

3.1 **Commencement**

This document will commence on the date of execution of this document by all parties to this document.

4. **WARRANTIES**

4.1 **Mutual warranties**

Each party represents and warrants that:

- (a) **(power)** it has full legal capacity and power to enter into this document and to carry out the transactions that it contemplates;
- (b) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this document and to carry out the transactions contemplated;
- (c) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this document and to carry out the transactions that it contemplates;

- (ii) ensure that this document is legal, valid, binding and admissible in evidence; or
- (iii) enable it to properly carry on its business as it is now being conducted, and it is complying with any conditions to which any of these Authorisations is subject;
- (d) **(documents effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration;
- (e) **(solvency)** there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable; and
- (f) **(no controller)** no controller is currently appointed in relation to any of its property, or any property of any of its subsidiaries.

4.2 **Developer warranties**

- (a) The Developer warrants to the Council that, at the date of this document:
 - (i) it is the registered proprietor of the Land;
 - (ii) it is legally entitled to obtain all consents and approvals that are required by this document and do all things necessary to give effect to this document;
 - (iii) it is not aware of any matter which may materially affect the Developer's ability to perform its obligations under this document.

5. **PUBLIC BENEFITS**

5.1 **Developer to provide Public Benefits**

- (a) The Developer must, at its cost and risk, provide the Public Benefits to the Council in accordance with this document.
- (b) The Public Benefits paid in accordance with Schedule 3 must be paid by cash, bank cheque made payable to Muswellbrook Shire Council or by electronic transfer into a bank account, the details of which are to be provided by the Council to the Developer.
- (c) A Public Benefit is made for the purposes of this document when the Council receives the full amount of the contribution payable under this document in cash or by unendorsed bank cheque or by deposit by means of electronic funds transfer of cleared funds into the bank account nominated by the Council.

5.2 **Expenditure by the Council (Lump Sum Contribution)**

The Council will use the Lump Sum towards the upgrade of the Thomas Mitchell Drive/Glen Munro Road intersection to a Basic Right Turn Treatment (BAR) and ancillary works in line with the recommendations of the SMEC Road Safety Review commissioned by Council and dated 23 June 2022.

5.3 **Expenditure by the Council (Annual Contributions)**

The Council will use the Annual Contribution towards Road maintenance works within

the Council's local government area.

5.4 Interest

- (a) The Developer agrees to pay interest on any amount under this document which is not paid on the due date for payment. Interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.
- (b) The Developer agrees to pay interest under this clause on demand from the Council.
- (c) The rate of interest applying to each daily balance is the maximum rate permitted to accrue on unpaid rates by Section 566(3) of the *Local Government Act 1993* (NSW).

6. REGISTRATION AND CAVEAT

6.1 Registration of this document

- (a) The Developer:
 - (i) consents to the registration of this document at the NSW Land Registry Services on the certificate of title to the Land;
 - (ii) warrants that it has obtained all consents to the registration of this document on the certificate of title to the Land; and
 - (iii) agrees procure the registration of this documents under the *Real Property Act 1900* (NSW) on the relevant titles to the Land in accordance with section 7.6 of the Act;
 - (iv) must, at its own expense, within 3 months after the date of this document, take all practical steps, and otherwise do anything that Council reasonably requires to procure the registration of this document on the titles to the Land under the *Real Property Act 1900* (NSW).

6.2 Release of this document

When requested to do so after termination of this document, the Council will, at the Developer's expense, promptly execute such documents and take such steps as may reasonably be required to remove notification of registration of this document from the title to the Land.

7. DISPUTE RESOLUTION

7.1 Application

Any Dispute must be determined in accordance with the procedure in this clause 7.

7.2 Negotiation

- (a) If any Dispute arises, a party to the Dispute (Referring Party) may by giving notice to the other party or parties to the Dispute (Dispute Notice) refer the Dispute to the Developer's Representative and the Council's Representative for resolution. The Dispute Notice must:
 - (i) be in writing;
 - (ii) state that it is given pursuant to this clause 7; and

- (iii) include or be accompanied by reasonable particulars of the Dispute including:
 - (A) a brief description of the circumstances in which the Dispute arose;
 - (B) references to any:
 - i. provisions of this document; and
 - ii. acts or omissions of any person, relevant to the Dispute; and
 - (C) where applicable, the amount in dispute (whether monetary or any other commodity) and if not precisely known, the best estimate available.
- (b) Within 10 Business Days of the Referring Party issuing the Dispute Notice (**Resolution Period**), the Developer's Representative and the Council's Representative must meet at least once to attempt to resolve the Dispute.
- (c) The Developer's Representative and the Council's Representative may meet more than once to resolve a Dispute. The Developer's Representative and the Council's Representative may meet in person, via telephone, videoconference, internet-based instant messaging or any other agreed means of instantaneous communication to effect the meeting.

7.3 Not use information

The purpose of any exchange of information or documents or the making of any offer of settlement under this clause 7 is to attempt to settle the Dispute. Neither party may use any information or documents obtained through any dispute resolution process undertaken under this clause 7 for any purpose other than in an attempt to settle the Dispute.

7.4 Condition precedent to litigation

For the avoidance of doubt, nothing in this document prevents:

- (a) a party from bringing proceedings in the Land and Environment Court to enforce any aspect of this document or any matter to which this document relates; or
- (b) the Council from exercising any function under the Act or any other law relating to the enforcement of any aspect of this document or any matter to which this document relates.

7.5 Summary or urgent relief

Nothing in this clause 7 will prevent a party from instituting proceedings to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

8. TAXES AND GST

8.1 Responsibility for Taxes

- (a) The Developer is responsible for any and all Taxes and other like liabilities which may arise under any Commonwealth, State or Territory legislation (as amended from time to time) as a result of or in connection with this document or the Public

Benefits.

- (b) The Developer must indemnify the Council in relation to any claims, liabilities and costs (including penalties and interest) arising as a result of any Tax or other like liability for which the Developer is responsible under clause 8.1(a).

8.2 **Supply subject to GST**

If GST is payable on a Taxable Supply made under, by reference to or in connection with this document, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration. This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, unless otherwise expressly stated, prices or other sums payable or Consideration to be provided under or in accordance with this document are exclusive of GST.

8.3 **GST obligations to survive termination**

This clause 8 will continue to apply after expiration of termination of this document.

9. **DEALINGS**

9.1 **Dealing by the Council**

- (a) The Council may Deal with its interest in this document without the consent of the Developer if the Dealing is with a Government Agency. The Council must give the Developer notice of the Dealing within five Business Days of the date of the Dealing.
- (b) The Council may not otherwise Deal with its interest in this document without the consent of the Developer, such consent not to be unreasonably withheld or delayed.

9.2 **Dealing by the Developer**

- (a) Prior to registration of this document in accordance with clause 6, the Developer must not Deal with this document or the Land without:
 - (i) The prior written consent of the Council, which may be withheld in the Council's sole discretion; and
 - (ii) the Council, the Developer and the third party the subject of the Dealing entering into a deed of consent to the Dealing on terms acceptable to the Council, acting reasonably.
- (b) On and from registration of this document in accordance with clause 6:
 - (i) the Developer may Deal with this document without the consent of the Council only as a result of the sale of the whole of the Land (without subdivision) to a purchaser of the Land;
 - (ii) the Developer may register a plan of strata subdivision, and the Council consents to this document remaining registered only on the certificate of title to the common property of the strata plan upon registration of the strata plan; and

- (iii) the Developer must not otherwise Deal with this document to a third party that is not a purchaser of the whole or any part of the Land without:
 - (A) the prior written consent of the Council, acting reasonably; and
 - (B) the Council, the Developer and the third party the subject of the Dealing entering into a deed of consent to the Dealing on terms acceptable to the Council, acting reasonably.
- (c) The Developer must pay the Council's costs and expenses relating to any consent or documentation required due to the operation of this clause 9.2.

10. TERMINATION

- (a) The Council may terminate this document by notice in writing to the Developer if the Development Consent lapses or is surrendered by the Developer.
- (b) If the Council terminates this document then:
 - (i) the rights of each party that arose before the termination or which may arise at any future time for any breach or non-observance of obligations occurring prior to the termination are not affected;
 - (ii) the Developer must take all steps reasonably necessary to minimise any loss each party may suffer as a result of the termination of this document; and
 - (iii) the Council will, at the Developer's cost, do all things reasonably required to remove this document from the certificate of title to the Land.

11. CONFIDENTIALITY

The parties agree that the terms of this document are not confidential and this document may be treated as a public document and exhibited or reported without restriction by any party.

12. NOTICES

- (a) A notice, consent or other communication under this document is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail or email. If it is sent by mail, it is taken to have been received 5 Business Days after it is posted. If it is sent by email, it is taken to have been received the same day the email was sent, provided that the sender has not received a delivery failure notice (or similar), unless the time of receipt is after 5:00pm in which case it is taken to be received on the next Business Day.
- (b) A person's address and email address are those set out in Schedule 1 for the Council's Representative and the Developer's Representative, or as the person notifies the sender in writing from time to time.

13. THE COUNCIL'S POSITION

13.1 Planning Agreement does not fetter Discretion

This document is not intended to operate to fetter, in any manner the:

- (a) power of the Council to make any law; or

- (b) exercise by the Council of any statutory power or discretion (all referred to in this document as a “Discretion”).

13.2 Severance of provisions

- (a) No provision of this document is intended to, or does, constitute any unlawful fetter on any exercise of any Discretion. If, contrary to the operation of this clause, any provision of this document is held by a court of competent jurisdiction to constitute a fetter on any Discretion, the parties agree:
 - (i) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause 13 is substantially satisfied; and
 - (ii) in the event that clause 13.2(a)(i) cannot be achieved without giving rise to a fetter on a Discretion, the relevant provision is to be severed and the remainder of this document has full force and effect.

14. GENERAL

14.1 Governing law

- (a) This document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.

14.2 Liability for expenses

- (a) The Developer must pay its own and the Council’s expenses incurred in negotiating, executing, registering, releasing, administering and enforcing this document.
- (b) The Developer must pay for all reasonable costs and expenses associated with the preparation and giving of public notice of this document and the explanatory note prepared in accordance with the Regulations and for any consent the Council is required to provide under this document.
- (c) The Developer must also pay to the Council the Council’s reasonable costs of enforcing this document within 5 Business Days of a written demand by the Council for such payment.

14.3 Relationship of parties

- (a) Nothing in this document creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) No party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party’s credit.

14.4 Giving effect to this document

Each party must promptly execute all documents and do all things that another party from time to time

reasonably requests to effect, perfect or complete this document and all transactions incidental to it.

14.5 Time for doing acts

- (a) If:
 - (i) the time for doing any act or thing required to be done; or
 - (ii) a notice period specified in this document,

expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5pm on the specified day, it is taken to have been done on the following Business Day.

14.6 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this document without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

14.7 Preservation of existing rights

The expiration or termination of this document does not affect any right that has accrued to a party before the expiration or termination date.

14.8 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this document for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

14.9 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

14.10 Operation of this document

- (a) This document contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and has no further effect.
- (b) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.

- (c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

14.11 Operation of indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

14.12 Inconsistency with other documents

Unless the contrary intention is expressed, if there is an inconsistency between any of one or more of:

- (a) this document;
- (b) any Schedule to this document; and
- (c) the provisions of any other document of the Developer,

the order of precedence between them will be the order listed above, this document having the highest level of precedence.

14.13 Counterparts

This document may be executed in counterparts.

SCHEDULE 1

Agreement Details

ITEM	TERM	DESCRIPTION
1.	Land	Lot 10 in Deposited Plan 1131270 32-36 Glen Munro Road, Muswellbrook NSW
2.	Development	The construction and operation of a waste transfer station, comprising of 2 sheds (one containing an office) with an adjoining awning-covered set of storage bays between the sheds.
3.	Council's Representative	Name: Hamish McTaggart Address: 60-82 Bridge Street, Muswellbrook NSW 2333 Email: Hamish.mctaggart@muswellbrook.nsw.gov.au and council@muswellbrook.nsw.gov.au
4.	Developer's Representative	Name: Kevin Daly Address: 8 Styles Street, Kurri Kurri NSW 2327 Email: notifications@centralwaste.com.au
5.	Development Application	DA 55/2021

SCHEDULE 2
Requirements under the Act and Regulation (clause 2)

The below table summarises how this document complies with the Act and Regulation.

ITEM	SECTION OF ACT OR REGULATION	PROVISION/CLAUSE OF THIS DOCUMENT
1.	<p>Planning instrument and/or development application (section 7.4(1) of the Act)</p> <p>The Developer has:</p> <p>(a) sought a change to an environmental planning instrument</p> <p>(b) made, or proposes to make, a Development Application, or</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) No</p> <p>(b) Yes</p> <p>(c) No</p>
2.	<p>Description of land to which this document applies (section 7.4(3)(a) of the Act)</p>	Item 1 of Schedule 1.
3.	<p>Description of the development to which this document applies (section 7.4(3)(b) of the Act)</p>	The Development as described in Item 2 of Schedule 1.
4.	<p>The nature and extent of the provision to be made by the developer under this document, the time or times by which the provision is to be made and the manner in which the provision is to be made (section 7.4(3)(c) of the Act)</p>	Schedule 3
5.	<p>Whether this document excludes (wholly or in part) of does not exclude the application of section 7.11, 7.12 or 7.24 to the development (section 7.4(3)(d) of the Act)</p>	See clause 2.3 of this document.

6.	Applicability of section 7.11 of the Act (section 7.4(3)(e) of the Act)	See clause 2.3 of this document.
7.	Consideration of benefits under this document if section 7.11 applies (section 7.4(3)(e) of the Act)	Not applicable. This document excludes section 7.11 of the Act.
8.	Mechanism for Dispute Resolution (section 7.4(3)(f) of the Act)	Clause 8
9.	Enforcement of this document (section 7.4(3)(g) of the Act)	Clause 6 and Schedule 3
10.	No obligation to grant consent or exercise functions (section 7.4(9) of the Act)	Clause 2.4 and clause 13.
11.	Registration of this document (section 7.6 of the Act)	Clause 6
12.	Whether certain requirements of this document must be complied with before a construction certificate is issued	Payment of Lump Sum
13.	Whether certain requirements of this document must be complied with before a subdivision certificate is issued	N/A
14.	Whether certain requirements of this document must be complied with before an occupation certificate is issued	N/A
15.	Whether the explanatory note that accompanied exhibition of this document may be used to assist in construing this document	Clause 2.5

SCHEDULE 3
Public Benefits (clause 5)

1. PUBLIC BENEFITS – OVERVIEW

The Developer must provide the Public Benefits in accordance with Schedule 3 and this document. The amount, timing of delivery and additional specifications relating to the Public Benefits is set out in the table below.

	Public Benefit	Amount	Due date	Additional specifications
1.	Monetary Contribution (Lump Sum)	\$135,000, plus GST. (GST inclusive amount of \$148,500)	Within 14 days of the date of this Agreement.	No Construction Certificate is to be issued prior to payment of the Lump Sum Contribution by the Developer.
2.	Monetary Contribution (Annual Contribution)	\$0.11 per tonne of Material delivered to the Land in accordance with the Development Consent, plus any applicable GST (see Clause 8.2).	15 August, annually, while the Development is in operation.	

1.1 Indexation (Annual Contribution)

The Annual Contribution must be indexed as follows:

Annual Contribution (to be provided) =

Annual Contribution (as per item 2 of clause 1 above) x (A/B)

where:

A is the Index Number most recently published before the date the Annual Contribution is to be paid

B is the Index Number most recently published before the date this agreement commenced in accordance with clause 3.1 of this document.

If after the formula is applied the Annual Contribution will be less than the amount stated in item 1 of clause 1 above, the Annual Contribution will not be adjusted.

1.2 No trust

Nothing in this document creates any form of trust arrangement or fiduciary duty between the Council and the Developer. Following receipt of the Lump Sum, the Council is not

required to separately account for the Lump Sum, report to the Developer regarding expenditure of the Lump Sum or comply with any request by the Developer to trace the Lump Sum.

EXECUTED as an agreement.

EXECUTED by **Muswellbrook Shire Council ABN 86 864 180 944** by its authorised delegate pursuant to Section 377 of the *Local Government Act 1993 (NSW)*, in the presence

Signature of witness

Signature of officer

Name of officer

Name

Address of witness

Position of officer

EXECUTED by **Central Waste Treatment Pty Ltd** (ABN 44 604 989 433) in accordance with s127(1) of the Corporations Act 2001 (Cth):

Signature of director

Signature of director/secretary

Name

Name

Explanatory Note

Draft Planning Agreement proposed between Muswellbrook Shire Council & Central Waste Station Pty Ltd

1. Purpose

This Explanatory Note has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* to provide a simplified overview and explanation of a Draft Planning Agreement which has been proposed to be entered to between Muswellbrook Shire Council and Central Waste Pty Ltd in relation to the development application, DA 2021/55, involving the establishment of a Waste Transfer Station at 32 – 36 Glen Munro Road, Muswellbrook (Lot 10 DP 1131270).

2. Development Application Details

On the 4 August 2022 the Hunter and Central Coast Regional Planning Panel has granted development consent to a development application involving the establishment of a Waste Transfer Station at 32 – 36 Glen Munro Road, Muswellbrook (Lot 10 DP 1131270).

The site of the proposed development is included in the image below alongside a site plan detailing the proposed works.



Image.1 (Source: EMM EIS page 11).

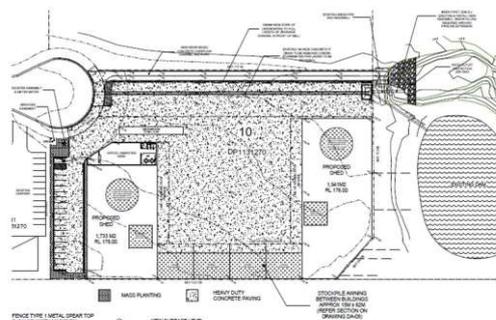


Image.2 (Source: Proposed Site Plan).

When the determining the development application the Hunter and Central Coast Regional Planning Panel imposed conditions of consent which required the developer to enter into a Planning Agreement with Council for the payment of a lump sum contribution toward the upgrade of the Thomas Mitchell Drive/Glen Munro Road intersection and the payment of an annual operational contribution related to the total tonnage of material transported to the facility for expenditure on the maintenance of Council's road network.

3. The Planning Agreement

Under the draft terms proposed the Planning Agreement would require:

1. The developer for DA 2021/55 to pay a lump sum contribution of \$135,000 plus GST to be used by Council toward the upgrade of the Thomas Mitchell Drive/Glen Munro intersection to establish a Basic Right Turn Treatment (BAR) and ancillary works at the intersection.
2. The developer for DA 2021/55 is required to pay an annual contribution of \$0.11 per tonne of material delivered to the land in accordance with the Development Consent for the duration of time that the development is in operation. This annual contribution is to be used by Muswellbrook Shire Council for road maintenance works within Muswellbrook Shire Local Government Area.

4. Public Benefit

The draft Planning Agreement would promote the public interest as it would:

1. Provide a lump sum toward the upgrade and improvement of the Thomas Mitchell Drive/Glen Munro Road intersection.
2. Provide an annual contribution toward the improvement and maintenance of the road network within the Muswellbrook Shire Council Local Government Area.

5. Notes and Further Information

This Explanatory Note has been prepared by Muswellbrook Shire Council Officers to assist interested members when reviewing the Draft Planning Agreement.

Individuals interested in receiving further information in relation to the Draft Planning Agreement or the related development application are encouraged to contact Council's Development Coordinator Hamish McTaggart on 6549 3700.

Any individual wishing to make a submission to Council in relation to the Draft Planning Agreement should do so in writing within the notification period specified in the accompanying advert. Submissions should be addressed to Council's General Manager and may be lodged via email at council@muswellbrook.nsw.gov.au or posted to Muswellbrook Shire Council, PO Box 122, Muswellbrook, NSW, 2333.



9.1.2. Council Development Application Conflict of Interest Management Policy

Attachments:	1. Council conflict of interest- FAQ sample [9.1.2.1 - 5 pages] 2. Council Development Conflict of Interest Management Policy DRAFT [9.1.2.2 - 10 pages]
Responsible Officer:	Sharon Pope - Director - Planning & Environment
Author:	Sharon Pope (Director - Planning & Environment)
Community Plan Issue:	6 - <i>Community Leadership</i>
Community Plan Goal:	Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.
Community Plan Strategy:	6.1.3 - Enhance Council's communication with the community to build awareness and understanding of Council's activities and community needs.
	Not applicable

PURPOSE

This report outlines recent changes made to the Environmental Planning and Assessment Regulation 2021 that require councils to adopt a policy on how Council will manage any potential conflicts of interests that may arise when Council is the proponent of development.

A draft Policy has been prepared and is recommended that it be publicly notified for a minimum of 28 days.

OFFICER'S RECOMMENDATION

Council authorises the public notification of the draft Council Development Conflict of Interest Management Policy in Attachment B for a minimum of 28 days.

Moved: _____ **Seconded:** _____

BACKGROUND

From time to time, councils in New South Wales make development applications to obtain consent to carry out development on land they own, occupy or otherwise control. A perceived conflict arises where the council itself is both the proponent and the determination authority under the Environmental Planning and Assessment Act 1979 ('EPA Act').

The NSW Ombudsman identified in its report: [An inherent conflict of interest councils as developer and regulator](#) (December 2020) that councils' dual role as the applicant or developer (whether lodged by or on behalf of the council), landowner or otherwise holds a commercial interest in the land, as well as the consent authority and regulator creates an inherent potential for conflicts of interest, and that it is a systemic issue that needs to be addressed.

The Department of Planning and Environment (DPE), along with Local Government NSW (LGNSW) and other key agencies, have developed a response to the Ombudsman's concerns. This includes changes to the *Environmental Planning and Assessment Regulation 2021* to require councils to:

- have a policy that sets out how they propose to manage any potential conflicts of interest



that may arise in these circumstances,

- b. consider this policy before determining any development applications that are council-related,
- c. publicly communicate any management approach(es) that the council proposes to implement (if any) for each development by publishing a management statement, together with the development application when it is exhibited.
- d. Council-related development applications need to be exhibited for at least 28 days.

Any policy needs to comply with guidelines prepared by DPE and available on the NSW Planning Portal (see attachment A for more information).

Councils have until 3rd April 2023 to have a policy in place otherwise Council applications are unable to be determined until a policy is in place.

DPE have also developed a new guideline for assessing activities under Part 5 of the Act. Part 5 activities are still subject to an environmental assessment but do not require development consent and include infrastructure works like road works, drainage works and water supply works.

The new guideline became operational from 1 July 2022. The main changes relate to the preparation of environmental assessment documents and requirements to publish these on the NSW Planning Portal.

The Local Government Act and Code of Conduct also indicate that Councillors and staff must take steps to ensure that any conflicts between their personal interests and their roles as public servants and Councillors are appropriately managed.

CONSULTATION

MANEX has reviewed the draft Council Development Conflict of Interest Management Policy.

The purpose of this report is to seek Council's support to publicly notify the draft Policy for broader feedback from the community.

REPORT

Council staff have prepared a draft Council Development Conflict of Interest Management Policy (see attachment B) to comply with the guideline prepared by DPE. It has also been expanded to capture the management of conflict for Part 5 matters and to address Code of Conduct related issues.

OPTIONS

The following options are available:

- A. Council authorises the public notification of the draft Council Development Conflict of Interest Management Policy provided in Attachment B for a minimum of 28 days; or
- B. Council modifies the draft Council Development Conflict of Interest Management Policy provided in Attachment B and authorises the public notification of the draft Policy for a minimum of 28 days.

CONCLUSION

The draft Policy provides more transparency on how Council intends to manage the environmental review process when Council, Councillors or senior staff of Council apply for development approval. It is recommended that the draft Policy be exhibited for public comment.



FINANCIAL IMPLICATIONS

There are no financial implications associated with notifying this draft Policy.

POLICY IMPLICATIONS

If adopted at the conclusion of public notification, this will become a new Policy for staff to implement.

The Code of Conduct provides sufficient guidance for managing conflict for staff below the senior staff level.

LEGAL IMPLICATIONS

It will not be legally possible for a council-related development application to be determined by the consent authority (including the Land and Environment Court on appeal) unless:

- The council has adopted a conflict of interest policy; and
- The council considers the policy in determining the application.

Managing council-related development

This document answers frequently asked questions about managing conflicts of interest for council-related development.

The Department of Planning and Environment is consulting on a proposal to help councils manage potential conflicts of interest where the council is the consent authority and regulator, but also the applicant developer (whether lodged by or on behalf of the council), landowner or otherwise holds a commercial interest in the land. We refer to this as **council-related development**.

Councils regularly lodge development applications (DAs) as an applicant to complete their own projects and achieve outcomes for the community. This includes development like parks, affordable housing and toilet blocks, as well as commercial proposals. This dual role is common in local government. But council's interests in the development as the applicant can sometimes conflict with their compliance and enforcement function.

The NSW Ombudsman believes this dual role creates the potential for conflicts of interest for councils and that it is a systemic issue that needs to be addressed. The Ombudsman recognised that councils often relied on informal and ad hoc processes and procedures to deal with the issue, but was concerned that many councils did not have documented procedures to follow when they were assessing and then regulating their own DAs.

What changes are proposed to address the Ombudsman's concerns?

To ensure the planning system remains transparent and accountable, the NSW Government proposes to make changes to the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) to require councils to:

- have a formal policy that sets out how they will manage any potential conflicts of interest that may arise in relation to council-related development
- consider this policy before determining any development applications that are council-related
- publicly communicate any management approaches that the council will implement (if any) for each development – council must complete a management strategy and publish it on the NSW Planning Portal together with the development application when it is exhibited.

Why are the changes to the regulation necessary?

The community expects that all public officials will perform their duties in a fair and unbiased way and that the decisions they make are not affected by self-interest, private affiliations, or the likelihood of personal gain or loss.

Ensuring that the community has confidence in the integrity of public officials and public sector processes is fundamental to the functioning of a society governed by the rule of law. For this reason, it is important that private interests that conflict with the public interest are identified and

managed effectively. This is not only good governance but also allows councils to strengthen their relationship with their communities and build and enhance trust.

In what circumstances does this framework apply?

It applies where a council is the consent authority and regulator for a development and is also the applicant developer (whether lodged by or on behalf of council), landowner, or has a commercial interest in the land that is the subject of the application.

How will these changes affect councils?

Before it can assess and determine council-related development applications, a council will need to:

- prepare and adopt a policy that sets out how it proposes to manage any potential conflicts of interest that could arise
- consider the policy when assessing the specific type of DA
- publish any management approaches it proposes to implement in relation to the specific development type when publishing the development application.

As part of these changes, the community participation plan requirements in the EP&A Regulation will be updated to require councils to notify council-related DAs on the NSW Planning Portal. As part of this notification, councils will be expected to upload a management statement on how they propose to manage potential conflicts of interest. We have provided an example management statement that councils can use as a template.

What should a council's policy contain?

Any policy that is prepared and adopted by a council must:

- establish management controls and/or a management strategy to address potential conflicts of interest at the different phases of the development process for the types of council-related development that it could be involved in
- outline the process through which potential conflicts of interest will be identified, risks assessed, and appropriate management controls determined
- outline the process that will be followed to publicly communicate the management approaches for each development subject to the policy.

We have prepared a sample policy to help councils develop their own policies. It contains practical solutions for developing and implementing ways to manage potential conflicts at all stages of the development process. We also encourage councils to use their risk and audit committees, where available, to provide input into the policy framework.

What if there is little risk of conflict of interest for some types of development?

Councils should take a risk-based approach for council-related development. Where there are greater risks involved, councils are encouraged to have strict role separations or use external consultants and/or peer reviews by neighbouring councils.

While councils must have a policy that sets out how they propose to deal with potential conflicts of interest for council-related development, they could implement different controls based on the level of risk. For example, councils could set their controls based on:

- risk category – low, moderate, high, very high
- types of development – non-controversial small-scale development, development of a certain value with/without a commercial interest, controversial development
- capital investment value of the proposed development.

In some circumstances, a council may determine that the risks involved in a matter are so low that no specific controls are warranted. Where this is the case, they are still expected to publicly communicate the decision through the NSW Planning Portal to ensure transparency.

Do all councils have to adopt the sample policy?

No. The sample policy is to guide councils in developing their own conflict of interest policy. While it is intended to be a useful template of the minimum requirements for such a policy, councils should decide what is appropriate for their specific circumstances and develop a policy suitable for their local area.

What controls are appropriate to manage potential conflicts of interest?

There are a range of management controls that could be applied in any given circumstance, which may change depending on a range of factors and the level of risk.

When considering what management controls may be appropriate, we encourage councils to think about the factors that may increase or decrease the potential risk of a perceived or actual conflict of interest. For example:

- **Does the council have a commercial interest in the development?** A council with a commercial interest has a higher risk of a perceived or actual conflict of interest than one that does not.
- **Is it a highly controversial development for the community?** Where a development is contentious, it may be prudent to follow a more public and transparent process to reduce any perceived conflicts.
- **Do individual councillors have conflicts of interest?** If the elected council is responsible for determining DAs and multiple individual councillors have personal conflicts of interest, looking at ways to remove any perception of an institutional conflict is important.
- **What is the value of the development?** If the development is of a higher value or complexity, it may be at greater risk of being subject to a conflict of interest.

Some ways in which councils could manage potential conflicts of interest are to:

- ensure strict role separation within council between assessment and compliance staff and project teams
- enter into a shared service agreement with a neighbouring council for the assessment and compliance of a particular development
- use an external consultant to complete the development assessment

- use a local planning panel or a regional planning panel to determine the development application, noting that engaging a regional planning panel may require negotiation as they are not required to accept referrals
- engage a private certifier for certification activities
- publish certificates issued under Part 6 of the EP&A Act on the NSW Planning Portal
- report key milestones to the full council.

Can you give examples of where different levels of controls might be appropriate?

While not intended to be prescriptive, the following examples provide guidance on how controls have been successfully used by councils in the past to manage potential conflicts of interest.

Example 1 – No controls are required

The sample policy we have developed for councils identifies development for which a management strategy is not required. In the provided example, the council determined that it did not need management controls for commercial fit outs, internal alterations and additions, advertising signage, minor structures projecting from a façade, or where council receives a small fee for the use of their land. This is because the level of risk for these types of development was sufficiently low.

Example 2 – Small-scale, routine, and operational development

Councils regularly undertake small-scale, non-controversial, and routine operational developments. Some councils have delegated the assessment function to council staff for the following developments where:

- the capital investment value is less than \$100,000
- fewer than 3 objections are received.

As they are routine in nature, council staff with role separation are unlikely to feel pressure in regulating these developments. Private certifiers could also be engaged to undertake certification for many of these activities.

Example 3 – development less than \$5 million (CIV)

Where the council has a local planning panel in place, the council should refer the development to the local planning panel.

Many regional councils are not required to have local planning panels. Where there is no panel, council should consider if the development can be referred to a regional panel. While this is not absolute and must be approved by the panel, it might be possible if the development is highly controversial, the council has a commercial interest, or multiple individual councillors have conflicts of interest.

Councils may also wish to consider who should prepare the assessment report. In some circumstances, assessment reports for higher-risk developments may be prepared by an external consultant or neighbouring council. Where an elected council is making the decision, the external report may provide a layer of independence that will give the community confidence.

Private certifiers are required for all development applications exceeding \$2 million. While council staff may be able to regulate lower-risk development applications with strict role separation, higher-risk DAs may benefit from seeking the support of a neighbouring council.

Example 4 – development exceeding \$5 million (CIV)

Council-related development exceeding \$5 million (CIV) is considered regionally significant and consequently must be assessed by a regional planning panel. Depending on the nature of the development, external assessment may provide an additional layer of independence. Significant projects with substantial political implications for the council may result in the perception that staff will be influenced in their assessment and compliance work.

With that in mind, councils may look to enter an arrangement with a neighbouring council to undertake the compliance and enforcement role following the development. This could include peer reviewing decisions or a more active role depending on the agreement.

For these types of development, reporting key milestones (such as construction and occupancy certificates) to full meetings of the council or on the NSW Planning Portal can give transparency.

Are councils required to have a management strategy for each development application?

Councils are required to document the proposed management approach for a development proposal (if any) in a statement that is published on the NSW Planning Portal.

In some circumstances, an assessment against council's policy may find that the risks involved are sufficiently low that no specific controls are warranted. Where this is the case, it should still be publicly communicated through the NSW Planning Portal to ensure transparency.

Will this add to administrative pressures on council?

The management strategies are designed to be straightforward and integrated within existing council processes. There may be some additional administrative pressures, but we expect these to be minimal for councils, especially those that already manage potential conflicts of interest.

What consultation informed the development of the policy?

The department formed a working group consisting of representatives from the its Planning and Assessment group, the Office of Local Government, the Department of Customer Service, and Local Government NSW to review how councils can better manage conflicts of interest where they are both the proponent and regulator for their own development.

When will councils need to adopt a policy?

The department is consulting on its proposal and the sample policy until 30 May 2022. Changes to the EP&A Regulation will be introduced in July 2022, after which councils will be given 6 months to adopt a policy to clearly state how it proposes to manage potential conflicts of interest.

More information

For more information, visit www.planningportal.nsw.gov.au/draftplans/exhibition/council-conflict-interest-policy.



muswellbrook shire council

Council Development Conflict of Interest Management Policy

MSC

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1. Policy Objective

This Policy aims to increase transparency, establish principles, and manage potential conflict of interest(s) with development applications and Part 5 projects relating to Council property, or where Council, Councillors or senior staff of Council are the applicant.

2. Risks being addressed

Leadership

The Model Code of Conduct under the Local Government Act contains provisions:

- Clauses 3.13 and 3.14 impose obligations on Councillors and Council staff members to ensure that development assessment decisions are properly made, that any occasion for suspicion of improper conduct in the course of exercising development assessment functions is avoided and that no action, statement or communication conveys any suggestion of willingness to improperly provide concessions, preferential or unduly unfavorable treatment;
- Clause 5.28 provides that, in dealing with Council in a personal capacity, a Councillor or Council staff member must not expect or request preferential treatment or engage in any action that could lead members of the public to believe that such treatment is being sought; and
- Clause 5.29 requires that, in dealing with council in a personal capacity, a Councillor or Council staff member must undertake those dealings in a manner consistent with the manner in which other members of the community deal with the council.

The [Environment Planning and Assessment Regulation 2021](#) contains provisions for development activities undertaken by public authorities. Development activities undertaken by public authorities typically involve road work, drainage work, development of public recreation areas and the like. Where they are not classified as Major Infrastructure Projects, these activities are still subject to an environmental assessment but do not require development consent. They are assessed under Part 5, Division 5.1 of the Act.

From 1 July 2022, the Guideline for Division 5.1 assessments became operational, with obligations for publishing certain Review of Environmental Factor (REF) documents for Division 5.1 activities on the NSW Planning Portal.

The *Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022* was introduced to amend the *Environmental Planning and Assessment Regulation 2021* in respect to approvals for development applications proposed by councils on their own land. The Regulation takes effect from 3 April 2023. Staff involved in the assessment for the application must document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal. This Policy sets out the Management Approach.

3. Scope

This policy applies to:

- Council related development;
- Council projects that will be assessed under Part 5 of the Environmental Planning and Assessment Act;
- Councillor related development;
- Senior staff related development

3.1 Exclusions

Generally, a Management Strategy as described in Schedule 1 Section 30B of the Environmental Planning and Assessment Regulation 2021 will not be required for the following types of applications:

- Commercial fit outs and minor changes to a building façade.
- Internal alterations or additions to buildings that are not a heritage item.
- Advertising signage.
- Minor building structures projecting from a building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services).
- Development where council might receive a small fee for the use of their land.

4. Definitions

Term	Definition
Council	Refers to Muswellbrook Shire Council.
Application	An application for consent under Part 4 of the Act to carry out development and includes an application for a complying development certificate and an application to modify a development consent.
Council Related Development	Development for which the council is the applicant developer (whether lodged by or on behalf of council), the landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority.
Councillor	A current elected member of Muswellbrook Shire Council
Councillor related Development	Development for which the councillor is the applicant developer (whether lodged by or on behalf of the councillor), the landowner, or has a commercial interest in the land the subject of the application, where Council will be the regulator or consent authority.
Senior Staff	The General Manager, Deputy General Manager, Director of Environment and Planning, Director Community & Economy, Director Property and Place and Director Corporate Services or similar positions in the Council organisational structure.
Senior Staff Related Development	Development for which the council is the applicant developer (whether lodges by or on behalf of council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority.
Development process	Application, assessment, determination, and enforcement.

Qualified External Third Party	A qualified and practicing town planner, urban planner or urban designer: <ul style="list-style-type: none"> • working for another council, or • who is a registered environmental assessment practitioner; or • who is registered with the Planning Institute of Australia, or • in the case of Building Certificate, a registered certifier.
The Act	The Environmental Planning and Assessment Act 1979.
Council Land	Community land, operational land and crown land under trust management of Council.

5. Policy Statement

5.1 Management Approach for Applications under Part 4 of the Act

5.1.1 When Council is the Applicant

Applications with a capital investment value of less than \$1million:

- Will be publicly notified for a minimum of 28 days;
- Will be assessed by qualified Council Staff; and
- Will be determined by Council staff with appropriate delegations unless:
 - more than two unique objections are received, then the application will be determined by Council; or
 - more than 10 unique objections are received, then assessment of the application will be peer reviewed by a qualified external third party before the application is determined by Council.

Applications with a capital investment value of more than \$1million and less than \$5million:

- Will be publicly notified for a minimum of 28 days;
- Will be assessed by qualified external third party; and
- Are to be determined by Council staff with appropriate delegations, unless:
 - more than two unique objections are received, then the application will be determined by Council; or
 - more than 10 unique objections are received, then the assessment will be peer reviewed by a qualified external third party before the application is determined by Council.

Applications with a capital investment value of more than \$5million:

- Will be publicly notified for a minimum of 28 days;
- Will be assessed by qualified Council Staff or a qualified external third party; and
- Will be determined by the Regional Planning Panel.

Applications for Building Certificates.

- Will be assessed by qualified Council Staff;
- The assessment will be peer reviewed by a qualified external third party; and
- Upon receipt of the outcomes of the review by the qualified external third party, will be determined by the Director Environment and Planning.

Enforcement matters

- Non-conformances with approvals or legislation will be assessed by qualified Council Staff;
- The assessment will be peer reviewed by a qualified external third party; and
- Upon receipt of the outcomes of the review by the qualified external third party, enforcement actions will be taken by the Director Environment and Planning.

5.1.2 When Councillors or Senior Staff are the Applicant.**Applications with a capital investment value of less than \$1million:**

- Will be assessed by qualified Council Staff; and
- Will be determined by Council staff with appropriate delegations.

Applications with a capital investment value of more than \$1million and less than \$2million:

- Will be assessed by qualified Council Staff; and
- Will be determined by Council.

Planning applications with a capital investment value of more than \$2million:

- Will be assessed by a qualified external third party (the cost of the external assessment will be met by Council); and
- Will be determined by Council.

Applications for Building Certificates.

- Will be assessed by qualified Council Staff;

- Will be determined by the Director Environment and Planning, or if they are conflicted, by the General Manager.

Enforcement matters

- Non-conformances with approvals or legislation will be assessed by qualified Council Staff;
- The assessment will be peer reviewed by a qualified external third party; and
- Upon receipt of the outcomes of the review by the qualified external third party, enforcement actions will be taken by the Director Environment and Planning, or if they are conflicted, by the General Manager.

5.2 Management Approach for Applications under Part 5 of the Act where Council is the determining authority.

When the project Review of Environmental Factors (REF) identifies no significant impacts and the CIV is below \$1million

- The REF will be prepared by Council staff who are suitably skilled, qualified and experienced, or by a qualified external third party.
- The REF is to show evidence of consultation with affected stakeholders and adjoining property owners and how feedback has been addressed through design or mitigation of impacts.
- Council staff are required to document that they are satisfied that the assessment has been prepared, or reviewed and certified, by a person suitably qualified in environmental impact assessment as well as evidence that any technical studies have been prepared by suitably qualified technical specialists.
- Council staff who are suitably skilled, qualified and experienced, or a qualified external third party, who did not prepare the REF, will
 - determine the proposal and produce a decision statement.
 - The decision statement and REF will be published on the NSW Planning Portal.

When the project Review of Environmental Factors (REF) identifies no significant impacts and the CIV is above \$1million and below \$10million

- The REF will be prepared by a qualified external third party.
- The REF is to show evidence of consultation with affected stakeholders and adjoining property owners and how feedback has been addressed through design or mitigation of impacts.
- Council staff who are suitably skilled, qualified and experienced, or a qualified external third party, who did not prepare the REF, will:
 - document that they are satisfied that the assessment has been prepared, or reviewed and certified, by a person suitably qualified in environmental impact assessment as well as

evidence that any technical studies have been prepared by suitably qualified technical specialists.

- determine the proposal and produce a decision statement.
- The decision statement and REF will be published on the NSW Planning Portal.

When the project Review of Environmental Factors (REF) identifies no significant impacts and the CIV is over \$10million

- The REF will be prepared by a Registered Environmental assessment Practitioner (REAP) as defined in the Environmental Planning and Assessment Regulation 2021 and the Registered Environmental Assessment Practitioner Guidelines.
- Council staff who are suitably skilled, qualified and experienced, or a qualified external third party, who did not prepare the REF, will:
 - document that they are satisfied that the assessment has been prepared, or reviewed and certified, by a person suitably qualified in environmental impact assessment as well as evidence that any technical studies have been prepared by suitably qualified technical specialists.
 - determine the proposal and produce a decision statement.
 - The decision statement and REF will be published on the NSW Planning Portal.

When the project Review of Environmental Factors (REF) identifies significant impact on Biodiversity i.e. If a Species Impact Statement (SIS) or Biodiversity Assessment Report (BDAR) is required.

- The REF will be prepared by a Registered Environmental Assessment Practitioner (REAP) as defined in the Environmental Planning and Assessment Regulation 2021 and the Registered Environmental Assessment Practitioner Guidelines.
- Council staff who are suitably skilled, qualified and experienced, or a qualified external third party, who did not prepare the REF, will:
 - document that they are satisfied that the assessment has been prepared, or reviewed and certified, by a person suitably qualified in environmental impact assessment as well as evidence that any technical studies have been prepared by suitably qualified technical specialists.
 - Seek advice feedback Council's State Significant Development Committee, or Council.
 - determine the proposal and produce a decision statement.
 - The decision statement and REF will be published on the NSW Planning Portal.

Where the projects requires an Environmental Impact Statement (EIS) due to significant impacts other than, or in addition to, biodiversity

- The REF will be prepared by a Registered Environmental Assessment Practitioner (REAP) as defined in the Environmental Planning and Assessment Regulation 2021 and the Registered Environmental Assessment Practitioner Guidelines.
- Council staff who are suitably skilled, qualified and experienced, or a qualified external third party, who did not prepare the REF, will:
 - document that they are satisfied that the assessment has been prepared, or reviewed and certified, by a person suitably qualified in environmental impact assessment as well as evidence that any technical studies have been prepared by suitably qualified technical specialists.
 - Prepare a report to Council for a decision.
 - On the basis of Council's decision will produce a decision statement.
 - The decision statement and REF will be published on the NSW Planning Portal.

6. Delegations, Regulation and Enforcement

The Director of Environmental and Planning and the General Manager are responsible for actions under this policy.

7. Legislation

Environmental Planning and Assessment Act 1979 and associated Regulations
Local Government Act 1993 and associated Regulations

8. Associated Council Documentation

Code of Conduct

Authorisation Details

Authorised by:	
Minute No:	
Date:	
Review timeframe:	
Department:	Planning, Environment & Regulatory Services
Document Owner:	Director Planning and Environment
Type (Internal/External)	Internal

Details History

Version No.	Date changed	Modified by	Amendments made
01	8.02.2023		Document drafted



9.1.3. Administrative Amendment – Removal of Heritage Item I112 (Muswellbrook Brickworks)

Attachments:	1. P P- 020 Heritage Assessment [9.1.3.1 - 43 pages] 2. P P- 020 Muswellbrook LEP Planning Proposal [9.1.3.2 - 12 pages]
Responsible Officer:	Sharon Pope - Director - Planning & Environment
Author:	Tanya Jolly (Project Planner)
Community Plan Issue:	4 - Cultural Vitality
Community Plan Goal:	A culturally rich and diverse Community with strong identities, history and sense of belonging.
Community Plan Strategy:	4.4.1 - Support the conservation and restoration of the Shire's heritage items.
	Not applicable

PURPOSE

Council has received a request to amend the Muswellbrook Local Environmental Plan (MLEP) 2009 in relation to the Heritage Listed Item I112 “Muswellbrook Brick Works”, located on Lot 4 DP 1220491 (formerly Lot 101 in DP 578075). The request seeks to remove the item from *Schedule 5 Part 1 Heritage Items* in the *Muswellbrook LEP 2009*.

The purpose of this report is to seek Council’s endorsement for the preparation of a Planning Proposal to amend the MLEP 2009.

OFFICER’S RECOMMENDATION

Council RESOLVES to:

1. Prepare a Planning Proposal, pursuant to Section 3.33 of the Environmental Planning and Assessment Act 1979, for an amendment to the Muswellbrook Local Environmental Plan 2009 (MLEP 2009) to remove item I112 and any references to the same from Schedule 5 Part 1 of the Muswellbrook Local Environmental Plan 2009.
2. Request a Gateway Determination from the Department of Planning and Environment, and exhibit the proposal in accordance with that determination, pursuant to Sections 3.34-3.35 of the Environmental Planning and Assessment Act 1979; and
3. Request that the Director General of the Department of Planning and Environment issue a Written Authorisation to Council to exercise delegation of the plan making functions under Section 3.36 of the Environmental Planning and Assessment Act 1979 in respect of the planning proposal.

Moved: _____ **Seconded:** _____

BACKGROUND

The subject land is Lot 4 in DP 1220491 and known as Coal Road, Muswellbrook. The site has historically been used for a part of the mining operations carried out by Muswellbrook Coal Company.

The Muswellbrook Brick Works (hereafter referred to as ‘the brickworks’) commenced



operations in 1957 and ceased operating in 1999. Consent for demolition of the brickworks was granted by Muswellbrook Shire Council in 2009 due to the structures presenting a hazard (Muswellbrook History Society, 2010, p.7). Demolition of the brickworks occurred in May 2012.

The applicant has provided a heritage assessment of the former brickworks site prepared by EMM (see Appendix A). This assessment concludes that the site no longer contains historical heritage significance.

Due to this, retaining the brickworks heritage listing has no heritage conservation benefits and removal of the item from the LEP heritage schedule is recommended to ensure appropriate land use decisions can be made with respect to the land.

CONSULTATION

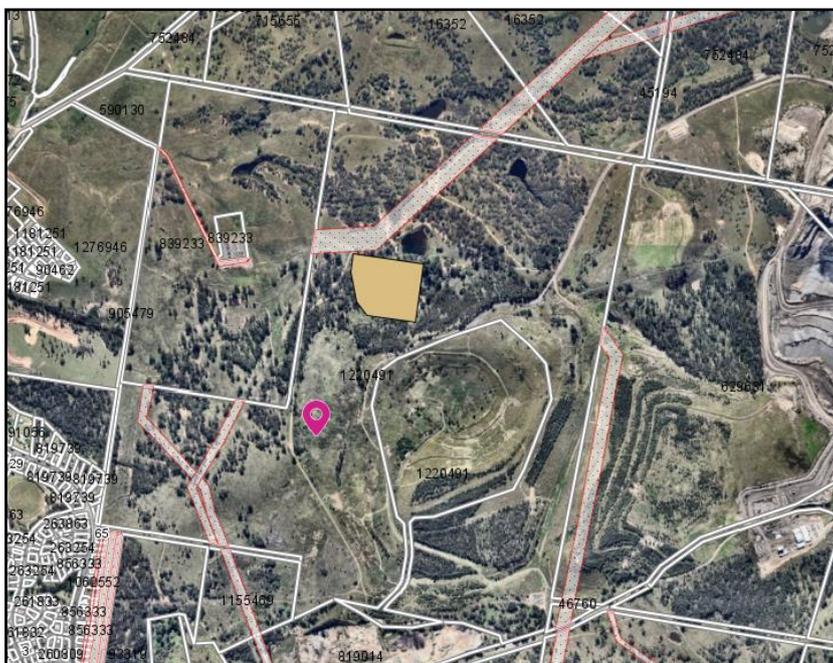
A decision to prepare a planning proposal is the first step in the plan-making process. A Gateway Determination will identify if further studies are required and any specific requirements for public exhibition.

REPORT

A. Location of the Planning Proposal

The subject site is located on Coal Road, Muswellbrook. The land is adjoined to the north by largely vacant blocks owned by Muswellbrook Coal Company zoned RU1 Primary Production and C3 Environmental Management zones. Land to the south is zoned SP2 Infrastructure (Waste Management) and contains the Muswellbrook Waste Management Facility. An aerial map and land zoning map are provided in Figures 1 & 2.

Figure 1: Location of the Subject Land identified as Lot 4 in DP 1220491 and known as Coal Road, Muswellbrook



**B. MLEP 2009 Amendment**

The objective to be achieved by amending the MLEP 2009: -

Amendment Applies to	Explanation of provision
Schedule 5 Environmental Heritage	To remove item I112 from the Schedule.
Heritage Map	To remove item I112 from the Map.

C. Consideration of Planning Proposal

To inform the Council in its consideration of the request, a Historical Heritage Assessment was submitted by the landowner, Muswellbrook Coal. The conclusion of the Historical Heritage Assessment supports the removal of the 'Muswellbrook Brick Works' Heritage Listing.

'The purpose of this report has been to review the project area to assess the listing for the Muswellbrook Brick Works and determine if the site warrants retention on Schedule 5 of the Muswellbrook LEP.'

The method employed to achieve this aim was to review previous reports focused on the project area, including impact assessments and the archival record prepared for the brickworks. A site inspection of the brickworks site was also undertaken.

The brickworks were established in the mid-1950s to supply bricks to the greater area while making use of the local clay. The brickworks were listed on the LEP in 1996 and closed permanently in 1999. In the following years, the site fell into disrepair and was demolished in 2012, with permission from MSC. While the establishment of the brickworks follows a pattern seen across the state of NSW, the technology was not rare and therefore, the former brickworks site was assessed to have low research potential. As a result, if material evidence of the former brickworks survives archaeologically, there is no justification for archaeological excavation.

This report has found that there is sufficient evidence to show that what remains of the former brickworks does not justify its retention as a heritage item on the Muswellbrook LEP.'

The Historical Heritage Assessment was referred to Council's Heritage Advisor who advised that they consider that the site should no longer be heritage listed under the MLEP 2009.

OPTIONS

Council may:

1. Resolve to prepare a Planning Proposal to amend MLEP 2009 to remove the item I112 Muswellbrook Brick Works from the Heritage Schedule and its relevant mapping. This is the preferred option as there is no longer any item of Heritage significance on the site.
2. Reject the request and take no further action.

Where Council does not support a request to prepare a planning proposal, Council is required to notify the Proponent as soon as practicable in writing that the proposal is not supported. The Proponent may seek a review of the decisions by the Department of Planning and Environment.

CONCLUSION

There is sufficient evidence to show that what remains of the former brickworks does not



justify its retention as a heritage item on the Muswellbrook LEP

FINANCIAL IMPLICATIONS

The applicant has paid application fees in accordance with Council's 2022/2023 fees and charges.

STATUTORY IMPLICATIONS

The requested amendment is an Administrative Amendment involving a change to the Heritage Schedule and the relevant Heritage Map under the LEP.

LEGAL IMPLICATIONS

In order to amend the MLEP 2009, Council is required to submit the Planning Proposal to the Department of Planning and Environment for a Gateway Determination. The proposal has been written in accordance with the Department of Planning and Environment's guidelines. Council will also request the Minister for Planning to delegate their planning powers under Section 3.22 of the Environmental Planning and Assessment Act 1979 and to Council in this instance.

Appendix A

Historical heritage assessment

Historical Heritage Assessment

Proposed Muswellbrook Local Environmental Plan

Prepared for Muswellbrook Coal Company Limited

August 2022

Historical Heritage Assessment

Proposed Muswellbrook Local Environmental Plan

Muswellbrook Coal Company Limited

E11267 RP3

August 2022

Version	Date	Prepared by	Approved by	Comments
1	15 July 2022	Rachael Thelwell	Pamela Kottaras	Draft to Client
2	19 August 2022	Rachael Thelwell	Pamela Kottaras	Final

Approved by



Pamela Kottaras

Associate, National Technical Leader – Historical Heritage

19 August 2022

Ground floor 20 Chandos Street

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St Leonards NSW 1590

This report has been prepared in accordance with the brief provided by Muswellbrook Coal Company Limited and has relied upon the information collected at the time and under the conditions specified in the report. All findings, conclusions or recommendations contained in the report are based on the aforementioned circumstances. The report is for the use of Muswellbrook Coal Company Limited and no responsibility will be taken for its use by other parties. Muswellbrook Coal Company Limited may, at its discretion, use the report to inform regulators and the public.

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1 Introduction

1.1 Overview

Muswellbrook Coal Company Limited (MCC), a wholly owned subsidiary of Idemitsu Australia Pty Ltd (Idemitsu), is the owner of Lot 4/-/DP1220491, the location of the former Muswellbrook Brick Works (brickworks). The brickworks were listed in 1996 on the *Muswellbrook Local Environmental Plan 2009* (Muswellbrook LEP) as *Muswellbrook Brick Works* (Item I112) and remain an item of environmental heritage on Schedule 5 of the LEP despite having been demolished in 2012. MCC proposes to submit a planning proposal to remove the Muswellbrook Brick Works from the LEP. This report was prepared by EMM Consulting Pty Limited (EMM) and provides an assessment of historical heritage values for the planning proposal.

1.2 Assessment objectives and scope

This historical heritage assessment has been prepared to assess the historical heritage values of the former brickworks site. The assessment is to draw a reasonable conclusion as the heritage status of the former brickworks site and its suitability as an LEP-listed heritage item.

The brickworks has been assessed a number of times, and this report has based its conclusions on the information in those reports.

The scope of works to achieve the objectives is as follows:

- assess the cultural (historical) significance of the former brickworks site;
- make a determination on the significance of the archaeological resources associated with the now demolished brickworks; and
- make a recommendation as to the suitability of the heritage listing for the brickworks.

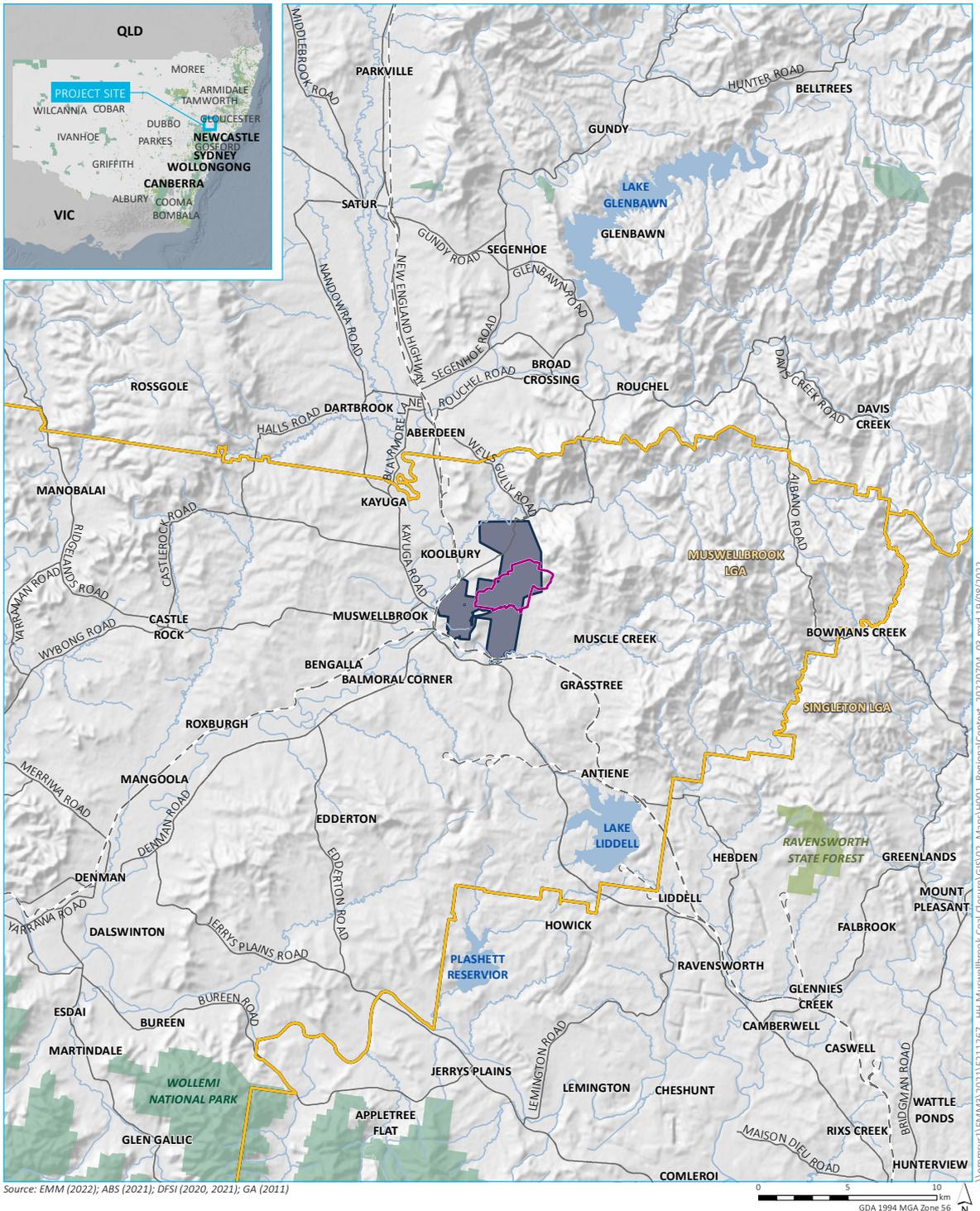
The objectives summarised above were achieved with the scope, which includes:

- review of heritage reports relevant to the brickworks;
- review of heritage registers; and
- assessments of significance of known or potential heritage items identified through documentary research or the site inspection.

1.3 Site description

The former brickworks site is situated in the Upper Hunter Valley of NSW (Figure 1.1), in the Muswellbrook Shire local government area (LGA). Surrounding land uses include coal mining, Muswellbrook Shire Council's (MSC) Waste Management Facility, agricultural activities such as grazing of beef cattle, a light industrial estate, rural-residential areas, the Muswellbrook urban area and St Heliers Correctional Centre.

The boundary of Item I112 as mapped under the Muswellbrook LEP is referred to in this report as 'the project area'.



- KEY**
- Development Consent Boundary DA205 - 2002
 - Muswellbrook Coal title boundary
 - Rail line
 - Major road
 - Named watercourse
 - Named waterbody
 - Local government area
 - NPWS reserve
 - State forest

Regional location

Muswellbrook Coal Closure
Historic Heritage Assessment
Figure 1.1



1.4 Report assessment methods

1.4.1 Assessment guidelines and requirements

This report and has been prepared in accordance with the relevant government assessment requirements, guidelines and policies. The report and field survey were undertaken using the principles of *The Australian International Council on Monuments and Sites, Charter for Places of Cultural Significance* (also known as the *Burra Charter*, Australia ICOMOS 2013) and the New South Wales (NSW) *Heritage Manual* (Heritage Office 1996 with regular additions).

The Burra Charter: The Australian ICOMOS charter for places of cultural significance (ICOMOS (Australia), 2013) sets a standard of practice for those who provide advice, make decisions about, or undertake works to places of cultural significance including owners, managers and custodians. The *Burra Charter* defines the concept of cultural significance as ‘aesthetic, historic, scientific, social or spiritual value for past, present or future generations’ (Australia ICOMOS 2013, Article 1.2). It identifies that conservation of an item of cultural significance should be guided by the item’s level of significance. The Charter provides specific guidance for physical and procedural actions that should occur in relation to significant places. A copy of the charter can be accessed online at <http://icomos.org/australia>.

The Burra Charter consists of 34 articles, arranged into five sections: definitions, conservation principles, processes and practice. The principal articles of the Burra Charter are:

- conservation is based on significance;
- a cautious approach is required – changing as much as necessary, but as little as possible; and
- maintenance is fundamental to conservation.

Further articles relate to preservation (maintaining fabric in its current state), restoration and reconstruction, adaptation and the introduction of new structures or extensions.

The Heritage Manual comprises the following guidance documents:

- *Statements of Heritage Impact Guidelines* (Heritage Office 2006);
- *Investigating Heritage Significance* (Heritage Office 2004);
- *Assessing Heritage Significance* (Heritage Office 2001); and
- *Assessing Significance for Historical Archaeological Sites and ‘Relics’* (Heritage Branch Department of Planning 2009).

These documents have been used to guide the historical heritage assessment and SoHI.

1.4.2 Research sources

Research for this report was conducted using primary and secondary sources. Previous heritage reports prepared for MCC were reviewed (Section 1.4.3 Where detailed contextual information was needed, primary sources including online archives (ie Trove), the Historic Lands Records Viewer, and historical aerial photographs were consulted.

The list of references can be found at the end of this report.

1.4.3 Previous studies

Previous studies covering the project area were consulted in the preparation of this report and the results in those external reports informed the outcomes here.

External reports that informed this study are:

- *Archival Recording and Photographic Record of Muswellbrook Brickworks*, 2010, prepared by Muswellbrook Shire Local & Family History Society Inc. for Muswellbrook Coal Co. (May). The Muswellbrook brickworks is a listed site within the project area. The report assessed and recorded the brickworks site prior to demolition.
- *Muswellbrook Brick Works [sic] Heritage Study Inventory*, 1996. The Muswellbrook brickworks is a known heritage site within the project area. The brickworks were assessed to be of local significance.

1.5 Authorship

This report was researched by Amelia O'Donnell (EMM) and written by Pamela Kottaras (EMM). Quality assurance was completed by Luke Kirkwood (EMM) and Pamela Kottaras.

1.6 Acknowledgements

This report was prepared with the assistance of Julie Thomas (MCC) and Jill Johnson (IEMA) and Rachael Thelwell (EMM).

The figures were prepared by Danielle Robinson (EMM).

2 Statutory framework

2.1 Legislation

In NSW, heritage items and relics, that is archaeological sites assessed to be of local or State significance, are protected by two main pieces of legislation: the EP&A Act and the NSW *Heritage Act 1977*. An additional layer of protection is added, in certain circumstances, by the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

2.1.1 Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)

The EPBC Act provides a legal framework to protect the environment. The EPBC Act definition of environment includes places of natural, Indigenous and historic heritage value. Under the EPBC Act, heritage places can be listed on:

- World Heritage List (WHL) – places inscribed on the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List;
- National Heritage List (NHL) -places of significance to the nation; and
- Commonwealth Heritage List (CHL) - items belonging to the Commonwealth or its agencies.

2.1.2 Heritage Act 1977 (NSW)

The *Heritage Act 1977* (Heritage Act) serves to conserve the heritage places, items and objects of NSW. The Heritage Council of NSW is constituted under the Heritage Act to advise the Minister with responsibility for heritage on matters relating to the conservation of the State's heritage. In practice, this power is largely delegated to Heritage NSW.

i STATE HERITAGE REGISTER

Under the Heritage Act, items of significance to the State can be recognised on the State Heritage Register (SHR). Items on the SHR cannot be demolished, damaged, developed, altered or excavation undertake without approval from the Heritage Council of NSW (or its delegate) under Section 59 of the Act.

ii ARCHAEOLOGY AND RELICS

Relics, defined as “any deposit, artefact, object or material evidence that relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and is of State or local significance”, are protected under Section 139 of the Heritage Act. A person cannot knowingly disturb or excavate land when they suspect a relic to be present without holding an excavation permit or an exemption. Section 139 applies to all land in NSW not listed on the SHR. Section 146 requires persons to notify the Heritage Council of NSW within a reasonable time if an unanticipated relic is discovered. The Heritage Act identifies the category of ‘works’, which refers to historical infrastructure, and is viewed as separate to that of archaeological ‘relics’ under the Heritage Act. ‘Works’ may be buried, and are therefore archaeological in nature, but exposing a ‘work’ does not trigger reporting obligations under the Heritage Act unless it is of demonstrable significance.

iii STATE GOVERNMENT HERITAGE AND CONSERVATION (S170) REGISTERS

Section 170 of the Heritage Act requires State government agencies establish and maintain a register of heritage items, to be known as a Heritage and Conservation Register. State agencies are required to undertake due

diligence with regard to the care, control and management of items listed on their Section 170 Heritage and Conservation Register. Additionally, State agencies must notify the Heritage Council of NSW 14 days in advance if they intend to remove an item from their register, transfer ownership, cease occupation, demolish. Section 170 does not place statutory requirements on individuals or non-State government entities.

2.1.3 Environmental Planning and Assessment Act 1979 (NSW)

The EP&A Act establishes the framework for development assessment within NSW, with one of the objects of the Act being to promote the sustainable management of built and cultural heritage, including Aboriginal cultural heritage. The EP&A Act sets a framework for applications that are approved by local council, by the Department of Planning and Environment (DPE), or by the government agency undertaking the works.

Demolition of the brickworks was granted under the EP&A Act by Muswellbrook Shire Council on 9 October 2009 (Muswellbrook History Society, 2010, p.7).

2.1.4 Muswellbrook Local Environmental Plan 2009

Part 5, Section 5.10 addresses the conservation of heritage significance within the LGA. The objectives of the Muswellbrook LEP in relation to heritage are:

- a) to conserve the environmental heritage of Muswellbrook;
- b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views;
- c) to conserve archaeological sites; and
- d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

To achieve these objectives, development consent is required to demolish, move, alter, disturb or excavate a heritage item, an Aboriginal object or a building, work, relic or tree within a heritage conservation area. Schedule 5 of the LEP provides a list of heritage items, conservation areas and archaeological sites within the LGA.

2.2 Identifying listed heritage items

Listing on statutory registers provides a basis under which the item or place is protected, and change is managed through project approval. Statutory listings provide legal protection for heritage items under the legislation outlined above.

Statutory registers reviewed as a part of this assessment include:

- World Heritage List (WHL) – the register is managed under the EPBC Act;
- National Heritage List (NHL) – the register is made under the EPBC Act;
- Commonwealth Heritage List (CHL) – the register is made under the EPBC Act;
- State Heritage Register (SHR) – this register is made under Part 3A of the Heritage Act;
- s170 register – this register is made under Section 170 of the Heritage Act;
- Schedule 5 of the Muswellbrook LEP; and

-
- State Heritage Inventory (SHI), which was cross-checked with Schedule 5 of the Muswellbrook LEP and the s170 register. The SHI is not a single statutory register, but a central collection of locally listed statutory heritage items maintained by Heritage NSW.

Non-statutory listing is an acknowledgment of a site's, or place's, importance to sections of the community. Listings on such registers do not place legal requirements on development, but nevertheless influence the future of such listed items. Non-statutory registers reviewed as a part of this assessment include:

- National Trust of Australia, NSW (NT) – the NT is made up of autonomous state chapters. Each chapter is a community-based and non-government organisation, with a mandate to conserve and promote Australia's natural and cultural heritage. Classification by NT is a strong acknowledgment of heritage significance and while statutory constraints are not applicable, classification offers protection through visibility and community action.
- Register of the National Estate (RNE) – the RNE is an archived list of heritage items that were protected under the now repealed Commonwealth *Heritage Commission Act 1975*, which was replaced by the EPBC Act. While many items were transferred from the RNE to the NHL or CHL, those that were not remain on the RNE as an indication of their heritage value.

The "Muswellbrook Brick Works", Item I112, is listed as a heritage item under the Muswellbrook LEP. This item was demolished and may have left archaeological resources, which are assessed in this report.

3 Existing environment

3.1 Introduction

The environmental characteristics of any area influenced the way people used the landscape. In the past, the availability of resources such as water, flora, fauna, stone material and topography played a substantial role in the choice of camping, transitory movement and ceremonial areas used by Aboriginal people.

Migrants to the early colony looked for the same landscape characteristics but manipulated their environment in ways that left more obvious marks. Water, level or gently sloping ground, and suitable soils to grow crops and animals was sought after. Therefore, understanding environmental factors assists with predicting where sites are likely to occur. Additionally, natural and cultural (human-made) site formation processes that occur after the deposition of archaeological material influence the way archaeological material is distributed and preserved across a landscape.

3.2 Landscape overview

To the east of brickworks, the existing landscape is a combination of continued open cut mining, areas that were formerly mined underground, rehabilitated land, and a small amount of land that has been avoided by major mining activities. These avoided areas are open paddocks, with areas of native vegetation, unsealed tracks and dams. Some grazing occurs in the paddocks but other than that, no other activities are undertaken in the project area. The town of Muswellbrook is located to the south-west of brickworks.

The landscape of the former brickworks is generally open paddock with a gentle slope to the north. Directly to the south of the site, the landform rises steeply to form low hills. These slopes were formed from a combination of natural and cultural processes, and display modifications and land disturbance associated with the construction of a road to the south, water management trenches to the north-west and south, and two dams to the east. Clumps of native forest survive in the general location and encircle the brickworks site.

3.3 Listed heritage sites

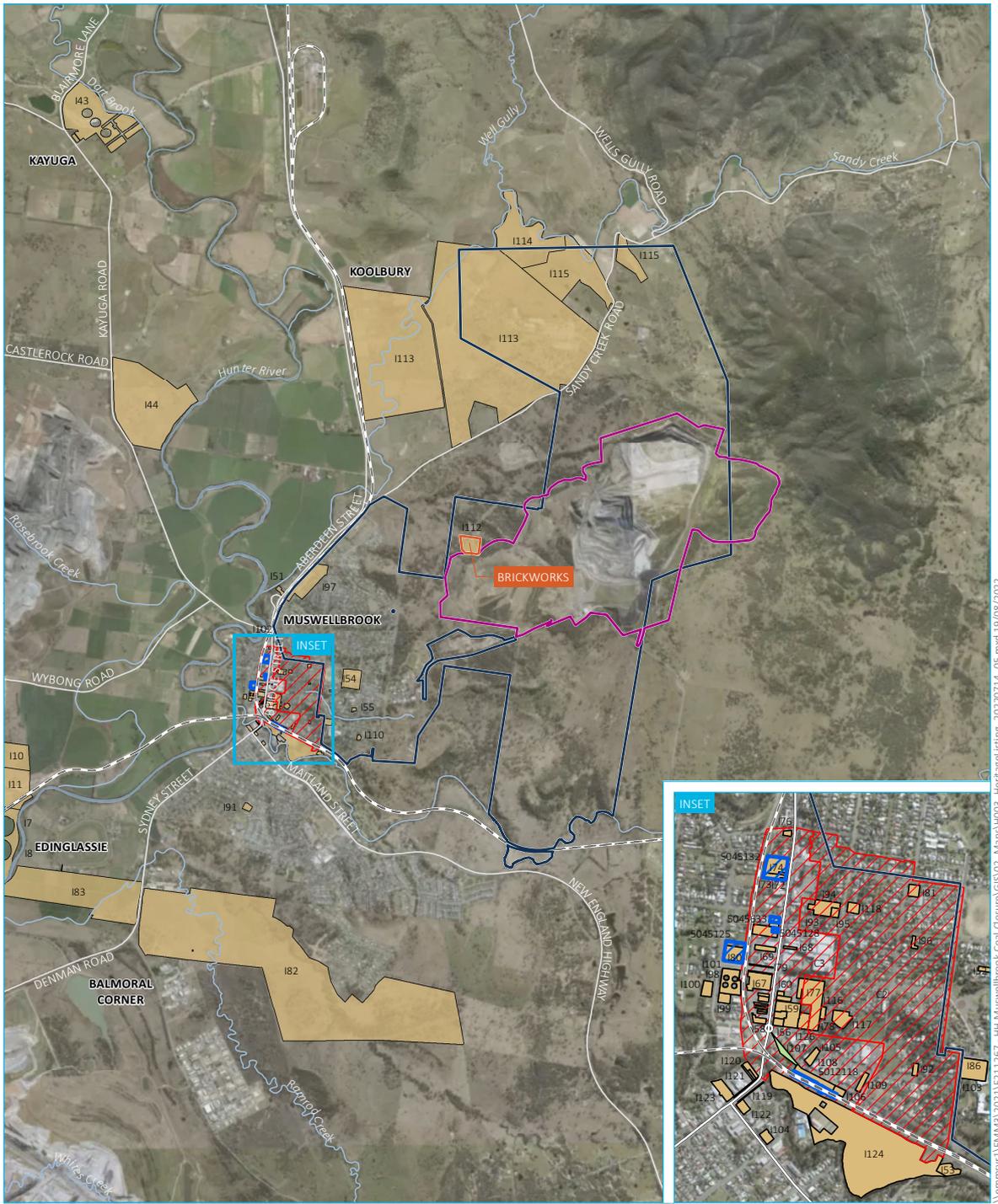
One heritage item, the brickworks (LEP Item I112), exists in the project area.

Muswellbrook has a number of heritage items that are listed on the SHR and the LEP situated either greater than 2 km to the east of the project area in the Muswellbrook urban area or approximately 3 km north (refer Figure 3.1).

The brickworks were listed in 1996 for values attributed to 'rare regional historic', 'rare local aesthetic' and 'rare regional scientific' criteria and its significance lay largely in the built form.

3.4 Unlisted sites

No unlisted historical sites of built or archaeological value are known to exist in the project area.



Source: EMM (2022); ABS (2021); DFSI (2020, 2021); Metromap (2022); MCC (2022); DAWE (2022)

KEY

- | | |
|---|----------------------|
| Development Consent Boundary DA205 - 2002 | Existing environment |
| Muswellbrook Coal title boundary | Rail line |
| Brickworks LEP boundary | Major road |
| Heritage Act | Named watercourse |
| State Heritage Act | Named waterbody |
| Muswellbrook LEP (2009) | |
| Conservation Area - general | |
| Heritage item - general | |
| Heritage item - landscape | |

Heritage listings

Muswellbrook Coal Closure
Historic Heritage Assessment
Figure 3.1



4 Historical summary

4.1 Historical summary

4.1.1 Development of Muswellbrook and the Upper Hunter

The project area is the traditional country of the Wonnarua people (also Wanarruwa). Tindale (1974) records Wonnarua country extending from the Upper Hunter River near Maitland to the Great Dividing Range in the west. Wonnarua dreaming stories state that the Hunter Valley was created by Baime (Byamee), the Great Spirit (Wonnarua Nation Aboriginal Corporation, 2014). Baime created all living things and made the spirit of Kawal, who takes the form of a wedge tailed eagle, to watch over the Wonnarua (Wonnarua Nation Aboriginal Corporation, 2014). The Wonnarua had close trading and social connections with the Gamilaraay groups (also Kamilaroi, Kamillaroi) who inhabited the Goulburn Valley to the south-west and the Geawegal to the north, around Scone (Turner, 1996, p.8). As Europeans moved into the region the Wonnarua people of Muswellbrook were permanently dislocated from their traditional lifeways.

The first official European party into the Hunter region was led by Lieutenant John Shortland in 1797 (McMartin, 1967). While in pursuit of escaped convicts Shortland's party sailed into the Hunter River estuary and once there, Shortland named the river, charted the harbour and collected samples of coal (McMartin, 1967). In 1801 Governor King established a convict settlement known as King's Town (later Newcastle) on the banks of the Hunter River to take advantage of the coal, timber and shell resources of the area (Turner, 1996, p.7). With a growing colony desperate for land Governor Macquarie closed the Kings Town settlement in 1819 and opened the Hunter Valley for free settlement (Turner, 1996, p.13).

In 1824 Assistant Surveyor Henry Dangar was charged with surveying future land grants in the unsettled Upper Hunter Districts (Gray, n.d.). On 2 August 1824 Dangar crossed Muscle Creek, after which Muswellbrook was named, on the route to the Hunter River near Aberdeen (Turner, 1996, p.14). In 1825 botanist Allan Cunningham led another exploration into the region around Jerrys Plains, south of the project area, but settlers had already begun to move into the region (Turner, 1996, p.15).

A few years prior to the settlement of Muswellbrook, Governor Bigge introduced the *New South Wales Act* (4 Geo. IV, c.96), which shifted the financial burden of the convict system from the government to wealthy settlers (Bennett, 1966). Bigge's scheme created a distinctive pattern of settlement in the Upper Hunter where wealthy settlers, often experienced agriculturalists and livestock breeders, were granted large tracts of land and large numbers of convict labourers to work the land (Turner, 1996, p.15). The large estates of the Upper Hunter primarily focused on wheat production and sheep-based pastoralism but viticulture and thoroughbred breeding also occurred (HLA-Envirosciences Pty Limited, 2002, p.41).

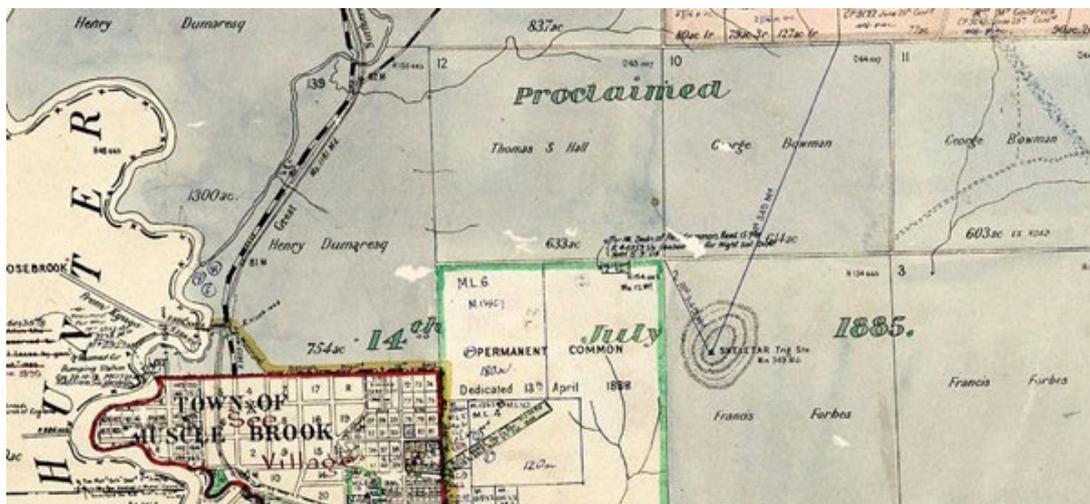


Plate 4.1 Detail, 1906 Parish of Rowan, County of Durham plan (Source: HLRV)

The site for the town of “Musclebrook” was surveyed by Robert Dixon in 1833 and the first buildings were constructed by 1834 (HLA, 2002, p. 40). The first brickworks was established in town by 1838 (Muswellbrook Shire Local & Family History Society Inc., 2010, p.12). The town grew steadily over the decades despite the decline in the wheat industry due to pervasive rust issue caused by the microclimate of the region (HLA, 2002, p. 41). In 1869 the Great Northern Railway was constructed through Muswellbrook township and a small seam of coal was discovered during the railway works (HLA, 2002, p. 41). Small tonnages of coal were mined but not to the levels seen elsewhere around the Hunter Valley at this time (HLA, 2002, p. 43).

At the end of the nineteenth century, the dairy industry rose to prominence in Muswellbrook (Turner, 1996, p.6). The first creameries opened in the 1890s and supporting businesses such as tanneries and meat freezing centres also moved into the area (HLA, 2002, p.41; Turner, 1996, p.6). Large estates were also subject to subdivision at this time (Turner, 1996, p.6). The 1900s brought the first serious exploitation of coal around the Muswellbrook township.

4.1.2 Development of the Muswellbrook Brickworks

The project area is located in historical Lot 12 in the Parish of Rowan, County of Durham, which was known historically as Kennedy’s Paddock (Plate 4.1) (Muswellbrook History Society, 2010, p.21). The 633-acre (256 ha) property was granted to Thomas Simpson Hall Esq around 1830 (Gray, 1972). The property was surrounded by large holdings belonging to the Dumaresq, Bowman and Forbes families, and as such, the property likely functioned as a holding station/rest stop between Hall’s Dartbrook and Gungal estates, located north west and south west of project area respectively (Gray, 1972).

The brickworks were associated with the Muswellbrook No. 1 Open Cut mine. Significant quantities of clay were produced by the mining activities and, recognising the value of the clay overburden, Chairman of MCC, Mr. H. C. McDonald announced plans to construct a brickworks on the Company’s holdings in 1954 (*The Muswellbrook Chronicle*, 1954, p.1).¹ The aim of the brickworks was to not only make use of the clay overburden being produced at the No. 1 Open Cut, but to produce competitively priced bricks to sell in the local area, which was experiencing a population boom, and to provide employment for the local people (*The Muswellbrook Chronicle*, 1954, p.1). Tests had proven the clay extracted from the mine made “excellent quality” bricks and the brickworks was

¹ The Muswellbrook heritage study inventory 1996 incorrectly states that the Muswellbrook Coal Mine Brickworks were established by Muswellbrook Industries c.1949.

expected to produce at least of 30,000 bricks per week (*The Muswellbrook Chronicle*, 1954, p.1). A budget of £20,000 was set aside for the construction of the brickworks (*The Muswellbrook Chronicle*, 1954, p.1).

Construction was well underway in May of 1955 (*The Muswellbrook Chronicle*, 1955, p.2) when the heavy machinery was transported to the site and the brickworks began operations as the Muswellbrook Brick and Tile Company Pty Ltd in January 1957 (Muswellbrook History Society, 2010, p.22;). MCC provided the brickworks with the shale and coal needed for brick production (Muswellbrook History Society, 2010, p.21; *The Muswellbrook Chronicle*, 1982, p.6). A temporary kiln was established in order to fire bricks for the construction of the permanent brickworks kilns (Muswellbrook History Society, 2010, p.21). The brickworks contained three downdraft brick kilns, two roll crushers, mixing bowls and brick presses. A fourth kiln fed by automatic stocking equipment had been constructed by 1969 (Muswellbrook History Society, 2010, p.22). The kilns were constructed of brick and ancillary buildings were timber framed with corrugated iron roofs (AECOM Australia Pty Ltd, 2010, p.29).

The brickworks were closed for a brief period in 1975 due to the cost of upkeep and the closure of the Mepco Power Station which had supplied the brickworks with free electricity (Muswellbrook Shire Local & Family History Society Inc., 2010, p.23-24). A month later the brickworks were re-opened under the ownership of C J O'Brien (EJE Group, 1996). In 1979 the brickworks were purchased by G Jackson and D Goodridge (Muswellbrook Shire Local & Family History Society Inc., 2010, p.23).

In 1996 the brickworks had three downdraft coal fired kilns producing bricks in a variety of "traditional colours" for heritage buildings (EJE Group, 1996). The brick kilns had a total firing capacity of 15,000 bricks per day and produced a variety of brick/ paver products for markets from Newcastle to Gosford (Muswellbrook History Society, 2010, p.21–23). Earlier brick-making machinery was also present on the site including several brick handpresses made in England in the 1860s which were under restoration in 1996. In 1999 the brickworks property was sold to MCC and all manufacturing equipment and scrap metal was auctioned (Muswellbrook History Society, 2010, p.23).

By 2009 only three of the four kilns remained standing and all ancillary buildings had been removed leaving only foundations (Muswellbrook History Society, 2010, p.7). The extant structures were cracking and considered a danger. Therefore, the brickworks were approved for demolition by Muswellbrook Shire Council on 9 October 2009 (Muswellbrook History Society, 2010, p.7). Archival recording of the site was undertaken by Muswellbrook Shire Local & Family History Society Inc in 2010 and the brickworks were demolished in May 2012 (Muswellbrook Coal Company Limited, 2017).

4.2 Key phases

Historical analysis has allowed for the division of region's development into phases. These phases and the themes below provide a framework for understanding the site and therefore its significance.

- Phase 1 – clearing the landscape.
- Phase 2 – building and operation of the brickworks (c1955).
- Phase 3 – demolition of the brickworks (2012).
- Phase 4 – undeveloped land.

4.3 Historic themes

The Australian and NSW heritage systems employ a series of historic themes to guide the understanding of history and historical investigation in the nation and state. As part of any historic heritage assessment, it is important to review the historic themes when undertaking research on an area or place to provide proper context. The state and national themes are complementary to enable the historian to present a unified understanding of how an

area fits into Australian history. The historic themes are also an important guide when assessing an item's heritage significance. They provide information on how an item may be historically significant at the local, state or national level.

Finally, historic themes help to develop interpretation and management strategies for items of heritage significance. A full list of these themes can be found on the Heritage NSW website. Historic themes in the project area were identified based on the historical background (as described below) and the results of the site inspection (Section 5.3). The Australian and NSW historic themes relevant to the project area that have been used in this report are listed in Table 4.1.

Table 4.1 **Historic themes**

Australian historic themes	NSW historic themes
3. Developing local, regional and national economies	3. Agriculture; commerce; environment; cultural landscape; exploration; and pastoralism.
4. Building settlements, towns and cities	4. Land tenure
5. Working	5. Labour

5 Field evaluation of the project area

5.1 Key findings

The following key findings are made:

- evidence of the brickworks survives in the form of small piles of loose bricks and bonded bricks, as well as two dams that were utilised by the brickworks;
- the ground surface in the project area was not visible during the site inspection as dense vegetation covered the ground; as a result, if footings or other structural elements exist, they were not observed; and
- no items of historical heritage significance were noted during the site inspection.

5.2 Site visit

5.2.1 Introduction

A site inspection of the project area was undertaken by Pamela Kottaras (EMM) and Julie Thomas (MCC) on Wednesday 16 March 2022 over approximately 1.5 hours. The purpose of the inspection was to understand the context of the brickworks and the extent of the closure area and the landscape it sits in. Some built features were noted and recorded.

The focus of the site visit was the location of the former brickworks site (Area A, Figure 5.1) and an area of interest to the west (Area B, Figure 5.1). Area A was not extensively surveyed as vegetation cover was dense and high, resulting in nil ground surface visibility. It was decided that walking through the long grass would not enhance the understanding of the current ground surface. Observations were made of the adjacent track, but no evidence of the brickworks was seen.

Area B was surveyed and photographed, with the results recorded below.

5.2.2 Data collection methods

Photographs were taken of the landscape and visible features in high-resolution format (CR2/RAW) and in JPG. The existing conditions created difficulties in viewing the surface of the ground as recent prolonged rain has resulted in thick and tall vegetation; ground surface visibility was very poor away from the dirt roads and generally zero where tall grass cover now predominates.

The site inspection was undertaken on foot after arriving by car. Photographs and notes were taken in the relevant locations.

5.3 Results of the field assessment

i Brickworks dams

Two dams, originally constructed to supply water to the brickworks are located to the north-east of the project area (refer Plate 5.1 and Plate 5.2). The dams are separated by an unsealed road that connects the project area to the rest of the mine. These dams will be retained as they now provide water for other purposes.



Source: EMM (2022); Metromap (2022); MCC (2022)

KEY

- ▭ Brickworks LEP boundary
- ▭ Development Consent Boundary DA205 - 2002
- ▭ Muswellbrook Coal title boundary
- ▭ Investigation area
- ▭ Area covered in field visit

Field survey areas

Muswellbrook Coal Closure
Historic Heritage Assessment
Figure 5.1





Plate 5.2 **Brickworks Dam 1 (east). View south-west. The road to the project area is the ridge behind the dam**



Plate 5.3 **Brickworks Dam 2 (west). Photograph taken from the road that separates this from Dam 1**

ii Former brickworks site

Historical aerial imagery shows that the site of the former brick works is spread out over roughly 2 ha, with most of the infrastructure over roughly half a hectare. The project area, the current LEP listing for the Muswellbrook Brick Works, is approximately 4.9 ha in size.

The site inspection did not conclusively identify in-situ ruins associated with the brickworks (Area A) owing to poor ground surface visibility created by tall grasses and weeds in the project area.

Aerial photography of Area A, taken in the last five years, indicates that there are no structures or ruins relating to the brickworks left on the ground. Footings and by-products of the brickmaking process may survive underground. The demolition method was not recorded, thus the level of sub-surface disturbance to the brick works is not known.

Vegetation growth impeded any view of the ground and based on current aerial photography, it was decided that walking through the long grass would not enhance the understanding of the ground surface in its current form.

Area A is shown in Plate 5.3 to Plate 5.5. Plate 5.6 is an overlay of the 1958 aerial (Plate 5.7) with a current aerial photograph (Plate 5.8) and shows the general layout of the site today with the site in 1958.



Plate 5.4 Area A is between the unformed track and the trees in the distance. View east



Plate 5.5 Vegetation cover over Area A. Scale = 1 m. View east



Plate 5.6 Area A: ground surface visibility. View south east



Plate 5.7 Area A: overlay of a 2017 aerial photograph over one taken in 1958. The Muswellbrook Brick Works are circled. Overlay prepared by A Dakhoul



Plate 5.8 Area A: the 1958 aerial photograph showing the brickworks (circled)



Plate 5.9 Area A: the brickworks site (circled) in August 2021

Ex-situ brick features were recorded 300 m to the west of the brickworks site (Area B); this has the appearance of a dump site as all the features were sitting askew on the ground. In addition, discarded bricks and some land modifications were noted in the ex-situ location (Figure 5.1)

The photographs in Plate 5.9 to Plate 5.15 are of the area west of the main brickworks' buildings, where bonded and loose bricks have been dumped. This area also yielded plastic, a galvanised tin rubbish bin (c. 1970s) and other irrelevant discards. Overall, this area is not overly littered, and it is not accessible to the public.



Plate 5.10 Area B (left) relative to Area A (right), approximately 250 m apart



Plate 5.11 Area B: photograph taken from the track towards a brick pile and dumped brick structure. View north-east



Plate 5.12 Area B: brick pile. Despite the placement of the north arrow in the image, the view is to the north



Plate 5.13 Brick pile detail. Note the heart-shaped frog in a brick in the foreground and half a diamond frog in the background



Plate 5.14 Area B: a dumped structural fragment. View west



Plate 5.15 Area B: a dumped structural fragment. Some of these bricks display the diamond and the heart shaped frogs. View north-east



Plate 5.16 Area B: brick debris pushed into a pile. View south-east



Plate 5.17 The disturbed landform to the south of Area B where coal chitters have been dumped. View north east

6 Assessments of significance

6.1 The significance framework

In NSW, historical value is ascribed to buildings, places, archaeological sites and landscapes modified in the Australian historical period for purposes other than traditional Aboriginal use. The assessment of heritage significance in NSW is based on the *Burra Charter* (Australia ICOMOS 2013) and further expanded upon in *Assessing Heritage Significance* in the NSW Heritage Manual (Heritage Office 2001). The heritage manual lists seven criteria to identify and assess heritage values that apply when considering if an item is of state or local heritage significance, which are set out in Table 6.1. The result of the assessments of significance may determine that an individual component does not meet the threshold for local or State significance as an individual item, but that it does contribute to the significance of the larger item.

The assessment of significance is formulated by a review of the information gathered during the research phase of the project and combines it with the field results to determine if significance is a factor. The resulting assessment of significance then guides the type of management that is necessary for the item. The criteria provide a platform on which to assess how important the item was to the historical development of the local area or the state, who was involved (was she an important figure in history); does the place demonstrate technical achievement or does it possess an outstanding visual quality; is it important to a group of people now (etc).

The criteria against which heritage significance has been assessed are reproduced in Table 6.1. Unless they are visible in the ground, the assessment of relics is hypothetical as their existence as intact and substantial sites is a prediction based on background research and site conditions.

Table 6.1 NSW heritage assessment criteria

Criterion	Explanation
a)	An item is important in the course or pattern of NSW's (or the local area's) cultural or natural history (Historical Significance).
b)	An item has strong or special association with the life or works of a person, or group of persons of importance in NSW's (or the local area's) cultural or natural history (Associative Significance).
c)	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area) (Aesthetic Significance).
d)	An item has a strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons (Social Significance).
e)	An item has the potential to yield information that will contribute to an understanding of NSW's (or the local area's) cultural or natural history (Research Significance).
f)	An item possesses uncommon, rare or endangered aspects of NSW's (or the local area's) cultural or natural history (Rarity).
g)	An item is important in demonstrating the principal characteristics of a class of NSW's (or the local area's) cultural or natural places or environments (Representativeness).

Source: *Assessing heritage significance* (NSW Heritage Office 2001, p.9).

6.2 Comparative analysis

6.2.1 Review of similar sites

Twenty-seven brickworks or items relating to brickworks sites of local significance and one site of state significance are listed on the SHI. The following comparative analysis reviews a sample of listed and unlisted brickworks sites that represent both standing and demolished brickworks. The information presented below was drawn from the SHI or, if the site was not listed, archaeological reports were referenced. A summary of the findings is provided in Table 6.2.

i **Lithgow Valley Colliery & Pottery Site (Lithgow Pottery and Brickworks)**

Bent Street, Lithgow, SHR 00075.

The Lithgow Valley Colliery pottery site contains both built heritage items and archaeological resources.

Lithgow Valley Colliery Co. Ltd. began exploiting coal seams in the Lithgow Valley in 1869 and in 1876 a brickmaker by the name of Aston established a clamp-kiln on the Company's holdings. A pipe-making kiln was added to the north of site in 1878 along with a pottery kiln to the south in 1879. Moreover, a continuous kiln was introduced to the clay works in 1901. The clay works manufactured pipes, chimneypots, tiles and bricks from local clays; domestic pottery was also produced until 1907. The pottery was closed in 1945, heavy plant was sold, and structures were demolished over time as areas of the site were developed for commercial purposes. Two stores, a powder magazine and square brick chimney survive on the site.

Archaeological investigations occurred in Lots 2 and 3 in the north of the clay works area in 1981. Excavations found the footings of two nineteenth century pipe kilns, the 1901 kiln and brick clamp kiln as well as evidence of a drying shed.

The Lithgow Valley Colliery pottery site is of state significance as a producer of building materials used to public works over the state as well as throughout the Lithgow region. The connection of the pottery to the long-lived Lithgow Valley Colliery works is considered rare and socially significant within the local community. Although much of the site has been destroyed by development, areas of the site still hold archaeological resources and have the potential to contribute further understanding into the evolution of clay-product technologies in New South Wales over the nineteenth and twentieth centuries.

ii **Potters Brewery- Nulkaba**

9 Fleming Street, Nulkaba, Cessnock Local Environmental Plan 2011 I155.

The brickworks established in the township of Nulkaba, once known as the Cessnock Potteries and now known as Potters Brewery, are a built heritage item. Four of the five original beehive kilns survive on the site with the demolished materials of the fifth remaining *in situ*.

Stephen Arthur Hennery and Mark Robinson established a brickworks on the clay rich site in 1880. The brickworks supplied local coalmines, houses and public works (Your Hunter Valley, 2019). Works expanded overtime to manufacture water and sewage pipes, terracotta pots and roof tiles and in 1929 the site was named Cessnock Potteries (Your Hunter Valley, 2019). In 1931 the pottery shifted focus to saltglaze pipes for public works and was considered an essential industry during the Second World War. By 1979 the pottery had expanded to contain two main production areas, seven down draught kilns and drying sheds were in one area and the beehive kilns and pipeworks were located in another. In 1989 the pottery was converted into a hotel and restaurant with accommodation constructed on the site in 2002.

Potters Brewery is of local historical significance and is considered a rare example of standing early twentieth century brickworks.

iii *Brickworks (Kalaru Brickworks building)*

564 Bega-Tathra Road, Kalaru, *Bega Valley Local Environmental Plan 2013 I746.*

The Kalaru brickworks site is a built heritage item containing remnant standing structures from the original brickworks that have been subject to preservation/stabilisation.

William Stafford established the Kalaru brickworks in the 1930s using plans from the Goulbourn Brickworks. Stafford and his sons produced bricks in their five standing kilns using local clays. The Stafford's supplied bricks to the Bega Valley shire and wider Eden Monaro districts over the mid twentieth century. The site was in the hands of the Stafford family at the time of listing (2006) and at present the property functions as a paver and building material suppliers.

The Kalaru brickworks are of local historical and technical significance as an example of a prominent industry in the Bega district which produced bricks for many buildings in the region.

iv *Former Brickworks - Glen Innes*

Thomas Street, Glen Innes, *Glen Innes Severn Local Environmental Plan 2012 I167.*

The former Glen Innes brickworks are also a built heritage item. Buildings of brick, iron and timber in varying levels of disrepair are present on the site along with material stockpiles, pits and machinery which give the appearance of recent abandonment.

The Willis family founded the Glen Innes Brickworks in the 1870s and was operated by multiple owners over its history. For example, brickworks were purchased by the cooperative firm, the Glen Innes Brick and Tile Company Limited in 1922. In 1979 the brickworks were taken over by Glenn Innes Council, but operations ceased in 1985. Local clays produced the Glen Innes "blue" bricks, which were used throughout the town.

The former Glen Innes Brickworks are of local historical, associative, and social significance and are considered a landmark of the town. Additionally, the site is regarded as a rare example of a late nineteenth century brickworks which has the potential to expand understandings of spatial layouts of brickworks and the brickmaking process as well as the use of bricks in the local area. The former brickworks are representative of the practice of establishing of brickworks in country towns to meet construction needs and the struggles to compete with cheap extruded brick production over the twentieth century.

v *Maclean Pages Brickworks*

84 Farlows Lane, Maclean, *Clarence Valley Local Environmental Plan 2011 I214.*

The Maclean Pages Brickworks is an archaeological site.

The brickworks, established by Robert Page c.1900, produced bricks for public buildings in the Maclean area including the public school, hotel and bank. The bricks produced by Robert Page were promoted to be the highest quality, formed of pure ironstone clay and fired at 1800 degrees. Production continued at the brickworks until 1946 when the site was abandoned.

In 1992 the Maclean Pages Brickworks site was subject to archaeological investigation. Evidence of at least one of the eight kilns was found along with a c.1942 workman's cottage built of earlier materials. Indentations from the clay pug and scrapings were also observed.

The Maclean Pages Brickworks archaeological site is of local significance for its association with the operations of the Pages Brickworks and its contribution to structures in the local township. Previous investigations have shown the site has archaeological research potential and contains relics.

vi *South Grafton Brickworks*

Brickworks Road, South Grafton, Clarence Valley Local Environmental Plan 2011 I878.

The South Grafton Brickworks are a built heritage item and are a working site which is still producing bricks on a small scale.

The South Grafton Brickworks were established as a tile and pipe manufacturer by the Clarence Earthenware and Tile Company in 1948. The site became the South Grafton Brickworks under the ownership of Reg Want of Want Constructions in 1958. The brickworks feature five brick down draft kilns, crusher, mould making equipment, office and storage units and storage areas. The brickworks sources clay from Nymboida to the south and coal from Ipswich in Queensland to produce cream coloured dry press bricks. The brickworks are a working site which is still producing bricks.

The South Grafton Brickworks are of local significance. They demonstrate the need for locally produced building materials on the north coast over the late twentieth century. The site reflects the labour of dry-press brick making using downdraft kilns. It was significant as one of only four dry press brick kilns in operation in New South Wales at the time of listing but is representative of its type.

vii *Former premises relating to Austral Brickworks*

48A Consul Road, Brookvale, Warringah Local Environmental Plan 2011 I2.

The former Austral Brickworks at Brookvale is a built heritage item that has been incorporated into a modern residential development.

The brickworks produced dry-press bricks using coal fired kilns from 1914 with the original machinery and methods used to manufacture bricks until the factory was closed in 1998. It is believed the site was the last dry-press brick factory in Sydney when it closed. At the time of listing the site featured a brick chimney stack, kilns, industrial buildings and equipment. The chimney and other structures remain within the modern development.

The former Austral Brickworks at Brookvale are of local significance. Evidence of the structures and technologies used in coal-fired kilns and dry-press brickmaking are retained on the site. The former brickworks are historically significant as a long running industry in the area and represent a rare industrial feature in Sydney.

viii *Mason Brothers' Brickworks*

Captain's Flat Road, c.1.8km from turn off from Kings Highway, Carwoola, Queanbeyan Local Environmental Plan 2012, A1.

The Mason Brothers' Brickworks are an archaeological site located in the curtilage of Cuumbeun nature reserve.

Queanbeyan builder and developer Walter Henry Mason constructed the brickworks in c.1924. Mason used the brickworks in his own developments, including the Queanbeyan Hotel, and it is also believed that he hoped to supply bricks to the federal public buildings under construction in Canberra however his products did not meet specifications. Mason was declared bankrupt in 1928 and the brickworks was sold. At the time of the sale the site contained three brick kilns, brick making equipment, steam engines, electrical lighting plant, generator and various buildings.

A survey of the Mason Brothers' site, which occurred prior to the site's listing in 2012, found extensive archaeological evidence of the brickworks. Clay mining pits, building and machinery footings, and landscaping associated with the short-lived brickworks were visible.

The Mason Brothers' Brickworks are a locally significant archaeological site. Although operational for fewer than five years the brickworks site represents important local industry which contributed to landmark buildings in Queanbeyan. Further, the site is demonstrative of builder-owned construction material factories.

Princes Highway, Oak Road & Flora Street, Kirrawee, N.S.W.

In 2007 the former brickworks at Kirrawee were an archaeological site. The site is now a multi-storey mixed residential/commercial development.

Kirrawee brickworks were constructed in 1912 and had numerous owners until it was demolished in the 1970s. The site was subject to desktop assessment and survey by Edward Higginbotham & Associates in 2007 which found the presence of at least three kilns— including both downdraught and continuous kilns – twin chimneys, moulding or drying shop and associated sheds and outbuildings. In 2007 only the brick pit and dry-press brick electrical substation remained from the former brickworks. Survey of the site found the footings of buildings suggesting subsurface archaeological evidence of other brickworks structures and technologies may have survived demolition.

The former brickwork at Kirrawee were not listed; nevertheless Edward Higginbotham & Associates produced a significance assessment of the site. In summary, the former brickworks were argued to have the potential to offer further understanding of brick and pipe making technologies and to represent principal characteristics of the industry. Moreover, the brickworks produced construction materials for the local area through the twentieth century and had strong association with the Punchbowl Brick and Tile Co Ltd. Thus, the site was assessed to be of local significance.

6.2.2 Analysis

Brickworks were established in towns following economic growth, during which materials to build were in short supply and expensive to obtain from urban centres. They were prominent industries, which contributed to the local area through employment and the production of bricks used in local constructions and to meet the material needs of growing townships - especially relevant in rural areas.

The examples in this report demonstrate, and demonstrated, various techniques in brick making including downdraught kilns, beehive kilns, clamp kilns and continuous kilns. All sites also feature a variety of ancillary buildings, and where the clays were locally sourced, evidence of clay mining. The Lithgow Pottery is the only example of a listed brickworks site with direct associations to a colliery.

The four archaeological sites are representative of both small (Mason Brothers' Brickworks, Maclean Pages Brickworks) and large scale (Lithgow Valley, Kirrawee brickworks) brick manufacturing activities. These brickworks were demolished prior to the 1980s and the sites were not subject to extensive development with the exception of portions of the Lithgow Valley Pottery. Archaeological materials were visible during survey at the Mason Brothers' and Maclean brickworks site and while minor structures from the Kirrawee and Lithgow brickworks survived significant evidence of the works were only exposed through excavation. Archaeological excavation contributed to the historical, technical and research significance of the Lithgow Pottery.

Early and technologically significant brickworks survive in NSW as working sites, as redundant and protected sites and as archaeological sites. At Kirrawee, the former brickworks were totally removed through archaeological excavation followed by development. The brickworks, the subject of this report, were demolished, which may have left an archaeological imprint, but its significance would have been in the built structures for their aesthetic appeal and not for its archaeological significance.

Table 6.2 Comparative analysis table

Site ID	Site name	Established	Closed/Abandoned	Demolished	Investigation
SHR 00075	Lithgow Valley Colliery & Pottery site	1876	1945	1945	Archaeological excavation
I155	Potters Brewery	1880	1980s	1980s (partial)	Local heritage study
I746	Brickworks (Kalaru Brickworks building)	1930s	Not recorded	-	Local heritage study
I167	Former Brickworks - Glen Innes	1870s	1985	-	Local heritage study
I214	Maclean Pages Brickworks	c.1900	1946	Not recorded	Archaeological excavation
I878	South Grafton Brickworks	1948	-	-	Local heritage study
I2	Former premises relating to Austral Brickworks	1914	1998	after 2011	Local heritage study
A1	Mason Brothers' Brickworks	c.1924	1928	1928	Archaeological survey
-	Former brickworks at Kirrawee	1912	1970s	1970s	Archaeological excavation

6.3 Archaeological sensitivity

6.3.1 Introduction

The purpose of this report is to assess the significance of the brickworks to determine if what may survive sub-surface is significant enough to retain on the LEP as a relic, or if sufficient information supporting its removal from the LEP exists.

The brickworks were listed in 1996, fell out of use in 1999 and approval to demolish was given in December 2009 by Muswellbrook Shire Council. The item was demolished in 2012 (MCC, 2012, p.72).

6.3.2 Phases of the site

The four phases of the site that were identified in the historical summary

- Phase 1 – clearing the landscape.
- Phase 2 – building and operation of the brickworks.
- Phase 3 – demolition of the brickworks.
- Phase 4 – undeveloped land.

6.3.3 Archaeological potential

The archaeological potential of the project area is unknown as the site was overgrown and the ground surface was not visible. Some evidence may survive depending on the demolition process.

6.3.4 Research potential

The research potential of the project area is low to nil. Sufficient information on the construction, operations and demolition of the brickworks exists and is accessible. Further, a comprehensive archival record of the brickworks was prepared prior to its demolition. This record contains detailed photographs, historical information and plans. Archaeological excavation will not contribute to an understanding of the brickworks' operations and significance that these sources cannot.

As no other historical heritage sites have been discovered in the project area through previous assessment and field survey, the research potential of historical heritage values associated with the project area is low to nil.

6.4 Assessment of sites in the project area

Only one listed heritage site is known to exist in the project area, being the brickworks. The brickworks were demolished in 2012, the process of which may have left *in situ* archaeological fabric and deposits; however, it is the significance of the archaeological material that will determine if it is a 'relic' as defined by the Heritage Act and is therefore protected, or if that material has little to no heritage significance.

The assessment of significance is presented in Table 6.3.

Table 6.3 Assessment of significance: Former Muswellbrook Brickworks

Criterion	Explanation
a)	<p><i>An item is important in the course or pattern of NSW's (or the local area's) cultural or natural history (Historical Significance).</i></p> <p>The brickworks were established in the early 1950s to take advantage of the economic boom brought on by mining related to open cut no. 1 mine.</p> <p>The brickworks took advantage of waste material from the mine and the cost-effective use of locally extracted coal to power the down-draft kilns.</p> <p>As the town grew, so too did the construction industry, and local manufacture meant jobs and cheaper bricks, bringing more people to the town.</p> <p>The brickworks were an item of local historical significance when standing.</p> <p>As an archaeological site the brickworks do not fulfil this criterion.</p>
b)	<p><i>An item has strong or special association with the life or works of a person, or group of persons of importance in NSW's (or the local area's) cultural or natural history (Associative Significance).</i></p> <p>The archaeology of the former brickworks do not fulfill this criterion.</p>
c)	<p><i>An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area) (Aesthetic Significance).</i></p> <p>The brickworks were of aesthetic significance when standing, for their ability to demonstrate mid-century regional brickmaking processes.</p> <p>As an archaeological site, if substantial evidence survives intact, the brickworks may have aesthetic appeal if included in publicly accessible interpretation.</p> <p>From a technological standpoint, the archaeological aesthetic significance does not fulfill this criterion.</p>
d)	<p><i>An item has a strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons (Social Significance).</i></p> <p>The brickworks were listed on the LEP in 1996, indicating that the local community held them with some regard. Their demolition in 2012, with approval from Muswellbrook Shire Council suggests that knowledge and regard for the brickworks had diminished over time, possibly as a result of the inaccessible location of the complex.</p> <p>If the brickworks survive archaeologically, evidence that the community or any other cultural group holds the site in high esteem, has not been found.</p> <p>The archaeology of the former brickworks does not fulfill this criterion.</p>
e)	<p><i>An item has the potential to yield information that will contribute to an understanding of NSW's (or the local area's) cultural or natural history (Research Significance).</i></p> <p>Archaeologically, the site of the former brickworks possesses potential to retain kiln footings, and evidence of other buildings in the complex. The value of archaeological excavation of the brickworks; however, is low, given the late establishment date of the complex and surviving documents related to it. Specifically, the photographic archival record that was prepared in 2010 before the complex was demolished provides information about the configuration of the structures. The understanding of how the different types of kilns and mid-twentieth century brickmaking in general is well understood and the complex was not proximally associated with any other site that would have left an archaeological fingerprint.</p> <p>Further research into which buildings, in Muswellbrook and the surrounding area, the bricks went into could be achieved as representative examples of the bricks from the site survive.</p> <p>Thus, while historically significant, the archaeological resources of the now demolished brickworks, do not fulfil this criterion.</p>

Table 6.3 Assessment of significance: Former Muswellbrook Brickworks

Criterion	Explanation
f)	<p><i>An item possesses uncommon, rare or endangered aspects of NSW's (or the local area's) cultural or natural history (Rarity).</i></p> <p>Downdraft kiln sites are not rare as built items and as archaeological sites. As NSW urban centres expand and are developed, examples of the earliest kilns, as with any early industry or residential site, become rarer. The brickworks, however, are not early, and did not use unusual manufacturing techniques.</p> <p>The brickworks do not fulfill this criterion.</p>
g)	<p><i>An item is important in demonstrating the principal characteristics of a class of NSW's (or the local area's) cultural or natural places or environments (Representativeness).</i></p> <p>The brickworks were representative of the types of industry that grew with their regional town, and like many of these industries, was an opportunistic response to available materials that met the needs of growth. Their existence represents the economic contribution made to Muswellbrook and the employment it generated as well as the locally sourced building material it produced. This process is one that is seen in the historical record across NSW.</p> <p>As standing structures, the complex was representative as a mid-century, rural brickworks in material, function and operations.</p> <p>The brickworks were of local significance when standing.</p> <p>The brickworks would be of local archaeological significance if substantial and intact archaeological evidence survives.</p>

i Statement of significance

The former brickworks were an item of local significance for their role in the history of mining in the region. They represented the opportunistic growth of industry arising from the by-products of a different industry and feeding the benefits into the local economy. As a potential archaeological site, the former brickworks site does not possess research potential, being of a recent age, from an industry that is represented well elsewhere, and is therefore considered to not be a site of significance. Aesthetically, the former brickworks site does not demonstrate technology that was ground-breaking or rare. There are no other historical sites with significance in the project area.

The LEP listing of the Muswellbrook Brick Works is no longer valid as the structures have been demolished and any remaining sub-surface evidence does not meet the threshold to be protected by the Heritage Act; that is, archaeology related to the brickworks that may survive, does not meet the relics threshold and therefore does not require approval to impact.

7 Conclusion

The purpose of this report has been to review the project area to assess the listing for the Muswellbrook Brick Works and determine if the site warrants retention on Schedule 5 of the Muswellbrook LEP.

The method employed to achieve this aim was to review previous reports focused on the project area, including impact assessments and the archival record prepared for the brickworks. A site inspection of the brickworks site was also undertaken.

The brickworks were established in the mid-1950s to supply bricks to the greater area while making use of the local clay. The brickworks were listed on the LEP in 1996 and closed permanently in 1999. In the following years, the site fell into disrepair and was demolished in 2012, with permission from MSC. While the establishment of the brickworks follows a pattern seen across the state of NSW, the technology was not rare and therefore, the former brickworks site was assessed to have low research potential. As a result, if material evidence of the former brickworks survives archaeologically, there is no justification for archaeological excavation.

This report has found that there is sufficient evidence to show that what remains of the former brickworks does not justify its retention as a heritage item on the Muswellbrook LEP.

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Planning Proposal

Muswellbrook Brick Works - Removal of heritage listing

Prepared for Muswellbrook Coal Company Limited

November 2022

Planning Proposal

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Muswellbrook Coal Company Limited

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1 Objectives and intended outcomes

This planning proposal details a proposed Local Environmental Plan (LEP) for the Muswellbrook Local Government Area (LGA). It has been prepared by EMM Consulting Pty Limited (EMM) in response to a request from Muswellbrook Shire Council and on behalf of Muswellbrook Coal Company Limited (MCC), the proponent.

The objective of the proposed Local Environmental Plan (LEP) is to remove Muswellbrook Brick Works (Item I112) from Schedule 5 of the Muswellbrook Local Environmental Plan 2009. The Muswellbrook Brick Works (hereafter referred to as 'the brickworks') commenced operations in 1957 and ceased operating in 1999. Consent for demolition of the brickworks was granted by Muswellbrook Shire Council in 2009 due to extant structures presenting a hazard (Muswellbrook History Society, 2010, p.7). Demolition of the brickworks occurred in May 2012. A historical heritage assessment of the former brickworks site has been undertaken by EMM (see Appendix A). This assessment concluded that the site no longer contains historical heritage significance.

Therefore, retaining the brickworks heritage listing has no heritage conservation benefits and removal of the item from the LEP heritage schedule is necessary to ensure appropriate land use decisions can be made with respect to the land.

This planning proposal has been prepared in accordance with the *Local Environmental Plan Making Guideline* (NSW Department of Planning, Industry and Environment September 2022).

2 Explanation of provisions

The proposed LEP includes the following minor changes to the Muswellbrook LEP 2009 written instrument and Heritage Map:

- Schedule 5 Environmental Heritage – remove item I112.
- Heritage Map – remove item I112.

3 Justification of strategic and site-specific merit

The *Local Environmental Plan Making Guideline* (NSW Department of Planning, Industry and Environment September 2022) identifies questions that should be considered when demonstrating the justification for the proposal. Consideration of these questions is given below in Table 3.1.

Table 3.1 Justification for the proposal

Question	Consideration
Section A – need for the planning proposal	
1. Is the planning proposal a result of an endorsed local strategic planning statement (LSPS), strategic study or report?	This proposal is not a result of an endorsed LSPS, strategic study or report. This proposal is in response to a request from Muswellbrook Shire Council and a historic heritage assessment that concluded that Item I112 no longer contains historical heritage significance. Removal of the item from the LEP heritage schedule is, therefore, necessary to ensure appropriate land use decisions can be made with respect to the land.
2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	The proposal is the only means of achieving the stated objectives. The only alternative is to retain the item within the heritage schedule and map, which would potentially have an adverse impact on land use decisions within the Muswellbrook Shire.
Section B – relationship to the strategic planning framework	
3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?	The objectives and actions of the applicable regional, or district plan or strategy are not relevant to the proposal.
4. Is the planning proposal consistent with a council's local strategic planning statement that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?	There is no endorsed local strategic planning statement, or another endorsed local strategy or strategic plan relevant to the proposal.
5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?	There are no State and regional studies or strategies applicable to the proposal.
6. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?	The proposal is consistent with applicable SEPPs – see Table 3.2.
7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?	The proposal is consistent with applicable Ministerial Directions – see Table 3.2.
Section C – environmental, social and economic impact	
8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?	The proposal is administrative and does not involve works that would impact habitat or threatened species, populations or ecological communities.
9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	The proposal is administrative. The item has been demolished and the area contains no heritage significance (refer Appendix A). Therefore, removal of the item from the Heritage Schedule would have no environmental effects.
10. Has the planning proposal adequately addressed any social and economic effects?	There are no anticipated social or economic effects of removing the item from the Heritage Schedule.

Table 3.1 Justification for the proposal

Question	Consideration
Section D – Infrastructure (Local, State and Commonwealth)	
11. Is there adequate public infrastructure for the planning proposal?	The planning proposal is administrative and does not require public infrastructure.
Section E – State and Commonwealth Interests	
12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?	Muswellbrook Shire Council has requested that this proposal be prepared and is, therefore, considered to be supportive of the proposed LEP. See section 5 for details of relevant community consultation undertaken.

The planning proposal’s consistency with applicable State Environmental Planning Policies (SEPPs) and Ministerial Directions (s.9.1 directions) is detailed in Table 3.2.

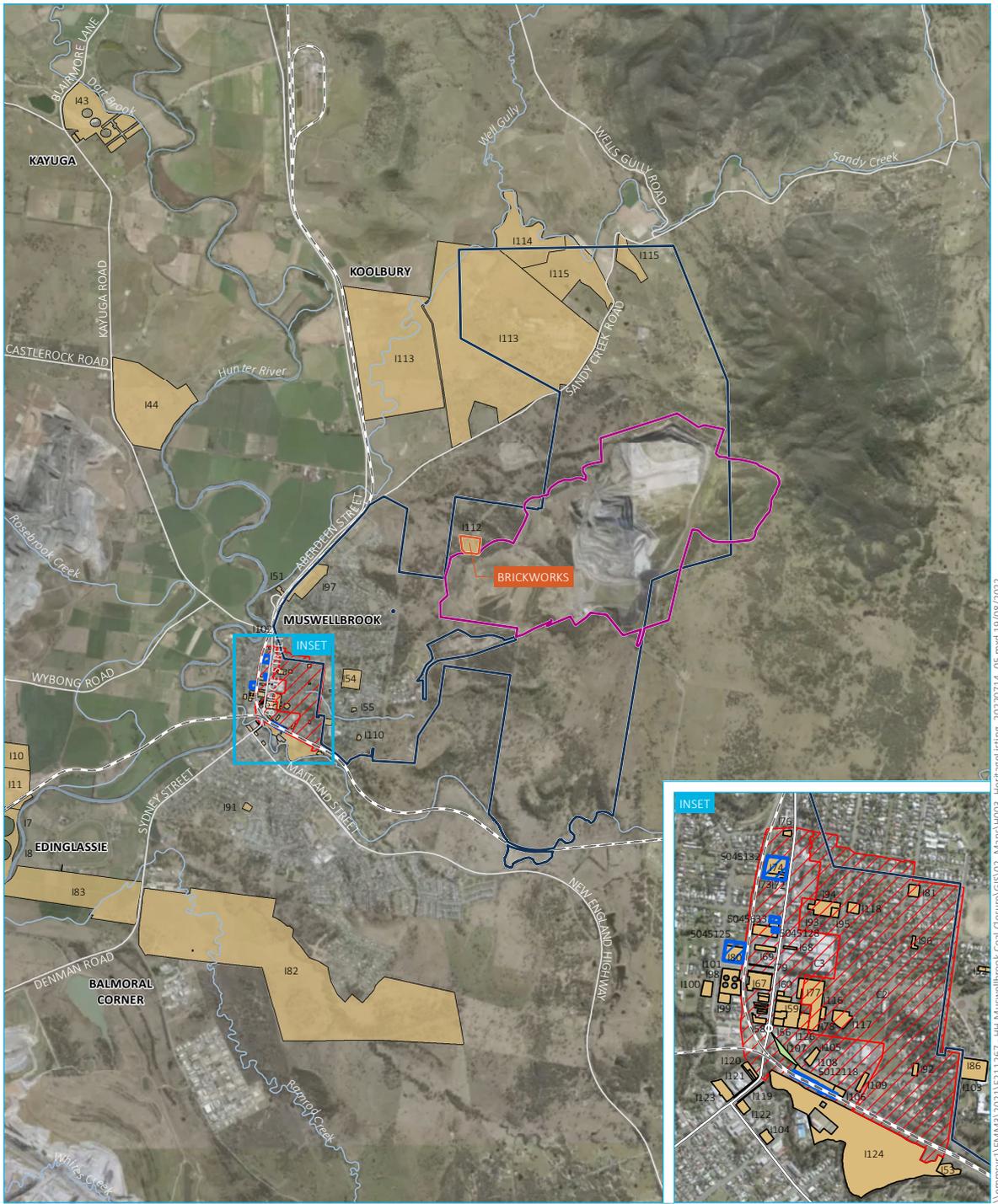
Table 3.2 Consistency with applicable SEPPs and Ministerial Directions

Instrument	Applicability	Consistency
State Environmental Planning Policies		
Exempt and Complying Development Codes 2008	The SEPP provides exempt and complying development codes for types of development that are of minimal environmental impact that may be carried out without the need for development consent or in accordance with a complying development certificate.	This proposal would allow the applicability of this SEPP as land that contains heritage items are excluded from exempt and complying development codes. Therefore, removal of the I112 from the LEP heritage schedule would allow for more efficient use of land.
Primary Production 2021	Aims of the SEPP include to facilitate the orderly economic use and development of lands for primary production.	The subject land is zoned RU1. The proposal will facilitate the orderly and economic use and development of the land for primary production.
Ministerial Directions		
1.3 Approval and referral requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The proposal allows for efficient and appropriate assessment of development by removing an item from the heritage schedule that no longer has heritage significance (see Appendix A).
3.2 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The proposal relates to an item that no longer has heritage significance (see Appendix A).
9.2 Rural Lands	Objectives of this direction include to facilitate the orderly and economic use and development of rural lands for rural and related purposes.	The subject land is zoned RU1. The proposal will facilitate the orderly and economic use and development of rural lands for rural and related purposes.

4 Maps

The brickworks were located at Coal Road Muswellbrook within Lot 4/-/DP1220491. It is noted that Schedule 5 contains incorrect location information (likely outdated) with its location being Muswellbrook Common, Lot 101 DP 578075. The location of Item I112 is shown in Figure 4.1, in the context of other local heritage items.

MCC is the owner of the subject land.



Source: EMM (2022); ABS (2021); DFSI (2020, 2021); Metromap (2022); MCC (2022); DAWE (2022)

KEY

- Development Consent Boundary DA205 - 2002
- Muswellbrook Coal title boundary
- Brickworks LEP boundary
- Heritage Act
- State Heritage Act
- Muswellbrook LEP (2009)
- Conservation Area - general
- Heritage item - general
- Heritage item - landscape
- Existing environment
- Rail line
- Major road
- Named watercourse
- Named waterbody

Local area & Heritage listings

Muswellbrook Brickworks
Planning Proposal
Figure 4.1



5 Community consultation

This Planning Proposal was prepared in response to a request from Muswellbrook Shire Council to remove Item I112 from the Muswellbrook Local Environmental Plan 2009. Further consultation with Muswellbrook Shire Council will be undertaken post submission and during the assessment and determination process. Consultation with Muswellbrook Shire Council has also historically been undertaken in relation to demolition of the brickworks.

The local community and government agencies will be able to provide submissions on the proposed LEP during public exhibition.

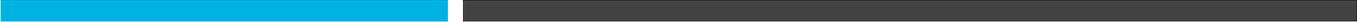
6 Project timeline

The anticipated timeline for the LEP making process is below (see Table 6.1) and, given its administrative nature, is in accordance with the basic timeframe benchmarks in the *Local Environmental Plan Making Guideline* (NSW Department of Planning, Industry and Environment September 2022). The timeframe assumes that the proposal will proceed to a Gateway determination and that a rezoning review (after the Gateway determination) will not be required.

However, it is anticipated that the proposed LEP (as detailed above) will be able to be expedited under Section 3.22 of the *Environmental Planning and Assessment Act 1979*. This is because the provisions are minor in nature and will not have any significant adverse impact on the environment or adjoining land. If the Minister (or delegate) permits parts of the process to be dispensed, then this would reduce the project timeline.

Table 6.1 Indicative project timeline

Stage	Estimated timeframe
Consideration by council	1-2 months
Council decision	
Gateway determination	25 days
Pre-exhibition	20 days
Commencement and completion of public exhibition period	70 days
–Consideration of submissions	
Post-exhibition review and additional studies	
Submission to the Department for finalisation (where applicable)	25 days
Gazettal of LEP amendment	



References

Muswellbrook Shire Local & Family History Society Inc. (2010). *Archival Recording and Photographic Record of Muswellbrook Brickworks*.



9.1.4.	Monthly Report to Council - Planning, Environment and Regulatory Services
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Attachments:	Nil
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Responsible Officer: Sharon Pope - Director - Planning & Environment

Author: Tracy Ward (Sustainability Officer), Michael Brady (Sustainability Officer - Waste), Kim Randall (Administration Team Leader), Kelly Lynch (Administration Officer)

Community Plan Issue: 6 - Community Leadership

Community Plan Goal: Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.

Community Plan Strategy: 6.2.1 - Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.

OFFICER'S RECOMMENDATION

The information contained in this report be noted.

Moved: _____ **Seconded:** _____

REPORT

PLANNING AND ENVIRONMENT

Schedule 1: Development Applications Approved (1/1/2023-31/1/2023)

DA No.	DESCRIPTION	PROPERTY	VALUE (\$)
2022/123.2	S4.55 (1) Modification - Single Storey Dwelling	59 Babbler Crescent Muscle Creek	\$520,385
2022/142	Shed	1559 Golden Hwy Sandy Hollow	\$37,766
2022/134	Ancillary Development - Shed	17 Stockyard Parade Muswellbrook	\$43,825
2022/146	Single Storey Dwelling with Attached Garage	23 Stockyard Parade Muswellbrook	\$441,569
2022/139	Single Storey Dwelling with Attached Garage	17 Stockyard Parade Muswellbrook	\$466,616
2021/45.2	S4.55 (1A) Modification - Category 2 Rural Fire Service Shed	20 Dorset Road Kayuga	\$800,000
2022/125	Two Storey Dwelling	207 Ferndale Road Yarrawa	\$189,871



DA No.	DESCRIPTION	PROPERTY	VALUE (\$)
2023/1	Demolition of Existing Shed and Replacement Shed with Awning	30 Bimbadeen Dr Muswellbrook	\$12,000
2023/10	Single Storey Dwelling	65 Stockyard Pde Muswellbrook	\$652,385

Schedule 2: Development Applications Currently Being Assessed as at 07/02/2023

DA No.	DESCRIPTION	PROPERTY	VALUE (\$)
2023/5	Change of use - Home Occupation	22 Roger St Muswellbrook	\$3,000
2023/4	Alterations and additions to commercial development	14 Aberdeen St Muswellbrook	\$181,650
2022/148	Construction of a Shed (Farm Building)	400 Yarrawa Rd Denman	\$52,000
2020/131.2	S4.55 (1A) Modification - Dwelling Additions and Swimming Pool	104 Osborn Ave Muswellbrook	\$198,000
2023/2	Ancillary Development - Shed. Demolishing existing garden shed	4 Towarri St Muswellbrook	\$29,858
2022/116	Farm Building	Golden Hwy Sandy Hollow	\$24,139
2022/153	Two (2) lot Subdivision	53 Ford Street Muswellbrook	-
2022/154	Multi dwelling housing - Five (5) single storey dwellings	47 Osborn Ave Muswellbrook	\$1,550,000
2022/140	Change of Use - Industrial Development	12 Carramere Rd Muswellbrook	\$2,200,000
2022/152	Alterations and Additions to Dwelling	2 Paxton St Denman	\$32,000
2022/151	Residential Shed	60 Stockyard Pde Muswellbrook	\$40,000
2022/1.2	S4.55 (1A) Modification - Single Storey Dwelling	1490 Denman Rd Denman	\$735,110
2022/150	Detached Shed	121 Brook St Muswellbrook	\$42,798
2022/149	Single Storey Dwelling	56 Stockyard Pde Muswellbrook	\$527,100
2022/143	Shed	9A Grey Gum Rd Denman	\$65,000
2022/145	Change of Use & Dwelling Alterations and Additions	47 Wanaruah Cct Muswellbrook	\$12,000
2022/144	Construction of a Single Storey Dwelling	Kingfisher Crt Muscle Creek	\$575,715



DA No.	DESCRIPTION	PROPERTY	VALUE (\$)
2022/129	Home Based Hair & Beauty Business	100 Yarrowa Deviation Rd Yarrowa	\$5,000
2012.184.2	S4.55(1A) Modification of Development Determination - Condition 1	31 Strathmore Rd Muswellbrook	-
2022/138	Single Storey Dwelling with Attached Garage	24 Stockyard Pde Muswellbrook	\$570,795
2022/137	Inground Fibreglass Swimming Pool and Associated Safety Barriers	5 Paxton St Denman	\$36,905
2022/132	Sixty Eight (68) Lot Subdivision and Child Care Centre	9036 New England Hwy Muswellbrook	\$6,705,835
2021/69.2	S4.55 (1A) Modification- Ancillary Development Shed	8 Kenilworth St Denman	-
2022/136	Ancillary Development- Carport and concrete slab	65 Sowerby St Muswellbrook	\$16,400
2022/124	Shed for Community Facility	17-19 Maitland St Muswellbrook	\$182,720
2022/135	Commercial Storage Shed	15 Strathmore Rd Muswellbrook	\$35,000
2022/131	Ancillary Development - Shed	69 Stockyard Pde Muswellbrook	\$19,800
2022/128	Single Storey Dwelling	60 Stockyard Pde Muswellbrook	\$426,445
2022/122	Subdivision of One (1) Lot into Two (2) Lots	59 Tindale St Muswellbrook	\$20,000
2022/109	Ancillary Development - Garage	9 Aberdeen St Muswellbrook	\$73,507
2022/118	Ancillary Development - Shed	7 Shaw Cres Muswellbrook	\$48,300
2022/107	Single Storey Attached Dual Occupancy & Two (2) Lot Strata Subdivision	48 Finnegan Cres Muswellbrook	\$702,182
2017/18.3	S4.55 (1A) Modification - Modification to Outdoor Gaming Area and Car Park Arrangement	15 Sydney St Muswellbrook	-
2019/5.2	S4.55 (1A) Modification - Revised Caravan Park Site Layout	9080 New England Hwy Muswellbrook	-
2022/100	Dual occupancy	67A Queen St Muswellbrook	\$540,000
2022/95	Staged Demolition of Existing Buildings and Construction of New Grandstand and Amenities.	3 Wilkinson Ave Muswellbrook	\$9,455,600



DA No.	DESCRIPTION	PROPERTY	VALUE (\$)
2022/92	Subdivision of One (1) Lot into One Hundred & Ninety Four (194) Residential Lots	Almond St Denman	\$18,284,734
2022/80	Remediation and Earthworks	Coal Rd Muswellbrook	\$2,516,829
2022/45	Manufactured Home and Associated Structures	120 Yarraman Rd Muswellbrook	\$417,100
2002/205.9	S4.55 (1A) Modification - Changes in Rehabilitation Framework	Muscle Creek Rd Muscle Creek	-
2022/30	Steel Framed Deck 7 Internal Fit Out	93A Hill St Muswellbrook	\$30,000
2022/5	Storage Facility & Signage	Victoria St Muswellbrook	\$1,304,330
2021/137	Change Of Use to Educational Facility	820 Rosemount Rd Denman	\$0
2021/129	Animal Boarding & Training Facility	1949 Martindale Rd Martindale	\$33,338,800
2021/73	Temporary use of the land for receipt and dismantling of rail wagons with off-site disposal	18 Strathmore Rd Muswellbrook	\$50,000
2021/58	Organics Recycling Facility	252 Coal Rd Muswellbrook	\$3,850,000
2020/102	Hotel Accommodation (Royal Hotel)	10 Ogilvie St Denman	\$20,000
2020/83	Subdivision of one lot (1) into three (3)	60-62 Palace St Denman	\$10,000
2020/7	Additions and Alterations to existing Hotel	184 Bridge St Muswellbrook	\$110,000
2019/53	Subdivision of Two (2) Lots into Seventy Five (75) Lots	9027 New England Hwy Muswellbrook	\$4,875,600
2022/147	Change of Use – Tyre Recycling Facility	12 Carramere Rd Muswellbrook	\$2,200,000

20.1.12 Inspect onsite wastewater sewerage systems to ensure they are installed and maintained in compliance with regulatory requirements.

On-site Wastewater Statistics - 13 Month Analysis (2021/2022)

Jan 22	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 23



Applications Received (new installation)	0	0	3	0	0	0	0	3	2	0	2	0	0
Applications Approved (new installation)	0	0	2	1	0	0	2	2	0	0	0	1	0
Inspections (new system)	3	0	2	0	1	0	0	0	0	0	2	1	0
Inspections (existing system)	14	3	7	0	18	39	1	1	0	0	1	1	0

24.1.5 Registration and inspection of regulated premises (caravan parks, food outlets, skin penetration premises, hairdressers, mortuaries, air handling systems) in accordance with regulatory requirements to ensure public health and safety is protected.

	Jan 22	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 23
Applications Received (new businesses)	0	1	1	0	0	1	3	3	7	1	1	3	3
Inspections (new businesses)	1	1	0	0	0	3	1	0	8	1	3	1	1
Inspections (existing businesses)	11	16	10	1	12	13	0	0	0	0	5	0	15
Reinspections	0	1	2	1	0	0	0	0	0	0	0	0	0



4.1.1.1 Reduce the environmental impact of development on our community by carrying out regular inspection of building sites and monitoring waste.

Building Site Compliance Inspection Statistics – 13 Month Analysis (2021/2022)

	Jan 22	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 23
Total Sites Inspected	6	7	8	7	6	9	0	0	0	23	19	17	17
Total non-compliant and educated	1	0	0	0	0	0	0	0	0	0	0	0	0
Total compliance after education	1	0	0	0	0	0	0	0	0	23	19	0	0
Total Penalty Notices Issued	0	0	0	0	0	0	0	0	0	0	0	0	0

14.1.11 Continue surveillance and regulation of illegal dumping on an ongoing basis through participation in the Hunter Central Coast Regional Illegal Dumping Squad

13 Month Analysis (2021/2022)

	Jan 22	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 23
Total Investigations	1	2	4	6	5	3	3	7	1	0	1	-	-
Total Clean up by Council - insufficient evidence	1	2	4	6	5	3	2	7	1	0	1	--	-
Total Clean Up by individual	0	0	0	0	0	0	1	0	0	0	0	-	-
Total Penalty Notices Issued	0	0	0	0	0	0	1	0	0	0	0	-	-
Court Attendance Notice Issued	0	0	0	0	0	0	0	0	0	0	0	-	-
Still under investigation	0	0	0	0	0	0	0	0	0	0	0	-	-



24.1.8 Ensure statutory requirements under the Private Swimming Pools Program (Swimming Pool Act 1992) are implemented.

13 Month Analysis (2022-23) – as at 08/11/2022

	Jan 22	Feb	Ma	Ap	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 23	Total
Applications for Compliance Certs.	5	6	1	1	7	3	1	5	3	3	5	3	1	44
Initial Inspections	5	9	0	2	3	0	18	11	8	8	1	7	1	73
Re-inspections	1	5	0	0	1	0	6	7	9	1	3	3	4	40
Total compliance inspections (not inc. finals for OCs)	6	14	0	2	4	0	24	18	17	9	4	10	5	113
CCs/OCs issued	6	9	0	4	4	1	5	13	7	2	3	1	1	56
Fees invoiced	\$1509	\$1100	\$150	\$150	\$1400	\$4986	\$2845	\$2486	\$3863	\$477	\$1050	\$1263	\$363	\$21642

Total Pools in Council's SPR = 971

(Note: 1106 records in SPR but 132 have been notified as demolished, 2 are Council's Public Pools and 1 is on Crown Land)

Compliance as at 30 June 2015 = 18.8%

SUSTAINABILITY

15 December 2022 to 21 January 2023

Landcare Education Grants

Grant applications for Landcare education programs now open.

Landcare and community groups in the Muswellbrook Shire have until the end of February to apply for the latest round of funding through Council's Landcare Grant Program.

Any group based in the Shire, which has an ABN number, can apply for up to \$2500 in funding for educational activities before 4pm, 27 February 2023.

The latest round of funding is aimed specifically at Landcare education and to help support and extend the Landcare work preschools, schools and community groups are already doing.



Denman Nature Walk

Sustainability staff continue to work on the Denman Nature walk on Hyde Street in Denman.



Bird Watching Walks

Recently another bird watching walk was conducted along Muscle Creek. This time we saw 29 species. In total we have seen 53 species along Muscle Creek. Thanks to Liz and David from the [Hunter Bird Observers Club \(HBOC\)](#) and the residents who attended. The next bird watching walk along Muscle Creek will be Saturday 22nd of April. These walks are for any knowledge level.



Sustainable Schools Support

The Sustainability Unit promoted the support offered to schools and other educational groups.



ARE YOU LOOKING FOR AN ENGAGING SUSTAINABILITY LEARNING PROGRAM FOR YOUR STUDENTS?

FREE TAILORED ACTIVITIES

ENERGY
Hands-on renewable energy and energy reduction workshops and audits.

WASTE
Recycling, composting, worm farms and waste reduction workshops and audits.

SUSTAINABILITY
The importance of, and how to live sustainably, sustainable towns, openwater, catchment management.

WATER
Students can learn about their local water cycle, avoiding pollution and reducing water usage.

PLANTS & ANIMALS
Native species, ecosystems, biology, habitats, animals adaptations, pests and weeds, bush tucker and healthy food.

**PRESENTATIONS • WORKSHOPS • DEMONSTRATIONS
AUDITS • SPECIAL EVENTS • TOURS • AND MORE!**

ALSO AVAILABLE...

EVENT SUPPORT National Tree Day Clean Up Australia Day	YOUTH LEADING THE WORLD Student assistance program	SUSTAINABLE SCHOOLS AWARDS PROGRAM Recognition to high achieving schools and students	ENVIRONMENTAL MANAGEMENT PLANS Reduce the environmental impact of your school
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Ask us about the free tailored activities the **SUSTAINABLE SCHOOLS SUPPORT PROGRAM** offers

Email: sustainability@muswellbrook.nsw.gov.au
Phone: 6549 3783
Facebook: Sustainable Futures-Muswellbrook



Weed Control

Weed control took place along slopes along Muscle Creek. This work cannot be completed by Council staff therefore budgets need to be found to ensure this work is completed by contractors.

Sustainable Futures – Muswellbrook

The popularity of the Sustainable Futures – Muswellbrook Facebook page continues to grow. It has now received 1,613 page likes and 1,723 page followers. This page continues to be a great way for Council to engage with the community around a range of sustainability topics. This includes promoting the Community Recycling Centres, correct waste management practices, sewerage management, the Reuse Shop, soft plastic recycling, Sustainability Hub activities, reducing food waste, plastic free July, worm farms, composting, grant projects and more.

Muscle Creek – AGL Muscle Creek Walkway Project

Work continues for the development of 6 augmented reality (AR) experiences along the Muscle Creek walking loop. Maintenance work for the recently planted 1500 native seedlings continues. This work has many challenges as the steep slopes do not allow for mulch and makes getting water to plant roots more difficult.



9.2. Community Infrastructure

9.2.1. Draft Liquid Trade Waste Regulation Policy MSC31E for Public Exhibition

- Attachments:**
1. DRAFT Liquid Trade Waste Regulation Policy [9.2.1.1 - 43 pages]
 2. Policy S15 2 Liquid Trade Waste Regulation to be superseded by adoption of new pol [9.2.1.2 - 61 pages]
 3. NSW Department of Planning and Environment, Water Operations - MSC Trade Waste Policy - department c [9.2.1.3 - 2 pages]
- Responsible Officer:** Derek Finnigan - Acting General Manager
- Author:** Irene Chetty (Operations Manager: Water and Wastewater), Chloe Wuiske (Business Improvement Officer), Madeleine St John (Business Improvement Officer)
- Community Plan Issue:**
5 - Community Infrastructure
6 - Community Leadership
- Community Plan Goal:**
Effective and efficient infrastructure that is appropriate to the needs of our community.
Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.
- Community Plan Strategy:**
5.3.1 - Water, sewerage and waste services are provided in compliance with regulatory requirements.
6.2.5 - Implement a comprehensive and targeted business improvement program.
5.3.1.1 - Carry out Best Practice audit of water and wastewater services.
6.2.5.2 - Review the policy management framework.
-

PURPOSE

To submit for Council's consideration the *DRAFT Liquid Trade Waste Regulation Policy MSC31E* for notice of intention to adopt the Policy following a 28 day period of public exhibition.

OFFICER'S RECOMMENDATION

1. Council endorses the *DRAFT Liquid Trade Waste Regulation Policy* for placement on public exhibition via Council's website for a period of 28 days.
2. A further report be submitted to Council for consideration once the exhibition period has been completed.

Moved: _____ **Seconded:** _____

BACKGROUND



The *DRAFT Liquid Trade Waste Regulation Policy* (The Policy) sets out how Muswellbrook Shire Council will regulate liquid trade waste discharges to its sewerage system in accordance with the *NSW Framework for Regulation of Liquid Trade Waste*.

The Policy is consistent with the *Liquid Trade Waste Management Guidelines 2021* developed by the Water Utilities branch of the NSW Department of Planning and Environment.

The Policy has been developed to ensure the proper control of liquid trade waste and hence protection of public health, worker safety, the environment, and Council's sewerage system. The Policy also promotes waste minimisation, water conservation, water recycling and biosolids reuse.

CONSULTATION

NSW Department of Planning and Environment, Water Utilities Group

Operations Manager Water and Wastewater

MANEX

REPORT

The *DRAFT Liquid Trade Waste Regulation Policy* (Attachment 1) is a new policy developed to align with the NSW Department of Planning and Environment's *Liquid Trade Waste Management Guidelines 2021*.

The Policy was submitted to the Regulator (NSW Department of Planning and Environment, Water Operations) for review and the Policy was considered satisfactory subject to minor amendments detailed in Attachment 3. The recommended amendments have been completed in the Policy. The Regulator also advised "In accordance with section 3.4.2 of the *Liquid Trade Waste Regulation Guidelines 2021*, Council needs to provide its final Policy to the Department of Planning and Environment - Water for consent after publicly exhibiting the Policy for not less than 28 days and addressing any issues raised in public submissions".

Council has a previously adopted *Liquid Trade Waste Regulation Policy S15/2* (Attachment 2) which was last reviewed in 2020 and will become superseded if the *DRAFT Liquid Trade Waste Regulation Policy* is adopted.

OPTIONS

Council may:

1. Resolve to endorse the *DRAFT Liquid Trade Waste Regulation Policy* for Public Exhibition of 28 days via Council's website, to align with the new *Liquid Trade Waste Management Guidelines 2021*;
2. Request amendments to the *DRAFT Liquid Trade Waste Regulation Policy*, resubmit to NSW Department of Planning and Environment, Water Utilities Group for review and a further report be submitted to Council for consideration.

CONCLUSION

It is recommended that Council endorses the attached *DRAFT Liquid Trade Waste Regulation Policy* for public exhibition.

SOCIAL IMPLICATIONS

Nil known.



FINANCIAL IMPLICATIONS

Nil known.

POLICY IMPLICATIONS

The policy has been reviewed in line with Council's Policy Management Framework.

STATUTORY IMPLICATIONS

Legislation relating to the *DRAFT Liquid Trade Waste Regulation Policy* includes:

- Liquid Trade Waste Regulation Guidelines, 2021
- Local Government Act 1993
- Australian Wastewater Quality Management Guidelines, July 2022
- NSW Government's Best-Practice Management of Water Supply of Sewerage Guidelines, 2007
- Protection of the Environment Operations Act 1997

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

5.3.1.1 - Carry out Best Practice audit of water and wastewater services.

6.2.5.2 - Review the policy management framework.

RISK MANAGEMENT IMPLICATIONS

Nil known.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Public exhibition via Council's website will provide the Community with an opportunity to make submissions.



**muswellbrook
shire council**

Liquid Trade Waste Regulation Policy

MSC31E

Authorisation Details

Authorised by:		Internal/External:	External
Date:		Minute No:	
Review timeframe:	4 years	Review due date:	
Department:	Community Infrastructure Services		
Document Owner:	Operations Manager Water & Wastewater		

Details History

Version No.	Date changed	Modified by	Amendments made
1	20.01.23	Operations Manager W&W	New Policy to align with <i>Liquid Trade Waste Management Guidelines 2021</i>

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Policy Statement

This policy sets out how **Muswellbrook Shire** Council will regulate liquid trade waste discharges to its sewerage system in accordance with the NSW Framework for Regulation of Liquid Trade Waste (Appendix F).

Sewerage systems are generally designed to cater for liquid waste from domestic sources that are essentially of predictable strength and quality. Council **may** accept liquid trade waste into its sewerage system as a **service** to businesses and industry.

Liquid trade wastes may exert much greater demands on sewerage systems than domestic sewage and, if uncontrolled, can pose serious problems to public health, worker safety, Council's sewerage system and the environment.

This Policy is consistent with the *Liquid Trade Waste Management Guidelines 2021* developed by the Water Utilities branch of the NSW Department of Planning and Environment (https://www.industry.nsw.gov.au/__data/assets/pdf_file/0010/147088/trade-waste-management-guidelines.pdf)

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1 Introduction

This Policy has been developed to ensure the proper control of liquid trade waste and hence protection of public health, worker safety, the environment, and Council's sewerage system. The policy also promotes waste minimisation, water conservation, water recycling and biosolids reuse.

In addition, the approval, monitoring and enforcement processes for liquid trade wastes discharged to Council's sewerage system and the levying of commercial sewerage and liquid trade waste fees and charges are described in this document. The procedure for liquid trade waste approval is governed by Chapter 7 of the Local Government Act.

Under section 68 of the *Local Government Act 1993* (Act), a person wishing to discharge liquid trade waste to the sewerage system must obtain prior approval from Council. Discharge of liquid waste other than domestic sewage without prior approval is an offence under section 626 of the Act.

1.1 What is liquid trade waste?

Liquid trade waste is defined in the Local Government (General) Regulation 2021 as below:

Liquid trade waste means all liquid waste other than sewage of a domestic nature.

Liquid trade waste discharges to the sewerage system include liquid wastes from:

- industrial premises
- business/commercial premises (e.g., beautician, florist, hairdresser, hotel, motel, restaurant, butcher, supermarket, etc.)
- community/public premises (including clubs, school, college, university, hospital and nursing home)
- any commercial activities carried out at residential premises
- saleyards, racecourses and stables and kennels that are not associated with domestic households
- tankered human waste, ship-to-shore waste from marina pump-out facilities, portable toilet waste and established sites for the discharge of pan contents from mobile homes/caravans
- any other waste tankered to the sewerage facilities, e.g., commercial, or industrial waste from un-sewered areas.

Liquid trade waste excludes:

- toilet, hand wash basin (used for personal hygiene only), shower and bath wastes derived from all the premises and activities mentioned above
- wastewater from residential toilets, kitchens, bathrooms or laundries (i.e. domestic sewage)
- wastewater from common laundry facilities in caravan parks (Note that discharges from common kitchen facilities in caravan parks are liquid trade waste)
- residential pool backwash.

1.2 Objectives

The objectives¹ of this policy are:

- to protect public and workers health and safety and the environment
- to protect council's assets from damage
- to minimise adverse impacts on the sewage treatment processes
- to assist Council meeting regulatory and licence compliance
- to promote water conservation, waste minimization, cleaner production, effluent recycling and biosolids reuse
- to provide an environmentally responsible liquid trade waste service to the non-residential sector
- to ensure commercial provision of services and full cost recovery through appropriate sewerage and liquid trade waste fees and charges.

2 Structure of the Policy

This policy comprises three parts:

- Part 1 specifies the circumstances in which a person is exempt from the necessity to apply for an approval to discharge liquid trade waste to Council's sewerage system
- Part 2 specifies the criteria which Council will take into consideration in determining whether to give or refuse a liquid trade waste approval
- Part 3 specifies the application procedure and approval process, liquid trade waste discharge categories and applicable fees and charges, the NSW Framework for Regulation of Liquid Trade Waste, alignment with the *National Framework for Wastewater Source Management* and other relevant information

2.1 Part 1 – Exemptions

The list of discharges exempt from obtaining of Council's approval is provided in Appendix B. These discharges are known as 'Deemed to be approved'. Each such discharger must meet the standard requirements specified in Appendix B.

¹ The above objectives are consistent with the *National Framework for Sewage Quality Management* in the *Australian Wastewater Quality Management Guidelines, July 2022*, Water Services Association of Australia (WSAA).

2.2 Part 2 - Criteria for approval to discharge liquid trade waste into council's sewerage system

2.2.1 Factors for consideration

Council's decision to accept liquid waste into its sewerage system will be based on the discharger satisfying Council's requirements. Therefore, when determining an application to discharge liquid waste to the sewerage system, Council will consider the following factors:

- The potential impacts of the proposed discharge on Council's ability to meet the objectives outlined in s. 1.2 of this document.
- The adequacy of the pre-treatment process(es) to treat the liquid trade waste to a level acceptable for discharge to the sewerage system, including proposed contingency measures in an event of the pre-treatment system failure
- The capability of the sewerage system (reticulation and treatment components) to accept the quantity and quality of the proposed liquid waste
- The adequacy of chemical storage and handling facilities, and the proposed safeguards for prevention of spills and leaks entering to the sewerage system
- The adequacy of the proposed due diligence program and contingency plan, where required.
- Proposed management of prohibited substances and other liquid waste not planned to be discharged to the sewerage system and safeguards to avoid any accidental discharge
- The potential for stormwater entering the sewerage system and adequacy of proposed stormwater controls
- The potential for growth of the community

2.2.2 Discharge quality

Council's acceptance limits for liquid trade waste discharges are set out in Table 1. These limits are consistent with the acceptance limits specified in the *Liquid Trade Waste Management Guidelines*, 2021 by the Department of Planning and Environment.

Table 1: Acceptance limits for liquid trade waste into the sewerage system

Parameter	Limits
Flow Rate	The maximum daily and instantaneous rate of discharge (kL/h or L/s) is determined based on the available capacity of the sewer. Large discharges are required to provide a balancing tank to even out the load on the sewage treatment works.
BOD ₅	Normally approved at 300 mg/L. Concentrations up to 600 mg/L may be accepted.
Suspended solids	Normally approved at 300 mg/L. Concentrations up to 600 mg/L may be accepted.
COD	Normally, not to exceed BOD ₅ by more than three times. This ratio is given as a guide only to prevent the discharge of non-biodegradable waste.
Total Dissolved Solids	Up to 4000 mg/L may be accepted. The acceptance limit may be reduced depending on available effluent disposal options and may be subjected to a mass load limit.
Temperature	Less than 38°C.
pH	Within the range 7.0 to 9.0.
Oil and Grease	100 mg/L if the volume of the discharge does not exceed 10% of the design capacity of the treatment works and 50 mg/L if the volume is greater than 10%.

Detergents	All detergents are to be biodegradable. A limit on the concentration of 50 mg/L (as MBAS) may be imposed on large liquid trade wastes discharges.
Colour	Colour must be biodegradable. No visible colour when diluted to the equivalent dilution afforded by domestic sewage flow. Specific limits may be imposed on industrial discharges where colour has a potential to interfere with sewage treatment processes and the effluent management.
Radioactive Substances	If expected to be present (e.g. Iodine 131 from ablation), acceptance requirements will be set on a case-by-case assessment.

Acceptance limits for inorganic and organic compounds		Maximum concentration (mg/L)
Inorganic compounds	Ammonia (as N)	50
	Boron	5
	Bromine	5
	Chlorine	10
	Cyanide	1
	Fluoride	30
	Nitrogen (total Kjeldahl)	100
	Phosphorus (total)	20
	Sulphate (as SO ₄)	500
	Sulphide (as S)	1
Organic compounds	Benzene	< 0.001
	Toluene	0.5
	Ethylbenzene	1
	Xylene	1
	Formaldehyde	30
	Phenolic compounds non-halogenated	1
	Petroleum Hydrocarbons ²	
	• C ₆ -C ₉ (flammable)	5
	• Total Recoverable Hydrocarbons (TRH)	30
	Pesticides general (except organochlorine and organophosphorus)	0.1
Polynuclear Aromatic Hydrocarbons (PAH)	5	

² Always ask a laboratory to carry out a silica gel clean up, if other than petroleum products are expected to be present in a liquid trade waste sample, e.g., animal fats, plant oil, soil, etc.

Acceptance limits for metals	Maximum concentration (mg/L)	Allowed daily mass limit (g/d)
Aluminium	100	-
Arsenic	0.5	2
Cadmium	1	5
Chromium ³	3	10
Cobalt	5	15
Copper	5	15
Iron	100	-
Lead	1	5
Manganese	10	30
Mercury	0.01	0.05
Molybdenum	5	15
Nickel	1	5
Selenium	1	5
Silver	2	5
Tin	5	15
Zinc	1	5
Total heavy metals excluding aluminium, iron and manganese	Less than 30 mg/L and subject to total mass loading requirements	

Notes:

1. Acceptance limits for substances not listed in above Tables will be determined on a case-by-case basis.
2. The quality of liquid trade waste from some low-risk commercial activities in Classification A and B will exceed acceptance limits listed in above Table. As a higher level of pre-treatment is not cost-effective, such waste is acceptable if the discharger installs, maintains, and properly operates the required on-site pre-treatment. Similarly, septic and pan waste may exceed some acceptance limits.

2.2.3 Prohibited or restricted substances and waste

Substances prohibited from being discharged into the sewerage system unless they are specifically approved under section 68 of the Act are listed in

³ Where hexavalent chromium (Cr⁶⁺) is present in the process water, pre-treatment will be required to reduce it to the trivalent state (Cr³⁺), prior to discharge into the sewer

Table 2 . In addition, s 2.2.3.1 lists the discharges either prohibited or restricted. Refer to Appendix C for detailed description of substances and discharges either prohibited or restricted.

Table 2 Waste Prohibited from discharge to the sewerage system

<ul style="list-style-type: none"> • Organochlorine weedicides, fungicides, pesticides, herbicides and substances of a similar nature and/or wastes arising from the preparation of these substances • organophosphorus pesticides and/or waste arising from the preparation of these substances • per- and poly-fluoroalkyl substances (PFAS) • any substances liable to produce noxious or poisonous vapours in the sewerage system • organic solvents and mineral oil[#] • any flammable or explosive substance[#] • discharges from 'Bulk Fuel Depots' • discharges from chemicals and/or oil storage areas • natural or synthetic resins, plastic monomers, synthetic adhesives, rubber, and plastic emulsions • roof, rain, surface, seepage, or ground water, unless specifically permitted (clause 137A of the Local Government (General) Regulation 2021) • solid matter[#] • disposable products including wet wipes, cleaning wipes, colostomy bags, cat litter and other products marketed as flushable • any substance assessed as not suitable to be discharged into the sewerage system • any other substances listed in a relevant regulation
--

[#] In excess of the approved limit

2.2.3.1 Other substances/discharges either prohibited or restricted

- Stormwater from open areas
- Contaminated groundwater
- Landfill leachate
- Discharge from float tanks
- Discharge from new service station forecourts and other refuelling points
- Discharge of liquid waste arising from liquefaction and/or pulverisation of solid waste by physical or chemical processes (e.g., garbage grinders/in-sinkers, macerators, alkaline hydrolysis).
- Discharge from solid food waste processing units (digesters/composters, etc.)
- Use of additives in pre-treatment systems

For further details on limitations and restrictions applicable to above discharges, refer to Appendix C of this policy and Chapter 3 of the *NSW Liquid Trade Waste Management Guidelines, 2021*.

2.3 Part 3 –Matters relating to liquid trade waste approvals

2.3.1 Application procedures and approval process

Council's written approval is required prior to commence discharging liquid trade waste to its sewerage system, under s.68 of the Local Government Act 1993. Application forms are available from Council.

The applicant must lodge a trade waste application providing all requested information.

A trade waste application is not required to discharge liquid trade waste from 'Deemed to be approved' activities listed in Appendix B.

2.3.2 Who can lodge an application

The applicant must be either the owner or the occupier of the premises. If the applicant is not the owner of the premises, the owner's consent to the application is required.

2.3.3 Council's process in determination of applications

Council may request an applicant to provide further information to enable it to determine the application.

2.3.4 Approval of applications

Where an application is approved, Council will notify the applicant including any conditions of the approval and reasons for such conditions. The duration of the approval will be as stated in the approval.

An applicant may make a minor amendment or withdraw an application before it is processed by Council. An applicant may also apply to Council to renew or extend an approval, in accordance with section 107 of the Local Government Act.

2.3.5 Refusal

If an application is refused, Council will notify the applicant of the grounds for refusal.

Under section 100 of the Act the applicant may request the review of council's determination. Under section 176 of the Act, the applicant dissatisfied with Council's determination may appeal to the Land and Environment Court within 12 months.

2.3.6 Change of approval holder

An approval to discharge liquid trade waste to Council's sewerage system is not transferable. A new application must be lodged, and a new approval must be obtained if there is a change of the approval holder. Council must be notified of change of ownership and/or occupier in all cases, whether a new approval is required or not, to allow updating of records.

2.3.7 Validity of an existing approval

A new approval is required where there is a change of:

- approval holder (either owner or occupier can be an approval holder)
- activity generating the waste
- the quantity or the nature of liquid trade waste
- approval conditions.

2.3.8 Modification and revocation of approvals

Council reserves the right to modify or revoke an approval to discharge liquid trade waste to the sewerage system under the circumstances described in s.108 of the *Local Government Act 1993*:

2.3.9 Concurrence

If Council supports an application and has a notice stating that concurrence of the Secretary, NSW Department of Planning and Environment can be assumed for the liquid trade waste relevant to the application, Council will approve the application. Otherwise, Council will seek concurrence to its approval.

For concurrence purposes, liquid trade waste discharges are divided into four classifications.

- Concurrence Classification A – liquid trade waste for which Council has been authorised to assume concurrence to the approval subject to certain requirements

- Concurrence Classification B – liquid trade waste for which Council may apply for authorisation to assume concurrence to the approval subject to certain requirements
- Concurrence Classification S – the acceptance of septic tank, pan waste and ship-to-shore pump-out etc. Council may apply for authorisation to assume concurrence to the approval subject to certain conditions
- Concurrence Classification C – all other liquid trade waste that do not fall within Concurrence Classification A, B or S, and therefore require Council to forward the application for concurrence.

Refer to Appendix E which lists type of discharges that Council have assumed concurrence (i.e., that Council can approve without seeking concurrence from the Department).

3 Sewerage and liquid trade waste fees and charges

Council provides sewerage and liquid trade waste services on a commercial basis to non-residential dischargers, with full cost recovery through sewerage and liquid trade waste fees and charges. Council implements best practice pricing for non-residential sewerage and liquid trade waste services to ensure that dischargers bear a fair share of the cost of providing sewerage services and to facilitate appropriate pre-treatment, waste minimisation and water conservation

The current sewerage and liquid trade waste fees and charges are provided on Council's website [Muswellbrook Shire Council Fees and Charges](#)

Council's liquid trade waste fees and charges may include:

- general fees and charges (application fee, annual liquid trade waste fee, inspection and/or re-inspection fees and renewal fee)
- category specific charges (trade waste usage charges for Charging Category 2 discharges, excess mass charges for Charging Category 3 discharges, charges for Charging Category 2S discharges and non-compliance charges)
- other charges related to the nature of waste (e.g., charges for the discharge of stormwater from large areas)

Detailed description of the liquid trade waste fees and charges and the methodology of calculating them are provided in Appendix D.

3.1 Liquid trade waste charging categories

For charging purposes there are 4 liquid trade waste charging categories:

- Category 1 – discharges requiring minimal pre-treatment, or prescribed pre-treatment but low impact on the sewerage system. These dischargers will only pay an annual fee. If pre-treatment equipment is not provided or maintained, non-compliance charges will be applied.
- Category 2 – discharges with prescribed pre-treatment⁴ and other activities listed under this charging category in Appendix D. These dischargers will pay trade waste usage charge and annual trade waste fee. If pre-treatment equipment is not provided or not maintained, then such dischargers will be required to pay non-compliance usage charge.
- Category 2S – transporters who tanker human waste to council's STWs, owners/operators of ship-to-shore pump out facilities and owners/operators of 'dump points' directly connected to sewer
- Category 3 – large (>20 kL/d) and industrial discharges (excluding shopping centres and institutions). Such dischargers will pay excess mass charges. If the discharge fails to comply with council's acceptance limits, dischargers will be required to pay non-compliance excess mass charges and pH charges

⁴ Excludes activities in Category 1.

Note that these charging categories are different to four classifications that have been established for concurrence purposes (i.e., Classification A, B, C and S). The relationship between Concurrence Classifications and Charging Categories are shown in Figure 1 in Appendix D.

3.2 Non-compliance liquid trade waste charges

In order to encourage compliance, council may apply non-compliance trade waste charges. Refer to Appendix D for further details of non-compliance charges for different charging categories.

Council will continue applying non-compliance charges until the discharge meets council's approved quality (or the liquid trade waste policy) limits, within the timeframe determined by Council for remedying the problem. If the discharger fails to rectify the problem within an agreed timeframe, the discharger may be required to cease discharging liquid trade waste into Council's sewerage system. Council may also consider issuing penalty infringement notice to a non-compliant discharger or may prosecute the discharger

3.3 Other applicable liquid trade waste charges

Additional fees and charges may be levied by council if wastewater is discharged to council's sewerage system from the following equipment and or processes, with council's approval.

- Food waste disposal units (i.e., garbage grinders/insinkerators) ⁵
- Solid food waste processing unit
- Discharge of stormwater to the sewerage system from large open areas or large quantities of groundwater

Refer to Appendix D for further details.

3.4 Charges for premises with multiple liquid trade waste streams

Examples of premises with multiple waste streams include:

- shopping centres
- commercial strata units
- institutions, e.g., hospitals, tertiary educational facilities, and correctional centres
- other premises with multiple waste streams,

Refer to Appendix D and *Trade Waste Management Guidelines 2021* for further details.

3.5 Summary of category specific fees and charges

The summary of fees and charges are indicated in Table 3 below:

Table 3 Summary of fees and charges

Fee/Charge	Category 1	Category 2	Category 3	Category 2S
Application fee	Yes ⁶	Yes	Yes	Yes
Annual non-residential sewerage bill with appropriate sewer usage charge/kL	Yes	Yes	Yes	No
Annual liquid trade waste fee	Yes ⁷	Yes	Yes	Variable ⁸
Re-inspection fee (when required)	Yes	Yes	Yes	Optional ⁹

⁵ For existing installations only. New installations are not permitted.

⁶ Not applicable for discharges listed as Deemed to be Approved

⁷ May not be applicable for discharges listed as 'Deemed to be Approved'.

⁸ Refer to Appendix D for guidance on applying annual fees to Category 2S discharges.

⁹ Applicable if re-inspection of facilities is required, e.g., ship-to-shore pump-out facility.

Trade waste usage charge/kL	No	Yes	No	No
Human waste disposal charge/kL	No	No	No	Yes
Excess mass charges/kg	No	No	Yes	No
Non-compliance trade waste usage charge/kL	Yes ¹⁰	Yes ¹⁰	No	No
Non-compliance excess mass/kg and pH charges/kL (if required)	No	No	Yes	No

Note: Refer to Appendix D for other applicable charges not included in this Table.

Responsibility for payment of fees and charges

Property (land) owners are responsible for the payment of fees and charges for water supply, sewerage, and liquid trade waste services. This includes property owners of marinas, caravan parks, etc.

Where another party (lessee) leases premises, any reimbursement of the lessor (property owner) for such fees and charges is a matter for the lessor and the lessee.

In relation to tankered human waste, transporters who collect and discharge waste at the STW are responsible for the payment. A waste transporter who tankers liquid trade waste to the STW may pay only the liquid trade waste fees and charges as non-residential sewerage fees are not applicable.

Note that a liquid trade waste discharger (except for tankered waste) pays both the non-residential sewerage charges and liquid trade waste fees and charges.

4 The NSW framework for regulation of sewerage and trade waste and alignment of with the national framework.

The NSW framework for regulation of sewerage and trade waste and the alignment with the national framework for wastewater source management are listed in Appendix F.

5 Liquid trade waste service agreement

In addition to its approval under the Local Government Act, Council may require certain dischargers, including those who wish to discharge liquid trade waste in large volumes (discharge >20 kL/d) or industrial waste (Concurrence Classification C discharges) or some Classification S discharges into its sewerage system to execute a liquid trade waste services agreement. The agreement will set out the conditions associated with the discharge and execution of the agreement will be a condition of the approval issued by Council.

6 Enforcement of approvals and agreements

If the discharge is not approved or fails to comply with the approval conditions, the discharger is subject to prosecution and imposition of fines under the *Local Government Act 1993* (under s. 626 and s. 627).

Above offences are also prescribed as penalty notice offences under the Act and Council may issue a penalty infringement notice (i.e., on the spot fine) to such discharger (Refer to Schedule 12 of the Local Government (General) Regulation 2021).

¹⁰ Non-compliance trade waste usage charge, if the discharger fails to install or properly maintain appropriate pre-treatment equipment. Refer to council's Management Plan

In addition to fines, council may recover costs of damages and fines incurred by council as a result of an unauthorised liquid waste discharge. Temporally suspension or cease the discharge may also be required.

Note that sections 628 and 634 to 639 also list other offences related to water, sewerage and stormwater drainage.

Polluting of any waters by a discharger of liquid trade waste who does not have a Council approval or who fails to comply with the conditions of the approval is also an offence under section 120 (1) of the *Protection of the Environment Operations Act 1997*. In addition, under section 222 of this Act, Council may issue a penalty infringement notice to such a discharger.

7 Prevention of waste of water

Water must be used efficiently and must be recycled where practicable. It is an offence under section 637 of the *Local Government Act 1993* and its Regulation (refer to Appendix G) to waste or misuse water.

Dilution of liquid trade waste with water from any non-process source including Council's water supply, bore water, groundwater, stormwater as a means of reducing pollutant concentration is therefore strictly prohibited.

8 Effluent improvement plans

Where the quality of liquid trade waste discharged does not meet Council's requirements, the applicant may be required to submit an Effluent Improvement Plan setting out how Council's requirements will be met. The proposed plan must detail the methods/actions proposed to achieve the discharge limits and a timetable for implementation of the proposed actions. Such actions may include more intensive monitoring, improvements to work practices and/or pre-treatment facilities to improve the effluent quality and reliability.

9 Due diligence programs and contingency plans

A discharger may be required to submit a due diligence program and a contingency plan for some liquid trade waste discharges (generally in Concurrence classification C, Charging Category 3) where it is considered that the discharge may pose a potential threat to the sewerage system. If required, a due diligence program and contingency plan must be submitted to Council within the time specified in the liquid trade waste approval.

Appendix A - Glossary

Authorised assumed concurrence—councils with significant experience in liquid trade waste regulation are encouraged to apply to the Secretary, Department of Planning and Environment seeking to obtain concurrence for council's approval for Classification B and Classification S discharges. If granted, Council will no longer need to forward such applications to the department for concurrence, provided that council complies with the conditions outlined in the notice of concurrence.

Automatic assumed concurrence—council has been granted assumed concurrence for approval for Classification A discharges, provided that council complies with conditions outlined in the notice of concurrence. Such applications may be approved by council without forwarding the application to the department for concurrence.

Biochemical Oxygen Demand (BOD₅)—the amount of oxygen utilised by micro-organisms in the process of decomposition of organic material in wastewater over a period of five days at 20°C. In practical terms, BOD is a measure of biodegradable organic content of the waste.

Biosolids—primarily organic solids produced by sewage processing. Until such solids are suitable for beneficial use, they are defined as wastewater solids or sewage sludge.

Blackwater—wastewater containing human excrement (i.e., faeces, urine).

Bunding—secondary containment provided for storage areas, particularly for materials with the propensity to cause environmental damage.

Chemical Oxygen Demand (COD)—a measure of oxygen required to oxidise organic and inorganic matter in wastewater by a strong chemical oxidant. Wastewaters containing high levels of readily oxidised compounds have a high COD.

Chemical toilet—toilets in which wastes are deposited into a holding tank containing deodorizing or other chemicals. Stored wastes must be pumped out periodically.

Commercial retail discharge: commercial discharges can be described as wastes that are discharged from businesses dealing directly with the public.

Commercial caterer—a commercial caterer is typically a stand-alone operation and prepares food for consumption off-site. These types of businesses typically cater to wedding functions, conferences, parties, etc. This definition does not apply to a food processing factory supplying pre-prepared meals to a third party.

Council—for the purpose of this document, "council" refers to a local government body (including Local Water Utility) which provides water supply and sewerage services in regional NSW

Contingency plan—a set of procedures for responding to an incident that will affect the quality of liquid trade waste discharged to the sewerage system. The plan also encompasses procedures to protect the environment from accidental and unauthorised discharges of liquid trade waste, leaks and spillages from stored products and chemicals.

Concurrence—under s. 90(1) of the *Local Government Act 1993* and cl. 28 of the Local Government (General) Regulation 2021, council must obtain the written concurrence of the Secretary of the Department of Planning and Environment prior to approving the discharge of liquid trade waste to council's sewerage system. The department's Water Utilities Branch provides concurrence on behalf of the Secretary.

Due Diligence Program—a plan that identifies potential health and safety, environmental or other hazards (e.g., spills, accidents, or leaks) and appropriate corrective actions aimed at minimising or preventing the hazards.

Effluent—the liquid discharged following a wastewater treatment process.

Effluent Improvement Plan (EIP)—the document required to be submitted by a discharger who fails to meet the acceptance limits set down in council's approval conditions and/or liquid trade waste agreement. The document sets out measures taken by a discharger in order to meet the acceptance limits within the agreed timeframe.

Fast food outlet—a food retailing business featuring a very limited menu, precooked, or quickly prepared food, and take-away operations. Premises of this nature include KFC, McDonalds, Red Rooster, Pizza Hut, Hungry Jack's, Burger King, etc.

Galley waste—liquid waste from a kitchen or a food preparation area of a vessel; not including solid wastes.

Greywater—wastewater from showers, baths, spas, hand basins, laundry tubs, washing machines, dishwashers or kitchen sinks.

Heavy Metals—metals of high atomic weight which in high concentrations can exert a toxic effect and may accumulate in the environment and the food chain. Examples include mercury, chromium, cadmium, arsenic, nickel, lead and zinc.

Housekeeping—a general term, which covers all waste minimisation activities connected within the premises as part of its operation.

Industrial Discharges—industrial liquid trade waste is defined as liquid waste generated by industrial or manufacturing processes. Examples are provided in Trade Waste Management Guidelines 2021.

Liquid Trade Waste—all liquid waste other than sewage of a domestic nature discharged to the sewerage system.

Mandatory Concurrence—for the liquid waste in Classification C, councils need to obtain concurrence for approval of each discharge. The Water Utilities Branch of the Department of Planning and Environment provides concurrence on behalf of the department's Secretary.

Methylene Blue Active Substances (MBAS)—anionic surfactants. Their presence and concentration are detected by measuring colour change in a standard solution of methylene blue dye.

Minimal Pre-treatment—for the purpose of this document this means sink strainers, basket arrestors for sink and floor waste, plaster arrestors and fixed or removable screens.

Mixed Business—a general store that sells a variety of goods and may also prepare some food.

Open Area—any unroofed process, storage, washing or transport area where rainwater potentially can be contaminated.

Pan—any moveable receptacle kept in a closet and used for the reception of human waste.

PFAS—group of manufactured chemicals, containing a component with multiple fluorine atoms, with many specialty applications. Examples are perfluoro octane sulfonate (PFOS) and perfluorooctanoic acid (PFOA). They are used in a range of products, such as textiles, leather, cosmetics, non-stick coatings in cookware, food packaging, and in some types of fire-fighting foam. These chemicals take a long time to break down in humans and the environment and their persistence and bioaccumulation potential pose concerns for the environment and for human health.

Pit latrines/long-drop toilet/pit toilet—a type of toilet that collects faeces and urine directly into a tank or a hole in the ground

Portable Toilet—toilet in which wastes are deposited into a holding tank used on construction sites, caravans, motor homes, boats, trains and at outdoor gatherings. If chemicals are used to control odours, it is referred to as a chemical toilet.

pH—a measure of acidity or alkalinity of an aqueous solution, expressed as the logarithm of the reciprocal of the hydrogen ion (H⁺) activity in moles per litre at a given temperature; pH 7 is neutral, below 7 is acidic and above 7 is alkaline.

Premises—has the same meaning as defined in the Local Government Act Dictionary and includes any of the following:

- a building of any description or any part of it and the appurtenances to it
- land, whether built on or not
- a shed or other structure
- a tent
- a swimming pool
- a ship or vessel of any description (including a houseboat)
- a van.

Prescribed Pre-treatment Equipment—standard non-complex equipment used for pre-treatment of liquid trade waste, e.g., a grease arrestor, an oil arrestor/separator, solids arrestor, cooling pit.

Regional NSW—the areas of the state that are not serviced by the Sydney Water Corporation or the Hunter Water Corporation.

Regulation—Local Government (General) Regulation 2021 under the *Local Government Act 1993*.

Secretary—the head of the Department of Planning and Environment.

Septage—material pumped out from a septic tank during desludging; contains partly decomposed scum, sludge, and liquid.

Septic Tank—wastewater treatment device that provides a preliminary form of treatment for wastewater. It provides sedimentation of settleable solids, flotation of oils and fats, and anaerobic digestion of sludge.

Septic Tank Effluent—the liquid discharged from a septic tank after treatment.

Sewage Management Facility—a human waste storage facility or a waste treatment device intended to process sewage and includes a drain connected to such a facility or device.

Sewage of a Domestic Nature—human faecal matter and urine and wastewater associated with ordinary kitchen, laundry, and ablution activities of a household, but does not include waste in or from a sewage management facility.

Sewerage System—the network of sewage collection, transportation, treatment, and by-products (effluent and biosolids) management facilities.

Sewage treatment works—this is the facility designed to treat sewage. The level of treatment will vary based on the expected quality of the effluent.

Ship-to-Shore Pump-out—liquid waste from a vessel that may be considered for disposal to the sewerage system. This includes on-board toilet wastes; galley wastes and dry dock cleaning waste from maintenance activities.

Sludge—the solids that are removed from wastewater by treatment.

Stormwater Run-off—run-off resulting from rainfall.

Surfactants—the key active ingredient of detergents, soaps, emulsifiers, wetting agents and penetrants. Anionic surfactants react with a chemical called methylene blue to form a blue-chloroform-soluble complex. The intensity of colour is proportional to concentration.

Suspended Solids (SS) —the insoluble solid matter suspended in wastewater that can be separated by laboratory filtration and is retained on a filter.

Total Dissolved Solids (TDS) —total amount of dissolved material in the water.

Total Recoverable Hydrocarbons (TRH)—Both biological and petroleum hydrocarbons which have been extracted (recovered) from a sample. TRH are equivalent to the previously reported Total Petroleum Hydrocarbons (TPH). TRH is reported in fractions with Carbon chain ($C_6 - C_{40}$). TRH with carbon chain $C_6 - C_{10}$ are flammable.

Waste Minimisation—procedures and processes implemented by industry and business to modify, change, alter or substitute work practices and products that will result in a reduction in the volume and/or strength of waste discharged to sewer

Appendix B – Deemed to be Approved Activities

The list of discharges exempts from obtaining of Council's approval (i.e., considered as Deemed to be approved) is shown in Table B1. Each such discharger must meet standard requirements specified in this Table.

Table B 1 Discharges deemed to be approved

Activity generating waste	Requirements
Beautician	Solvents not to be discharged to sewer
Bed and Breakfast (not more than 10 persons including proprietor)	Sink strainers in food preparation areas Housekeeping practices (see Note 4)
Cooling tower <500L/h	No chromium-based products to be discharged to the sewer
Crafts ceramic, pottery, etc. (including hobby clubs) <ul style="list-style-type: none"> • flows <200 L/d • flows 200-1,000 L/d 	Nil
	Plaster arrestor required
Day care centre (no hot food prepared)	Sink strainers in food preparation areas Housekeeping practices (see Note 4) Nappies, wet wipes are not to be flushed into the toilet
Delicatessen (no hot food prepared)	Sink strainers in food preparation areas Housekeeping practices (see Note 4)
Dental technician	Plaster arrestor required
Dental mobile (no amalgam waste)	Nil
Dog/cat grooming/animal wash only	Dry basket arrestor for floor waste outlets and sink strainer required (see Note 3) Animal litter and any disposable waste products must not be discharged to sewer Organophosphorus pesticides are prohibited to be discharged to sewer
Florist	Dry basket arrestor for floor waste outlet and sink strainer required Herbicides/pesticides are not permitted to be discharged to sewer
Fruit and vegetable – retail	Dry basket arrestor for floor waste outlet and sink strainer required (see Notes 3 and 5)

Hairdressing	Dry basket arrestor for floor waste outlet and sink strainer, hair trap
Jewellery shop	
<ul style="list-style-type: none"> • miniplater 	Miniplater vessel to contain no more than 1.5 L of precious metal solution
<ul style="list-style-type: none"> • ultrasonic washing 	Nil
<ul style="list-style-type: none"> • precious stone cutting 	If: < 1000 L/d plaster arrestor required > 1000 L/d general purpose pit required
*Medical centre/doctor surgery/physiotherapy *(Only if plaster cast are made onsite)	Plaster arrestor required, if plaster of paris casts are used
Mixed business (minimal hot food)	Dry basket arrestor for floor waste outlet and sink strainer required (see Note 3) Housekeeping practices (see Note 4)
Mobile cleaning units	
<ul style="list-style-type: none"> • carpet cleaning 	20-micron filtration system fitted to a mobile unit
<ul style="list-style-type: none"> • garbage bin washing 	Dry basket arrestor for floor waste outlet required. Discharge via grease arrestor (if available)
Motel (no hot food prepared and no laundry facility)	Dry basket arrestor for floor waste outlet and sink strainer required (see Note 3) Housekeeping practices (see Note 4)
Nut shop	Dry basket arrestor for floor waste outlet and sink strainer required (see Note 3)
Optical service - retail	Solids settlement tank/pit required
Pet shop – retail	Dry basket arrestor for floor waste outlet and sink strainer required (see Note 2) Animal litter and any disposable waste products must not be discharged to sewer Organophosphorus pesticides are prohibited to be discharged to sewer
Pizza reheating for home delivery	Housekeeping practices (see Note 4)
Venetian blind cleaning	Nil (see Note 2)

Notes:

1. Where “required” is used, it means as required by council.
2. If activity is conducted outdoors, the work area is to be roofed and bunded to prevent stormwater ingress into the sewerage system.
3. Dry basket arrestors must be provided for all floor waste outlets.
4. Food preparation activities need to comply with sound housekeeping practices including:
 - (a) floor must be dry swept before washing
 - (b) pre-wiping of all utensils, plates, bowls etc. to the scrap bin before washing up
5. Use of a food waste disposal unit (garbage grinder) and/or a food waste processing unit (food waste digester, composter etc) is not permitted.

Appendix C - Prohibited or restricted substances and wastes from discharge to sewer

This Appendix provides additional information regarding substances and waste either prohibited or restricted from being discharged to sewer (as indicated in Table 2 of this Policy).

C1 Stormwater from open areas

The ingress of stormwater into the sewerage system can cause operational problems and result in sewer overflows, as the sewerage system does not have the capacity for such flows. Under clause 137A of the Regulation, the discharge of roof, rain, surface, seepage or groundwater to a sewerage system is prohibited unless specifically approved.

However, it may not be practical or feasible to totally prevent stormwater contamination and ingress into a sewerage system from some non-residential premises.

The discharge of limited quantities of stormwater (generally, 10 mm of rain) from sealed areas can be considered when roofing cannot be provided due to safety or other important considerations. In such instances, the applicant should take measures to minimise the contamination of stormwater and the volume of stormwater entering the sewerage system (e.g., first flush systems, flow separation, bunding, on-site detention, etc.). The discharge from unsealed areas is not permitted.

Refer to Liquid Trade Waste Management Guidelines 2021 for further information

C2 Contaminated groundwater

Similar to stormwater, discharge of groundwater or seepage water to a sewerage system is prohibited under clause 137A of the Regulation. Accordingly, groundwater extracted during construction activities (e.g., building/road construction activities, vacuum excavation, mining/exploration works, etc.) is not permitted to be discharged to Council's sewerage system directly or indirectly.

However, groundwater previously contaminated by human activities (e.g. service station remediation sites) may be considered for discharge to the sewerage system. Limited quantities of groundwater from remediation projects may be accepted under controlled conditions after appropriate pre-treatment for a limited period.

C3 Discharge of landfill leachate

The discharge of leachate from municipal waste landfills to the sewerage system may be considered under controlled conditions, if there is no other viable option of managing this waste and the discharge is within the Council's acceptance limits.

The proponent when seeking approval to discharge leachate to sewer needs to demonstrate that a sound stormwater management plan has been developed and implemented. The plan needs to address:

- segregation of potentially contaminated areas from uncontaminated areas
- prevention of surface runoff entering leachate collection ponds/dams and to Council sewerage system.
- appropriate pre-treatment to meet Council's acceptance limits

Only the excess leachate after on-site management within the premise will be considered for sewer discharge, if it meets Council's acceptance criteria. On-site pre-treatment to reduce ammonia levels (and other substances, e.g. PFAS) may also be required.

C4 Discharge from float tanks

Float tanks, often referred to as floatation pods, iso-pods (isolation tank), sensory deprivation systems, or REST tanks (restricted environmental stimulation therapy tanks) are typically small, enclosed pods containing about 1,000 litres of water. This water usually contains large quantities of Epsom salts (300 - 700 kg of magnesium sulphate), resulting in total dissolved solids concentration up to 700,000 mg/L.

Discharge of such water to sewer is not permitted due to potential adverse impacts associated with the high salt content on the sewer infrastructure and treatment processes. It is also not appropriate to dispose of such waste to septic tanks or on-site soak wells.

If wastewater is proposed to be transported away for off-site management, the operator of such facilities must provide details of liquid waste transporters and written verification from the receiving facilities acknowledging and agreeing to receive such wastewater.

C5 Discharge from Service station forecourts and other refuelling points

C5.1 New premises

The discharge of wastewater from service station forecourts and other refuelling points (e.g. at bus depot, etc.) is not permitted.

Refer to NSW EPA Practice Note, titled *Managing Run-off from Service Station Forecourts*, June 2019, for options for managing such wastewater.

C5.2 Existing premises

The discharge from existing service stations and other refuelling areas may be permitted, provided appropriate pre-treatment and discharge control requirements are adhered to. Further information is provided in Chapter 3 and Appendix F of the Liquid Trade Waste Management Guidelines 2021.

If a refuelling area is refurbished, then the discharge from this area must be disconnected from the sewerage system.

C6 Discharges from liquefaction and/or pulverisation of solid waste by physical or chemical processes

The wastewater arising from liquefaction or pulverisation of solid waste by physical (e.g. pulping, macerating) or chemical means (e.g. dissolving solid waste in highly acidic or alkaline solutions) is not permitted to be discharged to the sewerage system.

Accordingly, discharges from the following devices/processes are not permitted.

- **Macerators** or similar devices that pulverising of solid waste. Solid waste includes, but not limited to sanitary napkin, placenta, surgical waste, disposable nappy, mache bedpan/urine containers, food waste, disposable products and animal waste (dog/cat faeces, cat litter).
- **Food waste disposal units**, also known as in-sink food waste disposers or garbage grinders in commercial premises. Discharges from existing installations in hospitals and nursing homes may be permitted, provided that wastewater is discharged through an adequately sized grease arrestor (additional charges will be applied).

If the kitchen is refurbished, the food waste disposal unit must be removed.

- **Alkaline hydrolysis waste**, process where a human or animal tissue is broken down using alkaline solutions at elevated temperatures and pH. The process may be used in animal care facilities, veterinary premises, animal research laboratories, funeral parlours etc. The generated wastewater is of a high strength and may exhibit high loadings on the sewerage system. Accordingly, the wastewater generated by this process is **not** permitted to be discharged to the sewerage system.

C6.1 Discharge from Solid Food Waste Processing Units (digesters/composters, etc.)

Discharge from a solid food waste processing unit (digesters/composters, etc) to a Council's sewerage system is a Concurrence Classification C discharge (ie. Charging Category 3), hence Council needs to obtain concurrence to its approval from the department for individual applications.

The quality of wastewater from this equipment depends on the type of solid waste feed into it and the effectiveness of the on-site pre-treatment, hence frequent sampling will be required for monitoring and charging purposes. Sampling needs to be undertaken by either a council officer or an independent party acceptable to council.

Appropriate on-site pre-treatment needs to be provided prior to combining with any other liquid waste stream that discharges to the Council's sewerage system.

Each application will be assessed on a case by case basis.

C7 Use of additives in pre-treatment systems

The use of bacterial, enzyme and/or odour controlling agents in pre-treatment equipment (eg. in grease arrestors) is prohibited unless specifically approved by Council with the department's concurrence.

C8 Discharge of disposable products marketed as flushable

Any disposable solid products including those marketed as "flushable" (eg. wet wipes, cleaning wipes, cat litter, etc.) is not permitted to flush down the sewerage system.

Contrary to manufacturers' claims, flushable wet wipes do not breakdown in the sewerage system similarly to a toilet paper and may cause blockages within the premises or in the Council's sewerage system and may cause raw sewage overflow to the environment.

Appendix D - Non-residential sewerage and liquid trade waste fees and charges

This Appendix provides information on Council's charging criteria for liquid trade waste customers. Some guidance is also provided on the applicable non-residential sewerage charges.

The best practice pricing for non-residential sewerage and liquid trade waste services are to ensure that liquid trade waste dischargers pay a fair share of the cost of sewerage services provided by Council. Appropriate pricing is essential to provide relevant pricing signals to non-residential and liquid trade waste customers to use water and sewerage system efficiently.

D1 Non-residential sewerage pricing¹¹

A non-residential sewerage bill is based on a cost-reflective two-part tariff with an annual access charge and a uniform sewer usage charge per kL. The total discharged volume to the sewerage system can be either measured (by a flow meter) or estimated using the customer's total water consumption multiplied by a sewer discharge factor.

The sewerage bill for a non-residential customer is calculated as follows:

$$B = SDF \times (AC + C \times UC)$$

Where: B = Annual non-residential sewerage bill (\$)
 C = Customer's water annual consumption (kL)
 AC = Annual non-residential sewerage access charge as shown below (\$)
 SDF = Sewer discharge factor
 UC = Sewer usage charge (\$/kL)

Access charge

The sewerage access charge is proportional to the square of the size of the water supply service connection.

$$AC = \left(AC_{20} \times \frac{D^2}{400} \right)$$

Where: AC₂₀ = Annual non-residential sewerage access charge for 20 mm water service connection (\$)
 D = Water supply service connection size (mm)

Sewer Usage charge

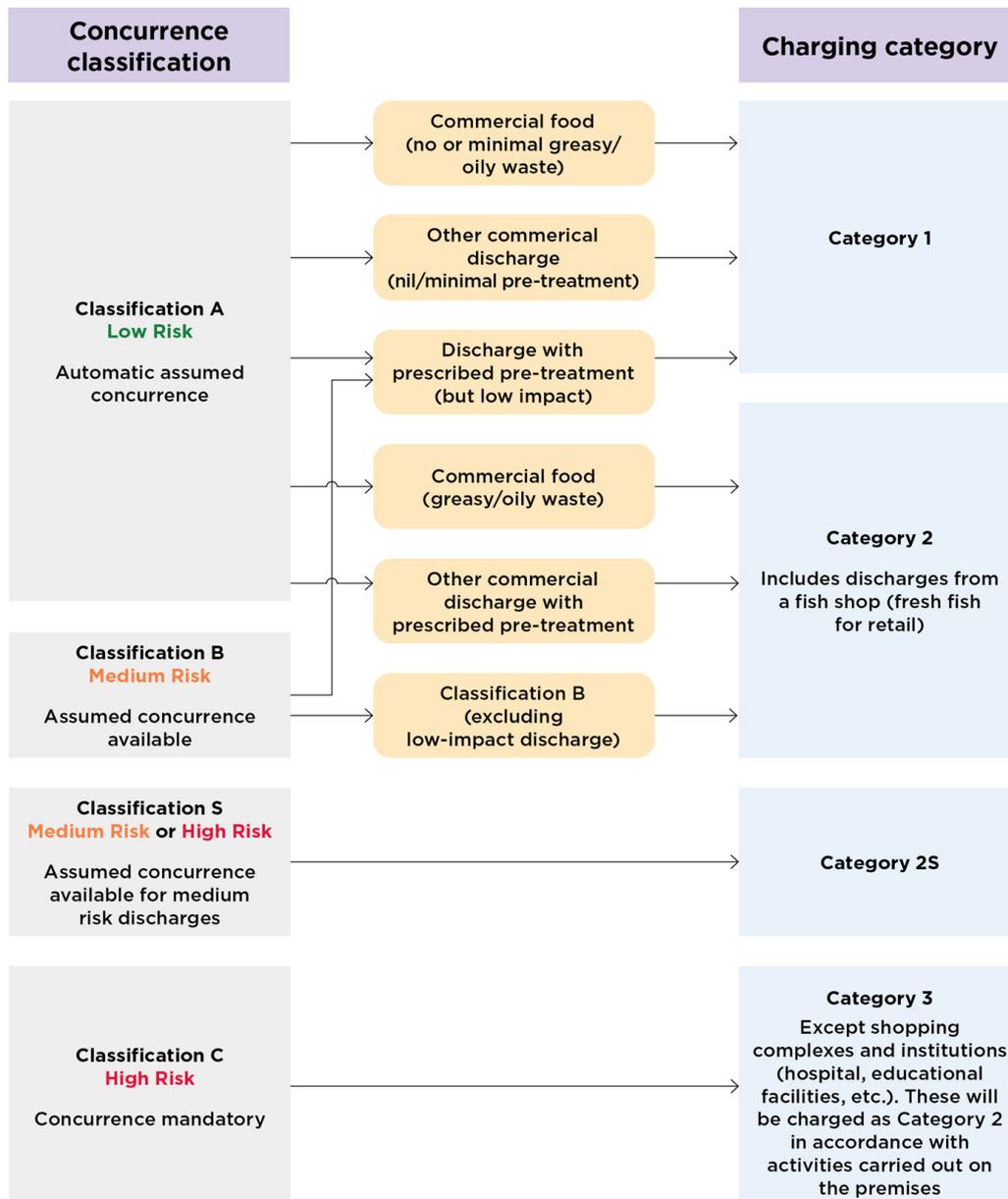
The sewer usage charge (\$/kL) is applied for the total volume of wastewater discharged to the sewerage system.

¹¹ Detailed guidance for calculation of non-residential sewerage prices are provided in the Department's Water Supply, Sewerage and Trade Waste Pricing Guidelines, 2002, Department of Land and Water Conservation

D2 Liquid Trade Waste fees and charges

This section describes various fees and charges associated with liquid trade waste and fees and charges applicable to charging categories. Figure 1 shows the relationship between concurrence classifications and charging categories.

Figure 1 Charging categories for liquid trade waste



In summary, Classification A discharges fall into Charging Category 1 or Category 2. Classification B discharges fall into Charging Category 2, except for a few discharges with low impact on the sewerage system which fall into Category 1. Classification S discharges fall into Charging Category 2S and Classification C discharges fall into Charging Category 3.

D2.1 Description of various trade waste fees and charges

Following sections describe various trade waste fees and charges and the methodology of calculating them.

D2.1.1 Application fee

The application fee recovers the costs of administration and technical services provided by Council in processing a liquid trade waste application. This fee varies for different charging categories to reflect the complexity of processing the application.

D2.1.2 Annual trade waste fee

The purpose of this fee is to recover the costs incurred by council for ongoing administration and scheduled inspections, in order to ensure that the discharge complies with the approval conditions.

As part of an inspection, Council may undertake monitoring which may include, but is not limited to, flow measurement and the sampling. In general, cost of one inspection is included in the annual fee, in particular for Category 1 and 2 discharges.

Annual liquid trade waste fee varies for different charging categories in order to reflect the complexity of their inspection and administration requirements. In particular, for Category 3 discharges, Council may opt to set the annual fee on a case by case basis to reflect the complexity of monitoring requirements and the extent of inspection.

Refer to section D8.4 with regard to annual fees applicable to premises with **multiple activities**.

Council may require a discharger to pay for monitoring (quantity and quality) based on full cost recovery.

D2.1.3 Inspection fee/re-inspection fee

Cost of one inspection is usually included in annual liquid trade waste fee for charging categories 1 and 2.

However, it may be required to conduct un-planned inspections or re-inspections of a premise (e.g. non-compliance with approved conditions, investigating an accident, etc.). Also, more frequent inspections may be necessary for large and industrial discharges.

Where **more than one inspection** is undertaken in a financial year and/or the cost of inspections is not included in the annual fee, the cost may be recovered from the discharger as the re-inspection fee.

Council may recover the cost of sample analysis from the discharger, in addition to the re-inspection fee.

D2.1.4 Renewal fee

Council may apply a renewal fee if an existing approval needs to be renewed or modified.

D2.1.5 Category specific charges

The following sections describe the charging categories and relevant fees and charges. If a discharge is not listed, council will determine (with the consultation of the department) the relevant charging category, based on the quality and the quantity of discharge.

D3 Category 1 discharger

This charging category includes:

- Classification A discharges (both commercial retail non-oily/greasy food preparation and other commercial discharges, listed below)
- Classifications B discharges identified as low risk.

Some of the above discharges may require prescribed pre-treatment to be installed however, the treated effluent is considered to have a low impact on the sewerage system.

Classification A discharges – commercial retail food preparation activities that do not generate or generate minimal oily/greasy waste: bakery (only bread baked on-site), bistro (sandwiches, coffee only), boarding/hostel < 10 persons, café/coffee shop/coffee lounge (no hot food), canteen/cafeteria (no hot food), community hall/civic centre (minimal food), day care centre (minimal hot food), delicatessen (minimal or no hot food), fruit and vegetable shop, hotel/motel (minimal hot food), ice cream parlour (take away only), juice bar, mobile food van (no hot food), mixed business (minimal hot food), nightclub (no hot food), nut shop, pie shop (re-heating only), pizza no cooking/reheating (pizza heated and sold for consumption off-site), potato peeling (small operation), sandwich shop/salad bar/snack bar (no hot food), take away food outlet (no hot food), school canteen with minimal hot food.

Classification A discharges from other commercial activities: animal wash, beautician/tanning booths/hairdressing, crafts ≤ 1,000 L/d, dental surgery/dental technician (plaster casts), dry cleaning, florist, funeral parlour, jewellery shop, medical centre/physiotherapy (plaster casts), mobile cleaning units, morgue, optical service, pet shop, plants retail (no nursery), non-residential swimming pool/hydrotherapy, veterinary.

Classification A or B discharges with prescribed pre-treatment and low impact on the sewerage system: boiler blowdown, cooling tower, industrial boilers, laboratory (analytical/pathology/tertiary institution), laundry/laundromat, primary and secondary school¹², vehicle washing/detailing (excluding truck washing).

D3.1 Category 1 discharger - Liquid trade waste charges

D3.1.1 “Deemed to be approved” discharges

For a discharger in “Deemed to be approved discharges” (refer to Appendix B), following charges will be applicable

D3.1.2 Category 1 discharger, other than “deemed to be approved”

Category 1 discharger who installs recommended appropriate pre-treatment equipment and maintains them regularly will be required to pay **only** the annual fee nominated for Category 1.

Liquid trade waste bill for Category 1 discharger (TW_1)

$$TW_1 = A_1$$

A_1 = Annual liquid trade waste fee (\$) for Category 1

D4 Category 2 discharger

Category 2 liquid trade waste dischargers are those discharging waste generated by an activity listed below:

Classification A discharges – commercial retail food preparation/serving activities that generate oily/greasy waste: bakery (pies, sausage rolls, quiches, cakes, pastries with creams or custards), bistro, boarding house/hostel kitchen (exceeding 10 persons), butcher, café/coffee shop/coffee lounge (with hot food), cafeteria/ canteen (with hot food), chicken/poultry shop –fresh/roast, retail BBQ/charcoal chicken, day care centre with hot food, club, civic centre/community hall¹³, commercial kitchen/caterer, delicatessen with hot food, fast food outlet, fish shop (retail and cooking on-site), function centre, hotel, ice cream parlour, mixed business (hot food), mobile food van (base), motel, nightclub, nursing home, patisserie, pizza cooking, restaurant, sandwich shop/salad bar/snack bar (with hot food), supermarket, take away food outlet with hot food, school canteen with hot food.

Classification A discharges – other commercial discharges: car detailing, craft activities > 1000 L/d, lawnmower repairs, mechanical workshop, stone working, surfboard manufacture (wet process only).

¹² If significant hot food preparation is carried out, Category 2 charges may be levied by council.

¹³ If the type and size of kitchen fixtures installed enable catering for large functions.

Classification B discharges: auto dismantler, bus/coach depot, bakery (wholesale), butcher (wholesale) construction equipment maintenance and cleaning, boutique or artisan foods, engine reconditioning, equipment hire, maintenance and cleaning, fish co-op, graphic arts, hospital, micro-brewery, oyster processing – shucking, panel beating, radiator repairer, screen printing, service station forecourt, shopping complex, truck washing (platforms/flat beds) and truck washing (external).

D4.1 Category 2 discharger - Liquid trade waste charges

Category 2 discharger who installs appropriate pre-treatment equipment and maintains them will pay annual fee nominated for Category 2 plus the trade waste usage charge.

Liquid trade waste bill for Category 2 discharger (TW_2),

$$TW_2 = A_2 + Q_{TW} \times C_2$$

A_2 = Annual liquid trade waste fee (\$) for Category 2

Q_{TW} = Total liquid trade waste discharge volume (kL)

C_2 = Trade waste usage charge (\$/kL)

The liquid trade waste discharge volume is generally estimated by applying a Trade Waste Discharge Factor (TWDF) to the total water consumption unless a discharge meter is installed.

D5 Category 2S discharger

Category 2S dischargers include:

- **transporters who tanker human waste** to council's STWs - septic tank waste (effluent and septage), ablution block waste (blackwater and greywater), portable toilet waste, sludge from on-site aerated wastewater treatment systems (AWTS) for **single households**, waste from pit toilets, night soil.
- **ship-to-shore pump out facility owners/operators** - toilet waste and/or grey water
- **owners/operators of 'dump points'** directly connected to the sewer for disposal toilet waste and/or grey water from a bus or a recreation vehicle (RV), e.g. caravan, motor home.

D5.1 Category 2S discharger - Liquid trade waste charges

D5.1.1 Transported human waste

The transporters of human waste will be required to pay waste disposal charge (\$/kL).

Liquid trade waste bill for Category 2S waste transporter (TW_{TW}),

$$TW_{TW} = A_{TW} + Q_{TW} \times C_{TW}$$

A_{TW} = Annual fee (\$) for transported waste

Q_{TW} = Transported human waste volume (kL)

C_{TW} = Charging rate (\$/kL) for the transported waste (may vary based on the type of waste transported)

Note: Charging rate C_{TW} can be varied for different type of waste, i.e. septic waste, ablution block waste, sludge from AWTS, pit toilets etc. Refer to Council's annual Management Plan.

D5.1.2 Ship-to-shore waste pump-out facility – **CURRENTLY NOT APPLICABLE**

The owner/operator of a ship-to-shore waste receival facility will be required to pay an annual fee and waste disposal charge based on the discharge volume (\$/kL), if practical to estimate the discharge volume. If the discharge volume cannot be established, council may negotiate the waste disposal charge based on the expected discharge volume.

Liquid trade waste bill for ship-to-shore pump out facility owner (TW_{STS}),

$$TW_{STS} = A_{STS} + Q_{TW} \times C_{STS}$$

A_{STS} = Annual fee (\$)

Q_{TW} = Discharge volume (kL) (measured or negotiated)

C_{STS} = Charging rate (\$/kL)

Note: The above charges are applicable to owners/operators of ship-to-shore pump out facility discharging such waste directly to council's sewerage system and **not** to individual or commercial boat owners using the facility. This policy does not provide information on how to charge individual boat owners using a facility to dispose of their wastewater.

D5.1.3 Waste dump points

Dump points are often located in public places (roadside), hence the monitoring of discharge volumes is not practical. Accordingly, only an annual fee is applied for stand-alone dump points.

Liquid trade waste bill for dump point operator (TW_{DP}) (if applicable),

$$TW_{DP} = A_{DP}$$

A_{DP} = Annual fee for dump point (\$)

D6 Category 3 discharger

Category 3 liquid trade waste dischargers are those conducting an activity which is of an industrial nature and/or which results in the discharge of large volumes of liquid trade waste to the sewerage system. Any Category 1 or 2 discharger whose volume exceeds the limits shown below becomes a Category 3 discharger (excluding shopping centres and institutions):

Classification A discharge > 20 kL/d

Classification B discharge – as shown in Chapter 5 of the Guidelines.

Classification C discharges include: abattoir, acid pickling, adhesive/latex manufacture, agricultural and veterinary drugs, anodising, bitumen and tar, bottle washing, brewery, cardboard and carton manufacture, carpet manufacture, caustic degreasing, chemicals manufacture and repackaging, contaminated site treatment, cooling towers, cosmetics/perfumes manufacture, cyanide hardening, dairy processing* (milk/cheese/yoghurt/ice cream, etc.), detergent/soaps manufacture, drum washing, egg processing, electroplating, extrusion and moulding (plastic/metal), feather washing, fellmonger, felt manufacture, fertilisers manufacture, fibreglass manufacture, filter cleaning, foundry, food processing* (cereals/cannery/condiments/confectionary/edible oils/fats/essence/flavours/fish/fruit juice/gelatine/honey/meat/pickles/smallgoods/tea and coffee/vinegar/yeast manufacture, etc.), food waste processing unit (digester/composter), fruit and vegetable processing, flour milling, galvanising, glass manufacture, glue manufacturer, ink manufacture, laboratories (excluding those in Category 1 & 2), liquid wastewater treatment facility (grease trap receival depot and other pump-out waste depot), metal finishing, metal processing (refining/rumbling/non-cyanide heat treatment/phosphating/photo engraving/printed circuit etching/sheet metal fabrication etc.), mirrors manufacture, oil recycling (petrochemical) and refinery, paint stripping, paint manufacture, paper manufacture, pet food processing, plants nursery (open areas), pharmaceuticals manufacture, plaster manufacture, powder coating, potato processing, poultry processing, printing (newspaper, lithographic), saleyards, sandblasting, seafood processing, slipway, soft drink/cordial manufacture, starch manufacture, sugar refinery, tanker washing, tannery, timber processing (joinery and furniture/plywood/hardwood), textile manufacture (wool dyeing/spinning/scouring), tip leachate, transport depot/ terminal, truck washing

(internal), waxes and polishes, water treatment backwash, wholesale meat processing, winery, distillery, wine/spirit bottling.

* Excluding small boutique, craft or artisan food industries not exceeding the discharge volume shown in the *Liquid Trade Waste Management Guidelines, 2021*.

D6.1 Category 3 discharger - Liquid trade waste charges

D6.1.1 Excess mass charges

Category 3 discharger will be required to pay the annual liquid trade waste fee plus excess mass charges.

Liquid trade waste bill for Category 3 discharger (TW_3),

$$TW_3 = A_3 + EMC$$

A_3 = Annual liquid trade waste fee (\$)**

EMC = Excess mass charges (\$)

Note: **Annual fee may vary for different business activities, depending on the complexity and time taken for inspection.

How excess mass charges are calculated

Excess mass charges will be applicable for substances discharged in excess of the 'Deemed Concentrations' in domestic sewage. For the purpose of excess mass charge calculation, the deemed concentrations of substances in domestic sewage are listed in Table D1.

Table D1 Deemed concentration of substances in domestic sewage

Substance	Concentration (mg/L)
Biochemical Oxygen Demand (BOD ₅)	300
Suspended Solids	300
Total Oil and Grease	50
Ammonia (as Nitrogen)	35
Total Kjeldahl Nitrogen	50
Total Phosphorus	10
Total Dissolved Solids	1000
Sulphate (SO ₄)	50 [#]

The concentration in the potable water supply to be used if it is higher than 50 mg/L.

NB. Substances not listed above are deemed not to be present in domestic sewage.

For excess mass charge calculation, equation (1) below will be applied for all parameters including for BOD₅ up to 600 mg/L (but excluding COD and pH).

$$EMC (\$) = \frac{(S - D) \times Q_{TW} \times U}{1,000} \quad (1)$$

Where: S = Concentration (mg/L) of substance in sample
 D = Concentration (mg/L) of substance deemed to be present in domestic sewage
 Q_{TW} = Volume (kL) of liquid trade waste discharged to the sewerage system
 U = Unit charging rate (\$/kg) for the substance (note that this rate varies from substance to substance. Refer to council's annual Management Plan for charging rates for various substances)

D6.1.2 Excess mass charges for BOD

BOD up to 600 mg/L

Equation (1) applies for BOD₅ up to 600 mg/L. Note that there are no excess mass charges if the BOD does not exceed 300 mg/L (deemed concentration of BOD in domestic sewage).

Excess mass charges for BOD exceeding 600mg/L

If council approves the acceptance limits for BOD₅ higher than 600mg/L, an exponential type equation will be used for calculation of the charging rate U_e (\$/kg) as shown in equation (2). This provides a strong incentive for dischargers to reduce the strength of waste. Note that equation (5) will be used where the discharger has failed to meet their approved BOD limit on more than two instances in a financial year.

U_e is the excess mass charging rate U_e (\$/kg) for BOD is calculated as:

$$U_e = 2C \times \frac{(\text{Actual BOD} - 300\text{mg/L})}{600\text{mg/L}} \times 1.05^{\frac{(\text{Actual BOD} - 600\text{mg/L})}{600\text{mg/L}}} \quad (2)$$

Where: C = Charging rate (\$/kg) for BOD₅ 600mg/L

Actual BOD = Concentration of BOD₅ as measured in a sample

D6.2 Tankered Category 3 waste

In some instances, liquid waste that falls into Charging Category 3 is transported to the STW. Examples of such waste may include tankered landfill leachate or dairy waste from un-sewered areas. In such instances, council will determine the appropriate approval holder (waste generator or the transporter) and invoice accordingly.

D7 Non-compliance liquid trade waste charges

Non-compliance charges for Category 1 and 2 dischargers

If the discharger has not installed or maintained appropriate pre-treatment equipment, the following non-compliance trade waste usage charges will be applied for the relevant billing period:

D7.1 Category 1 discharger - non-compliance charges

The trade waste usage charge (\$/kL) as per Council's Management Plan will be applied.

D7.2 Category 2 discharger – non-compliance charges

For Category 2 discharger, a non-compliance charge will be outlined in the Council's Management Plan

Dischargers who have an undersized grease arrestor and improved the effluent quality by other means (e.g., increased pump-outs, installing additional pre-treatment equipment, etc.) will pay a trade waste usage charges in accordance with a Category 2 discharger.

Dischargers who cannot install a grease arrestor or those who have an arrestor with capacity significantly less than the required size and are unable to improve the effluent quality by means described above will have to pay non-compliance trade waste usage charges, be **as per Category 2 non-compliance charge above.**

D7.3 Non-compliance charges for Category 3 discharger

If a discharger in charging Category 3 fails to comply with the acceptance limits specified in council's approval conditions, following non-compliance charges will be applicable.

D7.3.1 Non-compliance pH charge

If the pH of the waste discharge by Category 3 discharger is outside the approved range, equation (3) is used for the calculation of non-compliance pH charges. This equation provides an incentive for dischargers to install and properly maintain a pH correction system, so their waste remains within the approved pH limits.

Charging rate for pH, if outside the approved range =

$$K \times |\text{actual pH} - \text{approved pH}|^{\#} \times 2^{|\text{actual pH} - \text{approved pH}|^{\#}} \quad (3)$$

Absolute value to be used.

K = pH coefficient in \$

Example 4:

Council has approved the pH range 7.0 to 9.0 for a large discharger. pH coefficient (K) listed in council's Management Plan is \$0.45

Case 1: pH measured 6.0

$$\text{Charging rate for pH (\$/kL)} = 0.45 \times |6 - 7|^{\#} \times 2^{|6 - 7|^{\#}} = \$0.90/\text{kL}$$

Case 2: pH measured 11.0

$$\text{Charging rate for pH (\$/kL)} = 0.45 \times |11 - 9|^{\#} \times 2^{|11 - 9|^{\#}} = \$3.60/\text{kL}$$

Absolute value to be used.

D7.3.2 Non-compliance excess mass charges

Equation (4) shall apply for non-compliance excess mass charges for various substances, except for BOD₅ where equation (5) shall apply to calculate the charging rate.

$$\text{Non-compliance Excess Mass Charges (\$)} = \frac{(S - A) \times Q \times 2U}{1000} + \frac{(S - D) \times Q \times U}{1000} \quad (4)$$

Where: S = Concentration (mg/L) of a substance in sample

A = Approved maximum concentration (mg/L) of pollutant as specified in council's approval (or liquid trade waste policy)

Q = Volume (kL) of liquid trade waste discharged for the period of non-compliance

U = Excess mass charging rate (\$/kg) for the substance, as shown in council's annual Management Plan

D = Concentration (mg/L) of the substance deemed to be present in domestic sewage

D7.3.3 Non-compliance excess mass charges for BOD

The non-compliance excess mass charging rate (U_n) for BOD₅ is calculated by using equation (5):

U_n is the BOD₅ non-compliance excess mass charging rate in (\$/kL).

$$U_n = 2C \times \frac{(A - 300\text{mg/L})}{600\text{mg/L}} \times 1.05^{\frac{(A - 600\text{mg/L})}{600\text{mg/L}}} + 4C \times \frac{(\text{Actual BOD} - A)}{600 \text{ mg/L}} \times 1.05^{\frac{(\text{Actual BOD} - A)}{600\text{mg/L}}} \quad (5)$$

D8 Other applicable liquid trade waste charges

D8.1 Garbage grinders - Food waste disposal charge¹⁴

Additional charges will apply for a food waste disposal unit (in-sink food waste disposers/garbage grinders) in an **existing** hospital, nursing home or other eligible facility where council has permitted such installation.

These charges are in addition to category specific liquid trade waste fees and charges (e.g. Category 2 charges plus U_F), as shown below:

Food waste disposal charge (\$) = $B \times U_F$

Where: B = Number of beds in hospital or nursing home.

U_F = Annual charging rate (\$/bed) for a food waste disposal unit at a hospital or nursing home.

D8.2 Solid food waste processing unit

Discharge of waste from a solid food waste processing unit (digester/composter) is classified as Concurrence Classification C and is in charging Category 3.

Excess mass charges for all parameters in excess of the deemed concentrations in domestic sewage and non-compliance charges, above the council's acceptance limits, will be applicable to the waste stream from such equipment (refer s. D6.1 for further information).

In addition, the discharger needs to bear the cost of frequent sampling as the quality of wastewater dependent on the solid waste input to the processing unit and the effectiveness of the on-site pre-treatment equipment.

D8.3 Discharge of stormwater from large open areas or large quantities of groundwater to the sewerage system

The discharge of roof, rain, surface, seepage or ground water to the sewerage system is prohibited under clause 137A of the Local Government (General) Regulation 2021 and this policy. Consideration will be given to the acceptance of limited quantities of contaminated stormwater (first flush stormwater) based on a case-by-case assessment.

If stormwater run-off from a large areas or groundwater is approved for discharge to sewer for a Category 3 discharger (e.g. saleyards), a volume based charge similar to the non-compliance usage charging rate (\$/kL) for Category 2 will be applied (e.g. 5 to 10 times of Usage charging rate listed in council's Management Plan). Excess mass charges may be also applied to such discharges.

D8.4 Charges for premises with multiple liquid trade waste streams

Examples of premises with multiple waste streams include:

- shopping centres
- commercial strata units
- institutions, e.g. hospitals, tertiary educational facilities and correctional centres
- other premises with multiple waste streams, e.g. premises comprising food cooking/serving activities and "Boutique/artisan food" businesses. For example, a liquid trade waste application may include a restaurant or a hotel, a microbrewery, a chocolate making and/or a cheese making shops, all located on the same site.

¹⁴ For existing installations of garbage grinders only. New installations are not permitted.

D8.4.1 Shopping centre

Annual Liquid Trade Waste Fees – ‘deemed to be approved’ discharges: Council will apply reduced annual fees (for example, 50% of Category 1 annual fees). Inspections will be annually.

Annual Liquid Trade Waste Fees – activities in Category 1 and 2: If there are individual pre-treatment equipment then an individual bill will apply to each discharger in accordance with the charging category. If pre-treatment equipment is shared (grease arrestor, oil separator, cooling pit, general-purpose pit) then then an individual bill will apply to each business with shared equipment but with reduced annual fee to each discharger (irrespective of category)

Council will apply trade waste usage charge based on the estimated trade waste discharge volume.

D8.4.2 Commercial strata title units

Councils will issue individual liquid trade waste bills to each owner of the strata title unit.

D8.4.3 Hospitals, tertiary educational facilities and correctional centres

Council will generally issue a liquid trade waste bill to the management of the above premises.

The annual fee needs to be in accordance with the relevant charging category, which is Category 2 for hospitals and educational facilities. A correctional centre may fall into Category 3 if industrial activities are carried on-site.

Council will apply trade waste usage charge based on the estimated trade waste discharge volume.

If food preparation activities are carried out by an outside contractor, e.g. take away food outlets in the educational facilities. Council may issue a separate liquid trade waste bill to such individual shops, where practical. It may require an individual water meter or a check meter to be installed at the relevant service line.

D8.4.4 Other premises with multiple waste streams

There are some premises where various “boutique type” businesses are located on the same site as restaurants, café, etc. For example, a premise may include a restaurant, a microbrewery, a chocolate making shop and a cheese making business, all owned by the same owner. When a liquid trade waste application includes a few different activities on the same site, council will assess the application and determine the relevant charging categories and applicable fees and charges.

If the site falls into Category 2, the annual fee will be to the management of the business and will cover all discharges in accordance with the relevant charging category.

Council may use different trade waste usage rates for the discharge of high – strength waste in Charging Category 2.

For situation where there are combined waste streams that belong to charging categories 2 (Classifications A and B) and 3 (Classification C) and when the Category 2 discharge is predominant, it is recommended that Category 3 trade waste fees and charges be applicable only to Classification C discharge (ie. a cheese making shop in above example) and the rest of the site be charged as Category 2.

Appendix E – List of discharges Council may approve

E1 Classification A

Discharges from activities that Council can process without seeking Department concurrence, subject to complying with certain requirements.

Food preparation/serving, generating liquid waste, up to 16 kL/day	Other Activities generating liquid waste, up to 5 kL/day
Bakery (retail)	Animal wash (pound, stables, racecourse, kennels, mobile animal wash)
Bed and Breakfast (<10 persons)	Beautician
Bistro	Boiler blowdown
Boarding house/hostel kitchen	Car detailing
Butcher (retail)	Cooling towers
Café/coffee shop/coffee lounge	Craft activities (pottery, ceramics, cutting and polishing of gemstones or making of jewellery)
Canteen	Dental surgery
Cafeteria	Dental technician
Chicken/poultry shop (fresh chicken/game, retail, barbeque/roast chicken)	Dry-cleaning (separator water, boiler)
Club (kitchen wastes)	Florist
Commercial kitchen/caterer	Funeral parlour/morgue
Community hall/civic centre/function centre (kitchen waste)	Hairdressing
Day care centre	Jewellery shop
Delicatessen	Laboratory (pathology/analytical)
Doughnut shops	Laundry or laundromat (coin operated)
Fast food outlets (McDonalds, KFC, Burger King, Hungry Jack, Pizza Hut, Red Rooster, etc.)	Lawnmower repairs
Fish shop (retail—fresh and/or cooked)	Mechanical repairs/workshop
Fruit and vegetable shop (retail)	Medical centre/doctor surgery/physiotherapy—plaster of paris casts, laboratory
Hotel	Mobile cleaning units
Ice-cream parlour	Nursing home (other than food-related activities)
Juice bar	Optical services
Mixed business	Per shop (retail)
Mobile food van	Photographic tray work/manual development
Motel	Plants retail (no nursery or open space)
Nightclub	School (other than kitchen waste)
Nursing home kitchen	Stone working
Nut shop	Surfboard manufacturing (wet process only)
Patisserie	Swimming pools/spas/hydrotherapy pools

Food preparation/serving, generating liquid waste, up to 16 kL/day	Other Activities generating liquid waste, up to 5 kL/day
Pie shop	Vehicle (car) washing (by hand/wand, automatic car wash/bus wash/external truck wash or underbody/engine degrease only)
Pizza shop	Venetian blind cleaning
Restaurant	Veterinary surgery
Salad bar	
Sandwich shop	
School – canteen, home science	
Snack bar	
Supermarket (with butcher/bakery/delicatessen/seafood or roasted chicken)	
Take away food shop	

Appendix F - Framework for regulation of liquid trade waste

F1 The NSW framework for regulation of sewerage and trade waste

The NSW framework is driven by the NSW Government's *Best Practice Management of Water Supply and Sewerage Guidelines, 2007*. Sound regulation of sewerage and liquid trade waste is a key element of the 2007 guidelines, and requires each council to implement all the following integrated measures:

1. Preparation and implementation of a sound trade waste regulation policy, assessment of each trade waste application and determination of appropriate conditions of approval. The conditions must be consistent with the LWU's *Integrated Water Cycle Management Strategy* and demand management plan. In addition, execution of a liquid trade waste services agreement is required for large dischargers to assure compliance.
2. Preparation and implementation of a sound *Development Servicing Plan*, with commercial sewerage developer charges to ensure new development pays a fair share of the cost of the required infrastructure.
3. Full cost recovery with appropriate sewer usage charges and trade waste fees and charges in order to provide the necessary pricing signals to dischargers. These charges must include non-compliance trade waste usage charges and non-compliance excess mass charges in order to provide the necessary incentives for dischargers to consistently comply with their conditions of approval.
4. Monitoring, mentoring and coaching of dischargers in order to achieve cleaner production and assist them to comply with their conditions of approval.
5. Enforcement, including appropriate use of penalty notices in the NSW legislation. Orders may also be issued under the *Local Government Act 1993*.
6. Disconnection of a trade waste service in the event of persistent failure to comply with the LWU's conditions of approval.

Together, the above six measures comprise the NSW framework for regulation of sewerage and trade waste. The framework involves a preventive risk management approach, which has been developed to address the use of common pool resources by providing economic incentives for dischargers to minimise their waste and to consistently comply with their conditions of approval.

F2 Alignment with the national framework for wastewater source management

The NSW framework for regulation of sewerage and trade waste is outlined in section 3.1. The NSW framework is driven by the NSW Government's *Best-Practice Management of Water Supply of Sewerage Guidelines, 2007* and is consistent with that in the *National Framework for Wastewater Source Management*.¹⁵

¹⁵ The following 12 elements of the *National Framework for Sewage Quality Management* are set out on page 18 of the *Australian Wastewater Quality Management Guidelines, July 2022*, WSAA:

COMMITMENT

1. Commitment to Wastewater Source Management

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In particular, under the *Best-Practice Management Guidelines* each LWU is required to achieve the following outcomes:

- Prepare and implement a 30-year Integrated Water Cycle Management Strategy, demand management plan, pay-for-use water supply pricing and community and customer involvement (Elements 1, 6, 8)
- Annual performance monitoring, including an annual triple bottom line (TBL) Performance Report and Action Plan to identify and address any areas of under-performance (Elements 5, 6, 9, 10, 11, 12)
- Achieve full cost recovery for water supply, sewerage and trade waste services and apply an appropriate non-residential sewer usage charge (Elements 3, 8)
- Prepare and implement a sound trade waste regulation policy and issue an appropriate approval to each trade waste discharger, including waste minimisation and cleaner production (Elements 1, 2, 3, 4, 7, 8)
- Appropriate trade waste fees and charges (including incentives to comply with LWU's approval conditions through non-compliance trade waste usage charges and non-compliance excess mass charges) (Elements 3, 8)
- Trade waste services agreement for large dischargers to assure compliance (Elements 3, 8)
- Appropriate training of LWU staff and monitoring, mentoring and coaching of trade waste dischargers (Elements 1, 4, 5, 7, 8)
- Enforcement, including appropriate use of penalty notices or orders (Elements 3, 8)
- Disconnection of a trade waste service in the event of persistent failure to comply with the LWU's conditions of approval (Element 8).

SYSTEM ANALYSIS and MANAGEMENT

2. Assessment of the Wastewater System
3. Preventive Measures for Wastewater Input Quality Management
4. Operational Procedures and Process Control
5. Verification of Wastewater Inputs Quality
6. Management of Incidents/Complaints and Emergencies

SUPPORTING REQUIREMENTS

7. Employee Awareness and Training
8. Customer and stakeholder involvement and awareness
9. System Validation and Research and Development
10. Documentation and Reporting

REVIEW

11. Evaluation and Audit
12. Review and Continual Improvement

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Appendix G – Legislative provisions

Provisions in the Local Government (General) Regulation 2021 in regard to acceptance of liquid trade waste into the sewerage system

Clause 25 Matters to accompany applications relating to discharge into sewers

An application for approval to discharge trade waste into a sewer under the control of a Council or that connects with such a sewer must be accompanied by the information required by Table 1 of the Liquid Trade Waste Management Guidelines[#].

Clause 28 Approval to discharge waste into sewers: concurrence required

A council must not grant an approval under [section 68](#) of [the Act](#) to discharge trade waste (whether treated or not) into a sewer of the council unless the Director-General* of the Department of Trade and Investment, Regional Infrastructure and Services (or that Director-General's nominee) has concurred with the approval.

Note: [Section 90](#) (2) of [the Act](#) permits any person or authority whose concurrence is required before an approval may be granted to give the council notice that the concurrence may be assumed (with such qualifications or conditions as are specified in the notice).

Clause 32 Disposal of trade waste

- (1) An approval to dispose of trade waste into a sewer of the council is subject to such conditions (if any) as the council specifies in the approval.
- (2) In imposing any such conditions, the council is to have regard to the matter set out in Table 5 of the Liquid Trade Waste Management Guidelines[#].

Clause 159 Prevention of waste and misuse of water

The owner, occupier or manager of premises to which water is supplied by the council must:

- (a) prevent waste of water by taking prompt action to repair leaking taps, pipes or fittings located on the premises
- (b) take any other action that is reasonable to prevent waste and misuse of water.

137A Substances prohibited from being discharged into public sewers

- (1) For the purposes of [section 638](#) of [the Act](#) (Discharge of prohibited matter into sewer or drain), roof, rain, surface, seepage or ground water is prescribed as prohibited matter.
- (2) This clause does not apply in relation to:
 - (a) a discharge that is specifically approved under [section 68](#) of [the Act](#), or
 - (b) a discharge into a public drain or a gutter of a council, or
 - (c) a discharge in an area of operations within the meaning of the [Sydney Water Act 1994](#) or the [Hunter Water Act 1991](#).

143 Inspection of pipes and drains and measurement of water and sewage

- (1) The council may, at any reasonable time:
 - (a) inspect any service pipe connected to a water main, and
 - (b) inspect any drain connected to a sewer main, and
 - (c) install meters or other devices for measuring the quantity of water supplied to, or the quality and quantity of sewage discharged from, premises, and
 - (d) measure the quantity of water supplied to, or the quality and quantity of sewage discharged from, premises, and
 - (e) inspect any pre-treatment devices connected to the council's sewerage system.

* In accordance with the *Government Sector Employment Act 2013*, this is the Secretary of the NSW Department of Planning and Environment.

- (2) The occupier of the relevant premises must provide to the council such information as it requires to enable it to estimate the quantity of water actually supplied to, or the quality and quantity of sewage actually discharged from, the premises.
- (3) In this clause,
"pre-treatment device" means any device used to reduce or eliminate contaminants in trade waste, or to alter the waste's nature, before it is discharged into a sewer.

SCHEDULE 12 – Penalty notice offences

Column 1	Column 2
Offence under Local Government Act 1993	Penalty
Section 626 (3)-carry out without prior approval of council an activity specified in item 4 of Part C (Management of waste) of the Table to section 68	\$330
Section 627 (3)-having obtained the council's approval to the carrying out of an activity specified in item 4 of Part C (Management of waste) of the Table to section 68 , carry out the activity otherwise than in accordance with the terms of that approval	\$330

"Liquid Trade Waste Management Guidelines" means the Guidelines of that name produced by the Department of Energy, Utilities and Sustainability in March 2005, as in force from time to time. The 2005 Guidelines have now been superseded by *Liquid Trade Waste Management Guidelines, 2021*.



Muswellbrook Shire Council
(In association with
The Upper Hunter Water Alliance)
Liquid Trade Waste Regulation Policy

Assembled by
Warwick Randall

Adopted By Council
27 October 2020
Minute No. 123

Reviewed: September 2020

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General Note:

This Liquid Trade Waste Regulation policy has been prepared in conjunction with the other member Councils of the Upper Hunter Alliance (Singleton and Upper Hunter Councils) as a common Policy.

Each of the member Councils will share the role of Liquid Trade Waste Officer (on a regional basis) **but** will each set their own Liquid Trade Waste charges annually, as part of their Operational Plan preparation.

Any reference in this document to the former Department of Environment, Climate Change and Water (DECCW) in relation to the concurrence authority will now be construed as the Department of Planning, Industry and Environment (DPIE). All trade waste matters/applications for concurrence and policies for concurrence need to be forwarded to the NSW Office of Water (a division of the NSW DPIE).

MUSWELLBROOK SHIRE COUNCIL
LIQUID TRADE WASTE REGULATION POLICY

POLICY REGISTER

AUTHORISATION DETAILS

Authorised by:	Council
Minute No:	123
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Department:	Community Infrastructure Services
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PREAMBLE

Muswellbrook Shire Council is responsible for the provision of water supply and sewerage services within its local government area.

Sound regulation of sewerage and liquid trade waste is a key component of the NSW Government's best practice management requirements for wastewater management across the State.

This Policy has been developed in accordance with the Liquid Trade Waste Regulation Guidelines, 2009, as published by the NSW Department of Water and Energy.

The benefits of best practice sewerage and trade waste management and regulation include:

- **improved sewerage system performance** – reduced frequency of sewage odour complaints, reduced frequency of sewer chokes; and protection of sewerage infrastructure, worker health and safety, and the environment.
- **meeting Council's due diligence obligations and achieving improved environmental outcomes** – improved compliance with sewage treatment works licence, more options for water recycling and biosolids reuse.
- **reduced annual sewerage bills** as the improved sewerage system performance will 'free up' system capacity.
- **a faster and simpler approval process**, together with recognition by industry of the economic benefits to them of adopting cleaner production methodologies and consistently complying with their conditions of approval.

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Figure 1: Charging Categories for Trade Waste**Error! Bookmark not defined.**

ATTACHMENTS

1. Glossary
2. Sample Liquid Trade Waste Services Agreement
3. Provisions in the Local Government (General) Regulation 2005 in regard to Acceptance of Liquid Trade Waste into the Sewerage System

1. INTRODUCTION

1.1 PURPOSE OF THIS POLICY

This policy sets out how Muswellbrook Shire Council will regulate sewerage and liquid trade waste discharges to its sewerage system in accordance with the NSW Framework for Regulation of Sewerage and Trade Waste. The policy addresses the approval, monitoring and enforcement processes for liquid trade wastes discharged to Council's sewerage system and the levying of commercial sewerage and liquid trade waste fees and charges. It has been developed to ensure the proper control of liquid trade waste and hence protection of public health, worker safety, the environment, and the integrity of Council's sewerage system. The policy also promotes waste minimisation, water conservation, water recycling and biosolids reuse.

The Muswellbrook Shire Council sewerage system is generally designed to cater for waste from domestic sources that are essentially of predictable strength and quality. Muswellbrook Shire Council **may** accept liquid trade waste into its sewerage system as a **service** to businesses and industry.

Liquid trade wastes can exert much greater demands on sewerage systems than domestic sewage and, if uncontrolled, can pose serious problems to public health, worker safety, Council's sewerage system and the environment.

Impacts of poor liquid trade waste regulation include:

- Grease, oil and solid material, if not removed onsite, can cause sewer chokes and blockages and the overflow and discharge of untreated sewage to the environment.
- Strong waste may cause sewage odour problems and corrosion of sewer mains, pumping stations and sewage treatment works.

A person wishing to discharge liquid trade waste to the sewerage system must, under Section 68 of the Local Government Act 1993, obtain prior approval from Council. Discharging liquid trade waste without an approval is an offence under Section 626 of the Act.

The procedure for approval is governed by Chapter 7 of the Local Government Act and is subject to the Local Government (General) Regulation 2005.

Under Clause 28 of the Local Government (General) Regulation, a council must not grant an approval under section 68 of the Act to discharge trade waste (whether treated or not) into a sewer of the council unless the Director General of the Department of Environment, Climate Change and Water (DECCW) has concurred with the approval.

Under Section 90 (2) of the Local Government Act, the Director General, DECCW, may give the council notice that the concurrence may be assumed (with such qualifications or conditions as are specified in the notice).

2. PART 1: OVERVIEW

2.1 WHAT IS LIQUID TRADE WASTE?

Liquid trade waste is defined in the Local Government (General) Regulation 2005 as: *Liquid trade waste means all liquid waste other than sewage of a domestic nature.*

Liquid trade waste discharges to the sewerage system include liquid wastes from:

- business/commercial premises (e.g. beautician, florist, hairdresser, hotel, motel, restaurant, butcher, service station, supermarket, dentist);
- community/public premises (including craft club, school, college, university, hospital and nursing home);
- industrial premises;
- trade activities (e.g. mobile carpet cleaner);
- any commercial activities carried out at a residential premises;
- saleyards, racecourses and from stables and kennels that are not associated with domestic households; and
- septic tank waste, chemical toilet waste, waste from marine pump-out facilities and established sites for the discharge of pan content from mobile homes/caravans to the sewerage system.

While septic tank, pan and ship-to-shore pump-out waste are defined as trade waste, specific procedures need to be applied to their management, as the waste is often transported from its source to the sewerage system. Accordingly, specific references to these wastes are provided in this policy where necessary.

Liquid trade waste excludes:

- toilet, hand wash basin*, shower and bath wastes derived from all the premises and activities mentioned above;
- wastewater from residential toilets, kitchens, bathrooms or laundries i.e. (domestic sewage);
- common use (non-residential) kitchen and laundry facilities in a caravan park; and
- residential swimming pool backwash.

* *Used for personal hygiene only*

2.2 POLICY OBJECTIVES

The objectives of this policy are:

- to protect public health;
- to protect the health and safety of Council employees;
- to protect the environment from the discharge of waste that may have a detrimental effect;
- to protect Council assets from damage;
- to assist Council to meet its statutory obligations;
- to provide an environmentally responsible liquid trade waste service to the non-residential sector;
- to encourage waste minimisation and cleaner production in the commercial and industrial sectors;
- to promote water conservation, water recycling and biosolids reuse;
- to ensure compliance of liquid trade waste dischargers with Council's approved conditions;
- to provide operational data on the volume and composition of industrial and commercial effluent to assist in the operation of the sewerage system and the design of augmentations or new sewerage systems; and
- to ensure commercial provision of services and full cost recovery through appropriate sewerage and liquid trade waste fees and charges.

2.3 SCOPE OF POLICY

This policy comprises three parts:

- Part 1 provides an overview of the policy, including exemptions from the necessity to apply for an approval to discharge liquid trade waste to Council's sewerage system.
- Part 2 specifies the criteria which Council will take into consideration in determining whether to give or refuse a liquid trade waste approval; and
- Part 3 specifies the framework for regulation of liquid trade waste, including the NSW framework for Regulation of Sewerage and Trade Waste, alignment with the *National Framework for Wastewater Source Management*, application procedures, liquid trade waste discharge categories, liquid trade waste services agreements, monitoring of liquid trade waste discharges, liquid trade waste fees and charges, modification or revocation of approvals, prevention of waste of water and contaminated stormwater discharges from open areas.

2.4 EXEMPTIONS

From obtaining approval of liquid trade waste discharge.

Table 1. Exceptions

This table lists commercial business activities that the Director General DECCW has consented to an exemption from the requirement to apply for approval for liquid trade waste discharge to the sewerage system. Each such business must meet the standard requirements specified below. An annual trade waste fee applies to each such discharger.	
Activity	Requirements
Beautician	Nil.
Bed and Breakfast (not more than 10 persons including proprietor)	Sink strainers in food preparation areas. Housekeeping practices (see Note 4).
Community hall (minimal hot food)	Sink strainers in food preparation areas. Housekeeping practices (see Note 4).
Day care centre (no hot food prepared)	Sink strainers in food preparation areas. Housekeeping practices (see Note 4). Nappies are not to be flushed into the toilet.
Delicatessen – no hot food prepared	Sink strainers in food preparation areas. Housekeeping practices (see Note 4).
Dental technician (no X-ray)	Plaster arrestor required.
Doctor's surgery (plaster casts, no X-ray)	Plaster arrestor required.
Dog/Cat groomer/salon	Floor waste basket and sink strainer required (see Note 3). Animal litter and any waste disposal products may not be discharged to sewer. No organophosphorus pesticides may be discharged to sewer.
Florist	Floor waste basket and sink strainer required. No herbicides/pesticides may be discharged to sewer.
Fruit and vegetable – retail	Floor waste basket and sink strainer required (see Note 3).
Funeral parlour	Floor waste basket required. Formaldehyde is not to be discharged to sewer.
Hairdressing	Floor waste basket and sink strainer (where available).

Activity	Requirements
Jewellery shop <i>miniplate</i> <i>ultrasonic washing</i> <i>precious stone cutting</i>	Miniplate vessel to contain no more than 1.5 L of precious metal solution. Nil If: <1000 L/d plaster arrestor required. >1000 L/d general purpose pit required.
Mixed business (minimal hot food)	Floor waste basket and sink strainer required (see Note 3). Housekeeping practices (see Note 4).
Mobile cleaning units carpet cleaning garbage bin washing	20 micron filtration system fitted to a mobile unit. Floor waste basket required. Discharge is via grease arrestor (if available).
Motel (no hot food prepared and no laundry facility)	Floor waste basket and sink strainer required (see Note 3). Housekeeping practices (see Note 4).
Nut shop	Floor waste basket and sink strainer required (see Note 3).
Optical service – retail	Solids settlement tank/pit required.
Pet shop – retail	Floor waste basket and sink strainer required (see Note 2).
Pizza reheating for home delivery	Housekeeping practices (see Note 4).
Sandwich shop, salad bar, juice bar, coffee shop (no hot food prepared)	Floor waste basket and sink strainer required (see Note 3). Housekeeping practices (see Note 4).
Venetian blind cleaning	Nil (see Note 2).

Notes:

1. Where "required" is used, it means as required by Council
2. If activity is conducted outdoors, the work area is to be roofed and bunded to prevent stormwater ingress into the sewerage system.
3. All drainage from floors in food preparation areas is required to pass through a floor waste basket.
4. Food preparation activities need to comply with sound housekeeping practices including:
 - (a) Floor must be dry swept before washing;
 - (b) Pre-wiping of all utensils, plates, bowls etc., to the scrap bin before washing up;
 - (c) Use of a food waste disposal unit is not permitted.

3. PART 2: CRITERIA FOR APPROVAL TO DISCHARGE LIQUID TRADE WASTE TO COUNCIL'S SEWERAGE SYSTEM

3.1 FACTORS FOR CONSIDERATION

Council's decision to accept liquid trade waste into its sewerage system is on the basis of a preventive risk management framework for managing risks to the sewerage system within an integrated water cycle management¹ context. It will be based on the discharge meeting Council's requirements². When determining an application to discharge liquid trade waste to the sewerage system, Council will consider the following factors:

- The potential for the liquid trade waste discharge to impact on public health;
- The possible impacts the discharge may pose to the environment (land, water, air, noise, or nuisance factors);
- The potential impacts of the discharge on the health and safety of the Council's employees;
- The possible impact of the discharge on Council's sewerage infrastructure or sewage treatment process;
- The capability of the sewerage system (both transportation and treatment components) to accept the quality and quantity of the proposed liquid trade waste discharge;
- The impact that the liquid trade waste will have on the ability of the sewerage scheme to meet the Environment Protection Authority licence requirements;
- Compliance of the proposed liquid trade waste discharge with guideline limits in this policy;
- The potential impacts of the discharge on the quality of, and management practices for, effluent and biosolids produced from the sewage treatment process;
- The adequacy of the pre-treatment process(es) to treat the liquid trade waste to a level acceptable for discharge to the sewerage system, including proposed safeguards if the pre-treatment system fails;
- Whether appropriate safeguards are proposed to avoid the discharge of other, non-approved wastes to the sewerage system;

¹ *Integrated Water Cycle Management Guidelines for NSW Local Water Utilities, DWE, October 2004.*

² In considering options for waste management to drive resource efficiency, the following order of preference set out on page 6 of the *National Wastewater Source Management Guidelines, July 2008*, WSAA will be adopted:

- Avoidance
- Minimisation
- Re-use
- Recovery of energy
- Treatment
- Disposal

- The adequacy of any chemical storage and handling facilities, and the proposed safeguards for preventing the discharge of chemicals to the sewerage system;
- Whether prohibited substances are proposed to be discharged;
- The potential for stormwater, entering the sewerage system and adequacy of proposed stormwater controls;
- Waste minimisation and water conservation programs;
- The adequacy of the proposed due diligence program and contingency plan, where required;
- The quality of liquid trade waste from some low risk commercial activities in Classification A will exceed Guideline limits in Council's Liquid Trade Waste Policy. As a higher level of pre-treatment will not be cost effective, such waste is acceptable if the discharger installs and properly operates and maintains the required pre-treatment equipment. Similarly, septic and pan waste may exceed some guideline limits.

3.2 DISCHARGE QUALITY

Muswellbrook Shire Council has guideline limits for the acceptance of discharges, as set out in *Table 2*, on page 9. Council may vary the guideline limits for a particular sewage treatment works. Where the guideline limits cannot be met, applicants are required to provide justification for exceeding the limits. Based on the type and the proposed contaminant levels, Council may refuse the application, or may approve it subject to an effluent improvement program, or other conditions being implemented.

3.3 PROHIBITED SUBSTANCES

Some substances are not suitable for discharge to the sewerage system. *Table 3* on page 12 sets out those substances which must not be discharged to the sewerage system. Council may not grant approval for the discharge of these substances to the sewerage system unless it is specifically approved under section 68 of the Local Government Act.

3.4 STORMWATER DISCHARGES FROM OPEN AREAS

Stormwater is a prohibited discharge under this policy. The ingress of stormwater into the sewerage system can cause operational problems to the system and result in sewer overflows, as the sewerage system does not have the capacity for such flows.

Therefore, Council does not generally accept the discharge of stormwater to the sewerage system.

However, it is recognised that it may not always be possible or practical to prevent all stormwater entering the sewerage system at some liquid trade waste premises. The discharge of limited quantities of first flush stormwater from sealed areas will be considered

where roofing cannot be provided because of safety or other important considerations. The discharge from unsealed areas is not permitted.

Before the stormwater will be considered for discharge to the sewerage system, the applicant must provide the following information;

- reasons why the area cannot be fully or partially roofed and bunded to exclude stormwater;
- the dimensions and a plan of the open area under consideration;
- whether the open area is sealed;
- the estimated volume of the stormwater discharge;
- information on rain gauging;
- where a first flush system is proposed, details on how the stormwater will be diverted to the drainage system after the first flush is accepted (the first flush to be limited to the first 10 mm of storm run -off);
- measures proposed for diverting stormwater away from the liquid trade waste generating area; and
- report on other stormwater management options considered and why they are not feasible.

Note:

Trade waste charges for the acceptance of stormwater to the sewerage system are indicated in Section 4.7.11 on page 31.

3.5 FOOD WASTE DISPOSAL UNITS

The use of food waste disposal units (also known as in-sinkerators, in-sink food waste disposers, or garbage grinders) is not permitted. Existing installations in hospitals and nursing homes may be permitted, provided that wastewater is discharged through an adequately sized grease arrestor.

For existing premises, a food waste disposal charge will be levied based on the number of beds in the hospital or nursing home (refer to Section 4.7.8 page 29).

3.6 DEVICES THAT MACERATE OR PULVERISE WASTE

Macerators and any other similar devices that are used for pulverising of solid waste are **not authorised** to connect to Council's sewerage system. (Refer *NSW Code of Practice: Plumbing and Drainage, 2006*). Solid waste includes, but is not limited to, sanitary napkin, placenta, surgical waste, disposable nappy, mache bedpan and urine containers.

Therefore, Council will not accept any discharges from such devices to its sewerage system.

3.7 USE OF ADDITIVES IN PRE-TREATMENT SYSTEMS

Council does not allow solvents, enzymes, bioadditives, and odour control agents to be used in pre-treatment systems (except neutralising chemicals designated for the pre-treatment) except by specific written application and subsequent approval.

Table 2. Guideline Limits for Acceptance of Liquid Trade Wastes into the Sewerage System

Parameter*	Limits#
General Acceptance Guideline Limits	
Flow Rate	The maximum daily and instantaneous rate of discharge (kL/h) or L/s) is set on the available capacity of sewer. Large dischargers are required to provide a balancing tank to even out the load on the sewage treatment works.
BOD ₅ and Suspended Solids	Normally, approved at 300 mg/L each. Concentration up to 600 mg/L and in some cases higher concentration for low mass loadings may be acceptable if the treatment works has sufficient capacity and odour will not be a problem.
COD	Normally, not to exceed BOD ₅ by more than three times. This ratio is given as a guide only to prevent the discharge of non-biodegradable waste.
Total Dissolved Solids	Up to 4000 mg/L may be accepted. However, the acceptance limit may be reduced depending on available effluent disposal options and will be subject to a mass load limit.
Temperature	Less than 38°C
pH	Within the range 7.0 to 9.0
Oil and Grease	100 mg/L if the volume of the discharge does not exceed 10% of the design capacity of the treatment works, and 50 mg/L if the volume is greater than 10%.
Detergents	All industrial detergents are to be biodegradable. A limit on the concentration of 50 mg/L (as MBAS) may be imposed on large liquid trade wastes.
Colour	No visible colour when the waste is diluted to the equivalent dilution afforded by domestic sewage flow.
Radioactive Substances	The discharge must comply with the <i>Radiation Control Act 1990</i> .

* See Attachment 1, Glossary for explanation of terms

Refer to *National Wastewater Source Management Guideline, July 2008*, WSAA for recommended analytical methods.

Table 2 (cont'd): Guideline Limits for Acceptance of Liquid Trade Wastes into the Sewerage System

Parameter*	Maximum Concentration (mg/L)
Acceptance Guideline Limits for Inorganic Compounds	
Ammonia (as N)	50
Boron	5
Bromine	5
Chlorine	10
Cyanide	1
Fluoride	20
Nitrogen (total Kjeldahl)	100
Phosphorus (total)	20
Sulphate (as SO ₄)	500
Sulphide (as S)	1
Sulphite (as SO ₃)	15
Acceptance Guideline Limits for Organic Compounds	
Benzene	0.04
Toluene	0.5
Ethylbenzene	1
Xylene	1
Formaldehyde	30
Phenolic compounds (except pentachlorophenol)	5
Petroleum hydrocarbons (non-flammable) ⁽¹⁾	30
Pesticides general (except organochlorine and organophosphorus) ⁽¹⁾	0.1
Polynuclear Aromatic Hydrocarbons (PAHs)	5

* See Attachment 1, Glossary for explanation of terms

⁽¹⁾ Refer to Table 3

Table 2 (cont'd): Guideline Limits for Acceptance of Liquid Trade Wastes into the Sewerage System

Parameter	Maximum concentration (mg/L)	Allowed daily mass limit (g/d)
Acceptance Guideline Limits for Metals		
Aluminium	100	-
Arsenic	1	2
Cadmium	1	6
Chromium*	3	15
Cobalt	5	15
Copper	5	15
Iron	100	-
Lead	1	6
Manganese	10	30
Mercury	0.01	0.05
Molybdenum	5	30
Nickel	3	15
Selenium	1	15
Silver	2 [#]	6
Tin	5	15
Zinc	5	15
Total heavy metals excluding aluminium, iron and manganese	less than 30 mg/L and subject to total mass loading requirements	

* Where hexavalent chromium (Cr^{6+}) is present in the process water, pre-treatment will be required to reduce it to the trivalent state (Cr^{3+}), prior to discharge into the sewer. Discharge of hexavalent chromium (Cr^{6+}) from chromate compounds used as corrosion inhibitors in cooling towers is not permitted.

This limit is applicable to large dischargers. The concentration of silver in photo-processing waste where a balancing tank is provided is not to exceed 5 mg/L.

Table 3. Substances Prohibited from being Discharged into the Sewerage System

- organochlorine weedicides, fungicides, pesticides, herbicides and substances of a similar nature and/or wastes arising from the preparation of these substances;
- organophosphorus pesticides and/or waste arising from the preparation of these substances;
- any substances liable to produce noxious or poisonous vapours in the sewerage system;
- organic solvents and mineral oil;
- any flammable or explosive substance;
- discharges from 'Bulk Fuel Depots';
- chromate from cooling towers;
- natural or synthetic resins, plastic monomers, synthetic adhesives, rubber and plastic emulsions;
- rain, surface, seepage or subsoil water, unless specifically permitted;
- solid matter;
- any substance assessed as not suitable to be discharged into the sewerage system;
- waste that contains pollutants at concentrations which inhibit the sewage treatment process (refer *National Wastewater Source Management Guideline, July 2008, WSAA*);
- any other substances listed in a relevant regulation.

4. PART 3: FRAMEWORK FOR REGULATION OF LIQUID TRADE WASTE

4.1 THE NSW FRAMEWORK FOR REGULATION OF SEWERAGE AND TRADE WASTE

Due to the *Tragedy of the Commons*³ in the use of common pool resources, sound regulation of sewerage and trade waste requires implementation of **all** the following integrated measures.

1. Preparation and implementation of a sound liquid trade waste regulation policy, assessment of each liquid trade waste application and determination of appropriate conditions of approval. The conditions must be consistent with the LWU's *Integrated Water Cycle Management Strategy* and demand management plan. In addition, execution of a liquid trade waste services agreement is required for large dischargers to assure compliance.
2. Preparation and implementation of a sound *Development Servicing Plan*⁴, with commercial sewerage developer charges to ensure new development pays a fair share of the cost of the required infrastructure.
3. Full cost recovery with appropriate sewer usage charges⁵ and liquid trade waste fees and charges⁶ in order to provide the necessary pricing signals to dischargers. These charges must include non-compliance trade waste usage charges and non-compliance excess mass charges in order to provide the necessary incentives for dischargers to consistently comply with their conditions of approval.
4. Monitoring, mentoring and coaching of dischargers in order to achieve cleaner production and assist them to comply with their conditions of approval.
5. Enforcement, including appropriate use of penalty notices under section 222 of the *Protection of the Environment Operations Act 1997*. Orders may also be issued and

³ Refer to page 3 of *National Wastewater Source Management Guideline, July 2008*, WSAA. Thus, in the absence of appropriate controls and measures (such as conditions of approval, a sewer usage charge, a trade waste usage charge, a non-compliance trade waste usage charge, excess mass charges, non-compliance excess mass charges and penalty notices), it would be in the economic interest of each trade waste discharger to minimize their efforts and expenditure on control and pre-treatment of their trade waste before discharging it to the sewerage system. In the past, failure to implement these measures has caused multi-million dollar damage to sewerage networks, pumping stations and treatment works (refer to the examples shown on pages 30, 47 and 48 of the *Liquid Trade Waste Regulation Guidelines, 2009*).

⁴ In accordance with the *NSW Developer Charges Guidelines for Water Supply, Sewerage and Stormwater, 2002*.

⁵ In accordance with page 29 of the *NSW Water Supply, Sewerage and Trade Waste Pricing Guidelines, 2002*.

⁶ In accordance with Appendices D and I of the *Liquid Trade Waste Regulation Guidelines, 2009*.

penalties imposed for offences under sections 626, 627 and 628 of the *Local Government Act 1993*.

6. Disconnection of a trade waste service in the event of persistent failure to comply with the LWU's conditions of approval.

Together, the above six measures comprise the NSW framework for regulation of sewerage and trade waste. The framework involves a preventive risk management approach, which has been developed to address the use of common pool resources by providing economic incentives for dischargers to minimise their waste and to consistently comply with their conditions of approval.

4.2 ALIGNMENT WITH THE NATIONAL FRAMEWORK FOR WASTEWATER SOURCE MANAGEMENT

The NSW framework for regulation of sewerage and trade waste is outlined in section 4.1. The NSW framework is driven by the NSW Government's *Best-Practice Management of Water Supply of Sewerage Guidelines, 2007* and is consistent with that in the *National Framework for Wastewater Source Management*.⁷

In particular, under the *Best-Practice Management Guidelines* each LWU is required to achieve the following outcomes:

- Prepare and implement a 30-year Integrated Water Cycle Management Strategy, demand management plan, pay-for-use water supply pricing and community and customer involvement (Elements 1, 6, 8)
- Annual performance monitoring, including an annual triple bottom line (TBL) Performance Report and Action Plan to identify and address any areas of under-

⁷ The following 12 elements of the *National Framework for Wastewater Source Management* are set out on page 22 of the *National Wastewater Source Management Guideline, July 2008*, WSAA:

COMMITMENT

1. Commitment to Wastewater Source Management

SYSTEM ANALYSIS and MANAGEMENT

2. Assessment of the Wastewater System
3. Preventive Measures for Wastewater Input Quality Management
4. Operational Procedures and Process Control
5. Verification of Wastewater Inputs Quality
6. Management of Incidents/Complaints and Emergencies

SUPPORTING REQUIREMENTS

7. Employee Awareness and Training
8. Customer and stakeholder involvement and awareness
9. System Validation and Research and Development
10. Documentation and Reporting

REVIEW

11. Evaluation and Audit
12. Review and Continual Improvement

performance
(Elements 5, 6, 9, 10, 11, 12)

- Achieve full cost recovery for water supply, sewerage and trade waste services and apply an appropriate non-residential sewer usage charge (Elements 3, 8)
- Prepare and implement a sound liquid trade waste regulation policy and issue an appropriate approval to each trade waste discharger, including waste minimisation and cleaner production (Elements 1, 2, 3, 4, 7, 8)
- Appropriate liquid trade waste fees and charges (including incentives to comply with LWU's approval conditions through non-compliance trade waste usage charges and non-compliance excess mass charges) (Elements 3, 8)
- Liquid trade waste services agreement for large dischargers to assure compliance (Elements 3, 8)
- Appropriate training of LWU staff and monitoring, mentoring and coaching of trade waste dischargers (Elements 1, 4, 5, 7, 8)
- Enforcement, including appropriate use of penalty notices or orders (Elements 3, 8)
- Disconnection of a trade waste service in the event of persistent failure to comply with the LWU's conditions of approval (Element 8).

4.3 APPLICATION PROCEDURES

To obtain Council's approval to discharge liquid trade waste to Council's sewerage system, a discharger must lodge an application in writing. Application forms are available from Council. If a person wishes to discharge liquid trade waste to the sewerage system but is not the owner of the premises, the person must obtain the owner's consent to the application.

The applicant must provide the following information:

- site owner's full name, address, contact telephone number;
- address of the business/industry where discharge to the sewerage system will occur;
- name of contact person for the premises and telephone contact for the business/industry;
- type of process/activity generating the liquid trade waste;
- normal hours of business operation;
- rate of discharge, including
 - the average per day, maximum per day and per hour, and
 - hours of the day during which discharge will take place;
- characteristics of wastes, including
 - nature of source, and
 - expected maximum and average concentration of pollutants;

(Where sampling and testing are required to establish the quality of the liquid trade waste, the testing should be carried out in accordance with the procedures set out in the *Standard Methods for the Examination of Water and Wastewater* published by the American Public Health Association, American Water Works Association and Water Pollution Control Federation).

- chemicals to be used – supply Material Safety Data Sheets;
- details of any proposed pre-treatment facilities, location and site plan. Details should include:
 - pre-treatment process details,
 - internal wastewater drainage,
 - pump size,
 - rising main size, length and profile,
 - system operational characteristics,
 - operational procedures,
 - provisions for sampling and flow measurement, where required; and
 - proposed connection point to the sewerage system.
- flow diagram and hydraulic profile of proposed liquid trade waste pre-treatment facilities;
- maintenance schedule for pre-treatment equipment, including contractor's details;
- stormwater drainage plan;
- measures for prevention of stormwater ingress into the sewerage system;
- location, nature and chemical composition of all substances stored/used on site;
- justification for disposing of the waste into the sewerage system over other possible options (if any);
- methods of disposal for other wastes that are not discharged to the sewerage system;
- any relevant environmental impact assessments; and
- any additional information as requested by Council.

The following information needs to be provided in regard to the discharge of septic tank and pan waste to the sewerage system:

- identification of the pump out service provider;
- proposed method of discharge including plans and drawings if appropriate;
- details of any proposed facilities for a disposal point, location and site plan (if applicable). Details should include the proposed connection point to the sewerage system;
- security arrangements at the proposed disposal site (if applicable);

- the provision of freshwater for hosing down where needed;
- bunding and measures to prevent the ingress of stormwater at the proposed dump point if applicable;
- the use of odour inhibiting or other chemicals, if any, and their dosage rates;
- statement that septic effluent will not be mixed with septage or grease trap pump out, i.e., dedicated tankers will be used for each type of waste;
- for boat/marina facility – the type and number of vessels either moored at the marina and/or would utilise the pump-out facility on a regular basis;
 - private
 - commercial.

Council may, under section 86 of the Local Government Act, request an applicant to provide more information to enable it to determine the application.

4.4 APPROVAL OF APPLICATIONS

Where an application is approved, Council will notify the applicant as soon as practical of the approval and any conditions of the approval. The duration of the approval will be as stated in the approval. In cases where Council requires a discharger to enter into a liquid trade waste services agreement (refer to Section 4.9, page 34), Council will issue a deferred commencement approval under section 95 of the Local Government Act requesting the discharger to do so within the time specified in Council's letter. In such cases, the approval will not be operative until the agreement has been executed by the discharger.

An applicant may make a minor amendment or withdraw an application before it is approved by Council. An applicant may also apply to Council to renew or extend an approval, in accordance with section 107 of the Local Government Act.

If an application is refused, Council will notify the applicant of the grounds for refusal.

An approval to discharge liquid trade waste to Council's sewer is not transferable. A new application must be lodged and a new approval obtained if there is a change of the approval holder or the activity. Council must be notified of change of ownership and/or occupier in all cases, whether a new approval is required or not, to allow updating of records.

4.5 CONCURRENCE OF THE DEPARTMENT OF ENVIRONMENT, CLIMATE CHANGE AND WATER

If Muswellbrook Shire Council supports an application and has a notice stating that concurrence of the Director General, Department of Environment, Climate Change and Water (DECCW), can be assumed for the waste relevant to the application, Council will approve the application. Otherwise, Council will seek concurrence from DECCW in accordance with the requirements of section 90(1) of the Local Government Act.

Liquid trade waste discharges are divided into four (4) classifications for the purpose of the concurrence process.

- Concurrence Classification A – liquid trade waste dischargers for which Council has been authorised to assume concurrence to the approval subject to certain requirements.
- Concurrence Classification B – liquid trade waste dischargers whereby Council may apply to the Director General, DECCW for authorisation to assume concurrence to the approval subject to certain requirements.
- Concurrence Classification S – the acceptance of septic tank, pan waste and ship-to-shore pump-out. Council may apply to the Director General, DECCW for authorisation to assume concurrence to the approval subject to certain conditions.
- Concurrence Classification C – all other liquid trade waste dischargers that do not fall within Concurrence Classification A, B or S, and therefore require Council to apply to DECCW for concurrence.

Muswellbrook Shire Council has been authorised to assume concurrence for Concurrence Classification A liquid trade waste discharges. These are listed in Table 4 and Council will not need to seek DECCW concurrence for approval of trade waste applications for these activities.

Table 4. Liquid Trade Waste Discharges with Automatic Assumed Concurrence

Commercial retail food preparation activities	Other commercial activities
Bakery (retail)	Animal wash (pound, stables, racecourse, kennels, mobile animal wash and veterinary with no X-ray)
Bed and Breakfast (<10 persons)	Beautician
Bistro	Boiler blowdown
Boarding house/hostel kitchen	Car detailing
Butcher shop (retail)	Cooling tower
Café/coffee shop/coffee lounge	Craft activities (making of clay pottery, ceramics, cutting and polishing of gemstones or making of jewellery at clubs, cottage industries)
Canteen	Dental surgery/dental specialist
Cafeteria	Dental technician
Chicken/poultry shop (only fresh chickens/game sold)	Doctor's surgery, medical centre – plaster casts (no X-rays)
Chicken/poultry shop (retail BBQ/charcoal chicken)	Florist
Club (kitchen wastes)	Funeral parlour, morgue
Commercial kitchen/caterer	Hairdressing (includes barbers)
Community hall/civic centre	Jewellery shop
Day care centre	Laboratory (pathology/analytical)
Delicatessen	Laundry or Laundromat (coin operated)
Doughnut shop	Lawnmower repairs
Fast food outlet (McDonalds, KFC, Burger King, Pizza Hut, Red Rooster, etc.)	Mechanical repairs/workshop
Fish shop (retail – fresh and/or cooked)	Mobile cleaning units
Food caravan	Optical service
Fruit and vegetable shop (retail)	Pet shop (retail)
Function centre	Photographic tray work/manual development
Hotel	Plants retail (no nursery)

Ice cream parlour	School (Primary and Secondary)
Juice bar	Stone working
Mixed business	Swimming pool/spa/hydrotherapy
Motel	Vehicle washing (by hand/wand, automatic car wash, external truck wash or underbody/engine degrease only)
Nightclub	Venetian blind cleaning
Nursing home kitchen	Veterinary/animal kennels with X-ray
Nut shop	Waterless minilab
Patisserie	
Pie shop	
Pizza shop	
Restaurant	
Salad bar	
Sandwich shop	
School canteen	
Supermarket (with butcher/delicatessen/seafood/or charcoal chickens)	
Take-away food outlet	

Notes:

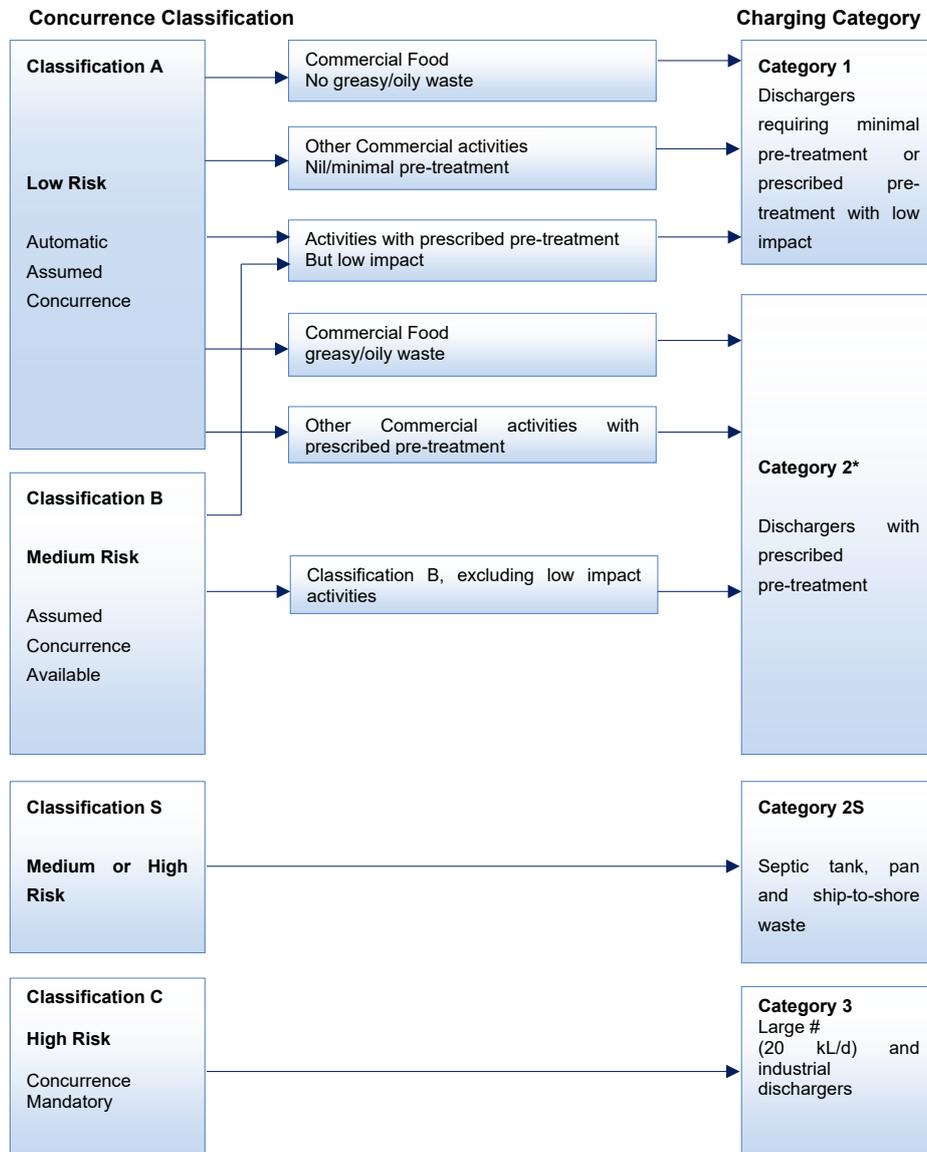
The volume of liquid trade waste must not exceed 5 kL/d or 1000 kL/a except in the case of commercial retail food preparation activities, where up to 16 kL/d is included in this category. If the waste discharged to the sewer exceeds these volumes, the application must be treated as Concurrence Classification B. Discharges over 20 kL/d must be treated as Classification C.

4.6 LIQUID TRADE WASTE CHARGING CATEGORIES

Four (4) classifications of liquid trade waste have been established for concurrence purposes, Classification A, B, C and S (refer Section 4.5, on page 17). For trade waste charging purposes there are also four (4) charging categories, Category 1, 2, 2S and 3 (pages 23 & 24).

Figure 1 below shows that Classification A dischargers fall into Charging Category 1 or Category 2. Classification B dischargers fall into Charging Category 2, except for a few dischargers with low impact on the sewerage system which fall into Category 1. Classification S dischargers fall into Charging Category 2S. Classification C dischargers fall into Charging Category 3.

Figure 1. Charging Categories for Trade Waste



* Also includes fish shop (fresh fish for retail).

Except shopping complexes and institutions (hospital, educational facilities, etc.). These will be charged as Category 2 in accordance with activities carried out on the premises.

CATEGORY 1 DISCHARGER

Category 1 liquid trade waste dischargers are those conducting an activity deemed by Council as requiring nil or only minimal pre-treatment equipment and whose effluent is well defined and of a relatively low risk to the sewerage system. Category 1 also includes dischargers requiring prescribed pre-treatment, but with low impact on the sewerage system

Classification A activities – Commercial retail food outlets with food preparation activities that do not generate an oily/greasy waste: bakery (only bread baked on-site), bistro (sandwiches, coffee only), café/coffee shop/coffee lounge, canteen, community hall (minimal food), day care centre, delicatessen, fruit and vegetable shop, hotel, ice cream parlour (take away only), juice bar, mixed business, motel, nightclub, nut shop, pizza cooking/reheating (no preparation or washing up onsite, pizza heated and sold for consumption offsite), potato peeling (small operation), sandwich shop/salad bar, take away food outlet.

Classification A activities – other commercial activities: animal wash, beautician/hairdressing, crafts <1000 L/d, dental surgery (plaster casts, no X-ray unless digital), doctor's surgery and medical centre (plaster casts, no X-ray), florist, funeral parlour, mobile cleaning units, morgue, jewellery shop, optical service (retail), pet shop, plants retail (no nursery), public swimming pool, photographic (tray work/manual development), venetian blind cleaning, veterinary (no x-ray).

Classification A or B activities – dischargers with prescribed pre-treatment with low impact on the sewerage system: boiler blowdown, cooling tower, industrial boilers, laboratory (analytical/pathology/tertiary institution), laundry, primary and secondary school ⁽¹⁾, vehicle washing.

CATEGORY 2 DISCHARGER

Category 2 liquid trade waste dischargers are those conducting an activity deemed by Council as requiring a prescribed type of liquid trade waste pre-treatment equipment and whose effluent is well characterised.

Trade waste dischargers with prescribed pre-treatment ⁽²⁾ include:

Classification A activities: Premises that prepare and/or serve hot food or foods that generate an oily/greasy waste: bakery (pies, sausage rolls, quiches, cakes, pastries with creams or custards), bistro, boarding house/hostel kitchen, butcher, café/coffee shop/coffee lounge, cafeteria, canteen, fast food outlet, chicken/poultry shop, club, community hall ⁽³⁾, commercial kitchen/caterer, nursing home, patisserie, supermarket, doughnut shop, fish shop (cooking onsite), function centre, hotel, ice cream parlour, motel, nightclub, pizza cooking, restaurant, sandwich shop/salad bar, take away food outlet.

Other commercial Classification A activities: car detailing, craft activities > 1000 L/d, dental surgery with X-ray, lawnmower repairs, mechanical workshop, stone working, veterinary (with X-ray), waterless mini-lab.

Classification B activities: auto dismantler, bus/coach depot, construction equipment maintenance and cleaning, equipment hire, maintenance and cleaning, glass cutting and grinding, graphic arts, hospital (with or without X-ray), medical centre (with X-ray), optical services (at medical or educational facilities, workshops), oyster processing – shucking, panel beating, photographic lab, radiator repairer, screen printing, service station forecourt, shopping complex, water wash mini-lab, X-ray radiologist.

Other Classification A activities: Fish shop (fresh fish for retail).

Notes:

- (1) *If significant hot food preparation is carried out, Category 2 charges may be levied by Council.*
- (2) *Excludes low impact activities, listed under Category 1.*
- (3) *If the type and size of kitchen fixtures installed enable catering for large functions.*

CATEGORY 2S DISCHARGER

Category 2S dischargers are those conducting an activity of transporting and/or discharging septic tank or pan content waste into the sewerage system.

Trade waste dischargers include the following Classification S activities:

Classification S activities: bus/rail coaches/caravan/motor home/caravan park waste dump points, mooring/marina dump points, pan waste, portable chemical toilet waste, septage, septic tank effluent, ship-to-shore pump-outs (gallery waste and toilet waste).

CATEGORY 3 DISCHARGER (Large or industrial waste dischargers)

Category 3 liquid trade waste dischargers are those conducting an activity which is of an industrial nature and/or which results in the discharge of large volumes (over 20 kL/d) of liquid trade waste to the sewerage system. Any Category 1 or 2 discharger whose volume exceeds 20 kL/d becomes a Category 3 discharger, except shopping complexes and institutions (e.g. hospitals, educational facilities, correctional facilities, etc.).

Large trade waste dischargers and other Classification C activities include: abattoir, bakery (wholesale), brewery, cooling towers, cosmetics/perfumes manufacture, dairy processing (milk/cheese/yoghurt/ice cream etc.), food processing (cereals/cannery/condiments/confectionary/edible oils/fats/essence/flavours/fish/fruit juice/gelatine/honey/meat/pickles/smallgoods/tea and coffee/vinegar/yeast manufacture etc.), fruit and vegetable processing, flour milling, glue manufacturer, egg processing, pet food processing, plants nursery (open areas), potato processing, poultry processing, saleyards, seafood processing, soft drink/cordial manufacture, starch manufacture, sugar refinery, tanker washing, tip leachate, transport depot/terminal, water treatment backwash, wholesale meat processing, winery, wine/spirit bottling.

Dischargers of industrial waste include the following Classification C activities:

acid pickling, adhesive/latex manufacture, agricultural and veterinary drugs, anodising, bitumen and tar, bottle washing, cardboard and carton manufacture, carpet manufacture, caustic degreasing, chemicals manufacture and repackaging, contaminated site treatment, cyanide hardening, detergent/soaps manufacture, drum washing, electroplating, engine gearbox reconditioning, extrusion and moulding (plastic/metal), feather washing, fellmonger, felt manufacture, fertilisers manufacture, fibreglass manufacture, filter cleaning, foundry, galvanising, glass manufacture, ink manufacture, laboratories (excluding those in Category 2), liquid wastewater treatment facility (grease trap receival depot and other pump-out waste depot), metal finishing, metal processing (refining/rumbling/non-cyanide heat treatment/phosphating/photo engraving/printed circuit etching/sheet metal fabrication etc.), mirrors manufacture, oil recycling (petrochemical) and refinery, paint stripping, paint manufacture, paper manufacture, pharmaceuticals manufacture, plaster manufacture, powder coating, printing (newspaper, lithographic), sandblasting, slipway, tannery, timber processing (joinery and furniture/plywood/hardwood), textile manufacture (wool dyeing/spinning/scouring), truck washing (internal), waxes and polishes.

4.7 LIQUID TRADE WASTE FEES AND CHARGES

4.7.1 Fees and Charges

Muswellbrook Shire Council provides sewerage and liquid trade waste services on a commercial basis, with full cost recovery through sewerage and liquid trade waste fees and charges. Council's proposed fees and charges are advertised annually for public comment in its draft Management Plan. In addition to the liquid trade waste fees and charges described below, Council may elect to include any trade waste charges shown in Appendix I of the *Liquid Trade Waste Regulation Guidelines, 2009*.

Liquid trade waste discharged to the sewerage system from industrial, commercial or other non-residential customers can impose significant costs on sewage transport and treatment facilities. To recover these costs and to ensure removal of existing significant cross subsidies from residential customers, in addition to a two-part tariff with an appropriate **sewer usage charge/kL** for non-residential sewerage, appropriate fees and charges are levied for liquid trade waste.

Council's liquid trade waste fees and charges may include:

- Application fee
- Annual trade waste fee
- Re-inspection fee
- Trade waste usage charge

- Septic tank and pan waste disposal charge
- Excess mass charges
- Food waste disposal charge
- Non-compliance liquid trade waste usage charge
- Non-compliance excess mass charge and pH charge
- Non-compliance penalty.

4.7.2 Phasing in of Charges

Large increases in liquid trade waste fees and charges may be phased in over a period of up to 3 years.

4.7.3 Application Fee

The application fee recovers the cost of administration and technical services provided by Council in processing applications for approval to discharge liquid trade waste to the sewerage system. The application fee will be allocated on the basis of the category into which the discharger is classified and reflects the complexity of processing the application. Application fees will be set annually by Council.

4.7.4 Annual Trade Waste Fee

The purpose of this fee is to recover the cost incurred by Council for administration and the scheduled inspections each year to ensure a liquid trade waste discharger's ongoing compliance with the conditions of their approval.

As part of an inspection, Council or its agents may undertake monitoring of the liquid trade waste discharges from the premises or business. Such monitoring may include but is not limited to, flow measurement and the sampling of the liquid trade waste. **Where more than one instance** of such monitoring is undertaken by Council, or its agents, in a financial year, the cost involved may be recovered from the discharger.

Annual liquid trade waste fees are determined on the basis of the category of the discharger and are proportionate to the complexity of their inspection and administration requirements. Annual trade waste fees will be set by Council. Where the discharger is required to pay for monitoring this will be charged on the basis of full cost recovery.

In view of the adverse impact of wastes with a high concentration of oil and grease on Council's sewage transportation system, Council may carry out inspections of commercial premises preparing hot food twice per year and require that the discharger produce documentation that the pre-treatment equipment has been properly serviced between the inspections, e.g. pump-out dockets, invoices from service contractor. The cost of these scheduled inspections is included in the annual trade waste fee for such premises.

4.7.5 Re-inspection Fee

Where non-compliance with the conditions of an approval has been detected and the discharger is required to address these issues, Council will undertake re-inspections to confirm that remedial action has been satisfactorily implemented.

Council will impose a fee for each reinspection.

The reinspection fee will be set annually by Council on the basis of full cost recovery. A reinspection may include the monitoring of liquid trade waste discharges, the cost of which may be recovered from the discharger.

4.7.6 Trade Waste Usage Charge

The trade waste usage charge is imposed to recover the additional cost of transporting and treating liquid waste from Category 2 dischargers.

Trade Waste Usage Charge (\$) = Q x Sewer usage charge (\$/kL) – refer to Revenue Policy Part 1 in Council's Operational Plan for sewer usage charge.

Where Q = Volume (kL) of liquid trade waste discharged to sewer.

Note:

1. The usage charge will be set annually by Council, indexed on the basis of the Consumer Price Index for Sydney
2. **Existing** Category 2 dischargers who have **not** installed and maintained **appropriate** pre-treatment facilities will be required to pay an additional trade waste usage charge.

4.7.7 Excess Mass Charges

Excess mass charges will apply for substances discharged in excess of the deemed concentrations in domestic sewage shown in Table 5 below. For excess mass charge calculation, equation (1) below will be applied.

Table 5. Deemed Concentration of Substances in Domestic Sewage

Substance	Concentration (mg/L)
Biochemical Oxygen Demand (BOD₅)	300
Suspended Solids	300
Total Oil and Grease	50
Ammonia (as Nitrogen)	35
Total Kjeldahl Nitrogen	50
Total Phosphorus	10
Total Dissolved Solids	1000
Sulphate (SO₄)	50 [#]

SO₄ concentration: The concentration in the potable water supply to be used if it is higher than 50 mg/L.

NB: Substances not listed above are deemed not to be present in domestic sewage.

$$\text{Liquid Trade Waste Excess Mass Charge (\$)} = \frac{(S - D) \times Q \times U}{1,000} \dots\dots\dots(1)$$

Where: S = Concentration (mg/L) of substance in sample.

D = Concentration (mg/L) of substance deemed to be present in domestic sewage.

Q = Volume (kL) of liquid trade waste discharged to the sewerage system.

U = Charging rate (\$/kg) for discharge of substance to the sewerage system.

Charging rates (U) used in equation (1) are as shown in Council’s Operational Plan.

With regard to BOD, equation (1) applies for BOD₅ up to 600 mg/L.

Excess mass charges for BOD exceeding 600mg/L

If Council approves the acceptance limits for BOD higher than 600 mg/L, an exponential type equation will be used for calculation of the charging rate (\$/kg) as shown in equation (2) below. Equation (2) provides a strong incentive for dischargers to reduce the strength of waste. In addition, Equation (5) on page 31 will be used where the discharger has failed to meet their approved BOD limit on 2 or more instances in a financial year.

Excess mass charging rate for BOD (\$/kg) =

$$U_e = 2C \times \frac{(\text{Actual BOD} - 300 \text{ mg/l})}{600 \text{ mg/l}} \times 1.05^{(\text{Actual BOD} - 600 \text{ mg/l}) \div (600 \text{ mg/l})} \dots\dots\dots(2)$$

Where C = the charging rate (\$/kg) for BOD₅ 600 mg/L.

Actual BOD – the concentration of BOD₅ as measured in a sample.

For example if C = \$0.64/kg, equation (2) would result in the following excess mass charging rates:

\$0.64/kg for BOD₅ 600 mg/L

\$2.02/kg for BOD₅ 1200 mg/L

\$5.20/kg for BOD₅ 2400 mg/L

The excess mass charge for BOD is calculated using equation (1):

$$\text{Excess Mass Charge for BOD(\$)} = \frac{(\text{S} - \text{D}) \times \text{Q} \times \text{U}_e}{1,000}$$

Where U_e is the excess mass charging rate calculated using equation (2).

4.7.8 Food Waste Disposal Charge

(for existing installations only. New installations are not permitted)

Where Council has permitted the use of a food waste disposal unit for an existing hospital, nursing home or other facility, the following additional food waste disposal charge will be payable annually,

$$\text{Food Waste Disposal Charge (\$)} = \text{B} \times \text{UF}$$

Where B = Number of beds in hospital or nursing home.

UF = Annual charging rate (\$/bed) for a food waste disposal unit a hospital or nursing home.

4.7.9 Note: The recommended annual charging rate is in Fees & Charges, Trade Waste Fees, in Council's Operational Plan Non-compliance Charges

Category 1 and 2 Dischargers

If the discharger has not installed or maintained appropriate pre-treatment equipment, the following trade waste usage charges will be applied for the relevant billing period:

Category 1 Discharger: Refer to Fees & Charges, Trade Waste Fees in Council's Operational Plan

Category 2 Discharger: Refer to Fees & Charges, Trade Waste Fees in Council's Operational Plan

Category 3 Discharger

Non-compliance pH charge

Equation (3) is used for waste with pH being outside the approved range. This equation provides an incentive for dischargers to apply appropriate pH correction so their waste remains within the approved pH limits. Council may require industrial and large dischargers to install and permanently maintain a pH chart recorder or data logger as control of pH is critical to minimising odour and corrosion problems in the sewerage system.

Charging rate for pH where it is outside the approved range for the discharger is:

$$\text{Charge rate outside range} = \text{K} \times (\text{actual pH} - \text{approved pH})^* \times 2^{(\text{actual pH} - \text{approved pH})^*} \dots\dots\dots(3)$$

*absolute value to be used.

K = pH coefficient and needs to be adjusted in accordance with changes in the CPI. Refer to Fees & Charges, Trade Waste Fees, Non – compliance pH charge in Council's Operational Plan

Example: Council has approved the pH range 8.0 to 9.0 for a large discharger generating high strength trade waste in order to prevent corrosion and odour problems in the sewerage system.

Case 1: pH measured 7.0 eg. if pH coefficient = 0.381 then

Charging rate (\$/kL) = $0.381 \times [7 - 8] \times 2^{(7-8)} = \$0.76/kL$

Case 2: pH measured 11.0 eg. if pH coefficient = 0.381 then

Charging rate (\$/kL) = $0.381 \times [11 - 9] \times 2^{(11-9)} = \$3.05/kL$

Non-compliance excess mass charges

Where a discharge quality fails to comply with the approved concentration limits of substances specified in Council's approval conditions (or the acceptance criterion listed in Council's trade waste policy), Council incurs additional costs in accepting and treating that waste. Council may also face problems with the effluent and biosolids management.

In order to recover Council's costs equation (4) shall apply for non-compliant excess mass charges, except for BOD where equation (5) shall apply.

$$\text{Non-compliance Excess Mass Charges (\$)} = \frac{(S - A) \times Q \times 2U}{1,000} + \frac{(S - D) \times Q \times U}{1,000} \quad .(4)$$

Where:

S = Concentration (mg/L) of substance in sample

A = Approved maximum concentration (mg/L) of pollutant as specified in Council's approval (or liquid trade waste policy).

Q = Volume (kL) of liquid trade waste discharged for the period of non-compliance

U = Excess mass charging rate (\$/kg) for discharge of pollutant to sewerage system, n Refer to Fees & Charges, Trade Waste Fees, Non – compliance pH charge in Council's Operational Plan.

D = Concentration (mg/L) of substance deemed to be present in domestic sewage.

Non-compliance Excess Mass Charges for BOD

If a discharger has failed to meet the approved maximum concentration of BOD on 2 or more instances in a financial year, the non-compliance excess mass charging rate for BOD U_n will be levied on the basis of equation (5) below:

BOD non-compliance excess mass charging rate

$$U_n = 2C \times \frac{(A - 300 \text{ mg/l})}{600 \text{ mg/l}} \times 1.05^{\frac{(A-600 \text{ mg/l})}{600 \text{ mg/l}}} + 4C \times \frac{(\text{Actual BOD} - A)}{600 \text{ mg/l}} \times 1.05^{\frac{(\text{Actual BOD}-A)}{600 \text{ mg/l}}} \dots(5)$$

For example, if C = \$0.64/kg, BOD₅ actual (measured) level is 2400 mg/L and the approved maximum concentration of BOD (A) is 1000 mg/L, equation (5) would result in a non-compliance excess mass charging rate of \$8.26/kg.

Non-compliance Excess Mass Charge for BOD is calculated using equation (1):

$$\text{Non - compliance Excess Mass Charge (\$)} = \frac{(S - D) \times Q \times U_n}{1,000}$$

Where U_n is the non-compliance excess mass charging rate calculated using equation (5).

The non-compliance excess mass charges shown above are in lieu of the excess mass charges in section 4.7.7.

NB. Council will continue applying the above non-compliance excess mass charge until the quality of discharge complies with Council's approved quality (or the trade waste policy) limits, within the time frame determined by Council for remedying the problem. If the discharger fails to rectify the problem within this time frame, the discharger may be required to cease discharging liquid trade waste into Council's sewerage system and may also be required to pay a 'non-compliance penalty' as indicated in the following section.

4.7.10 Non-compliance Penalty

The non-compliance penalty covers instances where Council may seek compensation for its costs relating to legal action, damage to infrastructure, incurred fines and other matters resulting from illegal, prohibited or unapproved liquid trade waste discharged to the sewerage system. Also included are fines under:

- * Protection of the Environment Operations Act 1997, section 120(1) (Pollution of any waters by a discharger who fails to comply with the conditions of approval for discharge of liquid trade waste to sewer);
- * Local Government Act, 1993, section 627 (Failure to comply with an approval), section 628 (Failure to comply with an order). Non-compliance penalties will be pursued by legal action.

4.7.11 Discharge of stormwater to the sewerage system

The discharge of stormwater, surface and subsoil waters to the sewerage system is prohibited under this policy. As indicated in section 3.4, the acceptance of first flush stormwater runoff may be permitted. The Fees and Charges Schedule will be applied to Category 3 dischargers in accordance with the non-compliance trade waste usage charge, if approval is granted to accept the above waters. Excess mass charges will be also applied in accordance with section 4.7.7.

4.7.12 Septic and Pan Waste Disposal Charge

Muswellbrook Shire Council accepts the disposal of tankered waste (septic and pan/chemical toilet waste) to its Recycled Water Treatment Works Septage Receiving System. A Liquid Trade Waste Discharge Approval is required prior to the receipt of such waste into the Septage Receiving System.

A charge will be imposed to recover the cost of accepting and treating septic tank and pan/chemical toilet waste at this facility. Note that Council may sample tankered waste discharges for compliance with any Liquid Trade Waste Discharge Approval acceptance limits.

Septic tank and pan waste disposal charge (\$) = Q x S

Where Q = Volume (kl) of waste discharged to sewer.

S = Charging rate in \$/kL for septic tank effluent, septage or chemical toilet waste - Refer to Fees & Charges, Trade Waste Fees, in Council’s Operational Plan

4.7.13 Responsibility for Payment of Fees and Charges

Property (land) owners are responsible for the payment of fees and charges for sewerage and liquid trade services provided by Council. This includes property owners of marina, caravan park, etc., if a dump point located at their premises is connected to the sewerage system. Where another party (lessee) leases premises any reimbursement of the lessor (property owner) for such fees and charges is a matter for the lessor and the lessee.

Council will charge a septic tank and pan waste disposal charge for services it provides to transporters of septic tank and pan/chemical toilet waste tankered and discharged to the sewerage system.

Table 6. Summary of Trade Waste Fees and Charges⁸

CHARGING CATEGORY	APPLICATION FEE	ANNUAL NON-RESIDENTIAL SEWERAGE BILL WITH APPROPRIATE SEWER USAGE CHARGE/KL	ANNUAL TRADE WASTE FEE	RE-INSPECTION FEE (When required)	TRADE WASTE USAGE CHARGE /kL	SEPTIC WASTE DISPOSAL CHARGE	EXCESS MASS CHARGES /kg	NON-COMPLIANCE TRADE WASTE USAGE CHARGE/KL	NON-COMPLIANCE EXCESS MASS/KL & Ph CHARGES/kL (If required)	NON-COMPLIANCE PENALTY (If required)
1	Yes ⁹	Yes	Yes	Yes	No	No	No	Yes ¹⁰	No	Yes
2	Yes	Yes	Yes	Yes	Yes	No	No	Yes ¹⁰	No	Yes
2S	Yes	Yes ¹¹	Yes	Yes ¹¹	No	Yes	No	No	No	Yes
3	Yes	Yes	Yes	Yes	No	No	Yes	No	Yes	Yes

⁸ In addition, a Food Waste Disposal Charge will apply where Council has approved the use of an existing food waste disposal unit for a hospital, nursing home or other eligible facility (refer to Section 4.7.8 on page 29).

⁹ Not applicable for dischargers exempted in Table 1.

¹⁰ Non-compliance trade waste usage charge, if the discharger fails to install or properly maintain appropriate pre-treatment equipment:

Category 1 - Refer to Fees & Charges in Council's Operational Plan

Category 2 - Refer to Fees & Charges in Council's Operational Plan

¹¹ Only applicable if the discharger has a dump point located at their premises which is connected to the sewerage system.

NB: All dischargers of liquid trade waste to Council's sewerage system should be aware that they are subject to prosecution and imposition of fines under the *Local Government Act 1993* and the *Protection of the Environment (Operations) Act 1997* and Regulations. In addition to fines, Council may recover costs of damages and fines incurred by Council as a result of an illegal trade waste discharge.

4.8 MONITORING

Council will carry out inspections of the premises of all liquid trade waste dischargers and their treatment facilities at least once per annum. Inspections of commercial premises preparing hot food may be carried out 2 times per annum (refer to page 26 in Section 4.7.4). Monitoring of the large and industrial dischargers is to be carried out as specified in the approval conditions.

The applicant may be required to monitor the liquid trade waste discharge as a condition of an approval or agreement. They may also be required to pay for any sampling and testing of liquid trade waste undertaken by Council.

For this purpose, an inspection/sampling point, where the waste can be inspected and sampled, will be specified in the approval and/or agreement. This point will normally be located after the pre-treatment facility. The discharger may need to install a suitable method of flow measurement.

Council may require the discharger to:

- install a permanent primary measurement device;
- measure the volume and flow rate using the permanently installed flow measurement system (such as a flow metering system); or
- Install a flow measurement device on a temporary basis and obtain enough data to determine a basis for assessing the flow rate and volume; and
- provide a system which allows obtaining a flow weighted composite sample.

Testing of samples is to be undertaken by a NATA registered or other laboratory recognised by the NSW Office of Water (NOW) to ensure reliable and accurate results. Where the discharger is sampling the effluent, Council may randomly take duplicates to confirm the waste characteristics.

4.9 LIQUID TRADE WASTE SERVICES AGREEMENT

In addition to its approval under the Local Government Act, Council may require certain dischargers, including those who wish to discharge liquid trade waste in large volumes (discharge > 20 kL/d) or industrial waste (Concurrence Classification C dischargers) or Classification S into its sewerage system to execute a liquid trade waste services agreement (refer to Attachment 2). The agreement will set out the conditions associated with the discharge and execution of the agreement will be a condition of the approval issued by Council (refer to Section 4.4 on page 17). The conditions will be binding on the applicant and the Council. The agreement will be for a period of up to five (5) years. No discharge is to be made to Council's sewerage system until an agreement or an interim agreement has been executed.

Provision can be made in the agreement for (in addition to Council's approval conditions):

- additional conditions for discharge of liquid trade waste;
- cancellation of the agreement and/or order to cease the discharge if the discharger is found to be in breach of the agreement or the liquid trade waste approval or, in the opinion of Council, the waste is adversely affecting the sewerage system or the environment;
- entry by Council officers to inspect the liquid trade waste collection, treatment, monitoring and disposal systems;
- the applicant to notify Council in advance of any changes that may affect the quality and quantity of the liquid trade waste; and
- the amount of bond/security to be lodged with Council prior to discharging to the sewerage system.

4.10 ENFORCEMENT OF APPROVALS AND AGREEMENTS

(See the attached sample agreement at Attachment 2)

Any person who fails to obtain Council's approval to discharge liquid trade waste into the sewerage system, or fails to comply with the conditions of the approval, may be liable to a penalty as provided under the *Local Government Act 1993* (sections 626 to 628 and 634 to 639).

Polluting of any waters by a discharger of liquid trade waste who does not have a Council approval or who fails to comply with the conditions of the approval is an offence under section 120 (1) of the *Protection of the Environment Operations Act 1997*. In addition, under section

222 of this act, Council may issue a penalty notice (i.e. an on the spot fine) to such a discharger.

Any person who fails to comply with the terms or conditions of a liquid trade waste services agreement (i.e. there is a breach of the agreement) will be required to indemnify the Council against any resulting claims, losses or expenses in accordance with section 8 of the agreement. Suspensions may also apply and may include a notice to cease the discharge.

4.11 MODIFICATION AND REVOCATION OF APPROVALS

Council reserves the right to modify or revoke an approval to discharge liquid trade waste to the sewerage system in any of the following circumstances:

- if the approval was obtained by fraud, misrepresentation or concealment of facts;
- for any cause arising after the granting of the approval which, had it arisen before the approval was granted, would have caused the Council not to have granted the approval;
- for failure to comply with a requirement made by or under the *Local Government Act 1993* relating to a condition of the approval; or
- for failure to comply with a condition of the approval.

4.12 PREVENTION OF WASTE OF WATER

Water must be used efficiently and must be recycled where practicable. It is an offence under section 637 of the *Local Government Act 1993* and its Regulation to waste or misuse water.

Dilution of trade waste with water from any non-process source including Council's water supply, bore water, groundwater and/or stormwater as a means of reducing pollutant concentration is therefore strictly prohibited.

4.13 EFFLUENT IMPROVEMENT PLANS

Where the existing liquid trade waste discharged does not meet Council's requirements, the applicant may be required to submit an Effluent Improvement Plan setting out how Council's requirements will be met. The proposed plan must detail the methods/actions proposed to achieve the discharge limits and a timetable for implementation of the proposed actions. Such actions may include more intensive monitoring, improvements to work practices and/or pre-treatment facilities to improve the effluent quality and reliability.

4.14 DUE DILIGENCE PROGRAMS AND CONTINGENCY PLANS

For Concurrence Classification A, a discharger is not required to submit either a due diligence program or a contingency plan.

A discharger may be required to submit a due diligence program and a contingency plan for *Concurrence Classification B or Classification S* where it is considered that the discharge may pose a potential threat to the sewerage system. If required, a due diligence program and contingency plan must be submitted to Council within six months and three months respectively of receiving a liquid trade waste approval.

For *Concurrence Classification C*, a discharger may need to provide a due diligence program and contingency plan to Council within six months and three months respectively of receiving a liquid trade waste approval.

It should be noted that:

- (1) If the discharger has an accredited environmental management system in place, a due diligence program and contingency plan may not be required. However, proof of accreditation must be provided to Council with the application. The EMP may not include all necessary provisions in regard to trade waste. In such cases Council may require that a suitable due diligence program and contingency plan be developed and submitted to Council.
- (2) Where Council considers there is potential risk to the sewerage system from a discharge, it may request a due diligence program and contingency plan to be submitted prior to commencing the discharge.

ATTACHMENTS

Attachments

ATTACHMENT 1

GLOSSARY

Assumed Concurrence: Council may apply to the Director General of the Department of Environment, Climate Change and Water (DECCW), for authorisation to assume concurrence for the Classification B or Classification S activities. If granted, Council will no longer need to forward such applications to DECCW for concurrence.

Automatic Assumed Concurrence: Councils have been authorised to assume DECCW concurrence for Classification A activities. Such applications may be approved by Council without forwarding the application to DECCW for concurrence.

Bilge Water: minor amounts of water collecting in the bilge of a vessel from spray, rain seepage, spillage and boat movements. Bilge water may be contaminated with oil, grease, petroleum products and saltwater.

Biochemical Oxygen Demand (BOD₅): The amount of oxygen utilised by micro-organisms in the process of decomposition of organic material in wastewater over a period of five days at 20°C. In practical terms, BOD₅ is a measure of biodegradable organic content of the waste.

Biosolids: Primarily organic solid product produced by sewage processing. Until such solids are suitable for beneficial use, they are defined as wastewater solids or sewage sludge.

Bunding: Secondary containment provided for storage areas, particularly for materials with the propensity to cause environmental damage.

Chemical Oxygen Demand (COD): A measure of oxygen required to oxidise organic and inorganic matter in wastewater by a strong chemical oxidant. Wastewaters containing high levels of readily oxidised compounds have a high COD.

Chemical Toilet: Toilet in which wastes are deposited into a holding tank containing a deodorising or other chemicals; wastes are stored and must be pumped out (and chemical recharged) periodically.

Commercial Kitchen/Caterer: For the purpose of these Guidelines, a commercial kitchen is a premise that is typically a stand alone operation and prepares food for consumption offsite. These types of businesses typically cater to wedding functions, conferences, parties, etc. This definition would not apply to a food processing factory supplying pre-prepared meals to an airline company or similar.

Contingency Plan: A set of procedures for responding to an incident that will affect the quality of liquid trade waste discharged to the sewerage system. The plan also encompasses procedures to protect the environment from accidental and unauthorised discharges of liquid trade waste to the stormwater drainage system, and leaks and spillages from stored products and chemicals.

Director General: Director General means the Director General of the Department of Environment, Climate Change and Water (DECCW).

Due Diligences Program: A plan that identifies potential health and safety, environmental or other hazards (e.g. spills, accidents or leaks) and appropriate corrective actions aimed at minimising or preventing the hazards.

DECCW Concurrence is required before Council may approve an application for the discharge of liquid trade waste (including septic tank and pan waste) to the sewerage system. It is a requirement under section 90 (1) of the Local Government Act and clause 28 of the Local Government (General) Regulation 2005 that council obtain the written concurrence of the Director General of the Department of Environment, Climate Change and Water (DECCW) prior to approving such waste to be discharged to Council's sewerage system.

Effluent: The liquid discharged following a wastewater treatment process.

Effluent Improvement Plan (EIP): The document required to be submitted by a discharger who is not meeting the acceptance limits for discharge waste quality set down in Council's approval conditions and/or liquid trade waste agreement. The document sets out how the discharger will meet the acceptance limits for the discharge of liquid trade waste to the sewerage system within the agreed timeframe.

Galley Waste: In this Policy, a liquid waste from a kitchen or a food preparation area of a vessel; solid wastes are excluded.

Heavy Metals: Metals of high atomic weight which in high concentrations can exert a toxic effect and may accumulate in the environment and the food chain. Examples include mercury, chromium, cadmium, arsenic, nickel, lead and zinc.

Housekeeping: Is a general term, which covers all waste minimisation activities connected with the way in which operations within the premises are carried out.

Industrial Discharges: Industrial liquid trade waste is defined as liquid waste generated by industrial or manufacturing processes.

Local Government Regulation: Local Government (General) Regulation 2005 under the Local Government Act 1993.

Liquid Trade Waste: Liquid trade waste means all liquid waste other than sewage of a domestic nature.

Mandatory Concurrence: For the liquid waste in Classification C, councils will need to obtain concurrence from DECCW for each discharger.

Methylene Blue Active Substances (MBAS): These are anionic surfactants (see Surfactants definition) and are called MBAS as their presence and concentration is detected by measuring the colour change in a standard solution of methylene blue dye.

Minimal Pre-treatment: For the purpose of this Policy includes sink strainers, basket arrestors for sink and floor waste, plaster arrestors and fixed or removable screens.

National Framework for Wastewater Source Management: refer to section 4.2

NSW Framework for Regulation of Sewerage and Trade Waste: refer to section 4.1

NSW Office of Water (NOW): In accordance with the Public Sector Employment and Management (Departments) Order 2011, from 4 April 2011 the NSW Office of Water is a separate office within the Department of Primary Industries (DPI). All trade waste matters/applications for concurrence and policies for consent need to be forwarded to NOW.

Open Area: Any unroofed process, storage, washing or transport area potentially contaminated with rainwater and substances which may adversely affect the sewerage system or the environment.

Pan: For the purpose of this Policy “pan” means any moveable receptacle kept in a closet and used for the reception of human waste.

pH: A measure of acidity or alkalinity of an aqueous solution, expressed as the logarithm of the reciprocal of the hydrogen ion (H^+) activity in moles per litre at a given temperature; pH 7 is neutral, below 7 is acidic and above 7 is alkaline.

Premises: Has the same meaning as defined in the Local Government Act Dictionary and includes any of the following:

- (a) a building of any description or any part of it and the appurtenances to it;
- (b) land, whether built on or not;
- (c) a shed or other structure;
- (d) a tent;
- (e) a swimming pool;
- (f) a ship or vessel of any description (including a houseboat); or
- (g) a van.

Prescribed Pre-treatment Equipment is defined as standard non-complex equipment used for pre-treatment of liquid trade waste, e.g. a grease arrestor, an oil arrestor/separator, solids arrestor, cooling pit (refer to Table 7 of Liquid trade Waste Regulation Guidelines 2009).

Primary Measurement Device: A device such as a gauging pit, weir tank or flume installed in the liquid trade waste discharge line suitable for installation of instrumentation for flow measurement. In cases of commercial flows this can mean a removable section of pipe (in the fresh water supply to the trade waste area) and the installation of a check meter.

Septage: Material pumped out from a septic tank during desludging; contains partly decomposed scum, sludge and liquid.

Septic Tank: Wastewater treatment device that provides a preliminary form of treatment for wastewater, comprising sedimentation of settleable solids, flotation of oils and fats, and anaerobic digestion of sludge.

Septic Tank Effluent: The liquid discharged from a septic tank after treatment.

Sewage Management Facility: A human waste storage facility or a waste treatment device intended to process sewage and includes a drain connected to such a facility or device.

Sewage of Domestic Nature: Includes human faecal matter and urine and waste water associated with ordinary kitchen, laundry and ablution activities of a household, but does not include waste in or from a sewage management facility.

Sewerage System: The network of sewage collection, transportation, treatment and by products (effluent and biosolids) management facilities.

Ship-to-Shore Pump-Out: Liquid waste from a vessel that may be considered for disposal to the sewerage system. This includes onboard toilet wastes, galley wastes and dry dock cleaning waste from maintenance activities.

Sullage: Domestic wastewater excluding toilet waste.

Surfactants: The key active ingredient of detergents, soaps, emulsifiers, wetting agents and penetrants. Anionic surfactants react with a chemical called methylene blue to form a blue-chloroform-soluble complex; the intensity of colour is proportional to concentration.

Suspended Solids (SS): The insoluble solid matter which is suspended in wastewater that can be separated by laboratory filtration and is retained on a filter. Previously also referred to as non-filterable residue (NFR).

Total Dissolved Solids (TDS): The total amount of dissolved material in the water.

Waste Minimisation: Procedures and processes implemented by industry and business to modify, change, alter or substitute work practices and products that will result in a reduction in the volume and/or strength of waste discharged to sewer.

ATTACHMENT 2

LIQUID TRADE WASTE SERVICE AGREEMENT

BETWEEN

MUSWELLBROOK SHIRE COUNCIL

AND

[APPLICANT]

LIQUID TRADE WASTE SERVICES AGREEMENT

BETWEEN

1. Muswellbrook Shire Council

AND

2. The Applicant

RECITALS

- A. The Council is the owner and operator of a sewerage system within the Muswellbrook Shire Local Government Area.
- B. The Applicant has made application to the Council to discharge liquid trade waste from the Premises into the Council's sewerage system.
- C. The application has been approved by the Council on certain conditions ("the Approval"), including the condition that the Council and the Applicant enter into this Agreement.
- D. The Director General of the Department of Environment, Climate Change and Water has concurred in the Approval in accordance with clause 28 of the *Local Government (General) Regulation 2005*.
- E. The Approval does not operate until this Agreement has been executed by both parties.
- F. The parties enter this Agreement in consideration of the mutual promises contained herein.

OPERATIVE PART

1. Definitions and Interpretation

1.1 In this Agreement, unless the context otherwise requires:

"Act" means the *Local Government Act 1993 (NSW)*.

"Annexure" means the annexure to this Agreement.

"Annual Management Plan" means the annual management plan of the Council, as adopted by the Council from time to time.

"Applicant" means the entity named as such in the Annexure.

“**Approval**” means the approval described in Recital C.

“**Council**” means the Muswellbrook Shire Council.

“**Liquid Trade Waste Services**” mean the making available by the Council of its sewerage system for connection to the Premises, for the purpose of discharge by the Applicant of its liquid trade waste.

“**Premises**” means the premises described in the Annexure.

1.2 Unless the context otherwise requires:

- (a) *A reference to this Agreement is a reference to this Agreement, including the Annexure, as amended from time to time in accordance with its terms.*
- (b) *A reference to the discharge of liquid trade waste means the discharge of liquid trade waste by the Applicant from the Premises to the Council's sewerage system.*
- (c) *A reference to any legislation is a reference to such legislation as amended from time to time.*
- (d) *Where the Applicant is comprised of more than one person, each obligation of the Applicant will bind those persons jointly and severally and will be enforceable against them jointly and severally.*

2. Liquid Trade Waste Services

Muswellbrook Shire Council will provide the Liquid Trade Waste Services to the Applicant on the terms of this Agreement.

3. Additional Conditions for Discharge of Liquid Trade Waste

- 3.1 The Applicant may discharge liquid trade waste to the Council's sewerage system in accordance with the Approval and subject to this Agreement.
- 3.2 The Applicant must comply with all applicable Acts, regulations, by laws, proclamations and orders and with any lawful direction or order given by or for the Council or any other competent authority.
- 3.3 The Applicant must not discharge liquid trade waste contrary to this Agreement or the Approval or in any manner which may have an adverse effect on any person or property (including the sewerage system and the ecological system in the waters, land or area receiving sewage treatment works effluent or biosolids), or which may cause the Council to be in breach of any applicable Act, regulation, by law, proclamation or order or of any lawful direction given by or for any competent authority.

- 3.4 The Applicant must at its own cost monitor its discharges in accordance with the requirements set out in the Approval and must maintain records of such monitoring for inspection by the Council for such period as may be specified in the Approval.
- 3.5 The Council will carry out routine sampling and testing of the waste stream.
- 3.6 Where any flow metering device is installed, the Applicant must at its own cost cause the device to be calibrated at least annually by a person or company approved by the Council. The Applicant must obtain a calibration certificate and provide a copy of the certificate to the council within one month of receiving it.
- 3.7 If the Applicant is required to cease discharging liquid trade waste for any period, then the Applicant must cease discharging such waste for the period specified.
- 3.8 Where the Applicant ceases to discharge waste in the circumstances prescribed in clause 3.7, the Council may, at its discretion, elect to refund part of the annual trade waste fee on a pro-rata basis, calculated according to the period of suspension.
- 3.9 If this Agreement is terminated, the Applicant must immediately cease to discharge liquid trade waste.

4. Fees and Charges

- 4.1 In accordance with section 560 of the *Local Government Act 1993*, Council will levy all water supply, sewerage and liquid trade waste fees and charges on the owner of the property.
- 4.2 In consideration of provision of the Liquid Trade Waste Services, the fees and charges as specified in Council's Annual Management Plan and notified by Council to the owner and the Applicant must be paid to the Council, including fees for sampling and testing by Council in accordance with the Approval.
- 4.3 Fees and charges payable will include both non-residential sewerage charges and liquid trade waste fees and charges.
- 4.4 All monies payable to Council must be paid within the time specified in the notice of charge.

5. Term

- 5.1 This agreement will commence from the date it is signed on behalf of Council, and will continue until the Applicant's Approval is revoked or the Applicant permanently ceases to discharge liquid trade waste pursuant to the Approval, whichever is the earlier. Upon such revocation or permanent cessation of the approved activity this Agreement shall automatically terminate by operation of this clause.
- 5.2 Termination of this Agreement is without prejudice to any accrued rights or obligations of either Party.

6. Powers of the Council

- 6.1 Council may enter the Premises at a reasonable hour in the daytime or at any hour during which business is in progress or is usually carried on at the Premises for the purpose of conducting any inspection, examination, testing, monitoring or sampling to determine whether the Applicant is complying with the conditions of this Agreement.
- 6.2 The Applicant acknowledges that Council has statutory powers available to it under the *Local Government Act 1993* and other Acts to issue orders and directions to the Applicant in relation to the discharge of liquid trade waste. The Applicant undertakes to comply with each such order or direction that may be notified by Council to the Applicant within the time specified for compliance in that order or direction.
- 6.3 The Applicant releases Council from any liability to the Applicant for any loss or damage due to the disruption of the Applicant's business arising out of the exercise of Council's rights pursuant to this clause.

7. Information supplied by the Applicant

- 7.1 The Applicant warrants that all information in its application for approval is true, complete and accurate, to the best of its knowledge
- 7.2 The Applicant must immediately notify Council in writing of any error or omission in that information or any change to the information of which the Applicant becomes aware.
- 7.3 The Applicant must not provide any false or misleading information to Council.

8. Indemnity

- 8.1 The Applicant indemnifies Council from and against any claims, losses or expense (including legal costs on a solicitor and client basis) which the Council pays, suffers, incurs or is liable for as a result of:
 - (a) *any unlawful, negligent, reckless or deliberately wrongful act or omission of the Applicant or its personnel or agents in connection with the discharge of liquid trade waste, including (without limitation) such acts or omissions which cause damage to property, personal injury or death; and*
 - (b) *a breach of this Agreement by the Applicant.*
- 8.2 The Applicant's liability to indemnify Council shall be reduced proportionally to the extent that any unlawful, negligent, reckless or deliberately wrongful act or omission of Council caused or contributed to the liability or loss.

9. Insurance

The Applicant must effect and maintain for the term of this Agreement a public risk policy of insurance in the minimum of the sum specified in the Annexure and must, upon request by Council, produce evidence of such insurance to the Council.

10. Bond

- 10.1 The Applicant must pay to Council a bond in the sum specified in the Annexure.
- 10.2 The Council may at any time and without prior notice to the Applicant have recourse to the bond for the recovery of any sum due and owing by the Applicant to the Council.
- 10.3 Where the Applicant fails to cease discharging trade waste as prescribed in clause 3.7, Council may require the Applicant to forfeit 50% of the bond.
- 10.4 Council must return the bond to the Applicant, less any amount deducted by Council under this clause, upon termination of this Agreement.

11. No Assignment

The Applicant may not assign or otherwise transfer its rights and/or obligations under this Agreement.

12. Notices

- 12.1 A notice under this Agreement must be:
 - (a) *in writing, directed to the representative of the other party as specified in the Annexure; and*
 - (b) *forward to the address, facsimile number or the email address of that representative as specified in the Annexure or the address last notified by the intended recipient to the sender.*
- 12.2 A notice under this Agreement will be deemed to be served:
 - (a) *in the case of delivery in person – when delivered to the recipient's address for service and a signature received as evidence of delivery.*
 - (b) *in the case of delivery by post – within three business days of posting.*
 - (c) *in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient.*
 - (d) *in the case of delivery by email, on receipt of confirmation by the recipient that the recipient has received the email.*
- 12.3 Notwithstanding the preceding clause 12.2, if delivery or receipt of a communication is on a day which is not a business day in the place to which the

communication is sent, or is later than 5 pm (local time in that place), it will be deemed to have been duly given or made at 9 am (local time at that place) on the next business day in that place.

13. Variation

13.1 If the Applicant's Approval to discharge liquid trade waste from the Premises is varied, this Agreement shall be deemed to be varied in accordance with the variation made to that approval or to the fees, by operation of this clause.

13.2 In addition to automatic variation under clause 13.1, this Agreement may be varied by written agreement of the parties, provided that a variation to this Agreement that is inconsistent with:

(a) *the Approval, including rights granted under, and conditions attached to, the Approval;*

(b) *any applicable legislation; or*

(c) *Council's Annual Management Plan in respect of applicable fees and charges,*

shall have no force or effect.

14. Severability

If any part of this Agreement is prohibited, void, voidable, illegal or unenforceable, then that part is severed from this Agreement but without affecting the continued operation, so far as possible, of the remainder of this Agreement.

15. Applicable Law

15.1 This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.

15.2 Each party submits to the exclusive jurisdiction of the courts exercising jurisdiction in the State of New South Wales and the courts of appeal there from.

16. Rights Cumulative

The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any other rights or remedies provided by law.

Executed as an Agreement

Execution by the Council:

THE **COMMON SEAL** OF) (Corporate Seal)
Muswellbrook Shire Council was affixed this)
.....day of 20....)
in the presence of:)
.....)
General Manager) [Signature of General Manager]
And)
.....)
[print name of witness]) [Signature of Witness]

Executed by the Applicant (corporate entity):

The **COMMON SEAL** of) (Corporate Seal)
..... Pty Limited)
was affixed this day of)
.....20.... in the presence of:)
.....)
[Name of Director]) [Signature of Director]
.....)
[Name of Director/Secretary]) [Signature of Director/Secretary]

Muswellbrook Shire Council – Policy for Discharge of Liquid Trade Waste into Council's Sewerage System

Executed by Applicant (individual):

Signed by:)
[name of Applicant]) [signature of Applicant]
Thisday of20...)
In the presence of:)
.....)
[Print name of witness]) [signature of witness]

ANNEXURE to AGREEMENT

A. THE COUNCIL

- 1. Full Name Of Council: _____
- 2. ABN: _____
- 3. Address: _____

- 4. Telephone: _____
- 5. Emergency Contact: _____
Telephone: _____

B. THE APPLICANT:

- 1. Full Name Of Applicant: _____
- 2. ABN: _____
- 3. Business Or Trading Name: _____
- 4. Address: _____

- 5. Telephone: _____
- 6. Emergency Contact: _____
Telephone: _____

C. THE PREMISES

- 1. Lot & DP Number: Lot(S) _____ DP Number _____
- 3. Location: _____

- 4. Description: _____
- 5. Nature Of Business: _____

Muswellbrook Shire Council – Policy for Discharge of Liquid Trade Waste into Council's Sewerage System

D. NOTICES

Applicant's Representative: _____

Postal Address: _____

Facsimile: _____

Email: _____

Council's Representative: _____

Postal Address: _____

Facsimile: _____

Email: _____

E. PUBLIC LIABILITY INSURANCE:

Minimum cover: \$ _____

F. BOND

\$ _____

ATTACHMENT 3

Provisions in the Local Government (General) Regulation 2005 in regard to Acceptance of Liquid Trade Waste into the Sewerage System

Local Government (General) Regulation 2005

Clause 25 Matters to accompany applications relating to discharge into sewers

An application for approval to discharge trade waste into a sewer under the control of a Council or that connects with such a sewer must be accompanied by the information required by Table 1 to the Liquid Trade Waste Management Guidelines#.

Clause 28 Approval to discharge waste into sewers: concurrence required

A council must not grant an approval under section 68 of the Act to discharge trade waste (whether treated or not) into a sewer of the council unless the Director General of the Department of Energy, Utilities and Sustainability* has concurred with the approval.

Note: Section 90 (2) of the Act permits any person or authority whose concurrence is required before an approval can be granted to give the council notice that the concurrence may be assumed (with such qualifications or conditions as are specified in the notice).

Clause 32 Disposal of trade waste

- (1) An approval to dispose of trade waste into a sewer of the council is subject to such conditions (if any) as the council specifies in the approval.
- (2) In imposing any such conditions, the council is to have regard to the matter set out in Table 5 to the Liquid Trade Waste Management Guidelines#.

Clause 159 Prevention of waste and misuse of water

The owner, occupier or manager of premises to which water is supplied by the council must:

- (a) prevent waste of water by taking prompt action to repair leaking taps, pipes or fittings located on the premises, and
- (b) take any other action that is reasonable to prevent waste and misuse of water.

"Liquid Trade Waste Management Guidelines" means the Guidelines of that name produced by the Department of Energy, Utilities and Sustainability in March 2005, as in force from time to time. These Guidelines have now been superseded by *Liquid Trade Waste Regulation Guidelines*, April 2009.

* From 4 April 2011 a reference to the Director General of the Department of Energy, Utilities and Sustainability is to be construed as a reference to the Director General of the Department of Primary Industries.

Department of Planning and Environment



Our ref: 23/14

Your ref: Policy for Liquid Trade Waste

Ms Fiona Plesman
General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

9 January 2023

Attention: Ms Irene Chetty
Subject: Council's Policy for Liquid Trade Waste

Dear Ms Plesman

I refer to Council's email of 14 December 2022 regarding Council's Policy for Liquid Trade Waste Regulation (Policy).

The draft Policy has been reviewed and is considered satisfactory subject to minor amendments detailed in Attachment A.

In accordance with section 3.4.2 of the Liquid Trade Waste Regulation Guidelines 2021, Council needs to provide its final Policy to the Department of Planning and Environment - Water for consent after publicly exhibiting the Policy for not less than 28 days and addressing any issues raised in public submissions.

Please continue to liaise with Padmini Vitharana on 9842 8484 on this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read "N. Sutton".

Nicholas Sutton
Manager Regulatory Assessments
Water Operations

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
Locked Bag 5022, Parramatta NSW 2124

www.dpie.nsw.gov.au

Attachment A

- Delete the opening page titled “Notes to Councils” (shaded) as these Notes are provided for Councils only
- Please replace the references to the Australian Sewage Quality Management Guidelines, June 2012, WSAA, on pages 2 and 33 of the Council’s Policy with the Australian Wastewater Quality Management Guidelines, July 2022, WSAA as the above Guideline has been superseded.
- Delete Note 3 on page 5 of the Policy as the 2022 Australian Guidelines do not list analytical testing methods.
- Delete the reference to the Australian Sewage Quality Management Guidelines, June 2012 WSAA in the 2nd last dot point in Table 2 Waste prohibited from discharge to the sewerage system as the new Guidelines do not list the pollutants inhibiting the sewage treatment’
- It is understood that Council has no ship-to shore pump-out facilities. Accordingly, sub-section D5.1.2 should be deleted and following sub-section re-numbered. Alternatively, it can be marked as ‘currently not applicable’.
- Delete the words “5-10 times of trade waste usage charge” in section D7.2 on page 27 (as this is the advice to Council), so it reads:

“For Category 2 discharger, a non-compliance charge will be as outlined in the Council’s Management Plan”.



9.2.2. Drinking Water Quality Policy MSC30E for ADOPTION

Attachments:	1. Drinking Water Quality Policy MSC30E [9.2.2.1 - 3 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Irene Chetty (Operations Manager: Water and Wastewater), Madeleine St John (Business Improvement Officer), Chloe Wuiske (Business Improvement Officer)
Community Plan Issue:	5 - <i>Community Infrastructure</i> 6 - <i>Community Leadership</i>
Community Plan Goal:	Effective and efficient infrastructure that is appropriate to the needs of our community. Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.
Community Plan Strategy:	5.3.1 - Water, sewerage and waste services are provided in compliance with regulatory requirements. 6.2.5 - Implement a comprehensive and targeted business improvement program. 5.3.1.1 - Carry out Best Practice audit of water and wastewater services. 6.2.5.2 - Review the policy management framework.

PURPOSE

To present the *DRAFT Drinking Water Quality Policy MSC30E* to Council for adoption.

OFFICER'S RECOMMENDATION

Council adopts the attached *DRAFT Drinking Water Quality Policy MSC30E*.

Moved: _____ **Seconded:** _____

BACKGROUND

The *DRAFT Drinking Water Quality Policy MSC30E* (the Policy) highlights Council's commitment to supplying safe, quality drinking water to the communities of Muswellbrook, Denman and Sandy Hollow, that consistently meets National Health and Medical Research Council (NHMRC)/Natural Resource Management Ministerial Council (NRMMC) *Australian Drinking Water Guidelines 6, 2011* (ADWG 2011), and consumer and other regulatory requirements.

A review was conducted of Council's *Drinking Water Quality Policy* to align it with the current Australian Drinking Water Guidelines which were updated in September 2022.

CONSULTATION

Operations Manager Water and Wastewater

Manex



REPORT

At the Ordinary Meeting of Council held at Denman on 20 December 2022, Council endorsed the Policy for Public Exhibition via Council's website for a period of 28 days.

The Policy was exhibited on Council's website from 22 December 2022 to 19 January 2023.

No submissions were received by Council during the submission period.

OPTIONS

Council may:

1. Resolve to ADOPT the *DRAFT Drinking Water Quality Policy MSC30E*;
2. Request amendments to the *DRAFT Drinking Water Quality Policy MSC30E*.

CONCLUSION

It is recommended that Council adopts the *DRAFT Drinking Water Quality Policy MSC30E* to ensure alignment with recently updated Australian Drinking Water Guidelines.

SOCIAL IMPLICATIONS

Nil known.

FINANCIAL IMPLICATIONS

Nil known.

POLICY IMPLICATIONS

The policy was reviewed in line with Council's Policy Management Framework.

STATUTORY IMPLICATIONS

Legislation relating to the Drinking Water Quality Policy includes:

- *NHMRC/NRMMC Australian Drinking Water Guidelines 6, 2011*
- *NSW Public Health Act 2010 and Public Health Regulation 2022*
- *Local Government Act 1993*

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

5.3.1.1 - Carry out Best Practice audit of water and wastewater services.

6.2.5.2 - Review the policy management framework.

RISK MANAGEMENT IMPLICATIONS

Nil known.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Public exhibition of the Policy on Council's website from 22 December 2022 to 19 January 2023 provided the Community with an opportunity to make submissions. No submissions were received by Council during the submission period.



Drinking Water Quality Policy

MSC30E

Authorisation Details

Authorised by:	Council
Minute No:	
Date:	
Review timeframe:	4 years
Department:	Community Infrastructure: Water & Wastewater
Document Owner:	Operations Manager Water & Wastewater
Policy type	External

Details History

Version No.	Date changed	Modified by	Amendments made
1	12/02/2019	Operations Manager Water & Wastewater	Original Version adopted by General Manager and Noted by Council at Ordinary Meeting on 12/02/2019
2	30/11/2022	Operations Manager Water & Wastewater	Updated policy statement

This document is a controlled document. Before using this document, check it is the latest version by referring to Council's EDRMS and ensuring you are using the Last Approved Version. Printed or downloaded versions of this document are uncontrolled.

Policy Objective

To highlight Muswellbrook Shire Council's commitment to supplying safe, high quality drinking water to the communities of Muswellbrook, Denman, and Sandy Hollow, that consistently meets the NHMRC / NRMCC Australian Drinking Water Guidelines 6, 2011 (ADWG 2011), and consumer and other regulatory requirements.

(where, NHMRC is the National Health and Medical Research Council and NRMCC is the Natural Resource Management Ministerial Council)

Risks being addressed

Muswellbrook Shire Council affirms its commitment in ensuring that its customers in Muswellbrook, Denman and Sandy Hollow receive safe, high quality drinking water that consistently meets the quality requirements as stipulated in the ADWG 2011.

This commitment is in line with Council's goal of providing safe, secure, and reliable water and wastewater services as outlined in Council's Operational Plan.

Policy Statement

Muswellbrook Shire Council's commitment to supplying safe, high quality drinking water to the communities of Muswellbrook Shire will be implemented through its Drinking Water Management System (DWMS) and Integrated Water Cycle Management (IWCM) Strategy, consistent with the Australian Drinking Water Guidelines 2011.

To achieve this, in partnership with stakeholders and relevant agencies, Muswellbrook Shire Council will:

- manage water quality at all points along the delivery chain from source water to the consumer.
- use a risk-based approach in which potential threats to water quality are identified and balanced.
- integrate the needs and expectations of our consumers, stakeholders, regulators, and employees into our planning.
- establish regular monitoring of the quality of drinking water and effective reporting mechanisms to provide relevant and timely information, and promote confidence in the water supply and its management.
- develop appropriate contingency planning and incident response capability.
- participate in appropriate research and development activities to ensure continued understanding of drinking water quality issues and performance.
- contribute to the debate on setting industry regulations and guidelines, and other standards relevant to public health and the water cycle.
- continually improve our practices by assessing performance against corporate commitments and stakeholder expectations.

Muswellbrook Shire Council will implement and maintain a drinking water quality management system consistent with the Guidelines to effectively manage the risks to drinking water quality.

All managers and employees involved in the supply of drinking water at Muswellbrook Shire Council are responsible for understanding, implementing, maintaining, and continuously improving the drinking water quality management system.

Delegations

There are no associated delegations with this policy.

Legislation

NHMRC/NRMMC Australian Drinking Water Guidelines 6, 2011
NSW Public Health Act 2010 and Public Health Regulation 2022
Local Government Act 1993

Dispute Resolution

The Operations Manager Water & Wastewater is the interpreter of this policy.

Associated Council Documentation

This policy is to be read in conjunction with:

- Muswellbrook Shire Council Drinking Water Management System
- Muswellbrook Shire Council Drinking Water Management System– Improvement Plan
- Muswellbrook Shire Council Integrated Water Cycle Management Strategy
- Operational Plan



9.2.3. Upper Hunter Water Treatment Plant Concept

Attachments:	Nil
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Derek Finnigan – Acting General Manager
Community Plan Issue:	5 - Community Infrastructure
Community Plan Goal:	Effective and efficient infrastructure that is appropriate to the needs of our community.
Community Plan Strategy:	5.1.4 - Maintain and continually improve community infrastructure across the Shire. 5.3.1 - Water, sewerage and waste services are provided in compliance with regulatory requirements.
	Not applicable

PURPOSE

To submit for Council's consideration a proposal to carry out a feasibility study for the potential development of a shared water treatment plant with Upper Hunter Shire Council.

OFFICER'S RECOMMENDATION

Council:

1. Notes the information contained in the report and supports the investigation of a shared water treatment plant with Upper Hunter Shire Council;
2. Approves an initial budget of \$20,000 to commence investigations; and
3. Delegates to the Acting General Manager authority to approve expenditure for the feasibility study.

Moved: _____ **Seconded:** _____

BACKGROUND

Strategic planning to ensure the ongoing and future security of Muswellbrook's water supply, as detailed in the Muswellbrook Shire Integrated Water Cycle Management Plan, identifies potential economy of scale, financial and operational benefits associated with a potential water treatment plant shared with Upper Hunter Shire Council. The project is also identified in water supply option studies carried out by Muswellbrook Shire Council and Upper Hunter Shire Council:

1. Upper Hunter Water Supply and Treatment Scoping Study – Upper Hunter Shire Council – August 2019.
2. Muswellbrook Regional Supply Options Assessment Report – Muswellbrook Shire Council – October 2016.



CONSULTATION

Mayor Steve Reynolds

Mayor of Upper Hunter Shire Council, Cr Maurice Collison

General Manager Upper Hunter Shire Council, Mr Greg McDonald

Muswellbrook Shire Council Water & Wastewater

Upper Hunter Shire Council Water Operations

Department of Planning and Environment – Water

NSW Health

REPORT

In November 2022, Muswellbrook Shire Council approached Upper Hunter Shire Council to discuss the possibility of developing a joint water treatment plant. The basis for the discussion was a report, entitled 'Muswellbrook Regional Supply Options Assessment Report', commissioned by Muswellbrook Shire Council in 2016. This report identifies a site at Brushy Hill, located in Upper Hunter Shire approximately 3 km from Glenbawn Dam, as potentially the most feasible option for a shared water treatment plant.

On 2 December 2022, a meeting was held in the Upper Hunter Shire Council Scone administration centre, during which it was proposed that a joint water treatment plant located at Brushy Hill should be investigated to determine whether or not this option was more cost effective than continuing to operate separate water treatment plants discretely servicing each Shire.

Attendees at the meeting included:

- Mayor Muswellbrook Shire, Councillor Cr Steve Reynolds
- Mayor Upper Hunter Shire, Cr Maurice Collison
- General Manager Upper Hunter Shire Council, Greg McDonald
- Acting General Manager Muswellbrook Shire Council, Derek Finnigan
- Director Planning and Infrastructure Upper Hunter Shire Council
- Upper Hunter Shire Council Water Infrastructure Manager and Engineer
- Representatives of Department of Environment & Planning and NSW Health

At the meeting, it was decided a Project Control Group, comprising senior Councillor, management and engineering representatives of Upper Hunter Shire Council and Muswellbrook Shire Council would be formed to assess the objective merits of the proposal.

A meeting of the Project Control Group was conducted 24 January 2023, to receive an update on the project and to consider procedural matters associated with the formation of the Project Control Group. These included:

- Project Control Group Terms of reference; and
- Project brief.

It was confirmed that the project will consist of three phases:

1. Technical feasibility assessment confirming whether or not Brushy Hill is a feasible location for a shared water treatment plant. Additionally, alternative sites to be considered if assessed as technically favourable;
2. Design; and
3. Construction.

The subject of this report is the technical feasibility assessment, which will include the following steps:

1. Obtaining approval to acquire land currently owned by the State Government.



2. Proving planning approvals can be achieved.
3. Layout design to confirm the site size requirements.
4. Plant detail to confirm topography requirements.
5. Geotechnical site assessment.
6. Quantity assessment.

OPTIONS

Council may:

- Approve the Officer's Recommendation as provided in the report;
- Decide not to support the investigation of a shared water facility with Upper Hunter Shire Council; or
- Consider alternative options.

CONCLUSION

Water security and water quality are critically important matters for both Upper Hunter Shire Council and Muswellbrook Shire Council. It is considered appropriate to investigate the mutual benefits that may be obtained by constructing and operating a joint water treatment plant servicing both Upper Hunter Shire and Muswellbrook Shire. The first step in the process is to carry out a feasibility study to determine practical constraints and considerations of the Brushy Hill site and to consider alternative options that may be mutually beneficial from financial and operational perspectives.

SOCIAL IMPLICATIONS

Nil for the carrying out of a feasibility study.

FINANCIAL IMPLICATIONS

It is requested that initial funding of \$20,000 be each provided by Upper Hunter Shire Council and Muswellbrook Shire Council. All costs will be split evenly between the two Councils. The total initial funding for the feasibility study will be \$40,000.

Muswellbrook Shire Council's \$20,000 contribution to the feasibility study may be funded from Ledger Number 5340.4400.504 System Plant Asset Renewals, for which sufficient funding remains to fund Council's contribution.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

Nil.

RISK MANAGEMENT IMPLICATIONS

Future water security and water quality are critically important matters for Council in its role as a Local Water Utility. It is considered appropriate for Council to investigate the feasibility of a shared water treatment plant with Upper Hunter Shire Council in order to assess the financial and operational benefits that may be mutually obtained.



WASTE MANAGEMENT IMPLICATIONS

Nil.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Community consultation and information will be provided as the project progresses.



9.3. Property and Place

9.3.1. Staged Lot Consolidation Proposal - Donald Horne Building and Town Centre

Attachments:	Nil
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Dennis Fernandes – Project Manager
Community Plan Issue:	1 - Economic Prosperity
Community Plan Goal:	Effective and efficient infrastructure that is appropriate to the needs of our community.
Community Plan Strategy:	1.3.1 - Advocate to maintain the Hunter TAFE Campus and advocate to activate the University of Newcastle Campus 1.2.4.1 - Commence enabling works for Muswellbrook Town Centre.

PURPOSE

To submit for Council's consideration Lot consolidation matters for the Donald Horne Building and the Town Centre Plan.

OFFICER'S RECOMMENDATION

Council:

1. Endorses the staged Lot consolidation approach for occupancy of the Donald Horne Building subject to Development Approval modification assessment;
2. Council classifies the staged Lot consolidation land as Operational land in accordance with the local Government Act 1993 Part 2 Division; and
3. Council notes the future Lot consolidation proposed for the Town Centre to provide an access road and car parking.

Moved: _____ **Seconded:** _____

BACKGROUND

Development Approval DA 54/2018 for the construction of the Donald Horne Building (Tertiary Education Centre 2) asks for a condition of Lot consolidation to be addressed prior to the issue of an Occupation Certificate (OC). The condition of consent states:

*The person acting with this consent must consolidate **Lots 1 - 5 DP 11221, Lot 7 DP 71755, Pt Lot 8 Sec 6 DP 758740, Lot 400 DP 816923, Lot 562 DP 747012, Lot 1 & 6 DP 219503, and Lot 1 DP 76058.***

Prior to the issue of an Occupation Certificate the person acting with this consent shall provide suitable documentary evidence to the Principle Certifying Authority to demonstrate that a survey plan has been prepared for the consolidation of the Lots



and that plan has been lodged with Land Registry Services or the appropriate authority for the registration of land at the time the Occupation Certificate is applied for.

The Lot consolidations required under the Development Approval DA 54/2018 and proposed in the report consolidate the education precinct buildings into one Lot.

CONSULTATION

Contracts Administrator – Property and Building Services

Project Manager – Property and Buildings Services

Director – Property & Place

Manager Roads and Drainage and Technical Services

REPORT

Pursuant to the Condition of consent, staff engaged a surveyor to address the condition for lodging the request with the NSW Land Registry Services (NSWLRS). The advice received was that the NSWLRS would not accept the extent of consolidation as stipulated by the DA condition and shown below.



Figure 1 - Extent of Lot Consolidation per Current DA condition 73 of DA 54/2018

Stage consolidation and occupancy of the Donald Horne Building

Based on the advice received from NSWLRS, the private Principal Certifying Authority (PCA)



was consulted to seek a resolution to fulfill the OC condition.

It was identified that the best approach to address occupancy for the Donald Horne building whilst working within the constraints of the Lot consolidation extent as required by the condition was to stage the consolidation and occupancy of the Donald Horne Building shown below.



Figure 2 - Site Plan Mark-up Proposing Stage 1 and Stage 2 Consolidation

Stage 1 OC & Consolidation Scope: Lots 1 - 5 DP 11221, Lot 7 DP 71755, Pt Lot 8 Sec 6 DP 758740.

Stage 2 OC & Consolidation Scope: Lot 400 DP 816923, Lot 562 DP 747012, Lot 1 & 6 DP 219503, and Lot 1 DP 76058.

The above staging of occupancy and Lot consolidation is subject to a modification of the DA 54/2018 for the construction of the Donald Horne Building.

For issue of Stage 1 OC and for access to the building, the PCA has requested that DA condition 73 is amended as per below:

DA condition 73. Consolidation of Lots

The person acting with this consent must consolidate **Lots 1 - 5 DP 11221, Lot 7 DP 71755, Pt Lot 8 Sec 6 DP 758740.**

Prior to the issue of an Occupation Certificate the person acting with this consent shall provide suitable documentary evidence to the Principle Certifying Authority to demonstrate that a survey plan has been prepared for the consolidation of the Lots and that plan has been lodged with Land Registry Services or the appropriate authority for the registration of land at the time the Occupation Certificate is applied for.

Per the PCA's advice, the balance of Lot consolidation (Lot 400 DP 816023, Lot 562 DP



74704, Lot 1 & 6 DP 219503, and Lot 1 DP 76058) with an easement registered for access will be done post issue of OC 1 in OC 2.

The proposal is to move the Stage 2 Lot consolidation requirement to the 'Advisory Section' of DA conditions and that this requirement is worded as below:

Following the issue of the occupation certificate or Part the applicant is to provide a proposal for remaining consolidation of Lots 400 DP 816023, Lot 562 DP 74704, Lot 1 & 6 DP 219503, and Lot 1 DP 76058 and easement to be agreed to by Council.

This will require a DA modification and the application for modification with justification for a staged approach is being concurrently lodged with Council's Environmental and Planning Services department.

Stage 1 scope of Lot consolidation is already back with NSWLRS and staff are currently addressing Requests for Information issued by LRNSW relating to Lessee consents and Change of Name for Lots that were previously registered in the name of "The Council of the Shire of Muswellbrook" and "The Council of the Municipality of Muswellbrook" to "Muswellbrook Shire Council". Subject to Council's endorsement of the staged amalgamation, final documentation will be submitted to NSWLRS.

Future Lot Consolidations Proposed beyond the scope of Donald Horne Building Occupancy

Further consultation with Council's Environmental and Planning Services and Roads and Drainage teams resulted in consideration of planning future developments to include a traffic corridor consistent with the Muswellbrook Town Centre Strategy.

Future developments would seek approval to include consolidation of Lots for the creation of an access road and car parks as shown below.

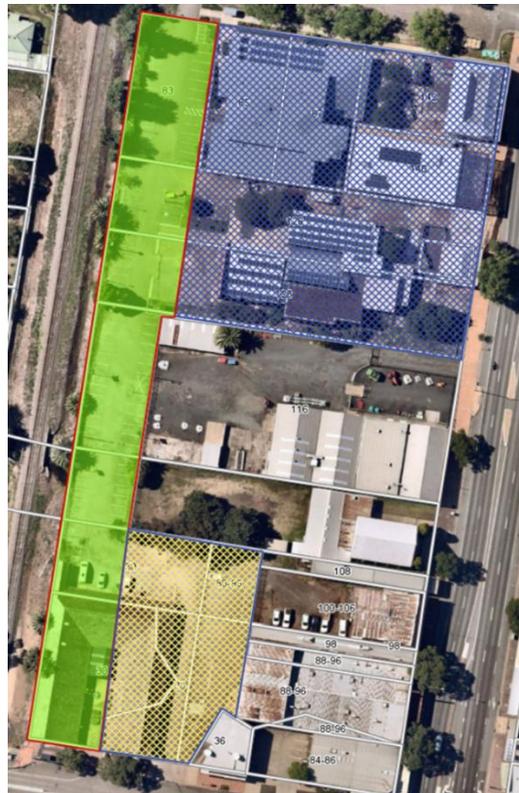


Figure 3 - Proposed Consolidation for Access Road and Car Parks



OPTIONS

The above proposals for the staged consolidation for occupancy of the Donald Horne Building and the future Lot consolidations proposed for the Town Centre are provided for Council's information and consideration.

CONCLUSION

It is recommended that Council endorses the staged Lot consolidation approach for occupancy of the Donald Horne Building and notes the future Lot consolidation proposed for the Town Centre to provide an access road and car parking.

SOCIAL IMPLICATIONS

Nil known

FINANCIAL IMPLICATIONS

The costs associated with the Lot consolidation have project funding.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Nil known.



LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

'1.4.1 Complete current infrastructure projects and identify future opportunities for the Shire',
Muswellbrook Shire 2022 – 2023 Operational Plan

RISK MANAGEMENT IMPLICATIONS

Property Lots within the education precinct will be consolidated requiring a process of subdivision if Council considers selling a building in the future.

WASTE MANAGEMENT IMPLICATIONS

Nil known.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Nil known.



9.3.2. Denman Recreation Area - Machinery Loading Ramp

Attachments:	Nil
Responsible Officer:	Derek Finnigan - Acting General Manager Matthew Lysaught - Director Property & Place
Author:	Sarah Medcalf – Recreation & Property Officer
Community Plan Issue:	5 - <i>Community Infrastructure</i>
Community Plan Goal:	Effective and efficient infrastructure that is appropriate to the needs of our community.
Community Plan Strategy:	1.4.1 - Complete current infrastructure projects and identify future opportunities for the Shire. 2.1.2.5 - Council events are planned to be accessible by all people, as far as possible.

PURPOSE

To submit for Council's consideration, options for a machinery loading ramp at the Denman Recreational Area.

OFFICER'S RECOMMENDATION

Council approves:

1. Liaison to be carried out with users of the Denman Recreation Area interested in a machinery loading ramp to be accommodated within their user agreement;
2. Provision of a further report to Council following consultation; and
3. In relation to the Diesel, Rust and Dust event, augmentation of the existing temporary structure is to be carried out and a staff member engaged to monitor use of the machinery loading ramp at the event and to provide induction and safety oversight for users of the ramp.

Moved: _____ **Seconded:** _____

BACKGROUND

At the 24 January 2023 Ordinary Council meeting under Questions for Next Meeting, Councillor Woodruff inquired whether a more permanent ramp had been installed for the upcoming Diesel, Rust and Dust event?

Staff have met on site with Councillor Woodruff at the Denman Recreation Area and have explored options and considerations for a vehicle loading ramp ahead of the 2023 Diesel, Rust and Dust Truck and Machinery Show to be held 22 April 2023.

CONSULTATION

Director - Property & Place

Technical Officer - Recreation and Property

Community Services Officer - Partnerships



REPORT

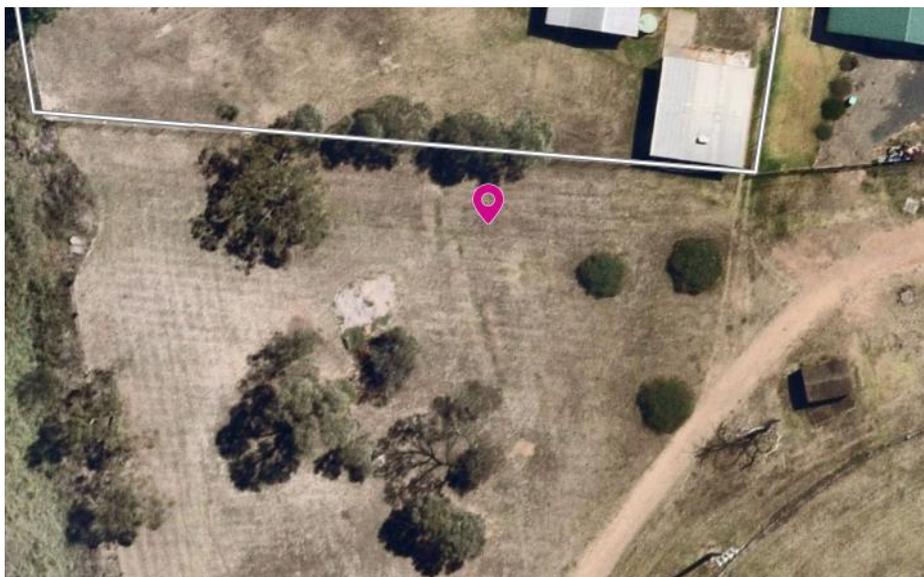
Prior to the 2022 Deisel, Rust and Dust Truck and Machinery Show, staff arranged for an earth ramp (mound) to be installed to reduce the pitch for loading and unloading of machinery.

It was envisaged initially that a machinery loading ramp such as that shown below may have met the needs of users if rails and a gate were installed for safety and to manage access.



There are several options available for loading ramps, including permanent, portable, and temporary ramps with prices being sought to brief Councillors at the 28 February 2023 Ordinary Council meeting.

A suitable location to allow vehicle movements is shown below, located close to the Denman Mens Shed and Heritage Village, who are considered to be the most frequent users of the loading ramp outside of event activities.



However, there are concerns on how to best manage use and risks associated with a



machinery loading ramp. This includes who has access to use the ramp, restricting access to the general public or unauthorised use, preventing misuse of the ramp, process for inductions before use, risk assessments, insurances, and liability.

As the Denman Recreation Area relies on mostly passive supervision from various user groups with either leases, licences, or a casual booking, it would be preferred to have a regular user of the Denman Recreation Area responsible for the use of the loading ramp within their user agreement.

If the Mens Shed and Heritage Village could accommodate the loading ramp within their site and assume responsibility under their lease when the shed construction works are complete, then risks associated with use of the loading ramp could have greater controls.

Alternatively, a perpetual user of the Denman Recreation Area, for example, the Golf Club or Pony Club may have a need for a machinery loading ramp and manage access and use for other Denman Recreation Area users.

Previously, a loading ramp was located in the Denman Works Depot compound, however the ramp was removed due to misuse by the general public, infrequent use by Council, and concerns over safe use with alternative options available for loading and unloading machinery, including portable ramps, tilt trays, truck sliders, low level floats, and hydraulic lifting equipment.

If it is considered by Council that the Denman Recreation Area would benefit from a machinery loading ramp, then perhaps the best option to mitigate risks for Council and the community is for it to be accommodated within a user agreement.

OPTIONS

Council could choose to install a permanent machinery loading ramp such as the example provided and in the proximate location identified, or liaise with users for it to be accommodated within their user agreement. Council could also decide not to proceed.

CONCLUSION

It is recommended that Council liaise with users of the Denman Recreation Area interested in a machinery loading ramp to be accommodated within their user agreement.

SOCIAL IMPLICATIONS

A machinery loading ramp may be of benefit to the Denman Recreation Area and users.

FINANCIAL IMPLICATIONS

Prices are being sought to brief Councillors at the Council meeting, along with identifying a funding source if required.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

Nil known.



OPERATIONAL PLAN IMPLICATIONS

The Plan of Management for the reserve will need to include information on any machinery loading ramp.

RISK MANAGEMENT IMPLICATIONS

Management of risks for users and liability would need to be carefully considered.

WASTE MANAGEMENT IMPLICATIONS

Nil known.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

To be determined.



9.4. Corporate Services

9.4.1. 2023 Half Day Public Holiday

1. A 5609140 - Signed ED Letter to Muswellbrook Shire Council re - Local half-day public holiday for th [9.4.1.1 - 1 page]
2. Notified Public Holidays Amendment Order published on 16 December 2022 [9.4.1.2 - 4 pages]

Attachments:

Responsible Officer:

Derek Finnigan - Deputy General Manager

Author:

Christine Middleton (Communications & Media Co-Ordinator), Melissa Cleary (Manager - Governance), Josh Hogan (Finance Manager)

Community Plan Issue:

1 - Economic Prosperity

Community Plan Goal:

A dynamic Local economy with full employment for current and future residents in a diverse range of high value industries.

Community Plan Strategy:

1.2.1 - Facilitate the diversification of the Shire's economy and support growth of existing industry and business enterprise

PURPOSE

To inform Councillors of the outcome of Council's application to NSW Treasury for the Local half-day public holiday on Friday 31 March, 2023 in support of the Muswellbrook Cup.

OFFICER'S RECOMMENDATION

Council:

1. Notes the declaration, by the Hon. Damien Tudehope MLC, Minister for Employee Relations, of 31 March 2023 as a half-day local public holiday from midday, for the Muswellbrook local government area;
2. authorises the General Manager to draft and distribute appropriate notifications to the community.

Moved: _____ **Seconded:** _____

BACKGROUND

At the 25 October 2022 Ordinary Meeting, on the motion of Cr J. Drayton and Cr G. McNeill it was determined by Council that:

Council makes an application to the Minister for the Public Service and Employee Relations for the declaration of a half-day public holiday for the Muswellbrook Cup Day from noon on Friday, 31 March, 2023.



CONSULTATION

Minister for Employee Relations, the Hon. Damien Tudehope MLC

NSW Department of Premier and Cabinet

Muswellbrook Race Club

Local businesses, schools, banks, transport providers and community members

Councillors

REPORT

On 27 October 2022, Council submitted an application seeking the approval of the Hon. Damien Tudehope MLC, Minister for Employee Relations, for the declaration of 31 March 2023 as a half-day local public holiday from midday, for the Muswellbrook local government area.

Attached for the information of Councillors is correspondence advising that the Minister has declared the requested local public holiday and that the necessary Order under the Public Holidays Act 2010 (also attached) was published on the NSW legislation website on 16 December 2022.

OPTIONS

Not applicable.

CONCLUSION

It is recommended that Council notes the declaration by the Minister of a half-day public holiday for the Muswellbrook Cup Day on Friday, 31 March, 2023 from noon.

SOCIAL IMPLICATIONS

Not applicable.

FINANCIAL IMPLICATIONS

Council employees who would be required to work and maintain a minimum level of service to the community would be entitled to penalty rates in accordance with the Local Government State Award (2020).

POLICY IMPLICATIONS

Not applicable.

STATUTORY IMPLICATIONS

Not applicable.

LEGAL IMPLICATIONS

Not applicable.

OPERATIONAL PLAN IMPLICATIONS

Not applicable.

RISK MANAGEMENT IMPLICATIONS

Not applicable.



WASTE MANAGEMENT IMPLICATIONS

Not applicable.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Not applicable.

OFFICIAL

Department of Premier and Cabinet



Ref: A5609140
21 December 2022

Ms Fiona Plesman
General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

council@muswellbrook.nsw.gov.au

Re: Local half-day public holiday for the Muswellbrook Cup Day in 2023

Dear Ms Plesman,

I refer to your Council's letter of 27 October 2022 seeking the approval of the Hon. Damien Tudehope MLC, Minister for Employee Relations, for the declaration of 31 March 2023 as a half-day local public holiday from midday, for the Muswellbrook local government area.

I wish to advise the Minister has declared the requested local public holiday. The necessary Order under the *Public Holidays Act 2010* (copy attached) was published on the NSW legislation website on 16 December 2022.

Sincerely,

A handwritten signature in black ink, appearing to read "Charlie Heuston".

Charlie Heuston
Executive Director - Employee Relations

OFFICIAL

52 Martin Place Sydney NSW 2000
GPO Box 5341 Sydney NSW 2001

02 9228 5555
dpc.nsw.gov.au

9



New South Wales

Public Holidays Amendment Order 2022

under the

Public Holidays Act 2010

I, the Minister for Employee Relations, make the following Order under the *Public Holidays Act 2010*, sections 5(1) and 8(1).

Dated, this 14th day of December 2022.

DAMIEN TUDEHOPE, MLC
Minister for Employee Relations

Explanatory note

The object of this Order is to declare additional public holidays and local event days in particular areas of the State for 2023 and 2024.

Published LW 16 December 2022 (2022 No 836)

Public Holidays Amendment Order 2022

under the

Public Holidays Act 2010

1 Name of Order

This Order is the *Public Holidays Amendment Order 2022*.

2 Commencement

This Order commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Public Holidays Order 2011

[1] Clause 4 Public holidays for a specified part of the State

Omit the table. Insert instead—

Column 1	Column 2
Walcha local government area	Part-day from midday to 6pm on 3 February 2023
The Parish of Cambewarra and the parts of the Parishes of Bugong, Burrawang, Wallawa and Yarrawa within the County of Camden that are also within the City of Shoalhaven local government area	Part-day from 9am to 5pm on 17 February 2023
City of Albury local government area	Half-day from midday on 24 March 2023
Muswellbrook local government area	Half-day from midday on 31 March 2023
Police Patrol Districts of Iluka, Maclean and Yamba within the Clarence Valley local government area, as shown on the “Police Patrol District Map” published on the Clarence Valley Council website	Part-day from 1pm to 5pm on 26 April 2023
The part of Yeoval within the Cabonne local government area	Part-day from 8:30am to 7pm on 9 May 2023
Aberdeen, Blandford, Bunnan, Ellerston, Gundy, Moonan Brook, Moonan Flat, Murrurundi, Parkville, Rouchel, Scone, Timor and Wingen within the Upper Hunter Shire local government area	Half-day from midday on 12 May 2023
Bogan local government area	15 May 2023
Coonamble local government area	24 May 2023
City of Grafton within the Clarence Valley local government area, as shown on the “City of Grafton Map” published on the Clarence Valley Council website	Part-day from 1pm to 5pm on 12 July 2023
City of Grafton within the Clarence Valley local government area, as shown on the “City of Grafton Map” published on the Clarence Valley Council website	Part-day from 1pm to 5pm on 13 July 2023
Bogan Gate, Bruie Plains and Trundle, as shown edged red on the map marked “Trundle Show Boundaries” deposited in the office of Parkes Shire Council	Part-day from 9am to 5pm on 16 August 2023
Peak Hill, as shown edged blue on the map marked “Peak Hill Show Boundaries” deposited in the office of Parkes Shire Council	Part-day from 9am to 5pm on 23 August 2023
Alectown, Cooks Myall, Goonumbla, Gunningbland, Nelungaloo, Parkes, Tichborne, part of Cookamidgera and part of Mandagery, as shown edged pink on the map marked “Parkes Show Boundaries” deposited in the office of Parkes Shire Council	Part-day from midday to 5pm on 29 August 2023

Column 1	Column 2
Town improvement districts of Tallimba, West Wyalong and Wyalong, as shown edged black on the maps marked “Town Improvement District Tallimba” and “Town Improvement District Wyalong/West Wyalong” deposited in the office of Bland Shire Council	Part-day from midday to 6pm on 6 September 2023
City of Grafton within the Clarence Valley local government area, as shown on the “City of Grafton Map” published on the Clarence Valley Council website	Part-day from 1pm to 5pm on 2 November 2023
Police Patrol Districts of Iluka, Maclean and Yamba within the Clarence Valley local government area, as shown on the “Police Patrol District Map” published on the Clarence Valley Council website	Part-day from 1pm to 5pm on 17 April 2024
The part of Yeoval within the Cabonne local government area	Part-day from 8:30am to 7pm on 30 April 2024
Town improvement districts of Tallimba, West Wyalong and Wyalong, as shown edged black on the maps marked “Town Improvement District Tallimba” and “Town Improvement District Wyalong/West Wyalong” deposited in the office of Bland Shire Council	Part-day from midday to 6pm on 4 September 2024
City of Grafton within the Clarence Valley local government area, as shown on the “City of Grafton Map” published on the Clarence Valley Council website	Part-day from 1pm to 5pm on 31 October 2024

[2] Clause 5 Local event days

Omit the table. Insert instead—

Column 1	Column 2
City of Newcastle local government area	3 March 2023
Kempsey local government area	Part-day from midday to 6pm on 19 April 2023
City of Coffs Harbour local government area	Part-day from midday to 5:30pm on 3 August 2023
Kempsey local government area	Part-day from midday to 6pm on 10 November 2023
City of Coffs Harbour local government area	Part-day from midday to 5:30pm on 1 August 2024

[3] Clause 6 Public holiday in whole of State for National Day of Mourning for Queen Elizabeth II

Omit the clause.



9.4.2. Conduct of 2024 Local Government Election

Attachments:	<ol style="list-style-type: none"> 1. OLG Circular 22-35 Councils decisions on the administration of the 2024 ordinary elections [9.4.2.1 - 2 pages] 2. 22-35- FA Qs [9.4.2.2 - 8 pages] 3. Muswellbrook Shire Council 2024 Election Estimate - NSWEC DLM Sensitive [9.4.2.3 - 2 pages] 4. CONFIDENTIAL REDACTED - LG E 24 Council Estimate Muswellbrook Shire Council (002) [9.4.2.4 - 1 page] 5. CONFIDENTIAL REDACTED - Covering Advice Council Quotations 301222 [9.4.2.5 - 4 pages] 6. CONFIDENTIAL REDACTED - Muswellbrook Shire Council Schedule 1 and Schedule 2 Indicative Quotations 2024 Elections 080223 [9.4.2.6 - 2 pages]
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Responsible Officer: Derek Finnigan - Acting General Manager

Author: Melissa Cleary (Manager - Governance), Alexandra Hathway (Corporate Lawyer), Anna Marie Bird (Contracts & Procurement Officer)

Community Plan Issue: 6 - *Community Leadership*

Community Plan Goal: Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.

Community Plan Strategy: 6.1.3 - Enhance Council's communication with the community to build awareness and understanding of Council's activities and community needs.

6.2.2.5 - Provide governance support services for the elected Council and executive

PURPOSE

This report provides advice of arrangements that are necessary to engage the NSW Electoral Commission to conduct the 2024 local government elections for Muswellbrook Shire Council.

OFFICER’S RECOMMENDATION

Muswellbrook Shire Council (“Council”) resolves:

1. Pursuant to s. 296(2) and (3) of the *Local Government Act 1993* (NSW) (“the Act”), that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of Council;
2. Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of Council; and
3. Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of Council.

Moved: _____ **Seconded:** _____



BACKGROUND

The next ordinary elections for local councils in NSW are scheduled to occur in September 2024. In preparation for the elections, councils are required to decide how their elections will be administered, by either the NSW Electoral Commission (NSWEC) or another electoral services provider.

Where a council resolves to engage the NSWEC to administer its elections, polls and referenda, the election arrangement with the NSWEC will apply to the 2024 ordinary election and every election, poll and referendum including any by-election or countback election, until the contract is automatically terminated 18 months before the following ordinary election of councillors.

The election arrangement is a standardised contract for all councils. The service schedule and costs schedule of the standardised contract will vary between councils and are made by the NSWEC in consultation with each council.

Where councils have resolved to enter into an election arrangement with the NSWEC, the contract with the NSWEC must be finalised no later than 15 months before the next ordinary elections (that is, 13 June 2023).

Under section 296AA, where a council resolves that its elections are to be administered by an electoral services provider other than the NSWEC, the resolution must also state whether the General Manager has identified an electoral services provider to be engaged for the next ordinary election and, if so, the name of that provider.

As soon as practicable after the resolution is made, the General Manager must publish a copy of the resolution on the council's website.

CONSULTATION

Office of Local Government

NSW Electoral Commission

Australian Election Company

Acting General Manager

Finance Manager (Acting CFO)

Corporate Lawyer

Contracts and Procurement Officer

Governance Officer

REPORT

Under section 296AA of the Act, councils are required to determine how their ordinary elections in September 2024 are to be administered by 13 March 2023.

Each council must resolve either:

- to engage the NSW Electoral Commissioner (NSWEC) to administer the council's elections, polls and referenda, or
- that the council's elections are to be administered by another electoral services provider.

Cost estimates for the conduct of the September 2024 Muswellbrook Shire local government election have been provided to Council by the NSW Electoral Commission and the Australian Election Company (AEC) and, due to commercial-in-confidence considerations, have been provided to Councillors under separate cover.

Attached for the information of Councillors are:



- 16.7.1 - Office of Local Government - Circular No 22-35/ Date 11 November 2022/ A839620 *Councils' decisions on the administration of their September 2024 ordinary elections;*
- 16.7.2 - Office of Local Government FAQ document to assist councils when making decisions on the administration of their elections;
- 16.7.3 - NSW Electoral Commission - advice regarding the NSWEC cost estimate for the administration of the 2024 Muswellbrook local government election;
- 16.7.4 - NSW Electoral Commission - *2024 Local Government Election - Cost Estimate as at 30th January 2023 Muswellbrook Shire Council (attached under separate cover);*
- 16.7.5 - Australian Election Company - *Advice To Councils- Indicative Quotation From Australian Election Company For Management & Conduct Of Sept. 2024 L.G. Elections;*
- 16.7.6 - Australian Election Company - *Muswellbrook Shire Council "Schedule 1 & Schedule 2" Indicative Quotation(s) - September 2024 Round Of NSW Local Government Elections (attached under separate cover).*

OPTIONS

By 13 March 2023, Council must resolve either:

- to engage the NSWEC to administer Council's elections, polls and referenda;
- OR
- that Council's elections are to be administered by Australian Election Company.

CONCLUSION

It is recommended that Councillors endorse the proposed model resolution for the NSWEC to conduct the 2024 elections.

SOCIAL IMPLICATIONS

None identified

FINANCIAL IMPLICATIONS

Council will be required to allocate funding in the 2024-25 Budget to meet the costs of conducting the 2024 election.

POLICY IMPLICATIONS

None identified.

STATUTORY IMPLICATIONS

Under section 296AA of the Act, councils are required to determine how their ordinary elections in September 2024 are to be administered by 13 March 2023.

LEGAL IMPLICATIONS

None identified.

OPERATIONAL PLAN IMPLICATIONS

None identified.



RISK MANAGEMENT IMPLICATIONS

If Council fails to make a decision on the administration of its elections, polls and referenda by 13 March 2023, it will not be able to engage the NSWEC to administer its ordinary election and it will be required to make its own arrangements with another electoral services provider for the administration of its elections.

A council that fails to make a decision on the administration of its elections by 13 March 2023 will also be required to publish a notice of that failure on the council's website.

Please refer to the attached FAQ document for further information regarding what councils should consider before making a decision to engage an electoral services provider other than the NSWEC.

WASTE MANAGEMENT IMPLICATIONS

None identified.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

As soon as practicable after the resolution is made, the General Manager is required to publish a copy of the resolution on Council's website.



Circular Details	Circular No 22-35/ Date 11 November 2022/ A839620
Previous Circular	18-43 – Council decisions on the administration of the September 2020 elections
Who should read this	Councillors / General Managers / Council governance staff
Contact	Council Governance Team / 02 4428 4100 / olg@olg.nsw.gov.au
Action required	Council to Implement

Councils' decisions on the administration of their September 2024 ordinary elections

What's new or changing

- Under section 296AA of the *Local Government Act 1993* (the Act), councils are required to make a decision on how their ordinary elections in September 2024 are to be administered by **13 March 2023**.
- Each council must resolve **either**:
 - to enter into an election arrangement with the NSW Electoral Commissioner (NSWEC) to administer all the council's elections, polls and constitutional referenda **or**
 - that the council's elections are to be administered by another electoral services provider engaged by the council.
- If a council does not resolve to engage the NSWEC to administer its elections by **13 March 2023**, it must engage another electoral services provider to do so.

What this will mean for your council

- Councils are required to make a decision under section 296AA by 13 March 2023 on the administration of their next ordinary election. Information to assist councils in making that decision is provided in the attached FAQ.
- If a council is proposing to engage the NSWEC to administer its elections, it should resolve to do so as soon as possible and notify the NSWEC.

Key points

- Where councils resolve to engage the NSWEC to administer their elections, polls and referenda, a model resolution is suggested in the attached FAQ.
- If a council resolves to adopt an electoral services provider other than the NSWEC, the resolution must state whether the general manager has identified an electoral services provider to be engaged for the next ordinary election and, if so, the name of that provider.

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Where to go for further information

- Further information to assist councils' decisions on the administration of their September 2024 ordinary elections is contained in the FAQ attached to this circular.
- Contact the Office of Local Government's Council Governance Team by telephone on 02 4428 4100 or by email at olg@olg.nsw.gov.au.
- Contact Steve Robb at the NSW Electoral Commission by telephone on 1300 135 736.

Melanie Hawyes
Deputy Secretary, Crown Lands and Local Government

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FREQUENTLY ASKED QUESTIONS

Part 1 Decision making on the administration of elections

What decisions must councils make on the administration of their elections?

Under section 296AA of the *Local Government Act 1993* (the Act), each council must resolve by **13 March 2023** either:

- to engage the NSW Electoral Commissioner (NSWEC) to administer the council's elections, polls and referenda, or
- that the council's elections are to be administered by another electoral services provider.

What happens if a council fails to make a decision on the administration of its elections by 13 March 2023?

If a council fails to make a decision on the administration of its elections, polls and referenda by 13 March 2023, it will not be able to engage the NSWEC to administer its ordinary election and it will be required to make its own arrangements with another electoral services provider for the administration of its elections.

A council that fails to make a decision on the administration of its elections by 13 March 2023 will also be required to publish a notice of that failure on the council's website.

Part 2 Election arrangements with the NSWEC

What election arrangements can councils enter into with the NSWEC?

The election arrangement is a standardised contract for all councils. The service schedule and costs schedule of the standardised contract will vary between councils and are made by the NSWEC in consultation with each council.

Where a council resolves to engage the NSWEC to administer its elections, polls and referenda, the election arrangement with the NSWEC will apply to the 2024 ordinary election and every election, poll and referendum including any by-election or countback election until the contract is automatically terminated 18 months before the following ordinary election of councillors.

Where a council resolves to engage the NSWEC to administer its elections, polls and referenda, it should use the model resolutions provided below.

If a council wishes to engage the NSWEC to administer its elections, polls and referenda what form should its resolution take?

Councils wishing to make a resolution that an election arrangement be entered into for the NSWEC to administer all elections, polls and referenda under section 296(3) of the Act should use the following model resolution:

The [insert full description of council] ("the Council") resolves:

1. *pursuant to s. 296(2) and (3) of the Local Government Act 1993 (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.*

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2. pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
3. pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

When must the election arrangements with the NSWEC be finalised?

Where councils have resolved to enter into an election arrangement with the NSWEC, the contract with the NSWEC must be finalised no later than 15 months before the next ordinary elections (ie **13 June 2023**).

Can election arrangements with the NSWEC be terminated?

Yes, but only after the council's ordinary election. An election arrangement for the NSWEC to administer all elections, polls and referenda of a council can be terminated by the council or the NSWEC at any time after the ordinary election by giving written notice of termination and in accordance with any notification requirements set out in the contract.

If the election arrangement is not terminated by either party, the arrangement is automatically terminated 18 months before the following ordinary election when the council will be required to determine who will conduct its next ordinary election.

If a council does not engage the NSWEC to administer its ordinary election, can it engage the NSWEC to administer a particular by-election, poll or referendum after the ordinary election?

Yes. Where a council does not enter into an election arrangement with the NSWEC to administer its ordinary election, the council may resolve to enter into an election arrangement with the NSWEC to administer a particular by-election, poll or referendum following the ordinary election.

If councils resolve to engage the NSWEC to administer a particular by-election, poll or referendum after the ordinary election, they should use the model resolutions provided below.

If a council wishes to engage the NSWEC to administer a particular by-election or countback election, what form should its resolution take?

Councils wishing to engage the NSWEC to administer a particular by-election or countback election after the ordinary election should use the following model resolution:

The [insert full description of council] ("the Council") resolves pursuant to ss. 296(2) and (4) of the Local Government Act 1993 (NSW) that:

1. *an election arrangement is to be entered into for the Electoral Commissioner to administer [insert description of the particular election but do not do so by date in case the election date is changed or postponed]; and*
2. *such election arrangement is to be entered into by contract between the Electoral Commissioner and the Council.*

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Note: Please refer below for additional information concerning limitations with respect to countback elections.

If a council wishes to engage the NSWEC to administer a particular poll, what form should its resolution take?

Councils wishing to engage the NSWEC to administer a particular poll after the ordinary election should use the following model resolution:

The [insert full description of council] (“the Council”) resolves pursuant to ss. 296(2) and (4) of the Local Government Act 1993 (NSW), as applied and modified by s.18, that:

- 1. a council poll arrangement be entered into for the Electoral Commissioner to administer [insert description of the council poll but do not do so by date in case the poll date is changed or postponed]; and*
- 2. such council poll arrangement be entered into by contract between the Electoral Commissioner and the Council.*

If a council wishes to engage the NSWEC to administer a particular referendum, what form should its resolution take?

Councils wishing to engage the NSWEC to administer a particular referendum after the ordinary election should use the following model resolution:

The [insert full description of council] (“the Council”) resolves pursuant to ss. 296(2) and (4) of the Local Government Act 1993 (NSW), as applied and modified by s.18, that:

- 1. a constitutional referendum arrangement be entered into for the Electoral Commissioner to administer [insert description of the constitutional referendum but do not do so by date in case the referendum date is changed or postponed]; and*
- 2. such constitutional referendum arrangement be entered into by contract between the Electoral Commissioner and the Council.*

If a council does not engage the NSWEC to administer its ordinary election, can it engage the NSWEC to administer a countback election following the ordinary election?

No. Under section 291A(b) of the Act, if the council's ordinary election was administered by an electoral services provider other than the NSWEC, a countback election to fill a casual vacancy must be conducted by a returning officer appointed by that electoral services provider.

Part 3 Election arrangements with other electoral services providers

What information must be included in a resolution to engage an electoral services provider other than the NSWEC?

Under section 296AA, where a council resolves that its elections are to be administered by an electoral services provider other than the NSWEC, the resolution must also state whether the general manager has identified an electoral services provider to be engaged for the next ordinary election and, if so, the name of that provider.

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As soon as practicable after the resolution is made, the general manager must publish a copy of the resolution on the council's website.

What should councils consider before making a decision to engage an electoral services provider other than the NSWEC?

In considering the use of other electoral services providers, it is important to clarify that they can deliver the elections for the council.

Councils need to be satisfied that if the provider claims to be able to obtain all the electoral material, or hire the necessary venues, or arrange the printing of the ballot papers, or conduct the count, that they can demonstrate their successful completion of these tasks in similar circumstances.

A key consideration will be whether the provider is able to administer the complex counts required under the weighted inclusive Gregory method of preference allocation prescribed under the *Local Government (General) Regulation 2021* (the Regulation) for council elections using the proportional system.

It is also a requirement that the method proposed to be used by the provider to conduct the count of the ballot papers (whether through the use of data entry or scanning equipment) can comply with the formality, scrutiny and record keeping provisions contained in the Act and Regulation.

If councils decide to use a commercial electoral services provider, is it necessary to go to tender?

Section 55 of the Act exempts councils from tendering when entering into a contract or arrangement for the NSWEC to administer the council's elections, referendums and polls. This exemption does not apply to contracts or arrangements with any other service provider.

As the amount involved in conducting council elections can be significant it is important to ensure that any commercial organisation is providing value for money. It is also important to ensure that as public funds are being expended, principles of openness, transparency and accountability are not compromised.

Unless the cost of administering the elections is under \$250,000 or any of the other exemptions provided for in section 55 apply, councils will be required to go to tender or to conduct a selective tender when engaging a commercial electoral services provider.

What should councils consider when entering into a contract with a commercial electoral services provider?

In negotiating arrangements for the administration of their elections with commercial electoral services providers, councils need to ensure that:

- there will be an appropriate number of pre-poll and polling places
- there will be adequate staffing levels
- the provider uses counting software that can undertake counts using the weighted inclusive Gregory method
- the potential need for the provider to administer countback elections in the 18 months following the ordinary election.

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What is the appropriate number of polling places?

The appropriate number of polling places for any one council will depend on its individual characteristics and factors such as the number of electors, the geographic area it covers, available transport options and suitable venues.

While the cost of hiring venues will be a consideration, councils should also consider the following when negotiating the number and type of venues to be used with the electoral service provider:

- How many voters are there in total in the area, and how many voters can each particular venue comfortably handle?
- What venues have been used in the past by either the Australian Electoral Commission for federal elections or the NSWEC for either state or local government elections? What was the previous attendance pattern at these venues?
- Is the venue conveniently located, particularly in light of transport options?
- Is it suitable for the purpose of conducting an election? For example, is there sufficient space for the various tables, voting screens, ballot boxes, throughput of voters? Is there appropriate furniture for electoral officials? For example, if small tables and chairs are used in a primary school these are not appropriate for adults involved in election-related activities.
- Is it easily accessible for all voters and in particular those with a disability, mobility issues, the elderly or frail, parents with prams?
- Are there venues located close to ward boundaries that can issue ballot papers for both the ward in which they are located as well as votes for adjoining ward/s? Or in the case of an undivided council, venues located close to the boundary of another council or councils?
- Is appropriate public liability insurance in place?

It is likely that the more electors a council has, the more polling places it will need.

What are the appropriate staffing levels for a council election?

Determining the appropriate number of staff required for any particular council area depends on the estimated number of votes likely to be cast and the volume for each particular voting option (pre-poll, declared institution, postal and election day) as this will have an impact on the categories of staff recruited. For example, if it is anticipated that there will be a high demand for pre-poll voting it may be necessary to have more office assistants available in the returning officer's office than in an area where it is likely that more votes will be taken on election day at polling places.

Under the legislation, all polling places must have a minimum of two staff, one of whom is the polling place manager.

The NSWEC's polling place staffing formula is based on 450 votes per issuing table (at one election official per table) and the overall projected number of votes for the polling place determines the number of issuing tables. The number of issuing tables determines whether a particular polling place requires a deputy polling place manager, a ballot box guard and/or an enquiry officer.

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Is it possible to conduct the count and distribution of preferences manually?

No. The weighted inclusive Gregory method used for allocating preferences at elections using the proportional system, uses a fractional transfer system. All ballot papers of the elected candidate are used to distribute the surplus (instead of a sample). The ballot papers are distributed at a reduced rate with each transfer of votes by applying a transfer value, making manual counts impossible.

Councils should ensure that any commercial electoral services provider they engage to conduct their elections is able to undertake a count utilising counting software that allocates preferences using the weighted inclusive Gregory method.

What arrangements should be made for countback elections?

Councils have the option of filling vacancies that occur in the 18 months following the September 2024 council elections using a countback of the votes cast at the ordinary election instead of a by-election. Countback elections are not available for elections using the optional preferential voting system (including elections for popularly elected mayors).

In order to fill vacancies using a countback election, councils must resolve at their first meeting following the ordinary election that any casual vacancy is to be filled by a countback election.

If councils are proposing to fill vacancies using a countback election, they should factor this into their contractual arrangements with commercial electoral services providers. Among other things, the contractual arrangements should ensure the following:

- the retention of all electoral material, information and data for the 18 month period following the ordinary election during which countback elections may be used
- the safe storage and security of electoral material, information and data (including from cyber-attack)
- the council has ongoing access to the electoral material, information and data from the ordinary election.

What other considerations should councils factor into their contractual arrangements with commercial electoral services providers?

Councils should ensure:

- that the commercial electoral services provider has a formal policy that ensures that scrutineers are given as much opportunity as possible to be involved in the counting process by allowing the examination and comparison of ballot papers, the data entry of votes recorded on ballot papers (whether by manual data entry or digital scanning) and electronic or data entry records
- that the commercial electoral services provider has an audit system in place for checking ballot papers against the information entered into the electronic counting system used by the provider and that scrutineers are permitted to observe the audit process and its results
- that the commercial electoral services provider will make full preference data available for publication

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- that the source code of counting software used by the commercial electoral services provider has been independently audited by an accredited source code auditor.

What services will the NSWEC provide to councils that engage an electoral services provider to administer their elections?

The NSWEC provides enrolment services to electoral services providers such as the provision of authorised rolls, candidates' rolls, an online look-up facility for non-residential electors, a list of general postal voters and enrolment declaration envelopes. These products and services will be provided at cost to the relevant councils.

What information are councils required to provide to the NSWEC where they engage another electoral services provider to administer their elections?

Councils that have engaged a provider other than the NSWEC to administer their elections are required to provide certain information to the NSWEC to support it in the exercise of its statutory functions in connection with the administration of candidate registration and other electoral funding and disclosure requirements and the enforcement of the failure to vote provisions of the Act and Regulation.

How should election costs be managed?

General managers should prepare a budget for all facets of council elections, and record and monitor expenditure to ensure a shortfall does not occur. Activity based costing will need to be applied to ensure that all costs and expenses are identified.

Areas to be covered include:

- wages of all electoral officials and any council staff engaged in election-related work
- recruitment and training
- advertising including the placement of statutory advertisements
- candidate and elector information
- hire of venues, furniture and equipment
- production of all election-related material, including forms, envelopes and cardboard material
- printing of ballot papers including in Braille, if requested
- transportation of election-related materials
- IT software and hardware
- administration expenses such as telephone, postage, courier services, photocopiers and printers
- insurance

A number of key variables will not be known until the close of nominations, namely whether an election will be uncontested, whether there will need to be a by-election due to insufficient nominations, whether candidates will form groups and request group voting squares, and whether as a result, ballot papers will need to be printed to allow 'above the line' and 'below the line' voting.

These factors will have an impact on costs. However given the lead time required to ensure voting can go ahead at the prescribed times, provision for all likely costs has to be made.

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What are the reporting requirements on election costs?

Within six months of the election, the general manager must prepare a report for the Minister for Local Government on the conduct of each election. Full and transparent costings for each election must be disclosed in this report.

The following list is not exhaustive but contains a number of items that should be reported on:

- time spent on the election by the general manager as a proportion of the general manager's remuneration,
- time spent on the election by council staff as a proportion of council staff remuneration,
- the remuneration of council staff employed specifically for the purpose of the election,
- the remuneration, recruitment and training costs of election officials,
- the cost of running any candidate information seminars,
- the cost of hiring venues and equipment for the election, including council venues and equipment and any associated costs,
- the cost of any technological support, including the development of any counting software,
- the cost of preparing the written report on the election required under the Regulation,
- any electoral services provided to electors,
- any electoral services provided to candidates,
- operational details of the election,
- an overall evaluation of the conduct of the election, including feedback from stakeholders,
- the number of electors entitled to vote at the election and the number of electors who voted, specifying the number of electors who voted personally or by post,
- the cost to the council of engaging the electoral services provider to administer the election.

What is meant by 'full and transparent costings'?

It needs to be acknowledged that although council staff may be used to undertake administrative tasks related to the conduct of elections, this comes at a cost. Notably any time spent on election-related work is time not spent on other council duties. Similarly use of council office space or office equipment or resources for election-related work is at the expense of other day to day council activities.

The identification of activity-based costs and expenses allows a comparison with the fees charged by the NSWEC, to see whether one option is better value than the other for ratepayers.

Even in the case of an uncontested election or where there are insufficient nominations to enable the election to proceed on election day, there will be costs associated with having reached that stage, which also need to be reported.

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From: LGE24
Sent: Mon, 30 Jan 2023 03:21:56 +0000
To: Fiona Plesman
Cc: Melissa Cleary
Subject: Muswellbrook Shire Council 2024 Election Estimate - NSWEC [DLM= Sensitive]
Attachments: LGE24 Council Estimate_Muswellbrook Shire Council.pdf

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Attached is a copy of the cost estimate for the NSW Electoral Commission (Electoral Commission) to conduct Council's 2024 ordinary election. Below are some points to note regarding the estimate.

The Electoral Commission will only ever charge the actual cost to conduct the election – we do not apply any margin to the cost. Costs have risen since the December 2021 elections and are likely to continue to rise between the date of this estimate and the holding of the election.

Key cost increases include:

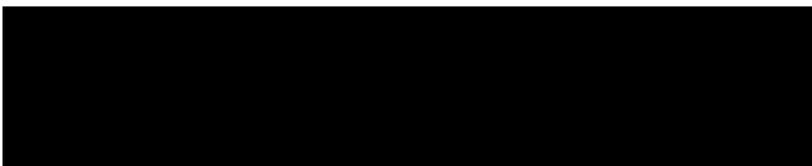
- Early voting centre rental costs have significantly increased since LGE21
- Logistics costs are increasing by 10% year-on-year
- The fuel levy for material deliveries and collections has increased by 24%
- The 3-year CPI increase is 13.12%
- Staff costs have risen by 2.83% pa
- Growth in the number of electors is 3.34% over 3 years
- Paper costs have risen (affecting ballot papers and printed rolls)

It is important to note that this estimate does not include the 'core' costs of running the election (for example, the Electoral Commission's head office operating/capital costs such as staff payroll, training, IT system development and maintenance of the electoral roll). These core costs are met by the NSW Government.

Should Council resolve to have the NSW Electoral Commission conduct its 2024 election, please ensure that the appropriate resolution is passed and sent to us by Monday, 13th March 2023.

Naturally, should you have any questions regarding the cost estimate feel free to call Steve Robb on 02 9290 5431.

Best Regards,



CONFIDENTIALITY NOTICE

This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please delete it and notify the sender. Views expressed in this message are those of the individual sender and are not necessarily the views of the NSW Electoral Commission or the Electoral Commissioner.

**9.4.3. 2022/2023 Operational Plan - 31 December, Quarterly Review**

Attachments:	1. Council Review Quarter 2 2023-24 [9.4.3.1 - 55 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Amy Cox (Corporate Planning and Reporting Officer)
Community Plan Issue:	6 - <i>Community Leadership</i>
Community Plan Goal:	Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.
Community Plan Strategy:	6.1.3 - Enhance Council's communication with the community to build awareness and understanding of Council's activities and community needs.

PURPOSE

The adopted 2022/2023 Operational Plan has been reviewed over the months of 1 October 2022 to 31 December 2022.

OFFICER'S RECOMMENDATION

Council notes the 2022/2023 Operational Plan Review dated 31 December 2022.

Moved: _____ **Seconded:** _____

BACKGROUND

The *Local Government Act 1993* requires Council to review its Operational Plan.

CONSULTATION

Manex

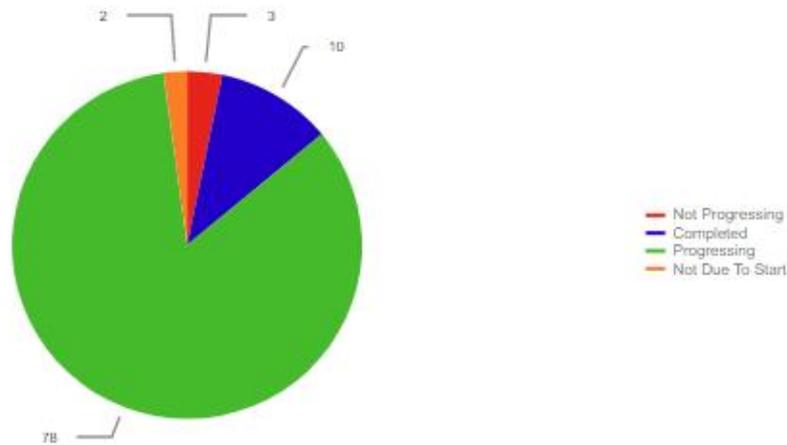
Managers and Coordinators

REPORT

Please refer to the Q2 2022/2023 Council Review (attached under separate cover) for the full Operational Plan review for the period to 31 December 2022.

Following, are overview charts indicating the status of Operational Plan items by Principal Activity Area.

Overall - of the 93 activities:	
	3.22% are not progressing;
	2.15% are not due to start;
	83.88% are progressing;
	10.75% have been completed on or ahead of schedule.



The actions reported as **completed** during Q2 2022/23 are as follows:

ACTION	STATUS
1.2.1.2 Establish Community and Economy Directorate at Council	A Community and Economy Directorate has been established at Muswellbrook Shire Council. Ms Shaelee Welchman is Council's Director Community and Economy.
1.2.2.1 Seek funding for the development of the Upper Hunter Employment Land Strategy.	As reported to the 27 September 2022 Ordinary Council Meeting, Council has entered into Contract 2022-2023-0540 for the development of an Upper Hunter Region Employment Land Strategy. Council will receive contributory funding from Singleton Council, Upper Hunter Shire Council and Dungog Shire Council to enable the development of the Strategy.
2.1.1.1 Report a list of prioritised capital sport and recreation projects	The General Recreation Programme 2022-2023 was endorsed at the September 2022 Ordinary Council meeting.
2.1.2.2 Continue matched funding Sport and Recreation Grants Programmes	The 2022 Sport and Recreation Grants Programme for small and large match funding applications have been awarded.
2.5.2.1 Muswellbrook Common project design and concept plan brief is developed	The Community Gathering Place: Aboriginal & Torres Strait Islander Cultural Centre project design and brief has been completed. This was a joint partnership between Wanarauh Local Aboriginal Land Council, Muswellbrook Shire Council and MACH Energy.



ACTION	STATUS
5.3.1.1 Carry out Best Practice audit of water and wastewater services	The Final Review Report for 2020-21 was submitted to the 20 December 2022 Ordinary Council Meeting to note the information and recommendations submitted by the Auditor. The final review confirms that Council's Best Practice Management of Water Supply and Sewer Services for 2020-21 was substantially compliant with best practice.
6.1.1.2 Develop and implement a community panel engagement process to establish agreed levels of service between Council and the community	A Community Panel was recruited with two face-to-face meetings held at Denman and Muswellbrook (20 August and 24 September) and a series of seven video presentations were distributed to Panel Members in place of the scheduled 10 September face-to-face session. The final report on the outcomes of the 2022 Community Panel was tabled at the 20 December Ordinary Meeting for the information of Councillors.
6.1.2.1 Develop and implement a Community Engagement Strategy	The Muswellbrook Shire Council Community Engagement Strategy 2022 was adopted by Council at the 22 November Ordinary Meeting following 28 days public exhibition, with graphic design undertaken by an external contractor during the public exhibition period.
6.2.4.1 The Local Orders Policy is reviewed	Revised Local Orders Policy adopted by Council December 2022.
6.2.5.6 Facilitate Council's participation in the Local Government Professionals/ Price Waterhouse Coopers Performance Excellence Program	Council's participation in the Local Government Professionals/ Price Waterhouse Coopers Performance Excellence Program (PEP) has concluded for 2022/23 with all required data collected and submitted in compliance with PEP deadlines

The actions reported as **not progressing** during Q2 2022/23 are as follows:

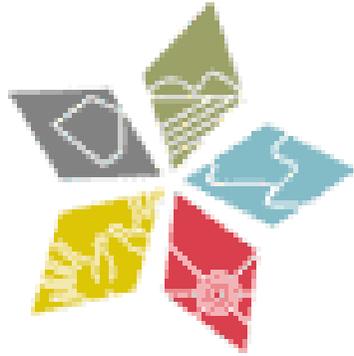
ACTION	STATUS
1.2.3.2 Prepare a Local Approvals Policy for adoption by Council	Progress has been temporarily suspended, as staff have been diverted to new projects commenced by Regional NSW for a Regional Housing Strategy.
1.2.5.1 Prepare a scope of works and background paper for a Rural and Environmental Land Strategy.	Progress has been temporarily suspended, as staff have been diverted to projects that involve the update of Contributions Plans and preparation of a Planning Agreement Policy.



ACTION	STATUS
3.4.2.1 Provide guidance material on Council's website to help applicants for new development to prepare and submit improved Statements of Environmental Effect with their applications.	Staff have been reallocated to work on the review of conditions of consent to load on to the eplanning portal for the introduction of Notices of Determination being issued via the eplanning portal by 30 May 2023 (initiative mandated by Department of Planning and Environment). Staff are also working on a "Conflict with Development Applications" Policy that must be finalised by April 2023 (initiative mandated by Department of Planning and Environment).

The actions reported as **not due to start** during Q2 2022/23 are as follows:

ACTION	STATUS
6.1.1.1 Facilitate an annual Community Satisfaction Survey	A Request For Quote process will be conducted via VendorPanel in January 2023. The Community Satisfaction Survey is scheduled to be conducted in Q4.
6.2.5.4 Develop, implement and monitor a calendar of compliance to support Council's statutory reporting obligations	Due to competing priorities the population of the Local Government Legal Compliance Module has been delayed, for commencement in Q3. In the meantime, Council continues to manage and monitor statutory reporting obligations via subscription to the OLG Council Portal with notifications of reporting requirements and deadlines communicated to applicable responsible officers.



Q 2 2022-2023 Council Review

1 October 2022 – 31 December 2022

1: Economic Prosperity

01: A dynamic Local economy with full employment for current and future residents in a diverse range of high value industries

01.01: Support job growth within the Shire

01.01.01: Facilitate the expansion of and establishment of new industries and business.

Action: 1.1.1.1 Masterplan for transition of the Muswellbrook Coal site to alternative employment uses presented to Council for endorsement.

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.01.01	Facilitate the expansion of and establishment of new industries and business.	1.1.1.1 Masterplan for transition of the Muswellbrook Coal site to alternative employment uses presented to Council for endorsement.	Progressing	30%	Meetings held with Transport for NSW and EnergyCo have highlighted the Hunter Gas Pipeline is potentially required for a number of energy and road corridors. The Hunter Regional Plan 2041, released late 2022, suggests the Department of Planning and Environment (DPE) will take the lead in land use planning for site transition. Staff will contact DPE for guidance.	

Action: 1.1.1.2 Discussion paper on the approach to planning approvals for new land uses on the Muswellbrook Coal Mine and Liddell Power Station sites prepared.

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.01.01	Facilitate the expansion of and establishment of new industries and business.	1.1.1.2 Discussion paper on the approach to planning approvals for new land uses on the Muswellbrook Coal Mine and Liddell Power Station sites prepared.	Progressing	30%	The Hunter Regional Plan 2041 was finalised in December 2022. The Plan suggests the Department of Planning and Environment (DPE) will take the lead role in planning the site transition. Staff will contact DPE to commence process.	

Action: 1.1.1.3 Upper Hunter Employment Land Strategy presented to Council for exhibition.

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.01.01	Facilitate the expansion of and establishment of new industries and business.	1.1.1.3 Upper Hunter Employment Land Strategy presented to Council for exhibition.	Progressing	35%	Hill PDA have commenced as the consultant and have undertaken the initial stakeholder consultation, documentary review and data analysis. The project is progressing in accordance with the project plan.	

01.02: Diversify the economy, facilitate the development of intensive agriculture innovative manufacturing, health services and other growth industries

01.02.01: Facilitate the diversification of the Shire's economy and support growth of existing industry and business enterprise

Action: 1.2.1.1 Establish Advanced Manufacturing Hub.

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.02.01	Facilitate the diversification of the Shire's economy and support growth of existing industry and business enterprise	1.2.1.1 Establish Advanced Manufacturing Hub.	Progressing	90%	The Establishment of the Advanced Manufacturing Centre is progressing. The Melt and Innovation Coordinator have been engaged in a number of activities in preparation for occupation including curriculum development, the development of Work Health and Safety procedures, and student workshops.	

Action: 1.2.1.2 Establish Community and Economy Directorate at Council

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.02.01	Facilitate the diversification of the Shire's economy and support growth of existing industry and business enterprise	1.2.1.2 Establish Community and Economy Directorate at Council	Completed	100%	A Community and Economy Directorate has been established at Muswellbrook Shire Council. Ms Shaelee Welchman is Council's Director Community and Economy.	

01.02.02: Complete the Employment Land Use Strategy

Action: 1.2.2.1 Seek funding for the development of the Upper Hunter Employment Land Strategy.

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.02.02	Complete the Employment Land Use Strategy	1.2.2.1 Seek funding for the development of the Upper Hunter Employment Land Strategy.	Completed	100%	As reported to the 27 September 2022 Ordinary Council Meeting, Council has entered into Contract 2022-2023-0540 for the development of an Upper Hunter Region Employment Land Strategy. Council will receive contributory funding from Singleton Council, Upper Hunter Shire Council and Dungog Shire Council to enable the development of the Strategy.	

01.02.03: Review the Local Environmental Plan and Development Control Plan to improve investment certainty for industry.

Action: 1.2.3.1 The transition of business and Industrial zones to new employment zones under the Standard Instrument (Local Environmental Plans) Order 2006 is finalised

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.02.03	Review the Local Environmental Plan and Development Control Plan to improve investment certainty for industry.	1.2.3.1 The transition of business and Industrial zones to new employment zones under the Standard Instrument (Local Environmental Plans) Order 2006 is finalised	Progressing	50%	Staff have assisted Department of Planning with mapping changes. Current advice is that changes will become effective in April 2023.	

Action: 1.2.3.2 Prepare a Local Approvals Policy for adoption by Council

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.02.03	Review the Local Environmental Plan and Development Control Plan to improve investment certainty for industry.	1.2.3.2 Prepare a Local Approvals Policy for adoption by Council	Not Progressing	25%	Progress has been temporarily suspended, as staff have been diverted to new projects commenced by Regional NSW for a Regional Housing Strategy.	

01.02.04: Implement the Muswellbrook and Denman Town Centre Masterplans and the Sandy Hollow Village Masterplan

Action: 1.2.4.1 Commence enabling works for Muswellbrook Town Centre

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.02.04	Implement the Muswellbrook and Denman Town Centre Masterplans and the Sandy Hollow Village Masterplan.	1.2.4.1 Commence enabling works for Muswellbrook Town Centre	Progressing	25%	A Development Application is being prepared for the demolition of redundant buildings to facilitate the Town Centre pocket park playground development.	

Action: 1.2.4.2 Determine the realignment of the lower piped portion of Possum Gully

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.02.04	Implement the Muswellbrook and Denman Town Centre Masterplans and the Sandy Hollow Village Masterplan.	1.2.4.2 Determine the realignment of the lower piped portion of Possum Gully	Progressing	25%	An alternative concept for the realignment of the lower portion of Possum Gully is being developed for Council's consideration.	

Action: 1.2.4.3 Implement improved pedestrian links to the Muswellbrook Marketplace

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.02.04	Implement the Muswellbrook and Denman Town Centre Masterplans and the Sandy Hollow Village Masterplan.	1.2.4.3 Implement improved pedestrian links to the Muswellbrook Marketplace	Progressing	25%	Concepts for improved pedestrian access between the Town Centre and the Marketplace have been prepared and are progressing.	

Action: 1.2.4.4 Construct the Denman and District Heritage Village

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.02.04	Implement the Muswellbrook and Denman Town Centre Masterplans and the Sandy Hollow Village Masterplan.	1.2.4.4 Construct the Denman and District Heritage Village	Progressing	50%	Construction of the Heritage Village is progressing with structural steel in fabrication for installation in March.	

01.02.05: Develop a Rural and Environmental Land Strategy

Action: 1.2.5.1 Prepare a scope of works and background paper for a Rural and Environmental Land Strategy.

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.02.05	Develop a Rural and Environmental Land Strategy	1.2.5.1 Prepare a scope of works and background paper for a Rural and Environmental Land Strategy.	Not Progressing	25%	Progress has been temporarily suspended, as staff have been diverted to projects that involve the update of Contributions Plans and preparation of a Planning Agreement Policy.	

01.02.06: Review the Local Strategic Plan in response to changes to the NSW Planning Act

Action: 1.2.6.1 Assist DPIE to complete the Upper Hunter Vineyards Structure Plan

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.02.06	Review the Local Strategic Plan in response to changes to the NSW Planning Act	1.2.6.1 Assist DPIE to complete the Upper Hunter Vineyards Structure Plan	Progressing	80%	Staff provided feedback to the Department of Planning and Environment on a final draft scenic assessment report and Strategy. Department of Planning and Environment have indicated it may not be finalised until April 2023 .	

01.03: Facilitate greater access to higher education

01.03.01: Advocate to maintain the Hunter TAFE Campus and advocate to activate the University of Newcastle Campus

Action: 1.3.1.1 Mayor to meet regularly with Member for Upper Hunter and Federal Member for Hunter to advocate for TAFE and UON campuses.

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.03.01	Advocate to maintain the Hunter TAFE Campus and advocate to activate the University of Newcastle Campus	1.3.1.1 Mayor to meet regularly with Member for Upper Hunter and Federal Member for Hunter to advocate for TAFE and UON campuses.	Progressing	50%	The Mayor has met with University of Newcastle (UON) representatives to facilitate a tertiary education pathways programme, and meets regularly with the Member for Upper Hunter and Federal Member for Hunter to advocate for TAFE and University of Newcastle campuses.	

01.04: Develop Muswellbrook as a Regional Centre

01.04.01: Complete current infrastructure projects and identify future opportunities for the Shire

Action: 1.4.1.1 Commence Olympic Park field improvements

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.04.01	Complete current infrastructure projects and identify future opportunities for the Shire	1.4.1.1 Commence Olympic Park field improvements	Progressing	25%	Draft drainage and irrigation designs prepared for Olympic Park field improvements, and discussions held with funding bodies to align grant and project milestones.	

Action: 1.4.1.2 Seek development approval for grandstand and amenities design for Olympic Park

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.04.01	Complete current infrastructure projects and identify future opportunities for the Shire	1.4.1.2 Seek development approval for grandstand and amenities design for Olympic Park	Progressing	25%	The development application for the Olympic Park amenities and grandstand design has been submitted for assessment with a determination tentatively expected in April 2023. The Olympic Park Development Advisory Committee has been established to help guide development.	

Action: 1.4.1.3 Develop Pocket Park design for the Muswellbrook Town Centre

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.04.01	Complete current infrastructure projects and identify future opportunities for the Shire	1.4.1.3 Develop Pocket Park design for the Muswellbrook Town Centre	Progressing	50%	A concept design for the Muswellbrook Town Centre Pocket Park is being prepared for Council's consideration and endorsement.	

01.04.02: Advocate for increased medical services in the Shire

Action: 1.4.2.1 Provide subsidised practice space to attract Obstetrics medical service providers to the Shire

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
01.04.02	Advocate for increased medical services in the Shire	1.4.2.1 Provide subsidised practice space to attract Obstetrics medical service providers to the Shire	Progressing	50%	Consultation has been carried out and continues in relation to advocating for an obstetrician to become established in Muswellbrook Shire.	

2: Social Equity and Inclusion

02: An inclusive and interconnected community where everyone enjoys full participation

02.01: Improve the affordability, liveability and amenity of the Shire Communities

02.01.01: Implement the outcomes of the Recreation Needs Study.

Action: 2.1.1.1 Report a list of prioritised capital sport and recreation projects

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.01.01	Implement the outcomes of the Recreation Needs Study.	2.1.1.1 Report a list of prioritised capital sport and recreation projects	Completed	100%	The General Recreation Programme 2022-2023 was endorsed at the September 2022 Ordinary Council meeting.	

Action: 2.1.1.2 Deliver projects prioritised for financial year

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.01.01	Implement the outcomes of the Recreation Needs Study.	2.1.1.2 Deliver projects prioritised for financial year	Progressing	50%	The 2022-23 General Recreation Programme was endorsed at the 27 September 2022 Ordinary Council Meeting, and prioritises the delivery of projects for completion during the current financial year.	

02.01.02: Promote and facilitate increased participation in active and passive recreation activities

Action: 2.1.2.1 Maintain an annual calendar of meetings with user groups

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.01.02	Promote and facilitate increased participation in active and passive recreation activities	2.1.2.1 Maintain an annual calendar of meetings with user groups	Progressing	50%	Sports and Recreation Committee meetings for all user groups are scheduled three times per year together with monthly biannual facility user groups meetings.	

Action: 2.1.2.2 Continue matched funding Sport and Recreation Grants Programmes

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.01.02	Promote and facilitate increased participation in active and passive recreation activities	2.1.2.2 Continue matched funding Sport and Recreation Grants Programmes	Completed	100%	The 2022 Sport and Recreation Grants Programme for small and large match funding applications have been awarded.	

Action: 2.1.2.3 Develop staged detailed designs for Hunter, and Wollombi Park concept plans

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.01.02	Promote and facilitate increased participation in active and passive recreation activities	2.1.2.3 Develop staged detailed designs for Hunter, and Wollombi Park concept plans	Progressing	25%	A tender for the design and construction of the Wollombi Park Adventure Playground - Pump Track is being prepared to be called in the third quarter of 2022-23. Opportunities to fund the progress of the Wollombi Park residential concept are being explored.	

Action: 2.1.2.4 Complete Everyone Can Play improvements for Simpson Park

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.01.02	Promote and facilitate increased participation in active and passive recreation activities	2.1.2.4 Complete Everyone Can Play improvements for Simpson Park	Progressing	25%	A tender for the Simpson Park Playground Upgrade will be called in the third quarter of 2022-23.	

Action: 2.1.2.5 Council events are planned to be accessible by all people, as far as possible.

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.01.02	Promote and facilitate increased participation in active and passive recreation activities	2.1.2.5 Council events are planned to be accessible by all people, as far as possible.	Progressing	50%	Council has delivered and partnered with other organisations to deliver a range of events in this quarter including: - 9th annual Blue Heeler Film Festival. - New Years Eve event at Muswellbrook Showground.	

02.01.03: Consider and deliver social inclusion principles across Council functions

Action: 2.1.3.1 Review the Muswellbrook Shire Council Disability Inclusion Action Plan

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.01.03	Consider and deliver social inclusion principles across Council functions	2.1.3.1 Review the Muswellbrook Shire Council Disability Inclusion Action Plan	Progressing	50%	A review of the Muswellbrook Shire Council Disability Inclusion Action Plan is in progress.	

02.01.04: Advocate for affordable housing

Action: 2.1.4.1 Council advocates for the needs of people residing in low to moderate income households.

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.01.04	Advocate for affordable housing	2.1.4.1 Council advocates for the needs of people residing in low to moderate income households.	Progressing	50%	The Mayor and senior staff meet regularly with Home in Place representatives to advocate for the needs of people residing in low to moderate income households.	

02.02: Promote social cohesion and improve connectivity and the delivery of social services within the Shire

02.02.01: Advocate for the needs of people in social housing

Action: 2.2.1.1 Council meets with local social housing provider(s)

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.02.01	Advocate for the needs of people in social housing	2.2.1.1 Council meets with local social housing provider(s)	Progressing	50%	The Mayor and senior staff meet regularly with the local social housing provider, Home in Place, to advocate for the needs of people residing in social housing.	

02.03: Retain and expand quality and affordable child care services.

02.03.01: Facilitate investment in child-care services across the Shire

Action: 2.3.1.1 Council Project Manages the construction of the Denman Childrens Centre

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.03.01	Facilitate investment in child-care services across the Shire	2.3.1.1 Council Project Manages the construction of the Denman Childrens Centre	Progressing	50%	Council has engaged a project manager for the Denman Childrens Centre project. Detailed design is complete with tenders to be called in February.	

02.04: Facilitate opportunities to expand seniors' living.

02.04.01: Advocate to enhance the delivery of services to support older people to live in the Muswellbrook Shire

Action: 2.4.1.1 Facilitation of aged care networks and activities to improve their wellbeing outcomes

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.04.01	Advocate to enhance the delivery of services to support older people to live in the Muswellbrook Shire	2.4.1.1 Facilitation of aged care networks and activities to improve their wellbeing outcomes	Progressing	50%	The Mayor and senior staff meet regularly with the State Member for Upper Hunter and the Federal Member for Hunter to advocate for the enhancement of services to support older people who live in Muswellbrook Shire.	

02.05: Enhance relationships and engagement with the local indigenous communities

02.05.01: Raise awareness of the local Aboriginal Community and an appreciation of their traditions and culture

Action: 2.5.1.1 Funding is sought for the delivery of a local Aboriginal Language Program

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.05.01	Raise awareness of the local Aboriginal Community and an appreciation of their traditions and culture	2.5.1.1 Funding is sought for the delivery of a local Aboriginal Language Program	Progressing	80%	The first two Introduction to Wonnarua/Wanaruah/Wanarruwa language program have been completed, 30 Indigenous people will graduate from the two programs. Planning is underway for next years programs.	

02.05.02: Engage with the Wanaruah Local Aboriginal Land Council on development of The Common

Action: 2.5.2.1 Muswellbrook Common project design and concept plan brief is developed

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.05.02	Engage with the Wanaruah Local Aboriginal Land Council on development of The Common	2.5.2.1 Muswellbrook Common project design and concept plan brief is developed	Completed	100%	The Community Gathering Place: Aboriginal & Torres Strait Islander Cultural Centre project design and brief has been completed. This was a joint partnership between Wanaruah Local Aboriginal Land Council, Muswellbrook Shire Council and MACH Energy.	

02.06: Investigate opportunities to expand services and facilities for youth and children within the Shire

02.06.01: Engage with young people in the Shire to better inform projects and programs for youth and children

Action: 2.6.1.1 In consultation with Councillors, develop a youth engagement program for inclusion in the Community Engagement Strategy

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.06.01	Engage with young people in the Shire to better inform projects and programs for youth and children	2.6.1.1 In consultation with Councillors, develop a youth engagement program for inclusion in the Community Engagement Strategy	Progressing	50%	In alignment with the Muswellbrook Shire Council Community Engagement Strategy 2022, adopted by Council at the 22 November Ordinary Meeting, staff are developing a Draft Youth Engagement Program prior to consultation with Councillors, local youth services providers and local schools. The Acting General Manager, eight of twelve Councillors, the Manager Governance, Grants and Community Engagement Advisor and Corporate Planning and Reporting Officer have current WWCCs in place in preparation for the implementation of the program.	

Action: 2.6.1.2 Construct the new Muswellbrook Youth Venue

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.06.01	Engage with young people in the Shire to better inform projects and programs for youth and children	2.6.1.2 Construct the new Muswellbrook Youth Venue	Progressing	25%	Detailed design is being progressed for the Muswellbrook Youth Venue.	

Action: 2.6.1.3 Develop a cross Council Child Safe Action Plan in response to Child Safe Standards

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
02.06.01	Engage with young people in the Shire to better inform projects and programs for youth and children	2.6.1.3 Develop a cross Council Child Safe Action Plan in response to Child Safe Standards	Progressing	50%	Governance work continues on this project.	

3: Environmental Sustainability

03: An environmentally sensitive and sustainable community

03.01: Advocate for best practice mined land rehabilitation to include local workforce participation, progressive, quality final landforms, and fewer and shallower voids

03.01.01: Meet with other levels of government to achieve improved rehabilitation outcomes for disused mining lands and ongoing employment for local workforce

Action: 3.1.1.1 Update Council’s policy position regarding voids and mine rehabilitation

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.01.01	Meet with other levels of government to achieve improved rehabilitation outcomes for disused mining lands and ongoing employment for local workforce	3.1.1.1 Update Council's policy position regarding voids and mine rehabilitation	Progressing	30%	Staff have prepared a draft update to Council's Development Control Plan.	

03.02: Improve native vegetation connectivity across the Upper Hunter Region

Target: Enhanced native vegetation connectivity across the Upper Hunter

03.02.01: Support Landcare initiatives and advocate for programs to enhance native vegetation connectivity across the Shire and Upper Hunter Region

Action: 3.2.1.1 Provide funds for local Landcare activities

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.02.01	Support Landcare initiatives and advocate for programs to enhance native vegetation connectivity across the Shire and Upper Hunter Region	3.2.1.1 Provide funds for local Landcare activities	Progressing	75%	Successful applicants are working on approved projects.	

Action: 3.2.1.2 Liaise with Local Land Services to advocate for projects in the Shire

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.02.01	Support Landcare initiatives and advocate for programs to enhance native vegetation connectivity across the Shire and Upper Hunter Region	3.2.1.2 Liaise with Local Land Services to advocate for projects in the Shire	Progressing	40%	Staff have provided comments to Local Land Services on their proposed grants program for 2022-23.	

03.03: Enhance our local rivers and creeks to improve environmental outcomes and access for recreation

03.03.01: Implement funded actions of the adopted Urban Riparian Masterplan

Action: 3.3.1.1 Construction of the funded portions of Hunter Beach

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.03.01	Implement funded actions of the adopted Urban Riparian Masterplan	3.3.1.1 Construction of the funded portions of Hunter Beach	Progressing	75%	Construction works at the Hunter Beach site are progressing, with the project scheduled for completion at the end of March, 2023.	

Action: 3.3.1.2 Maintain rehabilitation works along Muscle Creek, Karoola Wetlands and Denman

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.03.01	Implement funded actions of the adopted Urban Riparian Masterplan	3.3.1.2 Maintain rehabilitation works along Muscle Creek, Karoola Wetlands and Denman	Progressing	50%	Council has established a dedicated team and rolling programme to maintain rehabilitated riparian and natural areas.	

03.03.02: Develop a Catchment Management Plan for Muscle Creek and Possum Gully

Action: 3.3.2.1 Provide guidance and documented plan for the stabilisation, restoration and management of Possum Gully and Muscle Creek

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.03.02	Develop a Catchment Management Plan for Muscle Creek and Possum Gully	3.3.2.1 Provide guidance and documented plan for the stabilisation, restoration and management of Possum Gully and Muscle Creek	Progressing	25%	A consultant has been engaged following a competitive Request for Quotation process to commence the Catchment Management Plan study, with commencement scheduled for January 2023, and the first draft of the study expected to be completed in the fourth quarter of 2022-23.	

03.04: Support initiatives which reduce the community's impact on the environment

03.04.01: Continue Community Education Program on water, waste and energy reduction

Action: 3.4.1.1 Assist Council, households and businesses to manage waste effectively and use water and energy efficiently

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.04.01	Continue Community Education Program on water, waste and energy reduction	3.4.1.1 Assist Council, households and businesses to manage waste effectively and use water and energy efficiently	Progressing	50%	Details of activities provided in monthly report to Council.	

03.04.02: Require all development proposals to avoid and mitigate against potential environmental impacts and facilitate improved environmental outcomes where possible

Action: 3.4.2.1 Provide guidance material on Council’s website to help applicants for new development to prepare and submit improved Statements of Environmental Effect with their applications.

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.04.02	Require all development proposals to avoid and mitigate against potential environmental impacts and facilitate improved environmental outcomes where possible	3.4.2.1 Provide guidance material on Council's website to help applicants for new development to prepare and submit improved Statements of Environmental Effect with their applications.	Not Progressing	25%	Staff have been reallocated to work on the review of conditions of consent to load on to the eplanning portal for the introduction of Notices of Determination being issued via the eplanning portal by 30 May 2023 (initiative mandated by Department of Planning and Environment). Staff are also working on a "Conflict with Development Applications" Policy that must be finalised by April 2023 (initiative mandated by Department of Planning and Environment).	

03.04.03: Advocate and support Circular Economy principles and Waste Management Initiatives

Action: 3.4.3.1 Develop a Policy and a Procedure relating to Sustainable Procurement related to Council's Net Zero by 2050 Policy and the Circular Economy Procurement Project

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.04.03	Advocate and support Circular Economy principles and Waste Management Initiatives	3.4.3.1 Develop a Policy and a Procedure relating to Sustainable Procurement related to Council's Net Zero by 2050 Policy and the Circular Economy Procurement Project	Progressing	35%	Procurement is currently undertaking a whole of process review in order to ascertain gaps between current process/procedures and best practice. Sustainable Procurement is forming part of this review process.	

Action: 3.4.3.2 Facilitate the introduction of FOGO collection and processing for households and businesses in the Shire

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.04.03	Advocate and support Circular Economy principles and Waste Management Initiatives	3.4.3.2 Facilitate the introduction of FOGO collection and processing for households and businesses in the Shire	Progressing	50%	A report providing information regarding the progress of the Food Organics Garden Organics (FOGO) processing project was submitted to the 25 October 2022 Ordinary Council Meeting. Non-binding Expressions of Interest have been invited for the cost-effective processing of FOGO material.	

03.05: Support Federal and State initiatives to reduce the human impacts of climate change

03.05.01: Increase the proportion of the energy used by Council from renewable resources

Action: 3.5.1.1 Council's energy contractor supplies energy from renewable sources

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.05.01	Increase the proportion of the energy used by Council from renewable resources	3.5.1.1 Council's energy contractor supplies energy from renewable sources	Progressing	50%	Council is actively seeking, through appropriate contract arrangements, to increase the proportion of energy used by Council to be sourced from renewable resources.	

03.05.02: Develop a Recycled Water Plan for community parks

Action: 3.5.2.1 Develop strategic recycled water plan.

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.05.02	Develop a Recycled Water Plan for community parks	3.5.2.1 Develop strategic recycled water plan.	Progressing	50%	A Strategic Recycled Water Management Plan is currently being developed.	

Action: 3.5.2.2 Develop recycled water implementation strategy

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
03.05.02	Develop a Recycled Water Plan for community parks	3.5.2.2 Develop recycled water implementation strategy	Progressing	50%	A Recycled Water Plan for community parks is currently being developed.	

4: Cultural Vitality

04: A culturally rich and diverse Community with strong identities, history and sense of belonging

04.01: Conserve the heritage and history of the Shire

04.01.01: Support the conservation and restoration of the Shire's heritage items

Action: 4.1.1.1 Make Local Heritage Grants available for owners of heritage listed properties

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
04.01.01	Support the conservation and restoration of the Shire's heritage items	4.1.1.1 Make Local Heritage Grants available for owners of heritage listed properties	Progressing	75%	Successful grant applicants are working on approved projects.	

Action: 4.1.1.2 Review and adopt a heritage strategy for 2022/23 and 2023/24

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
04.01.01	Support the conservation and restoration of the Shire's heritage items	4.1.1.2 Review and adopt a heritage strategy for 2022/23 and 2023/24	Progressing	40%	Council's Heritage Advisor is preparing an updated Heritage Strategy.	

Action: 4.1.1.3 Complete the refurbishment of Loxton House

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
04.01.01	Support the conservation and restoration of the Shire's heritage items	4.1.1.3 Complete the refurbishment of Loxton House	Progressing	50%	Loxton House Development Application (DA) modification package has been finalised and lodged with construction tenders to be called in the third quarter of 2022-23.	

04.01.02: Ensure sites or artefacts of Aboriginal significance are protected where new development proposals are considered

Action: 4.1.2.1 Ensure applications for subdivision generally or for development in rural areas adequately consider sites or artifacts of aboriginal significance

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
04.01.02	Ensure sites or artefacts of Aboriginal significance are protected where new development proposals are considered	4.1.2.1 Ensure applications for subdivision generally or for development in rural areas adequately consider sites or artifacts of aboriginal significance	Progressing	50%	Heritage impact assessments are required with Development Applications in greenfield locations.	

04.02: Facilitate options to improve cultural activities in the Shire.

04.02.01: Progress a Regional Entertainment and Conference Centre

Action: 4.2.1.1 Begin precinct enabling works

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
04.02.01	Progress a Regional Entertainment and Conference Centre	4.2.1.1 Begin precinct enabling works	Progressing	25%	A Development Application is being prepared for the demolition of redundant buildings, an alternate concept is being developed for the lower portion alignment of Possum Gully, and the Regional Entertainment Centre Development Advisory Committee has been established to help guide development.	

Action: 4.2.1.2 Review design value management options for theatre and community hall

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
04.02.01	Progress a Regional Entertainment and Conference Centre	4.2.1.2 Review design value management options for theatre and community hall	Progressing	25%	The Regional Entertainment Centre Development Advisory Committee has been established, and will conduct a value management design review of the theatre and community hall concepts.	

04.03: Host and support a diverse range of cultural activities and events which create a sense of identity and belonging, engage the local community and attract visitors

04.03.01: Develop and implement a program of Shire events to engage more locals and attract more visitors

Action: 4.3.1.1 Council works in partnership with community groups to deliver a minimum of six events a year

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
04.03.01	Develop and implement a program of Shire events to engage more locals and attract more visitors	4.3.1.1 Council works in partnership with community groups to deliver a minimum of six events a year	Progressing	50%	Two Art Gallery exhibitions, the Blue Heeler Film Festival and the New Year's Eve entertainment and fireworks display event have been held during the first two quarters of 2022-23.	

04.03.02: Deliver an arts program

Target: One piece of public art is placed each financial year for five years (commencing 16/17)

Action: 4.3.2.1 Develop a 12-month Art Program

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
04.03.02	Deliver an arts program	4.3.2.1 Develop a 12-month Art Program	Progressing	50%	2022/23 Exhibition Program is in place.	

04.03.03: Support Arts Upper Hunter as the peak organisation of Artist endeavour

Action: 4.3.3.1 Develop a Funding Agreement with Arts UH

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
04.03.03	Support Arts Upper Hunter as the peak organisation of Artist endeavour	4.3.3.1 Develop a Funding Agreement with Arts UH	Progressing	30%	Initial discussions have commenced with Councils Corporate Lawyer to draft a service agreement.	

5: Community Infrastructure

05: Effective and efficient infrastructure that is appropriate to the needs of our community

05.01: Construct and maintain well-planned community infrastructure that is safe, reliable and provides agreed levels of service

05.01.01: Review, develop and maintain liveable town and village precincts

Action: 5.1.1.1 Develop an Active Transport Plan supplement to Muswellbrook Shire Council's adopted Walk and Cycle Plan (2009)

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
05.01.01	<i>Review, develop and maintain liveable town and village precincts</i>	<i>5.1.1.1 Develop an Active Transport Plan supplement to Muswellbrook Shire Council's adopted Walk and Cycle Plan (2009)</i>	<i>Progressing</i>	<i>75%</i>	<i>All existing and proposed/priority footpath areas have been identified by completed maps for Muswellbrook, Denman and Sandy Hollow, with progress advancing towards the final report expected to be completed in the fourth quarter of 2022-23.</i>	<i>n</i>

05.01.02: Maintain and continually improve asset management

Action: 5.1.2.1 Review Strategic Asset Management Plan

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
05.01.02	Maintain and continually improve asset management	5.1.2.1 Review Strategic Asset Management Plan	Progressing	50%	Council's Strategic Asset Management Plan is currently under review.	

Action: 5.1.2.2 Regularly review Asset Management Plans

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
05.01.02	Maintain and continually improve asset management	5.1.2.2 Regularly review Asset Management Plans	Progressing	50%	The Roads Asset Management Plan and Schedule of Asset Management Plans are currently under review,	

Action: 5.1.2.3 Review Roads Asset Management Plan

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
05.01.02	Maintain and continually improve asset management	5.1.2.3 Review Roads Asset Management Plan	Progressing	90%	A review of the Roads Asset Management Plan is ninety per cent complete, and will be reported to Council in the second half of 2022-23.	

05.01.03: Facilitate investment in high quality community infrastructure necessary to a Regional Centre

Action: 5.1.3.1 Funding received for an extension to the Muswellbrook Regional Art Gallery

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
05.01.03	Facilitate investment in high quality community infrastructure necessary to a Regional Centre	5.1.3.1 Funding received for an extension to the Muswellbrook Regional Art Gallery	Progressing	25%	A concept design for an extension to the Muswellbrook Regional Art Gallery has been completed.	

05.01.04: Maintain and continually improve community infrastructure across the Shire

Action: 5.1.4.1 Capital works programmes prioritised to demonstrate continual improvement in community infrastructure

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
05.01.04	Maintain and continually improve community infrastructure across the Shire	5.1.4.1 Capital works programmes prioritised to demonstrate continual improvement in community infrastructure	Progressing	50%	Capital works programmes and discrete project designs are developed and implemented to demonstrate continual improvement in community infrastructure.	

Action: 5.1.4.2 Asset condition assessment inspections provided regularly

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
05.01.04	Maintain and continually improve community infrastructure across the Shire	5.1.4.2 Asset condition assessment inspections provided regularly	Progressing	50%	Asset condition inspections of the State Road network, mine affected roads, and urban and rural road networks are regularly carried out, with the results of the inspections informing capital and operational works programmes. A schedule of asset condition inspections will be reported to Council in the second half of 2022-23.	

05.02: Improve all abilities access to Council facilities

05.02.01: Facilitate and implement improved all abilities access across the Shire

Action: 5.2.1.1 Develop a targeted program to improve accessibility in Council owned and public spaces

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
05.02.01	Facilitate and implement improved all abilities access across the Shire	5.2.1.1 Develop a targeted program to improve accessibility in Council owned and public spaces	Progressing	50%	The 2022 accessibility programme has been reported to Council and works are progressing.	

Action: 5.2.1.2 Included prioritised actions in capital programmes

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
05.02.01	Facilitate and implement improved all abilities access across the Shire	5.2.1.2 Included prioritised actions in capital programmes	Progressing	50%	Prioritised actions are included in respective capital programmes. This includes the construction of accessible ramps for the Muswellbrook Library and Country Women's Association.	

05.03: Provide safe, secure and reliable water supply and sewer services

05.03.01: Water, sewerage and waste services are provided in compliance with regulatory requirements.

Action: 5.3.1.1 Carry out Best Practice audit of water and wastewater services

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
05.03.01	Water, sewerage and waste services are provided in compliance with regulatory requirements.	5.3.1.1 Carry out Best Practice audit of water and wastewater services	Completed	100%	The Final Review Report for 2020-21 was submitted to the 20 December 2022 Ordinary Council Meeting to note the information and recommendations submitted by the Auditor. The final review confirms that Council's Best Practice Management of Water Supply and Sewer Services for 2020-21 was substantially compliant with best practice.	

Action: 5.3.1.2 Ensure compliance with all Licence conditions

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
05.03.01	Water, sewerage and waste services are provided in compliance with regulatory requirements.	5.3.1.2 Ensure compliance with all Licence conditions	Progressing	50%	The anniversary date for the Muswellbrook Recycled Water Treatment Works (RWTW) and Sewerage System, Environment Protection Licence 1593, is 1 March 2023. The annual licence return will be due by no later than 30 April 2023. Water treatment processes supplied safe drinking water to the community within the Australian Drinking Water Guidelines (2011) targets. NSW Health is expected to visit Council during the third quarter of 2022-23 to complete the risk assessments for Council's Drinking Water Management System.	

05.04: Ensure road, footpath and cycleway networks are integrated and allow for the safe movement of residents and visitors

05.04.01: Maintain and continually improve the Shire's shared pathway networks to increase connectivity.

Action: 5.4.1.1 Implement priority funded portions of the Walk and Cycle Plan and Supplementary Active Transport Plan

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
05.04.01	Maintain and continually improve the Shire's shared pathway networks to increase connectivity.	5.4.1.1 Implement priority funded portions of the Walk and Cycle Plan and Supplementary Active Transport Plan	Progressing	50%	Funding sources for the footpath connection between Muswellbrook's Thompson Street and Bell Street intersections have been identified with construction planning well advanced for completion in the third quarter of 2022-23.	

6: Community Leadership

06: Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community

06.01: Enable genuine and well-informed community participation in decision making

06.01.01: Engage with the community and other stakeholders to determine service level expectations and appropriate measures

Action: 6.1.1.1 Facilitate an annual Community Satisfaction Survey

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.01.01	Engage with the community and other stakeholders to determine service level expectations and appropriate measures	6.1.1.1 Facilitate an annual Community Satisfaction Survey	Not Due To Start	0%	A Request For Quote process will be conducted via VendorPanel in January 2023. The Community Satisfaction Survey is scheduled to be conducted in Q4.	

Action: 6.1.1.2 Develop and implement a community panel engagement process to establish agreed levels of service between Council and the community

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.01.01	Engage with the community and other stakeholders to determine service level expectations and appropriate measures	6.1.1.2 Develop and implement a community panel engagement process to establish agreed levels of service between Council and the community	Completed	100%	A Community Panel was recruited with two face-to-face meetings held at Denman and Muswellbrook (20 August and 24 September) and a series of seven video presentations were distributed to Panel Members in place of the scheduled 10 September face-to-face session. The final report on the outcomes of the 2022 Community Panel was tabled at the 20 December Ordinary Meeting for the information of Councillors.	

06.01.02: Utilise best practice models of community engagement to ensure decision making is meeting the expectations of the community

Action: 6.1.2.1 Develop and implement a Community Engagement Strategy

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.01.02	Utilise best practice models of community engagement to ensure decision making is meeting the expectations of the community	6.1.2.1 Develop and implement a Community Engagement Strategy	Completed	100%	The Muswellbrook Shire Council Community Engagement Strategy 2022 was adopted by Council at the 22 November Ordinary Meeting following 28 days public exhibition, with graphic design undertaken by an external contractor during the public exhibition period.	

06.01.03: Enhance Council's communication with the community to build awareness and understanding of Council's activities and community needs

Action: 6.1.3.1 Digital media strategy revised and implemented

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.01.03	Enhance Council's communication with the community to build awareness and understanding of Council's activities and community needs	6.1.3.1 Digital media strategy revised and implemented	Progressing	25%	A review of Council's digital media strategy has commenced.	

Action: 6.1.3.2 Report Council's progress in implementing the Delivery Program and Operational Plan to the community and other stakeholders

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.01.03	Enhance Council's communication with the community to build awareness and understanding of Council's activities and community needs	6.1.3.2 Report Council's progress in implementing the Delivery Program and Operational Plan to the community and other stakeholders	Progressing	50%	Council and the Audit, Risk and Improvement Committee receive quarterly progress reports on the status of the implementation of the Delivery Program and Operational Plan. The 2021/22 Annual Report to the Community was endorsed by Council at the 22 November Ordinary Meeting and published on Council's website. A link to the published 2021/22 Annual Report was provided to the Minister for Local Government and the Minister for Disability Services in accordance with statutory requirements.	

Action: 6.1.3.3 Update Council's Community Participation Plan

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.01.03	Enhance Council's communication with the community to build awareness and understanding of Council's activities and community needs	6.1.3.3 Update Council's Community Participation Plan	Progressing	30%	Staff have reviewed Council's Community Participation Plan to identify areas where changes will be required to reflect the move to more digital community engagement.	

06.02: Ensure Council is well managed, appropriately resourced, effective, efficient, accountable and responsive to its communities and stakeholders

06.02.01: Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves

Action: 6.2.1.1 Provide transparent reporting to the community about Council’s finances

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.01	Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves	6.2.1.1 Provide transparent reporting to the community about Council's finances	Progressing	20%	Council's Finance Team continues to ensure frequent discussions are held with Directors and departmental managers. Further work is being done, on an iterative basis, to improve reporting to the community regarding Council's finances, including the restructure of the general ledger to provide transparency of reporting.	

Action: 6.2.1.2 Seek funding opportunities to support the interests and aspirations of the Shire identified by the Community Strategic Plan and Delivery Program

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.01	Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves	6.2.1.2 Seek funding opportunities to support the interests and aspirations of the Shire identified by the Community Strategic Plan and Delivery Program	Progressing	50%	Council receives monthly progress reports advising recent grant applications submitted, grant funding recently announced or to be announced shortly, and of upcoming grant opportunities. At the 25 October Ordinary Meeting Council established the Grants Review Committee, which held meetings in November and December, with outcomes reported to Council.	

06.02.02: Develop and implement a Service Review Program

Action: 6.2.2.1 Develop an outline and timeline for the implementation of Service Reviews across Council

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.02	Develop and implement a Service Review Program	6.2.2.1 Develop an outline and timeline for the implementation of Service Reviews across Council	Progressing	15%	Council has recently employed an Internal Auditor - under which the Service Review Program will sit. In the short term, this position will help facilitate and guide the creation of a program for service reviews.	

06.02.03: Implement an Internal Audit Program in consultation with the Audit, Risk and Improvement Committee

Action: 6.2.3.1 Deliver on the Internal Audit Program

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.03	Implement an Internal Audit Program in consultation with the Audit, Risk and Improvement Committee	6.2.3.1 Deliver on the Internal Audit Program	Progressing	15%	An internal auditor has recently been recruited. A preliminary review has been carried out, and an updated audit timeline has been developed and shared with Council's Audit, Risk and Improvement Committee. This will continue to be refined based on a risk analysis process. Thus far, a Payroll audit has been conducted.	

Action: 6.2.3.2 Implement control recommendations as identified by the auditor

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.03	Implement an Internal Audit Program in consultation with the Audit, Risk and Improvement Committee	6.2.3.2 Implement control recommendations as identified by the auditor	Progressing	40%	Previously identified controls are currently being phased in across Council, predominantly focused in the Information and Communication Technology sphere.	

06.02.04: Undertake regulatory activities to maintain public safety and companion animal wellbeing

Action: 6.2.4.1 The Local Orders Policy is reviewed

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.04	Undertake regulatory activities to maintain public safety and companion animal wellbeing	6.2.4.1 The Local Orders Policy is reviewed	Completed	100%	Revised Local Orders Policy adopted by Council December 2022.	

Action: 6.2.4.2 Swimming Pool Safety Fence inspections

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.04	Undertake regulatory activities to maintain public safety and companion animal wellbeing	6.2.4.2 Swimming Pool Safety Fence inspections	Progressing	40%	The number of inspections have increased and numbers are reported to Council monthly.	

Action: 6.2.4.3 Food shops are inspected on an annual basis

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.04	Undertake regulatory activities to maintain public safety and companion animal wellbeing	6.2.4.3 Food shops are inspected on an annual basis	Progressing	50%	Inspections are occurring and information is reported to Council on a monthly basis.	

06.02.05: Implement a comprehensive and targeted business improvement program

Action: 6.2.5.1 Monitor and review Council's Procurement and Tendering System, associated policies and procedures

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.05	Implement a comprehensive and targeted business improvement program	6.2.5.1 Monitor and review Council's Procurement and Tendering System, associated policies and procedures	Progressing	40%	The monitoring and review of Council's Procurement and Tendering system is currently being carried out. The report is scheduled to be finalised during the fourth quarter of 2022-23.	

Action: 6.2.5.2 Review the policy management framework

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.05	Implement a comprehensive and targeted business improvement program	6.2.5.2 Review the policy management framework	Progressing	50%	<p>In line with a review of Council's Policy Framework, Council's internal and external policies have been reconciled to remove duplicates and ensure version control in consultation with Directors and staff. Council's revised Policy Register was presented to Manex on 5 December for feedback. Since the 4 December 2021 election local government elections, 15 polices have been reviewed and adopted by Council including the Code of Meeting Practice, Code of Conduct, Councillor Expenses and Facilities Policy and the Local Orders and Approvals Policy. Progress on the implementation of Council's Policy Framework is reported to each ARIC meeting as of 13 October 2022.</p>	

Action: 6.2.5.3 Increase effectiveness of Council's ICT systems

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.05	Implement a comprehensive and targeted business improvement program	6.2.5.3 Increase effectiveness of Council's ICT systems	Progressing	65%	The Electronic Document and Record Migration System (EDRMS) migration is currently underway, with training provided to Council's Records Team. A test environment has been created, and the Information and Communication Technology Team is currently finalising folder structures for deployment for the purposes of our new EDRMS. Currently on track for go-live in April 2023.	

Action: 6.2.5.4 Develop, implement and monitor a calendar of compliance to support Council's statutory reporting obligations

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.05	Implement a comprehensive and targeted business improvement program	6.2.5.4 Develop, implement and monitor a calendar of compliance to support Council's statutory reporting obligations	Not Due To Start	0%	Due to competing priorities the population of the Local Government Legal Compliance Module has been delayed for commencement in Q3. In the meantime, Council continues to manage and monitor statutory reporting obligations via subscription to the OLG Council Portal with notifications of reporting requirements and deadlines communicated to applicable responsible officers.	

Action: 6.2.5.5 Provide governance support services for the elected Council and executive

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.05	Implement a comprehensive and targeted business improvement program	6.2.5.5 Provide governance support services for the elected Council and executive	Progressing	50%	A report on the Councillor induction program is included in the 2021/22 Annual Report. A Councillor training and development program is currently under consultation.	

Action: 6.2.5.6 Facilitate Council’s participation in the Local Government Professionals/ Price Waterhouse Coopers Performance Excellence Program

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.02.05	Implement a comprehensive and targeted business improvement program	6.2.5.6 Facilitate Council's participation in the Local Government Professionals/ Price Waterhouse Coopers Performance Excellence Program	Completed	100%	Council's participation in the Local Government Professionals/ Price Waterhouse Coopers Performance Excellence Program (PEP) has concluded for 2022/23 with all required data is collected and submitted in compliance with PEP deadlines	

06.03: Ensure Council is a best practice employer providing safe, happy, suitably resourced and productive workplace

06.03.01: Continue to prioritise safety and risk management initiatives, employee welfare initiatives, and upgrades to Council Facilities

Action: 6.3.1.1 New Works Depot – tender for works called

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.03.01	Continue to prioritise safety and risk management initiatives, employee welfare initiatives, and upgrades to Council Facilities	6.3.1.1 New Works Depot - tender for works called	Progressing	50%	A conceptual design of a new Works Depot has been completed. The concept is being progressed to Development Application stage.	

Action: 6.3.1.2 FOGO facility concept design to council

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.03.01	Continue to prioritise safety and risk management initiatives, employee welfare initiatives, and upgrades to Council Facilities	6.3.1.2 FOGO facility concept design to council	Progressing	50%	A report providing information regarding the progress of the Food Organics Garden Organics (FOGO) processing project was submitted to the 25 October 2022 Ordinary Council Meeting. Non-binding Expressions of Interest have been invited for the cost-effective processing of FOGO material.	

06.03.02: Continue to prioritise employee welfare initiatives

Action: 6.3.2.1 Council's Wellbeing Program and antibullying training program delivered

Code	DP Strategy	Action Name	Status	Progress	Comments	Traffic Lights
06.03.02	Continue to prioritise employee welfare initiatives	6.3.2.1 Council's Wellbeing Program and antibullying training program delivered	Progressing	50%	Planning has commenced in relation to the provision of a staff satisfaction survey.	