
NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 11 JULY 2018
REPORTS TO COUNCIL – GENERAL MANAGER

1. DEPUTY MAYOR - FEE

Author	Executive Manager Corporate Governance
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 4.1 Provision of an Accountable and Transparent Leadership

Executive Summary

This report provides information to consider remunerating the Deputy Mayor when acting in the position of Mayor.

Report

The appointment of the Deputy Mayor is outlined in Section 231 of the Local Government Act, and sub-section 3 states that *"The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor"*.

The Local Government Remuneration Tribunal determines the annual maximum and minimum amounts of fees to be paid to Mayors and Councillors. There is no provision in the Local Government Act which empowers the Tribunal to determine a separate fee or fee increase for Deputy Mayors.

The method for determining separate fees, if any, for a Deputy Mayor is provided in Section 249 of the Local Government Act which states:-

"A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee".

In addition, the Office of Local Government's Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, specifies that the Council may only pay a Deputy Mayor part of the Mayor's annual fee where a Deputy Mayor demonstrably acts in the role of the Mayor. Such payment must be done at the direction of the Council.

Council at its Ordinary Meeting held 9 May 2018, resolved to adopt the 2.5% increase determined by the Local Government Remuneration Tribunal for the 2018/2019 Mayoral and Councillors fees. As of 1 July 2018, the annual fee to be paid to Councillors is \$11 859 and an additional \$25 881 for the Mayor.

If Council considers paying the Deputy Mayor a fee, it is recommended that this be paid when the Deputy Mayor acts in the role of Mayor for a period of 7 or more days, and the calculation of this fee be determined at a pro rata rate of the Mayor's annual fee.

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1. DEPUTY MAYOR FEE (Cont'd)

Financial Implications

Council has provision for the remuneration of Councillors and the Mayor in its 18/19 Operational Budget. Any additional remuneration paid to the Deputy Mayor must be deducted from the fee payable to the Mayor.

Legal and Regulatory Compliance

Local Government Act 1993 – Sections 231 and 249
Office of Local Government's *Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW*

Risk Management Issues

Nil

Internal/External Consultation

Consultation with the Mayor

Attachments

Nil

RECOMMENDATION

1. That Council pay the Deputy Mayor a fee, to be deducted from the fee payable to the Mayor, for periods of 7 days or more, where the Mayor is unable to carry out the duties of Mayor, such fee to be for the period that the Deputy Mayor acts in the role of the Mayor.
2. The calculation of this fee to be determined at a pro rata rate of the Mayor's annual fee.

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2. ORANA ARTS INC – MEMORANDUM OF UNDERSTANDING

Author	Executive Manager Corporate Governance
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 1.2.2 – Share and celebrate our cultural and social diversity through local events, programs and projects

Executive Summary

Council at its last meeting resolved to allow Orana Arts to make a presentation to the July Ordinary Meeting. Council has now received the proposed three year Memorandum of Understanding from Orana Arts Inc. Council will need to consider whether it wishes to remain a financial contributor to the organisation.

Report

A number of reports have been presented to Council to consider the benefits of Council continuing to remain a financial contributor to Orana Arts Inc. (**see Attachment No. 1**)

Council at its Ordinary Meeting held 13 June 2018 resolved that the issue be deferred to allow Orana Arts to make a presentation to Council at its July 2018 Meeting. An invitation was duly extended to the Executive Officer as well as a request for the proposed three year Memorandum of Understanding. The proposed MOU has now been received by Council and is attached, together with the Orana Arts Terms of Reference and the Orana Arts Constitution (**see Attachment No. 2**).

The Executive Officer will be making a presentation to Council during public forum.

Quarterly reports from Orana Arts are attached (**see Attachment No. 3**).

Whilst Orana Arts provides artistic and cultural outcomes to the Narromine Shire, its focus is to support regional projects.

Council's Economic Development Strategy contains a number of suggested goals in the implementation plan. In order to prioritise some of the larger goals in the strategy, Council's Economic Development Group Committee has formed three subgroups being Tourism, Arts and Promotions; Agriculture and Infrastructure Development and Business, Industrial and Residential Development.

The priorities for the Tourism, Arts and Promotions subgroup consists of working with the Arts Community to develop a visiting artist program including the development of an arts event; developing a strategy to leverage current events and supporting the creation of additional events; as well as exploring an education tourism model based within the Shire.

2. ORANA ARTS INC – MEMORANDUM OF UNDERSTANDING (Cont'd)

Options

Council can continue to remain a financial contributor to the Orana Arts Inc. or reallocate the budgeted funds to the actions/goals under Council's Economic Development Strategy, specifically the enhancement of programs, events and workshops within the Shire.

Financial Implications

The contribution for the 2018/2019 financial year to Orana Arts is estimated to be \$7,716 (excluding GST).

Legal and Regulatory Compliance

Council will need to consider whether it wishes to enter into a new three year Memorandum of Understanding with Orana Arts.

Risk Management Issues

Nil

Internal/External Consultation

Previous reports to Council. Requests to Orana Arts for presentation to Council.

Attachments

- Previous reports to Council
- Proposed MOU, Terms of Reference and Constitution
- Orana Arts Quarterly Reports

RECOMMENDATION

For Council's consideration.

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3. CROWN LAND MANAGEMENT ACT 2016

Author	Executive Manager Corporate Governance
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 4.3.4 Ensure Council's property assets are well managed

Executive Summary

This report provides information on the commencement of the Crown Lands Management Act 2016.

Report

The Crown Lands Management Act 2016 (CLMA) commenced 1 July 2018.

The CLMA authorises Councils that are appointed Crown Land Manager for dedicated or reserved Crown land to manage this land as if it were public land under the Local Government Act 1993 (LGA).

The CLMA requires that all public land must be categorised as community or operational land. Crown land managed by Council Managers as public land must be managed as if it were community land, unless the Minister administering the CLMA has given written consent to classify it as operational.

Where the Minister provides written consent to operate the land as operational, Council cannot sell the land without further ministerial consent or do anything that contravenes any condition of Council's appointment as Crown Land Manager.

The Minister will only consider classifying land as operational if it cannot fall within a category of community land under the LGA. Examples may include reservoirs, emergency services, quarries and gravel pits, sewage works etc.

The Department of Industry – Lands and Water will consider any application for ministerial consent to manage the land as operational on its merits and will notify Council in writing of the outcome.

The Crown Land Regulation 2018 provides transitional arrangements to allow Crown Land Managers to renew existing leases should there be no additional use permitted by the lease; and grant new leases over land where a lease was in effect immediately before the repeal of the Crown Lands Act 1989, provided there are no additional permitted uses for the land under the lease.

These arrangements are available until the land is classified as operational, a LGA plan of management is adopted for the land, or at the conclusion of the initial 3 year period from the commencement of the CLMA.

3. CROWN LAND MANAGEMENT ACT 2016 (Cont'd)

Council has received a preliminary schedule of Crown Reserves under direct management of Council and staff are to use the interim schedule to review land management and identify activity for classification, categorisation and plans of management under the new legislative requirements.

Financial Implications

The Office of Local Government has advised that there will be distribution of Plans of Management funding to Councils in August 2018. In addition OLG will host regional, face to face training sessions for Council Crown Land Managers on Plan of Management Development.

Legal and Regulatory Compliance

Crown Land Management Act 2016

Crown Land Regulation 2018

Native Title Act 1993

Local Government Act 1993

Plans of Management must be adopted for all Crown Land managed by Council as community land within three years of the commencement of the CLMA.

Risk Management Issues

Compliance with new legislative requirements

Internal/External Consultation

Nil

Attachments

Nil

RECOMMENDATION

That the information be noted.

4. VANDALISM REWARDS SCHEME POLICY

Author	Executive Manager Corporate Governance
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 4.2.8 Implement best practice governance standards, transparent decision making and a strong ethical culture DP – Maintain a framework of relevant policies and procedures

Executive Summary

The Vandalism Rewards Scheme Policy has been reviewed and is attached for consideration and adoption.

Report

Council's Rewards Scheme Policy was adopted in October 2014, Resolution No 2014/331. The policy has been reviewed and suggested minor amendments have been marked in red for ease of reference (**see Attachment No. 4**).

Vandalism costs Council thousands of dollars every year. The main objectives of the policy are to encourage community members to report information about vandals to the NSW Police and reduce acts of vandalism on Council property by increasing the risk of detection and apprehension. In addition the policy aims to encourage a coordinated approach between the NSW Police, Council and the community to address the issue of vandalism.

The reward is conditional upon provision of information on vandalism to Council owned or managed property that results in legal action being taken against the offender/s.

Financial Implications

The vandalism rewards scheme is subject to an annual maximum cap of \$15,000 per financial year.

Legal and Regulatory Compliance

Local Government Act 1993
Crimes Act 1900
Young Offenders Act 1997
Government Information (Public Access) Act 2009
Summary Offences Act 1988

4. VANDALISM REWARDS SCHEME POLICY (Cont'd)

Risk Management Issues

Fraudulent or misleading claims are ineligible for payment of the reward. Council may seek to recover the reward and associated costs should a claim be found to be fraudulent.

Internal/External Consultation

Nil

Attachments

1. Revised Vandalism Rewards Policy

RECOMMENDATION

That the revised Vandalism Rewards Scheme Policy be adopted.

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5. PROPOSED REACQUISITION OF LAND FOR RESALE – LOT 70 DP 1089611

Author	Director Community and Regulatory Services
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 4.3.4 Ensure Council's property assets are well managed

Executive Summary

The reports informs Council that diligent enquiry is not required for the purposes of reacquisition, as previously reported.

Report

At the last meeting, Council formally resolved to reacquire for resale, Lot 70 in DP 1089611 under the Land Acquisition (Just Terms) Compensation Act 1991, Section 7B and to waive compensation for the reacquisition. Council also resolved to undertake 'diligent enquiry' in accordance with Clause 401 of the Local Government (General) Regulation 2005 with respect to the land and once this process was completed to make application to the Minister for Local Government and/or the NSW Governor for approval to reacquire the land for resale under Section 7B of the Land Acquisition (Just Terms) Compensation Act 1991.

Further clarification was sought from the Office of Local Government regarding whether 'diligent enquiry' was in fact needed as Council is the owner of the land, and they have responded as follows:

"I confirm that by the operation of section 20 of the Land Acquisition (Just Terms Compensation) Act 1993, all trusts interests and former ownership were extinguished over the land acquired for an airport upon the publication of the acquisition notice in the NSW Government Gazette."

"Although you may want to seek your own legal advice, this extinguishment of all interests in the lands would include the extinguishment of Native Title over the land."

"In those circumstances, Council owns the land in fee simple and the requirement to undertake diligent inquiry would not apply."

It is intended to now make application to the Minister for Local Government and/or the NSW Governor in accordance with Council's previous resolution however without the need to undertake 'diligent enquiry' as the first step.

Financial Implications

Nil

5. PROPOSED REACQUISITION OF LAND FOR RESALE – LOT 70 DP 1089611 (Cont'd)

Legal and Regulatory Compliance

Land Acquisition (Just Terms) Compensation Act 1991
Local Government (General) Regulation 2005
Native Title Act 1993

Risk Management Issues

Compliance with legislative requirements

Internal/External Consultation

Office of Local Government

Attachments

Nil

RECOMMENDATION

That the information be noted.

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6. REVIEW OF VARIOUS POLICIES

Author	Executive Manager Health Building and Environmental Services
Responsible Officer	General Manager
Link to Strategic Plans	CSP - 4.2.8 Implement best practice governance standards, transparent decision making and a strong ethical culture DP - 4.2.8.2 Maintain a framework of relevant policies and procedures

Executive Summary

The attached policies have been reviewed. Minor amendments have been suggested to reflect Directorate changes.

Report

The following policies are scheduled for review:-

- Abandoned Vehicles
- Asbestos
- Contaminated Land
- Liquid Trade Waste
- Swimming Pool Barrier Inspection

Accordingly, staff have now reviewed these. No substantial amendments are recommended. Minor administrative amendments, reflecting organisational changes, have been marked for ease of reference (**see Attachment No 5**).

Financial Implications

The adoption of these policies has no direct impact on budgetary allocations.

Legal and Regulatory Compliance

Local Government Act 1993 – Section 68
Environmental Planning and Assessment Act 1979
Impounding Act 1993
Impounding Regulations 2013
Contaminated Land Management Act 1997
Environmental Planning and Assessment Regulation 2000
Local Government (General) Regulation 2005
Protection of the Environment Operations (General) Regulation 2009
Protection of the Environment Operations (Waste) Regulation 2014
Protection of the Environment Operations Act 1997
State Environmental Planning Policy No. 55 – Remediation of Land

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6. REVIEW OF VARIOUS POLICIES (Cont'd)

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

NSW Work Health and Safety Act 2011

NSW Work Health and Safety Regulation 2011

Workers' Compensation (Dust Diseases) Act 1942.

Swimming Pool Act 1992

Swimming Pool Regulations 2008

Risk Management Issues

Nil

Internal/External Consultation

There is no legislative requirement to place the revised policies on public exhibition. Suggested amendments are administrative in nature.

Attachments

Abandoned Vehicles Policy

Swimming Pool Barriers Inspection Policy

Liquid Trade Waste Policy

Contaminated Land Policy

Asbestos Policy

RECOMMENDATION

1. That the revised Abandoned Vehicles Policy, Swimming Pool Barriers Inspection Policy, Liquid Trade Waste Policy, Contaminated Land Policy and Asbestos Policy be adopted.

7. DRAFT FOOTPATH – OUTDOOR DINING POLICY

Author	Executive Manager Health Building and Environmental Services
Responsible Officer	General Manager
Link to Strategic Plans	CSP - 4.2.8 Implement best practice governance standards, transparent decision making and a strong ethical culture. DP - 4.2.8.2 Maintain a framework of relevant policies and procedures.

Executive Summary

Council's On Street Dining – Articles on Footpaths policy has been reviewed. As a result of this review, it is recommended that the Use of Footpath – Outdoor Dining Policy supersede the On Street Dining – Articles on Footpaths policy.

Report

On 18 September 2012, Council adopted the On Street Dining – Articles on Footpaths Policy. The policy has since been reviewed taking into consideration the use of the policy by the community and the adoption of the Local Approvals Policy in 2017, which included some activities that were within the existing On Street Dining – Articles on Footpaths policy.

Following review, and due to requirements within the Local Approvals Policy, it is noted that a proportion of the existing On Street Dining – Articles on Footpaths policy is no longer applicable and that the policy should only deal with the use of the footpath for outdoor dining only. Subsequently, the attached draft Use of Footpath – Outdoor Dining Policy has been created **(see Attachment No 6)**.

This draft policy aims to permit the establishment of business opportunities and to create a more vibrant and cosmopolitan atmosphere in the commercial centres of the Narromine Shire. The policy will allow the approval of business use of footpath areas (which may include tables, chairs, shade structures, planter boxes and the like to be placed on footpaths) within the Shire adjacent to businesses where there is adequate footpath width for pedestrian circulation.

The objectives of this Policy are as follows:

Access & Equity

- To ensure safety and convenient passage of all pedestrians when using public footpaths.
- To ensure the maintenance of clear view lines for both pedestrians and motorists, particularly near pedestrian crossings, street corners and key intersections.
- To ensure adjoining premises are not adversely affected by any business use of footpath areas.

7. DRAFT FOOTPATH – OUTDOOR DINING POLICY (Cont'd)

Council & Community Protection

- To protect Council and the public interest while permitting effective use of public footpaths for business purposes.
- To effectively address risk management issues for Council.
- To ensure that business use of public footpaths will not cost the public purse.
- To ensure that public amenities will not be compromised by the provision of business use of footpath areas.

Economic

- To enhance the economic viability of our local business by offering consent to use public footpaths for business purposes.
- To encourage trading by providing a more vibrant atmosphere for shoppers.
- To provide an active and integrated street front.
- To maintain visibility and exposure of shop fronts.

Financial Implications

This policy has no direct impact on budgetary allocations.

Legal and Regulatory Compliance

Local Government Act 1993 – Section 68

Roads Act 1993 – Section 125

Environmental Planning and Assessment Act 1979

Risk Management Issues

Public Safety Risk is mitigated through conditions of approval requiring the provision and maintenance of appropriate public liability insurance that indemnifies Council as stated within the policy.

Internal/External Consultation

Policy will need to be placed on public exhibition for a period of not less than 28 days.

Attachment

Draft Use of Footpath – Outdoor Dining Policy

RECOMMENDATION

1. That Council place the draft Use of Footpath – Outdoor Dining Policy on public exhibition for a period of twenty eight (28) days.
2. That Council adopt the draft policy under the delegation of the General Manager, subject to there being no objections that cannot be resolved by minor amendments and that appropriate public notice is given.

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8. DEVELOPMENT APPROVALS

Author	Executive Manager Planning
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 3.1.6 – Encourage developers to consider energy efficiency and sustainable building design options in new developments DP – 3.1.6.1 - Ensure compliance with relevant building codes and regulations

Executive Summary

This report provides information to Council on the approved Development Applications for the month of June 2018.

Report

The approvals for the month of June 2018 bring the total approved Development Applications for the financial year to 81 with a total value of \$9,721,361.

DA No.	Location	LOT/DP	Description	Value	Assessment Time/Days
2018/39	Backwater Road Narromine	3/15250	Carports	\$11,400	21
2018/42	Dandaloo Street Narromine	1/SP20289	Shed	\$7,000	8

Financial Implications

There have been 81 development approvals with a total value of \$9,721,361 for the financial year.

Legal and Regulatory Compliance

Environmental Planning and Assessment Act 1979; Environmental Planning and Assessment Regulation 2000.

Risk Management Issues

Nil

Internal/External Consultation

Nil

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8. DEVELOPMENT APPROVALS (Cont'd)

Attachment

Nil

RECOMMENDATION

That the report be noted.

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9. SUBMISSION ON THE AMENDMENTS TO THE STATE ENVIRONMENTAL PLANNING POLICY (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008

Author	Executive Manager Planning
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 4.4.1 Provide sound input into State, Regional and Non-Government Organisation Plans and Strategies. DP – 4.4.1.2 Prepare submissions as required.

Executive Summary

Amendments to the Codes SEPP for low rise medium density housing development take effect from July 6, 2018 which disregard local planning provisions Council currently has in place. A submission to defer Narromine from the amendments has therefore been lodged with the Department.

Report

Background

Since 2015, the NSW Minister for Planning has actively sought to encourage medium density housing development as a form of Complying Development which can be approved by either Council or a Private Certifier under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP). This is proposed as a mechanism to address housing shortages and approval timeframes, particularly in metropolitan areas.

The Narromine Local Environmental Plan 2011 (Narromine LEP 2011) provides for local development types which are permitted in certain zones and the development standards for which these developments may be undertaken with the approval of Council. A State Environmental Planning Policy is a NSW wide regulatory policy which, unless otherwise stated, will override the requirements of a Local Plan. In this case, the Department of Planning and Environment have sought amendments to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) in order to address medium density development which can be undertaken in residential zones state wide via the Complying Development pathway.

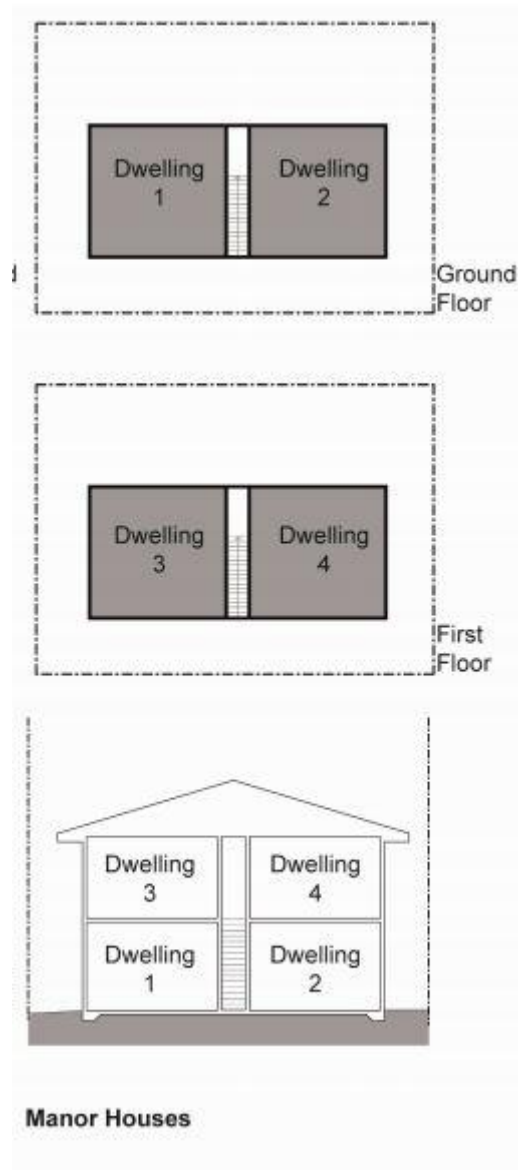
Complying Development which achieve the standards of the Codes SEPP can be approved by either Council or a Private Certifier, under 20 days.

Discussion

In reviewing the proposed amendments to the Codes SEPP, it was found that the NSW policy seeks to introduce a new development type to be defined as a 'Manor House' which is a type of residential flat building under the Code within the R1 General Residential zone. An example of the layout for a Manor House development is provided below:

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9. SUBMISSION ON THE AMENDMENTS TO THE STATE ENVIRONMENTAL PLANNING POLICY (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008 (Cont'd)



The amendments to the Codes SEPP would permit effectively four (4) units in a two (2) storey arrangement, up to 8.5m high, to be constructed on land zoned R1 General Residential via a Complying Development Certificate (issued by Council or a Private Certifier) and states, amongst other standards, that the lot must not be less than 600 square metres.

Unlike the standards listed for other forms of development under the Codes SEPP amendments (Dual Occupancy or Multi Dwelling Housing (terraces)) the development of a Manor House under the Codes SEPP does not require the developer to comply with the Local Environmental Planning Instrument for lot area, which in our case, already contains the minimum land area required for development approval to be issued. This is 800 square metres under clause 4.1A of the Narromine Local Environmental Plan 2011.

9. SUBMISSION ON THE AMENDMENTS TO THE STATE ENVIRONMENTAL PLANNING POLICY (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008 (Cont'd)

Council staff have sought a deferment from the provisions of the Code SEPP amendments due to the issue of Manor House (residential flat building) development being inconsistent with the Narromine LEP 2011 provisions and the long standing requirement for dual occupancy and multiple dwelling development to be located on land not less than 800 square metres in the Narromine Shire.

It is important to note that Council staff have been advised that a number of Councils within both metropolitan and regional areas have also sought deferment from the Code SEPP amendments.

Financial Implications

Nil

Legal and Regulatory Compliance

The amendments to the Codes SEPP has implications on the Development Standards prescribed under clause 4.1A of the Narromine LEP 2011.

Council's regulatory powers to assess and approve medium density housing developments under a Development Application and assessment against local planning provisions can also be lost, along with the potential for greater private certification if the Complying Development pathway is undertaken for Manor Houses on lot sizes less than what would be required under the Narromine LEP 2011 via a Development Application.

Risk Management Issues

Risks relate primarily to local community impacts as a result of the inconsistencies identified with the planning objectives for Narromine residential areas under clause 4.1A of the LEP 2011 and how this could impact on the streetscape of the residential areas if Manor Houses were undertaken via the Complying Development pathway.

Consultation

Council staff have undertaken consultation with the Department of Planning and Environment, Western Region who have confirmed the 600 square metre minimum lot area for Manor House developments under the Codes SEPP amendment for Medium Density Housing is correct and does not refer back to the LEP requirements for minimum area.

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9. SUBMISSION ON THE AMENDMENTS TO THE STATE ENVIRONMENTAL PLANNING POLICY (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008 (Cont'd)

Attachments

Letter of confirmation from Department of Planning and Environment (**Attachment No. 7**)

RECOMMENDATION

That the report be noted.

10. RESIDENTIAL & LARGE LOT RESIDENTIAL (LAND USE) STRATEGY

Author	Executive Manager Planning
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 2.1.5 New plans and strategies are developed in line with the community's needs and encourages economic growth DP - 2.1.5.1 Review Land Use Strategies in line with results of Economic Development Strategy to ensure planned new land releases to stimulate economy

Executive Summary

This report is presented to Council to finalise and adopt the Narromine Residential and Large Lot Residential (Land Use) Strategy. Adoption of the Strategy by Council will enable the document to be forwarded to the Department of Planning and Environment for final endorsement.

Report

Background

In accordance with Council resolution 2017/365, the draft Narromine Residential & Large Lot Residential (Land Use) Strategy was placed on public exhibition which occurred for a total of 58 days. Consultation also included:

1. Individual notification to affected property owners;
2. Public Notice in Narromine News;
3. Social Media posts;
4. Formal notification to following government departments:
 - a. Department of Planning and Environment
 - b. Department of Primary Industries – Water
 - c. Office of Environment and Heritage,
5. Community “drop-in” sessions at Narromine, Trangie and Tomingley,
6. Individual meetings both on-site and at Council.

10. RESIDENTIAL & LARGE LOT RESIDENTIAL (LAND USE) STRATEGY (Cont'd)

As a result of the public exhibition period, Council received twelve (12) formal written responses which are included at **Attachment No 8**. Submissions were also received from Office of Environment & Heritage, Department of Industries - Water and Department of Planning & Environment (copies included at **Attachment No 9**). A copy of Council's Consultants Summary in response to Community Feedback during exhibition was provided to the Department of Planning & Environment is also enclosed at **Attachment No 10**.

Council's Response to the Department's initial feedback and summary of issues table is provided at **Attachment No 11**, along with the Department's recent response to the flooding and levee related issues within the Western Precinct of the Strategy for Council's consideration at **Attachment No 12**.

Discussion

As reported at the June 2018 Council meeting, Council staff had received advice, dated 4 June 2018, from the Department of Planning & Environment stating they are in support of the revised strategy subject to the following requirements;

1. *Consolidated map showing only the preferred sites that are included in the final strategy.*
2. *Adopted levee alignment reflected in the strategy and its impact on the preferred large lot residential sites.*
3. *Clarify in the strategy that the Department endorsed "Western Councils Sub-Regional Land Use Strategy 2009" will not be updated or replaced by this strategy (see page 5).*

Council staff have since spoken to those landowners directly impacted by item 2 above which primarily affects the Inner West and Outer West Areas identified within the Strategy. Based upon the advice from the Department, the previous options reported to Council in June 2018 included:

Option 1: Seek to amend the wording within the Strategy to defer flood prone land in the West Area until construction of the levee.

OR

Option 2: Seek to amend the wording within the Strategy to ensure that it is clear that any future rural residential land identified in the west area is consistent with the NSW Government's Floodplain Development Manual 2005 and section 9.1 Ministerial Direction 4.3 Flood Prone Land.

Option 1 is considered to be the most logical option for the western precinct at this time and once the levee is finalised, a further review of the rural residential areas should then be undertaken based on updated flood modelling with the levee in place for this area.

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10. RESIDENTIAL & LARGE LOT RESIDENTIAL (LAND USE) STRATEGY (Cont'd)

Alternatively, landowners will continue to have the option to progress their own rezonings and must therefore provide studies to support their application and address the NSW Government's Floodplain Development Manual 2005 and section 9.1 Ministerial Direction 4.3 Flood Prone Land.

The finalised Strategy, incorporating Option 1, also clarifying the points raised by the Department is provided within **Attachment No 13**.

Financial Implications

Nil

Legal and Regulatory Compliance

Environmental Planning & Assessment Act 1979

Risk Management Issues

Nil

Internal/External Consultation

Consultation occurred in accordance with the requirements of the draft strategy. No further consultation is required.

Attachments

- Final Draft: Narromine Residential & Large Lot Residential (Land Use) Strategy & associated maps
- Summary of Community Feedback (Preliminary Response)
- Public Submissions received during Exhibition
- Office of Environment & Heritage formal response
- Department of Industries - Water formal response
- Department of Planning & Environment formal response
- Response to Department of Planning & Environment Comments March 2018
- Department of Planning & Environment's formal comments on the Western precinct and Flooding July 2018

RECOMMENDATION

That Council adopt;

- a. the draft Narromine Residential & Large Lot Residential (Land Use) Strategy dated July 2018, and
- b. formally respond to the submissions in accordance with the Summary of Community Feedback (Preliminary Response), and
- c. refer the Strategy to seek final endorsement from the Department of Planning & Environment.

Jane Redden
General Manager

9. ORANA ARTS INC**Introduction**

This report is presented to Council to provide information regarding the annual contribution to the Orana Arts Inc.

Background

Council has for a number of years paid an annual contribution to the Orana Arts Inc. This organisation supports and advocates for arts and culture in the region through programs and projects that help communities participate in the arts and provide opportunities for artists. Cr Lambert is the appointed Councillor Representative to the Regional Arts Board.

The contribution being sought from Council for the 2017/18 financial year is \$8,241.00.

Correspondence received from the Executive Director of the organisation indicates that following their AGM in March 2018, Orana Arts will formalise a new MOU for participating Councils which aligns with their three year Strategic Plan.

At present participating Councils are Bogan Shire, Dubbo Regional, Gilgandra Shire, Mid-Western Regional, Narromine Shire and Warrumbungle Shire.

Issues

It is intended that the contribution for the 2017/18 financial year be paid and following the Orana Arts AGM in March, the Executive Director make a presentation to Council regarding the new MOU and the budget contributions expected for the next 3 years.

Assessment**a) *Legal Implications***

Orana Arts intends presenting a new three year Memorandum of Understanding following their March AGM.

b) *Financial Implications*

The 2017/2018 financial contribution from Council is \$8,241.00. Further financial contributions will be determined following Orana Arts presentation to Council.

c) *Policy Implications*

Nil.

d) *Strategic Implications*

This report relates to item 1.2.2 of the Community Strategic Plan - Share and celebrate our cultural and social diversity through local events, programs and projects.

9. ORANA ARTS INC (Cont'd)

Summary

It is intended to pay the 2017/2018 financial contribution to the Orana Arts Inc. and invite the Executive Officer to make a presentation to Council on their proposed Memorandum of Understanding for the next three years.

RECOMMENDATION

That Council:-

1. Pay the financial contribution for the 2017/2018 year being \$8,241.00
2. Invite the Executive Officer of Orana Arts Inc. to make a presentation to Council on the proposed three year Memorandum of Understanding and the merits of Council remaining a financial contributor to the organisation.

7. ORANA ARTS INC

Introduction

This report is presented to Council to consider whether it will remain a financial contributor to the Orana Arts Inc.

7. ORANA ARTS INC (Cont'd)**Background**

Council will recall a report which was put before its February 2018 Ordinary Council Meeting wherein it was resolved to invite the Executive Officer of Orana Arts Inc. to make a presentation to Council on the proposed three year Memorandum of Understanding and the merits of Council remaining a financial contributor to the organisation.

On the 15th February 2018, an invitation was duly extended to the Executive Director, however despite a follow up conversation with the Director, no firm arrangements have been made to undertake this presentation to Council. To date, Council has not received the draft three year Memorandum of Understanding.

At present participating Councils are Bogan Shire, Dubbo Regional, Gilgandra Shire, Mid-Western Regional, Narromine Shire and Warrumbungle Shire.

Issues

Council will need to determine whether it remains a financial contributor to this organisation.

Assessment**(a) *Legal Implications***

If Council wishes to remain as a financial contributor to the Organisation, it will need to enter into a new three year Memorandum of Understanding. This MOU was due to be provided by Orana Arts Inc. following their March AGM, however has not been received by Council to date.

(b) *Financial Implications*

The 2017/2018 financial contribution from Council was \$8,241.00.

Should Council resolve to cease participation as a financial contributor, it is intended that this budget allocation be used for Council organised/supported arts programs or projects within the Shire.

(c) *Policy Implications*

Nil

(d) *Strategic Implications*

This report relates to item 1.2.2 of the Community Strategic Plan - Share and celebrate our cultural and social diversity through local events, programs and projects.

7. ORANA ARTS INC (Cont'd)**Summary**

Council extended an invitation to the Executive Director of Orana Arts Inc. to make a presentation on their proposed Memorandum of Understanding for the next three years. To date, Council has not received the draft Memorandum of Understanding and no arrangements have been made to make a presentation to Council as requested. Council should now consider whether it remains a financial contributor to the organisation. The 2017/2018 financial contribution was \$8,241.00. If Council resolves to cease participation as a financial contributor, it is intended that the contribution remain as a budget allocation for Council supported/organised arts activities within the Shire.

RECOMMENDATION

1. That Council advise Orana Arts Inc. that it no longer wishes to financially contribute to the organisation.
2. That the budget allocation of \$8,500.00 be retained for Council supported/organised art activities within the Shire.

Memorandum of Understanding

This document represents an agreement between

Orana Arts, Inc

and

Bogan Shire Council, Dubbo Regional Council, Gilgandra Shire Council, Mid-Western Regional Council, Narromine Shire Council and Warrumbungle Councils - being the six contributing Local Government Members of the Orana Arts

As a contributing member council of Orana Arts Inc., the details in this MOU provide an overview of the service agreement between Orana Arts and Local Government and reflects the partnership arrangements with regard to the Local Government Areas serviced.

Objectives and scope

Our mission is to support regional artists and communities to participate in and engage with their culture heritage and the arts. Our work and the strength of our projects is built on integrity, on our beliefs that we must always seek innovative approaches to creativity, to always aim at producing excellent work and how we ensure the best service delivery to our councils and their communities as well as advocating and implementing regional arts projects that activate social and economic advancement.

Local Government:

- Councils will provide funding support for each financial year on the agreed rate of per head population increased in line with CPI increases. This funding supports the organisation's core business of supporting and advocating regional artists and the arts communities with access to a skilled arts professional.
- Councils will nominate Stakeholders reference group delegates that will present councils and communities interests at the Stakeholders Reference Group meetings.
- Provide support for Orana Arts to achieve their arts and cultural developmental goals as per their strategic priorities. Orana Arts undertakings may include (but is not limited to) a communications program, support and administration, grant programs and partnership projects that contribute to local identity and enhance communities through the arts.
- Understand Orana Arts to undertake key strategic projects in response to community need as outlined in is approved Strategic Plan as presented to Create NSW.
- Acknowledge Orana Arts in partnership programs and promotions if required
- Actively encourage individuals, groups and organisation in their local area to access Orana Arts services.

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- Approach Orana Arts in with regards to any proposed programs and projects arising in the Local Government Area which require the support of Orana Arts Inc. subject to board approval of the program.

Orana Arts services will include but not limited to:

- Provide Information, advice referral contacts & resources
- Develop workshops and training pertaining to professional development
- Networking opportunities, forums and mentoring programs
- Support communities with project and partnership development
- Assisting or supporting funding applications
- Overseeing annual Country Arts Support Funding
- Available to assist in local governments plans for arts and culture development
- Representing the region as a state and national level

Review

Councils and the Board of Orana Arts agree to review the terms of this Memorandum of Understanding in line with the next triennial funding agreement with Create NSW.

Signatories to this Memorandum:

Local Government Representative:

Mayor

Date:

General Manager

Date:

Chair Orana Arts

Date:

Alicia Leggett, Executive Director Orana Arts

Date:

CONSTITUTION
OF
Orana Arts Incorporated

ABN 70 787 305 565

An association incorporated pursuant to the Associations
Incorporation Act 2009 (NSW)¹

¹ As at current version of the act: July 2017

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1. Preliminary

1.1 Name of the Incorporated Association

- (a) The name of the Association is Orana Arts Incorporated (Orana Arts Inc.).

1.2 Type of entity

- (a) Orana Arts Inc. is a not-for-profit association incorporated under the *Associations Incorporation Act 2009 (NSW)*

1.3 Definitions

- (a) In this constitution, words and phrases have the meaning set out in clause 30

2. Purposes and powers

2.1 Charitable Object and Purpose

- (a) Orana Arts Inc.'s object charitable object is to pursue the following purpose(s):
- (b) Focus on equitable and on-going interchange of arts and cultural practices including joint member arrangements and partnerships among the communities within the region, and between the region and other places.
- (c) Cultural engagement through the delivery of best practice governance and planning processes
- (d) Develop, foster, advocate for and promote the practice, education and appreciation of the arts;
- (e) Fostering and advocating for the incorporation of inclusive, accessible and equitable community cultural development values and practice
- (f) Participating in industry clustering/partnership initiatives and best-practice, locally and internationally
- (g) To be concerned with the gaining of financial assistance to aid the promotion of creative and other arts.
- (h) Strive for artistic excellence and seeks to provide a supportive environment to foster artistic growth and empower people through the arts.
- (i) Maintain a Public Fund

2.2 Powers

- (a) Subject to clause 2 and 3, Orana Arts Inc. has the following powers, which may only be used to carry out its purposes set out in clause 2.
- (b) the powers of an individual, and
- (c) all the powers of an association under the *Associations Incorporations Act 2009 (NSW)*

2.3 Not for profit - Property and Income

- (a) Orana Arts Inc. must not distribute any income or assets directly or indirectly to its members, except as provided in clause 29.

2.4 Binding

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This constitution imposes a legally binding obligation upon Orana Arts Inc. and upon each member to observe all of its Clauses.

2.5 Amending the constitution

- (a) Subject to clause 10, the members may amend this constitution by passing a special resolution in accordance with clause 13.
- (b) The members must not pass a special resolution that amends this constitution if passing it causes Orana Arts Inc. to no longer be a charity.

3. Public Fund

3.1 Establishment and Management

- (a) Orana Arts Inc. will establish and maintain a Public Fund known as the Orana Arts Public Fund (“ the public fund”)
- (b) Donations will be deposited into the public fund listed on the Register of Cultural Organisations. These monies will be kept separate from other funds of Orana Arts Inc. and will only be used to further the principal purpose of Orana Arts Inc.. Investment monies in this fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office.
- (c) The public fund will be administered by a subcommittee of people whom, because of their tenure of some public office or professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the cultural objectives of Orana Arts Inc..
- (d) No monies/assets of the fund will be distributed to members of office bearers of Orana Arts Inc., except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.
- (e) The Department responsible for the administration of the Register of Cultural Organisations will be notified of any proposed amendments or alterations to provisions of the public fund, to assess the effect of any amendments on the public fund’s continuing Deductible Gift Recipient status.
- (f) Receipts for gifts to the public fund must state:
 - i. the name of the public fund and that the receipt is for a gift made to the public fund;
 - ii. the Australian Business Number of Orana Arts Inc.;
 - iii. the fact that the receipt is for a gift; and
 - iv. any other matter required to be included on the receipt pursuant to the requirements of the Income Tax Assessment Act 1997.

4. Membership

4.1 Number

Orana Arts Inc. shall have a minimum of five (5) members with full voting rights.

4.2 Qualifications

- (a) Subject to clause 4, any person who supports the object and purposes of Orana Arts Inc. is eligible to apply for membership.
- (b) Orana Arts Inc. must comply with all legal and regulatory obligations that apply to Orana Arts Inc. when assessing eligibility of an applicant to become a member.
- (c) A person under the age of eighteen (18) years cannot become a member.
- (d) Any person appointed to the Board of Directors, having fulfilled the eligibility requirements of the Directors appointment will be deemed to have fulfilled the membership qualifications and will automatically be appointed as a member of Orana Arts Inc. and subject to membership clauses contained in this constitution.

4.3 Who can be a member

- (a) In this clause, 'person' means an individual or incorporated body.
- (b) A person who is not a current staff member of Orana Arts Inc.

4.4 Classes of members

- (a) The membership of Orana Arts Inc. consists of:
 - i. Individual members, and
 - ii. Organisational members.
- (b) Orana Arts Inc. may have any category of organisational members as determined by the Board of Directors, including Local Government Associations and other interested organisations or Associations.

4.5 Member votes

- (a) All classes of membership have rights of a member, including:
 - i. The right to one vote, per membership held (individual or organisational classes of membership).
- (b) A member or their representative is not entitled to vote at any general meeting unless all money due and payable to Orana Arts Inc. by the member have been paid.

4.6 Membership fee

- (a) The board will determine the annual membership fee to be paid by each member
- (b) Each member shall pay the annual membership fee to Orana Arts Inc. as and when decided by the board.
- (c) Subject to clause 4.6(d) if a person fails to pay the annual membership fee to Orana Arts Inc. within three months after the due date or forty-eight (48)

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hours prior to the AGM, whichever comes first, the member ceases to be a member.

- (d) If a member ceases to be a member under clause 4.6(c) and subsequently pays all the member's outstanding fees to Orana Arts Inc., the board may, if it considers fit and at its sole discretion, reinstate the members rights and privileges from the date on which the outstanding fees are paid, including the right to vote.
- (e) The board shall not be obliged to provide reasons for its decision to, or not to, reinstate the member's rights and privileges under clause 4.6(d).

5. Nomination for membership

5.1 A person, as defined in clause 4.3, may apply to become a member of Orana Arts Inc. by writing to the secretary stating that they:

- (a) want to become a member
- (b) support the purposes of Orana Arts Inc., and
- (c) agree to comply with Orana Arts Inc.'s constitution, including paying the membership fees as required.

5.2 Directors decide whether to approve membership

- (a) The directors must consider an application for membership within a reasonable time after the secretary receives the application.
- (b) If the directors approve an application, the secretary must as soon as possible:
 - i. enter the new member on the register of members, and
 - ii. write to the applicant to tell them that their application was approved, and the date that their membership started as per clause 5.2.
- (c) If the directors reject an application, the secretary must write to the applicant as soon as possible to tell them that their application has been rejected but does not have to give reasons.
- (d) For the avoidance of doubt, the directors may approve an application even if the application does not state the matters listed in clauses 5.1. In that case, by applying to be a member, the applicant agrees to those three matters.

5.3 When a person becomes a member

- (a) An applicant will become a member when they have been approved and recorded as being accepted as a member in the board meeting minutes; and are entered on the register of members.

6. Organisational Delegate

6.1 An organisation may only be represented in relation to the affairs of Orana Arts Inc. by its appointed delegate/s.

6.2 These delegate/s shall consist of a maximum of 3 natural persons (i.e. a human beings) to represent the associate member at general meetings (organisational representative).

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- 6.3 These delegate/s shall vote as one body, being the representatives of the organisational member who holds only one vote and are not permitted to vote as individuals as per clause 4.5.
- 6.4 An organisation may from time to time change its delegate/s and any alternate representative/s and must notify the secretary and/or the chair before the meeting begins.
- 6.5 An organisation must notify the secretary in writing of the name and address of a person as its delegate and, if it wishes to do so, the name and address of another person as an alternate representative and must notify the secretary of any changes thereto.
- 6.6 The document and/or email must be recognised as being official communication from the organisational member either using the appropriate member domain email address and/or letterhead.
- 6.7 Orana Arts Inc. will only recognise the delegate, or any alternate representative of an organisation duly notified in writing to the secretary.
- 6.8 An organisational representative has authority to represent the organisational member:
- (a) If appointed for a particular general meeting, until the conclusion of that general meeting, or
 - (b) Otherwise, until the appointment of the organisational representative is revoked by the organisational member and notice of this revocation is given by the organisational member to the Secretary in accordance with clause 6.4.

7. Cessation of Membership

- 7.1 A person immediately stops being a member if they:
- (a) die
 - (b) resign, by writing to the secretary in which the resignation is effective immediately, unless there is another later date resignation date stated
 - (c) are expelled under clause 9, or
 - (d) have not responded within three months to a written request from the secretary that they confirm in writing that they want to remain a member.
 - (e) Despite their resignation, any member who resigns from Orana Arts Inc. remains liable to pay any outstanding membership fees to Orana Arts Inc.
 - (f) The outstanding fees referred to in clause 4.6 may be recovered as a debt due by the member to Orana Arts Inc.

8. Members Register

- 8.1 Orana Arts Inc. must establish and maintain a register of members. The register of members must be kept by the secretary and must contain:
- (a) for each current member:
 - i. name, and/or
 - ii. email and/or postal address,
 - iii. any alternative address nominated by the member for the service of notices, and
 - iv. date the member was entered on to the register.
 - (b) for each person who stopped being a member in the last 7 years:
 - i. name, and/or
 - ii. email and/or postal address,
 - iii. any alternative address nominated by the member for the service of notices, and
 - iv. dates the membership started and ended.
- 8.2 Within twenty-eight (28) days after a change in membership the Secretary shall ensure that any membership change is recorded in the members register.
- 8.3 Orana Arts Inc. must give current members access to the register of members.
- (a) The register of members must be kept at the principal place of administration of Orana Arts Inc. and must be open for inspection, free of charge, by any member of Orana Arts Inc. at any reasonable hour.
 - (b) Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.
 - (c) The board may require a member who requests a copy of the members register under clause 8.1 to provide a statutory declaration to the Secretary setting out the purpose of the request and declaring that the purpose is connected with Orana Arts Inc.'s affairs.

9. Dispute resolution and disciplinary procedures

- 9.1 Dispute resolution
- (a) The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a member or director and:
 - i. one or more members
 - ii. one or more directors (as members), or
 - iii. Orana Arts Inc.
 - (b) A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 9 until the disciplinary procedure is completed.
 - (c) Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
 - (d) If those involved in the dispute do not resolve it under clause 9.1(c) they must within 10 days:

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- i. tell the directors about the dispute in writing
- ii. agree or request that a mediator be appointed as per clause 9.2, and
- iii. attempt in good faith to settle the dispute by mediation.

9.2 Mediation

- (a) The mediator must:
 - i. be chosen by agreement of those involved, or
 - ii. where those involved do not agree:
- (b) for disputes between members, a person chosen by the directors, or
- (c) for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which Orana Arts Inc. has its registered office.
- (d) A mediator chosen by the directors under clause 9.2(a)
 - i. may be a member or former member of Orana Arts Inc.
 - ii. must not have a personal interest in the dispute, and
 - iii. must not be biased towards or against anyone involved in the dispute.
- (e) When conducting the mediation, the mediator must:
 - i. allow those involved a reasonable chance to be heard
 - ii. allow those involved a reasonable chance to review any written statements
 - iii. ensure that those involved are given natural justice, and
 - iv. not make a decision on the dispute.

9.3 Disciplining members

- (a) In accordance with this clause, the directors may resolve to warn, suspend or expel a member from Orana Arts Inc. if the directors consider that:
 - i. the member has breached this constitution, or
 - ii. the member's behaviour is causing, has caused, or is likely to cause harm to Orana Arts Inc.
- (b) At least 14 days before the directors' meeting at which a resolution under clause 9.3(a) will be considered, the secretary must notify the member in writing:
 - i. that the directors are considering a resolution to warn, suspend or expel the member
 - ii. that this resolution will be considered at a directors' meeting and the date of that meeting
 - iii. what the member is said to have done or not done
 - iv. the nature of the resolution that has been proposed, and
 - v. that the member may provide an explanation to the directors, and details of how to do so.
- (c) Before the directors pass any resolution under clause 9.3(a), the member must be given a chance to explain or defend themselves by:
 - i. sending the directors, a written explanation before that directors' meeting, and/or
 - ii. speaking at the meeting.
- (d) After considering any explanation under clause 9.3(c), the directors may:
 - i. take no further action

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- ii. warn the member
 - iii. suspend the member's rights as a member for a period of no more than 12 months
 - iv. expel the member
 - v. refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this clause)
 - vi. require the matter to be determined at a general meeting, or
- (e) The directors cannot fine a member
 - (f) The secretary must give written notice to the member of the decision under clause 9.3(d) as soon as possible.
 - (g) Disciplinary procedures must be completed as soon as reasonably practical.
 - (h) There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

9.4 Members right to appeal

- (a) Within fourteen (14) days of receiving notice of the board's decision under clause 9.3(d) expelled or suspended member may appeal the board's suspension or expulsion decision by giving written notice of the expelled or suspended member's intention to seek:
 - i. An appeal of the board's suspension or expulsion decision, and
 - ii. The appointment of a mediator under clause 9.2.
- (b) On receipt of a notice from a complainant under Rule 9.4(a)i, the secretary must notify the Board, who must convene a general meeting of Orana Arts Inc. to be held within 28 days after the date on which the secretary received the notice.
- (c) At a general meeting of Orana Arts Inc. convened under Rule 9.4(b).
 - i. No business other than the question of the appeal is to be transacted;
 - ii. The Board and the complainant must be given the opportunity to state their respective cases orally or in writing or both, and
 - iii. The members present (in the case of a complainant member, delegate or alternate representative) or the individual members present (in the case of a complainant individual member) must vote by secret ballot on the question whether the resolution should be confirmed or revoked.

9.5 Inability to resolve dispute

- (a) If a dispute cannot be resolved under the procedures set out in clauses 9.3 and 9.4, any party to the dispute may apply to the Administrative Tribunal to determine the dispute in accordance with the Associations Incorporations Act or otherwise at law.

10. General meetings of members

10.1 Definition

- (a) A General meeting is a meeting of the members of Orana Arts Inc.

10.2 Two types of general meeting

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- (a) There are two types of general meetings, namely:
 - i. An annual general meeting, and
 - ii. A special general meeting (also referred to as a Stakeholder Reference Group meeting)

10.3 Annual general meeting

- (a) The annual general meeting, must be held:
 - i. at least once in every calendar year
 - ii. within six (6) months of the final date of Orana Arts Inc. financial year
 - iii. If Orana Arts Inc. requires a longer period to hold the annual general meeting, then they shall make application to the Commissioner no later than four (4) months after the end of the financial year.
- (b) Even if these items are not set out in the notice of meeting, the business of an annual general meeting may include:
 - i. Confirmation of the minutes of the previous annual general meeting
 - ii. Confirmation of the minutes of any special general meeting/Stakeholder Reference Group held since the previous annual general meeting (if the minutes of that special general meeting/Stakeholder Reference Group have not yet been confirmed),
 - iii. Confirmation of any special resolution made by members since the previous annual general meeting (if the minutes of that special members resolution have not yet been confirmed),
 - iv. a review of Orana Arts Inc.'s activities
 - v. a review of Orana Arts Inc.'s finances
 - vi. the election of directors, and
 - vii. the appointment and payment of auditors

10.4 Special General Meeting / Stakeholder Reference Group

- (a) Any meeting of members that is not an annual general meeting is called a special general meeting and may also be referred to as the Stakeholder Reference Group.
- (b) A special general meeting/Stakeholder Reference Group:
 - i. Shall have a specific purpose,
 - ii. May deal with business that cannot wait until the annual general meeting, and
 - iii. May consider a range of membership matters; Orana Arts Inc. strategic matters such as feedback; consultation and planning matters; and may also include matters that shall be decided by a special resolution.
 - iv. Where the directors call the meeting, the manner of calling, the quorum and procedure of a special general meeting/Stakeholder Reference Group are the same as for an annual general meeting, although the business to be conducted will be different.

11. Calling of General meetings

11.1 General meetings called by directors

- (a) The directors may call a general meeting at any time they deem fit.

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11.2 General meetings called by members

- (a) If member/s with at least 5% of the total number of members of Orana Arts Inc. and entitled to vote, make a written request to Orana Arts Inc. for a general meeting to be held, the directors must:
 - i. within 21 days of the members' request, give all members notice of the general meeting, and
 - ii. hold the general meeting within 2 months of the members' request.
- (b) In this written request, the members who have made the request for a general meeting must:
 - i. state in the request any resolution to be proposed at the meeting
 - ii. sign the request, including signatures of those supporting members, and
 - iii. give the request to Orana Arts Inc.
- (c) Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.
- (d) If the directors do not call the meeting within 21 days of being requested under clause 11.2(a), 50% or more of the members who made the request may call and arrange to hold a general meeting.
- (e) To call and hold a meeting under clause 11.2(a), the members must:
 - i. as far as possible, follow the procedures for general meetings set out in this constitution
 - ii. call the meeting using the list of members on Orana Arts Inc.'s member register, which Orana Arts Inc. must provide to the members making the request at no cost, and
 - iii. hold the general meeting within three months after the request was given to Orana Arts Inc.
- (f) Orana Arts Inc. must pay the members who request the general meeting any reasonable expenses they incur because the directors did not call and hold the meeting.

11.3 Notice of any general meeting

- (a) Notice of any general meeting must be given to:
 - i. each member entitled to vote at the meeting
 - ii. each director, and
 - iii. the auditor
- (b) Notice of any general meeting must be provided in writing at least 21 days before the meeting.
- (c) Subject to clause 11.3(d), notice of any general meeting may be provided less than 21 days before the meeting, but no less than 14 days prior if:
 - i. for an annual general meeting, all the members entitled to attend and vote at the annual general meeting agree beforehand, or
 - ii. for any other special general meeting/Stakeholder Reference Group, members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (d) Notice of any general meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
 - i. remove a director
 - ii. appoint a director in order to replace a director who was removed, or

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- iii. remove an auditor.
- (e) Notice of any general meeting must include:
 - i. the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this)
 - ii. the general nature of the meeting's business
 - iii. if applicable, that a special resolution is to be proposed and the words of the proposed resolution
 - iv. a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
 - a) the proxy does not need to be a member of Orana Arts Inc.
 - b) the proxy form must be delivered to Orana Arts Inc. at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
 - c) the proxy form must be delivered to Orana Arts Inc. at least 48 hours before the meeting.
- (f) If a general meeting is adjourned for one month or more, the members must be given new notice of the resumed meeting.

12. Holding General meetings

12.1 Quorum at general meetings

- (a) 75% of members personally present and entitled to vote shall constitute a quorum for general meeting. This quorum must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one member).
- (b) No business may be conducted at a general meeting if a quorum is not present.
- (c) If there is no quorum present within 30 minutes after the starting time stated in the notice of general meeting, the general meeting is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
 - i. if the date is not specified – the same day in the next week
 - ii. if the time is not specified – the same time, and
 - iii. if the place is not specified – the same place.
- (d) If at the adjourned annual general meeting or special general meeting/Stakeholder Reference Group a quorum is not present within half an hour of the time appointed for the commencement of the meeting, the members present are to constitute a quorum

12.2 Auditor's right to attend meetings

- (a) The auditor (if any) is entitled to attend any general meeting and to be heard and respond to the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- (b) Orana Arts Inc. must give the auditor any communications relating to the general meeting that a member of Orana Arts Inc. is entitled to receive.

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12.3 Representatives of members

- (a) An incorporated member may appoint as a representative:
 - i. one individual to represent the member at general meetings and to sign circular resolutions under clause 13.6, and
 - ii. the same individual or another individual for the purpose of being appointed or elected as a director.
- (b) The appointment of a representative by a member must:
 - i. be in writing
 - ii. include the name of the representative
 - iii. be signed on behalf of the member, and
 - iv. be given to Orana Arts Inc. or, for representation at a meeting, be given to the chairperson before the meeting starts.
- (c) A representative has all the rights of a member relevant to the purposes of the appointment as a representative.
- (d) The appointment may be standing (ongoing).

12.4 Using technology to hold meetings

- (a) Orana Arts Inc. may hold a general meeting at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate fully in discussions and decisions as they happen, including to hear and be heard.
- (b) Participation of each member attending shall be made known to all other members in attendance or using technology.
- (c) Anyone using this technology is taken to be present in person at the meeting, and
- (d) Continues to be present at the annual general meeting or special general meeting/Stakeholder Reference Group for the purposes of establishing a quorum, until the member notifies the other members that they are no longer taking part in the general meeting

12.5 Electronic Voting

This clause applies to a ballot for determination of a matter by Orana Arts Inc. that is to be conducted by means of electronic voting.

- (a) Electronic voting is to be by means of email
- (b) The committee must
 - i. set out details of the electronic vote in a statement
 - ii. fix the dates for forwarding the email and voting papers to members,
 - iii. set the closing date, and
 - iv. appoint a returning officer who is not a voting board member of Orana Arts Inc., but may be the ex-officio, independent directors or a member.
- (c) The returning officer shall:
 - i. develop a roll of names and addresses of the members who are eligible to vote
 - ii. ensure that the form for the electronic ballot paper contains:
 - a) instructions for completing the voting paper, and
 - b) the question to be determined, and

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- c) the means of indicating the voter's choice on the question to be determined.
- (d) The returning officer must, at least 14 days (or 21 days in the case of a special resolution) before the date fixed for the closing of the ballot, give each person entitled to vote:
 - i. access to an email notice that complies with this clause, and
 - ii. gives access to information about:
 - a) how the vote is to be completed, and
 - b) the closing date of the vote, and
 - c) If voting is by email—the email address where their vote is to be returned.
- (e) Each person entitled to vote must vote in accordance with the instructions contained in the information.
- (f) The returning officer must ensure
 - i. that all email votes are stored appropriately,
 - ii. That they conduct verification of the email vote to ensure that the person submitting the vote is entitled to vote, and
 - iii. That the vote recorded is either accepted or if informal and does not comply with the instructions, rejected and recorded as an informal vote
- (g) The returning officer will
 - i. Ascertain the results of the email vote
 - ii. Make out and sign a statement of the result of the vote, and provide this to the committee
 - iii. Retain all records of the vote and all rolls for a period of not less than 8 weeks after the closing date of the vote, unless directed by the board to retain these records for a longer period.
- (h) The chair of the board will ensure that
 - i. The results of the vote are announced
 - ii. The results of the vote are recorded
 - iii. At the next general meeting of members, that the record is confirmed.

12.6 Chairperson for general meetings

- (a) The elected chairperson is entitled to chair general meetings.
- (b) The members present and entitled to vote at a general meeting may choose a director or member to be the chairperson for that meeting if:
 - i. there is no elected chairperson, or
 - ii. the elected chairperson is not present within 30 minutes after the starting time set for the meeting, or
 - iii. the elected chairperson is present but says they do not wish to act as chairperson of the meeting.

12.7 Role of the chairperson

- (a) The chairperson is responsible for the conduct of the general meeting, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor).

12.8 Adjournment of meetings

- (a) If a quorum is present, a general meeting must be adjourned if a majority of members present direct the chairperson to adjourn it.
- (b) Only unfinished business may be dealt with at a meeting resumed after an adjournment.

13. Members' resolutions and statements

13.1 Definition

- (a) Members may make 2 types of resolutions
 - i. An ordinary resolution, made during the course of any general meeting by any member, and one that is not a special resolution as described in clause 13.2.
 - ii. A special resolution, of which must comply with clause 13.

13.2 Special resolution

- (a) Shall be necessary to:
 - i. Amend the name of Orana Arts Inc.,
 - ii. Amend the constitution,
 - iii. Affiliate Orana Arts Inc. with another body,
 - iv. Transfer the incorporation of Orana Arts Inc.,
 - v. Amalgamate Orana Arts Inc. with one or more other incorporated associations,
 - vi. Voluntarily wind up Orana Arts Inc.,
 - vii. Cancel the incorporation of Orana Arts Inc., or
 - viii. Request that a statutory manager be appointed to Orana Arts Inc., and
- (b) Shall:
 - i. Be passed at an annual general meeting or special general meeting/Stakeholder Reference Group at which the quorum specified in Clause 12.1 is present, and

13.3 Calling of Special Resolution

- (a) The board may agree on, and call for a special resolution any time as required
- (b) Members with at least 5% of the total number of members of Orana Arts Inc., and entitled to vote on a resolution may give:
 - i. written notice to Orana Arts Inc. of a resolution they propose to move at a general meeting (members' resolution), and/or
 - ii. a written request to Orana Arts Inc. that Orana Arts Inc. give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a general meeting (members' statement).

13.4 Notice of Special Resolution

- (a) The board must set out the wording of their proposed resolution, or
- (b) A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.

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- i. A request to distribute a members' statement must set out the statement to be distributed and be signed by all members making the request, or
 - ii. Separate copies of a document setting out the notice or request may be signed by members if the wording is the same in each copy.
- (c) If Orana Arts Inc. has been given notice of a members' resolution under clause 13.3(b) the resolution must be considered at the next general meeting held more than two months after the notice is given.

13.5 Notice of proposed resolution or distribute statement

- (a) If Orana Arts Inc. has been given a notice or request under clause 13.4:
- i. in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at Orana Arts Inc.'s cost, or
 - ii. too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by Orana Arts Inc. in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a general meeting, the members may pass a resolution that Orana Arts Inc. will pay these expenses.
- (b) Orana Arts Inc. does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:
- i. it is more than 1,000 words long
 - ii. the directors consider it may be defamatory
 - iii. clause 13.5(a)ii applies, and the members who proposed the resolution or made the request have not paid Orana Arts Inc. enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members, or
 - iv. in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a general meeting or is otherwise not a valid resolution able to be put to the members.

13.6 Circular resolutions of members

- (a) Circular resolutions cannot be used:
- i. for a resolution to remove an auditor, or remove a director
 - ii. for passing a special resolution, or
 - iii. where the Associations Incorporations Act 2009 (NSW) or this constitution requires a meeting to be held.
- (b) Subject to clause 13.6(a), the directors may put a resolution to the members to pass a resolution without a general meeting being held (a circular resolution).
- (c) The Secretary may arrange for a member's circular resolution to be sent by email to members and members may agree to the members circular resolution by sending a reply email to the Secretary including the text of the members circular resolution in their reply.

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- (d) A circular resolution is passed if all the members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 13.6(e) or clause 13.6(f)
- (e) Members may sign:
 - i. a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
 - ii. separate copies of that document, as long as the wording is the same in each copy.
- (f) A member's circular resolution is passed if all the members entitled to vote on the resolution sign or agree to the members circular resolution by:
- (g) The Secretary shall ensure that the records of Orana Arts Inc. reflect that:
 - i. That a member's circular resolution has been made,
 - ii. The records of the circular resolution are presented for confirmation at the next general meeting as per clause 10.3(b)

14. Voting by members present at general meetings

14.1 Number of votes

- (a) As per clause 4.5 all members shall hold only one vote, regardless of the numbers of organisational delegates present.

14.2 Challenge to member's right to vote

- (a) A member or the chairperson may only challenge a person's right to vote at that meeting.
- (b) If a challenge is made under clause 14.2(a), the meeting chairperson must decide whether or not the person may vote. The meeting chairperson's decision is final.

14.3 How voting is carried out

- (a) Voting must be conducted and decided by:
 - i. a show of hands
 - ii. a vote in writing, or
 - iii. another method chosen by the chairperson that is fair and reasonable in the circumstances.
- (b) Before a vote is taken, the meeting chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- (c) On a show of hands, the meeting chairperson's decision is conclusive evidence of the result of the vote.
- (d) The meeting chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands, unless the membership decides otherwise.
- (e) In the case of an equality of votes at an general meeting, the meeting chairperson is entitled to exercise a second or casting vote.

14.4 When and how a vote in writing must be held

- (a) A vote in writing may be demanded on any resolution instead of, or after a vote by a show of hands by:

- i. at least five members present, or
 - ii. the meeting chairperson.
- (b) A vote in writing must be taken when and how the meeting chairperson directs, unless clause 14.4(c) applies.
- (c) A vote in writing must be held immediately if it is demanded under clause 14.4:
 - i. for the election of a meeting chairperson under clause 12.6(b), or
 - ii. to decide whether to adjourn the meeting.
- (d) A demand for a vote in writing may be withdrawn.

15. Proxy voting at general meetings

15.1 Appointment of proxy

- (a) A member may appoint a proxy to attend and vote at a general meeting on their behalf.
- (b) A proxy does not need to be a member.
- (c) A proxy appointed to attend and vote for a member has the same rights as the member to:
 - i. speak at the meeting
 - ii. vote in a vote in writing (but only to the extent allowed by the appointment), and
 - iii. join in to demand a vote in writing under clause 14.4(a).
- (d) An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
 - i. the member's name and address
 - ii. Orana Arts Inc.'s name
 - iii. the proxy's name or the name of the office held by the proxy, and
 - iv. the meeting(s) at which the appointment may be used.
- (e) A proxy appointment may be standing (ongoing), unless the proxy forms state otherwise
- (f) Proxy forms must be received by Orana Arts Inc. at the address stated in the notice under clause 11.3(e)iv, or at Orana Arts Inc.'s registered email or postal address at least 48 hours before a meeting.
- (g) A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
- (h) Unless Orana Arts Inc. receives written notice before the start or resumption of a general meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
 - i. dies
 - ii. is mentally incapacitated
 - iii. revokes the proxy's appointment, or
 - iv. revokes the authority of a representative or agent who appointed the proxy.
- (i) A proxy appointment may specify the way the proxy must vote on a particular resolution.

15.2 Voting by proxy

- (a) When a vote in writing is held, a proxy:
 - i. does not need to vote, unless the proxy appointment specifies the way they must vote
 - ii. if the way they must vote is specified on the proxy form, must vote that way, and
 - iii. if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

16. Directors Eligibility and Quaifications

16.1 Number of directors

- (a) The directors shall include no less than three (3) and no more than five (5) directors (excluding ex-officio and/or independent director positions)

16.2 Eligibility for nomination as a director

A person is eligible for nomination as a director of Orana Arts Inc. if they:

- (a) Are a natural person i.e. a human being
- (b) Aged over 18
- (c) Are a member of Orana Arts Inc., or a delegate of a member of Orana Arts Inc. (appointed under clause 6)
- (d) Give Orana Arts Inc. their signed consent to act as a director of Orana Arts Inc.
- (e) Meet the Qualifications to be a director as provided for in clause 16, and
- (f) Meet the additional eligibility requirements set by members which they shall, from time to time amend, to meet a need such as a skill and/or geographical representation. This additional eligibility requirement will be agreed upon by the members prior to the call for nominations as directors and this detail will be made available to nominees and members, via the nomination form.

16.3 A member is not qualified for election as a director if:

- (a) They are a current employee of Orana Arts Inc.,
- (b) In the previous five years, they have been convicted of, or imprisoned for:
 - i. An indictable offence under the laws of any state or territory of the Commonwealth of Australia in relation to the promotion, formation or management of a body corporate,
 - ii. An offence involving fraud or dishonesty punishable by imprisonment for a period of three (3) months or more under the laws of any state or territory of the Commonwealth of Australia, or
- (c) They are:
 - i. bankrupt, or
 - ii. a person whose affairs are under insolvency laws (unless the person has obtained and provide evidence of the consent of the Commissioner)
- (d) a person who has committed a breach of the following director's duties (Unless they have obtained and provide evidence of the consent of the Commissioner):
 - i. Duty of care and diligence,
 - ii. Duty of good faith and proper purpose,

- iii. Duty to not improperly use their position,
 - iv. Duty to ensure that Orana Arts Inc. does not incur a debt while insolvent, or
 - v. Duty to not improperly use information gained while a director.
- (e) A director who has been suspended as a member under Clause 9 is not qualified to be a director and act in the position of a director until their period of suspension as a member has expired.
- (f) They have been on the board of a company, or an association in the last three (3) years that is proven to have been wound-up for reasons of insolvency or bankruptcy.

17. Nomination for director

17.1 Nomination for appointment as directors

- (a) Nominating directors must fulfil the director eligibility and qualification requirements outlined in the nomination form, and this constitution under clause 16.
- (b) The Secretary must ensure a notice is sent to all members, calling for nominations for election as a director and specifying the date for the close of nominations, at least fourteen (14) days before the date for the close of nominations.
- (c) Nominations for election as director shall be:
 - i. In writing, and
 - ii. Delivered to the Secretary on or before the date for the close of nominations.
- (d) If a nomination for election as a director is not made in accordance with Clauses 17.1(a) to 17.1(c) the nomination shall be invalid and the member shall not be eligible for election as a director, unless the members deem otherwise.

18. Election, Appointment and Term of Office

18.1 Composition of board

- (a) The directors shall include:
 - i. The Chairperson,
 - ii. The Vice Chairperson
 - iii. The Secretary,
 - iv. The Treasurer, (collectively called the officeholders), and
 - v. One executive member
 - vi. Non-voting ex-officio and non-voting independent directors under clause 18.3 and 18.4.

18.2 Election

- (a) The members may elect a director by a resolution passed in a general meeting.

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- i. Each of the directors must be appointed by a separate resolution, unless:
 - a) the members present have first passed a resolution that the appointments may be voted on together, and
 - b) no votes were cast against that resolution.

18.3 Ex-officio role

- (a) The CEO of Orana Arts Inc. is appointed as an ex-officio member of the board
- (b) Ex-officio roles are not eligible to cast any vote or be included in any count for voting or quorum requirements for any board or general meeting.

18.4 Independent directors.

- (a) The purpose of independent director is to fill a specific skill or knowledge requirement to contribute to robust discussions and offer varying viewpoints. At no time will any director or the board, deem the independent director's contribution to be professional advice, unless that independent director is appointed under a formal pro-bono arrangement and is protected with their own professional indemnity insurance.
 - i. Independent directors must fulfil the director eligibility and qualification requirements under clause 16.
 - ii. The directors have the power to appoint up two (2) persons as independent directors and co-opt them to the board for a specified period not exceeding 12 months, unless the board agree otherwise.
 - iii. Persons holding status as independent directors are not eligible to cast any vote or be included in any count for voting or quorum requirements, regardless of their status, or not, as a member of Orana Arts Inc. This does not prevent them from exercising rights they may have as a member at general meetings.

18.5 Casual vacancy

- (a) Should a casual vacancy exist (where there are less directors than provided for in clause 16.1), the directors will seek approval from the member to appoint another person as a director to fill a casual vacancy if that person fulfils requirements of director eligibility and qualification under clause 16.
- (b) The appointment of the person filling the casual vacancy shall happen either at a general meeting, or via a member's circular resolution using technology under clause 13.6.
- (c) The appointment shall be at a term determined by the members either until the next annual general meeting; as per terms of office set out under clause 18.6 or another date set by the nominee and/or the board.
- (d) If the number of directors is reduced to fewer than three (3) which is less than the number required for a quorum, the continuing directors may act for the purpose of increasing the number of directors to three (3), but for no other purpose.

18.6 Term of office

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- (a) A director's term of office is two years, commencing on the date at which they were elected, and ends on the date that:
 - i. they retire,
 - ii. they are expelled or suspended or where membership is terminated under Clause 9.3.
 - iii. where their circumstances change, and they can no longer meet the director eligibility and qualification requirements under clause 16.
 - iv. at the conclusion of their maximum consecutive term under clause 18.6(b).
- (b) A director must not serve any more than three consecutive, two-year terms being a total of six (6) years.
- (c) A director who has not served a consecutive term of six (6) years, may be eligible for re-election if the majority of members pass a resolution to accept their nomination for re-election.
- (d) A director who has served for a continuous period of six (6) years, may only be re-appointed or re-elected if a period of one calendar year has passed since the end of the director's continuous period of six (6) years as a director.
- (e) A director may not hold office as an office-bearer in any one position for a term exceeding two consecutive years in that office.
- (f) Other than a director appointed under clause 18.5, a director's term of office starts at the end of the annual general meeting at which they are elected and ends at the end of the annual general meeting at which they retire.
- (g) Terms of office for appointments of a person to fulfil a casual vacancy shall be set at the time the person is appointed.

18.7 Register of board directors

- (a) Orana Arts Inc. will maintain a register of board directors.
- (b) The register must be updated within twenty-eight (28) days after any change in directors occur.
- (c) The register will be made available for inspection, at reasonable hours, by any person without a payment of a fee
- (d) The register will contain details as per clause 8 and also include:
 - i. The date on which each such member was elected to the position and/or office, and
 - ii. The date on which each such member ceased to hold the position and/or office.

19. Resignation and Removal

19.1 Resignation and Removal at AGM

- (a) At each annual general meeting:
 - i. any director appointed by the directors to fill a casual vacancy or as an additional director must retire, and
 - ii. Each director must retire at least once every three years.
- (b) A director who retires under clause 18.6(a) may nominate for election or re-election, subject to clause 16 and clause 18.6(b) to 18.6(g)

19.2 When a director is not a director

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- (a) A director stops being a director if they:
 - i. give written notice of resignation as a director to Orana Arts Inc., upon which their resignation will be effective immediately unless another date is specified.
 - ii. die
 - iii. am expelled or suspended or where membership is terminated under Clause 9.3.
 - iv. at the conclusion of their maximum consecutive term under clause 18.6(b) .
 - v. are absent for three (3) consecutive directors' meetings without approval from the directors, or
 - vi. become ineligible to be a director of Orana Arts Inc. as per the director eligibility and qualification under clause 16; and/or under the Associations Incorporations Act 2009 (NSW) and/or the ACNC Act.

19.3 Removal of director

- (a) A director may only be removed from his or her position on the board by ordinary resolution at a general meeting
- (b) The director who faces removal is to be allowed a full and fair opportunity at the general meeting to review the proposed ordinary resolution and state their case as to why they should not be removed from their position on the board.
- (c) Where all directors are removed by ordinary resolution at a general meeting, the members shall, at the same general meeting, elect an interim board. The interim board shall, within two (2) months, hold a general meeting for the purpose of electing a new board.

19.4 Assets and records of director who ceases to be a director

- (a) Upon ceasing to be a director, outgoing directors are responsible for transferring all relevant assets and association's books to the chair of Orana Arts Inc. within fourteen (14) days of ceasing to be a director.

20. Powers of directors

20.1 Powers of directors

- (a) The directors are responsible for managing and directing the activities of Orana Arts Inc. to achieve the purposes set out in clause 2.
- (b) The directors may use all the powers of Orana Arts Inc. except for powers that, under the Associations Incorporations Act 2009 (NSW) or this constitution, may only be used by members.
- (c) The directors must decide on the responsible financial management of Orana Arts Inc. including:
 - i. any suitable written delegations of power under clause 20.2, and
 - ii. how money will be managed, such as how electronic transfers, credit charges, negotiable instruments or cheques must be authorised and signed or otherwise approved.

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- (d) The directors cannot remove a director or auditor. Directors and auditors may only be removed by a members' resolution at a general meeting.

20.2 Delegation of directors' powers

- (a) The directors may delegate, or cancel the delegation of, any of their powers and functions to a committee, a director, an employee of Orana Arts Inc. (such as the Chief Executive Officer) or any other person, as they consider appropriate.
- (b) The board must ensure those being delegated to are aware of their responsibilities and liabilities as an officer of Orana Arts Inc., acting on behalf of the directors.
- (c) Despite a delegation under this clause, the board may continue to exercise all its functions, including any delegated functions, and at all times they will remain responsible for the exercise of those functions.

20.3 Execution of documents

- (a) Orana Arts Inc. may execute a document without using a common seal if the document is signed by:
 - i. two persons either directors or officers of Orana Arts Inc. who have been authorised through formal delegations to execute these documents.

21. Duties of directors

21.1 Duties of directors

- (a) The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:
 - i. Exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of Orana Arts Inc.,
 - ii. Act in good faith in the best interests of Orana Arts Inc.,
 - iii. Act for a proper purpose,
 - iv. Act to further the charitable object and purposes of Orana Arts Inc.
 - v. Act in the best interests of Orana Arts Inc.
 - vi. Not misuse information gained in their role as a director,
 - vii. Disclose any perceived or actual material conflicts of interest,
 - viii. Ensure that the financial affairs of Orana Arts Inc. are managed responsibly, and
 - ix. Not allow Orana Arts Inc. to operate while insolvent
 - x. Not improperly use information obtained because they are or were a director, and
 - xi. Not improperly use their position of director, to:
 - a) Gain an advantage for themselves or another person, or
 - b) Cause detriment to Orana Arts Inc..

21.2 Conflicts of interest

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- (a) A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered:
 - i. to the other directors, or
 - ii. if all of the directors have the same conflict of interest, to the members at the next general meeting, or at an earlier time if reasonable to do so.
- (b) The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- (c) Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided under clause (d):
 - i. be present at the meeting while the matter is being discussed, or
 - ii. vote on the matter.
- (d) A director may still be present and vote if:
 - i. their interest arises because they are a member of Orana Arts Inc., and the other members have the same interest
 - ii. their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of Orana Arts Inc. under clause 27.
 - iii. their interest relates to a payment by Orana Arts Inc. under clause 27, or any contract relating to an indemnity that is allowed under the Associations Incorporations Act 2009 (NSW)
 - iv. the directors who do not have a material personal interest in the matter pass a resolution that:
 - a) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of Orana Arts Inc., and
 - b) says that those directors are satisfied that the interest should not stop the director from voting or being present whilst the matter is discussed.

22. Office-bearer responsibilities

22.1 Chairperson

- (a) The board must elect a director as the Chairperson.
- (b) The Chairperson:
 - i. Must ensure that they consult with the Secretary and/or CEO regarding the business to be conducted at each board meeting and each general meeting,
 - ii. May call board meetings under clause 23.2,
 - iii. May chair board meetings under clause 23.4
 - iv. May chair annual general meetings and special general meetings/Stakeholder Reference Group under clause 12.6 and performs the role under clause 12.7
 - v. Must ensure that the minutes of general meetings or board meetings are reviewed and signed as correct, and
 - vi. Must carry out any other duties required of the Chairperson by this constitution and any position description provided by Orana Arts Inc.

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22.2 Secretary

- (a) The Secretary shall ensure the:
- i. Maintenance of a current delegation of authority,
 - ii. The co-ordination of correspondence of Orana Arts Inc.,
 - iii. Calling and holding of general meetings and board meetings,
 - iv. In consultation with the Chairperson, preparation of notices of general meetings and board meetings and the details of business to be conducted at each such meetings,
 - v. Maintenance of the members register,
 - vi. Maintenance of the record of officeholders,
 - vii. Maintenance of the minutes,
 - viii. Safe custody of Orana Arts Inc.'s books (with the exception of the accounting records),
 - ix. Safe custody and management of Orana Arts Inc.'s record keeping systems in hardcopy form, electronic form or a combination of forms, taking into account:
 - a) The nature of information to be stored and retrieved,
 - b) The security and access of files and information (particularly computer records),
 - c) The validity and reliability of the information collected and the system on which it is recorded,
 - d) The resources and training required, and
 - e) The length of time that the records should be kept (minimum of 7 years or otherwise as required by other Acts or Regulations),
 - x. Recording of full and correct minutes of board meetings and general meetings and their maintenance in the minutes,
 - xi. Compliance with all Fair Trading and, if applicable, ACNC reporting requirements, including the following:
 - a) Forwarding an annual information statement, and
 - b) Forwarding a financial report as required by the charitable status under the ACNC Act, or their financial tier status as defined in the Associations Incorporations Act 2009 (NSW)
 - xii. Compliance with all reporting obligations to the ACNC and the Department of Fair Trading as required from time to time.
 - xiii. Performance of any other duties required of the Secretary by this constitution. and any position description provided by Orana Arts Inc.

22.3 Treasurer

- (a) The Treasurer shall ensure the:
- i. Collection of all moneys payable to Orana Arts Inc. are collected and the issuing of receipts in the name of Orana Arts Inc. for those monies,
 - ii. Payment of all monies received by Orana Arts Inc. into the account or accounts of Orana Arts Inc. as the board may direct from time to time,
 - iii. Timely payment of the expenses of Orana Arts Inc. from the funds of Orana Arts Inc. with the authority of the board or a general meeting,
 - iv. Taking out by Orana Arts Inc. of all necessary insurances.
 - v. Maintenance by Orana Arts Inc. of financial records that comply with the requirements of Clause 24.2

Attachment No 2

- vi. Safe custody of financial records and any other relevant association records in hardcopy form, electronic form or a combination of forms, taking into account:
 - a) The nature of information to be stored and retrieved,
 - b) The security and access of files and information (particularly computer records),
 - c) The validity and reliability of the information collected and the system on which it is recorded,
 - d) The resources and training required, and
 - e) The length of time that the records should be kept (minimum of 7 years or otherwise as required by other Acts or Regulations),
- (b) Co-ordination of the preparation of the financial statements prior to their submission to the annual general meeting,
- (c) Co-ordination of the preparation of the reviewed financial report prior to its submission to the annual general meeting,
- (d) Co-ordination of the preparation of the Auditor's report prior to its submission to the annual general meeting,
- (e) Assistance of the reviewer or Auditor in performing their functions, and
- (f) Performance of any other duties required of the Treasurer by this constitution and any position description provided by Orana Arts Inc.

23. Directors' meetings

23.1 When the directors meet

- (a) The board members shall meet no less than (4) times in any one calendar year.
- (b) Subject to clause 23.1(a), the directors may decide how often, where and when they meet.

23.2 Calling directors' meetings

- (a) A board meeting may be called by:
 - i. The Chairperson, or
 - ii. Any two directors.
- (b) Notice in writing or by any other means of communication that has previously been agreed to by all of the directors, must be provided to all directors.

23.3 Notice of director's meetings

- (a) The Secretary shall ensure that each director is given at least forty-eight (48) hours' notice of each board meeting.
- (b) Notice of a board meeting shall specify the general nature of the business to be transacted at the board meeting.
- (c) Subject to clause 23.3(d) only the business specified on the notice of the board meeting is to be conducted at that board meeting.
- (d) Urgent business may be conducted at a board meeting if the directors present at the board meeting unanimously agree to treat the business as urgent

23.4 Chairperson for directors' meetings

Attachment No 2

- (a) The elected chairperson is entitled to chair directors' meetings.
- (b) The directors at a directors' meeting may choose a director to be the chairperson for that meeting if the elected chairperson is:
 - i. not present within 30 minutes after the starting time set for the meeting, or
 - ii. present but does not want to act as chairperson of the meeting.

23.5 Using technology to hold directors' meetings

- (a) The directors may hold their meetings at two or more venues using any technology (such as video or teleconferencing) that is agreed to by all of the directors and this agreement will be a standing one until a new decision replaces it.
- (b) All directors are required to be provided with reasonable opportunity to participate fully in discussions and decisions as they happen, including to hear and be heard.
- (c) Participation of each member attending shall be made known to all other members in attendance or using technology.
- (d) Anyone using this technology is taken to be present in person at the meeting, and
- (e) Continues to be present at the annual general meeting or special general meeting/Stakeholder Reference Group for the purposes of establishing a quorum, until the member notifies the other members that they are no longer taking part in the general meeting.

23.6 Resolutions

- (a) A directors' resolution must be passed by a majority of the votes cast by director's present and entitled to vote on the resolution.
- (b) Circular resolutions of directors
 - i. The directors may pass a circular resolution without a directors' meeting being held.
 - ii. A circular resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 23.6(b)iii or clause 23.6(b)iv.
 - iii. Each director may sign:
 - a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
 - b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
 - iv. Orana Arts Inc. may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
 - v. A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 23.6(b)iii or clause 23.6(b)iv.

23.7 Conducting board meetings

Attachment No 2

- (a) The board cannot conduct business unless the quorum specified in Clause 23.8 is present.
- (b) If, within half an hour of the time appointed for the board meeting, the quorum specified in Clause 23.8 is not present the board meeting is to stand adjourned to the same time, day and place in the following week.
- (c) If at a board meeting adjourned under Clause 23.7(b) the quorum specified in Clause 23.8 is not present within half an hour of the time appointed for the board meeting, the directors personally present shall constitute a quorum.
- (d) Subject to this constitution, the directors present at the board meeting are to determine the procedure and order of business to be followed at the board meeting.
- (e) All directors have the right to attend and cast one vote each at a board meeting, except for the Chairperson who can use a casting vote if required.
- (f) All members, or other guests, may attend board meeting if invited by the board, but:
 - i. May not be present during the transaction of confidential board business unless the board deem otherwise, and the member/guest has signed at minimum, a confidentiality agreement compliant with the Associations Incorporations Act 2009 (NSW), and
 - ii. the member or guest shall not have any right to:
 - a) Comment without invitation,
 - b) Vote,
 - c) Be provided with copies of any agenda, minutes of meetings, or documents presented at such board meeting.

23.8 Quorum and voting in the board meeting

- (a) Any 3 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.
- (b) A quorum must be present for the entire board meeting.
- (c) A question arising at a board meeting is to be decided by 50% plus one director.
- (d) If there is an equality of votes, the Meeting Chair is entitled to exercise casting vote.
- (e) Decisions at a board meeting may be made by general agreement or by way of a show of hands.
- (f) A poll by secret ballot may be used at a board meeting if the board prefers to determine a matter in this way, and if the Meeting Chair supervises the ballot, or another designated director where the meeting chair is unable, or unwilling.

24. Minutes and records

24.1 Minutes and records

- (a) Orana Arts Inc. must, within one month, make and keep the following records:
 - i. minutes of proceedings and resolutions of general meetings
 - ii. minutes of circular resolutions of members
 - iii. a copy of a notice of each general meeting, and

Attachment No 2

- iv. a copy of a members' statement distributed to members under clause 13.5.
- (b) Orana Arts Inc. must, within one month, make and keep the following records:
 - i. minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and
 - ii. minutes of circular resolutions of directors.
- (c) To allow members to inspect Orana Arts Inc.'s records:
 - i. Orana Arts Inc. must give a member access to the records set out in clause 24.1(a) and
 - ii. the directors may authorise a member to inspect other records of Orana Arts Inc., including records referred to in clause 24.1(b) and clause 24.2.
- (d) The directors must ensure that minutes of a general meeting or a directors' meeting are signed within a reasonable time after the meeting by:
 - i. the chairperson of the meeting, or
 - ii. the chairperson of the next meeting.
- (e) The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are signed by a director within a reasonable time after the resolution is passed.
- (f) The Secretary, or such person authorised by the board from time to time, shall ensure that minutes of the resolutions and proceedings of all board meeting are recorded and maintained together with a record of the names of persons present at each board meeting.

24.2 Financial and related records

- (a) Orana Arts Inc. must make and keep written financial records that:
 - i. correctly record and explain its transactions and financial position and performance, and
 - ii. enable true and fair financial statements to be prepared and to be audited.
- (b) Orana Arts Inc. must also keep written records that correctly record its operations.
- (c) Orana Arts Inc. must retain its records for at least 7 years.
- (d) The directors must take reasonable steps to ensure that Orana Arts Inc.'s records are kept safe.

24.3 Directors' access to records and documents

- (a) A director has a right of access to any record or document, including financial information of Orana Arts Inc. at all reasonable times.
- (b) If the directors agree, Orana Arts Inc. must give a director or former director access to:
 - i. certain documents, including documents provided for or available to the directors, and
 - ii. any other documents referred to in those documents.

24.4 Inspection of books

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- (a) The records, books and other documents of Orana Arts Inc. must be open to inspection, free of charge, to a member at any reasonable hour.

24.5 Custody of books

- (a) The board shall be responsible for ensuring the maintenance and control of Orana Arts Inc.'s books including Orana Arts Inc.'s financial records and securities.

24.6 Prohibited use of information

- (a) A member shall not use or disclose information in Orana Arts Inc.'s books and record of officeholders except for a purpose:
 - i. That is directly connected with the affairs of Orana Arts Inc., or
 - ii. Related to a requirement of the Associations Incorporations Act to provide information to the Commissioner.

25. Funds

25.1 Source of funds

- (a) The funds of Orana Arts Inc. may be derived from:
 - i. Membership fees,
 - ii. Donations,
 - iii. Fundraising activities,
 - iv. Grants,
 - v. Interest, and
 - vi. Any other sources approved by the board.

25.2 Management

- (a) Subject to any resolution passed by Orana Arts Inc. in general meeting, the funds of Orana Arts Inc. are to be used solely in pursuance of the objects of Orana Arts Inc. in such manner as the Board determines and no portion of the funds of Orana Arts Inc. will be distributed directly or indirectly to the members of Orana Arts Inc. except as bona fide compensation for services rendered or expenses incurred on behalf of Orana Arts Inc..
- (b) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments including online payments and credit card charges must be signed by any two members of the Board or employees of Orana Arts Inc., being members or employees authorised to do so by the Board

25.3 Payment of income or property to members

- (a) Not Permitted
 - i. Subject to Clause 25.3(b) none of the income or property of Orana Arts Inc. may be paid directly or indirectly, by way of dividend, bonus or otherwise, to a member.
 - ii. Orana Arts Inc. must not pay fees to a director for acting as a director.
- (b) Permitted payments
 - i. Clause 25.3 does not prevent:

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- a) Subject to Clause 25.3(a) the payment in good faith of remuneration to any member, director, officer or employee in return for any services actually rendered to Orana Arts Inc. or for goods supplied to Orana Arts Inc. in the ordinary and usual course of business,
 - b) The payment of reasonable and proper rent by Orana Arts Inc. to a member for premises leased to Orana Arts Inc. by the member, or
 - c) The reimbursement of out-of-pocket expenses for travel and accommodation incurred on behalf of Orana Arts Inc. by any member or director in connection with the member or director's functions as a member or director.
- ii. Before a payment proposed to a member or director under Clause 25.3(b)(i.a) can be made, the payment must first be authorised by the members by way of an ordinary resolution.
 - iii. Orana Arts Inc. must ensure that these payments, if made, are compliant to requirements under this constitution and any relevant act including the ACNC Act; Fundraising Act 1991 (NSW) and the Associations Incorporations Act 2009 (NSW)
 - iv. Orana Arts Inc. may pay premiums for insurance indemnifying directors, as allowed for by law (including the Associations Incorporations Act 2009 (NSW)) and this constitution.

25.4 Public Fund

- (a) If upon the winding-up or dissolution of the Public Fund listed on the Register of Cultural Organisations, there remains after satisfaction of all its debts and liabilities, any property or funds, the property or funds shall not be paid to or distributed among its members, but shall be given or transferred to some other fund, authority or institution having objects similar to the objects of this public fund, and whose rules shall prohibit the distribution of its or their income among its or their members, such fund, authority or institution to be eligible for tax deductibility of donations under Subdivision 30-B, section 30-100, of the Income Tax Assessment Act 1997 and listed on the Register of Cultural Organisations maintained under the Act.

26. Financial year

- 26.1 Orana Arts Inc.'s financial year is from 1st January to 31st December, unless the directors pass a resolution to change the financial year.

27. Liability, Indemnity and insurance

27.1 Liability of members

- (a) Members are to pay any membership fees set by Orana Arts Inc..
- (b) Members are not liable to pay, by reason of the person's membership, any other debts incurred by or on behalf of Orana Arts Inc., including the costs of winding up of Orana Arts Inc..

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27.2 Directors and Officers Indemnity

- (a) Orana Arts Inc. indemnifies each director, and officer of Orana Arts Inc. out of the assets of Orana Arts Inc., to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as a director or officer of Orana Arts Inc.
- (b) In this clause, 'director' means a director of the board and 'officer' means a person who has been delegated by the board to act as an officer of Orana Arts Inc. and may extend beyond the term they have ceased to hold that office.
- (c) In this clause, 'to the relevant extent' means:
 - i. to the extent that Orana Arts Inc. is not precluded by law (including the Associations Incorporations Act 2009 (NSW)) from doing so, and
 - ii. for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- (d) The indemnity is a continuing obligation and is enforceable by a director and officer even though that person may no longer be an officer of Orana Arts Inc.

27.3 Insurance

- (a) To the extent permitted by law (including the Associations Incorporations Act 2009 (NSW)), and if the directors consider it appropriate, Orana Arts Inc. may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of Orana Arts Inc. against any liability incurred by the person as an officer of Orana Arts Inc.

28. Notice

28.1 What is notice

- (a) Anything written to or from Orana Arts Inc. under any clause in this constitution is written notice and is subject to clauses 28.2 to 28.4, unless specified otherwise.
- (b) Clauses 28.2 to 28.4, do not apply to a notice of proxy under clause 15.1(f).

28.2 Notice to Orana Arts Inc.

- (a) Written notice or any communication under this constitution may be given to Orana Arts Inc., the directors or the secretary by:
 - i. delivering it to Orana Arts Inc.'s registered office
 - ii. posting it to Orana Arts Inc.'s registered office or to another address chosen by Orana Arts Inc. for notice to be provided
 - iii. sending it to an email address or other electronic address notified by Orana Arts Inc. to the members as Orana Arts Inc.'s email address or other electronic address, or

28.3 Notice to members

- (a) Written notice or any communication under this constitution may be given to a member:
 - i. in person

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- ii. by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices
 - iii. sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any)
 - iv. if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).
- (b) If Orana Arts Inc. does not have an address for the member, Orana Arts Inc. is not required to give notice in person.

28.4 When notice is taken to be given

- (a) A notice:
- i. delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered
 - ii. sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs
 - iii. sent by email, fax or other electronic method, is taken to be given on the business day after it is sent, and
 - iv. given under clause 28.3(a)iv is taken to be given on the business day after the notification that the notice is available is sent.

29. Winding up

29.1 Surplus assets not to be distributed to members

- (a) If Orana Arts Inc. is wound up, any surplus assets from Orana Arts Inc. must not be distributed to a member or a former member of Orana Arts Inc., unless that member or former member is a charity described in clause 29.2.

29.2 Distribution of surplus assets

- (a) Subject to the Associations Incorporations Act 2009 (NSW) and any other applicable Act, and any court order, any surplus assets that remain after Orana Arts Inc. is wound up must be distributed to one or more charities:
- i. with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 2, and
 - ii. which also prohibit the distribution of any surplus assets to its members to at least the same extent as Orana Arts Inc.
- (b) The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of members at or before the time of winding up. If the members do not make this decision, Orana Arts Inc. may apply to the Supreme Court to make this decision.

30. Definitions and interpretation

In this constitution:

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- (a) ACNC means the Australian Charities and Not-for-profits Commission. ^(c)
- (b) ACNC Act means the Australian Charities and Not-for-profits Commission Act 2012 (Cth)
- (c) *the Association* means Orana Arts Inc. referred to in clause 1.1
- (d) Association's books means Orana Arts Inc.'s registers, minutes, documents, securities, financial records, financial statements and financial reports as defined in the Associations Incorporations Act, however compiled, stored or recorded.
- (e) Board means the group of people, called directors, who are responsible for the management of the affairs of Orana Arts Inc..
- (f) Board meeting means a meeting of the directors.
- (g) Chairperson means the person elected by the board to hold this office.
- (h) Circular Resolution, which may be a members circular resolution or a board circular resolution, means a resolution that is passed without a face-to-face general meeting or board meeting being held. Separate copies of the circular resolution may be used for signing by members or directors provided the wording of the circular resolution and statement is identical in each copy. The circular resolution is passed when the last member or director signs the circular resolution.
- (i) Clause means a clause of this constitution.
- (j) Constitution means this document as amended from time to time.
- (k) Director means a member of the board appointed under clause 18.
- (l) Financial records means:
 - i. Invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers,
 - ii. Documents of prime entry such as sales day books, purchase day books, sales returns day books, purchases returns day books, bank books, cash receipts books, cash payments books, petty cash receipts books, petty cash payments books and journals, and
 - iii. Working papers and other documents needed to explain:
 - a) The methods by which financial statements are prepared, and
 - b) Adjustments to be made in preparing financial statements.
- (m) General meeting means a meeting of the members of Orana Arts Inc. to which all Members (including associate members, if any) are invited to attend, and is either:
 - i. an annual general meeting, or
 - ii. a special general meeting/Stakeholder Reference Group.
- (n) Meeting Chair means the person who chairs a general meeting or a board meeting.
- (o) Member means a person or organisation that is a member of Orana Arts Inc..
- (p) Member present means, in connection with a general meeting, a member present in person, by representative or by proxy at the venue or venues for the meeting
- (q) Minutes means a permanent and detailed record of the deliberations of, and resolutions adopted at, general meetings and board meetings and may include a hardcopy or an authorised softcopy documentation of those deliberations and resolutions.

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- (r) Model rules means the template set of rules for incorporated associations established under the associations regulations.
- (s) Office-bearer means a director referred to in clause 18.1
- (t) Ordinary resolution means a resolution at a meeting that:
 - i. Is not a special resolution, and
 - ii. Is passed by the votes of more than 50% of the persons who are entitled to cast a vote at that meeting.
- (u) Organisational member means a member of Orana Arts Inc. that is a corporation, incorporated association or other form or body corporate.
- (v) Organisational representative means a natural person (i.e. human being) nominated by the organisational member to represent the organisational member at 1 or more general meetings.
- (w) Public Fund means the Public Fund established and conducted in accordance with clause 3
- (x) Quorum means the number of persons required to be present in order to conduct a meeting.
- (y) "Registered Charity means an organisation that is registered as a charity under the ACNC Act".
- (z) Special general meeting/Stakeholder Reference Group means any general meeting of members that is not an annual general meeting.
- (aa) Special resolution means a resolution proposed at a meeting and passed by the votes of not less than seventy five (75) % of the persons who are entitled to cast a vote at that meeting.
- (bb) Surplus property means the property remaining when Orana Arts Inc. is wound up or cancelled after satisfying:
 - i. The debts and liabilities of Orana Arts Inc., and
 - ii. The costs, charges and expenses of winding up Orana Arts Inc., but does not include books relating to the management of Orana Arts Inc..

30.2 Reading this constitution with the Associations Incorporations Act

- (a) The replaceable rules (model constitution) set out in the Associations Incorporations Act 2009 (NSW) does not apply to Orana Arts Inc.
- (b) Associations Incorporations Act 2009 (NSW) overrides any clause in this constitution which is inconsistent with that Act.
- (c) A word or expression that is defined in the Associations Incorporations Act 2009 (NSW), or used in that Act and covering the same subject, has the same meaning as in this constitution.

30.3 Interpretation

- (a) In this constitution:
 - i. the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
 - ii. Reference to an 'Act' includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as the Associations Regulations).

Schedule 1: Application to Orana Arts Inc. for Individual Membership

Application

I, of

[Applicant's Full Name]

.....

[Applicant's Residential Address]

.....

[Applicant's Date of Birth]

.....

[Applicant's Telephone Number]

.....

[Applicant's Occupation]

.....

[Applicant's Email Address]

hereby apply to become a member of the above named incorporated association. In the event of my admission as a Member, I agree to be bound by the Constitution of Orana Arts Inc. as amended from time to time. I also understand the acceptance of my membership application does not necessarily provide guarantee any nomination for a directors position in accordance with this constitution.

.....

Signature of Applicant

.....

Date

Schedule 2: Application to Orana Arts Inc. for Organisational Membership

I, of
[Authorised Representatives Full Name]

[Applicant's Office Address]

From
[Organisations Full Name]

.....
[Applicant's Office Telephone Number]

.....
[Applicant's Office Email Address]

hereby apply to become a member of the above named incorporated association. In the event of my admission as a Member, I agree to be bound by the Constitution of Orana Arts Inc. as amended from time to time. I also understand the acceptance of my membership application does not necessarily provide guarantee any named delegates a directors position in accordance with this constitution.

.....
Signature of Approved representative

.....
Date

Schedule 3 – Proxy Voting Form

(for use by Member who is unable to attend an Annual or Special General Meeting/Stakeholder Reference Group)

Appointing a Proxy

I, of

[Member's Full Name or Authorised Representatives Full Name]

.....
[Member's Residential Address or Applicant's Office Address and Organisations Name]

.....
[Member's Telephone Number]

.....
[Member's Email Address]

being a Member of the above named incorporated association (**Association**) and authorised to vote at a General Meeting, hereby appoint:

Please Tick ONLY ONE (1) of the following:

Chairperson of General Meeting OR

Secretary of Association OR

Proxy identified below

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

I, of

...

...

[Proxy's Full Name]

.....
[Proxy's Residential Address]

to vote on my behalf at the Annual/Special (strike out 'Annual' OR 'Special') **General Meeting (General Meeting)** of Orana Arts Inc. to be held on:

.....
Date of General Meeting Address of General Meeting

and at any adjournment of the General Meeting.

Proxy's Voting Directions

My proxy is authorised to vote:

Please Tick ONLY ONE (1) of the following:

As the proxy deems fit OR

According to the specific directions to my Proxy identified below

Specific directions to Proxy (please add further page if needed)

.....
Signature of Member Date

Schedule 4 – Appointment of Organisational Member Delegate

.....

[Name of Organisational Member]

advises that, on ____/____/____

it was resolved that

[Name of Organisational Member Delegate]

represent the Organisational Member at (tick only ONE of the following boxes):

the general meeting/s on ____/____/____ (Insert relevant date/s)

OR

all general meetings of Orana Arts Inc. until notice is revoked under the constitution

Witnessed/Authorised by (if required under the CORPORATE MEMBER'S rules)

Authorising Organisational Member

Organisational Member Delegate

Signature:

Signature:

Name:

Name:

Position:

Position:

Date:

Date:

The Organisational Member acknowledges that according to Clause 17.4 of Orana Arts Inc.'s Constitution a person appointed as your delegate is deemed for all purposes to be an organisational delegate until that appointment is revoked by the Organisational Member; Orana Arts Inc.; or, in the case of an appointment in respect of a particular general meeting, which appointment is not so revoked, the conclusion of that general meeting.



Orana Arts Stakeholders Reference Group Terms of Reference

Introduction

Orana Arts' mission is to support regional artists and communities to participate in and engage with their culture heritage and the arts. Our work and the strength of our projects is built on integrity, on our beliefs that we must always seek innovative approaches, to always aim at producing excellent work and how we ensure the best service delivery to our councils and their communities as well as advocating and implementing regional projects that activate social and economic advancement. As a small team, we need to deliver this mission strategically to obtain the best outcomes. The Stakeholder Reference Group (SRG) has been implemented to provide an opportunity for Local Government (LG) to contribute to our strategic developments as well as a means for sharing regional trends impacting our region and councils.

Commented [Je1]: "...Contribute on behalf of our communities"

Aim

The SRG is a representative body comprised of OA contributing Councils, established to support and enhance the communications and engagement strategies of the organisation. The SRG is not authorised to discuss or otherwise get involved in operational matters as these will be addressed through the Board of Directors in consultation with the Executive Director. The SRG aims to uphold the OA Constitution and strengthen the dialogue between local government, community and Orana Arts.

Objectives

- Drive, inspire and maintain a positive and energetic approach to the process of arts and culture development
- Promote the principals and values for arts and culture in a regional context
- Ensure timely and consistent communication of information, strategies, timelines and progress is maintained throughout the forums

Functions

- Inform OA with key community trends and priorities
- Inform OA of local government priorities in consideration of OA strategic planning
- Support OA work to local stakeholders

Membership

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- OA Executive Board
- Executive Director of OA
- OA Staff
- Representative Delegates from contributing Councils with a maximum of 3 persons from each council with one voting right as outlined in the OA Constitution
- All delegates and any alternate representatives must adhere to Clause #6 Organisational Delegate as outlined in the OA Constitution

Administration

The OA Chair of the Board will nominate an SRG chair from within the group to oversee the meeting on the day. A secretariat may be appointed from the group or provided by the organisation.

Meetings

- The SRG will meet a minimum of 2 times a year
- The agenda will be prepared and distributed by the Executive Director and Communications Manager of Orana Arts
- Members can forward agenda items to the ED no later than three working days before the meeting. Matters requiring significant time or resources to address may be dealt with outside of the meeting and reported at the next meeting or via email correspondence
- Special Meetings of the SRG may be convened depending on the urgency of matters raised or included in the Agenda. Agreement on the decision shall be by consensus
- Minutes of each meeting shall be prepared by the Secretariat, who will maintain a file of confirmed minutes.

Governance

- All meetings will adhere to OA governance policies
- All SRG delegates will stand by the OA Constitution

BOGAN SHIRE
DUBBO REGION
GILGANDRA SHIRE
MID-WESTERN REGION
NARROMINE SHIRE
WARRUMBUNGLA SHIRE



CETA: UKERBARLEY
COONABARABRAN



LEFT FIELD
COLLECTIVE
ORANA REGION



STAGING STORIES
NARROMINE

orana@arts.inc



Orana Arts in Your Community

Orana Arts has had a very busy few months! Aside from ongoing advice, advocacy and support, we've been running a number of projects which benefit communities and artists across the region.

- ▶ The Left Field Project – the Aboriginal artist mentoring program – saw emerging artists and mentors exhibit alongside in a special exhibition at the Casula Powerhouse Arts Centre in Western Sydney. The FAITH exhibition featured Colin Brooks Jnr (Narromine), Paris Norton (Dubbo), Aleshia Lonsdale (Mudgee), Alex Nixon (Coonabarabran) and Lachlan Goolagong (Dubbo).

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- ▶ Staging Stories – an Aboriginal theatre project – has seen the development of a local story into a script, which will be produced for the stage. Narromine Elders Dick and Ruth Carney have been working with creatives from Mudgee, Sydney and Melbourne and the Orana Arts team has hugely valued the time and stories shared in the Narromine community.
- ▶ The CETA (Contemporary Environment Technology Arts) program has commenced at the Ukerbarley property in the Warrumbungles, with community consultation in Coonabarabran and drone mapping of the property.
- ▶ Applications recently closed for HomeGround – an emerging artist development program run out of Dubbo’s Western Plains Cultural Centre and the Orana Arts team assisted artists from Gulgong, Mudgee, Dubbo and Coonabarabran with their applications. We look forward to working with the selected artists in 2018 to promote their work.
- ▶ Our This Business Called Art program has seen professional development and seed funding sessions in Wellington and Nyngan and skill sharing in Dubbo and Coonabarabran.

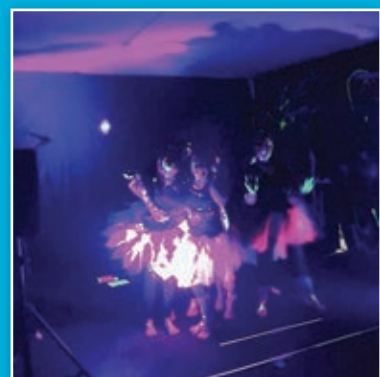
Around the Region

Congratulations to the organisers, artists and participants of:

- ▶ WestWords Festival in Dubbo
- ▶ The fantastic variety of exhibitions in Rylstone, Gilgandra, Mudgee, Gulgong, Baradine and Coolah
- ▶ Mudgee Readers’ Festival in Mudgee
- ▶ Springfest in Wellington
- ▶ The regular Creatives Collective meet-ups in Coonabarabran
- ▶ The Bring to Light Project in Dubbo and beyond
- ▶ Community theatre performances in Mudgee, Dubbo, Coonabarabran and Wellington
- ▶ The recent weaving workshop in Narromine
- ▶ The Mitchell Quartet concert in Kandos
- ▶ The Alley Gallery Soup Session in Dubbo (through Western Plains Cultural Centre)

Orana Arts has been proud to partner on, attend and/or promote these and many more inspiring cultural events around the region.

Connect with arts and culture in the Orana Region



We post opportunities for regional artists and organisations, information about events and professional development across our platforms. Keep up to date and get involved! Sign up to the newsletter and read news posts:

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DUBBO REGION
GILGANDRA SHIRE
MID-WESTERN REGION
NARROMINE SHIRE
WARRUMBUNGLA SHIRE



CSI: CREATIVE AND
SOCIAL INVESTMENT
WELLINGTON



THE COMMON
THREAD
COONABARABRAN



COUNTRY ARTS
SUPPORT PROGRAM
ACROSS THE REGION

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Staging Stories creative development: director John Harvey with Uncle Dick and Aunty Ruth Carney.

Orana Arts: Working in Your Community

2018 is off to an exciting start for the Orana Arts network! Aside from the many exciting conversations within communities about future projects and funding, we've been running a number of programs which benefit communities and artists across the region. We continue to work hard to service arts and cultural interests in your communities.

- ▶ The Creative and Social Investment (CSI) Program has commenced in Wellington, delivering arts-led training within corrective services. Our innovative, creative model – based on national and international learnings – will expand opportunities for disenfranchised and

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disengaged community members to increase life skills, creative skills, and reconnect back with education and community. The program is being managed by Michelle Hall from Nyngan, and employs artists across the region (including Dale Freeman from Dubbo and Kelly Leonard from Mudgee) as teachers. This program is fully funded by Corrective Services.

- ▶ The **Country Arts Support Program** recipients have been announced, so look out for these exciting projects coming to your area: Creatives Collective: Develop, Support, Display - Artists with Disability Coonabarabran (Part 1); Creative Fundraising Practical Workshop Series at Kandos Museum; Moorambilla Voices: Yabang Taiko (taiko path) in Baradine; Trangie Water Tower Art; Nyngan Arts Council: Our Place Our Spaces; and Our Stories: Cultural Walking Tours of Dubbo.
- ▶ The CETA program continues to grow, with a weaving workshop series called *The Common Thread* now running weekly in Coonabarabran. The CETA program will move to Wellington in the next few months.
- ▶ Our team has recently met with community and council representatives in Trangie, Dubbo, Wellington, Coolah, Mudgee, Gilgandra and Coonabarabran in order to plan future upcoming professional and creative development events. Stay tuned for future announcements!
- ▶ Staging Stories is developing, with our creatives visiting the Waterloo property outside of Narromine to work with Uncle Dick and Auntie Ruth Carney on their story.

Events Around the Region

We've got loads of fabulous events from around the region in our diaries for the next few months:

- ▶ Lust for Live Acoustic at the Black Box Theatre in Dubbo on 14 April
- ▶ I Heart Art exhibition gala in Narromine on 23 March
- ▶ Clay Gulgong on 15—21 April
- ▶ Art Unlimited in Dunedoo on 18—27 May
- ▶ Community theatre performances in Mudgee, Dubbo and Coonabarabran
- ▶ The UneARThed Art Exhibition in Gulgong on 9—11 June
- ▶ WPCC exhibition opening in Dubbo on Saturday 24 March.

Orana Arts is proud to partner on, attend and/or promote these and many more inspiring cultural events in the region.

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CREATE NSW
 ROADSHOW
 ACROSS THE REGION



SOUP SESSION
 YOUTH CREATIVES
 MUDGE E



COUNTRY ARTS
 SUPPORT PROGRAM
 NOW OPEN!

orana@arts inc



Orana Arts: Working in Your Community

The Country Arts Support Program is now open! We have started conversations with community groups and LGAs across the region about this exciting funding opportunity. CASP provides funding of up to \$3,000 (or \$5,000 for projects across communities).

Guidelines are available through our website and to discuss a potential project contact our Communications Manager Portia Lindsay via communications@oranaarts.com or on 0419 228 719.

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Working in Your Community

- ▶ Orana Arts recently managed a Create NSW Roadshow through the Orana Region, with representatives from Create NSW, Museums and Galleries NSW and Accessible Arts speaking with individuals and groups in Dubbo, Coonabarabran, Narromine, Wellington and Trangie about funding and development opportunities.
- ▶ As part of the Roadshow, Accessible Arts presented a Disability Awareness and Inclusion Seminar to local councils. Narromine Shire Council kindly hosted the seminar in their new Council Chambers and representatives from Gilgandra, Dubbo and Narromine in attendance.
- ▶ The Common Thread exhibition was recently presented at the Pilliga Discovery Centre in Baradine as one of the CETA: Ukerbarley outcomes. Participants from Coonabarabran and surrounds saw their weaving crafted into a cohesive exhibition featuring digital art effects.
- ▶ Communications Manager Portia and ATSIA Programs Manager Paris met with groups in Gilgandra to discuss CASP projects and ongoing cultural development.
- ▶ Students at Trangie Central School recently participated in our Carved Up program, creating plasticine stamps using their own unique designs.
- ▶ Orana Arts assisted in judging competitions and supported exhibitions: Art Unlimited in Dunedoo and UnARThed in Gulgong.
- ▶ Our first ever Soup Session for Youth Creatives was held in Mudgee on 14 June, with four pitches and over 30 people voting for their favourite. An excited Jess Nipperess took home \$250 to get her creative project underway.
- ▶ Orana Arts supported digital arts workshops through Cementa in Kandos to tour to Wellington and Dubbo schools.

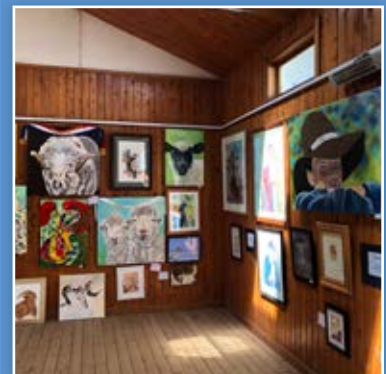
Events Around the Region

Orana Arts is proud to be a partner, presenter or promoter of the following events in the coming months:

- ▶ Soup Sessions: Coonabarabran on Thursday 26 July and Wellington (date tbc)
- ▶ Staging Stories performances in Dubbo and Narromine
- ▶ *The Narrative* at the Mudgee Readers' Festival on Sunday 12 August: a panel on the history of and contemporary incarnations of Aboriginal arts.
- ▶ Kim Goldsmith's digital storytelling workshops will take place in Dubbo in July, as part of the CASP-funded *Our Stories* project.

To find out more about these and other projects and presentations, subscribe to our newsletter and follow us on social media @oranaarts

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VANDALISM REWARDS SCHEME POLICY

Adopted By Council 8 October 2014

Resolution No 2014/331

Attachment No 4

Narromine Shire Council – Vandalism Rewards Scheme Policy

Created By: General Manager's Department
Date:- 2 July 2018
Version No:- 2.0
Adopted By Council: 8 October 2014, Resolution No 2014/331
Review Date:- 1 July 2022

Background

Council is committed to providing services to its community. Vandalism costs Council thousands of dollars each year. To minimise the increasing cost of vandalism the community is encouraged to report vandalism as soon as possible. This policy seeks to provide a financial reward to community members where information regarding a vandalism event is reported to the NSW Police Force and results in legal action being taken against the offender.

Policy Objectives

The objectives of this policy are to:-

- Encourage community members to report information about vandals to the NSW Police Force.
- Reduce acts of vandalism on Council property by increasing the risk of detection and apprehension.
- Encourage a coordinated approach between the NSW Police Force, Council and the Narromine Shire community to address the issues of vandalism.
- Strengthen community pride.
- Emphasise to our community that vandalism is an act of crime.

Scope

This policy covers the intentional or reckless destruction, defacement, disfigurement ~~and~~ or damage to Council owned or managed property without the consent of Council.

Policy Statement

1. That Council offer a reward to persons providing information on vandalism to Council owned or managed property **that results in legal action being taken i.e. criminal proceeding resulting in a conviction, finding of guilt or offence; formal caution/warning issued by a NSW Police Force Officer; or a juvenile justice conference administered under the Young Offenders Act 1997.**
2. That the amount of the reward is equal to the remediation costs of the vandalism capped at a maximum of \$5,000 per event.
3. That the **vandalism** rewards scheme be subject to an annual maximum cap of \$15,000 per financial year.

Policy Statement (continued)

- ~~4. That the reward is payable for information leading to legal action being taken: criminal proceeding resulting in a conviction, finding of guilt or offence; formal caution/warning issued by a NSW Police Force Officer; a juvenile justice conference administered under the Young Offenders Act 1997.~~
5. In order to make a claim for a reward under this policy, the ~~Vandalism~~ Rewards ~~Scheme~~ Policy Claim Form (Annexure A) is to be completed.
6. The General Manager be delegated authority to assess and approve reward claims.
7. All reward claims will be verified with the NSW Police Force to ensure compliance with the conditions of the Rewards Policy.
8. The General Manager's assessment and decision in relation to reward claims is final.
9. Persons providing information must be aware that they may be required to ~~make a formal statement to police and/or~~ appear in court to give evidence.
10. Fraudulent and/or misleading claims will be ineligible for payment of the reward. Council may seek to recover the reward and associated costs should a claim be found to be fraudulent or misleading.
11. All documentation created and held in relation to applications for reward claims shall be marked confidential. For the purposes of protecting the safety of individuals and reward claim applicants, information will not be released to the public unless Council is obliged to by law.
12. Reward claim applicants need to be made aware that Council cannot always guarantee the applicant's anonymity.

Relevant Legislation

- Local Government Act 1993
- Crimes Act 1900
- Young Offenders Act 1997
- Government Information (Public Access) Act 2009
- Summary Offences Act 1988

NARROMINE SHIRE COUNCIL
VANDALISM REWARDS SCHEME POLICY CLAIM FORM
CONFIDENTIAL

Personal Details		
Name:		
Physical Address:		
Telephone Number:	Mobile Number:	
Email Address:		
Preferred Contact Method:		
Incident Details		
Date and/or time of incident (<i>if known</i>):		
Location of Incident:		
Details of Damage (e.g. <i>damage to fence, BBQ, Graffiti etc</i>):		
Reporting Details		
Did you report the incident to the Police? (<i>Please circle</i>)		Yes No
How was incident reported:-		
Police Station <input type="checkbox"/>	Crime Stoppers Online <input type="checkbox"/>	Crime Stoppers Phone <input type="checkbox"/>
Emergency Services <input type="checkbox"/>	Police Assistance Line <input type="checkbox"/>	
Police Event Number:		
Date You Reported:		
Officer's/Report Taker's Name:		
Did you provide information to Police regarding offender/s?		Yes No
Do you know of the outcome of Police investigations?		Yes No
Details of outcome:		

Attachment No 4

Declaration

I (Name) declare that:

- The information I have provided is accurate and complete to the best of my knowledge.
- I will contact Narromine Shire Council in the event that any information contained in this report changes
- I understand that I may be required to attend a Police Station to make a formal statement and/or appear in court to give evidence.
- I understand that Narromine Shire Council may seek compensation from an identified offender for damage caused to Council-owned or managed property through civil litigation or other remedies.
- I understand that the decision of the General Manager (Under the Local Government Act 1993) regarding eligibility for, and amount of any reward is final.
- I understand that this Vandalism Rewards Scheme Policy may be altered at any time.
- I understand that Narromine Shire Council collects this information for the purpose of administering the Vandalism Rewards Scheme Policy and personal information will not be used for any other purpose.
- I understand that any reward must be paid into the account of a person who is aged 18 years and over.

Signed

Date

Signature of parent or guardian (only if the claimant is under 18 years old):

.....

Bank Details

Name of Bank or Credit Union:

BSB Number:

Account Number:

Account Name:

(Please note that parent or guardian's bank account details must be provided for claimants under the age of 18)

RETURNING YOUR CLAIM FORM

Please place the completed claim form in an envelope marked "Confidential" and

Post to:-

The General Manager
Vandalism Rewards Scheme
Narromine Shire Council
PO Box 115, Narromine, NSW, 2821

Return in person to:-

The General Manager
Vandalism Rewards Scheme
Narromine Shire Council Chambers
124 Dandaloo Street, Narromine, NSW, 2821



ABANDONED VEHICLES POLICY

Adopted by Council 14 May 2014, Resolution No. 2014/139
Reviewed

POLICY OBJECTIVES

Ensure the efficient removal of abandoned motor vehicles from road reserves and public places within the Narromine Shire.

Ensure that impoundment of abandoned motor vehicles is undertaken in accordance with the Impounding Act 1993 and the relevant regulations.

DEFINITIONS:

Impounded - has the meaning given by section 8.

8 When is something "impounded"?

(1) Something is impounded as soon as an impounding officer or an occupier of private land takes possession of it under a power conferred by this Act. It continues to be impounded until it is released or disposed of in accordance with this Act.

(2) An item does not have to be taken to a pound for it to be "impounded" for the purposes of this Act.

Impounding officer - means a person appointed by an impounding authority to exercise the powers of an impounding officer.

Motor vehicle - means:

- (a) a motor vehicle within the meaning of the Road Transport Act 2013 and includes a caravan or trailer, and
- (b) the remains of such a vehicle, and
- (c) any article (including parts and accessories) that is secured to or in such a vehicle at the time it is impounded.

Public place - means a place (other than a place declared by the regulations not to be a public place) that is open to or frequented by the public:

- (a) whether or not payment for admission to the place is required, and
- (b) whether or not the place is usually open to or frequented by the public,

and, in particular, includes:

- (c) any place dedicated or reserved for a public purpose, and
- (d) a place which, although privately owned, is a place to which the public are permitted to have access for the purposes of business or leisure or to use as a thoroughfare.

Public pound - means a pound established as a public pound under this Act.

PROCEDURE:

1. An impounding officer must make all reasonable inquiries in an effort to find out the name and address of the owner of a motor vehicle before the officer impounds the vehicle.
2. If the impounding officer's inquiries fail to reveal the name and address of the owner, the officer may proceed to impound the vehicle.
3. If the impounding officer's inquiries do reveal the name and address of the owner, the officer is not to impound the vehicle until notice of the proposed impounding has been given to the owner and the period specified in the notice has elapsed.
4. The notice to the owner must be in writing addressed to the owner and must indicate that the vehicle may be impounded unless it is removed within a specified period (not less than 3 days) and may be destroyed if its value is less than \$500 (or such other amount as may be prescribed under section 18).
5. A motor vehicle may be impounded immediately (without following the procedures in this section) if the vehicle is in a public place and the impounding officer is satisfied on reasonable grounds that its immediate removal is justified because it is causing an obstruction to traffic (vehicular or pedestrian) or is likely to be a danger to the public.
6. Where motor vehicles are abandoned on main roads controlled by the RMS i.e. Mitchell Hwy and MR 89, the RMS be notified at the earliest opportunity and where directed by the RMS, the vehicle(s) be impounded and taken to the nearest depot (costs to be accounted to the RMS). Where the vehicle(s) pose a risk to the safety of motorists on RMS roads, the police are be contacted for direction.
7. If value of the abandoned motor vehicle is greater than \$500.00, the vehicle must be offered for sale by way of a public tender process as defined within this policy.

SALE OF VEHICLE:

This section of the policy is only applicable where the value of the vehicle is greater than \$500, when taking into consideration Sections 18, 24 & 25 of the Impounding Act 1993.

1. Impounding Officer is to seek approval from immediate supervisor or manager to dispose of the vehicle.
2. On receipt of approval for sale a public notice (Appendix A) must be placed in the local paper advertising the vehicle for sale.
3. All tender/quotations received are to be collated and presented to the impounding officer's immediate supervisor or manager with a recommendation.

4. On approval by the General Manager of the recommendation the vehicle can be sold to the successful tender.

References:

Impounding Act 1993

Impounding Regulations 2013

REVISED

Authorisation:

Status	Committee	N/A	
	Manex	N/A	
Owner	Director Corporate, Community & Regulatory Services <u>General Manager</u>		
Doc. ID			
Superseded Policy	Nil		
Date of Adoption/ Amendment	Revision Number	Minute Number	Review Date Resolution No.
15 September 2009			2009/372
14 May 2014	1	-	2014/139
###	2		

Appendix A – Public Notice Template

Public Notice – Sale of Impounded Vehicle

In accordance with Clause 24 of the Impounding Act 1993 No. 31, Council places the following motor vehicle/s for sale by way of public tender. Clause 27 of the Impounding Act 1993 allows for Council to recover costs incurred as a result of impounding the vehicle/s.

(Make, Model, Year, Colour)

Closing date:

Please note that Council is looking at recovering the cost occurred and will therefore consider all fair and reasonable tenders. Inspection of the vehicle in question can be arranged by contacting Council's Senior Ranger on 02 6889 9999.

All tenders are to be addressed to the General Manager, Narromine Shire Council PO Box 115 Narromine NSW 2821 or emailed to mail@narromine.nsw.gov.au.



ASBESTOS POLICY

(Adopted by Council – 11 September 2013, Resolution No 2013/348, Amended by Council – 9 October 2013, Resolution No 2013/392, revised June 2016)

Administrative information

File number	05.009
Document status	Adopted by Council 11 September 2013 Amended by Council 9 October 2013 Revised June 2016 Reviewed June 2018
Version number	3 <u>4</u>
Created by	Director Corporate, Community & Regulatory Services General Manger
Effective date	11 September 2013
Review period	This policy will be reviewed at the time of any relevant legislative changes, or may be reviewed at a minimum, every three years.
Review date	June 2016 <u>2020</u>
Responsibility for review	Director Corporate, Community & Regulatory Services General Manager
Document owner	WHS Coordinator
Contact person for further information	Director Corporate, Community & Regulatory Services - Manager Health Building & Environmental Services or WHS Coordinator

Council disclaimer

This policy was formulated to be consistent with council's legislative obligations and within the scope of council's powers. This policy should be read in conjunction with relevant legislation, guidelines and codes of practice. In the case of any discrepancies, the most recent legislation should prevail.

This policy is based upon the *Model Asbestos Policy for NSW Councils* developed by the Heads of Asbestos Coordination Authorities to promote a consistent Local Government approach to asbestos management across NSW.

This policy does not constitute legal advice. Legal advice should be sought in relation to particular circumstances and liability will not be accepted for losses incurred as a result of reliance on this policy.

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1. Introduction

Narromine Shire Council acknowledges the serious health hazard of exposure to asbestos.

In Australia, asbestos was gradually phased out of building materials in the 1980s and the supply and installation of asbestos containing goods has been prohibited since 31 December 2003. Yet asbestos legacy materials still exist in many homes, buildings and other assets and infrastructure. It is estimated that one in three Australian homes contains asbestos.

In the Narromine local government area, many buildings contain asbestos particularly in the form of bonded fibro sheeting used to line walls, ceilings, eave soffits, roof sheeting gutters and downpipes. The presence of these materials can create health issues where renovations and **demolition works are carried out with Council's approval. Fires in buildings are also particularly dangerous where asbestos products are present as the fire breaks down the bonding holding the asbestos fibre in place and releases it into the air.** Loose fibre asbestos including bonded asbestos sheeting impacted by fire is known as friable asbestos and must be handled very carefully and only by contractors licensed to remove this type of asbestos.

Where material containing asbestos is in a non-friable form (that is, cannot be crushed by hand into a powder), undisturbed and painted or otherwise sealed, it may remain safely in place. However, where asbestos containing material is broken, damaged, disturbed or mishandled, fibres can become loose and airborne posing a risk to health. Breathing in dust containing asbestos fibres can cause asbestosis, lung cancer and mesothelioma.

It is often difficult to identify the presence of asbestos by sight. Where a material cannot be identified or is suspected to be asbestos, it is best to assume that the material is asbestos and take appropriate precautions. Further information about asbestos and the health impacts of asbestos can be found in Appendix A and website links to additional information are provided in Appendix B.

Council has an important dual role in minimising exposure to asbestos, as far as is reasonably practicable, for both:

- residents and the public within the Local Government Area (LGA)
- workers (employees and other persons) in council workplaces.

Council's legislative functions for minimising the risks from asbestos apply in various scenarios including:

- as a responsible employer
- contaminated land management
- council land, building and asset management
- emergency response
- land use planning (including development approvals and demolition)
- management of naturally occurring asbestos
- regulation of activities (non-work sites)
- waste management and regulation.

1.1 Purpose

This policy aims to outline:

- the role of council and other organisations in managing asbestos
- council's relevant regulatory powers
- council's approach to dealing with naturally occurring asbestos, sites contaminated by asbestos and emergencies or incidents
- general advice for residents on renovating homes that may contain asbestos

- council's development approval process for developments that may involve asbestos and conditions of consent
- waste management and regulation procedures for asbestos waste in the LGA
- council's approach to managing asbestos containing materials in council workplaces
- sources of further information.

1.2 Scope

This policy applies to all of the Narromine Shire LGA within council's jurisdiction.

The policy provides information for council workers, the local community and wider public. Part 1 of the policy includes the sections that are likely to be of most interest to the local community and wider public. Part 2 is information that applies to workers associated with council including employees, contractors, consultants, and volunteers (as defined by the NSW *Work Health and Safety Regulation 2011*). Definitions for key terms used in the policy are provided in Appendix C and acronyms are listed in Appendix D.

The policy applies to friable, non-friable (bonded) and naturally occurring asbestos (where applicable) within the LGA.

The policy outlines council's commitment and responsibilities in relation to safely managing asbestos and contains general advice. For specific advice, individuals are encouraged to contact council or the appropriate organisation (contact details are listed in Appendix E).

The policy does not provide detail on specific procedures. Practical guidance on how to manage risks associated with asbestos and asbestos containing material can be found in the:

- *Code of practice on how to manage and control asbestos in the workplace* (catalogue no. WC03560) published by SafeWork NSW.
- *Code of practice on how to safely remove asbestos* (catalogue no. WC03561) published by SafeWork NSW.
- Additional guidance material listed in Appendix B.
- Detailed information on council's procedures and plans may be found in other documents, which are referenced in part 2 under section 18.1.

2. Definitions

Definitions are provided in Appendix C.

3. Roles and responsibilities of council

3.1 Educating residents

Council shall assist residents to access appropriate information and advice on the:

- prohibition on the use and re-use of asbestos containing materials
- requirements in relation to development, land management and waste management
- risks of exposure to asbestos
- safe management of asbestos containing materials
- safe removal and disposal of minor quantities of asbestos containing materials.

Educational information and website links for educational materials can be found in Appendices A and B.

3.2 Managing land

Council is responsible for managing public land. This may include land with naturally occurring asbestos as described in section 5 and land contaminated with asbestos as outlined in section 6.

3.3 Managing waste

Where council is the appropriate regulatory authority, council is responsible for:

- Issuing clean up notices to address illegal storage or disposal of asbestos waste or after an emergency or incident (under the *Protection of the Environment Operations Act 1997*).
- Issuing prevention or clean up notices where asbestos waste has been handled (including stored, transported or disposed of) in an unsatisfactory manner (under the *Protection of the Environment Operations Act 1997*).
- Issuing penalty infringement notices for improper transport of asbestos (under the *Protection of the Environment Operations Act 1997*).
- Applying planning controls to proposals to dispose of asbestos waste on-site, seeking advice from the Environment Protection Authority (EPA) on this matter and making notation on planning certificates (section 149 certificates) where on-site disposal is permitted.
- Receiving bonded asbestos only at the Narromine and Trangie waste depots in accordance with Council's operating licence for the Narromine landfill and LEMP for the Trangie waste facility.

Waste facilities that are licensed to accept asbestos waste are listed in Appendix F.

3.4 Regulatory responsibilities

Council has regulatory responsibilities under the following legislation, policies and standards in situations where council is the appropriate regulatory authority or planning authority:

- *Contaminated Land Management Act 1997* (NSW)
- *Environmental Planning and Assessment Act 1979* (NSW)
- *Environmental Planning and Assessment Regulation 2000* (NSW)
- *Local Government Act 1993* (NSW)
- *Protection of the Environment Operations Act 1997* (NSW)
- *Protection of the Environment Operations (General) Regulation 2009* (NSW)
- *Protection of the Environment Operations (Waste) Regulation 2014* (NSW)
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *Demolition work code of practice 2015* (catalogue no. WC03841).

Additional legislation, policies and standards relating to the safe management of asbestos are listed in Appendix G.

The situations in which council has a regulatory role in the safe management of asbestos are listed in Table 1.

Table 1: Situations in which council has a regulatory role in managing asbestos

Issue	Council's role	Section of policy
Contaminated land	<ul style="list-style-type: none"> Record known asbestos site contamination on section 149 certificates where practicable and for council workplaces, record on council's asbestos register. Notify stakeholders of land use planning policy requirements relating to contamination. Manage residential asbestos contaminated land that is not declared 'significantly contaminated' under the <i>Contaminated Land Management Act 1997</i> (excluding oversight of removal or remediation work which is the role of SafeWork NSW). 	Section 6
Development assessment	<ul style="list-style-type: none"> Assess development applications for approval under the <i>Environmental Planning and Assessment Act 1979</i>. Set conditions of consent for renovations, alterations, additions, demolitions or other developments requiring consent and which may involve disturbance of asbestos containing materials. Ensure compliance with development conditions. Apply conditions relating to development involving friable and non-friable asbestos material under the relevant legislation and planning codes and as outlined in section 9. 	Section 9
Demolition	<ul style="list-style-type: none"> Approve demolition under the <i>Environmental Planning and Assessment Act 1979</i>. Council certifiers approve development as complying development under the <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>. 	Section 9
Emergencies and incidents	<ul style="list-style-type: none"> Regulate the clean up of asbestos waste following emergencies where sites are handed over to the council or a local resident by an emergency service organisation (excluding oversight of licensed removal or remediation work which is the role of SafeWork NSW). Council may consider the need to issue a clean up notice, prevention notice or cost compliance notice under the <i>Protection of the Environment Operations Act 1997</i>. 	Section 7
Naturally occurring asbestos	<ul style="list-style-type: none"> Verify compliance with environmental planning and assessment legislation for development applications that could disturb naturally occurring asbestos. Prepare an asbestos management plan for council workplaces or road works which occur on land containing naturally occurring asbestos. 	Section 5
Residential premises	<ul style="list-style-type: none"> Respond to any public health risks (risks to council workers and wider public) relating to the removal of asbestos containing materials or asbestos work at residential properties that does not involve a business or undertaking. Respond to complaints about unsafe work at a residential property that is undertaken by a resident (not a worker, which is the role of SafeWork NSW). Respond to public health risks posed by derelict properties or asbestos materials in residential settings. 	Section 9
Waste	<ul style="list-style-type: none"> Manage waste facilities in accordance with environmental protection legislation. Respond to illegal storage, illegal dumping and orphan waste. 	Section 10

- Regulate non-complying transport of asbestos containing materials.

3.5 Responsibilities to workers

Council is committed to fulfilling its responsibilities to workers under the NSW *Work Health and Safety Act 2011* and NSW *Work Health and Safety Regulation 2011* and maintaining a safe work environment through council's:

- general responsibilities
- education, training and information for workers
- health monitoring for workers
- procedures for identifying and managing asbestos containing materials in council premises.

These responsibilities are outlined in part 2.

4. Other stakeholders involved in managing asbestos

Council is committed to working collaboratively with other government agencies and where appropriate, other stakeholders as needed to respond to asbestos issues.

Appendix E notes useful contacts and Appendix H notes agencies involved in managing asbestos. Various asbestos scenarios requiring stakeholders to work together are outlined in Appendix I.

Part 1 – Asbestos in the Local Government Area: Information for the community

5. Naturally occurring asbestos

There is the potential for asbestos to be found as naturally occurring mineral south eastern extent of the LGA and may occur elsewhere in the LGA.

Naturally occurring asbestos only poses a health risk when elevated levels of fibres are released into the air, either by human activities or by natural weathering and these fibres are breathed in by people. Information on naturally occurring asbestos, work processes that have the potential to release naturally occurring asbestos fibres into the air and known locations of naturally occurring asbestos in NSW is provided in Appendix A under section 2.1. This information is indicative, and not a complete picture of all naturally occurring asbestos in NSW.

5.1 Responsibilities for naturally occurring asbestos

For naturally occurring asbestos that will remain undisturbed by any work practice, council is the lead regulator.

Where development applications propose activities that may disturb areas of naturally occurring asbestos (such as excavation), any consent or approval should contain conditions requiring: testing to determine if asbestos is present, and the development of an asbestos management plan if the testing reveals naturally occurring asbestos is present. Council will verify compliance with environmental planning and assessment legislation and together with the EPA and SafeWork NSW will coordinate enforcement where non-compliance is suspected.

Where naturally occurring asbestos will be disturbed due to a work process, including roadwork, excavation and remediation work, SafeWork NSW is the lead regulator. Requirements for workplaces are summarised in the *Naturally-occurring asbestos fact sheet* (catalogue no. WC03728) published by SafeWork NSW. Where naturally occurring asbestos is part of a mineral extraction process, the NSW Department of Industry is the lead regulator.

5.2 Managing naturally occurring asbestos

Where naturally occurring asbestos is encountered or suspected, the risk from disturbance of the naturally occurring asbestos should be assessed by an occupational hygienist.

The management of naturally occurring asbestos that stays in its natural state is not prohibited if managed in accordance with an asbestos management plan. Requirements for risk management, asbestos management plans and provisions for workers are outlined in the *Naturally-occurring asbestos fact sheet* (catalogue no. WC03728) published by SafeWork NSW. The SafeWork NSW website provides further information on naturally occurring asbestos and supporting documents on what people can do to avoid contact with naturally occurring asbestos.

5.2.1 Management of naturally occurring asbestos by council

Council will aim to prevent the exposure of workers and the public to any naturally occurring asbestos that is known or discovered in the council workplace.

If naturally occurring asbestos is discovered in the LGA, council will develop risk controls, an asbestos management plan in relation to the naturally occurring asbestos in the council workplace and provide guidance materials where necessary.

6. Contamination of land with asbestos

Background information on contamination of land with asbestos and potential disturbance of asbestos contaminated sites can be found in Appendix A under sections 2 and 3. The nature of asbestos contamination of land can vary significantly and there can be a number of different mechanisms available to address this contamination depending upon its source and extent.

6.1 Responsibilities for contaminated land

Responsibility for cleaning up contaminated land lies with the person responsible for contaminating the land or the relevant landowner.

Council may issue a clean up notice to the occupier of premises at or from which council reasonably suspects that a pollution incident has occurred, or is occurring, requiring asbestos waste to be removed (under part 4.2 of the *Protection of the Environment Operations Act 1997*).

Council may also issue prevention notices (under part 4.3 of the *Protection of the Environment Operations Act 1997*) to ensure good environmental practice. If a person does not comply with a prevention notice given to the person, council employees, agents or contractors may take action to cause compliance with the notice.

Any reasonable costs incurred by council in monitoring or enforcing clean up and prevention notices may be recovered through a compliance cost notice (under part 4.5 of the *Protection of the Environment Operations Act 1997*). Council shall keep records of: tasks undertaken; the hours council employees have spent undertaking those tasks; and expenses incurred.

During site redevelopment council will consider contamination with asbestos containing materials in the same way as other forms of contamination as stipulated by the *Environmental Planning and Assessment Act 1979*. That is, council will apply the general requirements of *State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land and the Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land*.

Council provides information about land contamination on planning certificates (issued under section 149 of the *Environmental Planning and Assessment Act 1979*) as outlined in section 6.2.

For sites that are 'significantly contaminated' and require a major remediation program independent of any rezoning or development applications, the EPA and SafeWork NSW are the lead regulatory authorities as outlined in Appendix A under section 2.4.2.

The management of council workplaces contaminated with asbestos is outlined in section 14.4.

6.2 Finding out if land is contaminated

A person may request from council a planning certificate containing advice on matters including whether council has a policy to restrict the use of land due to risks from contamination. Certificates are issued under section 149(2) of the *Environmental Planning and Assessment Act 1979*.

Factual information relating to past land use and other matters relevant to contamination may also be provided, even when land use is not restricted. When council receives a request for a certificate under section 149(2), it may also inform applicants of any further information available under section 149(5). Council may also use section 149(5) certificates to record other information, particularly anything else of a factual nature about contamination which council deems appropriate (such as details of land history, assessment, testing and remediation).

Council records can only indicate known contaminated sites. Any site may potentially be contaminated.

Council may issue notices to land owners or occupiers requiring information about land it has reason to believe may be contaminated by asbestos using section 192 and section 193 of the *Protection of the Environment Operations Act 1997*.

6.3 Duty to report contaminated land

A person whose activities have contaminated land or a landowner whose land has been contaminated is required to notify the EPA when they become aware of the contamination (under section 60 of the *Contaminated Land Management Act 1997*). Situations where this is required are explained in the document: *Guidelines on the duty to report contamination under the Contaminated Land Management Act 1997*.

The EPA will inform council of contaminated land matters relating to the LGA as required under section 59 of the *Contaminated Land Management Act 1997*.

6.4 Derelict buildings

Concerns regarding potential health risks from derelict properties may be directed to council. Derelict properties include abandoned buildings, fire damaged buildings and otherwise dilapidated buildings. Where derelict properties contain friable asbestos and asbestos is exposed, either from human activities or weathering, this poses a potential risk to public health.

Council may respond to derelict properties that pose a demonstrable public health risk using a range of regulatory tools according to the particular circumstances.

Council may issue a clean up notice or prevention notice and compliance cost notice as noted in section 6.1.

Council may also order a person to demolish or remove a building if the building is so dilapidated as to present harm to its occupants or to persons or property in the neighbourhood (under section 121B 2(c) of the *Environmental Planning and Assessment Act 1979*). An order may require immediate compliance with its terms in circumstances which the person who gives the order believes constitute a serious risk to health or safety or an emergency (under section 121M of the *Environmental Planning and Assessment Act 1979*). If a person fails to comply with the terms of an order, council may act under section 121ZJ of the *Environmental Planning and Assessment Act 1979* to give effect to the terms of the order, including the carrying out of any work required by the order.

If the derelict building is on a site that is a workplace then SafeWork NSW is the lead agency responsible for ensuring that asbestos is removed by appropriately licensed removalists.

7. Responding to emergencies and incidents

Emergencies and incidents such as major collapses, cyclones, explosions, fires, storms, or vandalism can cause damage to buildings or land that contain asbestos. This may include working with state agencies in accordance with the NSW Asbestos Emergency Plan and the Disaster Assistance Guidelines. This can create site contamination issues and potentially expose

emergency service workers and the wider public to asbestos. Emergencies or incidents can arise from natural hazards, or from accidental or deliberate human activities including criminal activity.

7.1 Responsibilities in the clean up after an emergency or incident

Council may play a role in ensuring that asbestos containing materials are cleaned up after an emergency or incident. If the emergency or incident occurs at a workplace, SafeWork NSW is the lead agency.

Council may issue a clean up, prevention, cost compliance or penalty infringement notice as outlined in section 3.3 and section 6.1.

Alternatively, council may act under the *Environmental Planning and Assessment Act 1979* as outlined in section 6.4 of this policy.

Council will determine an appropriate response depending on the nature of the situation.

This may include to:

- Seek advice from an occupational hygienist on the likely level of risk and appropriate controls required.
- Liaise with or consult the appropriate agencies.
- Inform emergency personnel of any hazards known to council as soon as practicable.
- Follow the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561) published by SafeWork NSW.
- Ensure that any council workers attending the site have appropriate training and are wearing appropriate personal protective equipment.
- Exclude the public from the site.
- Inform the public of the potential sources of exposure to asbestos, health risks and emergency management response.
- Minimise the risks posed by any remaining structures (see section 6.4).
- Address the risks posed by disturbed asbestos containing materials by engaging a licensed removalist (as outlined in section 14.6.2) or issuing a clean up or prevention notice (as outlined in section 6.4) to ensure asbestos containing materials are removed for disposal.
- Ensure that the site is kept damp, at all times or sprayed with PVA glue, particularly where friable asbestos is present, if considered appropriate (noting that in some instances this may not be appropriate, for example if there are live electrical conductors or if major electrical equipment could be permanently damaged or made dangerous by contact with water).
- Ensure that asbestos containing materials are disposed of at a facility licensed to accept asbestos waste and sight proof of appropriate disposal through weighbridge dockets or similar documentation.

7.2 Advice to the public regarding clean up after an emergency or incident

During a clean up after an emergency or incident, the possibility of neighbours being exposed to asbestos fibres may be very low if precautions are taken to minimise the release and inhalation of asbestos dust and fibres.

As a precautionary measure, where council is involved in a clean up, council may consider advising those in neighbouring properties to:

- avoid unnecessary outdoor activity and do not put any laundry outside during the clean up
- close all external doors and windows and stay indoors during the clean up
- consider avoiding using air conditioners that introduce air from outside into the home during the clean up
- dispose of any laundry that may have been contaminated with asbestos as asbestos waste after the clean up (advice on disposing of asbestos waste is provided in section 10)
- use a low pressure hose on a spray configuration to remove visible dust from pathways after the clean up
- wipe dusty surfaces with a damp cloth and bag and dispose of the cloth as asbestos waste after the clean up (advice on disposing of asbestos waste is provided in section 10)
- any other measures recommended by an occupational hygienist following assessment of the situation.

8. Council's process for changing land use

Council recognises the need to exercise care when changing zoning for land uses, approving development or excavating land due to the potential to uncover known or unknown asbestos material from previous land uses (for example, where a site has been previously been used as a landfill or for on-site burial of asbestos waste).

State Environmental Planning Policy No. 55 – Remediation of Land states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.

Managing sites contaminated with asbestos material is addressed in section 6.

9. Council's process for assessing development

This section applies to development applications assessed under the *Environmental Planning and Assessment Act 1979* and complying development applications assessed under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or council's complying codes (see section 9.5.2). This includes alterations and additions to residential development, which may include internal work as well as extensions to the existing main structure, or changes to outbuildings, sheds or garages.

This section also covers renovations that do not require development consent or a complying development certificate. Development consent is not required to maintain an existing structure. For example, the replacement of windows, doors and ceilings may involve the removal of asbestos but is categorised as exempt development under the *Environmental Planning and Assessment Act 1979* and does not require development consent. In these instances, council has an educative role in providing owners and occupiers with advice and information about the identification and safe management of asbestos.

9.1 Responsibilities for approving development

Council is the consent authority for the majority of development applications in the LGA. The Joint Regional Planning Panel (JRPP) is also consent authority for certain local or regional development. Council may have representation on the JRPP.

Council or the JRPP may impose conditions of consent and a waste disposal policy to a development consent to ensure the safe removal of asbestos, where asbestos has been identified or may be reasonably assumed to be present.

Either council or a private certifier may assess a complying development certificate. Where a private certifier is engaged to assess a complying development certificate, the private certifier is responsible for ensuring that the proposed development activities include adequate plans for the safe removal and disposal of asbestos.

This also applies to the demolition of buildings. Certifiers are able to issue a complying development certificate under the Demolition Code of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Further information on demolition is provided in section 9.4.

When a private certifier issues a complying development certificate and is appointed as the **Principal Certifying Authority** for the development it is the certifier's responsibility to follow up to ensure that works including asbestos handling, removal and disposal if present, are carried out appropriately in accordance with the *Environmental Planning and Assessment Regulation 2000* (clause 136E). Compliance is covered in section 9.7.

9.2 Providing advice to home owners, renovators and developers

Council is committed to providing information to minimise the risks from asbestos in the LGA. Information is provided below and in Appendix A. Appendix B lists additional sources of information on how to deal safely with the risks of asbestos and Appendix J lists asbestos containing products that may be found around the home.

The key points are:

- Before any renovation, maintenance or demolition work is carried out, any asbestos or asbestos containing materials should be identified (refer to section 9.3).
- Where a material cannot be identified or it is suspected to be asbestos, it is best to assume that the material is asbestos and take appropriate precautions.
- If asbestos containing materials can be maintained in good condition it is recommended that they be safely contained, left alone and periodically checked to monitor their condition, until demolition or redevelopment.
- If asbestos materials cannot be safely contained, they should be removed as outlined in section 9.4.
- For demolition or redevelopment, any asbestos containing materials should be safely removed and disposed of prior to the work commencing.

Anyone who is undertaking renovations themselves without a contractor is encouraged to refer to Appendices A and B for more information and contact council where they require further advice or clarification. Anyone engaging an asbestos removal contractor may contact SafeWork NSW with any queries as SafeWork NSW regulates asbestos removal by workers (as explained in section 9.4). Contact details for council and SafeWork NSW are provided in Appendix E.

9.3 Identifying asbestos

Information on common places where asbestos is likely to be found in residential, commercial and industrial premises with materials from prior to 2004 on the premises is provided in Appendix A.

A person may apply to council for a planning certificate (called a section 149 certificate) for the relevant land. Council may provide information on a planning certificate including whether council has a policy to restrict the use of land due to risks from asbestos contamination, as outlined in section 6.2.

Council aims to ensure that records are, as far as possible, accurate. In some instances, council may not have up-to-date information about asbestos for a property. Council may be able to provide general advice on the likelihood of asbestos being present on the land based on the age of the buildings or structures on the land. A general guide to the likelihood of asbestos presence based on building age is provided in Appendix A under section 2.2.

The most accurate way to find out if a building or structure contains asbestos is to obtain an asbestos inspection by a person competent in the identification and assessment of asbestos, such as an occupational hygienist (a competent person is defined by the *NSW Work Health and Safety Regulation 2011*). This is highly advisable before undertaking major renovations to buildings constructed, or containing materials from prior to 2004.

Property owners and agents are encouraged to inform any tenants or occupiers of the presence of asbestos and to address any potential asbestos hazards where appropriate.

Property owners who let their properties out are required to identify any asbestos within those properties before any work is carried out (this includes residential properties).

The *Work Health and Safety Regulation 2011* states that the person conducting a business or undertaking in any building constructed before 31 December 2003 must identify if there is any asbestos in the building.

All commercial properties that contain asbestos must have and maintain a current asbestos register and asbestos management plan.

9.4 Removing asbestos, refurbishments and demolitions

9.4.1 Removing asbestos at domestic premises

If development is undertaken by contractors, as is the case with a lot of home renovations, then the work is considered to be at a workplace and is regulated by SafeWork NSW under the *NSW Work Health and Safety Regulation 2011*. This requires that a person conducting a business or undertaking who is to carry out refurbishment or demolition of residential premises must ensure that all asbestos that is likely to be disturbed by the refurbishment or demolition is identified and, so far as reasonably practicable, is removed before the refurbishment or demolition is commenced.

Depending on the nature and quantity of asbestos to be removed, a licence may be required to remove the asbestos. The requirements for licenses are outlined below and summarised in the table in Appendix K. SafeWork NSW is responsible for issuing asbestos licences.

Friable asbestos must only be removed by a licensed removalist with a friable (Class A) asbestos removal licence. Except in the case of the removal of:

- asbestos containing dust associated with the removal of non-friable asbestos, or
- asbestos containing dust that is not associated with the removal of friable or non-friable asbestos and is only a minor contamination (which is when the asbestos contamination is incidental and can be cleaned up in less than one hour).

The removal of more than 10 square metres of non-friable asbestos or asbestos containing material must be carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist.

The removal of asbestos containing dust associated with the removal of more than 10 square metres of non-friable asbestos or asbestos containing material requires a non-friable (Class B) asbestos removal licence or a friable (Class A) asbestos removal licence.

Removal of 10 square metres or less of non-friable asbestos may be undertaken without a licence. However, given the risks involved, council encourages residents to consider engaging a licensed asbestos removal contractor. The cost of asbestos removal by a licensed professional is comparable in price to most licensed tradespeople including electricians, plumbers and tilers.

All asbestos removal should be undertaken in accordance with the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561).

If a residential premise is a workplace, the licensed asbestos removalist must inform the following persons before licensed asbestos removal work is carried out:

- the person who commissioned the work
- a person conducting a business or undertaking at the workplace
- the owner and occupier of the residential premises
- anyone occupying premises in the immediate vicinity of the workplace (as described in section 467 of the *NSW Work Health and Safety Regulation 2011*).

In certain circumstances, a premise may be used for both residential and commercial purposes and is therefore classified as a workplace.

All licensed asbestos removal must be:

- supervised by a supervisor named to SafeWork NSW
- notified to SafeWork NSW at least five days prior to the work commencing.

Requirements for the transport and disposal of asbestos waste are covered in section 10.

9.4.2 Removing asbestos at workplaces

The *NSW Work Health and Safety Regulation 2011* specifies requirements for demolition and refurbishment at a workplace with structures or plants constructed or installed before 31 December 2003. SafeWork NSW is the lead agency for regulating the safe management of asbestos at workplaces.

9.4.3 Obtaining approval for demolition

Demolition work is classified as high risk construction work in the *NSW Work Health and Safety Regulation 2011* and demolition licenses are required for some demolition work. The *Demolition work code of practice 2015* provides practical guidance on how to manage the risks associated with the demolition of buildings and structures. In most circumstances demolition of a structure requires development consent or a complying development certificate. Applicants need to enquire to council as to whether and what type of approval is required. Where a development application is required council's standard conditions need to be applied to ensure that asbestos is safely managed. Council's conditions for development consent are referred to in section 9.6.

A wide range of development, including residential, industrial and commercial development, can be approved for demolition as complying development under the *Demolition Code of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* and the *Environmental Planning and Assessment Regulation 2000* provides mandatory conditions for complying development certificate applications.

Demolition of development that would be exempt development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* is also exempt development and does not require consent. This includes minor structures such as carports, fences, sheds and the like.

9.5 Exempt or complying development

9.5.1 Exempt development

Exempt development does not require any planning or construction approval if it meets the requirements of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

This means that there is no ability for council or a private certifier to impose safeguards for the handling of asbestos through conditions of development consent. However, council advises that all asbestos removal work should be carried out in accordance with the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561).

9.5.2 Complying development

The *Environmental Planning and Assessment Regulation 2000* (clause 136E) outlines conditions under which a complying development certificate can be issued for development that involves building work or demolition work and friable or non-friable asbestos.

Applications for complying development certificates must include details of the estimated area (if any) in square metres of friable and/or non-friable asbestos material that will be disturbed, repaired or removed in carrying out the development (under Schedule 1 part 2 of the *Environmental Planning and Assessment Regulation 2000*).

Where more than 10 square metres of non-friable asbestos is to be removed, a contract evidencing the engagement of a licensed asbestos removal contractor is to be provided to the principal certifying authority. The contract must specify the landfill site lawfully able to accept asbestos to which the removed asbestos will be delivered.

If the contract indicates that asbestos will be removed to a specified landfill site, the person having the benefit of the complying development certificate must give the principal certifying authority a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

If the work involves less than 10 square metres of non-friable asbestos and is not undertaken by a licensed contractor, it should still be undertaken in a manner that minimises risks as detailed in the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561). In instances where asbestos removal is less than 10 square metres of non-friable asbestos and not from a place of work, then SafeWork NSW would not be the agency responsible for regulating this activity. Concerns or complaints may be directed to council as outlined in section 11.

The *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* outlines the requirements for the applicant to notify their neighbours that works may include asbestos removal.

Further requirements to inform other persons of licensed asbestos removal are described in section 467 of the *NSW Work Health and Safety Regulation 2011* as noted in section 9.4.1 of this policy.

9.6 Development applications

If a proposed building does not meet the requirements of exempt or complying development then the alternative planning approval pathway is a development application (DA). A DA can only be approved by a local council, the JRPP or, for very large, State-significant development proposals, the State Government. A development application needs to be prepared and it will be assessed in accordance with the requirements of relevant environmental planning instruments and the development standards established by council. Council may undertake a site inspection as part of the DA assessment.

9.6.1 Pre-development application advice regarding asbestos

Council's pre-DA service enables proponents to discuss asbestos-related issues with council prior to lodging a DA, if the issue is raised. Council may inform applicants of this policy, fact sheets or websites. Generally this may be most relevant to structures erected or modified before the 1980s and any other structure that could be reasonably suspected to contain asbestos including those with building materials from prior to 2004.

9.6.2 Conditions of consent

Conditions of consent will be determined on merit on a case by case basis taking into consideration the proposed work to be undertaken as prescribed in the application and the supporting documentation. This policy will form part of the determination where removal of asbestos material is identified as part of the application or through the assessment phase and will be referred to in the conditions of consent.

9.7 Compliance and enforcement

9.7.1 Responsibilities for compliance and enforcement

The controls rely on information being provided and checked by the principal certifying authority which may be either the local council or a private certifier. A private certifier has powers under the *Environmental Planning and Assessment Act 1979* to issue construction certificates, compliance certificates, complying development certificates, occupation certificates and to carry out mandatory inspections. Councils will not always be the principal certifying authority. When a council is not nominated as the principal certifying authority for a complying development certificate or development application, the council may not have any knowledge of the asbestos matter. Accordingly, coordination of compliance and/or enforcement actions between the council and the private certifier will be required.

Council may take action on any development for which council has issued the development consent, even when not appointed as the principal certifying authority to ensure enforcement. Where council receives a complaint about a development for which council is not the principal certifying authority, council should consider whether council is the appropriate authority to resolve the matter. Complaints that warrant action by councils because of their greater enforcement powers include:

- urgent matters, for example, a danger to the public or a significant breach of the development consent or legislation
- matters that are not preconditions to the issue of the occupation/subdivision certificate.

In relation to naturally occurring asbestos, council is to verify compliance with environmental planning and assessment legislation and together with the EPA and SafeWork NSW is to coordinate enforcement where non-compliance is suspected.

9.7.2 Compliance strategies

Illegal works include:

- works that are undertaken without a required development consent or complying development certificate
- works that are undertaken that do not comply with the conditions of the development consent or complying development certificate.

Where council becomes aware of illegal work involving asbestos or asbestos containing materials, council will notify SafeWork NSW if the site is a workplace.

The *Environmental Planning and Assessment Act 1979* empowers council to issue orders to direct specific work be undertaken to comply with a development consent.

Council may need to issue an order under the *Local Government Act 1993* (section 124) to direct a person to 'do or refrain from doing such things as are specified in the order to ensure that land is, or premises are, placed or kept in a safe or healthy condition.'

Council may also issue a clean up notice or prevention notice under the *Protection of the Environment Operations Act 1997* as outlined in section 6.1 of this policy.

Council may audit asbestos-related demolition works which council has recently approved by using a legal notice under section 192 of the *Protection of the Environment Operations Act 1997* to require developers to provide information and records regarding disposal of their asbestos waste.

Council will apply its regulatory function in accordance with Council's Enforcement Policy where breaches of the regulations are known and where required, prima facie evidence is obtained.

10. Managing asbestos as a waste

It is illegal to dispose of asbestos waste in domestic garbage bins or to recycle, reuse, bury or illegally dump asbestos waste. Asbestos must not be placed in general waste skip bins, yet there have been instances where asbestos has been illegally placed in skip bins by third parties. Members of the public need to be aware of this hazard and may need to secure their skip bins to prevent a third party from illegally disposing of asbestos in the skip bin.

Asbestos waste (in any form) must only be disposed of at a landfill site that may lawfully receive asbestos waste.

10.1 Responsibilities for asbestos waste management

Council's responsibilities for asbestos waste management are outlined in section 3.3.

The handling and, where appropriate, temporary storage of asbestos waste at worksites is regulated by SafeWork NSW.

The EPA regulates premises that have or require an environment protection licence in accordance with the *Protection of the Environment Operations Act 1997*. A licence is required where more than 5 tonnes of asbestos waste, brought from off-site, is stored at any time. All other sites where asbestos waste is stored, typically those that are non-work sites, are regulated by local councils.

10.2 Handling asbestos waste for disposal

The *Code of practice on how to safely remove asbestos* (catalogue no. WC03561) provides details on waste containment and disposal and controls applicable to all types of asbestos removal (in section 4.8 of the Code).

10.3 Transporting asbestos waste

The following requirements apply to the transport of asbestos waste and non-compliance with these requirements is an offence under clause 78 of the *Protection of the Environment Operations (Waste) Regulation 2014*:

- (a) any part of any vehicle in which the person transports the waste is covered, and leak-proof, during the transportation, and
- (b) if the waste consists of bonded asbestos material-it is securely packaged during the transportation, and
- (c) if the waste consists of friable asbestos material-it is kept in a sealed container during transportation, and
- (d) if the waste consists of asbestos-contaminated soils-it is wetted down.

Asbestos waste that is transported interstate must be tracked in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014*. The transport of asbestos waste in NSW must be recorded from the place of generation to its final destination. The waste

tracking system is administered by the EPA. Operators that use the EPA's WasteLocate system will be in compliance with these requirements. Information about EPA's WasteLocate system can be found at: www.epa.nsw.gov.au/wasteregulation/transport-asbestos-tyres.htm

An environment protection licence issued by the EPA is required to transport asbestos waste interstate where any load contains more than 200 kilograms of asbestos waste.

It is an offence to transport waste to a place that cannot lawfully receive that waste, or cause or permit waste to be so transported (under section 143 of the *Protection of the Environment Operations Act 1997*). Penalty notices may be issued for \$7,500 (to individuals) and \$15,000 (to corporations). NSW courts may impose penalties up to \$250,000 (for individuals) and \$1,000,000 (for corporations) found guilty of committing this offence.

10.4 Disposing of asbestos waste at waste facilities

Council accepts non-friable asbestos waste at the Narromine and Trangie landfill sites.

Narromine:

- hours of operation – open Mon, Wed, Fri, Sat & Sun 9am to 4pm
- contact details – 6889 9957
- any fees for disposing of asbestos waste – refer to Council's fees & charges
- additional information can be found on Council's website, www.narromine.nsw.gov.au
- any further details provided in the appendices.

Trangie:

- hours of operation – open Wed & Fri 8am to 12pm; Sat & Sun 9am to 4pm
- contact details – 6889 9950
- any fees for disposing of asbestos waste – refer to Council's fees & charges
- additional information can be found on Council's website, www.narromine.nsw.gov.au
- any further details provided in the appendices.

Council does not accept asbestos waste at the Tomingley transfer station.

Persons delivering waste to a landfill site must comply with the following requirements:

- a person delivering waste that contains asbestos to a landfill site must inform the landfill occupier of the presence of asbestos when delivering the waste.
- when unloading and disposing of asbestos waste at a landfill site, the waste must be unloaded and disposed of in such a manner as to prevent the generation of dust or the stirring up of dust.

Non-compliance with these requirements is an offence under the *Protection of the Environment Operations (Waste) Regulation 2014* and these offences attract strong penalties.

10.4.1 Situations in which asbestos waste may be rejected from waste facilities

Asbestos waste may be rejected from a waste facility if the waste is:

- not correctly packaged for delivery and disposal (as per sections 10.2 and 10.3)
- not disclosed by the transporter as being asbestos or asbestos containing materials, or
- taken to a waste facility that does not accept asbestos waste.

Where waste is rejected, the waste facility must inform the transporter of the waste of a waste facility to which the waste may be transported, that is, a waste facility at which the waste can be legally accepted (as required by the *Protection of the Environment Operations (Waste) Regulation 2014*).

Individuals may be fined \$7,500 and corporations may be fined \$15,000 under the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Waste)*

Regulation 2014 for transporting asbestos waste to a facility that cannot lawfully receive asbestos waste.

10.5 Illegal dumping of asbestos waste

Illegal dumping is the unlawful deposit of waste onto land. That is waste materials dumped, tipped or otherwise deposited onto private or public land where no licence or approval exists to accept such waste. Illegal landfilling, which is waste used as fill material, with or without the consent of the owner or occupier of the land and without the necessary council or EPA approvals, is also considered to be illegal dumping and pollution of land.

Illegal dumping of asbestos waste in public places such as parks, streets or nature strips can attract regulatory action including:

- on the spot fines of up to \$15,000
- prosecution for pollution of land of up to \$1 million for a corporation and \$120,000 for each day the offence continues (under section 142A of the *Protection of the Environment Operations Act 1997*), or
- up to \$1 million, or seven years imprisonment, or both for an individual (under section 119 of the *Protection of the Environment Operations Act 1997*).

The responsibility for cleaning up illegally dumped waste lies with the person or company that deposited the waste. If they cannot be identified the relevant occupier or landowner becomes the responsible party.

Local councils are the appropriate regulatory authority for illegal dumping unless:

- the activity was part of the carrying on of an activity listed in Schedule 1 of the *Protection of the Environment Operations Act 1997*
- the activity was carried out by a public authority or the state, or
- the site is regulated by a different authority such as the Minister for Planning.

A handbook to assist Aboriginal communities to prevent and arrange the clean up of illegal dumping (published by the EPA) is noted in Appendix B.

10.6 Asbestos remaining on-site

The disposal of asbestos on site is not encouraged as it requires an effective ongoing system of long term management to ensure the material does not pose unacceptable risks to future site activities and occupants. For on-site burial of asbestos waste, council will seek advice from the EPA. Council will confirm if on-site disposal is permitted under planning controls whether or not consent is required and will require recording of on-site disposal on the zoning certificate (section 149 certificate).

11. Complaints and investigations

Complaints and inquiries may be directed to council about incidents in public places and private properties. Complaints and inquiries regarding a workplace should be directed to SafeWork NSW. Complaints and inquiries regarding licensed premises under the *Protection of the Environment Operations Act 1997* should be directed to the EPA.

Council will respond to complaints and inquiries regarding:

- council's requirements in relation to development, land management and waste management
- derelict properties
- general asbestos safety issues

- illegal dumping
- safe removal and disposal of minor quantities of asbestos materials
- unsafe work at a residential property conducted by a homeowner or tenant.

Complaints about council in relation to asbestos may be directed to the NSW Ombudsman.

Part 2 – Management of asbestos risks within council

12. Rights and responsibilities of workers at the council workplace

12.1 Duties of council workers at the council workplace

12.1.1 The General Manager

The General Manager has a duty to exercise due diligence to ensure that council complies with the *NSW Work Health and Safety Act 2011* and the *NSW Work Health and Safety Regulation 2011*. This includes taking reasonable steps to ensure that council has and uses appropriate resources and processes to eliminate or minimise risks associated with asbestos.

12.1.2 Workers

Workers have a duty to take reasonable care for their own health and safety and that they do not adversely affect the health and safety of other persons. Accordingly workers:

- must comply with this policy and any reasonable instruction or procedure relating to health and safety at the workplace
- must use any personal protective equipment provided, in accordance with information, training and reasonable instruction provided so far as the worker is reasonably able
- may cease, or refuse to carry out, work if the worker has a reasonable concern that to carry out the work would expose them, or other persons, to a serious health or safety risk, emanating from an immediate or imminent exposure to a hazard
- should ensure they are using the latest version of all relevant procedures, plans, guidelines and legislation (refer to Appendix G).

Managers are responsible for ensuring workers who report to them have access to this policy and appropriate information, documentation and training.

12.1.3 Prohibited work activities

Council will not permit the use of the following on asbestos or asbestos containing material:

- high pressured water spray (unless for fire fighting or fire protection purposes), or
- compressed air.

Council will not permit the following equipment to be used on asbestos or asbestos containing material unless the use of the equipment is controlled in accordance with the *NSW Work Health and Safety Regulation 2011*:

- power tools
- brooms (note brooms are allowed for use on vinyl floor tiles), or
- any other implements that cause the release of airborne asbestos into the atmosphere.

Council may have activities council employees will not undertake or be allowed to undertake. For further clarification, refer to Council's *Asbestos Policy (Internal Use)*.

12.2 Responsibilities of council to council workers

12.2.1 Council's general responsibilities

Council has general responsibilities under the *NSW Work Health and Safety Act 2011* and the *NSW Work Health and Safety Regulation 2011*. Accordingly council will:

- not use any asbestos containing materials (unless in accordance with part 8.1 (419) of the *NSW Work Health and Safety Regulation 2011*) and will not cause or permit asbestos waste in any form to be reused or recycled
- ensure that exposure of a person at the workplace to airborne asbestos is eliminated so far as is reasonably practicable
- ensure that the exposure standard for asbestos (defined in Appendix C) is not exceeded in the workplace
- notify SafeWork NSW immediately if persons are likely to be affected by asbestos fibres or if an air monitoring process records respirable asbestos fibre levels above 0.02 fibres/ml of air
- ensure that any contractors engaged to undertake the removal of asbestos for council are appropriately licensed
- consult with workers as required by the *Work Health and Safety Act 2011*.

Council will not import asbestos or asbestos containing material into Australia as prohibited under the *Customs (Prohibited Imports) Regulations 1956*. If plant or other materials are imported from countries where asbestos is not yet prohibited, council shall ensure the plant or materials do not contain asbestos prior to supply or use in the workplace.

12.2.2 Education, training and information for workers

As required by the *NSW Work Health and Safety Act 2011* and *NSW Work Health and Safety Regulation 2011*, council will:

- provide any information, training, instruction or supervision that is necessary to protect all persons at the workplace from risks to their health and safety arising from work carried out as part of the conduct of council business
- ensure workers who council reasonably believes may be involved in asbestos removal work or the carrying out of asbestos-related work in the workplace are trained in the identification, safe handling and suitable control measures for asbestos and asbestos containing material.

Any workers who are involved in any activity listed in Appendix A under section 3 on behalf of, or for, council shall be provided with access to a copy of this policy and information and training suitable to their role and the activity.

Workers may be required to sign a statement to the effect that they acknowledge they have received, read and understood a copy of council's Asbestos Policy and any relevant procedures, or alternatively workers may note this in council's electronic record keeping system.

Council may also provide information and training to council employees who may need to respond to asbestos issues related to renovations and developments as outlined in section 9.

Topics training may cover are outlined in the Code of practice on how to safely remove asbestos (catalogue no. WC03561). Training will include training in the hazards and risks associated with naturally occurring asbestos for workers who carry out work where naturally occurring asbestos is likely to be found.

Education and training will only be provided by appropriately accredited individuals. *Education and training may include both initial induction and ongoing reinforcement on a regular basis. Council may wish to provide examples of how education and training will be delivered and reinforced such as tool box meetings, general in-house training or on council's intranet.*

A record of asbestos training undertaken by each worker will be kept until five years after the day the worker ceases to work for council.

12.2.3 Health monitoring for workers

Council will ensure health monitoring is provided to a worker if they are carrying out licensed asbestos removal work, other ongoing asbestos removal work or asbestos-related work at the workplace for council and are at risk of exposure to asbestos when carrying out the work.

The health monitoring will be consistent with the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561) and meet the requirements of the NSW *Work Health and Safety Regulation 2011* (part 8.5 Division 1).

Health counselling may be appropriate where a heightened sense of concern exists for individuals possibly exposed to elevated levels of airborne asbestos fibres.

Employees who were exposed to asbestos in the past and if there is a risk to the health of the employee as a result of that exposure, are covered by the NSW *Work Health and Safety Regulation 2011* (clauses 435-444). Council will ensure these employees are kept on the health monitoring program.

Council will in accordance with the principles of this policy:

- Carry out risk assessments of Narromine Shire Council worksites to identify asbestos.
- Maintain a register containing the location of Narromine Shire Council worksites which contain or are suspected of containing asbestos (ACM).

The register will also include identification of potential risks, work carried out on asbestos, implementation of control measures and persons accessing areas where asbestos may present a risk.

- Remove or control identified ACM as far as reasonably practicable in correlation with its level of risk.
- Use established consultation mechanisms with all workers, their health and safety representatives and others when removing ACM from a workplace. Continually monitor and work towards ACM free worksites.
- Conduct air monitoring to ensure the exposure standard is not exceeded at the workplace.
- Ensure all workers are trained in the identification, safe handling of and appropriate controls for, suspected ACM.
- Ensure health surveillance is provided to all workers that have been exposed to ACM.
- Dispose of presumed and identified ACM according to legislative and regulatory requirements at its landfill depot.
- Provide information about asbestos to the community.

Council commits to developing a health monitoring plan/ procedures based on the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561) and part 8.5 Division 1 of the *NSW Work Health and Safety Regulation 2011*.

13. Identifying and recording asbestos hazards in the council workplace

This section outlines how council will identify and record asbestos hazards in the workplace. This section does not cover naturally occurring asbestos which is addressed in section 5 or illegal dumping which is addressed in section 10.5.

13.1 Identifying asbestos

Council will ensure, so far as is reasonably practicable, that all asbestos or asbestos containing material at the workplace is identified by a competent person (as defined by the *NSW Work Health and Safety Regulation 2011*). If a material cannot be identified or accessed, it will be assumed to be asbestos. This does not apply if council has reasonable grounds to believe that asbestos or asbestos containing material is not present.

13.1.1 Material sampling

Council may choose to identify asbestos or asbestos containing material by arranging for a sample to be analysed. Where council arranges sampling of asbestos containing material, this will be undertaken by an appropriately trained and competent council worker or a competent person will be contracted to undertake this task. Analysis of the sample must only be carried out by a National Association of Testing Authorities (NATA) accredited laboratory (refer to Appendix E) or a laboratory approved or operated by the regulator.

13.2 Indicating the presence and location of asbestos

Council will clearly indicate the presence and location of any asbestos or asbestos containing material identified or assumed at the workplace. Where it is reasonably practicable to do so, council will indicate the presence and location of the asbestos or asbestos containing material by a label.

13.3 Asbestos register

Council has an asbestos register which can be found on council's intranet and electronic record keeping system and is kept at the workplace of Work Health & Safety Officer.

Council's asbestos register will be maintained to ensure the register lists all identified (or assumed) asbestos in the workplace and information in the register is up to date. The asbestos register will be accessible, reviewed, revised and otherwise managed as mandated by the *NSW Work Health and Safety Regulation 2011* (clauses 425 – 428).

Council will ensure that any worker carrying out or intending to carry out work at a council workplace that involves a risk of exposure to airborne asbestos, is given a copy of the asbestos register.

13.4 Suspected asbestos

If a worker suspects there is asbestos in a council workplace, they should inform their manager or supervisor. A competent worker should check the asbestos register for existing asbestos locations and control measures and may need to arrange for an inspection and sampling of the material (refer to section 13.1.1). If it is likely that asbestos or suspected asbestos is present, the asbestos register will be updated and workers will be notified of any newly identified asbestos locations.

Council may need to manage the suspected asbestos as outlined in section 14. If the suspected asbestos has been disturbed and has, or could, become airborne, council may need to respond immediately as outlined in section 15.

14. Managing asbestos-related risks in the council workplace

14.1 Asbestos management plan

Council has an asbestos management plan for asbestos in the council workplace which can be found on council's intranet and electronic record keeping system and is kept at the workplace of Work Health & Safety Officer.

The asbestos management plan will be accessible, reviewed, revised and otherwise managed as mandated by the *NSW Work Health and Safety Regulation 2011* clause 429.

14.2 Asbestos management plan for naturally occurring asbestos

Council is not aware of any naturally occurring asbestos in the workplace. If naturally occurring asbestos is discovered, council will prepare an asbestos management plan in relation to the naturally occurring asbestos in accordance with the *NSW Work Health and Safety Regulation 2011* part 8.4 (Management of naturally occurring asbestos).

14.3 Management options for asbestos-related risks in the council workplace

Council's asbestos management plan includes decisions and reasons for decisions about the management of asbestos at the workplace.

Options for managing asbestos-related risks include:

- removal of asbestos or asbestos containing materials (preferred wherever reasonably practicable)
- interim control measures: enclosure (only for non-friable asbestos), encapsulation (when the original asbestos bond is still intact) or sealing (where the sealed material is unlikely to be subject to mechanical damage) asbestos containing material, to be implemented along with regular inspections by a competent person
- leaving asbestos containing material in situ (deferring action).

Council may undertake an asbestos risk assessment, in consultation with workers and/or their representatives, in order to inform decision-making. Only competent persons will perform risk assessments or any subsequent reviews or revisions of risk assessments.

For all asbestos work or asbestos-related work, safe work practices will be in place and suitable personal protective equipment will be used.

14.4 Sites contaminated with asbestos that are council workplaces

Where asbestos is identified as contaminating a workplace, the site will be included in council's asbestos register and asbestos management plan.

Council may need to ensure that an exposure assessment is undertaken and that appropriate risk management options are determined and implemented.

For asbestos in soil or aggregate, a suitably qualified occupational hygienist must carry out an assessment if the material in the soil and aggregate is unknown or classified as friable.

Council should engage specialists, who may include asbestos removalists, for all cases except in the case of minor, non-friable contaminations.

Further details on managing land contaminated with asbestos may be found in section 6.

14.5 Demolition or refurbishment of council buildings and assets

Council will ensure that before any demolition or refurbishment of a council structure or plant constructed or installed before 31 December 2003 is undertaken, the asbestos register is reviewed and a copy provided to the business undertaking the demolition or refurbishment. Council will ensure that any asbestos that is likely to be disturbed is identified and, so far as is reasonably practicable removed.

14.6 Removal of asbestos in the council workplace

Removal of asbestos or asbestos containing materials in the council workplace will be undertaken in accordance with the:

- NSW *Work Health and Safety Act 2011*
- NSW *Work Health and Safety Regulation 2011*.

Council may also refer to the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561).

For licensed asbestos removal work, a licensed asbestos removalist must meet the requirements of the NSW *Work Health and Safety Regulation 2011* including the requirements to:

- notify SafeWork NSW at least five days prior to the asbestos removal work commencing. However, in the case of emergency work, such as burst pipes, fires and illegally dumped asbestos, council may request to SafeWork NSW that this five days period be waived
- prepare, supply and keep an asbestos removal control plan
- obtain a copy of the asbestos register for the workplace before carrying out asbestos removal work at the workplace (this does not apply if the asbestos removal work is to be carried out at residential premises, for example cleaning up asbestos that has been illegally dumped at a residential premises)
- inform the person with management or control of the workplace that the licensed asbestos removal work is to be carried out at the workplace
- erect signs and barricades
- limit access to the asbestos removal area
- properly dispose of asbestos waste and dispose of, or treat, contaminated personal protective equipment
- arrange a clearance inspection and clearance certificate.

Where council is informed that asbestos removal work is to be carried out at the workplace, council will inform workers and those in the immediate vicinity of the workplace and limit access to the asbestos removal area as per the NSW *Work Health and Safety Regulation 2011*.

14.6.1 Removal by council employees

A list of employees trained and nominated to remove asbestos as well as the nominated supervisors should be listed in council's asbestos management plan.

Council will ensure that before any council employee undertakes asbestos (or suspected asbestos) removal work they are:

- appropriately trained
- adequately supervised
- provided with appropriate personal protective equipment and clothing
- provided access to this policy
- provided with information about the health risks and health effects associated with exposure to asbestos and the need for, and details of, health monitoring.

Council may refer to any council processes or templates eg for preparing safe work method statements

14.6.2 Removal by contractors

Where council commissions the removal of asbestos at the workplace, council will ensure asbestos removal work is carried out only by a licensed asbestos removalist who is appropriately licensed to carry out the work, unless specified in the NSW *Work Health and Safety Regulation 2011* that a licence is not required.

Where council requires the services of asbestos removalists, council will require the licence details of asbestos removalists prior to engaging their services and will verify the licence details with SafeWork NSW's Certification Unit prior to entering a contract or agreement with the licensed asbestos removalists.

Council is required to ensure that the work is carried out by a competent person who has been trained in the identification and safe handling of, and suitable control measures for, asbestos and asbestos containing material. Council will therefore require a statement in a written contract or agreement with the licensed asbestos removalist that the licensed asbestos removalist who will undertake the work has been adequately trained and is provided with appropriate health monitoring by their employer.

The licensed asbestos removalist is to provide the following documentation prior to carrying out asbestos removal work:

- Asbestos removal control plan
- Public liability certificate of currency
- Workers compensation certificate of currency
- SafeWork NSW confirmation details to carry out the removal work

Council will provide a copy of the asbestos register to the licensed asbestos removalist.

Where council becomes aware of any breaches by licensed asbestos removalists, council will report this to SafeWork NSW.

14.6.3 Clearance inspections and certificates

Where council commissions any licensed asbestos removal work, council will ensure that once the licensed asbestos removal work has been completed, a clearance inspection is carried out and a clearance certificate is issued by an independent licensed asbestos assessor (for Class A asbestos removal work) or an independent competent person (in any other case) before the asbestos removal area is re-occupied.

The friable asbestos clearance certificate will require visual inspection as well as air monitoring of the asbestos removal site. Air monitoring is mandatory for all friable asbestos removal. The air monitoring must be conducted before and during Class A asbestos removal work by an independent licensed asbestos assessor.

The friable asbestos clearance certificate is to state that there was no visible asbestos residue in the area or vicinity of the area where the work was carried out and that the airborne asbestos fibre level was less than 0.01 asbestos fibres/ml.

15. Accidental disturbance of asbestos by workers

In situations where asbestos is accidentally disturbed by council work and has, or could, become airborne, council will act to minimise exposure of workers and the wider public to airborne asbestos.

It may be appropriate that council:

- *stop works in the vicinity of the asbestos immediately*
- *inform the site supervisor immediately, inform necessary workers and record the incident*
- *evacuate the area*
- *provide personal protective equipment and briefing to appropriately trained workers who will respond to the incident*
- *restrict access to the area and ensure only appropriately trained and equipped council workers attend the site*
- *exclude the public from the site and provide information to the public if in a public area*
- *wet surfaces to reduce the dust levels*
- *prevent the spread of contamination by using wash down facilities*
- *provide information, training and supervision to all workers potentially at risk*
- *contact SafeWork NSW to report the disturbance. SafeWork NSW must be immediately notified if persons are likely to be effected by asbestos fibres or if an air monitoring process records a level above 0.02 fibres/ml of air*
- *implement an air monitoring program to assess asbestos exposure levels and specific risk control measures.*
- *liaise with or consult the appropriate agencies*
- *seek advice from an occupational hygienist*
- *follow the Code of practice on how to safely remove asbestos (catalogue no. WC03561)*
- *ensure that asbestos materials are disposed of at a facility licensed to accept asbestos materials, and where contractors have been engaged to dispose of asbestos waste, sight proof of appropriate disposal through weighbridge dockets or similar documentation*
- *update the asbestos register and notify workers of any newly identified asbestos locations*

16. Council's role in the disposal of asbestos waste

16.1 Responding to illegal dumping

Removal of illegally dumped asbestos material or suspected asbestos material by council employees or licensed contractor will be undertaken in accordance with section 14.6.1 or section 14.6.2.

Where council commissions the removal of illegally dumped asbestos material or suspected asbestos material, council will ensure this is undertaken in accordance with section 14.6.2

Where council becomes aware of illegally dumped asbestos material outside of council's jurisdiction, council will promptly notify the relevant authority.

16.2 Transporting and disposing of asbestos waste

Council will transport and dispose of waste in accordance with the legislation and as outlined in section 10.

16.3 Operating council's waste facilities licensed to accept asbestos waste

Waste management facilities must be managed in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014* including clause 80 which specifies that:

- (1) A person disposing of asbestos waste off the site at which it is generated must do so at a landfill site that can lawfully receive the waste.
- (2) When a person delivers asbestos waste to a landfill site, the person must inform the occupier of the landfill site that the waste contains asbestos.
- (3) When a person unloads or disposes of asbestos waste at a landfill site, the person must prevent:
 - (a) any dust being generated from the waste, and
 - (b) any dust in the waste from being stirred up.
- (4) The occupier of a landfill site must ensure that asbestos waste disposed of at the site is covered with virgin excavated natural material or (if expressly authorised by an environment protection licence held by the occupier) other material:
 - (a) initially (at the time of disposal), to a depth of at least 0.15 metre, and
 - (b) at the end of each day's operation, to a depth of at least 0.5 metre, and
 - (c) finally, to a depth of at least 1 metre (in the case of bonded asbestos material or asbestos-contaminated soils) or 3 metres (in the case of friable asbestos material) beneath the final land surface of the landfill site.

Council has developed a charging policy for receiving asbestos waste, which reflects the actual cost of managing the asbestos waste, plus any applicable levies.

When council is receiving construction, renovation and demolition waste, council should visually screen and may also inspect incoming loads to minimise asbestos contamination risk as this waste may be high risk for asbestos materials. Council has developed procedures to avoid asbestos contamination in material intended for resource recovery.

Council may issue a receipt for asbestos waste received at a licensed landfill facility. The receipt provided may note the time, date and location of disposal, weight of asbestos containing material disposed, method of disposal (note on handling) and a receipt number. This information must be recorded by the facility, regardless of whether a receipt is issued.

16.3.1 Asbestos waste incorrectly presented to council's waste facilities

This section applies to situations where asbestos waste is taken to a council waste facility and the waste is:

- not correctly packaged for delivery and disposal (as per sections 9.2 and 9.3)
- not disclosed by the transporter as being asbestos or asbestos containing materials
- taken to a waste facility that does not accept asbestos waste.

In these situations, council may record relevant details such as the:

- contact details of the transporter
- origin of the asbestos or asbestos containing material
- amount and type of asbestos or asbestos containing material
- reasons why the asbestos waste was not properly packaged, disclosed or transported to a waste facility licensed to receive asbestos waste

- development consent details (if applicable).

Where asbestos waste is not correctly packaged for delivery and disposal, or is not disclosed by the transporter as being asbestos or asbestos containing materials, council may:

- reject the asbestos waste from the facility
- suggest the transporter re-package the load correctly at the facility
- provide a bay for wetting and/or wrapping the asbestos and protective equipment for the transporter eg the option to purchase an asbestos waste handling kit (for non-commercial operators with less than 10 square metres of non-friable asbestos)
- provide the transporter with educational material such as SafeWork NSW fact sheets on correct methods for packaging, delivery and disposal of asbestos
- question the transporter about the source of asbestos waste
- issue a clean up notice or prevention notice under the *Protection of the Environment Operations Act 1997*
- issue a compliance cost notice under the *Protection of the Environment Operations Act 1997*
- issue a penalty infringement notice for improper transport of asbestos (under the *Protection of the Environment Operations Act 1997*).

Where asbestos waste is taken to a waste facility that does not accept asbestos waste, council may reject the waste. Where waste is rejected, council should complete a rejected loads register (a template is available from SafeWork NSW). Council will also inform the transporter of a waste facility to which the waste may be transported, that is, a waste facility at which the waste can be legally accepted (as required by the *Protection of the Environment Operations (Waste) Regulation 2014*). If council suspects that there is a risk of illegal dumping of the rejected waste, council will inform council's rangers or council's compliance officers.

Suitable disposal for loads that are refused entry will remain the responsibility of the transporter and at a later date the transporter will need to demonstrate to council that the waste has been appropriately disposed.

Where asbestos waste is illegally dumped at an unstaffed waste station, management options for council include to:

- undertake surveillance via video cameras to issue fines or deter dumping
- provide targeted education to neighbouring landholders to ensure that they do not allow access to the waste station.

16.4 Recycling facilities

Council should screen and inspect incoming loads at recycling facilities for the presence of asbestos or asbestos containing materials to minimise asbestos contamination risk.

To prevent contamination of recycled products and to manage situations where contamination has occurred, council should adhere to the guide: *Management of asbestos in recycled construction and demolition waste*.

16.5 Re-excavation of landfill sites

The re-excavation of a council landfill site where significant quantities of asbestos waste are deposited is not encouraged and should only be considered with reference to any available records on the nature, distribution and quantities of asbestos waste required under the relevant legislation, and consultation with the Environment Protection Authority (as the appropriate regulatory authority under the *Protection of the Environment Operations Act 1997*).

17. Advice to tenants and prospective buyers of council owned property

Council may provide advisory notes to tenants and prospective buyers of council owned property that is likely to contain asbestos.

Council may request that tenants in council property:

- advise council of any hazards relating to asbestos
- minimise damage to asbestos containing material
- co-operate with council in facilitating any risk management work arranged by council
- act on advice from council to minimise risks from asbestos.

18. Implementing council's asbestos policy

18.1 Supporting documents

The implementation of this policy is supported by council's:

- *conditions of consent*
- *guidelines for disposing of asbestos waste*

Council also has several internal documents that support this policy

- *asbestos management plan*
- *asbestos register*
- *complaints handling procedures*
- *Council's existing risk assessment matrices and a risk controls checklist for asbestos*
- *employee health monitoring plans*
- *incident report form*
- *maintenance and inspection schedules for council owned assets*
- *risk register (eg RiskeMAP)*
- *safe work method statements/ procedures for asbestos handling and removal for council employees*
- *site maps for asbestos in landfill*
- *site specific safety management plans*
- *training registers/ records (relevant to identifying, handling and removing of asbestos materials).*
- *asbestos inquiries and complaints response flowchart and checklist*
- *asbestos management plan*
- *conditions of consent*
- *community education strategy.*

18.2 Communicating the policy

This is a publicly available policy. The policy is to be made available via:

Council's Administration Building, 124 Dandaloo St, Narromine

- Council's website www.narromine.nsw.gov.au
- Council's Records Management System
- All employees shall receive information about the policy at induction from the Human Resources Manager.

Any workers (including employees, contractors, consultants and, where relevant, volunteers and members of the public) who are involved in any activity or activities listed in Appendix A under section 3 on behalf of, or for, council shall be provided with access to a copy of this policy and relevant supporting documents. This includes any workers involved in commencing, arranging, undertaking, regulating, inspecting or supervising a potentially hazardous activity or activities. Managers are responsible for ensuring workers who report to them have access to the policy and appropriate information, documentation and training in asbestos awareness (as per the NSW *Work Health and Safety Regulation 2011*) prior to planning the activity or activities. Further information about training is noted in section 12.2.2 of this policy.

Council shall incorporate a statement regarding compliance with this policy in all relevant contracts and agreements with workers (including employees, contractors, consultants and, where relevant, volunteers and members of the public).

In the case of any substantive revisions to the policy, the revisions will be approved by the General Manager and the General Manager will notify all persons who may have cause to undertake, arrange or supervise any activities listed in Appendix A under section 3 on behalf of, or for, council.

18.3 Non-compliance with the policy

Failure by workers to adhere to the policy and failure by managers to adequately inform relevant workers of this policy shall be considered non-compliance with this policy.

The appropriate supervisor, manager, director, or the General Manager, shall take action in the case on non-compliance with the policy and this may include providing education and training, issuing a verbal or written warning, altering the worker's duties, or in the case of serious breaches, terminating the worker's services. Each case shall be assessed on its merits with the aim of achieving a satisfactory outcome for all parties

Workers should approach their supervisor or manager if they are experiencing difficulties in understanding or implementing the policy or if they are concerned that other workers are not complying with the policy.

19. Variations to this policy

Council reserves the right to review, vary or revoke this policy. The General Manager may allow variations to the policy for minor issues in individual cases.

Appendices

Appendix A – General information and guidance

1. What is asbestos?

Asbestos is the generic term for a number of naturally occurring, fibrous silicate materials. If asbestos is disturbed it can release dangerous fine particles of dust containing asbestos fibres. Breathing in dust containing elevated levels of asbestos fibres can cause asbestosis, lung cancer and mesothelioma.

There are two major groups of asbestos:

- the serpentine group contains chrysotile, commonly known as white asbestos
- the amphibole group contains amosite (brown asbestos) and crocidolite (blue asbestos) as well as some other less common types (such as tremolite, actinolite and anthophyllite).

Further information about the different types of asbestos can be found in: Environmental Health Standing Committee (enHealth), *Asbestos: A guide for householders and the general public*, Australian Health Protection Principal Committee, Canberra, 2013 (available at: www.health.gov.au/internet/publications/publishing.nsf/Content/asbestos-toc-asbestos-about).

In Australia, in the past asbestos was mined and widely used in the manufacture of a variety of materials. Asbestos was gradually phased out of building materials in the 1980s and the supply and installation of asbestos containing goods has been prohibited in Australia since 31 December 2003.

Asbestos legacy materials still exist in many homes, buildings and other assets. It is estimated that 1 in 3 Australian homes contains building materials with asbestos. Where the material containing asbestos is in a non-friable form (or bonded), undisturbed, and painted or otherwise sealed, it may remain safely in place. However, where the asbestos containing material is broken, damaged or mishandled, fibres can become loose and airborne posing a risk to health. Disturbing or removing asbestos unsafely can create a health hazard.

It is often difficult to identify the presence of asbestos by sight. If you are in doubt, it is best to assume that you are dealing with asbestos and take every precaution. The most accurate way to find out whether a material contains asbestos is to obtain an asbestos inspection by a person competent in the identification and assessment of asbestos such as an occupational hygienist. It can be unsafe for an unqualified person to take a sample of asbestos. Licensed asbestos removalists can be found by using the telephone directory. Council encourages residents to ask the contractor for a copy of their licence prior to engaging them. Residents can then check with SafeWork NSW (phone 13 10 50) to confirm the contractor has the appropriate class of licence for the asbestos removal job.

2. Where is asbestos found?

Asbestos can be found where it occurs naturally and in a variety of materials (from prior to 2004) in residential, commercial and industrial premises and on public and private land.

2.1 Naturally occurring asbestos

Naturally occurring asbestos refers to the natural geological occurrence of asbestos minerals found in association with geological deposits including rock, sediment or soil.

Asbestos is found as a naturally occurring mineral in many areas of NSW. Asbestos may occur in veins within rock formations. The map provided in Appendix L gives an indication of areas in NSW known to have naturally occurring asbestos. Note whether council is aware of areas of naturally occurring asbestos within the LGA and if so the general location and information on situation eg the asbestos is underground and does not present a high risk to public health.

Naturally occurring asbestos may be known of from previous mining operations or from being uncovered during road construction and other civil works.

Work processes that have the potential to inadvertently release naturally occurring asbestos into the air include:

- agriculture
- forestry
- landscaping
- mining
- other excavation or construction activities
- pipe works and telecommunications works
- road construction and road works.

Further information can be found in this policy under section 5 and in the *Naturally-occurring asbestos fact sheet* (catalogue no. WC03728) published by SafeWork NSW, which provides a photograph of naturally occurring asbestos. The SafeWork NSW website provides further information on naturally occurring asbestos and supporting documents on what people can do to avoid contact with naturally occurring asbestos.

2.2 Residential premises

As a general rule, a house built:

- Before the mid 1980s – is highly likely to contain asbestos containing products.
- Between the mid 1980s and 1990 – is likely to contain asbestos containing products.
- After 1990 – is unlikely to contain asbestos containing products. However, some houses built in the 1990s and early 2000s may have still used asbestos cement materials until the total ban on any activity involving asbestos products became effective from December 2003.

Pipelines installed prior to 1992, particularly black surface coated and grey surface pipes, may contain asbestos.

It is important to note, the most accurate way to find out whether a material contains asbestos is by engaging a licensed asbestos removalist or occupational hygienist to inspect and arrange testing where necessary.

Fibre cement sheeting, commonly known as 'fibro', 'asbestos sheeting' or 'AC sheeting' (asbestos containing sheeting) is the most commonly found legacy asbestos material in residential premises. Other asbestos containing materials were used in 'fibro' houses but also found in brick and timber housing stock from that period. Asbestos materials were sold under a range of commercial names. Some asbestos containing materials found in New South Wales domestic settings are listed in Appendix J.

Common places where asbestos is likely to be found in and around homes include:

Outside

- backyard garden sheds, carports, garages and dog kennels
- electrical meter boards
- imitation brick cladding
- lining under eaves
- wall and roof materials (flat, patterned or corrugated asbestos sheeting).

Inside

- insulation materials in heaters and stoves
- interior walls and sheeting

- sheet materials in wet areas (bathroom, toilet and laundry walls, ceilings and floors)
- vinyl floor tiles, the backing to cushion vinyl flooring and underlay sheeting for ceramic tiles including kitchen splashback.

Asbestos can also be found in:

- angle mouldings (internal and external)
- board around windows and fireplaces
- brake pads and clutch pads to vehicles
- buried and dumped waste materials
- carpet underlay
- ceilings (ceiling tiles or sprayed coatings or loose in the ceiling cavity and may have moved to wall cavities, cornices and sub-floor areas)
- cement flooring
- external toilets
- fencing
- guttering, downpipes and vent pipes
- inside appliances eg irons, whitegoods
- gable ends
- outbuildings
- ridge capping
- swimming pools – reinforcing marble swimming pools
- ventilators – internal and external.

Other places asbestos can be found are listed in Appendix J.

2.3 Commercial and industrial premises

In commercial and industrial premises, asbestos may be found in the abovementioned places and also:

- asbestos rope or fabric in expansion joints (for example exhaust flues) and insulation
- bitumous waterproof membrane on flat roofs
- brake disc pads and brake linings
- cloth, tapes, ropes and gaskets for packing
- electrical switchboards and duct heater units
- fillers and filters
- fire doors
- lagging on pipes such as heater flues
- lift motor rooms
- pipes, casing for water and electrical/ telecommunication services
- rubber, plastics, thermosetting resins, adhesives, paints, coatings, caulking compounds and sealants for thermal, electrical and insulation applications
- structural beams of buildings
- yarns and textiles eg fire blankets.

Other places asbestos can be found are listed in Appendix J.

2.4 Sites contaminated with asbestos

Contamination of soils from asbestos or asbestos containing materials can present a risk in urban and rural environments if the asbestos can give rise to elevated levels of airborne fibres that people can breathe. Whilst buried material may not give rise to airborne asbestos fibres if securely contained, inappropriate disturbance of this waste could give rise to harmful levels of asbestos fibres in air. Activities such as those listed in section 3 of this Appendix have the potential to encounter and disturb asbestos waste or contamination, particularly where the contamination is not known to be present at the site or has not been appropriately considered.

2.4.1 Situations where asbestos contamination may occur

Situations where asbestos contamination may occur include:

- industrial land, eg, asbestos-cement manufacturing facilities, former power stations, and rail and ship yards, especially workshops and depots
- waste disposal or dumping sites, including sites of illegal dumping eg, building waste
- sites with infill or burial of asbestos waste from former asbestos mining or manufacture processes
- buildings or structures damaged by fire or storm (particularly likely for those with pre-1980s building materials but also possible for those with materials from prior to 2004)
- land with fill or foundation material of unknown composition
- sites where buildings or structures have been constructed from asbestos containing material or where asbestos may have been used as insulation material, eg, asbestos roofing, sheds, garages, reservoir roofs, water tanks, boilers and demolition waste has been buried onsite
- sites where buildings or structures have been improperly demolished or renovated, or where relevant documentation is lacking (particularly likely for those with pre-1980s building materials but also those with materials from prior to 2004)
- disused services with asbestos containing piping such as water pipes (including sewage systems, water services and irrigation systems), underground electrical and telephone wires and telecommunications trenches or pits (usually within 1 metre of the surface).

2.4.2 Significantly contaminated land

For sites that are significantly contaminated, the EPA and SafeWork NSW are the lead regulatory authorities. The *Contaminated Land Management Act 1997* applies to significantly contaminated land. In general, significant contamination is usually associated with former asbestos processing facilities or where large quantities of buried friable asbestos waste has been uncovered and is giving rise to measureable levels of asbestos fibres in air. Such sites require regulatory intervention to protect community health where the source of the contamination is not being addressed by the responsible person. The Environment Protection Authority has details of sites that have been nominated as significantly contaminated on its Public Register at: www.epa.nsw.gov.au/clm/publiclist.htm

If land is contaminated but not determined to be 'significant enough to warrant regulation' then the *Contaminated Land Management Act 1997* does not apply. In such cases the provisions within the planning legislation and/or the *Protection of the Environment Operations Act 1997* may be the appropriate mechanism for management of such contamination.

Guidance on assessing land can be found in the document: *Guidelines on the duty to report contamination under the Contaminated Land Management Act 1997*.

3. Potentially hazardous activities

A number of activities could cause asbestos to be inadvertently disturbed and consequently create a health risk.

Before undertaking any of the activities listed below, it should be considered whether asbestos containing materials may be present. If asbestos is present, these activities may be illegal or

certain precautions may be required, or an appropriately licensed person may be required to undertake the activity.

Members of the public could inadvertently disturb asbestos through activities including:

- renovations, refurbishments or repairs particularly those involving power tools, boring, breaking, cutting, drilling, grinding, sanding or smashing asbestos containing materials
- sealing, painting, brushing and cleaning asbestos cement products
- demolitions of homes or other structures (dismantling or destruction)
- relocating a house, building or structure
- using compressed air on asbestos containing materials
- water blasting asbestos containing materials
- cleaning gutters on asbestos cement roofs
- handling asbestos cement conduits or boxes
- maintenance work such as plumbing and electrical work on or adjacent to asbestos containing materials such as working on electrical mounting boards
- maintenance or servicing of materials from vehicles, plant or equipment
- checking, removing or replacing ceiling insulation which contains asbestos.

Council could inadvertently disturb asbestos through activities such as:

- abovementioned activities
- asset and building maintenance
- certifying
- inspections of sites and premises
- transport and disposal of illegally dumped materials
- collection, transport and disposal of incorrectly disposed of materials.

Naturally occurring asbestos and contaminated sites could be inadvertently disturbed during:

- road building
- site and construction work
- other excavation activities
- vehicle movements.

Natural processes can create a risk of exposure to asbestos including:

- extensive fire or storm damage to asbestos cement roofs or building materials
- extensive weathering and etching of unsealed asbestos cement roofs.

In addition, work that intentionally disturbs asbestos, such as sampling or removal, should be conducted by a competent person and in accordance with the relevant codes of practice and legislation.

4. Health hazards

Asbestos fibres can pose a risk to health if airborne, as inhalation is the main way that asbestos enters the body. The World Health Organisation has stated that concentrations of asbestos in drinking water from asbestos cement pipes do not present a hazard to human health.

Breathing in asbestos fibres can cause asbestosis, lung cancer and mesothelioma. The risk of contracting these diseases increases with the number of fibres inhaled and the risk of lung cancer from inhaling asbestos fibres is greatly increased if you smoke. Small fibres are the most dangerous and they are invisible to the naked eye. People who are at most risk are those who have been exposed to high levels of asbestos for a long time. The symptoms of these diseases do not usually appear for some time (about 20 to 30 years) after the first exposure to asbestos.

Asbestosis is the irreversible scarring of lung tissue that can result from the inhalation of substantial amounts of asbestos over a period of years. It results in breathlessness that may lead to disability and, in some case, death.

Lung cancer can be caused by asbestos. Lung cancer is related to the amount of fibre that is breathed in and the risk of lung cancer is greatly increased in those who also smoke tobacco.

Mesothelioma is a cancer of the pleura (outer lung lining) or the peritoneum (the lining of the abdominal cavity). Mesothelioma rarely occurs less than 15 years from first exposure, and most cases occur over 30 years after first exposure. Accordingly, the rates of malignant mesothelioma (an incurable cancer) are expected to rise from the year 2012 to 2020 and are expected to peak in this time.

If asbestos fibres are in a stable material, for example bonded in asbestos-cement sheeting (such as fibro), and these materials are in good condition they pose little health risk. However, where fibro or other non-friable asbestos sheeting is broken, damaged or mishandled, fibres can become loose and airborne posing a risk to health. Disturbing or removing asbestos containing materials unsafely can create a hazard.

The occupational standard for asbestos is 0.1fibre/ml of air and the environmental standard is 0.01fibre/ml in air.

When someone has potentially been exposed to asbestos, or receives or expects they may receive a diagnosis of an asbestos-related disease, they may experience psychological distress, including anxiety and may be in need of support. Their family and those around them may also be vulnerable to psychological distress.

Appendix B – Further information

Aboriginal communities

Illegal dumping prevention and clean-up. Handbook for Aboriginal communities, 2008 (EPA)
www.epa.nsw.gov.au/illegaldumping/resources.htm

Asbestos contractors

Choosing an asbestos consultant fact sheet (catalogue no. WC04547) (SafeWork NSW)
www.safework.nsw.gov.au/formspublications/publications/Pages/Choosinganasbestosconsultant.aspx

For a listing of asbestos removal contractors in your area, refer to your local telephone directory or the Yellow Pages www.yellowpages.com.au or by contacting the Asbestos Removal Contractors Association NSW (ARCA) www.arcansw.asn.au or by emailing: email@arcansw.asn.au. An asbestos removal contractor's licence can be verified by contacting the SafeWork NSW's Certification Unit on **13 10 50**.

Asbestos waste

Advice about safely disposing of household asbestos waste can be found at:
www.epa.nsw.gov.au/managewaste/house-asbestos.htm

Asbestos waste disposal facility search function on the Asbestos Safety and Eradication Agency website: www.asbestossafety.gov.au/search-disposal-facilities

Crackdown on Illegal Dumping: A Handbook for Local Government, 2007 (EPA)
www.epa.nsw.gov.au/illegaldumping/resources.htm

Illegally Dumped Asbestos Clean Up Program (IDACUP): Council may become involved in clean up activities of illegally dumped asbestos waste. Where the responsible party is unknown, unavailable, unwilling (despite a legal obligation to do so) or unable to pay for clean up within the timeframe required to avoid or at least minimise harm to the environment or public health, Council may apply for funding under the IDACUP. Information about the IDACUP is available at www.environment.nsw.gov.au/grants/IDACUP.htm

Regional Illegal Dumping (RID) Squads: are regionally based teams that specialise in dealing with illegal dumping. The squads are funded by the EPA and the member local councils who opt to work together and pool resources to tackle illegal dumping.

RIDonline is a statewide illegal dumping database and reporting tool to assist councils and the EPA develop a comprehensive picture of the extent of illegal dumping in NSW. Members of the community can assist by reporting illegal dumping online through the RIDonline App, available for the public to download in February 2016.

For more information on illegal dumping and safely disposing of asbestos waste visit the EPA website: www.epa.nsw.gov.au

Management of asbestos in recycled construction and demolition waste, 2010 (SafeWork NSW)
www.safework.nsw.gov.au/_data/assets/pdf_file/0017/18323/asbestos_recycled_construction_demolition_waste_2772.pdf

Contaminated land

Guidelines on the duty to report contamination under the Contaminated Land Management Act 1997, 2015 (EPA). www.epa.nsw.gov.au/resources/clm/150164-report-land-contamination-guidelines.pdf

Managing land contamination: Planning guidelines SEPP 55 – Remediation of land, 1998 (Department of Planning and Environment and EPA)
www.epa.nsw.gov.au/resources/clm/gu_contam.pdf

Emergency management

Guidance Material: Asbestos and Fire-damaged Buildings, 2015 (EPA)

www.epa.nsw.gov.au/resources/waste/asbestos/150044-asbestos-fire-damaged-buildings.pdf

NSW Asbestos Emergency Plan: The NSW Asbestos Emergency sub plan details the specific arrangements for the coordinated funding and management of asbestos debris during and following a larger scale emergency, being an event that requires a significant and coordinated response, where the presence of asbestos containing material in the community poses a significant risk to public health and safety.

www.emergency.nsw.gov.au/publications/plans/sub-plans/asbestos.html

Environmental risk assessment

Environmental health risk assessment: Guidelines for assessing human health risks from environmental hazards, 2002 (Commonwealth of Australia)

Available via email by contacting the enHealth Secretariat:

enHealth.Secretariat@health.gov.au

Health

Asbestos and health risks fact sheet, 2007 (NSW Health)

www.health.nsw.gov.au/environment/factsheets/Pages/asbestos-and-health-risks.aspx

Further advice concerning the health risks of asbestos can be obtained from your local public health unit.

Renovation and development

Asbestos: A guide for householders and the general public, Environmental Health Standing Committee (enHealth), Australian Health Protection Principal Committee, Canberra, 2013 (available at: www.health.gov.au/internet/publications/publishing.nsf/Content/asbestos-toc~asbestos-about).

Asbestos Awareness website (Asbestos Education Committee)

www.asbestosawareness.com.au

Choosing and working with a principal certifying authority: A guide for anyone planning to build or subdivide, 2011 (Building Professionals Board)

www.bpb.nsw.gov.au/sites/default/files/public/Finalbuildingapproch.pdf

Practical guidance

Code of practice on how to manage and control asbestos in the workplace (catalogue no. WC03560) published by SafeWork NSW

www.safework.nsw.gov.au/_data/assets/pdf_file/0015/15216/how-to-manage-control-asbestos-workplace-code-of-practice-3560.pdf

Code of practice on how to safely remove asbestos (catalogue no. WC03561) published by SafeWork NSW www.safework.nsw.gov.au/_data/assets/pdf_file/0016/15217/how-to-safely-remove-asbestos-code-of-practice-3561.pdf

Tenants

Tenants rights Fact sheet 26 Asbestos and lead, 2010 (Tenants NSW)

www.tenants.org.au/publish/factsheet-26-asbestos-lead/index.php

Tenants – Housing NSW tenants

Asbestos fact sheet, 2010 (Housing NSW)

www.housing.nsw.gov.au/NR/rdonlyres/F4E1131F-2764-4CB1-BC07-98EB6C594085/0/Asbestos.pdf

Appendix C – Definitions

The terms used in the policy are defined as below, consistent with the definitions in the:

- *Code of practice on how to manage and control asbestos in the workplace* (catalogue no. WC03560) published by SafeWork NSW
- *Code of practice on how to safely remove asbestos* (catalogue no. WC03561) published by SafeWork NSW
- *Contaminated Land Management Act 1997*
- *Environmental Planning and Assessment Act 1979*
- *Emergency Pollution and Orphan Waste Clean-Up Program Guidelines 2008*
- *Protection of the Environment Operations Act 1997*
- *Waste classification guidelines part 1 classifying waste 2008*
- *NSW Work Health and Safety Act 2011*
- *NSW Work Health and Safety Regulation 2011*.

accredited certifier in relation to matters of a particular kind, means the holder of a certificate of accreditation as an accredited certifier under the *Building Professionals Act 2005* in relation to those matters.

airborne asbestos means any fibres of asbestos small enough to be made airborne. For the purposes of monitoring airborne asbestos fibres, only respirable fibres are counted.

asbestos means the asbestiform varieties of mineral silicates belonging to the serpentine or amphibole groups of rock forming minerals including the following:

- a. actinolite asbestos
- b. grunerite (or amosite) asbestos (brown)
- c. anthophyllite asbestos
- d. chrysotile asbestos (white)
- e. crocidolite asbestos (blue)
- f. tremolite asbestos
- g. a mixture that contains 1 or more of the minerals referred to in paragraphs (a) to (f).

asbestos containing material (ACM) means any material or thing that, as part of its design, contains asbestos.

asbestos-contaminated dust or debris (ACD) means dust or debris that has settled within a workplace and is, or is assumed to be, contaminated with asbestos.

asbestos-related work means work involving asbestos that is permitted under the *Work Health and Safety Regulation 2011*, other than asbestos removal work.

asbestos removal licence means a Class A asbestos removal licence or a Class B asbestos removal licence.

asbestos removal work means:

- a. work involving the removal of asbestos or asbestos containing material, or
- b. Class A asbestos removal work or Class B asbestos removal work.

asbestos removalist means a person conducting a business or undertaking who carries out asbestos removal work.

asbestos waste means any waste that contains asbestos. This includes asbestos or asbestos containing material removed and disposable items used during asbestos removal work including plastic sheeting and disposable tools.

certifying authority means a person who is authorised by or under section 85A of the *Environmental Planning and Assessment Act 1979* to issue complying development certificates, or is authorised by or under section 109D of the *Environmental Planning and Assessment Act 1979* to issue part 4A certificates.

Class A asbestos removal licence means a licence that authorises the carrying out of Class A asbestos removal work and Class B asbestos removal work by or on behalf of the licence holder.

Class A asbestos removal work means the removal of friable asbestos which must be licensed under clause 485 of the *Work Health and Safety Regulation 2011*. This does not include: the removal of ACD that is associated with the removal of non-friable asbestos, or ACD that is not associated with the removal of friable or non-friable asbestos and is only a minor contamination.

Class B asbestos removal licence means a licence that authorises the carrying out of Class B asbestos removal work by or on behalf of the licence holder.

Class B asbestos removal work means the removal of more than 10 square metres of non-friable asbestos or asbestos containing material work that is required to be licensed under clause 487, but does not include Class A asbestos removal work.

competent person means: a person who has acquired through training or experience the knowledge and skills of relevant asbestos removal industry practice and holds:

- a. a certification in relation to the specified VET course for asbestos assessor work, or
- b. a tertiary qualification in occupational health and safety, occupational hygiene, science, building, construction or environmental health.

complying development is a fast track, 10 day approval process where a building meets all of the predetermined standards established in either a state or local council planning document. A complying development certificate can be issued by either a local council or an accredited certifier.

complying development certificate

contaminant means any substance that may be harmful to health or safety.

contamination of land 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

control measure, in relation to a risk to health and safety, means a measure to eliminate or minimise the risk.

demolition work means work to demolish or dismantle a structure, or part of a structure that is loadbearing or otherwise related to the physical integrity of the structure, but does not include:

- a. the dismantling of formwork, falsework, or other structures designed or used to provide support, access or containment during construction work, or
- b. the removal of power, light or telecommunication poles.

development means:

- a. the use of land
- b. the subdivision of land
- c. the erection of a building
- d. the carrying out of a work
- e. the demolition of a building or work
- f. any other act, matter or thing referred to in section 26 of the *Environmental Planning and Assessment Act 1979* that is controlled by an environmental planning instrument.

development application means an application for consent under part 4 of the *Environmental Planning and Assessment Act 1979* to carry out development but does not include an application for a complying development certificate.

emergency service organisation includes any of the following:

- a. the Ambulance Service of NSW
- b. Fire and Rescue NSW
- c. the NSW Rural Fire Service
- d. the NSW Police Force
- e. the State Emergency Service
- f. the NSW Volunteer Rescue Association Inc
- g. the NSW Mines Rescue Brigade established under the *Coal Industry Act 2001*
- h. an accredited rescue unit within the meaning of the *State Emergency and Rescue Management Act 1989*.

exempt development means minor development that does not require any planning or construction approval because it is exempt from planning approval.

exposure standard for asbestos is a respirable fibre level of 0.1 fibres/ml of air measured in a person's breathing zone and expressed as a time weighted average fibre concentration calculated over an eight-hour working day and measured over a minimum period of four hours in accordance with the Membrane Filter Method or a method determined by the relevant regulator.

friable asbestos means material that:

- a. is in a powder form or that can be crumbled, pulverised or reduced to a powder by hand pressure when dry
- b. contains asbestos.

health means physical and psychological health.

health monitoring, of a person, means monitoring the person to identify changes in the person's health status because of exposure to certain substances.

independent, in relation to clearance inspections and air monitoring means:

- a. not involved in the removal of the asbestos
- b. not involved in a business or undertaking involved in the removal of the asbestos, in relation to which the inspection or monitoring is conducted.

in situ asbestos means asbestos or asbestos containing material fixed or installed in a structure, equipment or plant, but does not include naturally occurring asbestos.

licence holder means: in the case of an asbestos assessor licence – the person who is licensed:

- a. to carry out air monitoring during Class A asbestos removal work
- b. to carry out clearance inspections of Class A asbestos removal work
- c. to issue clearance certificates in relation to Class A asbestos removal work, or
 - in the case of an asbestos removal licence – the person conducting the business or undertaking to whom the licence is granted, or
 - in the case of a major hazard facility licence – the operator of the major hazard facility to whom the licence is granted or transferred.

licensed asbestos assessor means a person who holds an asbestos assessor licence.

licensed asbestos removalist means a person conducting a business or undertaking who is licensed under the *Work Health and Safety Regulation 2011* to carry out Class A asbestos removal work or Class B asbestos removal work.

licensed asbestos removal work means asbestos removal work for which a Class A asbestos removal licence or Class B asbestos removal licence is required.

NATA means the National Association of Testing Authorities, Australia.

NATA-accredited laboratory means a testing laboratory accredited by NATA, or recognised by NATA either solely or with someone else.

naturally occurring asbestos means the natural geological occurrence of asbestos minerals found in association with geological deposits including rock, sediment or soil.

non-friable asbestos means material containing asbestos that is not friable asbestos, including material containing asbestos fibres reinforced with a bonding compound.

Note. Non-friable asbestos may become friable asbestos through deterioration (see definition of friable asbestos).

occupational hygienist means a person with relevant qualifications and experience in asbestos management who is a full member of the Australian Institute of Occupational Hygienists (AIOH).

occupier includes a tenant or other lawful occupant of premises, not being the owner.

officer means an officer as defined in the *NSW Work Health and Safety Act 2011*.

orphan waste means materials that have been placed or disposed of on a premises unlawfully that may have the potential to pose a risk to the environment or public health.

person conducting a business or undertaking a 'person' is defined in laws dealing with interpretation of legislation to include a body corporate (company), unincorporated body or association and a partnership.

personal protective equipment means anything used or worn by a person to minimise risk to the person's health and safety, including air supplied respiratory equipment.

respirable asbestos fibre means an asbestos fibre that:

- a. is less than three micrometres wide
- b. more than five micrometres long
- c. has a length to width ratio of more than 3:1.

specified VET course means:

- a. in relation to Class A asbestos removal work – the following VET courses:
 - remove non-friable asbestos
 - remove friable asbestos, or
- b. in relation to Class B asbestos removal work – the VET course Remove non-friable asbestos, or
- c. in relation to the supervision of asbestos removal work – the VET course Supervise asbestos removal, or
- d. in relation to asbestos assessor work – the VET course Conduct asbestos assessment associated with removal.

structure means anything that is constructed, whether fixed or moveable, temporary or permanent, and includes:

- a. buildings, masts, towers, framework, pipelines, transport infrastructure and underground works (shafts or tunnels)
- b. any component of a structure
- c. part of a structure
- d. volunteer means a person who is acting on a voluntary basis (irrespective of whether the person receives out-of-pocket expenses).

waste includes:

- any substance (whether solid, liquid or gaseous) that is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment, or
- any discarded, rejected, unwanted, surplus or abandoned substance, or
- any otherwise discarded, rejected, unwanted, surplus or abandoned substance intended for sale or for recycling, processing, recovery or purification by a separate operation from that which produced the substance, or
- any process, recycled, re-used or recovered substance produced wholly or partly from waste that is applied to land, or used as fuel, but only in the circumstances prescribed by the regulations, or
- any substance prescribed by the regulations made under the *Protection of the Environment Operations Act 1997* to be waste.

waste facility means any premises used for the storage, treatment, processing, sorting or disposal of waste (except as provided by the regulations).

worker a person is a worker if the person carries out work in any capacity for a person conducting a business or undertaking, including work as:

- a. an employee, or
- b. a contractor or subcontractor, or
- c. an employee of a contractor or subcontractor, or
- d. an employee of a labour hire company who has been assigned to work in the person's business or undertaking, or
- e. an outworker, or
- f. an apprentice or trainee, or
- g. a student gaining work experience, or
- h. a volunteer, or
- i. a person of a prescribed class.

workplace a workplace is a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work. Place includes: a vehicle, vessel, aircraft or other mobile structure, and any waters and any installation on land, on the bed of any waters or floating on any waters.

Appendix D – Acronyms

ACD	Asbestos Containing Dust (an acronym used in the legislation)
ACM	Asbestos Containing Material (an acronym used in the legislation)
ARA	Appropriate Regulatory Authority (an acronym used in the legislation)
DA	Development Application
EPA	Environment Protection Authority
JRPP	Joint Regional Planning Panel
LGA	Local Government Area
NATA	National Association of Testing Authorities
NSW	New South Wales
SEPP	State Environmental Planning Policy
VET	Vocational Education and Training

Appendix E – Relevant contacts

Asbestos-related disease organisations (non-exhaustive)

Asbestos Diseases Foundation Australia Inc

Phone: (02) 9637 8759
Helpline: 1800 006 196
Email: info@adfa.org.au
Website: www.adfa.org.au

Asbestos Diseases Research Institute

Phone: (02) 9767 9800
Email: info@adri.org.au
Website: www.adri.org.au

Australian Institute of Occupational Hygienists Inc.

Phone: (03) 9338 1635
Email: admin@aioh.org.au
Website: www.aioh.org.au

Dust Diseases Authority

Phone: (02) 8223 6600
Toll Free: 1800 550 027
Email: DDAenquiries@icare.nsw.gov.au
Website: www.icare.nsw.gov.au

Environment Protection Authority (EPA)

Phone: (02) 9995 5000
Environment line: 13 15 55
Email: info@epa.nsw.gov.au
Website: www.epa.nsw.gov.au/epa

Licensed Asbestos Contractors

For a listing of asbestos removal contractors in your area, refer to your local telephone directory or the Yellow Pages website: www.yellowpages.com.au or contact:

Asbestos Removal Contractors Association NSW

PO Box Q1882
Queen Victoria Building
NSW 1230
Email: email@arcansw.asn.au
Website: www.arcansw.asn.au

Verification of an asbestos removal contractor's licence can be checked by contacting SafeWork NSW's Certification Unit Phone: **13 10 50**

Civil Contractors Federation (CCF)

Phone: (02) 9009 4000
Email: ccfnsw@ccfnsw.com
Website: www.ccfnsw.com/

Local Government NSW

Phone: (02) 9242 4000
Email: lgnsw@lgnsw.org.au
Website: www.lgnsw.org.au

NSW Ombudsman

Phone: (02) 9286 1000
Toll free (outside Sydney metro): 1800 451 524
Email: nswombo@ombo.nsw.gov.au
Website: www.ombo.nsw.gov.au

Training providers (non-exhaustive)

TAFE NSW

Phone: 131 601
Website: www.tafensw.edu.au

Housing Industry Association (HIA)

Phone: (02) 9978 3333
Website: www.hia.com.au/

Local Government Training Institute

Phone: (02) 4922 2333
Website: www.lgti.com.au

Comet Training

Phone: (02) 9649 5000
Website: www.comet-training.com.au/site

Master Builders Association (MBA)

Phone: (02) 8586 3521
Website: www.masterbuilders.com.au

SafeWork NSW

SafeWork NSW Information Centre Phone: 13 10 50
SafeWork NSW – Asbestos/Demolition Hotline Phone: (02) 8260 5885
Website: www.safework.nsw.gov.au

Appendix F – Waste management facilities that accept asbestos wastes

Waste management facilities that can accept asbestos waste may be operated by council, the State Government or private enterprise. The fees charged by the facility operators for waste received are determined by the facility.

Not all waste management centres accept asbestos waste from the public. Management of asbestos waste requires special precautions such as a separate disposal location away from other general waste and controls to prevent the liberation of asbestos fibres, such as the immediate covering of such waste.

Narromine:

- hours of operation – open Mon, Wed, Fri, Sat & Sun 9am to 4pm
- contact details – 6889 9957
- any fees for disposing of asbestos waste – refer to Council's fees & charges
- additional information can be found on Council's website, www.narromine.nsw.gov.au
- any further details provided in the appendices.

Trangie:

- hours of operation – open Wed & Fri 8am to 12pm; Sat & Sun 9am to 4pm
- contact details – 6889 9950
- any fees for disposing of asbestos waste – refer to Council's fees & charges
- additional information can be found on Council's website, www.narromine.nsw.gov.au
- any further details provided in the appendices.

Council does not accept asbestos waste at the Tomingley transfer station.

Waste management facilities in other areas that accept asbestos wastes

A list of licensed landfills that may accept asbestos waste from the public is available on the EPA website at: www.epa.nsw.gov.au/managewaste/house-asbestos-land.htm

Some of the landfills may accept non-friable asbestos waste but not friable asbestos waste. Some landfills may not accept large quantities of asbestos waste.

Always contact the landfill before taking asbestos waste to a landfill to find out whether asbestos is accepted and any requirements for delivering asbestos to the landfill. EPA does not endorse any of the landfills listed on the website or guarantee that they will accept asbestos under all circumstances.

Appendix G – Asbestos-related legislation, policies and standards

- *Contaminated Land Management Act 1997*
- *Code of practice on how to manage and control asbestos in the workplace* (catalogue no. WC03560) published by SafeWork NSW
- *Code of practice on how to safely remove asbestos* (catalogue no. WC03561) published by SafeWork NSW
- *Demolition work code of practice 2015*
- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*
- *Protection of the Environment Operations (General) Regulation 2009*
- *Protection of the Environment Operations (Waste) Regulation 2014*
- *Protection of the Environment Operations Act 1997*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*
- *NSW Work Health and Safety Act 2011*
- *NSW Work Health and Safety Regulation 2011*
- *Workers' Compensation (Dust Diseases) Act 1942.*

Appendix H – Agencies roles and responsibilities

NSW organisations

Department of Planning and Environment (DPE)

DPE's primary role in the management of asbestos relates to administration of State Environmental Planning Policies, and the *Environmental Planning and Assessment Act 1979* (and associated Regulation).

Whilst DPE does not have an operational role in the management of asbestos, it has a regulatory function and provides policy support relating to asbestos and development. In assessing proposals for development under the *Environmental Planning and Assessment Act 1979*, consent authorities are required to consider the suitability of the subject land for the proposed development. This includes consideration of the presence of asbestos and its environmental impact.

Where asbestos represents contamination of the land (ie it is present in excess of naturally occurring levels), *State Environmental Planning Policy No. 55 – Remediation of Land* imposes obligations on developers and consent authorities in relation to remediation of the land and the assessment and monitoring of its effectiveness.

The *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* enables exempt and complying development across the state. While this includes demolition and the removal of asbestos, the *Environmental Planning and Assessment Regulation 2000* specifies particular conditions that must be contained in a complying development certificate in relation to the handling and lawful disposal of both friable and non-friable asbestos material under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Dust Diseases Authority (DDA)

The Dust Diseases Authority provides a system of no fault compensation to people who have developed a dust disease from occupational exposure to dust as a worker in New South Wales and to their dependants. The DDA's statutory function is to administer the *Workers' Compensation (Dust Diseases) Act 1942*. Services include:

- payment of compensation benefits to eligible workers and dependants
- co-ordination and payment of medical and related health care expenses of affected
- medical examination of workers exposed to dust in the workplace
- information and education.

Environment Protection Authority (EPA)

EPA's role is to regulate the classification, storage, transport and disposal of waste in NSW, including asbestos waste. The waste regulatory framework includes the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2014*. Clauses 77 through to 81 of the *Protection of the Environment Operations (Waste) Regulation 2014* set out the special requirements relating to the transportation and disposal of asbestos waste.

EPA is the appropriate regulatory authority for activities that require an environment protection licence or are carried out by public authorities such as local councils, the Roads and Maritime Services and Sydney Water. Local councils are the appropriate regulatory authority for activities that are not regulated by the EPA, which typically include building demolition, construction sites, residential properties, commercial sites and small to medium sized industrial facilities.

EPA is responsible for assisting councils in fulfilling their regulatory responsibilities. EPA has developed resources to assist Local Government to regulate asbestos waste incidents and prevent illegal dumping. Website links to these resources are provided in Appendix B.

The EPA maintains the regulatory framework for the remediation of contaminated land (the *Contaminated Land Management Act 1997*) and actively regulates land that is declared to be 'significantly contaminated' under the *Contaminated Land Management Act 1997*.

Heads of Asbestos Coordination Authorities (HACA)

The HACA is chaired by SafeWork NSW with senior officials from:

- Department of Industry
- Department of Planning and Environment
- Dust Diseases Authority
- Environment Protection Authority
- Local Government NSW
- Ministry of Health
- Office of Emergency Management
- Office of Local Government.

The HACA group will improve the management, monitoring and response to asbestos issues in NSW by developing coordinated prevention programs. These programs include a comprehensive public awareness campaign to promote the safe handling of asbestos and help prevent the risk of exposure to asbestos-related diseases in the NSW community. Further information about the HACA can be found on the SafeWork NSW website:

www.safework.nsw.gov.au.

Local Government NSW (LGNSW)

Local Government NSW (LGNSW) is the peak body for councils in NSW. LGNSW represents all NSW general-purpose councils, the special-purpose county councils and the NSW Aboriginal Land Council.

LGNSW is a credible, professional organisation facilitating the development of an effective community-based system of Local Government in NSW. LGNSW represents the views of councils to NSW and Australian Governments; provides industrial relations and specialist services to councils; and promotes NSW councils to the community.

In 2012, LGNSW commenced a project funded by SafeWork NSW to assist councils to adopt and implement a model asbestos policy. The project is outlined at: www.lgnsw.org.au

NSW Department of Industry

The NSW Department of Industry, Skills and Regional Development (known as the NSW Department of Industry) leads the state government's contribution to making NSW:

- a fertile place to invest and to produce goods and services, and thereby
- create jobs and opportunities for our citizens

The NSW Department of Industry also has responsibilities for:

- skill formation and development to match industry demand
- partnering with stakeholders in stewardship and sustainable use of the state's natural resources; and
- supporting economic growth in the regions.

Within the Division of Resources & Energy in the Department, the Geological Survey of NSW teams of field geologists, geophysicists, mineral geoscientists and palaeontologists and geospatial specialists produce a range of maps. Geological mapping records the distribution of rock types and location of structures at or near the Earth's surface. The maps have applications to land use assessment, engineering construction, environmental management and natural hazard risk assessment.

The Geological Survey of NSW prepared the state-wide mapping of naturally occurring asbestos (NOA) in NSW for the Heads of Asbestos Coordination Authorities.

NSW Ministry of Health

The NSW Ministry of Health does not have express statutory responsibilities for managing asbestos-related risks and incidents in NSW. The Ministry provides an expert advisory service to other governmental agencies on public health issues. This service may include technical information or assistance to prepare public health information bulletins.

NSW Ombudsman

The NSW Ombudsman is an independent and impartial watchdog body. The NSW Ombudsman is responsible for ensuring that public and private sector agencies and employees within its jurisdiction fulfil their functions appropriately. The NSW Ombudsman assists those agencies and their employees to be aware of their responsibilities to the public, to act reasonably and to comply with the law and best administrative practice.

Office of Fair Trading and the Building Professionals Board (BPB)

NSW Fair Trading safeguards the rights of all consumers and advises business and traders on fair and ethical practice. NSW Fair Trading provides services directly to individuals and businesses to create a fair, safe and equitable marketplace.

NSW Fair Trading is establishing a Loose-Fill Asbestos Implementation Taskforce responsible for overseeing and implementing the NSW Government Voluntary Purchase and Demolition Program for properties containing loose-fill asbestos insulation. The Loose-Fill Asbestos Implementation Taskforce will be in place until work is completed on the purchase and demolition of all properties that choose to participate in the Program.

The Building Professionals Board (BPB) is now part of Fair Trading and oversees building and subdivision certification. The BPB's role involves providing practice advice and educational programs to assist certifying authorities (private and council) in carrying out their role. The BPB certifies and audits both private and council certifiers. Further information about the BPB may be found at: www.bpb.nsw.gov.au

Office of Local Government

The Office of Local Government is responsible for local government across NSW. The Office's organisational purpose is to 'Strengthen Local Government' and its organisational outcome is 'Fit for the future councils leading strong communities'.

The Office has a policy, legislative, investigative and program focus in matters ranging from Local Government finance, infrastructure, governance, performance, collaboration and community engagement. The Office strives to work collaboratively with the Local Government sector and is the key adviser to the NSW Government on Local Government matters.

SafeWork NSW

SafeWork NSW is responsible for the issuing and control of licences that are issued to all asbestos removal and demolition contractors. SafeWork NSW works with the employers, workers and community of NSW to achieve safer and more productive workplaces, and effective recovery, return to work and security for injured workers.

SafeWork NSW administers work health and safety, injury management, return to work and workers compensation laws, and manage the workers compensation system. SafeWork NSW's activities include: health and safety, injuries and claims, licensing for some types of plant operators, registration of some types of plant and factories, training and assessment, medical and healthcare, law and policy.

The SafeWork NSW website provides a wide range of asbestos resources, support networks and links at: www.SafeWorkNSW.nsw.gov.au/newlegislation2012/health-and-safety-topics/asbestos/Pages/default.aspx

National organisations

Asbestos Safety and Eradication Agency

The Asbestos Safety and Eradication Agency was established in 2013 to provide a national focus on asbestos issues which go beyond workplace safety to encompass environmental and public health issues. The agency's objective is to eliminate asbestos-related disease in Australia.

The agency has broad functions under its legislation, including:

- reporting on the implementation of the National Strategic Plan on Asbestos Awareness and Management (NSP); reviewing and amending the NSP as required and promoting the NSP
- providing advice to the Minister about asbestos safety
- liaising with all levels of government, agencies or bodies about the implementation of the NSP; as well as asbestos safety in general; and
- commissioning, monitoring and promoting research about asbestos safety.

The agency administers the National Asbestos Exposure Register which was created to record the details of members of the community who may have been exposed to asbestos.

Registration forms are online at <https://www.asbestossafety.gov.au/national-asbestos-exposure-register>.

The agency also maintains a national database for asbestos disposal facilities, which members of the public can search to identify their nearest facility that accepts asbestos waste, available online at <https://www.asbestossafety.gov.au/search-disposal-facilities>

Councils interested in finding out more about the agency, updating information listed on the disposal database, or receiving information, flyers or brochures for distribution within the LGA should contact the agency at enquiries@asbestossafety.gov.au.

National Association of Testing Authorities (NATA)

This body has the role of providing accreditation to firms licensed to remove asbestos.

NSW (Head Office) and ACT

Phone: (02) 9736 8222

National Toll Free: 1800 621 666

Website: www.nata.asn.au

Environmental Health Committee (enHealth)

The Environmental Health Committee (enHealth) is a subcommittee of the Australian Health Protection Committee (AHPC). enHealth provides health policy advice, implementation of the National Environmental Health Strategy 2007-2012, consultation with key players, and the development and coordination of research, information and practical resources on environmental health matters at a national level.

Website: www.health.gov.au/internet/main/publishing.nsf/content/ohp-environ-enhealth-committee.htm

Safe Work Australia

Safe Work Australia is an Australian Government statutory agency established in 2009, with the primary responsibility of improving work health and safety and workers' compensation arrangements across Australia.

Phone: (02) 6121 5317

Email: info@swa.gov.au

Website: www.safeworkaustralia.gov.au

Appendix I – Scenarios illustrating which agencies lead a response in NSW

The tables show which agencies are responsible for regulating the following scenarios in NSW:

- emergency management
- naturally occurring asbestos
- residential settings
- site contamination
- waste
- workplaces.

Emergency management

Scenario	Lead organisation	Other regulators
Emergency response	Emergency services	Fire and Rescue (Hazmat) SafeWork NSW
Handover to Local council, owner of property or NSW Police – crime scene following a minor incident	Local council NSW Police	
Handover to State Emergency Recovery Controller	State Emergency Recovery Controller	Recovery Committee Local council EPA SafeWork NSW
Handover to Recovery Committee following a significant incident	Recovery Committee (formed by State Emergency Recovery Controller)	Local council EPA SafeWork NSW
Remediation not requiring a licensed removalist	Local council	Principal Certifying Authority SafeWork NSW (workers)
Remediation requiring licensed removal work	SafeWork NSW	Local council Principal Certifying Authority
Clearance Certificate issued by an Asbestos Assessor	SafeWork NSW	Principal Certifying Authority

Naturally occurring asbestos

Scenario	Lead organisation	Other regulators
Naturally occurring but will be disturbed due to a work process including remediation work	SafeWork NSW	Local council EPA (<i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities)
Naturally occurring asbestos part of a mineral extraction process	NSW Department of Industry	Local council EPA (<i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities)
Naturally occurring but will remain undisturbed by any work practice	Local council	EPA (<i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities) SafeWork NSW (workers)
Soil contaminated with asbestos waste and going to be disturbed by a work practice	SafeWork NSW	EPA (<i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities, declared contaminated land sites)
Soil contaminated with asbestos waste but will remain undisturbed by any work practice	Local council	EPA (<i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities, declared contaminated land sites) SafeWork NSW (workers on site)
Potential for exposure on public land	EPA (<i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities)	Local council SafeWork NSW (workers on site)
Soil contaminated with asbestos waste but at a mine site	NSW Department of Industry EPA (<i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities)	Local council

Residential settings

Scenario	Lead organisation	Other regulators
Safe Management of asbestos including: <ul style="list-style-type: none"> • identification • in situ management • removal requirements • disposal requirements. 	Local council Private Certifiers	SafeWork NSW EPA
Site contaminated due to past uses	Local council	SafeWork NSW EPA
Licensed removal work required	SafeWork NSW	Local council Private Certifiers
Removal does not require a licensed removalist	Local council Private Certifiers	SafeWork NSW (workers)
Transport or waste disposal issues	Local council	EPA
Derelict property with fibro debris	Local council or Multi-agency	Multi-agency

Site contamination

Scenario	Lead organisation	Other regulators
Asbestos illegally dumped	Local council	EPA SafeWork NSW
Site contamination at commercial premises	See Workplaces	
Site contamination at residential premises	See Residential settings	

Waste

Scenario	Lead organisation	Other regulators
Waste temporarily stored on-site	SafeWork NSW (worksites) EPA and Local council (non-worksites)	
Waste transported by vehicle	EPA	SafeWork NSW
Waste disposed of onsite	Council or EPA as illegal dumping or pollution of land if no valid council development consent	Local council (consent required to dispose onsite) (section 149 property certificate and development assessment process)
Waste going to landfill site	EPA (advice)	Local council (if managing licensed landfill)
Waste to be transported interstate	EPA	
Waste for export	Department of Immigration and Border Protection	SafeWork NSW Department of Employment

Workplaces

Scenario	Lead organisation	Other regulators
Asbestos installed/supplied after 2003 (illegally)	SafeWork NSW	
Risks to the health of workers	SafeWork NSW	
Asbestos management and asbestos going to be removed	SafeWork NSW NSW Department of Industry (mine sites)	
Risks to the health of the public from worksites	SafeWork NSW (Risks to workers) Local council (Risks to the wider public) Department of Planning and Infrastructure (part 3A approvals) EPA (<i>Protection of the Environment Operations Act 1997</i> licensed sites)	
Waste stored temporarily on-site at worksites	SafeWork NSW	
Transport or waste disposal issues	EPA	SafeWork NSW Local council
Asbestos contaminated clothing going to a laundry	SafeWork NSW	EPA Local council
Contaminated land not declared under the <i>Contaminated Land Management Act 1997</i>	Local council	EPA
'Significantly contaminated' land declared under the <i>Contaminated Land Management Act 1997</i>	EPA	Local council

Appendix J – Asbestos containing materials

Some asbestos containing materials found in New South Wales domestic settings (non-exhaustive list)

Asbestos containing materials	Approximate supply dates
Cement sheets	Imported goods supplied from 1903 locally made 'fribrolite' from 1917
Cement roofing / lining slates	Imported goods supplied from 1903 locally made 'fribrolite' from 1917
Mouldings and cover strips	Available by 1920s and 1930s
Super-six (corrugated) roofing	Available by 1920s and 1930s – 1985
'Tillex' decorative wall panels	Available by 1920s and 1930s
Pipes and conduit piping	Available by 1920s and 1930s
Motor vehicle brake linings	Available by 1920s and 1930s
Striated sheeting	Available from 1957
'Asbestolux' insulation boards	Available from 1957
'Shadowline' asbestos sheeting for external walls, gable ends and fences	Available from 1958 – 1985
Vinyl floor tiles impregnated with asbestos	Available up until 1960s
Asbestos containing paper backing for linoleum	Available up until 1960s
'Durasbestos' asbestos cement products	Available up until 1960s
'Tillex' marbletone decorative wall panels	Available from early 1960s
'Tillex' weave pattern decorative wall panels	Available from early 1960s
'Hardiflex' sheeting	Available from 1960s – 1981
'Versilux' building board	Available from 1960s – 1982
'Hardiplank' and 'Hardigrain' woodgrain sheeting	Available from mid 1970s – 1981
Loose-fill, fluffy asbestos ceiling insulation	During the 1960s and 1970s, pure loose-fill asbestos was sold as ceiling insulation for residential and commercial premises. A Canberra based company known as 'Mr Fluffy' installed insulation in at least 1,000 homes in the ACT and is also understood to have installed insulation into homes in NSW.
Asbestos rope gaskets for wood heaters. Heater and stove insulation	Dates of supply availability unknown but prior to 31 December 2003
Compressed fibro-cement sheets	Available from 1960s – 1984
Villaboard	Available until 1981
Harditherm	Available until 1984
Highline	Available until 1985
Coverline	Available until 1985
Roofing accessories	Available until 1985
Pressure pipe	Available until 1987

Sources:

NSW Government, 2011, *Asbestos Blueprint: A guide to roles and responsibilities for operational staff of state and local government*.

NSW Taskforce Report: *Loose-Fill Asbestos Insulation in NSW Homes* (2015)

www.fairtrading.nsw.gov.au/biz_res/ftweb/pdfs/Tenants_and_home_owners/Loose_Fill_Abestos_Taskforce_Report.pdf (accessed October, 2015).

Asbestos containing materials that may be found in various settings (non-exhaustive list)

A

Air conditioning duct, in the exterior or interior acoustic and thermal insulation

Arc shields in lift motor rooms or large electrical cabinets

Asbestos-based plastics products as electrical insulates and acid resistant compositions or aircraft seats

Asbestos ceiling tiles

Asbestos cement conduit

Asbestos cement electrical fuse boards

Asbestos cement external roofs and walls

Asbestos cement in the use of form work for pouring concrete

Asbestos cement internal flues and downpipes

Asbestos cement moulded products such as gutters, ridge capping, gas meter covers, cable troughs and covers

Asbestos cement pieces for packing spaces between floor joists and piers

Asbestos cement (underground) pit as used for traffic control wiring, telecommunications cabling etc

Asbestos cement render, plaster, mortar and coursework

Asbestos cement sheet

Asbestos cement sheet behind ceramic tiles

Asbestos cement sheet over exhaust canopies such as ovens and fume cupboards

Asbestos cement sheet internal walls and ceilings

Asbestos cement sheet underlay for vinyl

Asbestos cement storm drain pipes

Asbestos cement water pipes (usually underground)

Asbestos containing laminates, (such as Formica) used where heat resistance is required

Asbestos containing pegboard

Asbestos felts

Asbestos marine board, eg marinate

Asbestos mattresses used for covering hot equipment in power stations

Asbestos paper used variously for insulation, filtering and production of fire resistant laminates

Asbestos roof tiles

Asbestos textiles

Asbestos textile gussets in air conditioning ducting systems

Asbestos yarn

Autoclave/steriliser insulation

B

Bitumen-based water proofing such as malthoid (roofs and floors, also in brickwork)
Bituminous adhesives and sealants
Boiler gaskets
Boiler insulation, slabs and wet mix
Brake disc pads
Brake linings

C

Cable penetration insulation bags (typically Telecom)
Calorifier insulation
Car body filters (uncommon)
Caulking compounds, sealant and adhesives
Ceiling insulation (which may have moved into wall cavities, cornices and sub-floor areas)
Cement render
Chrysotile wicks in kerosene heaters
Clutch faces
Compressed asbestos cement panels for flooring, typically verandas, bathrooms and steps for demountable buildings
Compressed asbestos fibres (CAF) used in brakes and gaskets for plant and automobiles

D

Door seals on ovens

E

Electric heat banks – block insulation
Electric hot water services (normally no asbestos, but some millboard could be present)
Electric light fittings, high wattage, insulation around fitting (and bituminised)
Electrical switchboards see Pitch-based
Exhausts on vehicles

F

Filler in acetylene gas cylinders
Filters: beverage wine filtration
Fire blankets
Fire curtains
Fire door insulation
Fire-rated wall rendering containing asbestos with mortar
Fire-resistant plaster board, typically on ships
Fire-retardant material on steel work supporting reactors on columns in refineries in the chemical industry
Flexible hoses
Floor vinyl sheets
Floor vinyl tiles

Fuse blankets and ceramic fuses in switchboards

G

Galbestos™ roofing materials (decorative coating on metal roof for sound proofing)

Gaskets: chemicals, refineries

Gaskets: general

Gauze mats in laboratories/chemical refineries

Gloves: asbestos

H

Hairdryers: insulation around heating elements

Header (manifold) insulation

I

Insulation blocks

Insulation in ceilings, which may have spread to wall cavities, cornices and sub-floor areas

Insulation in electric reheat units for air conditioner systems

L

Laboratory bench tops

Laboratory fume cupboard panels

Laboratory ovens: wall insulation

Lagged exhaust pipes on emergency power generators

Lagging in penetrations in fireproof walls

Lift shafts: asbestos cement panels lining the shaft at the opening of each floor and asbestos packing around penetrations

Limpet asbestos spray insulation

Locomotives: steam, lagging on boilers, steam lines, steam dome and gaskets

M

Mastik

Millboard between heating unit and wall

Millboard lining of switchboxes

Mortar

P

Packing materials for gauges, valves, etc can be square packing, rope or loose fibre

Packing material on window anchorage points in high-rise buildings

Paint, typically industrial epoxy paints

Penetrations through concrete slabs in high rise buildings

Pipe insulation including moulded sections, water-mix type, rope braid and sheet

Plaster and plaster cornice adhesives

Pipe insulation: moulded sections, water-mix type, rope braid and sheet

Pitch-based (zelemite, ausbestos, lebah) electrical switchboard

R

Refractory linings
Refractory tiles
Rubber articles: extent of usage unknown

S

Sealant between floor slab and wall, usually in boiler rooms, risers or lift shafts
Sealant or mastik on windows
Sealants and mastik in air conditioning ducting joints
Spackle or plasterboard wall jointing compounds
Sprayed insulation: acoustic wall and ceiling
Sprayed insulation: beams and ceiling slabs
Sprayed insulation: fire retardant sprayed on nut internally, for bolts holding external building wall panels
Stoves: old domestic type, wall insulation

T

Tape and rope: lagging and jointing
Tapered ends of pipe lagging, where lagging is not necessarily asbestos
Tilux sheeting in place of ceramic tiles in bathrooms
Trailing cable under lift cabins
Trains: country – guards vans – millboard between heater and wall
Trains – Harris cars – sprayed asbestos between steel shell and laminex

V

Valve and pump insulation

W

Welding rods
Woven asbestos cable sheath

Sources:

Environmental health notes number 2 guidelines for local government on asbestos, 2005
(Victorian Department of Human Services).

www.health.vic.gov.au/environment/downloads/hs523_notes2_web.pdf

NSW Taskforce Report: Loose-Fill Asbestos Insulation in NSW Homes (2015)

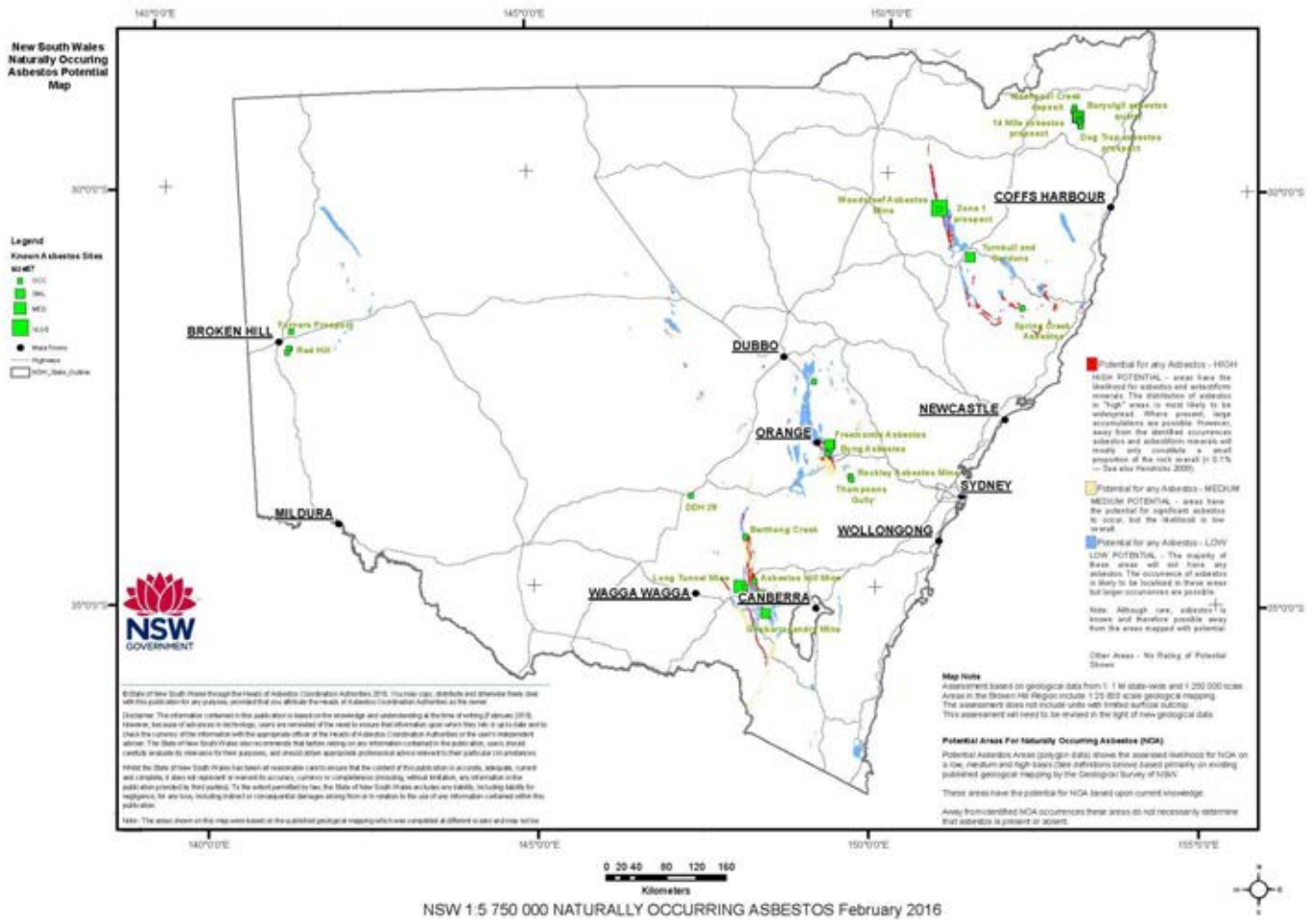
www.fairtrading.nsw.gov.au/biz_res/ftweb/pdfs/Tenants_and_home_owners/Loose_Fill_Abestos_Taskforce_Report.pdf (accessed October, 2015).

Appendix K – Asbestos licences

Type of licence	What asbestos can be removed?
Class A	Can remove any amount or quantity of asbestos or asbestos containing material, including: <ul style="list-style-type: none"> • any amount of friable asbestos or asbestos containing material • any amount of asbestos containing dust • any amount of non-friable asbestos or asbestos containing material.
Class B	Can remove: <ul style="list-style-type: none"> • any amount of non-friable asbestos or asbestos containing material Note: A Class B licence is required for removal of more than 10 m² of non-friable asbestos or asbestos containing material but the licence holder can also remove up to 10 m² of non-friable asbestos or asbestos containing material. • asbestos containing dust associated with the removal of non-friable asbestos or asbestos containing material. Note: A Class B licence is required for removal of asbestos containing dust associated with the removal of more than 10 m² of non-friable asbestos or asbestos containing material but the licence holder can also remove asbestos containing dust associated with removal of up to 10m² of non-friable asbestos or asbestos containing material.
No licence required	Can remove: <ul style="list-style-type: none"> • up to 10 m² of non-friable asbestos or asbestos containing material • asbestos containing dust that is: <ul style="list-style-type: none"> o associated with the removal of less than 10 m² of non-friable asbestos or asbestos containing material o not associated with the removal of friable or non-friable asbestos and is only a minor contamination.

An asbestos removal contractor's licence can be verified by contacting SafeWork NSW's Certification Unit on 13 10 50.

Appendix L – Map





CONTAMINATED LAND POLICY

(Adopted by Council – 8 June 2016 [Resolution No. 2016/166](#). Reviewed 18 June 2018)

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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 7A 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 Guideline (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 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 relate to the sale or redevelopment of your land may be found on 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 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 Lands Information System (CLIS);
- 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 s149 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 UPSS (Underground Petroleum Storage System) 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 149; or
- 2 Where Council is:
- a. Investigating or remedying illegal land filling; or
 - b. Administering the *Protection of the Environment (Underground Petroleum Storage System) Regulation 2012*.

Note: the functions described in paragraph 2 above are not 'planning functions' to which Council is afforded protection from liability under section 145B of the EP&A Act.

4 Policy Statement

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 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

CLIS	Contaminated Land Information System
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 SEPP 55, being remediation that requires development consent.
Category 2 remediation	As defined in SEPP 55, 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	<p>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</p> <p>or</p> <p>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.</p> <p>Note: Contamination and Pollution have similar statutory definitions, and while Council has statutory powers to regulate pollution (in particular under the <i>Protection of the Environment Operations Act 1997</i>)</p>



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	See Assessment of site contamination.
Deferred Commencement	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 80 (3) of the <i>Environmental Planning and Assessment Act 1979</i> .
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	See Site Management Plan.
Phase	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.
Planning Guideline	<i>Managing Land Contamination Planning Guideline</i> (Department of Urban Affairs and Planning and EPA 1998) or otherwise specified by s 145C <i>Environmental Planning and Assessment Act 1979</i> .
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	<i>Guidelines for Consultants Reporting on Contaminated Sites</i> (EPA 1997 updated 2011).
Remediation	As defined in SEPP 55 remediation means: <ul style="list-style-type: none"> 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.

s149 planning certificate

A planning certificate as defined under section 149 of the EP&A Act.

Site Audit

Non Statutory Site Audit 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 *Contaminated Land Management Act (1997)*.

Statutory Site Audit as defined in section 47 of the *Contaminated Land Management Act (1997)* means a site audit carried out in order to secure compliance with, among other things, a requirement of SEPP55 or a development consent.

Site Audit Statement contains the Site Auditor's findings and is in the form approved by the EPA. See s53B CLM Act.

Further information about Site Audits can be found in the NSW EPA website:

<http://www.epa.nsw.gov.au/clm/auditorscheme.htm>

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 2014</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 149 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. Part 7A 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

Sets out the requirements for s149 planning certificates (Schedule 4).

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 2014

Self-regulation regime of underground fuel storage in NSW

State Environmental Planning Policy 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 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 Information System definition

Council will maintain a Contaminated Land 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.

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 CLIS 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 s149 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 CLIS

Land is included in the CLIS 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 CLIS if Council:

- Holds records, or is aware, that the land has been used for a potentially contaminating land use 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 CLIS 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 CLIS unless specific reports are provided to Council.

The CLIS 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 s149 planning certificate and considers land contamination before determining a development application, a record of land must not be removed from the CLIS 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.

Contamination Central: Supporting safe stable and sustainable redevelopment of land in Central West NSW. Funded by the New South Wales Government through the EPA's Contaminated Land Management Program under funding by the NSW Environment Trust

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 will be classified according to the significance of the information the Council holds about the parcel. Each parcel on the CLIS 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"> • Council has identified that the land should be included on the CLIS because a potentially contaminating land use is known to have been undertaken (Appendix A), but the results of any formal investigation have not been provided to Council. • At this status, it is not possible to determine if land could be suitable for any particular use.
B - Assessed	<ul style="list-style-type: none"> • 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. • 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.
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"> • 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. • Further consideration of investigation, remediation or validation would be required to determine a relevant application for more sensitive land uses.
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.
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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 CLIS may be provided to any person in the form of an s149 planning certificate in accordance with the EP&A Act.

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

- 1 The CLIS 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 CLIS is not considered to be in the public interest.

9.6 Information provided on the s149 planning certificate

S149 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 s149 planning certificate as specified in Schedule 4 of the *Environmental Planning and Assessment Regulations 2000* and s59 of the *Contaminated Land Management Act 1997*. That is:

- 1 Clause 7, Schedule 4 of the *Environmental Planning and Assessment Regulations 2000* 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 s149 certificates issued by Council) that restricts the development of land because of the likelihood of any risk. Information pertinent to clause 7 are 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 s149 planning certificate issued under s149(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 s149 planning certificates issued under s149(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 2014.

- 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

Development consent has been granted to carry out Category 1 Remediation on the land.

- Where remediation has been notified in accordance with SEPP55

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

2A Notation to be included on s149 planning certificate issued under s149(2) of the EP&A Act, as required by s59(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 s149 planning certificates issued under s149(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

The rezoning of land is controlled by Part 3 Division 4 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 Development Applications

11.1 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 (s79C 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 Part 7A 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.



11.2 Development Assessment consideration of contamination

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 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.

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 s79C(1)(c) 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 13 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 is 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.

11.3 Triggers for preliminary site investigation

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,

and one or more of the following circumstances have occurred:

- 3 The circumstances suggest that the past use could reasonably have significantly contaminated the site;
- 4 The proposed development will involve any disturbance of soil including boring or trenching for foundations or services;
- 5 The contaminating activity that potentially caused contamination on the land involved illegal or unauthorised work;



- 6 The proposed development will include construction over land that may be contaminated;
- 7 The proposed development will interfere with groundwater; or
- 8 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.

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.

11.5 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 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.

12 Remediation

12.1 Remediation Overview and 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 an 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 SEPP 55 there are two categories of remediation Category 1 and Category 2.

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 s122 of the EP&A Act requires compliance with SEPP 55 and s123 provides provision by which Council may enforce compliance through the NSW Land and Environment Court.

12.2 Category 1 remediation (requires consent)

Clause 9 of SEPP 55 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 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:

SEPP 55 Clause 9	Equivalent Narromine LEP 2011 mapped land
(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 indentified 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 indentified 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.

The above information does not limit the consideration of SEPP 55 clause 9 (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 9(f) of SEPP 55, it is considered that where Category 2 remediation will not or cannot be conducted in compliance with this policy (see section 12.3.2 below), the remediation should be considered as Category 1 remediation. An 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 12(1) of SEPP55).

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 79C 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?

12.3 Category 2 remediation (carried out without consent, SEPP 55)

12.3.1 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 of SEPP 55.

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 SEPP 55 permits a lesser notice period in specific circumstances (cl 16(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 s76A of the *Environmental Planning and Assessment Act 1979*.

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 s143 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 17(2) of SEPP 55 to confirm that the remediation has been carried out in accordance with the requirement of SEPP 55. 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 2014*. 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 2014* 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 13 and 15).

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 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 18 of 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.

13 Contaminated Land Consultants

13.1 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 13 and 15 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 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, 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.

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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 13.4.
- 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 s149(5) of the EP&A Act.

13.2 Certification of consultant

All reports submitted to Council for the purposes of fulfilling the 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.

13.3 Insurance

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

13.4 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, 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 (2nd edition)* (DEC NSW 2006).

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 s149 planning certificates and included in the CLIS.

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

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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 Part 6 of the *Environmental Planning and Assessment Act 1979*.

Such offences include but are not limited to:

- Filling land without consent under s76A 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 System (UPSS) Regulation (2014) enforcement

The Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2014 requires that the local Council is to be advised of certain matters

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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
Agriculture	Aquaculture	Cultivating or keeping fish or marine vegetation for commercial purposes; Fisheries Management Act 1994
	Extensive agriculture [#]	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, knackerries, 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	
Asbestos	Asbestos Disposal [#]	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
Chemical	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 printeries with significant stores of ink and solvents
	Pesticide manufacture and formulation	
	Wood preservation	
Fuel	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
Industry	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	

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
Transport	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
Waste	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	

Grouping	Potentially contaminating land use	Definition or comments
	Site used for illegal waste disposal	
	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	
Other	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 [#]	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

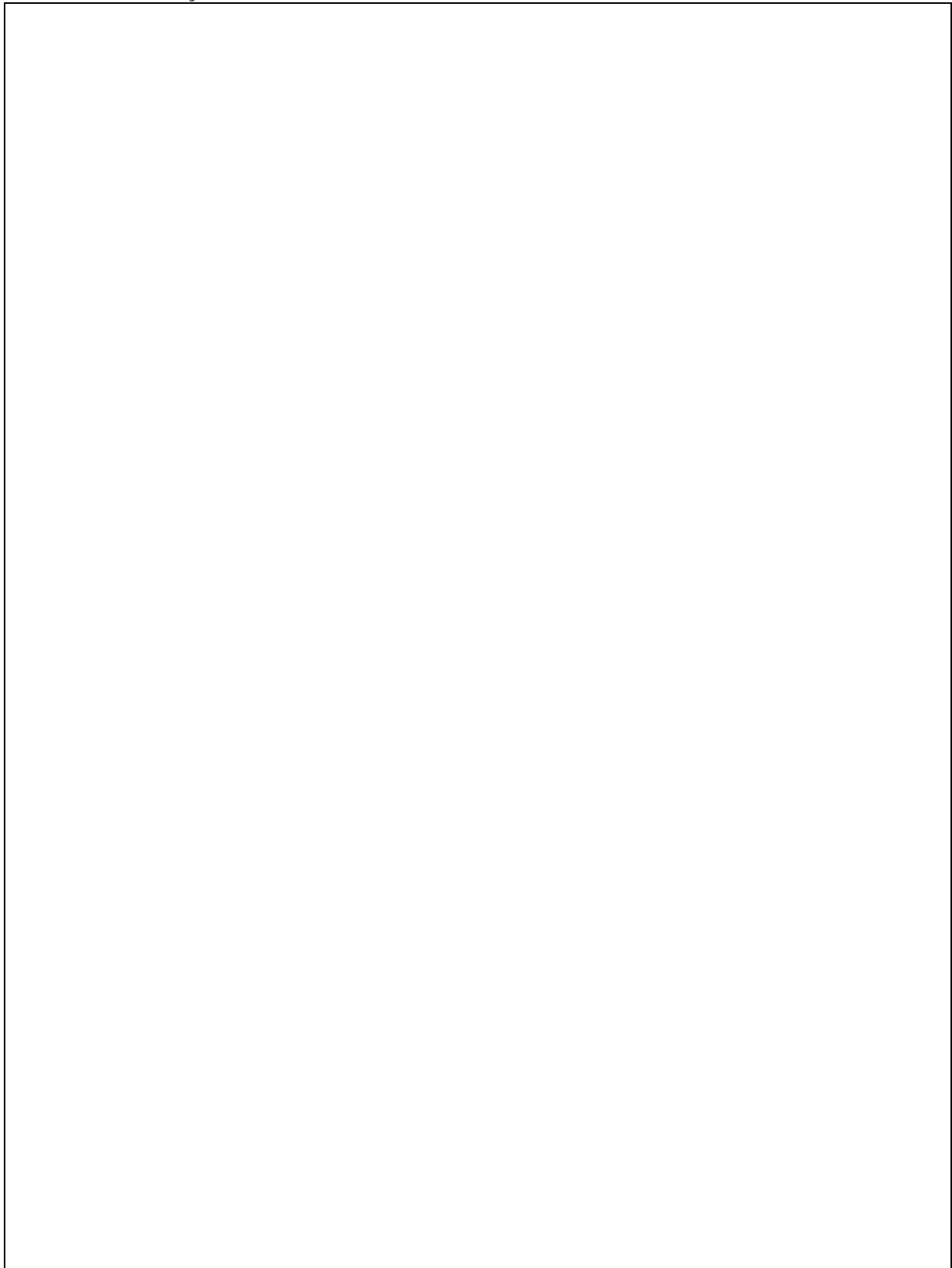
Contaminated Land Management Summary Document -Pursuant to XXXX Council Contaminated Land Policy

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

Contamination Central: Supporting safe stable and sustainable redevelopment of land in Central West NSW. Funded by the New South Wales Government through the EPA's Contaminated Land Management Program under funding by the NSW Environment Trust



LIQUID TRADE WASTE POLICY

For Discharge of Liquid Trade Waste to the Sewerage System

(Adopted 10 February 2016 Resolution No. 2016/33 – Reviewed 18 June 2018)

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PURPOSE OF THIS POLICY

This policy sets out how Council will regulate sewerage and trade waste discharges to its sewerage system in accordance with the NSW Framework for Regulation of Sewerage and Trade Waste (section 3.1 on page 20). The policy is concerned with the approval, monitoring and enforcement process for liquid trade wastes discharged to Council's sewerage system and the levying of commercial sewerage and liquid trade waste fees and charges. It has been developed to ensure the proper control of liquid trade waste and hence protection of public health, worker safety, the environment, and Council's sewerage system. The policy also promotes waste minimisation, water conservation, water recycling and biosolids reuse.

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

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

Impacts of poor liquid trade waste regulation include:

- Grease, oil, solid material, if not removed on-site, can cause sewer chokes and blockages and the discharge of untreated sewage to the environment.
- Strong waste may cause sewage odour problems and corrosion of sewer mains, pumping stations and sewage treatment works.

A person wishing to discharge liquid trade waste to the sewerage system must, under section 68 of the *Local Government Act 1993*, obtain prior approval from Narromine Shire Council. Discharging liquid trade waste without an approval is an offence under section 626 of the Act.

The procedure for approval is governed by Chapter 7 of the Local Government Act and is subject to the *Local Government (General) Regulation 2005*.

Under clause 28 of the Local Government (General) Regulation, a council must not grant an approval under section 68 of the Act to discharge trade waste (whether treated or not) into a sewer of the council unless the Director General of the Department of Trade and Investment, Regional Infrastructure and Services (DTIRIS) has concurred with the approval.

Under section 90 (2) of the Local Government Act, the Director General, DTIRIS may give the council notice that the concurrence may be assumed (with such qualifications or conditions as are specified in the notice).

GLOSSARY

Assumed Concurrence: Council may apply to the Director General of the Department of Trade and Investment, Regional Infrastructure and Services (DTIRIS) for authorisation to assume concurrence for Classification B or Classification S activities. Requests for assumed concurrence need to be forwarded to the NSW Office of Water. If granted, Council will no longer need to forward such applications for concurrence.

Automatic Assumed Concurrence: Narromine Shire Council has been authorised to assume concurrence for Classification A activities. Such applications may be approved by Council without forwarding the application for concurrence.

Bilge Water: minor amounts of water collecting in the bilge of a vessel from spray, rain, seepage, spillage and boat movements. Bilge water may be contaminated with oil, grease, petroleum products and saltwater.

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

Biosolids: Primarily organic solid product produced by sewage processing. Until such solids are suitable for beneficial use, they are defined as wastewater solids or sewage sludge.

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

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

Chemical Toilet: Toilet in which wastes are deposited into a holding tank containing a deodorizing or other chemicals; wastes are stored and must be pumped out (and chemical recharged) periodically.

Commercial Kitchen/Caterer: For the purpose of these Guidelines, a commercial kitchen is a premise that is typically a stand-alone operation and prepares food for consumption off-site. These types of businesses typically cater to wedding functions, conferences, parties, etc. This definition would not apply to a food processing factory supplying pre-prepared meals to an airline company or similar.

Concurrence is required before a council may approve an application for the discharge of liquid trade waste (including septic tank and pan waste) to the sewerage system. It is a requirement under section 90(1) of the Local Government Act and clause 28 of the *Local Government (General) Regulation 2005* that council obtain the written concurrence of the Director General of the Department of Trade and Investment, Regional Infrastructure and Services (DTIRIS) prior to approving such waste to be discharged to the council's sewerage system. The NSW Office of Water provides concurrence on behalf of the Director General, DTIRIS.

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

Director General: In this document Director General means the Director General of the Department of Trade and Investment, Regional Infrastructure and Services (DTIRIS).

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

Effluent: The liquid discharged following a wastewater treatment process.

Effluent Improvement Plan (EIP): The document required to be submitted by a discharger who is not meeting the acceptance limits for discharge waste quality set down in Council's approval conditions and/or liquid trade waste agreement. The document sets out how the discharger will meet the acceptance limits for the discharge of liquid trade waste to the sewerage system within the agreed timeframe.

Galley Waste: In this Policy, a liquid waste from a kitchen or a food preparation area of a vessel; solid wastes are excluded.

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

Housekeeping: is a general term, which covers all waste minimisation activities connected with the way in which operations within the premises are carried out.

Industrial Discharges: Industrial liquid trade waste is defined as liquid waste generated by industrial or manufacturing processes.

Local Government Regulation: *Local Government (General) Regulation 2005* under the *Local Government Act 1993*.

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

Mandatory Concurrence: For the liquid waste in Classification C, councils will need to obtain concurrence for each discharger. The NSW Office of Water provides concurrence on behalf of the Director General, DTIRIS.

Methylene Blue Active Substances (MBAS): These are anionic surfactants (see Surfactants definition) and are called MBAS as their presence and concentration is detected by measuring the colour change in a standard solution of methylene blue dye.

Minimal Pre-treatment: For the purpose of this Policy includes sink strainers, basket arrestors for sink and floor waste, plaster arrestors and fixed or removable screens.

National Framework for Wastewater Source Management: refer to section 3.2

NSW Framework for Regulation of Sewerage and Trade Waste: refer to section 3.1

NSW Office of Water (NOW): In accordance with the Public Sector Employment and Management (Departments) Order 2011, from 4 April 2011 the NSW Office of Water is a separate office within the Department of Trade and Investment, Regional Infrastructure and Services (DTIRIS). The NSW Office of Water provides concurrence on behalf of the Director General, DTIRIS.

Open Area: Any unroofed process, storage, washing or transport area potentially contaminated with rainwater and substances which may adversely affect the sewerage system or the environment.

Pan: For the purpose of this Policy "pan" means any moveable receptacle kept in a closet and used for the reception of human waste.

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

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

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

Prescribed Pre-treatment Equipment is defined as standard non-complex equipment used for pre-treatment of liquid trade waste, eg. a grease arrestor, an oil arrestor/separator, solids arrestor, cooling pit (refer to Table 7 of *Liquid Trade Waste Regulation Guidelines, 2009*).

Primary Measurement Device: A device such as a gauging pit, weir tank or flume installed in the liquid trade waste discharge line suitable for installation of instrumentation for flow measurement. In cases of commercial flows this can mean a removable section of pipe (in the fresh water supply to the trade waste area) and the installation of a check meter.

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

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

Septic Tank Effluent: The liquid discharged from a septic tank after treatment.

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

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

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

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

Sullage: Domestic wastewater excluding toilet waste.

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

Suspended Solids (SS): The insoluble solid matter suspended in wastewater that can be separated by laboratory filtration and is retained on a filter. Previously also referred to as non-filtrable residue (NFR).

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

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

BACKGROUND

What is Liquid Trade Waste?

Liquid trade waste is defined in the *Local Government (General) Regulation 2005* as below:

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

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

- business/commercial premises (eg. beautician, florist, hairdresser, hotel, motel, restaurant, butcher, service station, supermarket, dentist)
- community/public premises (including craft club, school, college, university, hospital and nursing home)
- industrial premises
- trade activities (eg. mobile carpet cleaner)
- any commercial activities carried out at a residential premises
- saleyards, racecourses and from stables and kennels that are not associated with domestic households
- septic tank waste, chemical toilet waste, waste from marine pump-out facilities and established sites for the discharge of pan content from mobile homes/caravans to the sewerage system.

While septic tank, pan and ship-to-shore pump-out waste are defined as trade waste, specific procedures need to be applied to their management as the waste is often transported from its source to the sewerage system. Accordingly, specific references to these wastes are provided in this policy where necessary.

Liquid trade waste excludes:

- toilet, hand wash basin*, shower and bath wastes derived from all the premises and activities mentioned above
- wastewater from residential toilets, kitchens, bathrooms or laundries (ie. domestic sewage)
- common use (non-residential) kitchen and laundry facilities in a caravan park
- residential swimming pool backwash.

* Used for personal hygiene only

Objectives

The objectives¹ of this policy are:

- to protect public health
- to protect the health and safety of Narromine Shire Council employees
- to protect the environment from the discharge of waste that may have a detrimental effect
- to protect Narromine Shire Council assets from damage
- to assist Narromine Shire Council to meet its statutory obligations

¹ The above objectives are consistent with the *National Framework for Sewage Quality Management* on page 17 of the *Australian Sewage Quality Management Guidelines, June 2012*, Water Services Association of Australia (WSAA).

- to provide an environmentally responsible liquid trade waste service to the non-residential sector
- to encourage waste minimisation and cleaner production in the commercial and industrial sectors
- to promote water conservation, water recycling and biosolids reuse
- to ensure compliance of liquid trade waste dischargers with Council's approved conditions
- to provide operational data on the volume and composition of industrial and commercial effluent to assist in the operation of the sewerage system and the design of augmentations or new sewerage systems
- to ensure commercial provision of services and full cost recovery through appropriate sewerage and liquid trade waste fees and charges.

Scope of this Policy

This policy comprises three parts:

- Part 1 specifies the circumstances in which a person is exempt from the necessity to apply for an approval to discharge liquid trade waste to Council's sewerage system
- Part 2 specifies the criteria which Narromine Shire Council will take into consideration in determining whether to give or refuse a liquid trade waste approval
- Part 3 specifies the framework for regulation of liquid trade waste, including the NSW Framework for Regulation of Sewerage and Trade Waste, alignment with the *National Framework for Wastewater Source Management*, application procedures, liquid trade waste discharge categories, liquid trade waste services agreements, monitoring of liquid trade waste discharges, liquid trade waste fees and charges, modification or revocation of approvals, prevention of waste of water and contaminated stormwater discharges from open areas.

PART 1: EXEMPTIONS

1.1 Exemptions from obtaining approval of liquid trade waste discharge

Table 1: Exemptions

<p>This table lists commercial business activities that the Director General, DTIRIS has consented to an exemption from the requirement to apply for approval for liquid trade waste discharge to the sewerage system. Each such business must meet the standard requirements specified below. An annual trade waste fee applies to each such discharger.</p>	
Activity	Requirements
Beautician	Nil.
Bed and Breakfast (not more than 10 persons including proprietor)	Sink strainers in food preparation areas. Housekeeping practices (see Note 4).
Community hall (minimal hot food)	Sink strainers in food preparation areas. Housekeeping practices (see Note 4).
Day care centre (no hot food prepared)	Sink strainers in food preparation areas. Housekeeping practices (see Note 4). Nappies are not to be flushed into the toilet.
Delicatessen – no hot food prepared	Sink strainers in food preparation areas. Housekeeping practices (see Note 4).
Dental technician (no X-ray)	Plaster arrestor required.
Doctor's surgery (plaster casts, no X-ray)	Plaster arrestor required.
Dog/cat groomer/salon	Floor waste basket and sink strainer required (see Note 3). Animal litter and any waste disposal products may not be discharged to sewer. No organophosphorus pesticides may be discharged to sewer.
Florist	Floor waste basket and sink strainer required. No herbicides/pesticides may be discharged to sewer.
Fruit and vegetable – retail	Floor waste basket and sink strainer required (see Note 3).
Funeral parlour	Floor waste basket required. Formaldehyde is not to be discharged to the sewer.
Hairdressing	Floor waste basket and sink strainer (where available).

Activity	Requirements
Jewellery shop <i>miniplater</i> <i>ultrasonic washing</i> <i>precious stone cutting</i>	Miniplater vessel to contain no more than 1.5 L of precious metal solution Nil If : < 1000 L/d plaster arrestor required > 1000 L/d general purpose pit required
Mixed business (minimal hot food)	Floor waste basket and sink strainer required (see Note 3). Housekeeping practices (see Note 4).
Mobile cleaning units carpet cleaning garbage bin washing	20 micron filtration system fitted to a mobile unit. Floor waste basket required. Discharge is via grease arrestor (if available).
Motel (no hot food prepared and no laundry facility)	Floor waste basket and sink strainer required (see Note 3). Housekeeping practices (see Note 4).
Nut shop	Floor waste basket and sink strainer required (see Note 3).
Optical service - retail	Solids settlement tank/pit required.
Pet shop – retail	Floor waste basket and sink strainer required (see Note 2).
Pizza reheating for home delivery	Housekeeping practices (see Note 4).
Sandwich shop, salad bar, juice bar, coffee shop (no hot food prepared)	Floor waste basket and sink strainer required (see Note 3). Housekeeping practices (see Note 4).
Venetian blind cleaning	Nil (see Note 2).

Notes:

1. Where “required” is used it means as required by Council.
2. If activity is conducted outdoors, the work area is to be roofed and banded to prevent stormwater ingress into the sewerage system.
3. All drainage from floors in food preparation areas is required to pass through a floor waste basket.
4. Food preparation activities need to comply with sound housekeeping practices including:
 - (a) Floor must be dry swept before washing.
 - (b) Pre-wiping of all utensils, plates, bowls etc. to the scrap bin before washing up.
 - (c) Use of a food waste disposal unit is not permitted.

PART 2: CRITERIA FOR APPROVAL TO DISCHARGE LIQUID TRADE WASTE INTO NARROMINE SHIRE COUNCIL'S SEWERAGE SYSTEM

2.1 Factors for Consideration

Narromine Shire Council's decision to accept liquid trade waste into its sewerage system is on the basis of a preventive risk management framework for managing risks to the sewerage system within an integrated water cycle management² context. It will be based on the discharge meeting Council's requirements³. When determining an application to discharge liquid trade waste to the sewerage system, Narromine Shire Council will consider the following factors:

- The potential for the liquid trade waste discharge to impact on public health
- The possible impacts the discharge may pose to the environment (land, water, air, noise, or nuisance factors)
- The potential impacts of the discharge on the health and safety of the Narromine Shire Council's employees
- The possible impact of the discharge on Council's sewerage infrastructure or sewage treatment process
- The capability of the sewerage system (both transportation and treatment components) to accept the quality and quantity of the proposed liquid trade waste discharge
- The impact the liquid trade waste will have on the ability of the sewerage scheme to meet its Environment Protection Authority licence requirements
- Compliance of the proposed liquid trade waste discharge with guideline limits in this policy⁴
- The potential impacts of the discharge on the quality of, and management practices for, effluent and biosolids produced from the sewage treatment process
- The adequacy of the pre-treatment process(es) to treat the liquid trade waste to a level acceptable for discharge to the sewerage system, including proposed safeguards if the pre-treatment system fails
- Whether appropriate safeguards are proposed to avoid the discharge of other, non-approved wastes to the sewerage system

² *Integrated Water Cycle Management Guidelines for NSW Local Water Utilities, DWE, October 2004.*

³ In considering options for waste management to drive resource efficiency, the following order of preference set out on page 80 of the *Australian Sewage Quality Management Guidelines, June 2012, WSAA* will be adopted:

- Avoidance
- Minimisation
- Re-use
- Recovery of energy
- Treatment
- Disposal

⁴ The quality of trade waste from some low risk commercial activities in Classification A will exceed guideline limits in Council's trade waste policy. As a higher level of pre-treatment is not cost-effective, such waste is acceptable if the discharger installs and properly operates and maintains the required pre-treatment equipment (refer to Table 4 on page 25 and Tables 7 to 9 of *Liquid Trade Waste Regulation Guidelines, 2009*). Similarly, septic and pan waste may exceed some guideline limits.

- The adequacy of any chemical storage and handling facilities, and the proposed safeguards for preventing the discharge of chemicals to the sewerage system
- Whether prohibited substances are proposed to be discharged
- The potential for stormwater entering the sewerage system and adequacy of proposed stormwater controls
- Waste minimisation and water conservation programs
- The adequacy of the proposed due diligence program and contingency plan, where required.

2.2 Discharge Quality

Narromine Shire Council has guideline limits for the acceptance of discharges, as set out in Table 2 on pages 16,17 & 18. Council may vary the guideline limits for a particular sewage treatment works. Where the guideline limits cannot be met, applicants are required to provide justification for exceeding the limits. Based on the type and the proposed contaminant levels, Council may refuse the application, or may approve it subject to an effluent improvement program, or other conditions being implemented.

2.3 Prohibited Substances

Some substances are not suitable for discharge to the sewerage system. Table 3 on page 19 sets out those substances which must not be discharged to the sewerage system. Narromine Shire Council may not grant approval for the discharge of these substances to the sewerage system unless it is specifically approved under section 68 of the Local Government Act.

2.4 Stormwater Discharges from Open Areas

Stormwater is a prohibited discharge under this policy. The ingress of stormwater into the sewerage system can cause operational problems to the system and result in sewer overflows, as the sewerage system does not have the capacity for such flows. Therefore, Council does not generally accept the discharge of stormwater to the sewerage system.

However, it is recognised that it may not always be possible or practical to prevent all stormwater entering the sewerage system at some liquid trade waste premises. The discharge of limited quantities of first flush stormwater from sealed areas will be considered where roofing cannot be provided because of safety or other important considerations. The discharge from unsealed areas is not permitted.

Before the stormwater will be considered for discharge to the sewerage system, the applicant must provide the following information:

- reasons why the area cannot be fully or partially roofed and bunded to exclude stormwater
- the dimensions and a plan of the open area under consideration
- whether the open area is sealed
- the estimated volume of the stormwater discharge
- information on rain gauging

- where a first-flush system is proposed, details on how the stormwater will be diverted to the drainage system after the first flush is accepted (the first flush to be limited to first 10 mm of storm runoff)
- measures proposed for diverting stormwater away from the liquid trade waste generating area
- report on other stormwater management options considered and why they are not feasible.

Note: Trade waste charges for the acceptance of stormwater to the sewerage system are indicated in section 3.7.9 on page 34.

2.5 Food Waste Disposal Units

The use of food waste disposal units (also known as in-sinkerators, in-sink food waste disposers, or garbage grinders) is not permitted. Existing installations in hospitals and nursing homes may be permitted, provided that wastewater is discharged through an adequately sized grease arrestor. For existing premises, a food waste disposal charge will be levied based on the number of beds in the hospital or nursing home (refer to section 3.7.6 on page 32).

If the hospital or nursing home kitchen is refurbished, the food waste disposal unit must be removed.

2.6 Devices that Macerate or Pulverise Waste

Macerators and any other similar devices that are used for pulverising of solid waste are not authorised to connect to Council's sewerage system. Solid waste includes, but is not limited to, sanitary napkin, placenta, surgical waste, disposable nappy, mache bedpan and urine containers.

Therefore Narromine Shire Council will not accept any discharges from such devices into its sewerage system.

2.7 Use of Additives in Pre-treatment Systems

Narromine Shire Council does not allow solvents, enzymes, bioadditives, and odour control agents to be used in pre-treatment systems (except neutralising chemicals designated for the pre-treatment) except by specific written application and subsequent approval.

Table 2: Guideline limits for acceptance of liquid trade wastes into sewerage system

Parameter*	Limits#
General acceptance guideline limits	
Flow Rate	The maximum daily and instantaneous rate of discharge (kL/h or L/s) is set on the available capacity of the sewer. Large dischargers are required to provide a balancing tank to even out the load on the sewerage treatment works.
BOD ₅	Normally, approved up to 600 mg/L. In some cases higher concentration for low mass loadings may be acceptable, if the treatment works has sufficient capacity and odour will not be a problem.
Suspended solids	Concentrations up to 600mg/L may be acceptable.
COD	Normally, not to exceed BOD ₅ by more than three times. This ratio is given as a guide only to prevent the discharge of non-biodegradable waste.
Total Dissolved Solids	Up to 4000 mg/L may be accepted. However, the acceptance limit may be reduced depending on available effluent disposal options and will be subject to a mass load limit.
Temperature	Less than 38°C.
pH	Within the range 7.0 to 9.0.
Oil and Grease	100 mg/L if the volume of the discharge does not exceed 10% of the design capacity of the treatment works, and 50 mg/L if the volume is greater than 10%.
Detergents	All industrial detergents are to be biodegradable. A limit on the concentration of 50 mg/L (as MBAS) may be imposed on large liquid trade wastes.
Colour	No visible colour when the waste is diluted to the equivalent dilution afforded by domestic sewage flow.
Radioactive Substances	The discharge must comply with the <i>Radiation Control Act 1990</i> .

cont ...

* See Glossary for explanation of terms

Refer to *Australian Sewage Quality Management Guidelines, June 2012*, WSAA for recommended analytical methods

Table 2 (Cont.) – Guideline limits for acceptance of liquid trade wastes into sewerage system

Parameter	Maximum concentration (mg/L)
Acceptance guideline limits for inorganic compounds	
Ammonia (as N)	50
Boron	5
Bromine	5
Chlorine	10
Cyanide	1
Fluoride	20
Nitrogen (Total Kjeldahl)	100
Phosphorus (total)	20
Sulphate (as SO ₄)	500
Sulphide (as S)	1
Sulphite (as SO ₃)	15
Acceptance guideline limits for organic compounds	
Benzene	0.04
Toluene	0.5
Ethylbenzene	1
Xylene	1
Formaldehyde	30
Phenolic compounds (except pentachlorophenol)	5
Petroleum hydrocarbons (non-flammable)*	30
Pesticides general (except organochlorine and organophosphorus)*	0.1
Polynuclear Aromatic Hydrocarbons (PAHs)	5

cont ...

* Refer to Table 3

Table 2 (Cont.) – Guideline limits for acceptance of liquid trade wastes into sewerage system

Parameter	Maximum concentration (mg/L)	Allowed daily mass limit (g/d)
Acceptance guideline limits for metals		
Aluminium	100	-
Arsenic	1	2
Cadmium	1	6
Chromium*	3	15
Cobalt	5	15
Copper	5	15
Iron	100	-
Lead	1	6
Manganese	10	30
Mercury	0.01	0.05
Molybdenum	5	30
Nickel	3	15
Selenium	1	15
Silver	2 [#]	6
Tin	5	15
Zinc	5	15
Total heavy metals excluding aluminium, iron and manganese	less than 30 mg/L and subject to total mass loading requirements	

* Where hexavalent chromium (Cr⁶⁺) is present in the process water, pre-treatment will be required to reduce it to the trivalent state (Cr³⁺), prior to discharge into the sewer. Discharge of hexavalent chromium (Cr⁶⁺) from chromate compounds used as corrosion inhibitors in cooling towers is not permitted.

[#] This limit is applicable to large dischargers. The concentration of silver in photoprocessing waste where a balancing tank is provided is not to exceed 5 mg/L.

Table 3: Substances prohibited from being discharged into the sewerage system

- organochlorine weedicides, fungicides, pesticides, herbicides and substances of a similar nature and/or wastes arising from the preparation of these substances
- organophosphorus pesticides and/or waste arising from the preparation of these substances
- any substances liable to produce noxious or poisonous vapours in the sewerage system
- organic solvents and mineral oil
- any flammable or explosive substance
- discharges from 'Bulk Fuel Depots'
- chromate from cooling towers
- natural or synthetic resins, plastic monomers, synthetic adhesives, rubber and plastic emulsions
- roof, rain, surface, seepage or ground water, unless specifically permitted (clause 137A of the *Local Government (General) Regulation 2005*)
- solid matter
- any substance assessed as not suitable to be discharged into the sewerage system
- waste that contains pollutants at concentrations which inhibit the sewage treatment process – refer *Australian Sewage Quality Management Guidelines, June 2012, WSAA*
- any other substances listed in a relevant regulation.

PART 3: Framework for regulation of liquid trade waste

3.1 The NSW framework for regulation of sewerage and trade waste

Due to the *Tragedy of the Commons*⁵ in the use of common pool resources, sound regulation of sewerage and trade waste requires implementation of **all** the following integrated measures.

1. Preparation and implementation of a sound trade waste regulation policy, assessment of each trade waste application and determination of appropriate conditions of approval. The conditions must be consistent with the LWU's *Integrated Water Cycle Management Strategy* and demand management plan. In addition, execution of a liquid trade waste services agreement is required for large dischargers to assure compliance.
2. Preparation and implementation of a sound *Development Servicing Plan*⁶, with commercial sewerage developer charges to ensure new development pays a fair share of the cost of the required infrastructure.
3. Full cost recovery with appropriate sewer usage charges⁷ and trade waste fees and charges⁸ in order to provide the necessary pricing signals to dischargers. These charges must include non-compliance trade waste usage charges and non-compliance excess mass charges in order to provide the necessary incentives for dischargers to consistently comply with their conditions of approval.
4. Monitoring, mentoring and coaching of dischargers in order to achieve cleaner production and assist them to comply with their conditions of approval.
5. Enforcement, including appropriate use of penalty notices under section 222 of the *Protection of the Environment Operations Act 1997*. Orders may also be issued and penalties imposed for offences under sections 626, 627 and 628 of the *Local Government Act 1993*.
6. Disconnection of a trade waste service in the event of persistent failure to comply with the LWU's conditions of approval.

Together, the above six measures comprise the NSW framework for regulation of sewerage and trade waste. The framework involves a preventive risk management approach, which has been developed to address the use of common pool resources by providing economic incentives for dischargers to minimise their waste and to consistently comply with their conditions of approval.

⁵ In the absence of appropriate controls and measures (such as conditions of approval, a sewer usage charge, a trade waste usage charge, a non-compliance trade waste usage charge, excess mass charges, non-compliance excess mass charges and penalty notices), it would be in the economic interest of each trade waste discharger to minimize their efforts and expenditure on control and pre-treatment of their trade waste before discharging it to the sewerage system. In the past, failure to implement these measures has caused multi-million dollar damage to sewerage networks, pumping stations and treatment works (refer to the examples shown on pages 30, 47 and 48 of the *Liquid Trade Waste Regulation Guidelines, 2009*).

⁶ In accordance with the *NSW Developer Charges Guidelines for Water Supply, Sewerage and Stormwater, 2002*.

⁷ In accordance with page 29 of the *NSW Water Supply, Sewerage and Trade Waste Pricing Guidelines, 2002*.

⁸ In accordance with Appendices D and I of the *Liquid Trade Waste Regulation Guidelines, 2009*.

3.2 Alignment with the national framework for wastewater source management

The NSW framework for regulation of sewerage and trade waste is outlined in section 3.1. The NSW framework is driven by the NSW Government's *Best-Practice Management of Water Supply of Sewerage Guidelines, 2007* and is consistent with that in the *National Framework for Wastewater Source Management*.⁹

In particular, under the *Best-Practice Management Guidelines* each LWU is required to achieve the following outcomes:

- Prepare and implement a 30-year Integrated Water Cycle Management Strategy, demand management plan, pay-for-use water supply pricing and community and customer involvement (Elements 1, 6, 8)
- Annual performance monitoring, including an annual triple bottom line (TBL) Performance Report and Action Plan to identify and address any areas of under-performance (Elements 5, 6, 9, 10, 11, 12)
- Achieve full cost recovery for water supply, sewerage and trade waste services and apply an appropriate non-residential sewer usage charge (Elements 3, 8)
- Prepare and implement a sound trade waste regulation policy and issue an appropriate approval to each trade waste discharger, including waste minimisation and cleaner production (Elements 1, 2, 3, 4, 7, 8)
- Appropriate trade waste fees and charges (including incentives to comply with LWU's approval conditions through non-compliance trade waste usage charges and non-compliance excess mass charges) (Elements 3, 8)
- Trade waste services agreement for large dischargers to assure compliance (Elements 3, 8)
- Appropriate training of LWU staff and monitoring, mentoring and coaching of trade waste dischargers (Elements 1, 4, 5, 7, 8)
- Enforcement, including appropriate use of penalty notices or orders (Elements 3, 8)

⁹ The following 12 elements of the *National Framework for Sewage Quality Management* are set out on page 18 of the *Australian Sewage Quality Management Guidelines, June 2012*, WSAA:

COMMITMENT

1. Commitment to Wastewater Source Management

SYSTEM ANALYSIS and MANAGEMENT

2. Assessment of the Wastewater System
3. Preventive Measures for Wastewater Input Quality Management
4. Operational Procedures and Process Control
5. Verification of Wastewater Inputs Quality
6. Management of Incidents/Complaints and Emergencies

SUPPORTING REQUIREMENTS

7. Employee Awareness and Training
8. Customer and stakeholder involvement and awareness
9. System Validation and Research and Development
10. Documentation and Reporting

REVIEW

11. Evaluation and Audit
12. Review and Continual Improvement

3.3 Application Procedures

To obtain Council's approval to discharge liquid trade waste to Council's sewerage system, a discharger must lodge an application in writing. Application forms are available from Narromine Shire Council. If a person wishes to discharge liquid trade waste to the sewerage system but is not the owner of the premises, the person must obtain the owner's consent to the application.

The applicant must provide the following information:

- site owner's full name, address, contact telephone number
- address of the business/industry where discharge to the sewerage system will occur
- name of contact person for the premises and telephone contact for the business/industry
- type of process/activity generating the liquid trade waste
- normal hours of business operation
- rate of discharge, including
 - the average per day, maximum per day and per hour, and
 - hours of the day during which discharge will take place
- characteristics of wastes, including
 - nature of source
 - expected maximum and average concentrations of pollutants

(Where sampling and testing are required to establish the quality of the liquid trade waste, the testing should be carried out in accordance with the procedures set out in the *Standard Methods for the Examination of Water and Wastewater* published by the American Public Health Association, American Water Works Association and Water Pollution Control Federation.)
- chemicals to be used – supply Material Safety Data Sheets
- details of any proposed pre-treatment facilities, location and site plan. Details should include:
 - pre-treatment process details
 - internal wastewater drainage
 - pump size
 - rising main size, length and profile
 - system operational characteristics
 - operational procedures
 - provisions for sampling and flow measurement, where required
 - proposed connection point to the sewerage system
- flow diagram and hydraulic profile of proposed liquid trade waste pre-treatment facilities
- maintenance schedule for pre-treatment equipment, including contractor's details
- stormwater drainage plan
- measures for prevention of stormwater ingress into the sewerage system
- location, nature and chemical composition of all substances stored/used on site

- justification for disposing of the waste into the sewerage system over other possible options (if any)
- methods of disposal for other wastes that are not discharged to the sewerage system
- any relevant environmental impact assessments
- any additional information as requested by Council.

The following information needs to be provided in regard to the discharge of septic tank and pan waste to the sewerage system:

- identification of the pump out service provider
- proposed method of discharge including plans and drawings if appropriate
- details of any proposed facilities for a disposal point, location and site plan (if applicable). Details should include the proposed connection point to the sewerage system
- security arrangements at the proposed disposal site (if applicable)
- the provision of freshwater for hosing down where needed
- bunding and measures to prevent the ingress of stormwater at the proposed dump point, if applicable
- the use of odour inhibiting or other chemicals, if any, and their dosage rates
- statement that septic effluent will not be mixed with septage or grease trap pump out, ie. dedicated tankers will be used for each type of waste
- for boat/marina facility – the type and number of vessels either moored at the marina and/or would utilise the pump-out facility on a regular basis:
 - private
 - commercial.

Narromine Shire Council may, under section 86 of the Local Government Act, request an applicant to provide more information to enable it to determine the application.

3.4 Approval of applications

Where an application is approved, Council will notify the applicant as soon as practical of the approval and any conditions of the approval. The duration of the approval will be as stated in the approval. In cases where Council requires a discharger to enter into a liquid trade waste services agreement (refer to section 3.9 on page 36), Council will issue a deferred commencement approval under section 95 of the Local Government Act requesting the discharger to do so within the time specified in Council's letter. In such cases, the approval will not be operative until the agreement has been executed by the discharger.

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

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

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

3.5 Concurrence

If Council supports an application and has a notice stating that concurrence of the Director General, Department of Trade and Investment, Regional Infrastructure and Services (DTIRIS), can be assumed for the waste relevant to the application, Council will approve the application. Otherwise, Council will seek concurrence in accordance with the requirements of section 90(1) of the Local Government Act. The NSW Office of Water provides concurrence on behalf of the Director General, DTIRIS.

Liquid trade waste discharges are divided into four (4) classifications for the purpose of the concurrence process:

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

All councils have been authorised to assume concurrence for Concurrence Classification A liquid trade waste discharges. These are listed in Table 4 and Narromine Shire Council will not need to seek concurrence for approval of trade waste applications for these activities.

Table 4: Liquid trade waste discharges with automatic assumed concurrence

Commercial retail food preparation activities	Other commercial activities
Bakery (retail)	Animal wash (pound, stables, racecourse, kennels, mobile animal wash and veterinary with no X-ray)
Bed and Breakfast (<10 persons)	Beautician
Bistro	Boiler blowdown
Boarding house/hostel kitchen	Car detailing
Butcher shop (retail)	Cooling tower
Café/coffee shop/coffee lounge	Craft activities (making of clay pottery, ceramics, cutting and polishing of gemstones or making of jewellery at clubs, cottage industries)
Canteen	Dental surgery/dental specialist
Cafeteria	Dental technician
Chicken/poultry shop (only fresh chickens/game sold)	Doctor's surgery, medical centre - plaster casts (no X-rays)
Chicken/poultry shop (retail BBQ/charcoal chicken)	Florist
Club (kitchen wastes)	Funeral parlour, morgue
Commercial kitchen/caterer	Hairdressing (includes barbers)
Community hall/civic centre	Jewellery shop
Day care centre	Laboratory (pathology/analytical)
Delicatessen	Laundry or laundromat (coin operated)
Doughnut shop	Lawnmower repairs
Fast food outlet (McDonalds, KFC, Burger King, Pizza Hut, Red Rooster, etc.)	Mechanical repairs/workshop
Fish shop (retail – fresh and/or cooked)	Mobile cleaning units
Food caravan	Optical service
Fruit and vegetable shop (retail)	Pet shop (retail)
Function centre	Photographic tray work/manual development
Hotel	Plants retail (no nursery)
Ice cream parlour	School (Primary and Secondary)
Juice bar	Stone working

Commercial retail food preparation activities	Other commercial activities
Mixed business	Swimming pool/spa/hydrotherapy
Motel	Vehicle washing (by hand/wand, automatic car wash, external truck wash or underbody/engine degrease only)
Nightclub	Venetian blind cleaning
Nursing home kitchen	Veterinary /animal kennels with X-ray
Nut shop	Waterless minilab
Patisserie	
Pie shop	
Pizza shop	
Restaurant	
Salad bar	
Sandwich shop	
School canteen	
Supermarket (with butcher/delicatessen/ seafood/or charcoal chickens)	
Take-away food outlet	

Notes:

The volume of liquid trade waste must not exceed 5 kL/d or 1000 kL/a except in the case of commercial retail food preparation activities, where up to 16 kL/d is included in this category. If the waste discharged to the sewer exceeds these volumes, the application must be treated as Concurrence Classification B. Discharges over 20 kL/d must be treated as Classification C.

3.6 Liquid trade waste charging categories

Four (4) classifications of liquid trade waste have been established for concurrence purposes, Classification A, B, C and S (refer section 3.5 on page 24). For trade waste charging purposes there are also four (4) charging categories, Category 1, 2, 2S and 3 (pages 28 and 29).

Figure 1 below shows that Classification A dischargers fall into Charging Category 1 or Category 2. Classification B dischargers fall into Charging Category 2, except for a few dischargers with low impact on the sewerage system which fall into Category 1. Classification S dischargers fall into Charging Category 2S. Classification C dischargers fall into Charging Category 3.

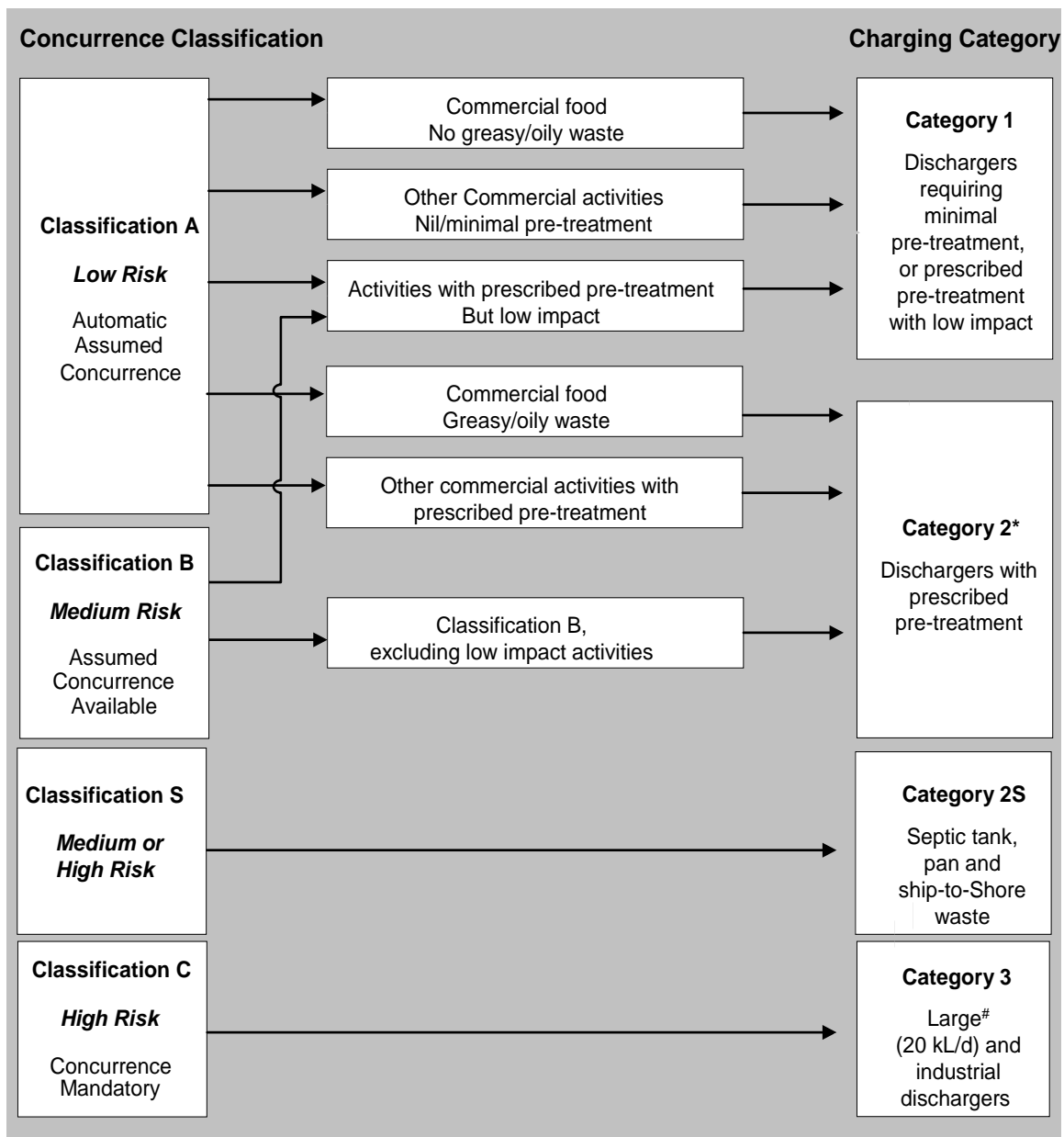


Figure 1: Charging categories for trade waste

* Also includes fish shop (fresh fish for retail)

Except shopping complexes and institutions (hospital, educational facilities, etc.). These will be charged as Category 2 in accordance with activities carried out on the premises.

Category 1 Discharger

Category 1 liquid trade waste dischargers are those conducting an activity deemed by Council as requiring nil or only minimal pre-treatment equipment and whose effluent is well defined and of a relatively low risk to the sewerage system. In addition, Category 1 includes dischargers requiring prescribed pre-treatment but with low impact on the sewerage system.

Classification A activities – Commercial retail food preparation activities that do not generate an oily/greasy waste: bakery (only bread baked on-site), bistro (sandwiches, coffee only), café/coffee shop/coffee lounge, canteen, community hall (minimal food), day care centre, delicatessen, fruit and vegetable shop, hotel, ice cream parlour (take away only), juice bar, mixed business, motel, nightclub, nut shop, pizza cooking/reheating (no preparation or washing up on-site, pizza heated and sold for consumption off-site), potato peeling (small operation), sandwich shop/salad bar, take away food outlet.

Classification A activities – Other commercial activities: animal wash, beautician/hairdressing, crafts < 1000 L/d, dental surgery (plaster casts, no X-ray unless digital), doctor's surgery and medical centre (plaster casts, no X-ray), florist, funeral parlour, mobile cleaning units, morgue, jewellery shop, optical service (retail), pet shop, plants retail (no nursery), public swimming pool, photographic (tray work/manual development), venetian blind cleaning, veterinary (no X-ray).

Classification A or B activities – dischargers with prescribed pre-treatment with low impact on the sewerage system: boiler blowdown, cooling tower, industrial boilers, laboratory (analytical/pathology/tertiary institution), laundry, primary and secondary school¹⁰, vehicle washing.

Category 2 Discharger

Category 2 liquid trade waste dischargers are those conducting an activity deemed by Council as requiring a prescribed type of liquid trade waste pre-treatment equipment and whose effluent is well characterised.

Trade Waste dischargers with prescribed pre-treatment¹¹ include:

Classification A activities: Premises that **prepare and/or serve hot food or foods that generate an oily/greasy waste:** bakery (pies, sausage rolls, quiches, cakes, pastries with creams or custards), bistro, boarding house/hostel kitchen, butcher, café/coffee shop/coffee lounge, cafeteria, canteen, fast food outlet, chicken/poultry shop, club, community hall¹², commercial kitchen/caterer, nursing home, patisserie, supermarket, doughnut shop, fish shop (cooking on-site), function centre, hotel, ice cream parlour, motel, nightclub, pizza cooking, restaurant, sandwich shop/salad bar, take away food outlet.

Other commercial Classification A activities: car detailing, craft activities > 1000 L/d, dental surgery with X-ray, lawnmower repairs, mechanical workshop, stone working, veterinary (with X-ray), waterless mini-lab.

Classification B activities: auto dismantler, bus/coach depot, construction equipment maintenance and cleaning, equipment hire, maintenance and cleaning, glass cutting and grinding, graphic arts, hospital (with or without X-ray), medical centre (with X-ray), optical services (at medical or educational facilities, workshops), oyster processing – shucking, panel beating, photographic lab, radiator repairer, screen printing, service station forecourt, shopping complex, water wash mini-lab, X-ray radiologist.

¹⁰ If significant hot food preparation is carried out, Category 2 charges may be levied by Council.

¹¹ Excludes low impact activities, listed under Category 1.

¹² If the type and size of kitchen fixtures installed enable catering for large functions.

Other Classification A activities: fish shop (fresh fish for retail).

Category 2S Discharger

Category 2S dischargers are those conducting an activity of transporting and/or discharging septic tank or pan content waste into the sewerage system.

Trade waste dischargers include the following Classification S activities:

Classification S activities: bus/rail coaches/caravan/motor home/caravan park waste dump points, mooring/marina dump points, pan waste, portable chemical toilet waste, septage, septic tank effluent, ship-to-shore pump-outs (galley waste and toilet waste).

Category 3 Discharger (large or industrial waste dischargers)

Category 3 liquid trade waste dischargers are those conducting an activity which is of an industrial nature and/or which results in the discharge of large volumes (over 20 kL/d) of liquid trade waste to the sewerage system. Any Category 1 or 2 discharger whose volume exceeds 20 kL/d becomes a Category 3 discharger, except shopping complexes and institutions (eg. hospitals, educational facilities, correctional facilities, etc.)

Large trade waste dischargers and other Classification C activities include: abattoir, bakery (wholesale), brewery, cooling towers, cosmetics/perfumes manufacture, dairy processing (milk/cheese/yoghurt/ice cream etc.), food processing (cereals/cannery/condiments/ confectionary/edible oils/fats/essence/ flavours/fish/fruit juice/gelatine/honey/meat/pickles/ smallgoods/tea and coffee/vinegar/yeast manufacture etc.), fruit and vegetable processing, flour milling, glue manufacturer, egg processing, pet food processing, plants nursery (open areas), potato processing, poultry processing, saleyards, seafood processing, soft drink/cordial manufacture, starch manufacture, sugar refinery, tanker washing, tip leachate, transport depot/ terminal, water treatment backwash, wholesale meat processing, winery, wine/spirit bottling.

Dischargers of industrial waste include the following Classification C activities: acid pickling, adhesive/latex manufacture, agricultural and veterinary drugs, anodising, bitumen and tar, bottle washing, cardboard and carton manufacture, carpet manufacture, caustic degreasing, chemicals manufacture and repackaging, contaminated site treatment, cyanide hardening, detergent/soaps manufacture, drum washing, electroplating, engine gearbox reconditioning, extrusion and moulding (plastic/metal), feather washing, fellmonger, felt manufacture, fertilisers manufacture, fibreglass manufacture, filter cleaning, foundry, galvanising, glass manufacture, ink manufacture, laboratories (excluding those in Category 2), liquid wastewater treatment facility (grease trap receipt depot and other pump-out waste depot), metal finishing, metal processing (refining/rolling/ non-cyanide heat treatment/phosphating/ photo engraving/printed circuit etching/sheet metal fabrication etc.), mirrors manufacture, oil recycling (petrochemical) and refinery, paint stripping, paint manufacture, paper manufacture, pharmaceuticals manufacture, plaster manufacture, powder coating, printing (newspaper, lithographic), sandblasting, slipway, tannery, timber processing (joinery and furniture/plywood/hardwood), textile manufacture (wool dyeing/ spinning/scouring), truck washing (internal), waxes and polishes.

Phasing-in of charges

As indicated on page 24 of the *Best-Practice Management of Water Supply and Sewerage Guidelines, 2007*, the non-residential sewerage bills for customers facing a large increase as a result of implementing best-practice pricing are to be phased in over a period of five (5) years. Large increases in trade waste fees and charges may be phased in over a period of up to three (3) years.

3.7 Liquid Trade Waste Fees and Charges

Narromine Shire Council provides sewerage and liquid trade waste services on a commercial basis, with full cost recovery through sewerage and liquid trade waste fees and charges. Council's proposed fees and charges are advertised annually for public comment in its draft Operational Plan. In addition to the trade waste fees and charges described below, Council may elect to include any trade waste charges shown in Appendix I of the *Liquid Trade Waste Regulation Guidelines, 2009*.

Liquid trade waste discharged to the sewerage system from industrial, commercial or other non-residential customers can impose significant costs on sewage transport and treatment facilities. To recover these costs and to ensure removal of existing significant cross-subsidies from residential customers, in addition to a two-part tariff with an appropriate **sewer usage charge/kL** for non-residential sewerage, appropriate fees and charges are levied for liquid trade waste.

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

- Application fee
- Annual trade waste fee
- Re-inspection fee
- Trade waste usage charge
- Septic tank and pan waste disposal charge
- Excess mass charges
- Food waste disposal charge
- Non-compliance trade waste usage charge
- Non-compliance excess mass charge and pH charge
- Non-compliance penalty.

3.7.1 Application fee

The application fee recovers the cost of administration and technical services provided by Narromine Shire Council in processing applications for approval to discharge liquid trade waste to the sewerage system. The application fee will be allocated on the basis of the category into which the discharger is classified and reflects the complexity of processing the application. Application fees will be set annually by Council.

3.7.2 Annual trade waste fee

The purpose of this fee is to recover the cost incurred by Council for administration and the scheduled inspections each year to ensure a liquid trade waste discharger's ongoing compliance with the conditions of their approval.

As part of an inspection, Narromine Shire Council or its agents may undertake monitoring of the liquid trade waste discharges from premises or business. Such monitoring may include but is not limited to, flow measurement and the sampling of the liquid trade waste. **Where more than one (1) instance*** of such monitoring is undertaken by Council, or its agents, in a financial year, the cost involved may be recovered from the discharger.

Annual liquid trade waste fees are determined on the basis of the category of the discharger and are proportionate to the complexity of their inspection and administration requirements. Annual trade waste fees will be set by Council. Where the discharger is required to pay for monitoring this will be charged on the basis of full cost recovery[#].

3.7.3 Re-inspection fee

Where non-compliance with the conditions of an approval has been detected and the discharger is required to address these issues, Council will undertake re-inspections to confirm that remedial action has been satisfactorily implemented. Council will impose a fee for each re-inspection. The re-inspection fee will be set annually by Council on the basis of full cost recovery. A re-inspection may include the monitoring of liquid trade waste discharges, the cost of which may be recovered from the discharger.

3.7.4 Trade waste usage charge

The trade waste usage charge is imposed to recover the additional cost of transporting and treating liquid trade waste from Category 2 dischargers.

Trade Waste Usage Charge (\$) = $Q \times \$*/\text{kL}$

Where Q = Volume (kL) of liquid trade waste discharged to sewer.

3.7.5 Excess mass charges

Excess mass charges will apply for substances discharged in excess of the deemed concentrations in domestic sewage shown in Table 5 below. For excess mass charge calculation, equation (1) below will be applied.

Table 5: Deemed concentration of substances in domestic sewage

Substance	Concentration (mg/L)
Biochemical Oxygen Demand (BOD ₅)	300
Suspended Solids	300
Total Oil and Grease	50
Ammonia (as Nitrogen)	35
Total Kjeldahl Nitrogen	50
Total Phosphorus	10
Total Dissolved Solids	1000
Sulphate (SO ₄)	50 [#]

[#] The concentration in the potable water supply to be used if it is higher than 50mg/L.

NB. Substances not listed above are deemed not to be present in domestic sewage.

$$\text{Liquid Trade Waste Excess Mass Charge (\$)} = \frac{(S - D) \times Q \times U}{1,000} \quad (1)$$

Where: S = Concentration (mg/L) of substance in sample.

D = Concentration (mg/L) of substance deemed to be present in domestic sewage.

Q = Volume (kL) of liquid trade waste discharged to the sewerage system.

U = Charging rate (\$/kg) for discharge of substance to the sewerage system.

Charging rates (U) used in equation (1) are as shown in Council's Operational Plan.

With regard to BOD, equation (1) applies for BOD₅ up to 600 mg/L.

Excess mass charges for BOD exceeding 600mg/L

If Council approves the acceptance limits for BOD₅ higher than 600mg/L, an exponential type equation will be used for calculation of the charging rate U_e (\$/kg) as shown in equation (2). Equation (2) provides a strong incentive for dischargers to reduce the strength of waste. In addition, equation (5) on page 34 will be used where the discharger has failed to meet their approved BOD limit on two (2) or more instances in a financial year.

U_e is the excess mass charging rate for BOD (\$/kg).

$$U_e = 2C \times \frac{(\text{Actual BOD} - 300\text{mg/L})}{600\text{mg/L}} \times 1.05^{\frac{(\text{Actual BOD} - 600\text{mg/L})}{(600\text{mg/L})}} \quad (2)$$

Where C = the charging rate (\$/kg) for BOD₅ 600mg/L.

Actual BOD = the concentration of BOD₅ as measured in a sample

For example if C = \$0.623/kg, equation (2) would result in the following excess mass charging rates:

\$0.623/kg for BOD₅ 600mg/L

\$1.96/kg for BOD₅ 1200mg/L

\$5.05/kg for BOD₅ 2400mg/L

The excess mass charge for BOD is calculated using equation (1):

$$\text{Excess Mass Charge for BOD (\$)} = \frac{(S - D) \times Q \times U_e}{1,000}$$

3.7.6 Food waste disposal charge¹³

Where Council has permitted the use of a food waste disposal unit for an existing hospital, nursing home or other eligible facility, the following additional food waste disposal charge will be payable annually.

Food Waste Disposal Charge (\$) = B x UF

Where B = Number of beds in hospital or nursing home.

UF = Annual charging rate (\$/bed) for a food waste disposal unit at a hospital or nursing home.

3.7.7 Non-compliance charges

Category 1 and 2 Dischargers

If the discharger has not installed or maintained appropriate pre-treatment equipment, the following trade waste usage charges will be applied for the relevant billing period:

Category 1 Discharger - \$*/kL

Category 2 Discharger - \$*/kL

Category 3 Discharger

¹³ For existing installations only. New installations are not permitted.

Non-compliance pH charge

Equation (3) is used for waste with pH being outside the approved range. This equation provides an incentive for dischargers to apply appropriate pH correction so their waste remains within the approved pH limits. Council may require industrial and large dischargers to install and permanently maintain a pH chart recorder or data logger as control of pH is critical to minimising odour and corrosion problems in the sewerage system.

Charging rate for pH where it is outside the approved range for the discharger =

$$K \times (\text{actual pH} - \text{approved pH})^{\#} \times 2^{(\text{actual pH} - \text{approved pH})^{\#}} \quad (3)$$

absolute value to be used.

K = pH coefficient = \$* and needs to be adjusted in accordance with changes in the CPI.

Example: Council has approved the pH range 8.0 to 9.0 for a large discharger generating high strength trade waste in order to prevent corrosion and odour problems in the sewerage system.

Case 1: pH measured 7.0

$$\text{Charging rate (\$/kL)} = 0.38 \times [7 - 8] \times 2^{[7-8]} = \$0.76/\text{kL}$$

Case 2: pH measured 11.0

$$\text{Charging rate (\$/kL)} = 0.38 \times [11-9] \times 2^{[11-9]} = \$3.04/\text{kL}$$

Non-compliance excess mass charges

Where a discharge quality fails to comply with the approved concentration limits of substances specified in Council's approval conditions (or the acceptance criterion listed in Council's trade waste policy), Council incurs additional costs in accepting and treating that waste. Council may also face problems with the effluent and biosolids management.

In order to recover Council's costs, equation (4) shall apply for non-compliance excess mass charges, except for BOD where equation (5) shall apply.

$$\text{Non-compliance Excess Mass Charges (\$)} = \frac{(S - A) \times Q \times 2U}{1,000} + \frac{(S - D) \times Q \times U}{1,000}$$

(4)

Where:

S = Concentration (mg/L) of substance in sample.

A = Approved maximum concentration (mg/L) of pollutant as specified in Council's approval (or liquid trade waste policy).

Q = Volume (kL) of liquid trade waste discharged for the period of non-compliance.

U = Excess mass charging rate (\$/kg) for discharge of pollutant to sewerage system, as shown in Council's Operational Plan.

D = Concentration (mg/L) of substance deemed to be present in domestic sewage.

Non-compliance excess mass charges for BOD

If a discharger has failed to meet the approved maximum concentration of BOD on two or more instances in a financial year, the non-compliance excess mass charging rate for BOD U_n will be levied on the basis of equation (5):

U_n is the BOD non-compliance excess mass charging rate.

$$U_n = 2C \times \frac{(A - 300 \text{ mg/L})}{600 \text{ mg/L}} \times 1.05^{\frac{(A - 600 \text{ mg/L})}{600 \text{ mg/L}}} + 4C \times \frac{(\text{Actual BOD} - A)}{600 \text{ mg/L}} \times 1.05^{\frac{(\text{Actual BOD} - A)}{600 \text{ mg/L}}}$$

(5)

For example, if $C = \$0.623/\text{kg}$, BOD_5 actual (measured) level is 2400mg/L and the approved maximum concentration of BOD (A) is 1000mg/L , equation (5) would result in a non-compliance excess mass charging rate of $\$8.02/\text{kg}$.

Non-compliance Excess Mass Charge for BOD is calculated using equation (1):

$$\text{Non-compliance Excess Mass Charge (\$)} = \frac{(S - D) \times Q \times U_n}{1,000}$$

The non-compliance excess mass charges shown above are in lieu of the excess mass charges in section 3.7.5.

NB. Council will continue applying the above non-compliance excess mass charge until the quality of discharge complies with Council's approved quality (or the trade waste policy) limits, within the time frame determined by Council for remedying the problem. If the discharger fails to rectify the problem within this time frame, the discharger may be required to cease discharging liquid trade waste into Council's sewerage system and may also be required to pay a 'non-compliance penalty' as indicated in the following section.

3.7.8 Non-compliance penalty

The non-compliance penalty covers instances where Council may seek compensation for its costs relating to legal action, damage to infrastructure, incurred fines and other matters resulting from illegal, prohibited or unapproved liquid trade waste discharged to the sewerage system. Refer also to section 3.10 on page 35.

3.7.9 Discharge of stormwater to the sewerage system

The discharge of roof, rain, surface, seepage or ground water to the sewerage system is prohibited under clause 137A of the *Local Government (General) Regulation 2005* and this policy. As indicated in section 2.4, the acceptance of first flush stormwater runoff may be permitted. A charge of $\$/\text{kL}$ will be applied to Category 3 dischargers in accordance with the non-compliance trade waste usage charge, if approval is granted to accept the above waters. Excess mass charges will be also applied in accordance with section 3.7.5.

3.7.10 Septic and pan waste disposal charge

This charge is imposed to recover the cost of accepting and treating septic tank and pan waste.

Septic tank and pan waste disposal charge (\$) = Q x S

Where: Q = Volume (kL) of waste discharged to sewer.

S = Charging rate in \$/kL for septic tank effluent, septage or chemical toilet waste as indicated in Council's Operational Plan.*

3.7.11 Responsibility for payment of fees and charges

Property (land) owners are responsible for the payment of fees and charges for water supply, sewerage and liquid trade services provided by Council. This includes property owners of marina, caravan park, etc., if a dump point located at their premises is connected to the sewerage system. Where another party (lessee) leases premises any reimbursement of the lessor (property owner) for such fees and charges is a matter for the lessor and the lessee.

Council will charge a septic tank and pan waste disposal charge for services it provides to transporters of septic tank and pan waste tankered and discharged to the sewerage system.

Table 6: Summary of trade waste fees and charges¹⁴

CHARGING CATEGORY	APPLICATION FEE	ANNUAL NON-RESIDENTIAL SEWERAGE BILL WITH APPROPRIATE SEWER USAGE CHARGE/kL	ANNUAL TRADE WASTE FEE	RE-INSPECTION FEE (when required)	TRADE WASTE USAGE CHARGE/kL	SEPTIC WASTE DISPOSAL CHARGE	EXCESS MASS CHARGES/kg	NON-COMPLIANCE TRADE WASTE USAGE CHARGE/kL	NON-COMPLIANCE EXCESS MASS/kg and pH CHARGES/kL (if required)
1	Yes ¹⁵	Yes	Yes	Yes	No	No	No	Yes ¹⁶	No
2	Yes	Yes	Yes	Yes	Ye	No	No	Yes ¹⁶	No
2S	Yes	Yes ¹⁷	Yes	Yes ¹⁷	No	Yes	No	No	No
3	Yes	Yes	Yes	Yes	No	No	Yes	No	Yes

All dischargers of liquid trade waste to Council's sewerage system should be aware that they are subject to prosecution and imposition of fines under the *Local Government Act 1993* and the *Protection of the Environment (Operations) Act 1997* and Regulations. In addition to fines, Council may recover costs of damages and fines incurred by Council as a result of an illegal liquid trade waste discharge.

¹⁴ In addition, a Food Waste Disposal Charge will apply where Council has approved the use of an existing food waste disposal unit for a hospital, nursing home or other eligible facility (refer to section 3.7.6 on page 32).

¹⁵ Not applicable for dischargers exempted in Table 1.

¹⁶ Non-compliance trade waste usage charge, if the discharger fails to install or properly maintain appropriate pre-treatment equipment:

Category 1 - \$1.54/kL (2011/12\$)

Category 2 - \$14.1/kL (2011/12\$)

¹⁷ Only applicable if the discharger has a dump point located at their premises which is connected to the sewerage system

3.8 Monitoring

Narromine Shire Council will carry out inspections of the premises of all liquid trade waste dischargers and their treatment facilities at least once per annum. Inspections of commercial premises preparing hot food may be carried out at least four (4) times per annum (refer to page 30 in section 3.7.2). Monitoring of the large and industrial dischargers is to be carried out as specified in the approval conditions.

The applicant may be required to monitor the liquid trade waste discharge as a condition of an approval or agreement. They may also be required to pay for any sampling and testing of liquid trade waste undertaken by Council.

For this purpose, an inspection/sampling point, where the waste can be inspected and sampled, will be specified in the approval and/or agreement. This point will normally be located after the pre-treatment facility. The discharger may need to install a suitable method of flow measurement.

Council may require the discharger to:

- install a permanent primary measurement device
- measure the volume and flow rate using the permanently installed flow measurement system (such as a flow metering system)
- install a flow measurement device on a temporary basis and obtain enough data to determine a basis for assessing the flow rate and volume
- provide a system which allows obtaining a flow weighted composite sample.

Testing of samples is to be undertaken by a NATA-registered or other laboratory recognised by the NSW Office of Water (NOW) to ensure reliable and accurate results. Where the discharger is sampling the effluent, Council may randomly take duplicates to confirm the waste characteristics.

3.9 Liquid Trade Waste Services Agreement

In addition to its approval under the Local Government Act, Council may require certain dischargers, including those who wish to discharge liquid trade waste in large volumes (discharge >20 kL/d) or industrial waste (Concurrence Classification C discharges) or Classification S into its sewerage system to execute a liquid trade waste services agreement (refer to Attachment 1). The agreement will set out the conditions associated with the discharge and execution of the agreement will be a condition of the approval issued by Council (refer to section 3.4 on page 23). The conditions will be binding on the applicant and the Council. The agreement will be for a period of up to five (5) years. No discharge is to be made to Council's sewerage system until an agreement or an interim agreement has been executed.

Provision can be made in the agreement for (in addition to Council's approval conditions):

- additional conditions for discharge of liquid trade waste
- cancellation of the agreement and/or order to cease the discharge if the discharger is found to be in breach of the agreement or the liquid trade waste approval or, in the opinion of Council, the waste is adversely affecting the sewerage system or the environment
- entry by Council officers to inspect the liquid trade waste collection, treatment, monitoring and disposal systems
- the applicant to notify Council in advance of any changes that may affect the quality and quantity of the liquid trade waste
- the amount of bond/security to be lodged with Council prior to discharging to the sewerage system.

3.10 Enforcement of approvals and agreements

(see the attached sample agreement at Attachment 1 on page 40)

Failure to obtain Council's approval to discharge liquid trade waste into the sewerage system, or failure to comply with the conditions of the approval is an offence under s. 626 and s. 627 of the Local Government Act 1993. In addition, these offences are prescribed as penalty notice offences under the Act and Council may issue a penalty notice (ie an on the spot fine) to such discharger.

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

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

Any person who fails to comply with the terms or conditions of a liquid trade waste services agreement (ie. there is a breach of the agreement) will be required to indemnify the Council against any resulting claims, losses or expenses in accordance with section 8 of the agreement. Suspensions may also apply and may include a notice to cease the discharge.

3.11 Modification and revocation of approvals

Council reserves the right to modify or revoke an approval to discharge liquid trade waste to the sewerage system in any of the following circumstances:

- if the approval was obtained by fraud, misrepresentation or concealment of facts
- for any cause arising after the granting of the approval which, had it arisen before the approval was granted, would have caused the council not to have granted the approval
- for failure to comply with a requirement made by or under the *Local Government Act 1993* relating to a condition of the approval
- for failure to comply with a condition of the approval.

3.12 Prevention of waste of water

Water must be used efficiently and must be recycled where practicable. It is an offence under section 637 of the *Local Government Act 1993* and its Regulation (refer to Attachment 2) to waste or misuse water.

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

3.13 Effluent improvement plans

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

3.14 Due diligence programs and contingency plans

For *Concurrence Classification A*, a discharger is not required to submit either a due diligence program or a contingency plan.

A discharger may be required to submit a due diligence program and a contingency plan for *Concurrence Classification B* or *Classification S* where it is considered that the discharge may pose a potential threat to the sewerage system. If required, a due diligence program and contingency plan must be submitted to Council within six (6) months and three (3) months respectively of receiving a liquid trade waste approval.

For *Concurrence Classification C*, a discharger may need to provide a due diligence program and contingency plan to Council within six (6) months and three (3) months respectively of receiving a liquid trade waste approval.

It should be noted that:

1. If the discharger has an accredited environmental management system in place, a due diligence program and contingency plan may not be required. However, proof of accreditation must be provided to Council with the application. The EMP may not include all necessary provisions in regard to trade waste. In such cases Council may require that a suitable due diligence program and contingency plan be developed and submitted to Council.
2. Where Council considers there is potential risk to the sewerage system from a discharge, it may request a due diligence program and contingency plan to be submitted prior to commencing the discharge.

**ATTACHMENT 1 - SAMPLE LIQUID TRADE WASTE SERVICES
AGREEMENT BETWEEN NARROMINE SHIRE COUNCIL AND
[APPLICANT]**

Liquid Trade Waste Services Agreement

Between

1. The Narromine Shire Council

and

2. The Applicant

Recitals

- A. The Council is the owner and operator of a sewerage system within the _____ area.
- B. The Applicant has made application to the Council to discharge liquid trade waste from the Premises into the Council's sewerage system.
- C. The application has been approved by the Council on certain conditions ("the Approval"), including the condition that the Council and the Applicant enter into this Agreement.
- D. The Director General of the Department of Trade and Investment, Regional Infrastructure and Services has concurred in the Approval in accordance with clause 28 of the *Local Government (General) Regulation 2005*.
- E. The Approval does not operate until this Agreement has been executed by both parties.
- F. The parties enter this Agreement in consideration of the mutual promises contained herein.

Operative Part

1. Definitions and interpretation

1.1 In this Agreement, unless the context otherwise requires:

"**Act**" means the *Local Government Act 1993* (NSW).

"**Annexure**" means the annexure to this Agreement.

"**Applicant**" means the entity named as such in the Annexure.

"**Approval**" means the approval described in Recital C.

"**Council**" means the council named as such in the Annexure.

"**Liquid Trade Waste Services**" mean the making available by the Council of its sewerage system for connection to the Premises, for the purpose of discharge by the Applicant of its liquid trade waste.

"**Premises**" means the premises described in the Annexure.

1.2 Unless the context otherwise requires:

- (a) A reference to this Agreement is a reference to this Agreement, including the Annexure, as amended from time to time in accordance with its terms
- (b) A reference to the discharge of liquid trade waste means the discharge of liquid trade waste by the Applicant from the Premises to the Council's sewerage system
- (c) A reference to any legislation is a reference to such legislation as amended from time to time
- (d) Where the Applicant is comprised of more than one person, each obligation of the Applicant will bind those persons jointly and severally and will be enforceable against them jointly and severally.

2. Liquid Trade Waste Services

The Council will provide the Liquid Trade Waste Services to the Applicant on the terms of this Agreement.

3. Additional conditions for discharge of liquid trade waste

- 3.1 The Applicant may discharge liquid trade waste to the Council's sewerage system in accordance with the Approval and subject to this Agreement.
- 3.2 The Applicant must comply with all applicable Acts, regulations, by laws, proclamations and orders and with any lawful direction or order given by or for the Council or any other competent authority.
- 3.3 The Applicant must not discharge liquid trade waste contrary to this Agreement or the Approval or in any manner which may have an adverse effect on any person or property (including the sewerage system and the ecological system in the waters, land or area receiving sewage treatment works effluent or biosolids), or which may cause the Council to be in breach of any applicable Act, regulation, by law, proclamation or order or of any lawful direction given by or for any competent authority.
- 3.4 The Applicant must at its own cost monitor its discharges in accordance with the requirements set out in the Approval and must maintain records of such monitoring for inspection by the Council for such period as may be specified in the Approval.
- 3.5 The Council will carry out routine sampling and testing of the waste stream.
- 3.6 Where any flow-metering device is installed, the Applicant must at its own cost cause the device to be calibrated at least annually by a person or company approved by the Council. The Applicant must obtain a calibration certificate and provide a copy of the certificate to the Council within one month of receiving it.
- 3.7 If the Applicant is required to cease discharging liquid trade waste for any period, then the Applicant must cease discharging such waste for the period specified.

- 3.8 Where the Applicant ceases to discharge waste in the circumstances prescribed in clause 3.7, the Council may, at its discretion, elect to refund part of the annual trade waste fee on a pro rata basis, calculated according to the period of suspension.
- 3.9 If this Agreement is terminated, the Applicant must immediately cease to discharge liquid trade waste.

4. Fees and charges

- 4.1 In accordance with the section 560 of the *Local Government Act 1993*, Council will levy all water supply, sewerage and liquid trade waste fees and charges on the owner of the property.
- 4.2 In consideration of provision of the Liquid Trade Waste Services, the fees and charges as specified in the Council's Operational Plan and notified by Council to the owner and the Applicant must be paid to the Council, including fees for sampling and testing by Council in accordance with the Approval.
- 4.3 Fees and charges payable will include both non-residential sewerage charges and liquid trade waste fees and charges.
- 4.4 All monies payable to the Council must be paid within the time specified in the notice of charge.

5. Term

- 5.1 This Agreement will commence from the date it is signed on behalf of the Council, and will continue until the Applicant's Approval is revoked or the Applicant permanently ceases to discharge liquid trade waste pursuant to the Approval, whichever is the earlier. Upon such revocation or permanent cessation of the approved activity this Agreement shall automatically terminate by operation of this clause.
- 5.2 Termination of this Agreement is without prejudice to any accrued rights or obligations of either Party.

6. Powers of the Council

- 6.1 The Council may enter the Premises at a reasonable hour in the daytime or at any hour during which business is in progress or is usually carried on at the Premises for the purpose of conducting any inspection, examination, testing, monitoring or sampling to determine whether the Applicant is complying with the conditions of this Agreement.
- 6.2 The Applicant acknowledges that the Council has statutory powers available to it under the *Local Government Act 1993* and other Acts to issue orders and directions to the Applicant in relation to the discharge of liquid trade waste. The Applicant undertakes to comply with each such order or direction that may be notified by the Council to the Applicant within the time specified for compliance in that order or direction.
- 6.3 The Applicant releases the Council from any liability to the Applicant for any loss or damage due to the disruption of the Applicant's business arising out of the exercise of Council's rights pursuant to this clause.

7. Information supplied by the Applicant

- 7.1 The Applicant warrants that all information in its application for approval is true, complete and accurate to the best of its knowledge.
- 7.2 The Applicant must immediately notify the Council in writing of any error or omission in that information or any change to the information of which the Applicant becomes aware.

7.3 The Applicant must not provide any false or misleading information to the Council.

8. Indemnity

8.1 The Applicant indemnifies the Council from and against any claims, losses or expense (including legal costs on a solicitor and client basis) which the Council pays, suffers, incurs or is liable for as a result of:

- (a) any unlawful, negligent, reckless or deliberately wrongful act or omission of the Applicant or its personnel or agents in connection with the discharge of liquid trade waste, including (without limitation) such acts or omissions which cause damage to property, personal injury or death
- (b) a breach of this Agreement by the Applicant.

8.2 The Applicant's liability to indemnify the Council shall be reduced proportionally to the extent that any unlawful, negligent, reckless or deliberately wrongful act or omission of the Council caused or contributed to the liability or loss.

9. Insurance

The Applicant must effect and maintain for the term of this Agreement a public risk policy of insurance in the minimum of the sum specified in the Annexure and must, upon request by the Council, produce evidence of such insurance to the Council.

10. Bond

- 10.1 The Applicant must pay to the Council a bond in the sum specified in the Annexure.
- 10.2 The Council may at any time and without prior notice to the Applicant have recourse to the bond for the recovery of any sum due and owing by the Applicant to the Council.
- 10.3 Where the applicant fails to cease discharging trade waste as prescribed in clause 3.7, the Council may require the applicant to forfeit 50% of the bond.
- 10.4 The Council must return the bond to the Applicant, less any amount deducted by the Council under this clause, upon termination of this Agreement.

11. No assignment

The Applicant may not assign or otherwise transfer its rights and/or obligations under this Agreement.

12. Notices

12.1 A notice under this Agreement must be:

- (a) in writing, directed to the representative of the other party as specified in the Annexure
- (b) forwarded to the address, facsimile number or the email address of that representative as specified in the Annexure or the address last notified by the intended recipient to the sender.

12.2 A notice under this Agreement will be deemed to be served:

- (a) in the case of delivery in person - when delivered to the recipient's address for service and a signature received as evidence of delivery
- (b) in the case of delivery by post - within three business days of posting
- (c) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient

(d) in the case of delivery by email, on receipt of confirmation by the recipient that the recipient has received the email.

12.3 Notwithstanding the preceding clause 12.2, if delivery or receipt of a communication is on a day which is not a business day in the place to which the communication is sent or is later than 5 pm (local time in that place) it will be deemed to have been duly given or made at 9 am (local time at that place) on the next business day in that place.

13. Variation

13.1 If the Applicant's Approval to discharge liquid trade waste from the Premises is varied, this Agreement shall be deemed to be varied in accordance with the variation made to that approval or to the fees, by operation of this clause.

13.2 In addition to automatic variation under clause 13.1, this Agreement may be varied by written agreement of the parties, provided that a variation to this Agreement that is inconsistent with:

- (a) the Approval, including rights granted under, and conditions attached to, the Approval
 - (b) any applicable legislation; or
 - (c) Council's Operational Plan in respect of applicable fees and charges,
- shall have no force or effect.

14. Severability

If any part of this Agreement is prohibited, void, voidable, illegal or unenforceable, then that part is severed from this Agreement but without affecting the continued operation, so far as possible, of the remainder of this Agreement.

15. Applicable law

15.1 This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.

15.2 Each party submits to the exclusive jurisdiction of the courts exercising jurisdiction in the State of New South Wales and the courts of appeal there from.

16. Rights cumulative

The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any other rights or remedies provided by law.

Executed as an agreement

Execution by the Council:

NARROMINE SHIRE COUNCIL) (Corporate Seal)
 was affixed this)
day of 20.....)
 in the presence of:)
)
 General Manager)
 and)
)
 [print name of witness]) [signature of General Manager]

Executed by the Applicant (corporate entity):

.....

.....

[signature of witness]

)
)
 The **COMMON SEAL** of.....)
PTY LIMITED)
 was affixed thisday of)
)

.....20..... in the)
presence of:)
.....)
[name of Director])
.....)

.....)
[name of Director/Secretary] [signature of Director]

)
.....)
[signature of Director/Secretary]

Executed by the Applicant (individual):

Signed by:)
[name of Applicant])

This.....day of.....20.....)
.....)
[signature of Applicant]

in the presence of:)

.....)
[print name of witness]

.....)
[signature of witness]

ANNEXURE 1

Annexure

A. The Council

- 1. Full Name of Council _____
- 2. ABN _____
- 3. Address _____

- 4. Telephone _____
- 5. Emergency Contact _____
Telephone _____

B. The Applicant

- 1. Full Name of Applicant _____
- 2. ABN _____
- 3. Business or Trading Name _____
- 4. Address _____

- 5. Telephone _____
- 6. Emergency Contact _____
Telephone _____

C. The Premises

- 1. Lot and DP Number: Lot(S) _____ DP _____
- 2. Location _____

- 3. Description _____
- 4. Nature of Business _____

D. Notices

- Applicant's Representative _____
- Postal Address _____

- Facsimile _____
- Email _____
- Council's Representative _____
- Postal address _____

- Facsimile _____
- Email address _____

E. PUBLIC LIABILITY INSURANCE

Minimum cover: \$ _____

F. BOND \$ _____

ATTACHMENT 2 - PROVISIONS IN THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 IN REGARD TO ACCEPTANCE OF LIQUID TRADE WASTE INTO THE SEWERAGE SYSTEM

Local Government (General) Regulation 2005

Clause 25 Matters to accompany applications relating to discharge into sewers

An application for approval to discharge trade waste into a sewer under the control of a Council or that connects with such a sewer must be accompanied by the information required by Table 1 to the Liquid Trade Waste Management Guidelines[#].

Clause 28 Approval to discharge waste into sewers: concurrence required

A council must not grant an approval under [section 68](#) of [the Act](#) to discharge trade waste (whether treated or not) into a sewer of the council unless the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services (or that Director-General's nominee) has concurred with the approval.

Note: [Section 90](#) (2) of [the Act](#) permits any person or authority whose concurrence is required before an approval may be granted to give the council notice that the concurrence may be assumed (with such qualifications or conditions as are specified in the notice).

Clause 32 Disposal of trade waste

- (1) An approval to dispose of trade waste into a sewer of the council is subject to such conditions (if any) as the council specifies in the approval.
- (2) In imposing any such conditions, the council is to have regard to the matter set out in Table 5 to the Liquid Trade Waste Management Guidelines[#].

Clause 159 Prevention of waste and misuse of water

The owner, occupier or manager of premises to which water is supplied by the council must:

- (a) prevent waste of water by taking prompt action to repair leaking taps, pipes or fittings located on the premises
- (b) take any other action that is reasonable to prevent waste and misuse of water.

137A Substances prohibited from being discharged into public sewers

- (1) For the purposes of [section 638](#) of [the Act](#) (Discharge of prohibited matter into sewer or drain), roof, rain, surface, seepage or ground water is prescribed as prohibited matter.
- (2) This clause does not apply in relation to:
 - (a) a discharge that is specifically approved under [section 68](#) of [the Act](#), or
 - (b) a discharge into a public drain or a gutter of a council, or
 - (c) a discharge in an area of operations within the meaning of the [Sydney Water Act 1994](#) or the [Hunter Water Act 1991](#) .

143 Inspection of pipes and drains and measurement of water and sewage

- (1) The council may, at any reasonable time:
- (a) inspect any service pipe connected to a water main, and
 - (b) inspect any drain connected to a sewer main, and
 - (c) install meters or other devices for measuring the quantity of water supplied to, or the quality and quantity of sewage discharged from, premises, and
 - (d) measure the quantity of water supplied to, or the quality and quantity of sewage discharged from, premises, and
 - (e) inspect any pre-treatment devices connected to the council's sewerage system.
- (2) The occupier of the relevant premises must provide to the council such information as it requires to enable it to estimate the quantity of water actually supplied to, or the quality and quantity of sewage actually discharged from, the premises.
- (3) In this clause,
"pre-treatment device" means any device used to reduce or eliminate contaminants in trade waste, or to alter the waste's nature, before it is discharged into a sewer.

SCHEDULE 12 – Penalty notice offences

Column 1	Column 2
Offence under Local Government Act 1993	Penalty
Section 626 (3)-carry out without prior approval of council an activity specified in item 4 of Part C (Management of waste) of the Table to section 68	\$330
Section 627 (3)-having obtained the council's approval to the carrying out of an activity specified in item 4 of Part C (Management of waste) of the Table to section 68 , carry out the activity otherwise than in accordance with the terms of that approval	\$330

"Liquid Trade Waste Management Guidelines" means the Guidelines of that name produced by the Department of Energy, Utilities and Sustainability in March 2005, as in force from time to time. The 2005 Guidelines have now been superseded by *Liquid Trade Waste Regulation Guidelines, April 2009*.

Authorisation:

Status	Committee	N/A	
	Manex	N/A	
Owner	Director Services <u>General Manager</u>		
EDRMS Doc. ID	398794		
Superceded Policy			
Date of Adoption/ Amendment	Revision Number	Minute Number	Review Date
<u>10 February 2016</u>	0	<u>2016/33</u>	2016

Related Council Policy / Procedure



SWIMMING POOL BARRIER INSPECTION POLICY

Adopted by Council 11 September 2013, Resolution No. 2013/350
~~Reviewed~~ Amended 9 March 2016, Resolution No. 2016/64

Aim:

1. To ensure that all swimming pool barriers in the Narromine Local Government Area (LGA) comply with the relevant legislation (*Swimming Pools Act 1992* and *Swimming Pools Regulation 2008*).
2. To ensure Council's obligations under the *Swimming Pools Act* in respect to undertaking swimming pool barrier inspections are satisfied.

Definitions:

Certificate of Compliance – in respect of swimming pools means a certificate issued under section 22D of the *Swimming Pools Act 1992*.

Relevant Occupation Certificate – in respect of a swimming pool, means an occupation certificate issued under the *Environmental Planning and Assessment Act 1979*, that is less than 3 years old and that authorises the use of the swimming pool.

Swimming Pool – means an excavation, structure or vessel:

- a) That is capable of being filled with water to a depth greater than 300 millimetres, and
- b) That is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity, and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations not to be a swimming pool for the purposes of this Act.

Tourist and Visitor Accommodation – means a building or place that provides temporary or short term accommodation on a commercial basis and includes backpackers accommodation, bed and breakfast accommodation, farm stay accommodation, hotel or Motel accommodation and serviced apartments.

Note: *As a result of community engagement and consultation this policy is also applicable to swimming pools within Caravan Parks.*

Routine Inspection Program:

Council will annually conduct inspection of 10 private swimming pools. These pools will be selected randomly from the NSW Government Swimming Pools Register. Swimming pools which have an Occupation Certificate or a Compliance Certificate will be exempt from inspection for three (3) years from the date of the certificate. Compliance Certificates are valid for three (3) years only.

Swimming pools located on tourist/visitor accommodation developments are to be inspected every three (3) years as per the requirement of Section 22B of the Swimming Pools Act 1992.

Swimming pools inspected will receive a formal inspection report from Council outlining any non-compliance. Non compliant swimming pools will be required to comply within a prescribed period set out in the inspection report. Pools will be reinspected once the non-compliances have been addressed. Compliant swimming pools will be issued with a Compliance Certificate.

Customer Requested Inspection:

Owners who are selling or leasing their premises can request Council to undertake a swimming pool barrier inspection. From 29 April 2016 owners are required to obtain a valid swimming pool Compliance Certificate before the sale or lease of a property with a swimming pool. Owners are also able to engage a private certifier accredited under the *Building Professionals Act 2005* to issue a Compliance Certificate.

Complaint Inspection:

If a complaint is made to Council regarding a swimming pool, Council will inspect the premises within 72hrs of receiving the complaint regardless of whether or not a valid compliance certificate or Occupation Certificate has been issued. No fees will be payable for the initial inspection however, if any non-compliances are identified any follow up inspection will attract a reinspection fee outlined in the fees section of this policy.

Fees:

Section 18A of the Regulation prescribes the following fee structure:

18A Fee for inspection

(1) For the purposes of section 22F (1) of the Act, the maximum fee that a local authority may charge for carrying out an inspection of a swimming pool is:

(a) in the case of a first inspection of the swimming pool, \$150, or

(b) in the case of a second inspection of the swimming pool, \$100.

(2) No fee may be charged by a local authority for carrying out a third or subsequent inspection for the purpose of the issue of the same certificate of compliance.

Fees associated with this junction are within Council's Fees & Charges Policy.

Failure to Register

Should Council become aware that a swimming pool owner has failed to register their swimming pool, that owner shall be given 14 days written notice from Council to register their swimming pool prior to further action being taken.

Owners who then fail to register within this 14 day period, shall be issued with a penalty infringement notice in accordance with clause 22 of the *Swimming Pools Regulation 2008* and Council will register the swimming pool.

References:

Swimming Pool Act 1992

Swimming Pool Regulations 2008

Authorisation:

Status	Committee	N/A	
	Manex	N/A	
Owner	<u>Director Corporate, Community & Regulatory Services</u> <u>General Manager</u>		
Doc. ID			
SupersededSuperseded Policy	Nil		
Date of Adoption/ Amendment	Revision Number	Minute Number	Review Date
11 September 2013		2013/350-	2013/350
9 March 2016	1	2016/64	2018



USE OF FOOTPATH - OUTDOOR DINING POLICY

Adopted by Council 18 September 2012, Resolution No. 2012/358
Reviewed 13 June 2018.

POLICY STATEMENT

This Policy establishes Council's statements and principles dealing with applications for use of the public footpath for outdoor dining.

This Policy aims to permit the establishment of business opportunities and to create a more vibrant and cosmopolitan atmosphere in the commercial centres of the Narromine Shire. The policy will allow the approval of business use of footpath areas (which may include tables, chairs, shade structures, planter boxes and the like to be placed on footpaths) within the Shire adjacent to businesses where there is adequate footpath width for pedestrian circulation.

POLICY OBJECTIVES

The objectives of this Policy are as follows:

Access & Equity

- To ensure safety and convenient passage of all pedestrians when using public footpaths.
- To ensure the maintenance of clear view lines for both pedestrians and motorists, particularly near pedestrian crossings, street corners and key intersections.
- To ensure adjoining premises are not adversely affected by any business use of footpath areas.

Council & Community Protection

- To protect Council and the public interest while permitting effective use of public footpaths for business purposes.
- To effectively address risk management issues for Council.
- To ensure that business use of public footpaths will not cost the public purse.
- To ensure that public amenities will not be compromised by the provision of business use of footpath areas.

Economic

- To enhance the economic viability of our local business by offering consent to use public footpaths for business purposes.
- To encourage trading by providing a more vibrant atmosphere for shoppers.
- To provide an active and integrated street front.
- To maintain visibility and exposure of shop fronts.

FOOTPATH DINING

Approval Requirements

A **Development Application** needs to be lodged with Council seeking consent for any proposed footpath dining.

An approval is also required under Section 125 of the *Roads Act 1993*. The term of the approval can either be for twelve months or three years.

Note: The RMS will be consulted in accordance with the provisions of the *Roads Act 1993*.

Application Requirements

Applications are lodged using the prescribed application form and payment of the appropriate application fees. The application shall include:

- Three copies of the proposed site plan;
- Photographs and manufacturing details of all items proposed to be placed on the footpath (i.e. tables, chairs, umbrellas, barricades etc);
- Details of proposed hours of use of the footpath; and
- Copy of the Public Liability Insurance Policy.

Assessment Criteria

Applications for footpath dining will need to demonstrate that the following approval criteria can be met:

- (a) A 1.8 metre wide unobstructed passage of footway is maintained at all times. This clearance shall be measured traverse to and between the property boundary alignment and the kerb.
- (b) Tables, chairs, barriers, shade structures (including canopy) shall be positioned so as not to overhang or encroach beyond the side boundaries and shall be wholly contained within the frontage of the food business premises.
- (c) Shade structures shall provide a minimum vertical clearance of two point one (2.1) metres above footway level.
- (d) Shade structures, tables and barriers shall be securely supported and suitably anchored to withstand unexpected wind gusts and shall be monitored for sturdiness at all times.
- (e) The designated footpath dining area shall be enclosed by means of portable metal framed barricade where there are three or more table settings proposed or is proposed to be located adjacent to the kerb. The barricade shall be set back a minimum of 600mm from the kerb line to permit pedestrian access to and from parked motor vehicles. Barricades shall be purpose designed for footpath dining and where they incorporate advertisement panels, advertisements shall be restricted to the advertising of products sold on the premises.
- (f) All footpath dining furniture shall be to an approved structural and aesthetic standard and of matching thematic design.

- (g) All portable footpath dining furniture shall be removed from the foot path whilst ever the food business is closed.
- (h) The footpath dining furniture shall not restrict access to, or incorporate usage of, existing street furniture provided for public use.
- (i) Compliance with conditions and regulations relating to the preparation, storage and serving of food in a public place complies with the *Food Act 2003*.
- (j) The designated footpath dining area shall be maintained in a clean and tidy condition at all times.
- (k) A right of access exists with all utility service authorities with infrastructure in the footpath for the purpose of repairs and maintenance. There will be no compensation payable for interruption to footpath dining due to infrastructure repair and maintenance.

Fees and Securities

The fees associated with the Development Application and Application under the Roads Act are stated in Councils Revenue Fees & Charges Policy as current at the time of lodgement.

Conditions of Consent

Should the application be approved by Council, the conditions of consent as outlined in **Schedule A** will be applied.

PUBLIC LIABILITY

Approval for business use of the footpath will only be valid where adequate insurance cover is provided by the business. This compliance is required to ensure meeting the objective of the policy, i.e. protecting Council and the public interest while permitting effective use of the public footpath for business purposes. To ensure protection from claims that may arise as a result of business use of the footpath area the business operator must:

- Take out and maintain public liability insurance for a sum of not less than \$20,000,000 at all times during the term of the approval. This is to include a cross liability clause, in the sum of not less than \$20,000,000 or any higher amount specified by Council throughout the term of the approval on advice of Council's insurers. The insurance policy must specifically state that it is to indemnify Narromine Shire Council against any public liability claims within the area between the front property boundary of the premises and the kerb line for the full frontage of the premises or area approved.
- Provide a copy of this current policy to Council prior to occupation of the footpath and validation of the approval.
- Ensure that they maintain a current public liability insurance policy for the period of the approval issued.
- Proof of currency must be kept on the premises and produced on demand by any authorised Council Officer.
- Provide Council with a copy of the current public liability insurance policy each time the approval is renewed.

FEES AND CHARGES

As per the adopted Fees & Charges Policy

COMPLIANCE

At least once per year Council will be undertaking an inspection of the area in question to determine compliance with the conditions of consent. This will include an audit of the businesses insurance requirements.

Failure to have a valid policy will result in this development consent being invalid and may result in Council issuing an on-the-spot penalty notice of \$600.00 for the non-compliance with conditions of consent.

Appendices:

Footpath Dining Conditions

Authorisation:

Status	Committee	N/A	
	Manex	N/A	
Owner	General Manager		
Doc. ID			
Superseded Policy	Nil		
Date of Adoption/ Amendment	Revision Number	Minute Number	Review Date
18 September 2012			2012/358
13 June 2018	1		

SCHEDULE A – FOOTPATH DINING CONDITIONS

The following are standard conditions that are applied to approvals for use of the footpath for dining:

1. This approval is for the use of the footpath adjacent to (xxxxxxx) is for the term [twelve (12) months **or three (3) years delete whichever is not applicable**].
2. A 1.8 metre wide unobstructed passage of footway is maintained at all times. This clearance shall be measured traverse to and between the property boundary alignment and the kerb. In addition, a 600 mm clear space is to be maintained from the kerb.
3. Tables and chairs are not to be placed outside the approved area under any circumstances.
4. The outdoor furniture shall not pose any potential safety hazard, especially with sharp edges or moving parts, to passers-by, patrons, or employees. The furniture shall be firmly secured to avoid risk of moving and falling over in windy conditions or other circumstances. The furniture shall be removed in high wind conditions.
5. The outdoor furniture shall be stackable, foldable or easily dismantled so that it can be moved and stored away.
6. Appropriate footpath service shall be provided which includes as a minimum the removal of any dirty plates, cups, cutlery, footpath staining and rubbish on a regular basis during each operating day. As such the area and its surrounds shall be maintained in a clean, tidy and hygienic state.
7. No business or financial transactions shall be carried out on the footpath. Such activities shall be carried out wholly within the confines of the premises. This does not include the giving and taking of bills, and associated tips and change.
8. No part of the footpath shall be used as a permanent storage place for any item/s.
9. Where possible, the applicant must provide access in accordance with AS 1428 for people with disabilities to 20% of furniture used for outdoor seating.
10. No advertising signs (including menu boards) are permitted on the footpath area without Council's consent.
11. Any aluminium furniture shall have a powder coated or polished finish.
12. The hours of operation for the footpath dining must be the same as or less than the hours of operation of the associated business. The hours of operation for the business use of footpath areas may be limited if it is considered that the amenity of the surrounding area or the safety of pedestrians or footpath diners may be adversely affected.
13. Furniture must be removed from the footpath and stored within the building outside business operating hours. Furniture is not permitted to extend past the area that has been approved by Council for the purpose of the business.
14. Current public liability insurance is to be maintained throughout the term of approval. When a new insurance policy is issued during the term of the approval, a copy of the new policy is to be provided to Council.

Failure to have a valid policy will result in this development consent being invalid and may result in Council issuing an on-the-spot penalty notice of \$600.00 for the non-compliance with conditions of consent.

REVISED



Planning & Environment

Our ref: IRF18/3504

Kayla Robson
Executive Manager Planning
Narromine Shire Council
PO Box 115
Narromine NSW 2821

Dear Ms Robson

I refer to our recent conversations on the Low Rise Medium Density Housing Code. I also note Council's letter in which you have requested an exemption for the Narromine local government area from the code.

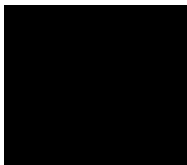
I can appreciate the issues you have raised over the implementation of the code and I am pleased to advise you that alternative arrangements are available to address your circumstances.

The Minister has asked the Department to prepare a recommendation to defer application of the code to the Narromine local government area to allow Council time to consider the application of the code to your residential zones.

A deferral provides Council the opportunity to review these areas and provide a planning proposal to the Department, if required. I look forward to resolving this matter with you over the coming 12 months.

I will contact you shortly to discuss how this matter can be progressed. If you have any questions in the interim, please don't hesitate to contact me on [redacted], or [redacted]

Yours sincerely



26.6.18

Damien Pfeiffer
Director Regions, Western
Planning Services

Stamp: 29 JUN 2018, COUNCIL