

Muswellbrook Shire Council

Submitted via CNR Portal

Attention: Mr Hamish McTaggart

02 June 2025

Dear Mr McTaggart

EPA Advice on Development Application 2025-26 – Muswellbrook Waste and Recycle Facility – CNR-81975

I am writing in response to your request for the NSW Environment Protection Authority (EPA) to review the Development Application (DA 2025-26) for a subdivision of Lot 1 DP 819014, 252 Coal Road Muswellbrook (Premises) to excise the existing Waste and Recycling Facility from the site of the proposed new Works Depot building (the Proposal).

The EPA has reviewed the following documents:

- Statement of Environmental Effects - Muswellbrook Council, Operations Administration Building and Depot, prepared by Blueprint Planning Consultants, dated 12 March 2025 (SoEE)
- Plan of Subdivision of Lot 1 DP819014- Subject to survey
- Preliminary & Detailed Contamination Assessment, prepared by Qualtest Laboratory (NSW) Pty Ltd, dated 12 July 2022 (P&DCA)
- Landfill Gas Risk Assessment: Muswellbrook Community Infrastructure Depot and Waste Management Facility, prepared by Environmental Risk Sciences Pty Ltd, dated 24 January 2025 (LGRA)
- Air Quality Impact Assessment, prepared by Todoroski Air Sciences Pty Ltd, dated 19 December 2024 (AQIA)
- Acoustics Report- Muswellbrook Shire Council Depot, prepared by Northrop Consulting Engineers Pty Ltd, dated 28 September 2024

The EPA understands the Proposal is for:

- Two Lot subdivision to excise the existing Waste and Recycling Facility
- Construction of a new Works Depot building containing office administration and depot uses, and car park (Proposed Infrastructure).

Matters considered by the EPA

The EPA does not object to the proposed subdivision of Lot 1 DP 819014. The EPA notes that the area proposed to be excised for infrastructure development is not part of the current or historic landfilling at the Premises.

The EPA has taken into consideration that there is no proposed scheduled activity included in the Proposal, the area proposed to be excised for infrastructure development is not part of the current or historic landfilling activities and the proposed infrastructure development is unlikely to require an Environment Protection Licence (EPL) under section 48 of the *Protection of the Environment Operations Act 1997* (POEO Act).

However, Section 6(2)(c) of the POEO Act states: “A local authority is the appropriate regulatory authority (ARA) for non-scheduled activities in its area, except in relation to ... (c) activities carried on by the State or a public authority, whether at premises occupied by the State or a public authority or otherwise ...”. Muswellbrook Shire Council, a public authority, is the applicant, therefore, the EPA would be the ARA. The EPA recommends the conditions in **Attachment A** be included in any consent issued for this development.

In addition to the recommended conditions, the EPA provides general comments on the Proposal for your consideration in **Attachment B**. A number of comments relate to reverse amenity matters that should be considered by Muswellbrook Shire Council as the operator of the adjacent landfill.

Environment Protection Licence

Muswellbrook Shire Council currently holds Environment Protection Licence 5980 (Licence) issued under the POEO Act to undertake scheduled activities at the Muswellbrook Waste & Recycle Facility. If DA 2025-26 is approved, Muswellbrook Council must apply for a variation to the Licence under section 58 of the POEO Act to modify the premises boundary.

The EPA notes that the proposed Licence boundary (Figure 8 of the SoEE) differs slightly from the proposed subdivision plan (Figure 9 of the SoEE). The proposed Licence boundary excludes a portion of the northern area from the existing premises. It is not clear to the EPA why the Premises boundary in the north of the premises is excluded. With the Licence variation application, the EPA requests details on the purpose for exercising the northern area of the premises.

If you have any further questions about this issue, please contact Ms Nirmala Dharmarathne on 02 6229 7029 or email info@epa.nsw.gov.au.

Yours sincerely

Adam Plant
A/Unit Head - Operations
Environment Protection Authority

Enclosure

1. Attachment A – EPA recommended conditions
2. Attachment B – EPA comments for Muswellbrook Shire Council to consider

Attachment A – EPA recommended conditions

General

- A proponent must apply for a variation to the Environment Protection Licence 5980 under section 58 of the *Protection of the Environment Operations Act 1997* to modify the premises boundary.

Construction Noise

- The proponent must implement reasonable and feasible noise management measures, to minimise off-site impacts.
- Construction activities must be carried out in accordance with the requirements of the Interim Construction Noise Guidelines (DECCW,2009) and specifically the Management Levels referred to within those guidelines.

Water Quality

- Erosion and sediment controls must be installed and maintain throughout the construction period to prevent water pollution.

Waste

- Any waste materials exposed or created in association with the constructions works and proposed to be disposed of to an offsite location, must be classified in accordance with the EPA's [waste classification guidelines](#).

Air Quality

- Construction activities must be carried out in a manner that prevents the emission of dust from the premises.
- The construction site must be maintained in a manner that minimises the generation of wind-blown dust.

Chemicals

- All chemicals, fuels and oils must be kept in appropriately bunded areas in accordance with the requirements of all relevant Australian Standards, and EPA's [Storing and Handling Liquids: Environmental Protection – Participant's Manual](#)

Contamination

- Any site contamination identified during construction must be assessed and managed in accordance with the *Contaminated Lands Management Act* (1997).

Attachment B – EPA comments for Muswellbrook Shire Council to consider

Landfill Gas Risk Assessment

According to the information provided in the Landfill Gas Risk Assessment (LGRA), the EPA notes the following:

- methane levels at the landfill surface are generally low based on the data provided in LGRA.
- there are instances when the surface levels of methane rise, with some areas significantly exceeding the NSW EPA threshold level for investigation based on NSW EPA 'Assessment and management of hazardous ground gases: Contaminated Land Guidelines' (NSW EPA, 2020) hereafter referred to as the NSW EPA Contaminated Land Guideline.
- the proposed infrastructure is located approximately 30 metres from the southern boundary of the operating waste facility at the premises.
- the area proposed to be excised for infrastructure development is not part of the current or historic landfilling at the Premises (P&DCA).
- the LGRA has assessed the proposed development as Moderate Risk using the Qualitative Risk Assessment Matrix from the NSW EPA Contaminated Land Guideline.

Given the above, the EPA recommends that the Consent Authority consider the risk of methane emissions, with consideration of the NSW EPA Contaminated Land Guideline, when assessing the proposed development, and the EPA encourages consideration of the use of an appropriate separation distance or buffer zone to minimise adverse impacts on the proposed Work Depot.

The EPA notes that the LGRA has provided recommended risk mitigation measures including:

- additional data assessment to better define the risk.
- engage a specialist and design mitigation measures prior to the construction of the building and during the installation of mitigation measures.
- methane level monitoring, in particular, within the lower ground floor during conditions of falling atmospheric pressure and on a regular basis.

Contamination and Unexpected Finds

The EPA notes that the area proposed to be excised for infrastructure development is not part of the current or historic landfilling at the Premises. Based on the results of the P&DCA, soil sample results reported concentrations of contaminants below the adopted human health and ecological criteria. The P&DCA did not identify complete exposure pathways for human or ecological receptors for the area proposed to be excised for the proposed infrastructure development.

For clarity, should further assessment identify contamination that meets the notification triggers in the EPA publication "Guidelines on the Duty to Report Contamination under the *Contaminated Land Management Act 1997*", the EPA should be notified of this contamination under section 60 of the *Contaminated Land Management Act 1997*.

Air Quality Impacts

The EPA has reviewed the AQIA and notes that there is a potential for odour levels above the acceptable criteria outside of the standard operating hours, and there will be times at the proposed building when odour would be detectable from the composting and landfilling operations during the standard operating hours. The AQIA includes recommendations to minimise the potential odour impacts for the proposed building and odour emissions from the landfill and composting operations. The EPA recommends implementing appropriate measures to prevent any conflict between the landfill facility and the proposed Works Depot regarding odour issues.

The EPA notes that the AQIA has provided recommendations to minimise the potential odour impacts for the proposal:

- ensure the building design provides adequate air flow and encourages flow in a particular direction away from doorways and intakes
- build continuous dense landscaping along the CID boundary between the landfill and composting operations
- consider positioning of air conditioning and ventilation intakes away from odorous sources and use of filtration to assist with odour removal
- for the landfill operations- ensure operations are managed in line with the existing odour mitigation and management measures, ensure the size of the active face is limited to 6m wide by 12m long in line with best practice, and investigate the offensive odour and prevent it from recurring.