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**NARROMINE SHIRE COUNCIL**  
**ORDINARY MEETING BUSINESS PAPER – 9 JULY 2025**  
**REPORTS TO COUNCIL – GENERAL MANAGER**

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**1. COUNCILLOR EXPENSES AND FACILITIES POLICY**

<b>Author</b>	Director Governance
<b>Responsible Officer</b>	General Manager
<b>Link to Strategic Plans</b>	CSP – 4.3.1 Operate and manage Council in a financially sustainable manner that meets all statutory and regulatory compliance

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**Executive Summary**

This report provides information to Council to consider the Councillor Expenses and Facilities Policy.

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**Report**

Under the Local Government Act 1993, councils must adopt a new policy on the payment of expenses and the provision of facilities to mayor and councillors within 12 months of the election.

Before adopting a new policy, Council should review its existing policy to ensure it continues to be appropriate. The regulation specifically requires the policy to provide for the making of payment of expenses associated with carer responsibilities that are adequate or reasonable.

The Office of Local Government (OLG) has issued guidelines for the payment of expenses and provision of facilities for Mayors and Councillors in NSW under section 23A of the Act. Council's policy must comply with these guidelines.

Council's existing policy is based on the OLG issued model Councillor Expenses and Facilities Policy. Attached is a draft revised policy for consideration by Council. Proposed amendments have been marked in red for ease of reference.

**Financial Implications**

The policy sets the out the maximum amounts that Council will pay for specific expenses and facilities. Expenses not explicitly addressed in the policy will not be paid for or reimbursed. Monetary amounts are exclusive of GST.

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**1. COUNCILLOR EXPENSES AND FACILITIES POLICY (Cont'd)**

Expenditure incurred by individual Councillors and as a total for all Councillors from 10 October 2024 to 30 June 2025 is tabled below: -

<b>Expenses Incurred 10.10.24 – 30.06.25</b>	
Cr Jones	\$5,988.76
Cr Bohm	\$2,692.91
Cr Lambert	\$3,591.42
Cr Leak	\$1,373.16
Cr Smith	\$2,158.17
Cr Hoey	\$2,215.96
Cr Roberts	\$1,373.16
Cr Howe	\$2,467.54
Cr Davies	\$3,607.35
<b>Total</b>	<b>\$25,468.43</b>

***Legislative Compliance***

Sections 252, 253, 254 and 23A of the Local Government Act 1993  
Consideration of this policy must be in open Council.

Clause 403 Local Government (General) Regulations 2021

Clause 8.13 of the Code of Conduct

Councillors should be mindful of the provisions in the Code of Conduct about the use of council resources to ensure that councillor expenses and facilities are not used inappropriately.

***Risk Management***

Councillor Expenses and Facilities policies should allow for Councillors to receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties as elected representatives of their local communities.

The policy is based on the OLG model policy and therefore is considered to be in accordance with the Local Government Act, the Local Government (General) Regulations, and the OLG Guidelines.

***Internal/External Consultation***

Before adopting a new policy, Council must give public notice of their intention to adopt the policy and allow at least 28 days for the making of public submissions. Council must comply with this requirement even if it proposes to adopt the same policy as the existing one.

Once exhibited and adopted, the policy must be made publicly available on Council's website.

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**1. COUNCILLOR EXPENSES AND FACILITIES POLICY (Cont'd)**

Attachments

- Councillor Expenses and Facilities Policy (**Attachment No. 1**)

**RECOMMENDATION**

That Council endorse the revised Councillor Expenses and Facilities Policy to be placed on public exhibition for a period of 28 days for the making of public submissions.

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**2. INCIDENT MANAGEMENT POLICY & PROCEDURES**

<b>Author</b>	Director Governance
<b>Responsible Officer</b>	General Manager
<b>Link to Strategic Plans</b>	CSP – 4.3.1 Operate and manage Council in a financially sustainable manner that meets all statutory and regulatory compliance

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**Executive Summary**

This report provides information to Council to consider the revised Incident Management Policy and Procedures.

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**Report**

Council's Incident Management Policy and Procedures are based on Statewide Mutual best practice and provide guidance to staff in the management of incidents and provision of direct and acceptable evidence in the event of litigation.

The Policy and Procedures adopted by Council on 14 October 2020 are scheduled for review. There are no substantial changes recommended. Amendments have been marked for ease of reference.

**Financial Implications**

There are no financial implications in endorsement of the revised Policy and Procedures.

**Legislative Compliance**

Local Government Act 1993, section 739A  
Evidence Act 1995  
State Records Act 1998  
Government Information (Public Access) Act 2009  
Privacy and Personal Information Protection Act 1998  
Work Health and Safety Act 2011  
Civil Liability Act 2002, sections 41, 42, 45  
Roads Act 1993

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## **2. INCIDENT MANAGEMENT POLICY & PROCEDURES (Cont'd)**

### ***Risk Management***

Council will be faced with various types of incidents which may lead to injuries or property damage that may give rise to claims against Council. It is essential that Council has a systematic process established to guide Council staff in responding to such incidents in a standardised, professional and co-ordinated manner, irrespective of the type of incident.

### ***Internal/External Consultation***

Statewide Mutual – best practice manuals

There is no legislative requirement to place the Incident Management Policy and Procedures on public exhibition.

### **Attachments**

- Incident Management Policy and Procedures (**Attachment No. 2**)

## **RECOMMENDATION**

That Council endorse the revised Incident Management Policy and Procedures.

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## **3. CONTAMINATED LAND POLICY**

<b>Author</b>	Director Governance
<b>Responsible Officer</b>	General Manager
<b>Link to Strategic Plans</b>	CSP – 4.3.1 Operate and manage Council in a financially sustainable manner that meets all statutory and regulatory compliance

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### **Executive Summary**

This report provides information to Council to consider the revised Contaminated Land Policy.

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### **Report**

A Contaminated Land Policy allows Councils to provide their requirements around specific matters and considerations for their Local Government Area to minimise the risk of harm to human health and the environment from contamination.

In accordance with Clause 2, Schedule 6 of the Environmental Planning and Assessment Act 1979, a Council in its role as a planning authority is exempt from liability associated with contaminated land for anything done or omitted to be done in "good faith", which is defined as acting substantially in accordance with the contaminated land planning guidelines.

### **3. CONTAMINATED LAND POLICY (Cont'd)**

Key objectives of a Contaminated Land Policy are to: -

- Ensure that changes of use will not increase the risk of harm to human health or the environment
- Avoid inappropriate restrictions on land use
- Provide information to support decision making
- Inform the community of Council's requirements and standards
- Consider the likelihood of land contamination as early as possible in the land use planning and development control process
- Link decisions about the development of land with the information available about historical land uses and activities
- Exercise statutory planning functions with a reasonable standard of care

Council's Contaminated Land Policy, adopted by Council on 14 October 2020 is scheduled for review. Suggested amendments have been marked for ease of reference. The majority of amendments include updates to legislative provisions.

#### ***Financial Implications***

There are no financial implications in adopting the Contaminated Land Policy.

#### ***Legal and Regulatory Compliance***

The Environmental Protection Authority manages land which it has declared to be significantly contaminated under the Contaminated Land Management Act 1997.

Councils and other planning authorities manage land that is less seriously contaminated under the provisions of the Environmental Planning and Assessment Act 1979 and the State Environmental Planning Policy (Resilience and Hazards) 2021.

Note - the State Environmental Planning Policy No 55 – Remediation of Land is now included in Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Requirements to manage contamination also exist under other pieces of legislation including the: -

- Protection of the Environment Operations Act 1997 (POEO Act) – makes it an offence to pollute land; to dispose of waste in a manner that harms or is likely to harm the environment; and to dispose of waste at a location that cannot be used as a waste facility.
- Protection of the Environment Operations (Waste) Regulation – provides the waste regulatory framework, promotes waste recovery and provides offences for the inappropriate disposal of wastes.
- Protection of the Environment Operations (Underground Petroleum Storage Systems) (UPSS) Regulation – provides statutory requirements for the management of UPSS infrastructure.
- Work Health and Safety Act 2011 – requires a person conducting a business or undertaking to ensure a safe work environment for employees, establishes strict requirements for the assessment and management of asbestos.

### **3. CONTAMINATED LAND POLICY (Cont'd)**

Associated Council policies include: -

- Asbestos Policy 2024
- Work Health and Safety Policy 2023

#### ***Risk Management Issues***

A local contaminated land policy assists Council, landowners, developers, consultants and the community understand and identify where potential risks are, avoid inappropriate land uses, and costly delays or restrictions on a development site due to unexpected contamination.

The Policy supports Council's ability to act in "good faith" in accordance with the Environmental Planning and Assessment Act 1979.

#### ***Internal/External Consultation***

Manager Health, Building and Environmental Services; Manager Planning

There is no legislative requirement to place this policy on public exhibition.

#### **Attachments**

- Contaminated Land Policy (**Attachment No. 3**)

### **RECOMMENDATION**

That the revised Contaminated Land Policy be endorsed.

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### **4. COMPLIANCE AND ENFORCEMENT POLICY**

<b>Author</b>	Director Governance
<b>Responsible Officer</b>	General Manager
<b>Link to Strategic Plans</b>	CSP – 4.3.1 Operate and manage Council in a financially sustainable manner that meets all statutory and regulatory compliance; 1.1.2 Retain and enhance strategies for safety in public places where possible

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#### **Executive Summary**

This report provides information to Council to consider the revised Compliance and Enforcement Policy.

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The NSW Ombudsman has issued Enforcement Guidelines for Councils. The guidelines are accompanied by a comprehensive model enforcement policy that has been compiled from best practice examples from a number of councils and other relevant agencies.

#### **4. COMPLIANCE AND ENFORCEMENT POLICY (Cont'd)**

The guidelines urge Councils to adopt a responsive and proportionate approach to enforcement. This requires an appropriate response that takes account of the nature of the offence, the harm caused and the particular offender. It also recognises that choosing the most appropriate regulatory option in particular circumstances is often not easy and can require a complex decision-making process that balances competing public interest and priorities.

Council's Compliance and Enforcement Policy is based on the model policy. Proposed amendments have been marked for ease of reference. There are no significant amendments recommended, the majority are updates to legislative provisions. The risk matrix has been updated to reflect that of Council's risk management plan.

##### ***Financial Implications***

There are no financial implications associated with the revision of the policy.

Council must be mindful that commencing legal proceedings for an offence is a serious matter and legal action should not be taken unless it is in the public interest to do so and there is a reasonable prospect of success before a court.

##### ***Legal and Regulatory Compliance***

Council is an enforcement agency, and its officers authorised under a range of legislation including: -

- Local Government Act 1993
- Environmental Planning and Assessment Act 1979
- Protection of the Environment Operations Act 1997
- Public Health Act 2010
- Food Act 2003
- Swimming Pools Act 1992
- Companion Animals Act 1998

##### ***Risk Management Issues***

The purpose of the policy is to provide a structure for consistency and transparency in decision making, and to facilitate a proportional approach to compliance and enforcement.

It provides workable guidelines on: -

- Responding to reports alleging unlawful activity
- Assessing whether reports alleging unlawful activity require investigation
- Deciding on whether enforcement action is warranted
- Options for dealing with confirmed cases of unlawful activity
- Taking legal action
- Implementing shared enforcement responsibilities

Responsible Council staff are not limited by this policy in their use of discretion and exercise of official functions. The full circumstances and facts of each case need to be considered, and a decision made on the merits.

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**4. COMPLIANCE AND ENFORCEMENT POLICY (Cont'd)**

***Internal/External Consultation***

NSW Ombudsman – Enforcement guidelines for councils (2015)

If Council is of the opinion that the amendments to the policy are not substantial, it may endorse the amended policy without public exhibition.

Attachments

- Revised Compliance and Enforcement Policy (**Attachment No. 4**)

**RECOMMENDATION**

That the revised Compliance and Enforcement Policy be endorsed.

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**5. DISCLOSURES OF PECUNIARY INTERESTS AND OTHER MATTERS RETURNS**

<b>Author</b>	Director Governance
<b>Responsible Officer</b>	General Manager
<b>Link to Strategic Plans</b>	CSP – 4.3.1 Operate and manage Council in a financially sustainable manner that meets all statutory and regulatory compliance

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**Executive Summary**

This report is presented to Council in accordance with legislative requirements.

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**Report**

In accordance with the Guidelines for Risk Management and Internal Audit issued by the Office of Local Government, independent members of the Audit Risk and Improvement Committee are considered to be designated persons and are therefore required to lodge a Pecuniary Interest and Other Matters Return with the General Manager.

The General Manager must keep a register of returns required to be made and lodged. Returns required to be lodged with the General Manager must be tabled at the first meeting of the Council after the return has been lodged.

A Disclosures of Pecuniary Interests and Other Matters Return has been lodged by Ms Elizabeth Jeremy of Council's Audit Risk and Improvement Committee.

***Financial Implications***

Nil

***Legal and Regulatory Compliance***

OLG Audit Risk and Improvement Committee Guidelines  
Narromine Shire Council – Code of Conduct  
Government Information (Public Access) Act 2009 and Regulations

**5. DISCLOSURES OF PECUNIARY INTERESTS AND OTHER MATTERS RETURNS (Cont'd)**

***Risk Management Issues***

Information contained in returns made and lodged is to be made publicly available in accordance with the requirements of the Government Information (Public Access) Act 2009, the Government Information (Public Access) Regulation 2018 and any guidelines issued by the Information Commissioner.

Designated Persons have an obligation to keep the information contained in their returns up to date. When becoming aware of a new interest that must be disclosed in the return, or an interest previously not disclosed, a Designated Person must submit an updated return within three months of becoming aware of the previously undisclosed interest.

***Internal/External Consultation***

Consultation with Independent Members of Council's Audit Risk and Improvement Committee

Attachments

Nil

**RECOMMENDATION**

That the information be noted.

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**6. ACQUISITION OF LAND – EXTENSION OF BENSONS ROAD**

<b>Author</b>	Director Governance
<b>Responsible Officer</b>	General Manager
<b>Link to Strategic Plans</b>	CSP – 4.3.3 Ensure Council's assets are monitored and well managed; 3.4.1 Construct and maintain a road network that is safe and meets the community's transport and infrastructure needs

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**Executive Summary**

This report is presented to Council to consider the acquisition of a portion of land owned by the Forestry Corporation NSW to formalise ownership of Bensons Road.

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**Report**

In 2019, at the request of Council, Crown Lands transferred ownership of Bensons Road, Tomingley to Council as the appropriate roads authority.

As can be seen in the map below, Bensons Road extends to Lot 34 DP1208346 which is owned by Forestry Corporation of NSW (FCNSW).

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**6. ACQUISITION OF LAND – EXTENSION OF BENSONS ROAD (Cont'd)**



The formed road extends to the Newell Highway, through Lot 34 (see below).



## **6. ACQUISITION OF LAND – EXTENSION OF BENSONS ROAD (Cont'd)**

Council has been in discussion with FCNSW to formalise ownership of the formed road through Lot 34.

The compulsory acquisition of land dedicated as State Forest is generally precluded by s.14(3) of the Forestry Act 2012 which provides that "Land dedicated under (s.14) may not be dealt with otherwise than as provided by this Act and any such dedication may not be revoked to altered except under this Act".

Where an authority seeks to obtain a fee simple interest in land dedicated as State Forest, the dedication of that land as State Forest must first be revoked. For areas not exceeding 20 hectares, the Minister may revoke a dedication by publication of a notice to that effect in the Gazette, in accordance with s.32 of the Forestry Act. Revocation pursuant to s.32 may be available where the Minister is of the opinion that the land should be made available for a public work, or authorised work, within the meaning of the Public Works Act 1912, or for a public purpose within the meaning of any other Act.

Where the assistance of the Minister is sought for the revocation of a dedication pursuant to s.32 of the Forestry Act, FCNSW should be consulted as to the appropriate arrangements to be made in each case, including the terms and conditions and the compensation payable of any Ministerial grant, revocation or consent etc.

### ***Financial Implications***

FCNSW has advised that the commercial considerations they would be seeking commitment from Council on are as follows: -

- Land valuation – the parties are to agree to the value of the land subject to the State Forest revocation, estimated at \$6,500 per hectare – 1.6ha (40 metres x 400 metres) = \$10,400.
- If Council wishes to engage an external valuer, FCNSW will also engage one and the cost of both shall be borne by entirely by Council.
- Timber valuation – once hectare of the land proposed for revocation is timbered. Estimated timber royalty is \$900/hectare.
- Council shall agree to pay FCNSW's reasonable administrative costs. These are estimated to be in the order of \$5,000 to \$10,000.

There will also be expenses associated with the registration of the plan of land to be acquired.

### ***Legal and Regulatory Compliance***

In accordance with Section 377(1)(h) of the Local Government Act 1993, Council cannot delegate the compulsory acquisition, purchase, sale, exchange or surrender of any land.

**6. ACQUISITION OF LAND – EXTENSION OF BENSONS ROAD (Cont'd)**

***Risk Management Issues***

The road is formed and is maintained by Council. Council should now formalise its acquisition for the essential public purpose of public access under the Roads Act.

It appears the unformed portion of Tantitha Road was never constructed given the topography of the land. To do so would incur significant cost.



If FCNSW does not seek fit to revocation of dedication of 1.6 hectares of land, Council may seek to obtain a right of way over the land.

***Internal/External Consultation***

Forestry Corporation NSW  
Crown Lands NSW  
Executive Leadership Team

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**6. ACQUISITION OF LAND – EXTENSION OF BENSONS ROAD (Cont'd)**

Attachments

Nil

**RECOMMENDATION**

That Council: -

1. Make formal application to Forestry Corporation NSW to acquire approximately 1.6 ha of land traversing lot 34 DP1208346 for the essential public purpose of providing public access under the Roads Act 1993.
2. That all costs associated with the acquisition be funded through the road maintenance budget.
3. That the General Manager be delegated authority to agree to the terms and conditions of the acquisition and compensation arrangements.
4. That upon acquisition the land be classified as public road in accordance with the Roads Act 1993.

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**7. LOCAL GOVERNMENT NSW ANNUAL CONFERENCE**

<b>Author:</b>	Director Governance
<b>Responsible Officer:</b>	General Manager
<b>Link to Strategic Plan:</b>	CSP – 4.4.1 Provide sound input into State, and Regional Plans and Strategies

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**Executive Summary**

This report is presented to Council to determine Council's voting delegate to the LGNSW Annual Conference to be held 23 - 25 November 2025 and any motions to be put forward for consideration at the Conference.

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**Report**

The LGNSW Annual Conference is the main policy making event for the local government sector where issues are debated and motions put forward for consideration by delegates. This year the conference will be held at Panthers Penrith and Western Sydney Conference Centre.

Narromine Shire Council is entitled to one voting member, usually the Mayor. Other participants attend as observers.

## **7. LOCAL GOVERNMENT NSW ANNUAL CONFERENCE (Cont'd)**

Attendees need to register from 1 July 2025 until 30 September 2025 in order to take advantage of the special 'early bird' rates. The event portal will allow registration without a delegate name with information to be updated once Council representatives are known.

Council's voting delegate (must be an elected member of Council) is required to be registered by 5pm on 23 September 2025.

Motion submission opened 1 July 2025. Voting members are encouraged to submit motions by 30 September 2025 to allow assessment of the motions and preparation of the Business Paper before the Conference. The latest date motions can be accepted for inclusion is 26 October 2025.

The Annual Conference can only reasonably consider and debate around 100 motions in the available time, therefore LGNSW requests that members only submit motions that relate to their highest priorities.

Motions need to be strategic, affect members state-wide and introduce new or emerging policy issues and actions. Motions should be considered and adopted at a Council Meeting. The format of the motions should call on a specific body (e.g. LGNSW, State Government, Federal Government, or a Minister) and have a specific outcome that the motion is aiming to achieve.

### ***Financial Implications***

'Early bird' registration pricing for 2025 is \$1,150 including GST per attendee. Conference dinner tickets are priced at \$230 including GST per person. Accommodation and travel costs will also be incurred.

Standard registration opens 1 October 2025 and closes 7 November 2025. Standard registered pricing for 2025 is \$1,485 including GST per attendee.

### ***Legal and Regulatory Compliance***

Member's voting entitlements are determined by the LGNSW rules. Councillor Expenses and Facilities Policy.

### ***Risk Management Issues***

Nil

### ***Internal/External Consultation***

Nil

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**7. LOCAL GOVERNMENT NSW ANNUAL CONFERENCE (Cont'd)**

Attachments

Nil

**RECOMMENDATION**

1. That the Mayor be Council's voting member; and
2. That the General Manager and Deputy Mayor also attend the 2025 LGNSW Annual Conference.
3. That motions to the LGNSW Annual Conference (if any) be forwarded to the General Manager for consideration at Council's September Meeting.

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**8. ABORIGINAL EMPLOYMENT STRATEGY 2025 – 2029**

<b>Author:</b>	Director Governance
<b>Responsible Officer:</b>	General Manager
<b>Link to Strategic Plan:</b>	CSP – 1.2.2 Protect and celebrate Aboriginal heritage and culture and provide opportunities for interpretation and understanding; 1.2.5 Support the development of the actions within the MOU between Trangie and Narromine Aboriginal Land Councils; 4.2.2 Attract and retain a quality workforce that meets the strategic needs of the community and future strategic directions

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**Executive Summary**

This report is presented to Council to consider and endorse the revised Aboriginal Employment Strategy 2025 - 2029.

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**Report**

The Narromine Shire Council Aboriginal Employment Strategy aims to maintain the number of Aboriginal and Torres Strait Islander (ATSI) people represented in Council's workforce through proactive strategies in recruitment, career development, cultural awareness and retention.

As at June 2025, 24% of Council's permanent employees identified as ATSI. This is above the Shire average of 20.5% of the overall population. The high proportion of ATSI youth creates a future need for more training and employment. In an overall ageing population and therefore declining labour market, this presents an opportunity for both the ATSI and non-ATSI community.

Trangie Local Aboriginal Land Council and Narromine Local Aboriginal Land Council have been consulted on the revised four-year strategy and have indicated their support of the document.

**8. ABORIGINAL EMPLOYMENT STRATEGY 2025 – 2029 (Cont'd)**

***Financial Implications***

There are no financial implications associated with the endorsement of the Aboriginal Employment Strategy.

Council's Long-Term Financial Plan and Operational Plan and Budget include provision for employee recruitment and career development.

***Legal and Regulatory Compliance***

Local Government Act 1993 – Section 349

- Appointments are to be on merit according to the nature of the duties of the position, and the abilities, qualifications, experience and standard of work performance of those persons relevant to those duties.

Local Government (State) Award 2023

- Provides the terms and conditions of employment in local government.

Memorandum of Understanding between Council and groups representing the Aboriginal Community

- Details the approaches to be taken by both Narromine Shire Council and the Aboriginal community to work together to fulfil the aspirations of ATSI people in the Shire community, specifically "Implementing an Aboriginal Employment Strategy for Narromine Shire Council".

***Risk Management Issues***

It is noted that the Memorandum of Understanding is scheduled for review. It is not anticipated that the review will affect implementation of the revised Aboriginal Employment Strategy.

***Internal/External Consultation***

CEO and Chair Trangie Local Aboriginal Land Council  
Chair Narromine Local Aboriginal Land Council

There is no legislative requirement to place the revised Aboriginal Employment Strategy on public exhibition prior to endorsement.

**Attachments**

- Aboriginal Employment Strategy 2025 – 2029 (***Attachment No. 5***)

**RECOMMENDATION**

That the Aboriginal Employment Strategy 2025 – 2029 be endorsed.

Jane Redden  
**General Manager**



# **Councillor Expenses and Facilities Policy**

Adopted by Council

Date / Resolution No

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## Policy summary

This policy enables the reasonable and appropriate reimbursement of expenses and provision of facilities to Councillors to help them undertake their civic duties.

It ensures accountability and transparency and seeks to align Councillor expenses and facilities with community expectations. Councillors must not obtain private or political benefit from any expense or facility provided under this policy.

The policy has been prepared in accordance with the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2021* (the Regulation) and complies with the Office of Local Government's Guidelines for the payment of expenses and provision of facilities to Mayors and Councillors in NSW.

The policy sets out the maximum amounts Council will pay for specific expenses and facilities. Expenses not explicitly addressed in this policy will not be paid or reimbursed.

The main expenses and facilities are summarised in the table below. All monetary amounts are exclusive of GST.

Expense or facility	Maximum amount	Frequency
General travel expenses	<del>\$1,000</del> \$2,000 per Councillor \$6,000 for the Mayor	Per year
Interstate, overseas and long-distance intrastate travel expenses	<del>\$10,000</del> \$8,000 total for all Councillors	Per year
Accommodation and meals	As per the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, adjusted annually	Per meal/night
Professional development	\$2,000 per Councillor	Per year
Conferences and seminars	\$10,000 total for all Councillors	Per year
ICT expenses (Council to provide and maintain iPad) Home internet use Use of private mobile/landline	As per data package \$100 per Councillor	Per month
Carer expenses	\$100 per Councillor	Per month
Home office expenses	\$150 per Councillor	Per year
Postage stamps	To be directed through Council's own mail system	Not relevant
Christmas or festive cards	Nil	Per year
Access to facilities in the Mayor's Office if and when needed	Provided to all Councillors	Not relevant
Furnished office	Provided to the Mayor	Not relevant

<b>Expense or facility</b>	<b>Maximum amount</b>	<b>Frequency</b>
Non-exclusive staff supporting the Mayor and Councillors – determined by the General Manager	Provided to the Mayor and Councillors	Not relevant

Additional costs incurred by a Councillor in excess of these limits are considered a personal expense that is the responsibility of the Councillor.

Councillors must provide claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved.

Detailed reports on the provision of expenses and facilities to Councillors will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by individual Councillor and as a total for all Councillors.

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## **Part A – Introduction**

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### **1. Introduction**

- 1.1. The provision of expenses and facilities enables Councillors to fulfil their civic duties as the elected representatives of Narromine Shire Council.
- 1.2. The community is entitled to know the extent of expenses paid to Councillors, as well as the facilities provided.
- 1.3. The purpose of this policy is to clearly state the facilities and support that are available to Councillors to assist them in fulfilling their civic duties.
- 1.4. Council staff are empowered to question or refuse a request for payment from a Councillor when it does not accord with this policy.
- 1.5. Expenses and facilities provided by this policy are in addition to fees paid to Councillors. The minimum and maximum fees a Council may pay each Councillor are set by the Local Government Remuneration Tribunal as per Section 241 of the Act and reviewed annually. Council must adopt its annual fees within this set range.

### **2. Policy objectives**

- 2.1. The objectives of this policy are to:
  - enable the reasonable and appropriate reimbursement of expenses incurred by Councillors while undertaking their civic duties
  - enable facilities of a reasonable and appropriate standard to be provided to Councillors to support them in undertaking their civic duties
  - ensure accountability and transparency in reimbursement of expenses and provision of facilities to Councillors
  - ensure facilities and expenses provided to Councillors meet community expectations
  - support a diversity of representation
  - fulfil the Council's statutory responsibilities.

### 3. Principles

3.1. Council commits to the following principles:

- **Proper conduct:** Councillors and staff acting lawfully and honestly, exercising care and diligence in carrying out their functions
- **Reasonable expenses:** providing for Councillors to be reimbursed for expenses reasonably incurred as part of their role as Councillor
- **Participation and access:** enabling people from diverse backgrounds, underrepresented groups, those in carer roles and those with special needs to serve as a Councillor
- **Equity:** there must be equitable access to expenses and facilities for all Councillors
- **Appropriate use of resources:** providing clear direction on the appropriate use of Council resources in accordance with legal requirements and community expectations
- **Accountability and transparency:** clearly stating and reporting on the expenses and facilities provided to Councillors.

### 4. Private or political benefit

- 4.1. Councillors must not obtain private or political benefit from any expense or facility provided under this policy.
- 4.2. Private use of Council equipment and facilities by Councillors may occur from time to time. For example, telephoning home to advise that a Council meeting will run later than expected.
- 4.3. Such incidental private use does not require a compensatory payment back to Council.
- 4.4. Councillors should avoid obtaining any greater private benefit from Council than an incidental benefit. Where there are unavoidable circumstances and more substantial private use of Council facilities does occur, Councillors must reimburse the Council.
- 4.5. Campaigns for re-election are considered to be a political benefit. The following are examples of what is considered to be a political interest during a re-election campaign:
  - production of election material
  - use of Council resources and equipment for campaigning
  - use of official Council letterhead, publications, websites or services for political benefit
  - fundraising activities of political parties or individuals, including political fundraising events.

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## Part B – Expenses

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### 5. General expenses

- 5.1. All expenses provided under this policy will be for a purpose specific to the functions of holding civic office. Allowances for general expenses are not permitted under this policy.
- 5.2. Expenses not explicitly addressed in this policy will not be paid or reimbursed.

### 6. Specific expenses

#### **General travel arrangements and expenses**

- 6.1. All travel by Councillors should be undertaken using the most direct route and the most practicable and economical mode of transport.
- 6.2. Each Councillor may be reimbursed up to a total of \$~~1,000~~ **\$2,000** per year, and the Mayor may be reimbursed up to a total of \$6,000 per year, for travel expenses incurred while undertaking official business or professional development or attending approved conferences and seminars within NSW. This includes reimbursement:
  - for public transport fares
  - for the use of a private vehicle or hire car
  - for parking costs for Council and other meetings
  - for tolls
  - by Cabcharge card or equivalent
  - for documented ride-share programs, such as Uber, where tax invoices can be issued.
- 6.3. Allowances for the use of a private vehicle will be reimbursed by kilometre at the rate contained in the Local Government (State) Award.
- 6.4. Councillors seeking to be reimbursed for use of a private vehicle must keep a log book recording the date, distance and purpose of travel being claimed. Copies of the relevant log book contents must be provided with the claim.

#### **Interstate, overseas and long-distance intrastate travel expenses**

- 6.5. In accordance with Section 4, Council will scrutinise the value and need for Councillors to undertake overseas travel. Councils should avoid interstate, overseas and long-distance intrastate trips unless direct and tangible benefits can be established for the Council and the local community. This includes travel to sister and friendship cities.
- 6.6. Total interstate, overseas and long-distance intrastate travel expenses for all Councillors will be capped at a maximum of \$~~10,000~~ **\$8,000** per year. This amount will be set aside in Council's annual budget.
- 6.7. Councillors seeking approval for any interstate and long-distance intrastate travel must submit a case to, and obtain the approval of, the General Manager prior to travel.
- 6.8. Councillors seeking approval for any overseas travel must submit a case to, and obtain the approval of, a full Council Meeting prior to travel.

6.9. The case should include:

- objectives to be achieved in travel, including an explanation of how the travel aligns with current Council priorities and business, the community benefits which will accrue as a result, and its relevance to the exercise of the Councillor's civic duties
- who is to take part in the travel
- duration and itinerary of travel
- a detailed budget including a statement of any amounts expected to be reimbursed by the participant/s.

6.10. For interstate and long-distance intrastate journeys by air of less than three hours, the class of air travel is to be economy class.

6.11. For interstate journeys by air of more than three hours, the class of air travel may be premium economy.

6.12. For international travel, the class of air travel is to be premium economy if available. Otherwise, the class of travel is to be economy.

6.13. Bookings for approved air travel are to be made through the General Manager's office.

6.14. For air travel that is reimbursed as Council business, Councillors will not accrue points from the airline's frequent flyer program. This is considered a private benefit.

### **Travel expenses not paid by Council**

6.15. Council will not pay any traffic or parking fines or administrative charges for road toll accounts.

### **Accommodation and meals**

6.16. In circumstances where it would introduce undue risk for a Councillor to travel to or from official business in the late evening or early morning, reimbursement of costs for accommodation and meals on the night before or after the meeting may be approved by the General Manager. This includes where a meeting finishes later than 9.00pm or starts earlier than 7.00am and the Councillor lives more than 100 kilometres from the meeting location.

6.17. Council will reimburse costs for accommodation and meals while Councillors are undertaking prior approved travel or professional development outside the Orana Region.

6.18. The daily limits for accommodation and meal expenses within Australia are to be consistent with those set out in Part B Monetary Rates of the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as adjusted annually.

6.19. The daily limits for accommodation and meal expenses outside Australia are to be determined in advance by the General Manager, being mindful of Clause 6.18.

6.20. Councillors will not be reimbursed for alcoholic beverages.

### **Refreshments for Council related meetings**

6.21. Appropriate refreshments will be available for Council Meetings, Council Committee Meetings, Councillor briefings, approved meetings and engagements, and official Council functions as approved by the General Manager.

- 6.22. As an indicative guide for the standard of refreshments to be provided at Council related meetings, the General Manager must be mindful of Part B Monetary Rates of the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as adjusted annually.

### **Professional development**

- 6.23. Council will set aside \$2,000 per Councillor annually in its budget to facilitate professional development of Councillors through programs, training, education courses and membership of professional bodies.
- 6.24. In the first year of a new Council term, Council will provide a comprehensive induction program for all Councillors which considers any guidelines issued by the Office of Local Government (OLG). The cost of the induction program will be in addition to the ongoing professional development funding.
- 6.25. Annual membership of professional bodies will only be covered where the membership is relevant to the exercise of the Councillor's civic duties, the Councillor actively participates in the body and the cost of membership is likely to be fully offset by savings from attending events as a member.
- 6.26. Approval for professional development activities is subject to a prior written request to the General Manager outlining the:
- details of the proposed professional development
  - relevance to Council priorities and business
  - relevance to the exercise of the Councillor's civic duties.
- 6.27. In assessing a Councillor request for a professional development activity, the General Manager must consider the factors set out in Clause 6.26, as well as the cost of the professional development in relation to the Councillor's remaining budget.

### **Conferences and seminars**

- 6.28. Council is committed to ensuring its Councillors are up to date with contemporary issues facing Council and the community, and local government in NSW.
- 6.29. Council will set aside a total amount of \$10,000 annually in its budget to facilitate Councillor attendance at conferences and seminars. This allocation is for all Councillors. The General Manager will ensure that access to expenses relating to conferences and seminars is distributed equitably.
- 6.30. Approval to attend a conference or seminar is subject to a written request to the General Manager. In assessing a Councillor request, the General Manager must consider factors including the:
- relevance of the topics and presenters to current Council priorities and business and the exercise of the Councillor's civic duties
  - cost of the conference or seminar in relation to the total remaining budget.
- 6.31. Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance at conferences approved by the General Manager. Council will also meet the reasonable cost of meals when they are not included in the conference fees. Reimbursement for accommodation and meals not included in the conference fees will be subject to Clauses 6.16-6.20.

### **Information and communications technology (ICT) expenses**

- 6.32. Each Councillor will be provided with internet access and an iPad (or other suitable technology). In relation to Council supplied internet access, the amount provided by Council is set by the data package purchased at the time.

- 6.33. Councillors using their own private mobile or landline phones for Council purposes are entitled to reimbursement, to a maximum of \$100 per month, subject to the Councillor indicating on their phone accounts all Council related use. The Mayor will be paid a monthly phone allowance of \$90 to cover the cost of Council related phone calls.
- 6.34. Reimbursements will be made only for communications devices and services used for Councillors to undertake their civic duties, such as:
- receiving and reading Council business papers
  - relevant phone calls and correspondence
  - diary and appointment management.
- 6.35. Councillors may seek reimbursement for applications on their mobile electronic communication device that are directly related to their duties as a Councillor, within the maximum limit.

### **Special requirement and carer expenses**

- 6.36. Council encourages wide participation and interest in civic office. It will seek to ensure Council premises and associated facilities are accessible, including provision for sight or hearing-impaired Councillors and those with other disabilities.
- 6.37. Transportation provisions outlined in this policy will also assist Councillors who may be unable to drive a vehicle.
- 6.38. In addition to the provisions above, the General Manager may authorise the provision of reasonable additional facilities and expenses in order to allow a Councillor with a disability to perform their civic duties.
- 6.39. Councillors who are the principal carer of a child or other elderly, disabled and/or sick immediate family member will be entitled to reimbursement of carer's expenses up to a maximum of \$100 per month for attendance at official business, plus reasonable travel from the principal place of residence.
- 6.40. Childcare expenses may be claimed for children up to and including the age of 16 years where the carer is not a relative.
- 6.41. In the event of caring for an adult person, Councillors will need to provide suitable evidence to the General Manager that reimbursement is applicable. This may take the form of advice from a medical practitioner.
- 6.42. Councillors may be able to access Council's Employee Assistance Program (EAP) counselling service, to assist with their health and wellbeing during their term of office. A maximum of 3 consultations can be provided, however in extenuating circumstances this may be extended to 6 consultations. Access to this program can be requested through the General Manager.

### **Home office expenses**

- 6.43. Each Councillor may be reimbursed up to \$150 per year for costs associated with the maintenance of a home office, such as minor items of consumable stationery and printer ink cartridges.

## **7. Insurances**

In accordance with Section 382 of the Local Government Act, Council is insured against public liability and professional indemnity claims. Councillors are included as a named insured on this Policy.

- 7.1. Insurance protection is only provided if a claim arises out of or in connection with the Councillor's performance of his or her civic duties, or exercise of his or her functions as a Councillor. All insurances are subject to any limitations or conditions set out in the policies of insurance.
- 7.2. Council shall pay the insurance policy excess in respect of any claim accepted by Council's insurers, whether defended or not.
- 7.3. Appropriate travel insurances will be provided for any Councillors travelling on approved interstate and overseas travel on Council business.

## 8. Legal assistance

- 8.1. Council may, if requested, indemnify or reimburse the reasonable legal expenses of:
  - a Councillor defending an action arising from the performance in good faith of a function under the Local Government Act provided that the outcome of the legal proceedings is favourable to the Councillor
  - a Councillor defending an action in defamation, provided the statements complained of were made in good faith in the course of exercising a function under the Act and the outcome of the legal proceedings is favourable to the Councillor
  - a Councillor for proceedings before an appropriate investigative or review body, provided the subject of the proceedings arises from the performance in good faith of a function under the Act and the matter has proceeded past any initial assessment phase to a formal investigation or review and the investigative or review body makes a finding substantially favourable to the Councillor.
- 8.2. In the case of a code of conduct complaint made against a Councillor, legal costs will only be made available where the matter has been referred by the General Manager to a conduct reviewer and the conduct reviewer has commenced a formal investigation of the matter and makes a finding substantially favourable to the Councillor.
- 8.3. Legal expenses incurred in relation to proceedings arising out of the performance by a Councillor of his or her functions under the Act are distinguished from expenses incurred in relation to proceedings arising merely from something that a Councillor has done during his or her term in office. For example, expenses arising from an investigation as to whether a Councillor acted corruptly would not be covered by this section.
- 8.4. Council will not meet the legal costs:
  - of legal proceedings initiated by a Councillor under any circumstances
  - of a Councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation
  - for legal proceedings that do not involve a Councillor performing their role as a Councillor.
- 8.5. Reimbursement of expenses for reasonable legal expenses must have Council approval by way of a resolution at a Council meeting prior to costs being incurred.

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## Part C – Facilities

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### 9. General facilities for all Councillors

#### **Facilities**

- 9.1. Council will provide the following facilities to Councillors to assist them to effectively discharge their civic duties:
  - personal protective equipment for use during site visits
  - a name badge which may be worn at official functions, indicating that the wearer holds the office of a Councillor and/or Mayor or deputy Mayor.
- 9.2. Councillors may book meeting rooms for official business in a specified Council building at no cost. Rooms may be booked through a specified staff member.
- 9.3. The provision of facilities will be of a standard deemed by the General Manager as appropriate for the purpose.

#### **Stationery**

- 9.4. Council will provide the following stationery to Councillors each year:
  - letterhead, to be used only for correspondence associated with civic duties
  - business cards
  - Postage – official Councillor correspondence is to be directed through Council's own mail system

#### **Administrative support**

- 9.5. Council will provide administrative support to Councillors to assist them with their civic duties only. Administrative support may be provided by a member of Council's administrative staff as arranged by the General Manager or their delegate.
- 9.6. As per Section 4, Council staff are expected to assist Councillors with civic duties only, and not assist with matters of personal or political interest, including campaigning.

### 10. Additional facilities for the Mayor

- 10.1. Council will provide the Mayor with a furnished office incorporating a computer configured to Council's standard operating environment, telephone and meeting space.
- 10.2. In performing his or her civic duties, the Mayor will be assisted with administrative and secretarial support, as determined by the General Manager.
- 10.3. As per Section 4, staff supporting the Mayor and Councillors are expected to work on official business only, and not for matters of personal or political interest, including campaigning.

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## Part D – Processes

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### 11. Approval, payment and reimbursement arrangements

- 11.1. Expenses should only be incurred by Councillors in accordance with the provisions of this policy.
- 11.2. Approval for incurring expenses, or for the reimbursement of such expenses, should be obtained before the expense is incurred.
- 11.3. Up to the maximum limits specified in this policy, approval for the following may be sought after the expense is incurred:
  - local travel relating to the conduct of official business
  - carer costs
  - ICT expenditure
- 11.4. Final approval for payments made under this policy will be granted by the General Manager or their delegate.

#### **Direct payment**

- 11.5. Council may approve and directly pay expenses. Requests for direct payment must be submitted to the General Manager for assessment against this policy using the prescribed form, with sufficient information and time to allow for the claim to be assessed and processed.

#### **Reimbursement**

- 11.6. All claims for reimbursement of expenses incurred must be made on the prescribed form, supported by appropriate receipts and/or tax invoices and be submitted to the General Manager.

#### **Advance payment**

- 11.7. Council may pay a cash advance for Councillors attending approved conferences, seminars or professional development.
- 11.8. The maximum value of a cash advance is \$100 per day of the conference, seminar or professional development to a maximum of \$300.
- 11.9. Requests for advance payment must be submitted to the General Manager for assessment against this policy using the prescribed form with sufficient information and time to allow for the claim to be assessed and processed.
- 11.10. Councillors must fully reconcile all expenses against the cost of the advance within one month of incurring the cost and/or returning home. This includes providing to Council:
  - a full reconciliation of all expenses including appropriate receipts and/or tax invoices
  - reimbursement of any amount of the advance payment not spent in attending to official business or professional development.

## **Notification**

- 11.11. If a claim is approved, Council will make payment directly or reimburse the Councillor through accounts payable.
- 11.12. If a claim is refused, Council will inform the Councillor in writing that the claim has been refused and the reason for the refusal.

## **Reimbursement to Council**

- 11.13. If Council has incurred an expense on behalf of a Councillor that exceeds a maximum limit, exceeds reasonable incidental private use or is not provided for in this policy:
  - Council will invoice the Councillor for the expense.
  - the Councillor will reimburse Council for that expense within 14 days of the invoice date.
- 11.14. If the Councillor cannot reimburse Council within 14 days of the invoice date, they are to submit a written explanation to the General Manager. The General Manager may elect to deduct the amount from the Councillor's allowance.

## **Timeframe for reimbursement**

- 11.15. Unless otherwise specified in this policy, Councillors must provide all claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved.

# **12. Disputes**

- 12.1. If a Councillor disputes a determination under this policy, the Councillor should discuss the matter with the General Manager.
- 12.2. If the Councillor and the General Manager cannot resolve the dispute, the Councillor may submit a notice of motion to a Council meeting seeking to have the dispute resolved.

# **13. Return or retention of facilities**

- 13.1. All unexpended facilities or equipment supplied under this policy are to be relinquished immediately upon a Councillor or Mayor ceasing to hold office or at the cessation of their civic duties.
- 13.2. Should a Councillor desire to keep any equipment allocated by Council, then this policy enables the Councillor to make application to the General Manager to purchase any such equipment. The General Manager will determine an agreed fair market price or written down value for the item of equipment.
- 13.3. The prices for all equipment purchased by Councillors under Clause 13.2 will be recorded in Council's annual report.

# **14. Publication**

- 14.1. This policy will be published on Council's website.

## 15. Reporting

- 15.1. Council will report on the provision of expenses and facilities to Councillors as required in the Act and Regulations.
- 15.2. Detailed reports on the provision of expenses and facilities to Councillors will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by individual Councillor and as a total for all Councillors.

## 16. Auditing

- 16.1. The operation of this policy, including claims made under the policy, will be included in Council's audit program and an audit undertaken at least every two years.

## 17. Breaches

- 17.1. Suspected breaches of this policy are to be reported to the General Manager.
- 17.2. Alleged breaches of this policy shall be dealt with by following the processes outlined for breaches of the Code of Conduct, as detailed in the Code and in the Procedures for the Administration of the Code.

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## PART E – Appendices

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### Appendix I: Related legislation, guidance and policies

#### **Relevant legislation and guidance:**

- Local Government Act 1993, Sections 252 and 253
- Local Government (General) Regulation 2021, Clauses 217 and 403
- Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, 2009
- Local Government Circular 09-36 Guidelines for Payment of Expenses and Facilities
- Local Government Circular 05-08 legal assistance for Councillors and Council Employees.

#### **Related Council policies:**

- Code of Conduct

## Appendix II: Definitions

The following definitions apply throughout this policy.

Term	Definition
accompanying person	Means a spouse, partner or de facto or other person who has a close personal relationship with or provides carer support to a Councillor
appropriate refreshments	Means appropriate food and beverages <b>excluding alcohol</b> provided by Council to support Councillors undertaking official business
Act	Means the <i>Local Government Act 1993</i> (NSW)
clause	Unless stated otherwise, a reference to a clause is a reference to a clause of this policy
Code of Conduct	Means the Code of Conduct adopted by Council or the Model Code if none is adopted
Councillor	Means a person elected or appointed to civic office as a member of the governing body of Council who is not suspended, including the Mayor
General Manager	Means the General Manager of Council and includes their delegate or authorised representative
incidental personal use	Means use that is infrequent and brief and use that does not breach this policy or the Code of Conduct
long distance intrastate travel	Means travel to other parts of NSW of more than three hours duration by private vehicle
maximum limit	Means the maximum limit for an expense or facility provided in the text and summarised in Appendix 1
NSW	New South Wales
official business	Means functions that the Mayor or Councillors are required or invited to attend to fulfil their legislated role and responsibilities for Council or result in a direct benefit for Council and/or for the local government area, and includes: <ul style="list-style-type: none"> <li>• meetings of Council and committees of the whole</li> <li>• meetings of committees facilitated by Council</li> <li>• civic receptions hosted or sponsored by Council</li> <li>• meetings, functions, workshops and other events to which attendance by a Councillor has been requested or approved by Council</li> </ul>
professional development	Means a seminar, conference, training course or other development opportunity relevant to the role of a Councillor or the Mayor
Regulation	Means the <i>Local Government (General) Regulation 2021</i> (NSW)
year	Means the financial year, that is the 12-month period commencing on 1 July each year



**NARROMINE SHIRE COUNCIL**  
**COUNCILLOR REIMBURSEMENT OF EXPENSES INCURRED FORM**

Councillor Name: \_\_\_\_\_

Month: \_\_\_\_\_

I hereby submit the following claim for reimbursement of expenses incurred while undertaking official Council business: -

**A. USE OF PRIVATE VEHICLE** (*extract of log book attached*)

Date	From	To	Reason for Journey	KM travelled (Engine capacity 2.4l and less)	KM travelled (Engine capacity 2.5l and above)
			<b>Total Kms</b>		
				@ ...../km	@ ...../km

**B OTHER EXPENSES** i.e. tolls, parking costs, cab charges, public transport fares, carer, office expenses, accommodation, meals (*receipts attached*)

Date	Other Travel Expense Details	Amount Claimed \$
	<b>Total Expenses</b>	<b>\$</b>

Signature Councillor \_\_\_\_\_

Date \_\_\_\_\_

*For Internal Use Only*

Approved

Yes

☐

No

☐

Signature General Manager \_\_\_\_\_

Date \_\_\_\_\_

Expense	Work Order Number	Amount
Councillor Fee	1381.20.426	\$
Mayoral Fee	1381.20.425	\$
Superannuation		\$
General Travel Expense Reimbursement (use of private vehicle, cab charge, tolls, public transport fares etc)	1381.20.571	\$
Accommodation/Meals	1381.20.574	\$
Office Expenses	1381.20.532	\$
ICT Expenses	1381.20.445	\$
Carer Expenses	1381.20.499	\$
<b>TOTAL Claim for Month</b>		<b>\$</b>

*A Councillor must attend an Ordinary Council Meeting or provide a medical certificate in order to qualify for monthly membership fee as resolved by Council on 8 May 2019.*



# **INCIDENT MANAGEMENT POLICY & PROCEDURES**

Date / Resolution No

**Introduction**

Narromine Shire Council will be faced with various types of incidents which may lead to injuries or property damage that may give rise to claims against Council.

It is essential that Council has a systematic process established which guides Council staff in responding to such incidents in a standardised, professional and co-ordinated manner, **irrespective of the type of incident**.

**Purpose**

This policy provides guidance in the management of incidents and the provision of direct and acceptable evidence in the event of litigation.

**Scope**

This policy applies to all Council employees, Councillors, Contractors and Visitors.

**Definition of an Incident**

An incident is defined as "subordinate or accessory event; event, occurrence; detached event attracting general attention; something that occurs casually in conjunction with something else" - *Statewide Mutual*

Listed below are some examples of types of incidents or complaints that may result in a claim against Council:-

**Types of Incidents****Work Health and Safety**

- Work related injury or illness to Council employees, volunteers, contractors

**Public Liability**

- Traffic incident at council controlled road works
- Traffic incident on council controlled road network
- **Trip/fall** injury or illness to member of the public at council controlled facility or infrastructure
- Injury, illness, loss or damage suffered by member of the public as a result of actions or activities of council staff, volunteers or contractors.

**Professional Indemnity**

- Loss or damage suffered by member of the public as a result of a Development Application determination
- Loss or damage suffered by member of the public as a result of issue of a Certificate
- Loss or damage suffered by member of the public as a result of technical design or advice supplied by Council.

**Property**

- Any occurrence of a workplace emergency
- Any occurrence of implementation of the Business Continuity Plan
- Any failure of plant or equipment
- Any loss or damage to fleet, equipment or property asset from actions of staff, volunteers, contractors, visitors or members of the public.

**Legislative Compliance**

- Any failure in legislative compliance.

**Environmental**

- Any decision or action of Council which contributes to an environmental incident.

**Financial**

- Any occurrence of fraud or misappropriation
- Any occurrence of major cost over-run
- Any occurrence of failure in debtor, creditor and investment control systems.

**Governance**

- Any occurrence of failure in Code of Conduct
- Any occurrence of fraud or misappropriation
- Any occurrence of significant reputation loss
- Any occurrence of project management failure
- Any occurrence of privacy principles failure.

**Types of Claims**

**Workers Compensation Claim** – covering work related injury or illness suffered by Council staff.

**Public Liability Claim** – covering injury, illness, loss or damage suffered by a member of the public resulting from Council negligence, commission or omission.

**Professional Indemnity Claim** – covering injury, illness, loss or damage suffered by a member of the public resulting from Council negligence, commission or omission in technical advice or professional design or service delivery.

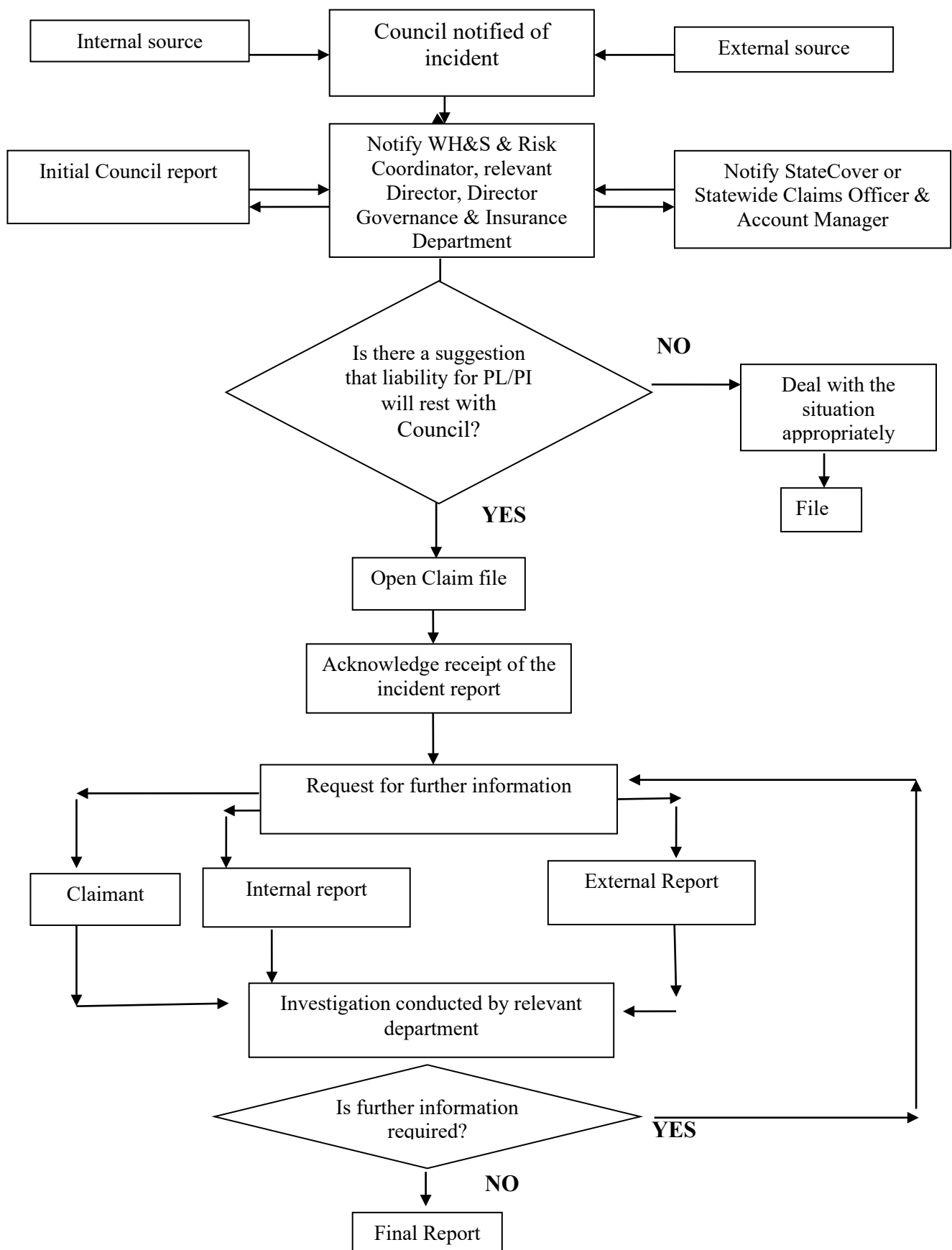
**Property Claim** – covering damage or loss to Council fleet, equipment or property assets.

**Incident Reporting and Investigations**

All incidents (including near misses and identified potential hazards) must be reported within 24 hours using the online reporting forms.

Whether further investigation of an incident is required, will be determined by the WH&S and Risk Coordinator in consultation with the relevant **Director**, using a process summarised in the following flow chart:

Note - the flow chart is not intended to define the total process in dealing with a report of an incident or complaint, irrespective of type, but rather it deals with the process of claims administration.

**Incident Recording Flow Chart**

## Flow Chart Explanatory Notes

### 1. Incident Notification

Council can be notified about an incident or complaint by a variety of sources, both external and internal. The imperative is to record the incident or complaint into a system where the future processing and treatment actions can be traced.

### 2. Appropriate Officer

The WH&S & Risk Co-ordinator and Director Governance must be notified if the incident or complaint has the potential to result in a Public Liability or Professional Indemnity Claim. If the incident is related to staff Work Health and Safety, then the WHS and Risk Coordinator must be advised. If work related injury or illness has occurred, the Manager Human Resources will also become involved.

### 3. Claim or Liability

**NO** – Even if there appears to be no potential for a claim to arise in the future, all associated facts, records and documents should be collated and placed on file and stored indefinitely. If the incident involved a motor vehicle on a Council controlled road within the LGA, the details stipulated in Statewide Mutual's Guidance Note Investigation of Road Incidents must be followed (see attached procedure for summary of information).

**YES** – Council must advise their relevant Claims Officer and Account Manager. All associated facts, statements, records and documents are to be collated and placed on a Claim File. If the incident involved a motor vehicle on a council controlled road within the LGA, the details stipulated in Statewide Mutual's Guidance Note Investigation of Road Incidents must be followed (see attached procedure for summary of information).

### 4. Investigations

Any investigations, Factual or Discovery Order compilation must be undertaken as required. Council may choose to inform their Legal Advisor, certain records of council may be subject to Legal Privilege. If legal privilege is exercised then strict record confidentiality must be maintained to preserve that privilege (refer to Statewide Mutual's Guidance Note - GIPA and Legal Professional Privilege for further information).

#### Reporting

Any reports compiled, either internally or externally are to be treated as confidential information and placed on the appropriate file and stored indefinitely.

It will be an advantage to Council if all related records are captured and stored electronically.

Where further information about an incident is required, the investigation will be conducted and reported using the standard "Incident Investigation" pro forma (see **Attachment 1**). Any incidents involving a motor vehicle on a Council controlled road within the LGA must be reported on as per the attached procedures and in accordance with Statewide Mutual's Guidance Note - Investigation of Road Incidents.

### **Related Council Policies and Procedures**

#### **Records Management Policy**

Document and Data Control Procedure

### **Legislative Requirements**

Local Government Act 1993, section 739A

*Requires Councils to retain, preserve and destroy its records in accordance with any approved standards.*

State Records Act 1998 – Imposes duties on the Chief Executive of a public office to comply with the Act regarding the keeping of records

Government Information (Public Access) Act 2009 – provides for the protection of personal information and for the protection of the privacy of individuals generally

Privacy and Personal Information Protection Act 1988

Work Health and Safety Act 2011

Civil Liability Act 2002, sections 41, 42, 45

Roads Act 1993

Evidence Act 1995

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Prepared by:	Governance Department
Date Adopted:	First Adopted 16 March 2010, second revision adopted 9 December 2015, third version adopted 14 October 2020
Version No:	4.0
Review Date:	July 2029

## PROCEDURES

### Investigation of Road Incidents - Non-Roadwork Site

#### Definition

A road incident is defined as

"Any incident that occurs on a Council managed road or roadwork site that involves or potentially involves public person, or property" - *Statewide Mutual*

#### Scope

For any Council officers involved in road maintenance and construction activities, and staff involved in investigating road related incidents and collating records that may potentially be used as evidence in defence of a claim against Council.

#### Procedural Approach

1. Take photographs of the area and with each photograph note:
  - (a) date taken
  - (b) time taken
  - (c) by whom taken (not just a signature but name and position within Council at that time)
  - (d) a description of the location of the photograph (i.e. 100m west of accident location etc)
  - (e) if the photograph is of something small, use something familiar alongside that object to gauge size by.

The photographs should start from a reasonable distance from the accident along the path which the vehicle travelled prior to the accident. Also, there should be some point of reference in each photograph e.g. a tree, a guidepost, traffic sign etc.

Photographs should attempt to show the environmental conditions present at the time of the incident, e.g. shadows, restrictions to visibility from trees, embankments etc, or if clear visibility to show this as best as possible.

Printed photographs should have written on the back:

- date they were taken
- description of the scene shown in it
- signed by the photographer, with printed name and position within Council.

All digital photographs or videos should be downloaded to a CD, **USB or some other form of digital storage**, attached to this statement.

*On (date) I attended (location) and took the photographs on the CD/**USB** attached to this statement.*

The photographer should set out his/her name, position and name of Council and sign the document.

Generally, the more photographs the better is the rule, especially if someone has been critically injured or killed.

2. Details of the road status (i.e. Council/**TfNSW**) and date of construction (if known) or date of transfer to Council (if relevant).
3. A statement confirming that Council is the maintenance authority (i.e. by itself or pursuant to some agreement by the **TfNSW** etc).
4. A recording of the prevailing weather details of the date of accident, and 24 hours preceding date of accident.
5. A detailed record of the traffic levels, including heavy vehicle movements and pedestrian movements (if known).
6. A note indicating the speed limit applicable at the location of the accident. This could be supported by a photograph of the nearest speed sign, including note on distance and direction of the sign(s) to the accident site.
7. Details of all inspection reports of the subject area for the 5 years prior to the date of the accident.
8. A listing of all records of complaints, minutes of any meetings discussing the road and its conditions etc for 5 years prior to the date of the accident.
9. A map marked with all traffic signals warning signs etc. in the vicinity of the incident and photographs of those if possible.
10. Plan of the accident area marked with skid marks, accident debris etc.
11. Police should be requested to provide copies of any statements or other information they have obtained. This is a legitimate request for the road authority to make given their stake hold in wanting to know how the accident occurred. Often these sort of requests are best made by Council's representative on the Traffic Advisory Committee to the police representative.
12. Statements should be taken from all relevant Council witnesses.
13. Details of any witnesses to the accident or names and addresses of the people who were on site immediately after the accident.
14. Photographs of the damaged vehicle (for any accident reconstruction required later).
15. Registration details of the vehicle or vehicles involved in the accident.
16. All information gathered needs to be created and securely stored in electronic format and managed for use as evidence.

## PROCEDURES

### Investigation of Road Incidents - Roadwork Site

#### Definition

A road incident is defined as

"Any incident that occurs on a Council managed road or roadwork site that involves or potentially involves public person, or property" - *Statewide Mutual*

#### Scope

For any Council officers involved in road maintenance and construction activities, and staff involved in investigating road related incidents and collating records that may potentially be used as evidence in defence of a claim against Council.

#### Procedural Approach

1. Take photographs of the area and with each photograph note:
  - (a) date taken
  - (b) time taken
  - (c) by whom taken (not just a signature but name and position within Council at that time)
  - (d) a description of the location of the photograph (i.e. 100 m west of accident location etc)
  - (e) if the photograph is of something small, use something familiar alongside that object to gauge size by.

The photographs should start from a reasonable distance from the accident along the path which the vehicle travelled prior to the accident. Also, there should be some point of reference in each photograph e.g. a tree, a guidepost, traffic sign etc.

Photographs should attempt to show the environmental conditions present at the time of the incident, e.g. shadows, restrictions to visibility from trees, embankments etc, or if clear visibility to show this as best as possible.

Printed photographs should have written on the back:

- date they were taken
- description of the scene shown in it
- signed by the photographer, with printed name and position within Council.

All digital photographs or videos should be downloaded to a CD/**USB** attached to this statement.

*On (date) I attended (location) and took the photographs on the CD attached to this statement.*

The photographer should set out his/her name, position and name of Council and sign the document.

Generally, the more photographs the better is the rule, especially if someone has been critically injured or killed.

2. Copies of the traffic control plan, including details of the precise locations of any signs and other traffic control measures in relation to the incident site. Any alterations that had been made to the positioning of these traffic control measures over the course of the project should be recorded. Evidence of inspection of these traffic control measures is required.
3. Any photographs taken during the course of the road works.
4. All diaries and diary entries kept during the course of the road works.
5. Complete copies of the road works file.
6. Details of all contracts for the road works plus certificates of currency re insurance details.
7. Statements of all relevant Council Road Engineers, Director of Technical Services (or equivalent) and any other people who supervised the works, including the nature of their involvement in the day to day activities, etc.
8. Identify all Council employees on site at the time of the incident, or the staff working on the last shift prior to the incident, if incident is outside work hours.
9. Define/describe the nature of the work being carried out at the time of the incident.
10. If the roadworks involved resealing or patching works, obtain details in relation to the sweeping of any excess gravel left on the road following the workings including:
  - (a) The sweeping process carried out including if it was performed mechanically or manually
  - (b) Who performed the sweeping and when
  - (c) Description and location of any warning signs left in place following the sweeping process including how long the warning signs remained in place and when they were removed
11. Plan of the accident area marked with skid marks, accident debris etc.
12. Police should be requested to provide copies of any statements or other information they have obtained. This is a legitimate request for the road authority to make given their stake hold in wanting to know how the accident occurred. Often these sort of requests are best made by Council's representative on the Traffic Advisory Committee to the police representative.
13. Statements should be taken from all relevant Council witnesses.

14. Details of any witnesses to the accident or names and addresses of the people who were on site immediately after the accident.
15. Photographs of the damaged vehicle (for any accident reconstruction required later).
16. Registration details of the vehicle or vehicles involved in the accident.
17. All information gathered needs to be created and securely stored in electronic format and managed for use as evidence.

**NARROMINE SHIRE COUNCIL INCIDENT INVESTIGATION FORM***To be used for any incident which may result in a third party public liability claim***Investigation Details**

Investigating Officer ..... Position in Council .....

Date of investigation ..... Time of Investigation (24 hr) .....

**Details of Injured/Involved Person**

Full Name ..... Address .....

Contact Number ..... DOB .....

Gender      Female ☐      Male ☐**Incident/Accident Details**

Date of Incident ..... Time of Incident (24 hr) .....

**Location where incident occurred** .....**Description of incident** (*attach photographs where possible*) .....**Diagram of incident** (if possible) - *include skid marks, accident debris etc*

**Description of scene** (*attach photographs where possible*) .....**Environmental conditions at time of incident** (wind direction, wet/dry, light/dark, fog/clear, shadows, approaches, drains, verges, restrictions to visibility etc)

**Details of injury sustained** (if applicable)

.....

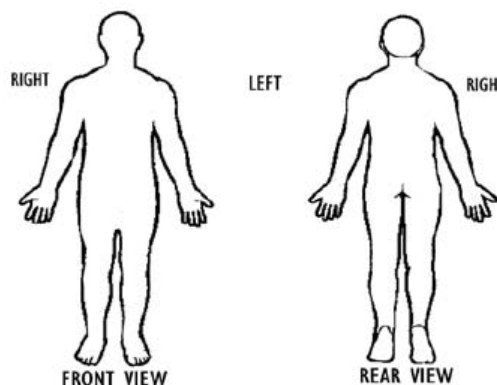
.....

.....

.....

.....

.....

**Description of treatment given at scene of incident** (if applicable)

First Aid ☐ Medical Treatment ☐ Hospitalisation ☐

**Police Report/Ambulance/Hospital Details** (if applicable)

.....

.....

**Details of Council Property Involved** (*attach photographs where possible*)

.....

.....

.....

**Details of all vehicles involved** (whether damaged or not) - include registration nos. *Attach photographs of damaged vehicles where possible*

.....

.....

.....

**Witnesses** (full names, addresses and contact nos)

.....

.....

.....

**People on site immediately after incident** (full names, addresses and contact nos)

.....

.....

.....

**Council employees** (working in the area at the time of the incident) .....

.....

.....

(working on the last shift prior to the incident if the incident was outside work hours)

.....

.....

**Type of work undertaken by Council employees** (at time of incident). *Attach photographs where possible. Attach copies of traffic control plans, including details of precise locations of any signs and other traffic control measures in relation to the incident site.*

.....

.....

.....

.....

**Signs Schedule** (include any signs erected by other authorities). *Attach copy of Traffic Control Plan if relevant.*



Date of erection of signs .....

Date of last inspection .....

Attendance of appropriate authority (Name, region) .....

.....

.....

### **Photographs**

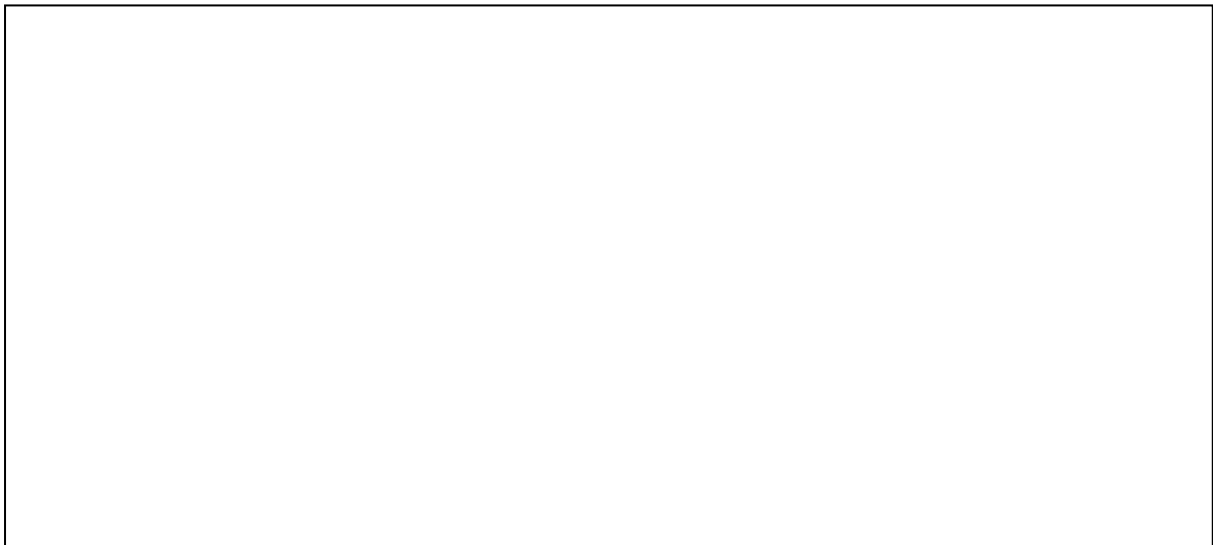
Photographs must note the date, time taken and by whom taken (include name and position within Council), description of location (e.g. 100m west of incident). If the photograph is of something small, use something familiar alongside that object to gauge size by. Photographs should start from a reasonable distance from the incident along the path which the vehicle travelled prior to the incident (if relevant). Include a reference point in each photograph e.g. a tree, a guidepost, traffic sign etc. Photographs should attempt to show the environmental conditions present i.e. shadows, restrictions to visibility from trees, embankments, drains, verges etc. See procedures for further information.

**Photograph Schedule**

- 1.....
- 2.....
- 3.....
- 4.....
- 5.....
- 6.....
- 7.....
- 8.....
- 9.....
- 10.....

**Measurements**

Record all measurements as accurately as possible. These may include heights, lengths or widths of objects, obstructions, holes etc).



**Causal Factors** - events and conditions that contributed to the accident

**Corrective Actions** (actions that have been, or will be taken to prevent recurrence if appropriate)

Has corrective action been implemented and verified?      Yes/No

.....  
**SIGNATURE**

.....  
**DESIGNATION**

---

**This report (together with any attachments) is to be provided to the relevant Director within 48 hours of notification of incident to Council.**

**Date notified** .....

**Confirmation of Receipt** ..... **(Signature of Director)**

**Action Required** .....

**Date Action Taken** .....

**Following receipt by Director, the report is to be provided to the Director Governance for insurance notification purposes.**

**Date notified** .....

**Confirmation of Receipt** ..... **(Signature of Director)**

**Date Insurers Notified** .....



# CONTAMINATED LAND POLICY

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Version No	Responsible Officer	Adopted by Council	Review Date
1.0	Manager Heath Building and Environmental Services	8 June 2016 Resolution No 2016/166	July 2018
2.0	Manager Health Building and Environmental Services	11 July 2018 Resolution No 2018/151	August 2020
3.0	Manager Health Building and Environmental Services	14 October 2020 Resolution No 2020/239	October 2024
<u>4.0</u>	<u>Manager Health Building and Environmental Services</u>	<u>Resolution No</u>	<u>May 2028</u>

## 1 Preamble

Contaminated land is managed by Council to minimise the impacts of past land use on the orderly development of land in the future. Land may have become contaminated by actions in the past when issues around contamination, pollution and waste management were not considered important by the community and the long-term effects of some chemicals on the environment and human health were poorly understood.

The Environment Protection Authority (EPA) is the State body that regulates contaminated land under the *Contaminated Land Management Act 1997*; however, Council has responsibility to ensure that when exercising its statutory planning functions in relation to the development of contaminated land, all the relevant information is considered.

To do this Council must:

- Consider the likelihood of land contamination as early as possible in the planning and development control process;
- Link decisions about the development of land with the information available about contamination possibilities;
- Adopt a policy approach which will provide strategic and statutory planning options based on the information about contamination; and
- Exercise statutory planning functions with a reasonable standard of care.

This policy is made to guide Council on how it will carry out its planning functions, and to provide a local context for decision making in relation to contaminated land. ~~This policy is intended to supplement, and should be read together with, the Managing Land Contamination Planning Guideline (1998) with reference to Part Schedule 6 of the Environmental Planning and Assessment Act 1979.~~

~~It is expected that the reader of this policy will be familiar with the general contaminated land management framework that is set out in the Managing Land Contamination Planning Guidelines (Department of Urban Affairs and Planning and EPA 1998), State Environmental Planning Policy – 55 Remediation of Land (SEPP 55), the National Environmental Protection (Assessment of Site Contamination) Measure 1999, and other applicable legislation.~~

This policy sets out the local requirements for Council and is predicated on the requirements of Chapter 4 ('Remediation of Land') of the State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)<sup>1</sup>, as elaborated in its contaminated land planning guidelines.<sup>2</sup> ~~must be read in conjunction with the other documents mentioned. Further information about the general principles of contaminated land management and how Council's policy may~~

<sup>1</sup> The content of Chapter 4 of the *Resilience and Hazards SEPP* was formerly the *State Environmental Planning Policy No.55 – Remediation of Land* guidelines for which can be found in *Managing Land Contamination: Planning Guidelines: SEPP55 – Remediation of Land*, <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/clm/managing-contaminated-land-guidelines-remediation.pdf>.

<sup>2</sup> These guidelines, referred to in the *Resilience and Hazards SEPP*, are those found in Schedule 6(3) of the *Environmental Planning and Assessment Act 1979*.

~~relate to the sale or redevelopment of your land may be found on [www.narromine.nsw.gov.au](http://www.narromine.nsw.gov.au).~~

This policy is based on the Central West Councils Regional Contaminated Land Policy Template, developed with assistance from the New South Wales Government through the EPA's Contaminated Land Management Program under funding by the NSW Environment Trust.

## 2 Policy Objectives

~~The purpose of this policy is to establish a framework that outlines how Council will act in good faith with the contaminated land planning guidelines when considering the potential of site contamination in its land-use planning and development control decision-making processes.~~

The objectives of the policy are to describe how Council will keep relevant records, provide information to interested parties and make decisions regarding contaminated land. Specifically, this policy will describe how:

- Information about potentially contaminated land is collected;
- Information is to be maintained in a Contaminated Land ~~Registers Information System (CLISRegister)~~;
- Council will use information to appropriately manage the use of land and what information is required for the development of the land;
- Information will be provided to owners of affected land and the public;
- Information will be provided on s10.7 planning certificates;
- Council should be notified of remediation activities within its LGA;
- Clarify where Category 1 remediation activities will be identified;
- How remediation activities should be conducted;
- Consultants should report on contaminated sites;
- A Site Audit Statement may be required;
- A Site Management Plan will be enforced;
- Council will use contaminated land standards and principles to address illegal land filling;
- The Protection of the Environment (Underground Petroleum Storage Systems) (UPSS) Regulation is to be administered by Council.

## 3 Application

This policy applies to all land within the Narromine Shire Local Government Area and includes:

- 1 Where Council is duly exercising one of the following planning functions:
  - a. Preparation of a planning proposal;
  - b. Processing and determination of a development application or the modification of a development consent;
  - c. Processing and determination of an application for a complying development certificate; and
  - d. Furnishing of advice in a certificate under section 10.7; or

2 Where Council is:

- a. Investigating or remedying illegal land filling; or
- b. Administering the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*.

**Note:** the functions described in paragraph 2 above are not 'planning functions' to which Council is afforded protection from liability under Schedule 6 of the EP&A Act.

## 4 Policy Statement

Council will act in good faith with the Contaminated Land Planning Guidelines by ensuring due care and diligence in considering land contamination in Council's land-use planning and development control functions.

Where Council is aware of any past or present potentially contaminating land uses or activities (as described in this policy) it will maintain relevant information about the land on which that use or activity occurred or is occurring to ensure:

- That land owners and other interested parties may be made aware of those uses; and
- Council can assess land contamination issues and monitor remediation under *State Environmental Planning Policy—(Resilience and Hazards) 2021*~~55~~ *Remediation of Land (SEPP-55)*.

The information held is intended to aid decision-making regarding contaminated land investigations, land use planning and determinations.

This policy will restrict the use of land by:

- 1 Prescribing the circumstances where land is required to undergo some level of assessment for land contamination, or remediation, before consent can be granted for any development on that land or the land can be rezoned; and
- 2 Enforce the restrictions that, in the opinion of the consultant or auditor, are required through the imposition of a Site Management Plan that may be imposed on the land following remediation.

Council will set standards for the conduct of remediation and reporting of contaminated land matters to ensure that contamination and remediation can be effectively managed and monitored for the benefit of the community.

While Council will endeavour to develop and maintain a comprehensive collection of relevant information, it does not guarantee the completeness or accuracy of all the information held. To the degree that information is not required to be provided to Council or hitherto has not been required to be kept by Council, Council may not be in possession of all the relevant information for any given property at any given time.

## 5 Abbreviations

<del>CLIS</del> Register	Contaminated Land <del>Information System</del> Register
CLM	Contaminated Land Management
CLM Act	<i>Contaminated Land Management Act 1997</i>
DA	Development Application
DSI	Detailed Site Investigation
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Reg	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
LEP	Local Environment Plan
NEPM	<i>National Environmental Protection (Assessment of Site Contamination) Measure 1999</i>
POEO Act	<i>Protection of the Environment Operation Act 1997</i>
PSI	Preliminary Site Investigation
RAP	Remediation Action Plan
SAS	Site Audit Statement
SEPP 55	<i>State Environmental Planning Policy 55 - Remediation of Land</i>
SMP	Site Management Plan
UPSS	Underground Petroleum Storage System
UST	Underground Storage Tank

## 6 Glossary

Assessment of site contamination	A formal investigation and report carried out by a contaminated land consultant in accordance with the Planning Guideline, the Reporting Guidelines or the UPSS Regulation and may include a preliminary site investigation, a detailed site investigation, a remediation action plan or a validation report.
Category 1 remediation	As defined in <i>Resilience and Hazards SEPP</i> <del>SEPP-55</del> , being remediation that requires development consent.
Category 2 remediation	As defined in <i>Resilience and Hazards SEPP</i> <del>SEPP-55</del> , being remediation that may be undertaken without development consent.
Contaminated Land Management	In regard to Council's responsibilities: The management of records relating to past or present land use, assessment of site contamination, provision of relevant information, monitoring of remediation and the determination of suitability for rezoning and development consents as described within this policy.

## Contamination

As defined in EP&A Act: **contaminated land** means land in, on or under which any substance is present at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment

or

in CLM Act: **Contamination** of land, for the purposes of this Act, means the presence in, on or under the land of a substance at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.

Note: Contamination and Pollution have similar statutory definitions, and while Council has statutory powers to regulate pollution (in particular under the *Protection of the Environment Operations Act 1997*) this policy is primarily concerned with contamination. A pollution incident is considered to be a matter that is dealt with in the short term by the relevant powers. Pollution can result in contamination if the pollution is not cleaned up in the short term or Council does not become aware of the issue within a reasonable time to be able to enforce a suitable remedy.

Contamination assessment  
Deferred Commencement

See Assessment of site contamination.

A development consent is granted subject to a condition that the consent is not to operate until the applicant satisfies the consent authority as to any matter specified in the condition, in accordance with s 4.16(3) of the *Environmental Planning and Assessment Act 1979*.

## Detailed Site Investigation

Stage 2 – Detailed Investigation as defined in Planning Guideline, the Reporting Guidelines and the NEPM. An investigation that will define with high precision the nature, extent and risks posed by contamination.

Environmental Management  
Plan  
Phase

See Site Management Plan

## Planning Guideline

A term commonly used to refer to the formal stages of contamination assessment; however, it is not reliably consistent with the terms defined in this policy. *Managing Land Contamination Planning Guideline* (Department of Urban Affairs and Planning and EPA 1998) or otherwise specified by Schedule 6 (3) of the *Environmental Planning and Assessment Act 1979*.

## Pollution

As defined in POEO Act **pollution** means:

- a water pollution, or
- b air pollution, or
- c noise pollution, or
- d land pollution.

**pollution incident** means an incident or set of circumstances during or as a consequence of which there is or is likely to be a leak, spill or other escape or deposit of a substance, as a result of which pollution has occurred, is occurring or is likely to occur. It includes an incident or set of circumstances in which a substance has been placed or disposed of on premises, but it does not include an incident or set of circumstances involving only the emission of any noise.

**land pollution** or **pollution of land** means placing in or on, or otherwise introducing into or onto, the land (whether through an act or omission) any matter, whether solid, liquid or gaseous:

- a that causes or is likely to cause degradation of the land, resulting in actual or potential harm to the health or safety of human beings, animals or other terrestrial life or ecosystems, or actual or potential loss or property damage, that is not trivial, or
- b that is of a prescribed nature, description or class or that does not comply with any standard prescribed in respect of that matter, but does not include placing in or on, or otherwise introducing into or onto, land any substance excluded from this definition by the regulations. See note under **contamination**.

## Preliminary Site Investigation

Stage 1 – Preliminary investigation as defined by the Planning Guideline, the Reporting Guidelines and the NEPM. An investigation that defines the potentially contaminating activities carried out on a site, the areas where contamination is most likely to exist and, if necessary, sufficient soil or groundwater sampling to confirm whether the land has been contaminated or not.

## Reporting Guidelines

*Guidelines for Consultants Reporting on Contaminated Sites 2020.*

## Remediation

As defined in Resilience and Hazards SEPP—55 remediation SEPP, remediation means:

- a. removing, dispersing, destroying, reducing, mitigating or containing the contamination of any land, or

	b. eliminating or reducing any hazard arising from the contamination of any land (including by preventing the entry of persons or animals on the land).
Remediation Action Plan	Stage 3 – Site Remediation Action Plan (RAP) as defined by the Planning Guideline and the Reporting Guidelines. A plan that sets out how a contaminated site can be made suitable for its intended use including methodology, clean-up criteria and validation procedures.
S10.7 planning certificate	A planning certificate as defined under section 10.7 of the EP&A Act.
Site Audit	<p><b>Non Statutory Site Audit</b> means a site audit undertaken by a site auditor that is not a requirement of a statutory instrument such as a development consent or regulation by the <i>Contaminated Land Management Act (1997)</i>.</p> <p><b>Statutory Site Audit</b> as defined in section 47 of the <i>Contaminated Land Management Act (1997)</i> means a site audit carried out in order to secure compliance with, among other things, a requirement of SEPP55 or a development consent.</p> <p><b>Site Audit Statement</b> contains the Site Auditor's findings and is in the form approved by the EPA. See s. 53B CLM Act.</p> <p>Further information about Site Audits can be found in the NSW EPA website:  <a href="http://www.epa.nsw.gov.au">http://www.epa.nsw.gov.au</a></p>
Site Management Plan	A plan that is intended to manage residual contamination following suitable remediation of a site.
Specific potentially contaminating land use	A land use specified in Appendix A that will, if determined to land use have been carried out on the land, be used to identify land for contaminated land management under this policy.
Suitably qualified person	Means a person who has such competence and experience in relation to the assessment of site contamination as is recognised as appropriate by the contaminated land management industry. They will also be, or be reasonably able to be, or supervised by a consultant who is, certified under a contaminated land consultant certification scheme recognised by the EPA.
UPSS regulation	<i>Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019</i>

Validation Report

Stage 4 – Validation and monitoring as defined by the Planning Guideline and the Reporting Guidelines. A report detailing the results of the post-remediation testing against the clean-up criteria stated in the RAP.

## 7 Legislation

### *Contaminated Land Management Act 1997*

Provides for Site Auditing (s47), and specific requirements for 10.7 planning certificates in relation to the Act (s59).

### *Environmental Planning and Assessment Act 1979*

Provides the basis of the planning system in NSW and permits the creation of State Environmental Planning Policies. Schedule 6 specifically details the liabilities for Planning Authorities in respect of contaminated land and defines the contaminated land Planning Guideline.

### *Environmental Planning and Assessment Regulation ~~2000~~2021*

Sets out the requirements for s10.7 planning certificates (Schedule 2.2).

### *National Environmental Protection (Assessment of Site Contamination) Measure 1999.*

Sets a national standard for contaminated site assessment.

### *Protection of the Environment Operations Act 1997*

Enables the EPA, and Councils, to regulate pollution and waste in NSW.

### *Protection of the Environment Operations (Waste) Regulation 2014*

Regulation of waste in NSW.

### *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*

Self-regulation regime of underground fuel storage in NSW

### *State Environmental Planning Policy (Resilience and Hazards) 2021~~No 55 – Remediation of Land~~*

Establishes the mandatory considerations for consent authorities when considering development applications in relation to contaminated land, and criteria for remediation of land before development can occur.

### *Narromine Local Environmental Plan 2011*

## 8 Potentially contaminating land uses

This policy will identify those land uses that have a reasonable potential to result in land contamination that may need to be addressed during development.

The list of land uses and activities that this policy will specifically identify as having the potential to result in land contamination are in **Appendix A**. These land uses have the

potential to cause land contamination because of the materials typically used, processed or stored on-site, the generation of contaminating waste products or the use of thermal processing.

In addition, the storage of significant volumes of petroleum or chemicals or activities involving the maintenance of motor vehicles or mechanical plant will be considered to be potentially contaminating land uses.

Where a property has been identified as having been associated with one or more of these land uses or activities, it will be included in the Contaminated Land ~~Information System~~ **Register** so that relevant information can be recorded and used for the purpose of this policy.

## 9 Information management

**Note:** Council's records and classifications are not intended to reflect the risk of harm to human health or the environment for a property in its current state or by its current land use. Where there are concerns that need to be addressed in the short term, the Council should use its powers under the *Protection of the Environment Operations Act 1997* or refer the matter to the EPA.

### 9.1 Contaminated Land ~~Site Information System definition~~ **Register**

Council will maintain a Contaminated Land ~~Register (Register) Information System (CLIS)~~ to record relevant information regarding land, its historical uses and activities carried out on it, assessments for contamination, remediation and Site Audits.

The list of sites in the contaminated land register will be compiled, maintained and updated in good faith in the interests of responsible land-use planning and development control and is to be used as a first point of reference by Council.

Information pertaining to a specific location shall include:

- Current and historical property description;
- Historical land uses or activities that have the potential to contaminate (See Appendix A);
- The land contamination investigation status;
- Reports and notices relating to contamination assessment;
- Reference to and brief comments relating to development applications, development consents, planning proposals to rezone land approved (or refused on the basis of contamination-related issues) and complying development certificates;
- Site Audit Statements; and
- EPA correspondence.

The information will not include personal information except personal information that is included in an assessment report.

## 9.2 What the information is used for

The information held in the [CLISRegister](#) will be used for the purpose of fulfilling the policy statement (see Section 4 Policy Statement above).

Specifically, the information will be used to:

- Provide information on s10.7 planning certificate;
- Inform development applications, modification applications, complying development certificate applications and assessments, including pre-DA meetings and assessment;
- Inform strategic planning and the preparation of Planning Proposals;
- Monitor and regulate remediation of contaminated land; and
- Administer the UPSS regulation.

## 9.3 Including or removing land from Council's [CLISRegister](#)

Land is included in the [CLISRegister](#) based primarily on information known to Council regarding land use and does not necessarily reflect whether the land is actually contaminated or not. Land will be identified on the [CLISRegister](#) if Council:

- Holds records, or is aware, that the land has been used for a potentially contaminating land use, [not limited to uses](#) as defined in **Appendix A**;
- Has carried out an inspection that suggests the land is likely to have been affected by contamination, pollution, landfilling, or by being used in an environmentally unsatisfactory manner (refer to definitions in the POEO Act);
- Is aware that the land has been the subject of remediation;
- Believes the land could have lawfully been used for a purpose listed in **Appendix A** and has no evidence to the contrary; or
- Is aware that the land is, or has been, zoned for industrial purposes.

Any land where a new development is commenced, whether approved by Council, subject to a Complying Development Certificate or exempt development, that is consistent with land uses defined in **Appendix A** will be included on the [CLISRegister](#) when Council becomes aware of it.

Land will not be included where:

- The use is at a domestic scale;
- The land use is clearly operated at a scale that is unlikely to cause land contamination; or
- The activity is, and has always been, generally of a retail or warehousing nature provided that any fuels, oil and chemicals remain in sealed containers from the manufacturer and are not dispensed or decanted into other containers; and,
- Council is not otherwise aware that the land is likely to be contaminated.

Note: It is acknowledged that both agricultural and residential land can be subject to incidental contamination and that, in some circumstances, could give rise to a risk to human health and the environment, however it is considered unreasonable to apply this policy where there is no evidence of circumstances presenting such a risk. Areas of agricultural land such as fuel storages and stock dips will be considered for contamination assessment when a DA is received however the whole land parcel will not be included in the [CLISRegister](#) unless specific reports are provided to Council.

The [CLIS Register](#) will allow for three land use descriptors to be applied to each record to allow for multiple land uses for each parcel to be clearly identified.

Where practical Council will notify the owners of any land that is identified as needing to be placed on the register and will undertake a consultation process to ensure that the owner is aware of the implications of the land being recorded on the [CLIS Register](#).

As it is a requirement that Council review its records every time it issues a s10.7 planning certificate and considers land contamination before determining a development application, a record of land must not be removed from the [CLIS Register](#) unless Council is satisfied that the information held does not relate to the land, or that any potentially contaminating activity has not taken place on the land.

Where land is subdivided or consolidated, information about the former land uses on the land will be carried onto the new property description(s).

#### 9.4 Land Contamination Investigation Status

To assist Council to monitor and communicate the level and quality of information about contamination on any land parcel, each parcel on the [CLIS Register](#) will be classified according to the significance of the information the Council holds about the parcel. Each parcel on the [CLIS Register](#) will be classified into one of five classifications:

Table 1. Contaminated site investigation status classification

Investigation Class	Description
A - Identified	<ul style="list-style-type: none"> <li>Council has identified that the land should be included on the <a href="#">CLIS Register</a> because a potentially contaminating land use is known to have been undertaken (<b>Appendix A</b>), but the results of any formal investigation have not been provided to Council.</li> <li>At this status, it is not possible to determine if land could be suitable for any particular use.</li> </ul>
B - Assessed	<ul style="list-style-type: none"> <li>Council has been provided with a contamination assessment report or other documentation indicating that the land is (or has been) contaminated, but is not satisfied, based on information provided in contamination assessment reports, that the land is suitable for any specific land uses and, therefore, further consideration of investigation, remediation or validation is required to determine a relevant application. Reports may indicate that the land may be suitable for some uses with conditions such as limited depth of excavation or contamination remaining in inaccessible areas due to existing structure etc.</li> <li>For any land adjacent to identified potentially contaminated land where a contamination assessment report received by Council has identified that contamination has migrated to the adjoining land will be classified as assessed.</li> </ul>
C – Site Management Plan	The land has been remediated, however, is subject to a site management plan (SMP). Any new DA must consider the requirements of a SMP that applies to the land.
D - Suitable for Limited Uses	<ul style="list-style-type: none"> <li>Council has been provided with a contamination assessment report or other documentation indicating that the land is (or has been) contaminated, but is satisfied, based on information provided in contamination assessment reports, that the land is suitable for some specific land uses without conditions.</li> <li>Further consideration of investigation, remediation or validation would be required to determine a relevant application for more sensitive land uses.</li> </ul>
E - Unrestricted	Council is satisfied based on information provided in contamination assessment reports that the land is suitable for all land uses and, therefore, no further investigation is required to determine a relevant application. This category shall only be used where no further assessment of contamination is required to determine the suitability of any permissible DA.

The land contamination investigation status classification does not necessarily indicate that land is or is not contaminated but indicates whether or not appropriate information is available to make a decision in respect of the land.

Whenever new information about a land parcel or property is received by Council, the status classification should be reconsidered and changed if necessary.

If contamination investigations standards change, it should be considered whether any land with a status class of "E – Unrestricted" should have its status changed. If investigation thresholds are reduced it may be appropriate that all "D - suitable for limited uses" and "E – Unrestricted" statuses be changed to "B - Assessed" until a thorough review of each assessment report can be carried out.

## 9.5 Provision of information

Information on the [CLISRegister](#) may be provided to any person in the form of an s10.7 planning certificate in accordance with the EP&A Act.

Otherwise, a person with a valid interest may seek to view:

- 1 The [CLISRegister-register](#) information; and
- 2 Reports held by Council.

However, due to Council's Privacy Management Plan or copyright restrictions (and the legislative requirements of *Government Information (Public Access) Act 2009* and *Privacy and Personal Information Protection Act 1998*), Council may not be able to provide all information it holds.

A person with a valid interest may include the following people in respect of the relevant land:

- 1 The owner;
- 2 The owner of neighbouring land;
- 3 State Government agencies such as the NSW Environment Protection Authority;
- 4 Contaminated land consultants investigating the land or neighbouring land;
- 5 Utilities providers;
- 6 Conveyancers acting on behalf of the owner; or
- 7 With the owner's permission:
  - a. A potential purchaser;
  - b. A purchaser's conveyancer; or
  - c. A real estate agent.

The general release of information on the [CLISRegister](#) is not considered to be in the public interest.

## 9.6 Information provided on the s. 10.7 planning certificate

S10.7 planning certificates provide a range of information regarding the rights and restrictions placed on a parcel of land.

Council is obliged to provide certain information on the s10.7 planning certificate as specified in Schedule ~~42~~ of the *Environmental Planning and Assessment Regulations 2000-2021* and s59 of the *Contaminated Land Management Act 1997*. That is:

- 1 ~~Clause Section 710~~, Schedule ~~4-2~~ of the *Environmental Planning and Assessment Regulations 2000-2021* requires that the certificate identify whether or not the land is affected by any policy (adopted by Council or by a public authority for the express purpose of its adoption being referred to in s10.7 certificates issued by Council) that restricts the development of land because of the likelihood of any risk. ~~– (This Policy is adopted as such, to restrict the development of land because of the likelihood of contamination, with reference Schedule 2). Information pertinent to Clause 7 is noted in 1A and 1B below;~~ and
- 2 Section 59 of the *Contaminated Land Management Act 1997* requires that the certificate address the specific matters relating to the management of contaminated land set out in that section. Information pertinent to s59 is noted in 2A and 2B below.

~~This Policy intends to be an adopted policy of the kind referred to in numbered paragraph 9.6, 1. above, that restricts the development of land because of the likelihood of contamination risk as set out in the Policy Statement (Section 4. above).~~

The following wording will be used for each Contamination Investigation Status and where other relevant information is known about the land:

**1A Notation to be included on s. 10.7 planning certificate issued under s10(2), as required by Clause 7, Schedule 4 of the EP&A Reg – adopted policies that restrict the development of the land because of the likelihood of any risk:**

- Land not considered to require restriction under this policy  
*Council's adopted Contaminated Land Policy does not place any specific restriction on the land to which this certificate relates at this time.*
- Land classed as "A - Identified"  
*The land to which this certificate relates has been used for purposes that have the potential to contaminate land. Council records do not have sufficient information to determine whether the land is contaminated. Council's adopted Contaminated Land Policy restricts the development on the land by requiring that the land undergoes some level of assessment for land contamination, and/or remediation if required, where zoning changes are proposed or consent is required for the carrying out of any development. Council's adopted policy provides information on how these restrictions will be applied in accordance with provisions under relevant State legislation. It is recommended that persons relying on this certificate undertake their own assessment of the land's suitability for purposes that do not require development consent.*

- Land classed as "B - Assessed"

*The land to which this certificate relates has been used for purposes that have the potential to contaminate land. Council's adopted Contaminated Land Policy restricts the development on the land by requiring that the land undergoes some level of assessment for land contamination, and/or remediation if required, where zoning changes are proposed or consent is required for the carrying out of any development. Council's adopted policy provides information on how these restrictions will be applied in accordance with provisions under relevant State legislation. It is recommended that persons relying on this certificate undertake their own assessment of the land's suitability for purposes that do not require development consent.*

- Land classed as C - Site Management Plan

*The land to which this certificate relates has been used for purposes that have the potential to contaminate land. Council has been advised that the site has undergone some remediation of site contamination; however, remains subject to a site management plan to mitigate the risk posed by land contamination on the land. The site management plan may place restrictions on development or use of the land and may include ongoing obligations by the owner or occupier. Council's adopted Contaminated Land Policy restricts the development of the land by ensuring compliance with the applicable site management plan. Further investigation may be required where zoning changes are proposed or consent is required for the carrying out of any development. Council's adopted policy provides information on how these restrictions will be applied in accordance with provisions under relevant State legislation. It is recommended that persons relying on this certificate undertake their own assessment of the land's suitability for purposes that do not require development consent.*

- Land classed as D - Suitable for Limited Uses

*The land to which this certificate relates has been used for purposes that have the potential to contaminate land. An assessment of site contamination has recommended that the land is suitable for certain types of use. Council's adopted Contaminated Land Policy restricts the development on the land by requiring that the land undergoes some level of assessment for land contamination, and/or remediation if required, where zoning changes are proposed or consent is required for the carrying out of development not consistent with the assessment of site contamination recommendations. Council's adopted policy provides information on how these restrictions will be applied in accordance with provisions under relevant State legislation. It is recommended that persons relying on this certificate undertake their own assessment of the land's suitability for purposes that are not consistent with the assessment of site contamination recommendations and do not require development consent.*

- Land classed as E - Unrestricted

*The land to which this certificate relates has been used for purposes that have the potential to contaminate land. An assessment of site contamination has recommended that the land is suitable for all types of use.*

**1B Notation to be included on s.10.7 planning certificates issued under s10.7(5) of the EP&A Act – advice on such other relevant matters affecting the land of which Council may be aware.**

- Where the site is known to be subject to the UPSS regulation as regulated by Council  
*The land is subject to the Protection of the Environment (Underground Petroleum Storage System) Regulation 2019.*
- Where the land has been used for specific purposes listed in this policy  
*The land has been used for the following purposes:  
(see list from Appendix A for potentially contaminating land uses and activities that may be listed).*
- Where Council is in possession of contamination assessment reports  
*Council has one or more reports on the assessment of site contamination.  
(Where Council is able to provide investigation results or summaries of results held by Council without disclosing confidential information it will do so as part of the planning certificate.)*
- Where Council is in possession of a Site Audit Statement  
*Council has a site audit statement.  
(Council will, where it is able to, provide a copy of the site audit statement with the planning certificate.)*
- Where remediation has been approved in accordance with SEPP55 or Resilience and Hazards SEPP.  
*Development consent has been granted to carry out Category 1 Remediation on the land.*
- Where remediation has been notified in accordance with SEPP55 or Resilience and Hazards SEPP.

*Council has been notified that Category 2 remediation is to be carried out on the land.*

**2A Notation to be included on s. 10.7 planning certificate issued under s. 10.7(2) of the EP&A Act, as required by s. 59(2) of the CLM Act**

- Where Council has received a Site Audit Statement that relates to the land  
*Council has received a Site Audit Statement that relates to the land.*
- Where the site has not been regulated by the CLM Act  
*The land to which this certificate relates is not presently subject to regulation under the Contaminated Land Management Act 1997.*
- Where the site has been declared significantly contaminated under the CLM Act  
*The land to which this certificate relates is significantly contaminated land under the Contaminated Land Management Act 1997.*
- Where the site is subject to a management order under the CLM Act  
*The land to which this certificate relates is subject to a management order under the Contaminated Land Management Act 1997.*
- Where the land is subject to a voluntary management proposal under the CLM Act  
*The land to which this certificate relates is subject to an approved voluntary management proposal under the Contaminated Land Management Act 1997.*

- Where the land is subject to an ongoing maintenance order under the CLM Act

*The land to which this certificate relates is subject to an ongoing maintenance order under the Contaminated Land Management Act 1997.*

## **2B Notation to be included on s. 10.7 planning certificates issued under s. 10.7(2) of the EP&A Act, as required by section 59(3) of the CLM Act**

- Where the land has been, but is no longer declared significantly contaminated under the CLM Act

*The land to which this certificate relates was, but is no longer significantly contaminated land under the Contaminated Land Management Act 1997.*

- Where the land has been, but is no longer subject to a management order under the CLM Act

*The land to which this certificate relates was, but is no longer subject to a management order under the Contaminated Land Management Act 1997.*

- Where the land has been, but is no longer subject to a voluntary management proposal under the CLM Act

*The land to which this certificate relates was, but is no longer subject to an approved voluntary management proposal under the Contaminated Land Management Act 1997.*

- Where the land has been, but is no longer subject to an ongoing maintenance order under the CLM Act

*The land to which this certificate relates was, but is no longer subject to an ongoing maintenance order under the Contaminated Land Management Act 1997.*

## **10 Rezoning/Planning Proposals**

In alignment with Local Planning Directions 4.4 ('Remediation of Contaminated Land'), Council will require and submit a preliminary site investigation report with a planning proposal if that proposal seeks to rezone land to a proposed use that is a sensitive receptor (as defined by this policy), and there is no knowledge (or incomplete knowledge) as to whether that and adjacent land involve a land use or activity listed in **Appendix A**.

~~The rezoning of land is controlled by Schedule 1.1 of the EP&A Act. A planning proposal is prepared by the Council and submitted for consideration and determination by the Minister (gateway determination). A gateway determination will determine what further studies may be required.~~

~~Clause 6 of SEPP 55 has the effect of requiring the consideration of contamination before preparing a planning proposal that would have the effect of zoning or rezoning land.~~ In order to assess the potential for land contamination, Council will need a thorough land use history for the site with reference to the potentially contaminated land uses and activities defined in this policy.

Preliminary Site Investigations may be required prior to the preparation of the planning proposal if such an investigation can reasonably be carried out. A planning proposal may also recommend that further contamination investigations are carried out.

Council must have regard to a Preliminary Site Investigation, where such an investigation has been carried out or it is practicable that such an investigation can be carried out, before making a planning proposal where:

- 1 The land is declared significantly contaminated land under Part 3 of the CLM Act;
- 2 An activity referred to in Appendix A is being carried out on the land;
- 3 Council's records show that an activity or use referred to in Appendix A has been carried out on the land; or
- 4 Council has incomplete records about the use of the land, and the land is proposed to be used for residential, educational, recreational, childcare or hospital purposes (either as a dominant or ancillary use), and during the periods not covered by those records it would, according to the uses formerly permitted on the land, have been lawful to carry out an activity referred to in Appendix A.

If a planning proposal proposes to change a land use zone in a local environmental plan:

- 1 For a particular parcel of land, it would not be appropriate to proceed with the planning proposal unless the land was proven suitable for all kinds of development that would be permitted in the new zone or for the development contemplated in the planning proposal or it could be demonstrated that the land could, and would, be remediated to make the land suitable; or
- 2 For a large area of land (Generalised Rezoning), the planning proposal should seek to adopt measures in the local environmental plan or development control plan to ensure that the potential for contamination and the suitability of the land for any proposed use are assessed before any development consent within the rezoned land is granted.

If a preliminary site investigation indicates that contamination would make land unsuitable for particular uses, and:

1. The land may be appropriately remediated for those uses, provisions are needed in the local environmental plan or development control plan to require the remediation before those uses can occur.
2. Where remediation may not be appropriate for those uses, either the planning proposal should not proceed or the range of permissible uses should be restricted in the local environmental plan for that land use zone; that is, the land use options should be reconsidered.

Information on contamination possibilities can be used to locate uses according to land suitability, for example, sensitive uses only being allowed in areas of low contamination probability.

## **11 Exempt and complying development**

Development must not be carried out on land designated as 'significantly contaminated land' within the meaning of the CLM Act for complying development specified for Codes identified in section 1.19 under Part 1 of the Exempt and Complying Development Codes SEPP.

During development work on land subject to a complying development certificate, if land contamination is detected or reasonably suspected, Council requires that:

- a. all development work immediately ceases;
- b. Council and the EPA be notified of the potential contamination;
- c. the notification be sent by the PCA or by the person who issued the complying development certificate.

Exempt development must not be carried out on land designated as 'significantly contaminated land' within the meaning of the CLM Act.

## **11.12 Development Applications**

### **11.12.1 Pre-Development Application Meetings**

A pre-DA meeting may be held between Council staff and a potential applicant to discuss the matters that need to be considered under heads of consideration (s4.15 EP&A Act), the Local Environment Plan and the Development Control Plan for the Council. A pre-DA meeting is not a planning function covered by Schedule 1 of the EP&A Act, and any advice provided regarding land contamination matters is subject to the same limitations and liabilities as any other advice provided in a pre-DA meeting.

Council's advice in a pre-DA meeting should acknowledge:

- 1 That the potential for land contamination must be considered for each and every development application;
- 2 That any pre-existing reports, studies or site audit statement need to be considered in terms of the specific development proposal;
- 3 Whether or not the pre-existing reports or studies will meet the reporting requirements of the Council at the time the development application is lodged.

After acknowledging the factors above, Council may be able to provide advice as to whether any further site assessment is required in order to assess the specific proposal. However, Council may not prejudice the assessment of suitability of the site for that proposed use.

The provisions of the Development Assessment section 11.2 below may be applied regardless of any advice provided during any pre-DA meeting.

### **11.212.2 Development Assessment consideration of contamination**

In alignment with section 4.15(1)(c) of the EP&A Act, Council shall consider land contamination in subdivision and development applications, particularly when a change in land use is proposed. This is to ensure that contaminated land:

- a. is suitable for its proposed use in its contaminated state
- b. can be made suitable for its proposed use through remediation
- c. presents no increased risk of harm to human health and the environment.

~~Upon receipt of a Development Application in respect of any land, SEPP 55 (cl7(1)) requires that land contamination must be considered.~~ Any Statement of Environmental Effects or environmental impact statement should address the historical uses of the land.

Land contamination shall be considered by Council's assessing officer by:

- 1 Referring to the ~~CLIS~~Register to determine if any information is held by Council regarding the potential for land contamination;
- 2 Considering the past known uses for the land having regard to the potentially contaminating land uses listed in **Appendix A**, and if there is an opportunity confirm past uses through a records search or seeking relevant information from the proponent;
- 3 Consideration of evidence of possible land contamination or potentially contaminating activities discovered during a site inspection relating to the development application; or
- 4 Considering information received through the public consultation process.

Where land has been remediated in the past, the issue of land contamination must again be considered for any subsequent development application. Council will need to ensure that any remediation that has been carried out is appropriate in terms of the specific development proposal. Council will need to determine if the remediation standards meet the requirements of the proposed use, if the standards have changed since the time of the remediation or if there is any residual contamination that may cause concern for the new proposal.

Where the information held by Council is not sufficient to determine if the land is suitable for the proposed development, relevant information, studies, investigations and or reports will be requested to assist in making the determination.

If the initial evaluation identifies a potential for land contamination then, in alignment with section 4.6(4) of the Resilience and Hazards SEPP, Council will initiate an assessment of site contamination to ascertain the nature and extent of contamination.

Changes of use on contaminated land may proceed provided that:

- 1 The land is suitable for the intended use; or
- 2 Conditions are attached to the development consent to ensure that the subject land can and will be remediated to a level appropriate to its intended use prior to or during the development stage.

When considering the suitability of the land for development under s. 4.15 of the EP&A Act, the risk to health and the environment from contamination must be included in this assessment. This includes risks during the construction and operation of the development. The former includes work safety issues as well as the potential for construction to disturb contamination and cause off-site movement of chemicals.

The Planning Guideline sets out the four stages of the contamination investigation process and all references to contamination investigations and reports should use the descriptions in the Planning Guideline, the NEPM or this policy.

In order to assess or determine the development application, information may be requested that does not constitute a contamination investigation as specified in the Planning Guideline or the NEPM. In that case the requirements of ~~the section 13-14~~ Contaminated Land Consultants ~~section~~ may not apply.

Such information may include:

- Confirmation of past land uses;
- Plans identifying where certain activities have taken place; or
- Oral history of the use of the land.

This type of information should be accompanied by a Statutory Declaration from the person providing the information.

If a development consent can be granted without the need to carry out any formal contaminated site investigation or remediation (for example, due to the nature of the development or the circumstances of the potential contamination, such as contamination that is present under a building that it not being demolished), but there is a risk that physical evidence of past, potentially contaminating activities will be destroyed if the development goes ahead, then a photographic survey and oral history of the use of the land may be required to be submitted to Council for its records.

### **11.312.3 Triggers for preliminary Preliminary site investigation**

If the initial evaluation identifies a potential for land contamination, then, in alignment with section 4.6(4) of the Resilience and Hazards SEPP, Council will require a preliminary site investigation to be submitted with a subdivision works or development application to carry out development where the land concerned is:

- a. land that is within an investigation area (within the meaning of the CLM Act)
- b. land on which development for a purpose listed in **Appendix A** is currently being, or is known to have been, carried out

c. to the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land

- i. in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose listed in **Appendix A** has been carried out
- ii. on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

~~In addition, as~~As a minimum requirement, a preliminary site investigation will be required when considering a development application for land on which Council:

- 1 Has knowledge of a potentially contaminating land use specified in **Appendix A** having occurred; or
- 2 Has reasonable grounds to believe the land may be contaminated because of the land's history, condition or other information known to Council,
- 3 There are restrictions on, or conditions attached to, the use of the land by a regulatory or planning authority that are or may be related to contamination, but there is insufficient information available to Council on the nature and extent of contamination
- 4 Council records show that the land is associated with pollution incidents or the illegal dumping of waste
- 25 The land is adjacent to land historically or currently being used for a purpose listed in **Appendix A**, and Council reasonably suspects it is likely that this use may have contaminated the land subject to the preliminary site investigation.

and one or more of the following circumstances have occurred:

- 36 The circumstances suggest that the past use could reasonably have significantly contaminated the site;
- 47 The proposed development will involve any disturbance of soil including boring or trenching for foundations or services;
- 58 The contaminating activity that potentially caused contamination on the land involved illegal or unauthorised work;
- 69 The proposed development will include construction over land that may be contaminated;
- 710 The proposed development will interfere with groundwater; or
- 811 The potential contamination is from an underground storage tank (not including operating sites subject to the UPSS regulation).

~~The triggers specified above are in addition to the minimum assessment criteria set by the SEPP 55 in clause 7 (2), (3) and (4).~~

**Note:** *land used for extensive agriculture should be assessed for site contamination where development applications relate to redevelopment in the vicinity of stock yards, stock dip or farm sheds where fuel or chemicals have been stored or handled.*

## **12.4 Detailed site investigation**

Council will require a detailed site investigation to be undertaken when either:

- a. the results of the preliminary site investigation state the potential for or existence of contamination that may not be suitable for the proposed use of the land
- b. Council is not satisfied with the content and/or completeness of the preliminary site investigation.

Council may request the preliminary and detailed site investigations to be combined when the land is known to be contaminated.

The detailed site investigation is to be carried out in accordance with the requirements of relevant guidelines made or approved by the NSW EPA in alignment with the requirements of the CLM Act. The applicant is responsible for engaging a suitably qualified consultant to undertake this investigation.

A report on the detailed site investigation must include a statement as to whether the land is suitable for its proposed use or if remediation is necessary to make the land suitable for its proposed use. If remediation is required, the report must list the feasible remediation options available.

## **12.5 Remediation action plan**

A remediation action plan is to be provided to Council if the report on the preliminary or detailed site investigation states that the land is not suitable for its proposed use but can be made suitable through remediation (refer to section 13).

Prior to determining a subdivision or development application, Council must be satisfied that remedial measures have been or will be undertaken in accordance with the remediation action plan lodged with Council.

A remediation action plan must identify, upon completion of remediation works, the need for ongoing land management due to residual contamination. This plan may also include an outline of the environmental management plan.

### **11.412.5.1 Conditions of consent requiring remediation**

Where a development will require remediation so that the site can be suitable for the proposed use the development consent may include conditions that require remediation and validation as well as a site management plan and site audit statement. Such conditions may be included as Deferred Commencement Conditions.

## **12.6 Validation report**

A validation report must be lodged with Council after remediation works have been completed.

Where applicable, Council will include a condition of development consent requiring this report to be provided to Council prior to issuance of the subdivision works or construction certificate.

Council must be notified within 30 days of the completion of remediation works, in alignment with section 4.14(2) of the Resilience and Hazards SEPP. This notice is required to include:

- a. information prescribed in section 4.15 of the Resilience and Hazards SEPP
- b. a validation report.

## **11.4 Conditions of consent requiring remediation**

~~Where a development will require remediation so that the site can be suitable for the proposed use the development consent may include conditions that require remediation and validation as well as a site management plan and site audit statement. Such conditions may be included as Deferred Commencement Conditions.~~

## **11.512.7 Unexpected findings protocol**

In circumstances where land contamination has not been able to be identified prior to a development being approved and contamination or infrastructure is uncovered during development, work should cease and Council should be advised immediately. Please be aware that in managing any unexpected finding of contamination, the provisions of ~~SEPP-55~~Resilience and Hazards SEPP apply and modification to the development consent or a new development consent application may need to be considered.

Council will impose a condition on all development consents to this effect.

## **1213 Remediation**

### **1213.1 Remediation Overview and Resilience and Hazards SEPP-55**

Remediation is any process that will remove, disperse, destroy, reduce, mitigate or contain contamination of land or eliminate or reduce any hazard arising from the contamination on land (including by preventing the entry of persons or animals to the land).

Remediation activities should be defined in a Remediation Action Plan (RAP), being a plan that sets out how a contaminated site can be made suitable for its intended use including methodology, clean-up criteria and validation procedures. A RAP must be prepared by an appropriately qualified consultant in accordance with the applicable EPA guidelines.

The consultant will determine the most suitable way to remediate a site and prepare a RAP.

~~State Environmental Planning Policy 55—Remediation of Land (SEPP55) states as one of its objects:~~

~~... promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment (SEPP55 cl2(2)).~~

Where remediation of contaminated land is necessary, the remediation should be carried out (whenever reasonably possibly to do so) within the context of a proposed development to achieve the highest best use. If there is doubt over whether remediation must be carried out to ensure the land is suitable for the use, then it is preferred that remediation be carried out.

Under Resilience and Hazards SEPP SEPP 55 there are two categories of remediation Category 1 and Category 2.

<b>Category 1 Remediation Work</b>	<b>Category 2 Remediation Work</b>
<u>Remediation work that requires development consent is category 1 remediation work.</u>	<u>Remediation work that does not require development consent is category 2 remediation work. Section 4.11 of the Resilience and Hazards SEPP defines what constitutes category 2 remediation work</u>
<u>Category 1 remediation work is remediation work that is either:</u> <u>a. identified in section 4.8(a)–(f) of the Resilience and Hazards SEPP</u> <u>b. not being work to which section 4.11(b) of the Resilience and Hazards SEPP applies</u> <u>c. not carried out in accordance with this Policy.</u>	<u>Council must be notified of the intent to undertake category 2 remediation work at least 30 days before commencement. This notification is to include the information identified in section 4.13(3) of the Resilience and Hazards SEPP.</u>

~~Category 1 remediation requires development consent from Council and Category 2 does not. SEPP 55 specifies the criteria for each, if the proposed remediation is considered to be Category 1 remediation, a development Application must be made to the appropriate consent authority, generally Council. Category 2 remediation must be notified to Council prior to works commencing.~~

Please note that s 9.44 of the EP&A Act requires compliance with Resilience and Hazards SEPP 55 and s 9.45 provides provision by which Council may enforce compliance through the NSW Land and Environment Court.

### **12.213.2 Category 1 remediation (requires consent)**

Clause ~~94.8~~ of ~~SEPP 55~~ Resilience and Hazards SEPP sets out the criteria for Category 1 remediation and it is recommended that each remediation proposal considers whether or not it should be considered Category 1 or 2.

The following information is provided in order to identify land that is referred to in the SEPP: 55 clause 9 (b) land declared to be a critical habitat, (c) likely to have a significant effect on a critical habitat or a threatened species, population or ecological community and (e) area or zone to which any classifications to the following effect apply under an environmental planning instrument:

<b><u>SEPP 55 Clause 9 Resilience and Hazards SEPP</u></b>	<b>Equivalent Narromine LEP 2011 mapped land</b>
(b) land declared to be a critical habitat,	not mapped and would need to be assessed on a site by site basis
(c) critical habitat or a threatened species, population or ecological community	not mapped and would need to be assessed on a site by site basis
(e) (i) coastal protection	such an area or zone is not classified by the Narromine LEP
(ii) conservation or heritage conservation	such an area or zone as <del>identified</del> <u>identified</u> by the Narromine LEP
(iii) habitat area, habitat protection area, habitat or wildlife corridor	such an area or zone is not classified by the Narromine LEP
(iv) environment protection	identified as "Biodiversity" on the Terrestrial Biodiversity Map identified as "Groundwater Vulnerable" on the Groundwater Vulnerability Map
(v) escarpment, escarpment protection or escarpment preservation	such an area or zone is not classified by the Narromine LEP
(vi) floodway	land identified as "Flood Planning Area" on the Flood Planning Map, and other land at or below the flood planning level
(vii) littoral rainforest	such an area or zone is not classified by the Narromine LEP
(viii) nature reserve	Zone E1 National Parks and Nature Reserves

(ix) scenic area or scenic protection	such an area or zone as <del>identified</del> <u>identified</u> by the Narromine LEP
(x) wetland	land identified as "Wetlands" on the Wetlands Map

**Note:** any Environmental Planning Instrument (EPI) made or amended after the adoption of this policy should be considered when determining the remediation category under ~~SEPP 55~~Resilience and Hazards SEPP.

The above information does not limit the consideration of Resilience and Hazards SEPP 55-clause ~~4.89~~ (a) designated development and (d) development for which another State environmental planning policy or a regional environmental plan requires development consent.

In accordance with Clause ~~94.8~~(f) of ~~SEPP 55~~Resilience and Hazards SEPP, it is considered that where Category 2 remediation will not or cannot be conducted in compliance with this policy (see section ~~12~~13.3.2 below), the remediation should be considered as Category 1 remediation. A RAP will be required to be submitted with any application for Category 1 remediation.

In assessing a proposal for Category 1 remediation, the consequences of not carrying out the remediation will need to be considered and weighed up against the environmental impacts of carrying out the remediation. This involves an assessment of matters such as how the work will contribute to a net improvement in environmental quality, reduce health risks or promote the economic use and development of the land. Both the applicant and Council need to consider this issue.

However, Council must not refuse development consent for Category 1 remediation work unless Council is satisfied that there would be a more significant risk of harm to human health or some other aspect of the environment from the carrying out of the work than there would be from the use of the land concerned (in the absence of the work) for any purpose for which it may lawfully be used (clause 4.10 Resilience and Hazards SEPP~~clause 12(1) of SEPP 55~~).

Standard conditions that may be applied to the consent of any Category 1 Development Application.

In addition to the matters listed for consideration under section s. 4.15 of the EP&A Act, the following issues may also be relevant when assessing a development application for Category 1 remediation:

- 1 Is the Site Management Plan acceptable?
- 2 Does the proposal require other approvals from regulatory authorities?
- 3 Is the remediation proposed to be supervised by an appropriately qualified consultant?
- 4 Is the proposal for validating the remediation adequate?
- 5 Are reporting and monitoring mechanisms and proposals adequate?

### **12.13.3 Category 2 remediation (carried out without consent, ~~SEPP 55~~)**

#### **12.13.3.1 Notification**

The Council will be notified in writing, ~~using the form available from the Council at the time of notification and~~ consistent with notice requirements set out in clause ~~16~~ 4.13 of ~~SEPP 55~~ Resilience and Hazards SEPP.

A copy of the RAP is to be provided with the notification.

Council will acknowledge receipt of the notification and provide any relevant comments as soon as practicable prior to the proposed works start date if possible. The notice period for Category 2 remediation is 30 days, however Resilience and Hazards ~~SEPP 55~~ permits a lesser notice period in specific circumstances (cl ~~16~~ 4.13(2)).

Failure to notify Council within the prescribed timeframes or to carry out remediation in the manner described in this policy shall be considered as a contravention of ~~Schedule 1 of the Environmental Planning and Assessment Act 1979~~.

The notice must—

- (a) be in writing, and
- (b) provide the name, address and telephone number of the person who has the duty of ensuring that the notice is given, and
- (c) briefly describe the remediation work, and
- (d) show why the person considers that the work is category 2 remediation work by reference to sections 4.8, 4.11 and (if it applies) 4.12(1), and
- (e) specify, by reference to its property description and street address (if any), the land on which the work is to be carried out, and
- (f) provide a map of the location of the land, and
- (g) provide estimates of the dates for the commencement and completion of the work.

#### **12.3.2 Conduct of remediation**

To reduce the potential for offsite impacts and to comply with the requirements of the POEO Act, Category 2 remediation shall be conducted in the following manner:

##### Communication

- 1 *Adjoining property owners must be notified in writing of the commencement date, duration and nature of the remediation activities at least 7 days prior to remediation activities commencing on site.*
- 2 *A sign identifying the contact details of the remediation contractor must be displayed at the site for the duration of the remediation activities. The sign must identify the phone numbers for the duration of the remediation activities.*
- 3 *While the remediation activities are being undertaken the contractor must maintain a written record of any complaints received in relation to the conduct of the remediation. The written record must include each complainant's name and address, the time and date that each complaint was made, the nature of*

each complaint and the actions taken to address the complaint. The record may be requested by Council officers during the conduct of remediation, in which case the record must be made available to Council.

- 4 Any complaint received by the contractor in relation to the remediation activities must be notified to Council during Council business hours as soon as possible, and in all cases no later than 2 business days following the date that the complaint was received by the contractor.

#### Managing Impacts

- 5 Remediation activities must not cause any environmental harm outside of the area nominated for remediation within the site.
- 6 Remediation must not create visible dust that extends beyond any site boundary.
- 7 Remediation activities must not cause offensive noise (as defined by POEO Act) and avoid the production of vibration that may impact nearby properties.
- 8 Remediation activities must be managed to ensure that dust, odour, gases or fumes are not emitted beyond the boundary of the remediation site. Appropriate monitoring equipment must be used to demonstrate compliance with the condition.

#### Dealing with Waste

- 9 All liquid and solid waste must be classified in accordance with the Protection of the Environment (Waste) Regulation 2014 and related guidelines.
- 10 All waste transported from the remediation site must be covered in a vehicle suitable for that waste material. There must be no tracking of soil onto public roads.
- 11 Any receiver of waste material must be properly licensed by the EPA to receive that waste. If a non-licensed premises is intended to receive waste from the site then an approved notice within the meaning of s143(4) of the POEO Act (s143 notice) must be supplied prior to removal of the material from the remediation site.
- 12 Details of material removed including volume, mass, classification, destination and any s. 143 notices are to be included in the validation report.
- 13 All waste transport routes must avoid where possible all sensitive land uses such as residential areas, schools, preschools, etc., avoid bus routes and particularly school bus pick up and drop off periods.

#### Validation report

- 14 A validation report shall be provided to Council along with the notice of completion required under clause ~~174.15~~(2) of ~~SEPP 55~~*Resilience and Hazards SEPP* to confirm that the remediation has been carried out in accordance with the requirements of ~~SEPP 55~~*the SEPP*. The validation report must be prepared in accordance with Council's Contaminated Land Policy, the Managing Land Contamination Planning Guidelines (1998), relevant EPA Guidelines and the National Environmental Protection (Assessment of Site Contamination) Measure (1999). Please note the requirements specified in Council's Contaminated Land Policy relating to consultants reporting and Site Audits.

### Site management plan

15 If the validation report recommends or requires the implementation of an ongoing site management plan or a site management plan is otherwise required, assistance must be provided to Council (including by executing relevant documents) to enable registration of a restriction or covenant requiring compliance with the site management plan that must be registered on the title under section 88E of the Conveyancing Act 1919 or section 29(3) of the Contaminated Land Management Act 1997. Council is to be named as the only party able to vary or release the restriction or covenant.

## **12.4 Underground Storage Tanks and Underground Petroleum Storage Systems**

The presence of an underground storage tank (UST) may not always be associated with an Underground Petroleum Storage System (UPSS) within the meaning of the *Protection of the Environment (Underground Petroleum Storage Systems) (UPSS) Regulation 2019*. In particular USTs used for material that is waste or is not petroleum or if the UST has not been operated since before 1 June 2008 may not necessarily be regulated by the UPSS Regulation.

For the removal of doubt, the removal of any underground storage tank (UST) used for the storage of liquids that in themselves constitute potential contaminants, will be considered to be remediation for the purpose of SEPP 55 only if validation of surrounding soils is carried out. Validation of UST removal or replacement is a requirement for sites that come under the UPSS regulation.

Where no validation sampling and laboratory analysis (in accordance with appropriate guidelines) is carried out, the site will be considered unremediated and will require suitable validation sampling before any determination under SEPP 55 can be made. However, to carry out the removal of a UST without validation is considered to be development that requires consent.

The modification of an Underground Petroleum Storage System as defined in clause 3 of the *UPSS Regulation 2019* is deemed to be development that requires consent.

## **12.5 Validation reports and Notice of completion of remediation**

The Planning Guideline highlights the importance of validation reporting to remediation process.

The UPSS Regulation requires that a validation be submitted in relation to modification and decommissioning of UPSS (cl 11 and 13).

The Reporting Guidelines state that:

*Where remedial action has been carried out, the site must be 'validated' to ensure that the objectives stated in the RAP have been achieved. A report detailing the results of the site validation is required.*

~~SEPP-55~~The Resilience and Hazards SEPP does not explicitly require that a validation report be submitted to Council following remediation works; however, a Notice of Completion is required ~~under Clause 17~~. The Notice of Completion criteria is specified in clause ~~4.1518~~ of ~~the~~ SEPP-55.

For the purpose of this policy, a validation report is not considered to be the same as a Notice of Completion.

Following any remediation, it is required that:

- 1 A validation report be provided within 30 days of completion of work (except where legislation or a development consent permits another time period).
- 2 The Notice of Completion may be incorporated into the Summary Report, as specified in section 13.4, where it is provided with a complete validation report.

## **~~1314~~ Contaminated Land Consultants**

### **~~1314.1~~ Reports**

All reports regarding the assessment of site contamination, as set out in the Planning Guideline and the NEPM, must be prepared by a suitably qualified person and be completed in accordance with the Reporting Guidelines.

A report may be provided to Council as:

- 1 A validation report for Category 2 remediation;
- 2 A validation report required by clauses 11 and 13 of the UPSS Reg following modification or decommissioning of an UPSS;
- 3 A contamination assessment report in order for Council to carry out its planning function in relation to development applications or compliance with development consent; or,
- 4 A report intended to provide information in order to amend the ~~CLIS~~Register status.

Council may need to determine whether or not a report meets the requirements of relevant standards, and may enforce compliance with the relevant standards of reporting if necessary.

If a report is to be used for DA assessment or for amending the ~~CLIS~~Register, whether or not it was provided in the first instance for that or another purpose, Council will only consider that report if it meets the reporting standards of this policy. Council may not necessarily advise at the time of submission whether a report is considered to be satisfactory for another purpose at a later time.

If Council does consider that it cannot rely on a particular report because it does not meet the standards of this policy, it may request that another report be submitted to address the particular concern.

The following matters set out in this section of the policy below will be considered by Council in determining if any given report should be relied upon.

Any report received may be subject to review by Council staff and consideration of a Site Audit may be considered. Conclusions and recommendations will not necessarily be accepted or adopted by Council.

Council may choose to refer any report to other Council's within the Central NSW Contaminated Lands group for further comment.

All reports must:

- 1 Reference Council's policy and specifically refer to any conditions for remediation;
- 2 Be accompanied by a Summary Report as defined in this Policy in section ~~13~~14.4.
- 3 Not have liability exclusions that prevent Council from relying on the information provided for carrying out its functions including maintaining and sharing information in accordance with this policy.

Reports provided to Council should contain factual information and avoid subjective opinion, language or analysis that has the potential to mislead Council or a third party to whom the report may be disclosed under s 10.7 of the EP&A Act.

## **~~13~~14.2 Certification of consultant**

All reports submitted to Council for the purposes of fulfilling the Resilience and Hazards SEPP 55 and the UPSS regulation are to be prepared, or reviewed and approved, by a consultant who is certified under a contaminated land consultant certification scheme recognised by the EPA.

The front cover of a report submitted to Council is to include the details of the consultant's certification.

Prior to 1 April 2017, consultants who are not certified should provide evidence that their qualifications, experience and breadth of expertise would meet the expectations of a certification scheme and are appropriate for the nature of the investigation or plan being reported on.

Any report received by Council after 1 April 2017 that does not include the consultant's certification details will not be accepted.

Any report provided to Council following the adoption of this policy that does not meet the requirements set out above may not be recognised for the purpose of any subsequent Development Application.

### **1314.3 Insurance**

Consultants must carry professional indemnity insurance that specifically identifies contamination and pollution coverage to a value of at least \$20,000,000.

### **1314.4 Summary Report**

Council requires that any Assessment of Site Contamination report be accompanied by a summary report which provides a succinct overview of the site investigation or remediation on the parcel of land. The report will assist Council, landholders, purchasers and neighbours in reviewing matters associated with that land. A summary report cannot be relied upon solely for decision making ~~under SEPP 55~~.

A summary report shall be one A4 page with one A4 page site plan or map. It should be completed on the template ~~available from Council~~ (see **Appendix B** for an example template). The report will provide a summary of the key facts:

- 1 Consultant's name and contact details;
- 2 Real property description (Lot, DP, address);
- 3 Main areas of concern;
- 4 Source of contamination;
- 5 Dates of investigations and remediation;
- 6 Nature and extent of contamination:
  - a Key contaminants involved;
  - b Highlight concentrations eg highest, % of samples above HSL, HIL etc;
  - c On the plan, an estimate of the lateral extent and depths;
  - d A cross section if useful;
- 7 What remediation was carried out including waste removed;
- 8 What contamination remains and where;
- 9 Brief recommendations of next steps;
- 10 Recommendation of suitability; and
- 11 Sign off, certification details and reference to full report.

Council shall be granted the right to copy summary reports for the use of owners or developers of the subject land or adjoining land.

## 14 Site Auditing

A statutory site audit in accordance with s47 *Contaminated Land Management Act 1997* may be required as a condition of consent or as partial notice of completion of remediation work ~~(cl 18 SEPP 55)~~.

The Planning Guideline states:

*"As a general principle, a site audit is only necessary when the planning authority:*

- believes on reasonable grounds that the information provided by the proponent is incorrect or incomplete;*
- wishes to verify the information provided by the proponent adheres to appropriate standards, procedures and guidelines;*
- does not have the internal resources to conduct its own technical review."*

Under this policy, a site audit statement will be required for reports on sites where:

- Modified investigations threshold levels are used;
- A risk assessment is relied upon for determination of suitability;
- A groundwater investigation is not carried out where underground tanks or infrastructure has been identified;
- A Site Management Plan is to be imposed;
- Council does not accept the consultant's recommendation; or,
- Council considers it necessary.

A Site Audit Statement (SAS) may be requested at any stage of the investigation (Preliminary, Detailed, RAP Validation or Site management Plan) to assist Council in making its determinations under ~~SEPP 55~~Resilience and Hazards SEPP, however, Council will not require a SAS at every stage without cause.

The SAS needs to establish that the land is suitable, or could be made suitable, subject to any specific requirements of the site auditor for the specified land uses. Council will determine which of the land uses specified on the site audit statement best characterises the development and specify this in relevant development assessment or consent conditions.

## 15 Site Management Plans

A Site Management Plan (SMP) is required when contamination is to remain on site. The SMP should be developed in consultation with Council to determine that it can be reasonably complied with and enforced. It should make provisions for Council to carry out checks of relevant compliance.

Further information of the use and need for an SMP can be found in section 3.4.6 Environmental management plans in the *Guidelines for the NSW Site Auditor Scheme (3rd Edition)* (EPA NSW 2017).

Council may charge a fee for inspections or other services in relation to the monitoring of compliance of the SMP in accordance with provisions of the *Local Government Act 1993*.

Any SMP should be provided to Council along with any other report that recommends such a plan. The existence of an SMP will be noted on s. 10.7 planning certificates and included in the [CLISRegister](#).

Where there is an SMP, and where Council is able to do so, a standard condition of consent will require the registration of a covenant on title requiring compliance with the SMP. This shall be a standard condition of consent for all development applications and Category 1 remediation where there is an SMP. It is a requirement relating to the conduct of Category 2 remediation under this policy.

Council will endeavour to have any SMP that Council is aware of, or relating to a consent condition predating this policy, registered on title by the land owner or relevant party.

## 16 Contaminated land standards for pollution

Individual pollution incidents, illegal dumping or spills of hazardous materials do not necessarily constitute contamination. Pollution incidents and waste offences should primarily be managed under the legislative framework set out in Chapters 4, 5, 7 and 8 of the *Protection of the Environment Operations Act 1997* and Schedule 9 of the *Environmental Planning and Assessment Act 1979*.

Such offences include but are not limited to:

- Filling land without consent under s. 4.2 of the EP&A Act;
- Filling land with material that is not approved ie where a development consent specifies that imported fill must meet certain standards;
- Water or land pollution as described in the POEO Act; or
- Unlawfully applying waste to land ss143,144 POEO Act

Waste is defined in the POEO Act and may include any type of soil with or without contaminants.

When dealing with matters of waste or pollution, it is not appropriate to use the NEPM as the basis for investigation. Waste classification (as per EPA guidelines) should be used.

When considering clean-up criteria for pollution incidents, illegal dumping or spills of hazardous materials, the original state of the land or "background" levels of contaminants should be used as the clean-up goal.

Only if the land cannot be returned to its original condition or the pollution or waste activities are deemed to be no longer current, may it be considered a potentially contaminated site.

## **17 The Protection of the Environment Operations (Underground Petroleum Storage Systems (UPSS) Regulation (2019) enforcement**

The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019 requires that the local Council is to be advised of certain matters including the validation reports for UPSS removal or modification and the notification of environmental harm.

All reports for validation of remediation under the UPSS regulation must meet the requirements for consultants' reporting set out in this policy, specifically consultant certification and the provision of summary reports.

The requirement of the UPSS regulation is generally to ensure that:

- 1) Infrastructure and equipment are properly designed, installed, commissioned and operated;
- 2) A secondary loss detection system is in place; and,
- 3) An environmental protection plan is in place.

The regulatory authority (the EPA until 1 June 2017, then Council) has the right under the POEO Act to enter the property and request to view records at any reasonable time.

At the time when regulatory responsibility for the UPSS regulation is handed to Council, Council may schedule routine inspections of UPSS sites to ensure compliance with the regulation. A fee may be charged in line with Council's Schedule of Fees and Charges.

Council is able to issue penalty infringement notices for any non-compliance with the regulations.

## Appendix A - Potentially contaminating land uses

The following land use definitions generally relate to the land use definitions used in the *Standard Instrument—Principal Local Environmental Plan*. Additional definitions and comments are included in the table to assist in identifying the potential to contaminate land from that land use.

# Should only be used where specific information about the site is available

Grouping	Potentially contaminating land use	Definition or comments
<b>Agriculture</b>	Aquaculture	Cultivating or keeping fish or marine vegetation for commercial purposes; Fisheries Management Act 1994
	Extensive agriculture <sup>#</sup>	Used to capture farm shed activities such as chemical storage and handling
	Food manufacturing	All types of food and drink manufacturing that may have included boilers or cooking, needs to be at reasonable scale
	Intensive livestock agriculture	Feed lots, piggeries, dairies, concentrated waste products Designated development triggers
	Intensive plant agriculture	Vineyards, orchards, irrigated cropping, turf farming
	Livestock processing industries	Production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals, and includes abattoirs, knackeries, tanneries, wool scours and rendering plants.
	Rural supplies	Store large quantities of chemicals but should be only applied where chemicals are decanted or repackaged on site
	Sheep and cattle dips	Public or private facilities
	Stock and sale yards	Associated with waste, wash-down facilities and stock dips or other pest treatments
	Tanning and associated trades	
<b>Asbestos</b>	Asbestos Disposal <sup>#</sup>	Where asbestos containing material has been buried for permanent disposal
	Asbestos production and disposal	Includes mining and asbestos product manufacturing
	Demolition without asbestos clearance	A building with significant ACM demolition without providing an asbestos clearance
<b>Chemical</b>	Acid/alkali plant and formulation	
	Battery manufacture, storage and recycling	Commercial scale storage of used batteries
	Chemical storage facilities	Includes the bulk storage and handling of chemical in association with other activities

Grouping	Potentially contaminating land use	Definition or comments
	Chemicals manufacture and formulation	
	defence works	UXOs, fuels and chemical use or storage
	Dry cleaning establishments	
	Hospitals	Incinerators and boilers, radioactive wastes
	laboratory	Place equipped to conduct scientific experiments, tests, investigations, etc., or to manufacture chemicals, medicines, or the like. Includes large scale photographic labs etc.
	Paint formulation and manufacture	
	Paper and printing works	Commercial printerries with significant stores of ink and solvents
	Pesticide manufacture and formulation	
	Wood preservation	
<b>Fuel</b>	Liquid fuel depots	
	Oil production and storage	Oil refineries
	Service stations	
	Store and dispense 450l or more of fuel or oils	Fuel storage on land where primary land use is not otherwise listed
<b>Industry</b>	Cement works	
	Drum re-conditioning works	
	Electrical manufacturing (transformers)	
	Electroplating and heat treatment premises	
	Engine works	Manufacture of engines
	Explosives industry	Includes explosives magazines, ammunition and fireworks manufacture and testing.
	Gas works	
	Heavy industrial storage establishment	Storage of goods, materials, plant or machinery for commercial purposes
	Heavy industrial workshops and metal fabrication	Includes welding, sand blasting, spray painting
	Iron and steel works	

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Grouping	Potentially contaminating land use	Definition or comments
	metal treatment	
	Mining and extractive industries	Including mineral or ore processing or coal washing etc.
	Paper pulp or pulp products industries	
	Pet food manufacturing	As distinct from food manufacturing
	power stations	
	Sawmill or log processing works	Relating to often being off grid using steam or liquid fuel driven machinery, also drying kilns and use of pesticides
	Small engine service and repairs	Lawnmowers and other small engine not considered motor vehicles
	Smelting and refining	
	Storage of plant and equipment	Generally informal storage of equipment that may lead to land contamination
	Vehicle body repair workshops	Panel beaters and spray painting
<b>Transport</b>	Air transport facilities	Includes heliports and all ancillary buildings
	Emergency services facilities	Police, Ambulance Fire, SES have often included fuel storage
	Freight transport facility	
	Motor vehicle service and repairs	Including cars sales yards and tyre shops
	railway yards	
	Truck or transport depots	Place used for the servicing and parking of trucks, earthmoving machinery and the like
	Vehicle washing	Where involved in truck washing or engine degreasing for the public or as a standalone operation
<b>Waste</b>	Contaminated soil and groundwater treatment works	
	Junk yard	land used for the collection, storage, abandonment or sale of scrap metals, waste paper, bottles or other scrap materials or goods, or land used for the collecting, dismantling, storage, salvaging, or abandonment of cars or other vehicles or machinery or for the sale of their parts.
	landfill sites	Sites use for the disposal of waste
	Oil Recycling	
	Scrap yards	
	Sewage treatment plants	
	Site used for illegal waste disposal	

Grouping	Potentially contaminating land use	Definition or comments
	Use of uncertified fill	Land has been levelled or reshaped with fill material that has not been certified as suitable and or the filling has not been approved
	Waste storage and treatment	
<b>Other</b>	Commercial or industrial fixed plant with liquid fuels, e.g. generator sets.	
	Rifle or shooting range	
	Site that includes large electrical transformers or switch gear	Including electrical substations and transformers or switchgear for large industrial premises.
	Site that is impacted by off-site contamination <sup>#</sup>	Sites that would require contamination assessment due to the impacts of contamination derived from land that is being regulated by the EPA under Part 3 of the CLM Act.

## Appendix B Summary Report Template

Contaminated Land Management Summary Document -Pursuant to Narromine Shire Council Contaminated Land Policy

<b>Real property Description and address</b>				
Address	Lot	DP	Parish	County
<b>Dates of investigation or remediation</b>				
<b>Main Areas of Concern</b>				
e.g. fuel tanks, waste area, storage of chemicals, processing area				
<b>Notable contaminant concentrations eg maximum specific concentrations and validation results</b>				
Maximum soil concentrations in soil removed – Analyte mg/kg, Residual soil concentration - Analyte mg/kg Maximum ground water concentration Analyte mg/l				
<b>Nature of works carried out</b>				
Soil investigation, ground water investigation, excavation, on-site remediation, removal of soil etc. Validation sampling, backfilled with imported soil with ENM classification.				
<b>Nature and extent of residual contamination</b>				
Contamination identified in investigation. Contamination unable to be remediated within the scope of the work, or areas not assessed.				
<b>Risk Factors</b>				
Reference to conceptual site model.				
<b>Waste removed</b>				
During remediation				
<b>Remediation Summary</b>				
What was removed or treated? Was it successful, is residual remediation remaining?				
<b>Statement of suitability</b>				
The land is considered suitable for [residential, residential with limited soil access, open space, industrial/commercial] land use, other (describe)				
<b>Endorsement</b>				
This is an accurate summary of the report titled:				
Produced by:				
Dated:				
Provided to Narromine Shire Council on:				
Name: Signature:				
Certification details				

Summary Document - Textual description may not extend beyond one page.

**Summary Document – Site Plan.** Please note areas of concern, contamination removed or remediated and any residual contamination or risk factors.

Summary Document – Site Plan description may not extend beyond one page.

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# COMPLIANCE & ENFORCEMENT POLICY

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## 1. Introduction

Council's regulatory responsibilities are applicable to *actual unlawful activity*, as well as a *failure to take action* (in order to be compliant with certain legal requirements). For simplicity, this policy refers to both an act and/or an omission by an alleged offender as 'unlawful activity'.

This policy distinguishes between a 'report of alleging unlawful activity' and a 'complaint'.

For the purposes of this policy, a report alleging unlawful activity is where an individual expresses concern in relation to alleged unlawful activity, or they request service from Council about such matters. Council considers that a response or resolution to a report alleging unlawful activity is explicitly or implicitly expected by the individual, or may be legally required.

A complaint is where an individual expresses dissatisfaction about Council services, staff or the handling of a complaint. Therefore, a complaint may arise where an individual claims that Council staff have failed to take action in relation to a report alleging unlawful activity. A complaint will be recorded separately and responded to in accordance with Council's Complaints Handling Policy and procedures.

## 2. Purpose and scope

This policy provides information for all internal and external stakeholders and interested parties about Council's position on compliance and enforcement matters in the local government area.

The purpose of this policy is to provide structure for consistency and transparency in decision making, and to facilitate a proportional approach to compliance and enforcement. It is also intended to assist Council staff to act promptly, effectively and consistently in response to allegations of unlawful activity.

This policy outlines matters to be considered at the various stages of the enforcement process from the receipt and investigation of reports alleging unlawful activity, through to what enforcement options Council will choose and whether to commence criminal or civil proceedings.

In certain circumstances Council will have shared enforcement responsibilities with other regulatory authorities. This policy sets out a collaborative and cooperative approach to such matters. Advice and guidance are also provided on the role of Council in building and construction compliance matters where there is a private certifier, and the role of Councillors in enforcement.

Responsible Council staff are not limited by this policy in their use of discretion and exercise of official functions. The full circumstances and facts of each case need to be considered and a decision made on the merits.

### 3. Organisational approach

1. Why compliance and enforcement is important. Some things to consider include:

- to prevent or minimise harm to health, welfare, safety, property or the environment
- to improve the safety and amenity of residents and visitors to the area
- for the collective good, the welfare of the community or the public interest
- to promote social policies (e.g.: to preserve or protect the environment)
- to manage risks
- to uphold social order
- to meet the expectations of the community
- to encourage reports about possible unlawful activity from the community
- to make the regulated community aware of their legal obligations and how to comply
- details of any other relevant strategic planning

The objects section of an Act will often list the specific nature of the harm that is being addressed and explicitly state the regulatory purposes of the legislation. For example, under Chapter 7 of the *Local Government Act 1993* Councils are obliged to ensure that regulatory functions are exercised consistently and without bias.

2. What activities does Council regulate:

The following activities, but not limited to, are regulated by Council through various forms of legislation:

- development and building control
- pollution control
- environmental health
- public health and safety
- biosecurity weed control
- water and sewer
- on-site sewer management waste water (septic) systems
- companion animals
- food safety compliance
- fire safety compliance
- tree preservation
- noise pollution
- air pollution
- water pollution
- erosion & sedimentation control
- illegal dumping
- littering
- swimming pool compliance
- unauthorised Works within Road Reserves

3. What proactive and reactive compliance and enforcement activities does Council undertake?

**Proactive**

- a) The waiving of certain fees and the granting of an extension of time for compliance;
- b) Media Releases;
- c) Website information;
- d) Community Notice boards;
- e) Community Newsletters

**Reactive**

- a) The issuing of a verbal warning;
- b) The issuing of a written warning/Caution;
- c) The issuing of a "show cause" letter;
- d) The service of a Notice of Intention to issue an Order;
- e) The service of written or oral Notices/Orders/Directions;
- f) The issuing of Penalty Infringement Notice/s;
- g) The recommendation to instigate legal action;
- h) The revocation of an approval;
- i) The removal/impounding of goods or items;
- j) The refusal of an application.

## 4. Definitions

The following are the definitions of key terms in this policy:

**Complaint:** A complaint is an expression of dissatisfaction made about Council services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.

For the purposes of this policy, a complaint does not include:

- a report alleging unlawful activity (see definition following)
- a request for information about a Council policy or procedure
- a request for an explanation of actions taken by Council
- a request for internal review of a Council decision.

**Enforcement:** Actions taken in response to serious or deliberate contraventions of laws.

**Regulation:** Using a variety of tools and strategies to influence and change behaviour to achieve the objectives of an Act, Regulation or other statutory instrument administered by Council.

**Report alleging unlawful activity:**

An expression of concern or a request for service in relation to alleged unlawful activity, where a response or resolution is explicitly or implicitly expected or legally required.

**Unlawful activity:**

Any activity or work that has been or is being carried out contrary to the below and/or failure to take required action in order to be compliant with:

- terms or conditions of a development consent, approval, permit or licence
- an environmental planning instrument that regulates the activities or work that can be carried out on particular land
- a legislative provision regulating a particular activity or work
- a required development consent, approval, permission or licence.

## **5. Policy objectives**

The intent of this policy is to establish clear guidelines and protocols for Council staff in the management of Council's regulatory activities.

It provides working guidelines on:

- responding to reports alleging unlawful activity
- assessing whether reports alleging unlawful activity require investigation
- deciding on whether enforcement action is warranted
- options for dealing with confirmed cases of unlawful activity
- taking legal action
- implementing shared enforcement responsibilities.

The policy also provides advice and guidance on:

- the role of the Principal Certifying Authority and
- the role of Councillors in enforcement

## **6. Application**

This policy applies to regulatory issues within Council's area of responsibility including, but not limited to:

- development and building control
- pollution control
- environmental health
- public health and safety
- biosecurity weeds
- water and sewer
- septic systems
- control over animals

- food safety
- fire safety
- tree preservation
- noise pollution
- air pollution
- water pollution
- erosion and sedimentation control
- illegal dumping
- littering
- swimming pool
- unauthorised Works within Road Reserves

## **7. Compliance and enforcement principles**

The following are the principles that underpin Council actions relating to compliance and enforcement:

### **Accountable and transparent:**

- acting in the best interests of public health and safety and in the best interests of the environment
- ensuring accountability for decisions to take or not take action
- acting fairly and impartially and without bias or unlawful discrimination
- providing information about compliance and enforcement priorities and reasons for decisions to improve understanding and certainty and promote trust by the regulated community
- ensuring meaningful reasons for decisions are given to all relevant parties, particularly when there is a departure from this policy
- acting on any complaints or concerns about the conduct of compliance officers in accordance with Council's Complaints Handling Policy and procedures
- advising people and organisations subject to enforcement actions of any avenues available to seek an internal or external review of a decision.

### **Consistent**

- ensuring all compliance and enforcement action is implemented consistently
- encouraging reports about possible unlawful activity by acting reasonably in response to the circumstances and facts of each matter.

### **Proportional**

- ensuring the level of enforcement action is proportionate to the level of risk and seriousness of the breach
- making cost-effective decisions about enforcement action
- taking action to address harm and deter future unlawful activity.

### **Timely**

- ensuring responses to reports alleging unlawful activity and decision making in relation to those is timely.

## 8. Responsibility

Council receives information about alleged unlawful activity from members of the public, contact from other government agencies and information gathered by its officers during proactive inspections.

All Council staff who deal with reports alleging unlawful activity are responsible for implementing this policy. Council staff are also responsible for ensuring that any other possible unlawful activity identified as a result of an inspection, proactive enforcement or other activity is brought to the attention of the appropriate ~~business unit~~ departments of Council.

Council staff are required to:

- treat all relevant parties with courtesy and respect
- communicate with all relevant parties and provide feedback on the progress of an investigation and any reason for the delay without compromising the integrity of the investigation
- make full and proper records in relation to the assessment and investigation of reports alleging unlawful activity, including reasons for any decisions
- inform all relevant parties of reasons for decision
- provide as much information as possible to all relevant parties about the outcomes of investigations to show that adequate and appropriate action was taken and/or is proposed to be taken in response to a report of alleged unlawful activity
- provide information to all relevant parties about any avenues to seek an internal or external review of a decision.

All reports alleging unlawful activity are to be entered into Council's Electronic Document and Records Management System (EDRMS) and actioned in a timely manner by the appropriate departments.

Council utilises a Customer Request Management system for all requests entered into the system in accordance with Council's Customer Service Policy, Complaints Handling Policy and Council's Managing Unreasonable Complainant Conduct Policy.

- *responsibilities of those recording reports e.g. level of detail to be entered on customer request management system, who is responsible for acknowledging/forwarding report to relevant department*
- *reasonable response time requirements and type of response e.g. an acknowledgement letter will be issued within five days*
- *reasonable time frames in which actions need to be completed e.g. assessment/inspection/inquiries/investigation will be conducted in accordance with the Customer Service Policy.*
- *what information should be provided to the individual e.g. updates, Council decisions*
- *how information should be provided to the individual e.g. over the phone or in writing, with approval of General Manager or team leader*
- *when such information should be provided to the individual e.g. after a preliminary assessment, after an inspection, at the conclusion of the matter.*

Only Council staff with appropriate delegations from the General Manager can undertake investigations or compliance and enforcement action in relation to this policy.

## **9. Responding to concerns about unlawful activity**

How reports alleging unlawful activity will be dealt with by Council

Council will record and assess every report alleging unlawful activity.

Council will respond to every such report unless the person raising the matter has indicated they do not wish to receive a response about Council's handling of the matter, or the report is anonymous.

Generally speaking, Council's objectives when dealing with reports alleging unlawful activity are to:

- maintain the collective good and welfare of the community
- prevent or minimise harm to health, welfare, safety, property or the environment
- consider the broader public interest having regard to Council's priorities and any resource limitations
- consider the report fairly and impartially.

Not all reports will need to be investigated. A preliminary assessment of all matters will be made to determine the priority for a response, and whether investigation or other action is required.

An investigation of alleged unlawful activity may take a significant amount of time to complete, particularly where the issues are complex. If Council decides to investigate, staff will give the person who reported the alleged unlawful activity regular feedback on the progress of the investigation, and any reason for delay. This does not mean that the individual can expect to be given details about every aspect of the investigation or information that would compromise the integrity of the investigation.

Decisions about what action should be taken by Council are made at the Council's discretion. This means the objective is that reports alleging unlawful activity will be resolved to the satisfaction of Council, not necessarily the person raising the matter. Council will generally try to resolve matters as quickly and informally as possible so as to avoid the need to take formal action.

Council staff will endeavour to manage the expectations of people who report alleged unlawful activity, and in particular explain that in the absence of sufficient evidence of unlawful activity, Council may be unable to take further action. They will also explain that Council does not have unlimited resources and powers to deal with reports alleging unlawful activity. If Council is unable to fully investigate or take action on a matter because it is restricted by any legal or resource limitations this will be explained to the individual.

While there are certain statutory requirements that must be met in relation to notices and orders Council staff will ensure that all explanatory communications are made in plain English and explain any technical language the law requires to be used.

~~Confidentially~~ Confidentiality of people who report allegations of unlawful activity

People who report allegations of unlawful activity should not expect that their identities will remain confidential from the subject of their reports in all circumstances. Council may have to disclose information that identifies them in the following cases:

- the disclosure is necessary to investigate the matter
- their identity has already been disclosed to the subject of their report directly or in a publicly available document
- the individual was consulted following receipt of a *Government Information (Public Access) Act 2009* application and did not object to the disclosure
- the individual consents in writing to their identity being disclosed
- the disclosure is required to comply with principles of procedural fairness
- the matter proceeds to court.

Council will take seriously any concerns an individual may have about their physical safety being endangered as a result of making a report. However, this may limit Council's ability to investigate the matter.

What Council expects from people who report allegations of unlawful activity

Council expects that people who report allegations of unlawful activity will cooperate and act in good faith in respect of any investigations conducted by Council. This includes:

- providing a clear description of the problem (and the resolution sought, if relevant)
- giving all available and relevant information to Council, including any new information about the alleged activity that may become known to the person following the making of the report
- not giving any information that is intentionally misleading or wrong
- cooperating with Council's inquiries and giving timely responses to questions and requests for information
- treating Council's staff with courtesy and respect
- allowing the investigation to be completed without prematurely taking the matter to other agencies unless referred to by Council.

If these expectations of the individual are not met, Council may need to set limits or conditions on the continuation of the investigation or may need to restrict any further communications with the individual.

Any unreasonable conduct will be dealt with in accordance with the principles of the NSW Ombudsman's *Managing Unreasonable Complainant Conduct Manual 2021+2* and any applicable Council policy.

#### What parties can expect from Council staff

People who report alleged unlawful activity, as well as individuals or businesses that are subject to investigation and any enforcement action, can expect that Council staff will:

- treat them with courtesy and respect
- advise them of the outcome of the allegation reported, including a full explanation of the reasons why that outcome was considered to be reasonable in the circumstances
- clearly explain decisions in plain English
- provide information about any relevant internal and external appeal processes that may be available
- carefully assess any new information provided by any party after a decision has been made and advise whether further action will be taken.

#### Complaints about Council's enforcement action

Any complaints about Council's handling of reports alleging unlawful activity will be recorded separately and handled in accordance with Council's Complaints Handling Policy and procedures.

Where a person or organisation subject to enforcement action merely disputes Council's decision to take enforcement against them, they will be directed to make representations in accordance with any relevant internal and external appeal processes.

Council staff will act on any complaints about the conduct of compliance officers in accordance with Council's Complaints Handling Policy and procedures and the Code of Conduct.

#### Anonymous reports

Anonymous reports will be recorded and assessed in accordance with the above requirements. However, because it is not possible to seek clarification or additional information about a matter, it may be more difficult to evaluate the allegations and therefore these reports are less likely to warrant investigation.

#### Unlawful activity outside business hours

Unlawful activity can occur outside business hours. In particular, Council may receive reports about matters such as offensive noise and failure to comply with limitations on hours of operation during nights and weekends.

Due to resource and operational capability restraints on Council, investigations into alleged unlawful activity outside business hours will be assessed on the basis of risk of *harm to health, welfare, safety, property or the environment* or it is otherwise in the public interest to take such action.

#### Neighbour disputes

Council will at times receive reports from parties involved in neighbour disputes seeking Council involvement. When a dispute between two neighbours is a civil matter, Council will often not have the authority to resolve the issue in dispute. Some reports will raise several matters, some of which will require Council's involvement and some of which will be personal to the parties.

Council staff will thoroughly assess such reports to determine whether there is evidence of any possible unlawful activity requiring action by Council. Care will be taken to explain which aspects of a report Council can deal with and which cannot be dealt with and why. Where possible, individuals will be provided with information about how to resolve neighbour disputes including referral resources such as LawAccess NSW ~~and Community Justice Centres.~~

It is possible that one party will provide further information about a matter which changes Council's decision about whether it will become involved. In such circumstances, Council staff will carefully consider the matter before taking action and document reasons for the new decision. Relevant parties will be advised about the reasons Council has changed its position on a matter. Council staff will not change a decision about whether or not Council should be involved purely as a response to the conduct of an individual such as persistent demands or threats.

## 10. Investigating alleged unlawful activity

Not all reports alleging unlawful activity will warrant investigation. A preliminary assessment of all matters will be made to determine whether investigation or other action is required. Council will prioritise matters on the basis of risk to public safety, human health and environment.

Risk categories of common unlawful activities can be found within Appendix 2 - Risk Category Investigating alleged unlawful activity

If there is insufficient information in the report to undertake a preliminary assessment, further information may need to be sought from the person who made the report or an inspection undertaken. Staff may also need to consult Council records and other internal ~~business units~~ departments to understand the relevant history and context of a matter.

Circumstances where no action will be taken:

Council will take no further action if, following a preliminary assessment, it is identified that:

- Council does not have jurisdiction to investigate or is not the appropriate authority to take action in the issues raised. Where there is another appropriate authority or course of action, Council may bring the matter to the attention of the authority or

provide information and contact details to the individual. For example SafeWork NSW for workplace safety matters, the NSW Environment Protection Authority for possible environmental offences and [LawAccess Community Justice Centres](#) NSW for personal disputes.

- the report relates substantially to a matter previously determined by Council and no new or compelling information is presented which would cause Council to change its earlier decision. In this case, staff will acknowledge the report and advise that no further action will be taken as no new information had been provided (other than where the person has previously been advised they would receive no further response)
- the allegations relate to a lawful activity (eg: where there is an existing approval or the activity is permissible without Council approval or consent being required)
- the report is not supported with evidence or appears to have no substance
- the relevant manager, director or the General Manager determines that investigation or other action would have an unreasonable impact on resources and/or is unlikely to achieve an outcome sufficient to justify the expenditure of resources.

Relevant factors guiding decisions as to whether to take action:

When deciding whether to investigate, Council will consider a range of factors including whether:

- the activity is having a significant detrimental effect on the environment or it constitutes a risk to public safety
- the report is premature as it relates to some unfinished aspect of work that is still in progress
- the activity or work is permissible with or without permission
- all conditions of consent are being complied with
- much time has elapsed since the events the subject of the report took place
- another body is a more appropriate agency to investigate and deal with the matter
- it appears there is a pattern of conduct or evidence of a possible wide spread problem
- the person or organisation reported has been the subject of previous reports
- the report raises matters of special significance in terms of the Council's existing priorities
- there are significant resource implications in relation to an investigation and any subsequent enforcement action
- it is in the public interest to investigate the report.

The above are factors for Council to consider and weigh in making a determination. Council staff are not limited in their use of discretion by these considerations and may decide to investigate based on these and other factors.

The objective of the processes Council staff use when investigating incidents of alleged unlawful activity is to:

- determine the cause of the incident
- determine if there has been a contravention of law, policy or standards

- gather evidence to the required standard to support any required enforcement action
- determine any necessary action to mitigate the possibility of reoccurrence of similar incidents.

Any decision not to investigate an allegation of unlawful activity will be recorded and the reasons for that decision clearly stated.

## 11. Taking enforcement action

When deciding whether to take enforcement action in relation to a confirmed case of unlawful activity, Council will consider the full circumstances and facts of the matter and the public interest. The following common considerations will assist Council staff in determining the most appropriate response in the public interest:

Considerations about the alleged offence and impact:

- the nature, extent and severity of the unlawful activity, including whether the activity is continuing
- the harm or potential harm to the environment or public health, safety or amenity caused by the unlawful activity
- the seriousness of the breach, including whether the breach is merely technical, inconsequential or minor in nature
- the time period that has lapsed since the date of the unlawful activity.

Considerations about the alleged offender:

- any prior warnings, instructions, advice that was issued to the person or organisation reported or previous enforcement action taken against them
- whether the offence was committed with intent
- whether the person or organisation reported has been proactive in the resolution of the matter and assisted with any Council requirements and instructions
- any mitigating or aggravating circumstances demonstrated by the alleged offender
- any particular circumstances of hardship affecting the person or organisation reported.

Considerations about the impact of any enforcement action:

- the need to deter any future unlawful activity
- whether an educative approach would be more appropriate than a coercive approach in resolving the matter
- the prospect of success if the proposed enforcement action was challenged in court
- the costs and benefits of taking formal enforcement action as opposed to taking informal or no action
- what actions would be proportionate and reasonable in response to the unlawful activity
- whether Council is prevented from taking action based on earlier advice given, ie: whether an estoppel situation has been created.

#### Considerations about the potential for remedy:

- whether the breach can be easily remedied
- whether it is likely consent would have been given for the activity if it had been sought
- whether there is a draft planning instrument on exhibition that would make the unauthorised use legal.

A further explanation of the above considerations is provided in Appendix 1.

#### Legal or technical issues

Where legal and/or technical issues are in question, Council staff will consider whether legal advice or professional advice from duly qualified staff or other experts should be obtained and considered. Council may also require a person subject to possible enforcement action to obtain professional advice in relation to issues of concern to Council for assessment as to whether further action is required.

#### Requirements of Council staff considering enforcement action

Prior to taking enforcement action, Council staff will take into account the above considerations as well as the evidence gathered during their investigation. Council staff must act impartially, be mindful of their obligations under Council's Code of Conduct and not act as a decision-maker in relation to any matter in which they have a personal interest. Enforcement action will not be taken purely as a response to the conduct of an individual such as persistent demands or threats.

Council staff are required to maintain records about critical thinking and decision-making processes in relation to reports alleging unlawful activity and any enforcement action, as well as records of interactions with relevant parties. Council staff will at all times adhere to Council's internal approval processes prior to the commencement of any enforcement action.

Council staff will take steps to ensure that any enforcement action is taken against the correct person or organisation. Where there are multiple possible parties to an alleged unlawful activity, it will generally not be appropriate to take enforcement action against every person who may be liable for the alleged unlawful activity. In such circumstances, Council staff will be guided by legal advice in determining the appropriate persons to pursue.

## 12. Options for dealing with confirmed cases of unlawful activity

Council will try to use the quickest and most informal option to deal with unlawful activity wherever possible unless there is little likelihood of compliance with such options. Council staff will use discretion to determine the most appropriate response to confirmed cases of unlawful activity and may take more than one approach. Any enforcement action taken by Council will depend on the full circumstances and facts of each case, with any decision being made on the merits.

At all times, Council's key concerns are:

- to prevent or minimise harm to health, welfare, safety, property or the environment
- to influence behaviour change for the common good and on behalf of the community.

The following enforcement options to be considered by Council are ordered to reflect an escalation in response that is proportionate to the level of risk, the seriousness of the confirmed breach or the need for a deterrent:

### **Very Low:**

- take no action on the basis of a lack of evidence or some other appropriate reason
- provision of information/advice on how to be compliant

### **Low:**

- negotiating with the person to obtain voluntary undertakings or an agreement to address the issues of concern
- issuing a warning or a formal caution

### **Medium:**

- issuing a letter requiring work to be done or activity to cease in lieu of more formal action
- issuing a notice of intention to serve an order or notice under relevant legislation, and then serving an order or notice if appropriate

### **High:**

- issuing a penalty notice
- carrying out the works specified in an order at the cost of the person served with the order

### **Very High:**

- seeking an injunction through the courts to prevent future or continuing unlawful activity
- commence legal proceedings for an offence against the relevant Act or Regulation.

### Following up enforcement action

All enforcement action will be reviewed and monitored to ensure compliance with any undertakings given by the subject of enforcement action or advice, directions or orders issued by Council. Reports alleging continuing unlawful activity will be assessed and further action taken if necessary. If the unlawful activity has ceased or the work has been rectified, the matter will be resubmitted for follow up action to ensure compliance outcomes are met. Should initial enforcement action be found to have been ineffective, Council staff will consider other enforcement options.

## 13. Taking legal action

The Council and its delegated staff will be guided by legal advice in deciding whether to commence criminal or civil proceedings and will consider the following:

- whether there is sufficient evidence to establish a case to the required standard of proof
- whether there is a reasonable prospect of success before a court
- whether the public interest warrants legal action being pursued.

Whether there is sufficient evidence to establish a case to the required standard of proof

Council considers the decision to take legal action a serious matter, and as such will only initiate and ~~to~~ continue proceedings once it has been established that there is admissible, substantial and reliable evidence to the required standard of proof.

The basic requirement of any **criminal** prosecution is that the available evidence establishes a *prime facie* case. The prosecutor is required to prove the elements of the offence beyond reasonable doubt.

In **civil** enforcement proceedings, Council will require sufficient evidence to satisfy the court that an actual or threatened breach has occurred on the balance of probabilities.

Whether there is a reasonable prospect of success before a court

Given the expense of legal action Council will not take legal action unless there is a reasonable prospect of success before a court. In making this assessment, Council staff will consider the availability, competence and credibility of witnesses, the admissibility of the evidence, all possible defences, and any other factors which could affect the likelihood of a successful outcome.

Whether the public interest requires legal action be pursued

The principal consideration in deciding whether to commence legal proceedings is whether to do so is in the public interest. In making this determination, the same factors to be considered when taking enforcement action apply. (See Section 11, Taking enforcement action).

The following considerations relate more specifically to the decision to commence legal proceedings and will assist Council and its delegated staff in making this determination:

- the availability of any alternatives to legal action

- whether an urgent resolution is required (court proceedings may take some time)
- the possible length and expense of court proceedings
- any possible counter-productive outcomes of prosecution
- what the effective sentencing options are available to the court in the event of conviction
- whether the proceedings or the consequences of any resulting conviction would be unduly harsh or oppressive.

#### Time within which to commence proceedings

Council staff must be aware of legislative time limits in which enforcement proceedings must be commenced. Sometimes legal action will be statute barred despite good evidence that unlawful activity has occurred.

### 14. Shared enforcement responsibilities

Some reports will raise matters involving shared regulatory responsibilities between Council and other authorities including the Environment Protection Authority, the NSW Police Force, the ~~NSW Office of~~ Liquor and Gaming, NSW Fair Trading, NSW Food Authority and Crown Lands.

Council recognises that collaboration and cooperation between authorities to address issues of shared regulatory responsibility is the best approach. To this end, where there are shared legislative responsibilities, Council staff will liaise with relevant authorities to establish:

- which authority will take the leading role on any joint investigation
- which activities each authority will carryout
- responsibilities for updating an individual where relevant
- protocols for exchanging confidential information between the relevant authorities.

Council will reasonably endeavour to respond to requests for information or assistance on joint regulatory matters in a timely manner.

### 15. Role of Council where there is a private certifier

Council retains its regulatory role and enforcement powers where a private certifier has been appointed the Principal Certifying Authority (PCA). However, if a private certifier is appointed the PCA, it is not Council's responsibility to ensure building and construction compliance.

Private certifiers have limited enforcement powers as the PCA. They have the power to issue a notice of intention to issue an order to the owner or builder to comply with the conditions of consent or rectify any breaches. A copy of any notice of intention issued by a private certifier must be provided to Council for assessment as to whether Council will enforce the notice by issuing an order.

Council and private certifiers will work together to resolve any issues when they arise to achieve compliance with the development consent or complying development certificate. Council staff will take steps to ensure individuals are clear about which agency performs which role.

## 16. Role of Councillors in enforcement

Decision making relating to the investigation of reports alleging unlawful activity and taking enforcement action is the responsibility of appropriately authorised Council staff or the Council itself.

Individual Councillors do not have the right to direct Council staff in their day-to-day activities. Councillors can help individuals who raise concerns with them by satisfying themselves that their Council's policies are being carried out correctly, however they cannot ignore or alter a policy in order to satisfy the demands of special groups.

The General Manager may present certain decisions to be ratified by the elected Council if this is necessary or desirable, and the Councillors may also have the right to call for a report about particular issues to a Council Meeting.

## 17. Delegations

Council staff delegations for taking action under this policy are included in Council's Delegation Register.

## 18. Approval & Review

Date of Adoption/ Amendment	Revision Number	Minute Number	Review Date
14 May 2014	-	2014/139	2016
12 September 2018	1	2018/181	2020
13 July 2022	2	2022/137	2026

## 19. Other resources

The NSW Ombudsman website has the following helpful resources at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au):

- Managing Unreasonable Conduct by a Complainant Model Policy
- Managing Unreasonable Conduct by a Complainant Manual ~~2012~~2021
- Effective complaint ~~handling~~management guidelines ~~–3rd edition~~ 2024
- Good Conduct and Administrative Practice - Guidelines for State and Local Governments ~~Third Edition~~ 2017
- ~~Options for Redress~~
- Complaint management framework and model policy June 2015
- Enforcement guidelines for councils – December 2015
- Apologies ~~–A practical guide (2nd Edition)~~ Guide 2024
- ~~Model guidelines – managing and responding to threats, aggressive behaviour and violence from members of the public~~

See Also:

- Commonwealth Director of Public Prosecutions (2021), *Prosecution Policy of the Commonwealth: Guidelines for the making of decisions in the prosecution process*
- [NSW Planning Prosecution Guidelines 2021](#)
- [Violence in the Workplace Guideline SafeWork NSW-](#)

## APPENDIX 1

### Taking enforcement action

When deciding whether to take enforcement action in relation to a confirmed case of unlawful activity, Council will consider all the circumstances of the matter. The section below is intended to assist staff by providing a further explanation of matters to be taken into consideration when deciding whether to take enforcement action.

Considerations about the alleged offence and impact	
<ul style="list-style-type: none"> <li>the nature and severity of the unlawful activity including whether the activity continued</li> <li>the harm or potential harm to the environment or public health, safety or amenity caused by the unlawful activity</li> <li>the seriousness of the breach, including whether the breach is merely technical, inconsequential or minor in nature</li> <li>the costs and benefits of taking formal enforcement action as opposed to taking informal or no action</li> <li>the time period that has lapsed since the date of the unlawful activity.</li> </ul>	<p>Consideration should be given to the nature, extent and severity of any actual or potential impact of the unlawful activity. If there is actual or potential detriment to the natural or built environment, to the health or safety of residents or the amenity of an area, this would normally warrant a decision to take action to remedy or restrain the breach. It is also important to consider whether the unlawful activity is ongoing or has ceased.</p> <p>Consideration should be given to whether the likely costs and benefits of any enforcement action is justifiable where breaches result in no material impacts upon any other party or the health, safety and amenity of the environment and community. A breach of a technical, inconsequential or minor nature, in the absence of any other aggravating factor, will generally not warrant a decision to take action to remedy or restrain the breach.</p> <p>Legislation may provide time limits in which to commence proceedings and take enforcement action, and sometimes prosecution will be statute barred despite good evidence that unlawful activity has taken place.</p> <p>In addition, consideration should be given to the time which the offence or breach occurred and the "reasonableness" of taking enforcement action if a significant time has lapsed since the time of the offence or breach.</p>

Considerations about the alleged offender	
<ul style="list-style-type: none"> <li>any prior warnings, instructions, advice that was issued to the person or organisation reported or previous enforcement action taken against them</li> <li>whether the offence was committed with intent</li> <li>whether the person or organisation reported has been proactive in the resolution of the matter and assisted with any Council requirements and instructions</li> <li>any mitigating or aggravating circumstances demonstrated by the subject of the report</li> <li>any particular circumstances of hardship affecting the person or organisation reported</li> </ul>	<p>Consideration should be given to the previous history of the offender. If prior warnings, instructions or advice has been issued to the person or organisation reported which was not followed, a more formal and coercive enforcement approach would appear more appropriate.</p> <p>Consideration should be given to whether the offence was committed deliberately, recklessly or with gross negligence. It may be appropriate that cases of this nature are more likely to result in prosecution. Where an offence was committed as result of an accident or genuine mistake, providing education and guidance or a formal warning may be more suitable in achieving desired outcomes.</p> <p>Where the offender has been proactive in the resolution of the matter and has assisted Council in the resolution of the matter, it may be that the public interest would not be best served by prosecuting the offender, especially if the offending conduct or work has been rectified. If the offender has demonstrated a lack of contrition and is uncooperative with the investigation or remediation a prosecution or monetary penalty would appear more appropriate.</p> <p>Consideration should be given to any genuine mitigating circumstances of the offender such as age, physical or mental health, disability and any financial hardship of the offender resulting in an inability to pay.</p>

### Considerations about the impact of the enforcement action

<ul style="list-style-type: none"> <li>• the need to deter any future unlawful activity</li> <li>• whether an educative approach would be more appropriate than a coercive approach in resolving the matter</li> <li>• the prospect of success if the proposed enforcement action was challenged in court</li> <li>• the cost and benefits of taking formal enforcement action as opposed to taking informal or no action</li> <li>• what action would be proportionate and reasonable in response to the unlawful activity</li> <li>• whether the Council has created an estoppel situation</li> </ul>	<p>Consideration should be given to the deterrent effect, both on the offender and others. Prosecutions, because of their great stigma if a conviction is secured, may be appropriate even for minor unlawful activity where they might contribute to a greater level of overall deterrence.</p> <p>When deciding whether to take an educative approach or enforcement approach, consideration should be given to the following matters:</p> <ul style="list-style-type: none"> <li>➤ the reasonable likelihood that the person may have known or should have known the relevant requirements or rules</li> <li>➤ the level of contrition shown by the responsible person</li> <li>➤ whether the parties have previously been advised of the regulatory requirements or provisions</li> <li>➤ whether or not any previous warnings or instructions have been provided</li> <li>➤ the apparent level of intent shown by the responsible person.</li> </ul> <p>It may not be appropriate to take enforcement action if the chances of success, in the event of an appeal or hearing, are unlikely. In such situations, you would need to identify the causes of the likelihood and address them in the particular case or as a general issue.</p> <p>Consideration should be given to what is reasonable in the particular circumstances that apply. This includes a reasonable proportionality between the ends to be achieved and the means used to achieve them.</p> <p>Consideration is to be given to what is reasonable in the circumstances and ensure the action is not disproportionate to the level of harm or damage arising from the breach.</p> <p>Legal proceedings are expensive. When doing a cost-benefit analysis, costs and benefits should be assessed broadly and indirect costs and benefits should also be considered.</p>
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	<p>Estoppel is a legal rule which prevents a person from later denying something which may have previously been relied on, and acted upon by another person.</p> <p>Consideration should be given to whether the actions of Council have created a reasonable expectation that no enforcement action would be taken.</p>
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#### Considerations about the potential for remedy

<ul style="list-style-type: none"> <li>• whether the breach can be easily remedied</li> <li>• whether it is likely consent would have been given for the activity if it had been sought</li> <li>• whether there is a draft planning instrument on exhibition that would make the unauthorised use legal.</li> </ul>	<p>If there is evidence of a significant issue of unlawful activity and that matter can be easily remedied by some action on the part of the person the subject of the report, there is a less compelling case for enforcement action, depending on the other circumstances of the case such as the conduct of the offender.</p> <p>If retrospective approval is possible, it may be reasonable to allow an opportunity to obtain this prior to taking other enforcement action. In some cases, compliance by informal means may be the most efficient way to resolve the matter and other enforcement action may not be necessary. This needs to be balanced with other considerations such as the public interest in enforcing the law.</p>
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## APPENDIX 2

### Risk Category Investigating alleged unlawful activity

Risk Assessment Matrix		Consequences				
		Insignificant Minor injury – no first aid Isolated non-breach	Minor Injuring requiring first aid Contained non-compliance	Moderate Injury requiring medical attention Regulatory breach	Major Injury requiring hospital admission Serious failure to comply with regulations	Catastrophic Fatality or permanent disability Sustained non-compliance
Likelihood	<b>Almost Certain</b> Expected to occur in most cases	Medium	Medium	High	High	Extreme
	<b>Likely</b> Will probably occur at some stage	Medium	Medium	Medium	High	Extreme
	<b>Possible</b> May occur under specific circumstances	Low	Medium	Medium	High	High
	<b>Unlikely</b> Conceivable but not likely to occur	Low	Low	Medium	Medium	High
	<b>Rare</b> Only ever occurs under exceptional circumstances	Low	Low	Low	Medium	High
Risk Level		Recommended Actions				
Extreme		Immediate action required Seek an injunction through the court to prevent future or continuing activity Commence legal proceedings for an offence Emergency Order (without notice)				
High		Risk control measure to reduce risk to low as possible Issue penalty infringement notice Carry out the works specified in the order at the cost of the person served with the order				
Medium		Review risk and ensure control measures Issue letter requiring work to be done or activity to cease Issue Notice of Intention to serve an order and then issue order				
Low		Manage risks via routine procedures and monitor Provision of information/advice on how to be compliant Take no action based on lack of evidence or some other appropriate reason Voluntary undertaking				

Extreme	High	Medium	Low
Building structure compromised likely to cause imminent threat to public health and safety – emergency order without notice	Fire damaged building with risk to public health – carry out works specified in order at the cost of the person served with the order	Unauthorised carport which has no ongoing risk to public health - issue letter requiring work to be done	Displaying small sign without consent – advice on how to be compliant
Dog attack in progress, likely to cause serious injury – seize dog, penalty infringement notice, possible euthanasia	Dog attack resulting in injury to person, Council notified after event – penalty infringement notice, notice of intention to declare as dangerous dog	Dog habitually at large – Notice of Intention to declare as nuisance dog	Roaming dog – first offence – provision of information

Note: The above is an example of scenarios with possible enforcement actions.



# Aboriginal Employment Strategy

## 2025-2029

Created By	Version No	Adopted	Review Period	Review Date
Manager Human Resources	1.0	14/11/2018	4 Years	Nov 2022
Manager Human Resources	2.0			

### 1. Acknowledgement of Traditional Custodians

Narromine Shire Council would like to acknowledge the traditional custodians of the land and pay respect to the Elders, past present and future, for they hold the memories, traditions, and culture of the land where we meet and extend that respect to the Aboriginal Community and all Aboriginal people.

### 2. Introduction/Aims

The Narromine Shire Council Aboriginal Employment strategy, in consultation with the local Aboriginal community, will aim to maintain the number of Aboriginal and Torres Strait Islander (ATSI) people represented in Council's workforce through proactive strategies in recruitment, career development, cultural awareness, and retention.

### 3. Indigenous employment issues in the Narromine Shire

The 2021 census of population and housing indicates that 1,300 people in the Narromine Local Government Area identified themselves as Aboriginal or Torres Strait Islander, representing 20.4% of the overall population.

The census statistics clearly show that Narromine Shire has a significantly higher proportion of ATSI people than the NSW figure of 3.4% and the total Australian figure of 3.2%.

The median age of ATSI persons in Narromine is 24 as opposed to the median age of the entire population of Narromine being 41. This would suggest that a significant proportion of the ATSI residents would be in the 0 – 17 age group and would not form part of the employment pool.

As of June 2025, 24% of Narromine Shire Council's permanent employees identified as ATSI. This is above the Shire average of 20.4% of the overall population.

The high proportion of ATSI youth creates a future need for more training and employment. In an overall ageing population and therefore declining labour market, this presents an opportunity for both the ATSI and non-ATSI community.

### 4. What is an Aboriginal Employment Strategy

An Aboriginal Employment strategy is designed to increase employment opportunities and job retention for ATSI people in a variety of proactive ways.

It aims to address to employment disadvantages of ATSI people, actively implement equal opportunity employment at all levels, and empower ATSI people to achieve self-sufficiency.

Economic independence is seen as key to self-sufficiency and self-determination for ATSI people.

The driving force behind the development of the Aboriginal Employment Strategy includes:

- Recognition that ATSI people are significantly disadvantaged in the labour market and require proactive assistance to address this inequality.
- The development of a social conscience.
- The requirement to increase employment of identified groups under Equal Employment Opportunity (EEO) legislation.

- The provision of improved mainstream services to ATSI people by employing ATSI people in service positions; and
- Recognition that ATSI people bring diverse skills and knowledge to a workplace.

Local Government has a key role to play in ATSI employment, as a public sector employer, and as an organisation that works for the social and economic wellbeing of its community. The Local Government NSW policy recognises that ATSI people have a right to self-determination and community empowerment.

#### 5. Enhance Career Pathways for Aboriginal employees.

Council appreciates the importance of a diverse and inclusive workforce. It is also important that our workforce is reflective of our community, recognising Aboriginal cultures in the Narromine Region. To demonstrate Council's commitment to enhancing career pathways for the Aboriginal community, Council will introduce the below initiatives and undertake the actions listed to ensure they are achieved.

#### 6. Aboriginal Employee Strategic plan.

Activity	Action	Accountability	Performance Indicator	Target Date
<b>ATTRACT</b>	Review all positions to ensure Essential and Desirable qualifications and requirements stated in advertising are accurate e.g. driver's licence	Manager Human Resources (MHR)	Applicants are educated on the expectations of Council regarding job applications and Council's recruitment processes.  Higher standard of applications, strengthening the pool of candidates received.	Ongoing
	Research options for identified and targeted positions	MHR	Increased opportunities for the local Aboriginal Community, making our workforce reflective of the community in which we work and live.	Ongoing
	Explore availability of Aboriginal employment grants to develop and support Aboriginal people through the creation of traineeships and other employment opportunities.	MHR	Building capability with the Aboriginal community by providing them with the tools to develop transferable skills to advance their employment and career prospects.	Ongoing
	Engage with local community and school groups for work experience, industry visits	MHR	Strengthened relationships with	Ongoing

	and requests to attend schools and career expos where possible.		stakeholders in the community	
	Identify a contact officer in recruit advertisements who will provide guidance and support on applying for positions with Council and the merit-based recruitment system.	MHR	Greater understanding and transparency in the community regarding employment with Council.	Ongoing
<b>TRAIN</b>	Identify the individual training needs of ATSI employees to enhance their skills and provide training.	MHR	Increase in the number of ATSI employees undertaking training	Ongoing
	Encourage and support ATSI employees to undertake courses of study.	MHR	Increase the number of ATSI employees with post-secondary qualifications	Ongoing
	Support and encourage ATSI employees to access Council's learning and development framework.	MHR Supervisors Managers	Staff are made aware of all opportunities available for learning.	Ongoing
	Provide opportunities for ATSI employees to shadow managers/supervisors.		Increase knowledge by ATSI employees of Local Government and specific skills required for senior positions.	Ongoing
<b>RETAIN</b>	Provide internal mentors for ATSI employees when requested.	MHR	Number of ATSI employees who are offered mentors	Ongoing
	Promote and encourage usage of internal support mechanisms available.	MHR Supervisors	Staff are educated about services available. Staff feel supported in the workplace and feel confident in asking for help when required.	Ongoing
	EAP information to be included in induction.	Managers		
	Acknowledgement and Celebration of Culture and Traditions by acknowledging NAIDOC Day and other significant calendar cultural events.	Executive Leadership Team (ELT)	All employees become educated about the importance and meaning of Aboriginal Culture	Ongoing
	Ensure Aboriginal Flag flown at Council Chambers.			