



# Government Gazette

OF THE STATE OF  
NEW SOUTH WALES

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## LEGISLATION

### Proclamations



New South Wales

## Proclamation

under the

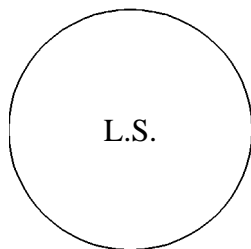
**Commercial Agents and Private Inquiry Agents Act 2004 No 70**

JAMES JACOB SPIGELMAN, Lieutenant-Governor

I, the Honourable James Jacob Spigelman AC, Lieutenant-Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 (1) of the *Commercial Agents and Private Inquiry Agents Act 2004*, do, by this my Proclamation, appoint 1 May 2006 as the day on which that Act (except for Schedule 3.1, 3.3 and 3.6) commences.

Signed and sealed at Sydney, this 26th day of April 2006.

By His Excellency's Command,



L.S.

CARL SCULLY, M.P.,  
Minister for Police

GOD SAVE THE QUEEN!

### Explanatory note

The object of this Proclamation is to commence the uncommenced provisions of the *Commercial Agents and Private Inquiry Agents Act 2004* (apart from Schedule 3.6). Schedules 3.1 and 3.3 have already commenced. Schedule 3.6 amends an Act that is now repealed.



New South Wales

## Proclamation

under the

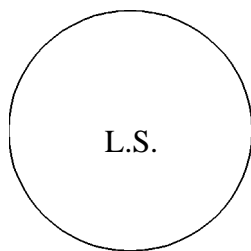
### First State Superannuation Legislation Amendment (Conversion) Act 2005 No 91

JAMES JACOB SPIGELMAN, Lieutenant-Governor

I, the Honourable James Jacob Spigelman, AC, Lieutenant-Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 (1) of the *First State Superannuation Legislation Amendment (Conversion) Act 2005*, do, by this my Proclamation, appoint 1 May 2006 as the day on which the uncommenced provisions of that Act (other than Schedule 3.4, 3.6 [7], 3.11 [7], 3.12 [7] and 3.13 [8]) commence.

Signed and sealed at Sydney, this 26th day of April 2006.

By His Excellency's Command,



JOHN DELLA BOSCA, M.L.C.,  
Minister for Finance

GOD SAVE THE QUEEN!

### Explanatory note

The object of this Proclamation is to commence the uncommenced provisions of the *First State Superannuation Legislation Amendment (Conversion) Act 2005* (other than Schedule 3.4, 3.6 [7], 3.11 [7], 3.12 [7] and 3.13 [8]).

Section 2 (4) of that Act makes special provision for the commencement of Schedule 3.4, 3.6 [7], 3.11 [7], 3.12 [7] and 3.13 [8] to that Act by reference to the commencement of certain provisions of the *Superannuation Legislation Amendment (Family Law) Act 2003*.



New South Wales

## Proclamation

under the

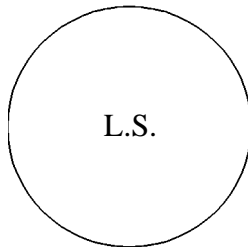
Local Government Amendment Act 2005 No 59

JAMES JACOB SPIGELMAN, Lieutenant-Governor

I, the Honourable James Jacob Spigelman AC, Lieutenant-Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Local Government Amendment Act 2005*, do, by this my Proclamation, appoint 28 April 2006 as the day on which the uncommenced provisions of that Act commence.

Signed and sealed at Sydney, this 26th day of April 2006.

By His Excellency's Command,



KERRY HICKEY, M.P.,  
Minister for Local Government

GOD SAVE THE QUEEN!

### Explanatory note

The object of this Proclamation is to commence the uncommenced provisions of the *Local Government Amendment Act 2005*. The provisions concerned relate to the standard forms of contract for the employment of the general manager or other senior staff of a council.



New South Wales

## Proclamation

under the

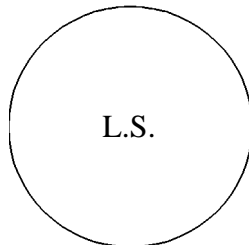
### National Parks and Wildlife Amendment Act 2001 No 130

JAMES JACOB SPIGELMAN, Lieutenant-Governor

I, the Honourable James Jacob Spigelman AC, Lieutenant-Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *National Parks and Wildlife Amendment Act 2001*, do, by this my Proclamation, appoint 1 May 2006 as the day on which the uncommenced provisions of Schedule 1 to that Act commence.

Signed and sealed at Sydney, this 26th day of April 2006.

By His Excellency's Command,



BOB DEBUS, M.P.,  
Minister for the Environment

GOD SAVE THE QUEEN!

### Explanatory note

The object of this Proclamation is to commence amendments to the *National Parks and Wildlife Act 1974* that:

- (a) remove a Division of that Act relating to protected archaeological areas and other provisions relating to wildlife management areas, and
- (b) remove references to wildlife management areas, protected archaeological areas and wildlife districts (which no longer exist), and
- (c) change the heading to, and renumber, a Division of that Act dealing with wildlife districts, wildlife refuges, wildlife management areas and conservation areas as a consequence of the amendments referred to in paragraphs (a) and (b), and
- (d) insert definitions of *intertidal zone* and *threatening process* which are terms used in that Act.



New South Wales

## Proclamation

under the

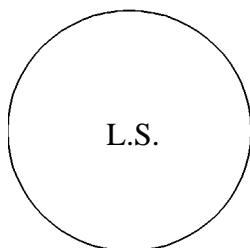
Protection of the Environment Operations Amendment Act 2005  
No 96

JAMES JACOB SPIGELMAN, Lieutenant-Governor

I, the Honourable James Jacob Spigelman AC, Lieutenant-Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Protection of the Environment Operations Amendment Act 2005*, do, by this my Proclamation, appoint 1 May 2006 as the day on which that Act commences.

Signed and sealed at Sydney, this 26th day of April 2006.

By His Excellency's Command,



BOB DEBUS, M.P.,  
Minister for the Environment

GOD SAVE THE QUEEN!

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# Regulations

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New South Wales

## Commercial Agents and Private Inquiry Agents Regulation 2006

under the

Commercial Agents and Private Inquiry Agents Act 2004

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Commercial Agents and Private Inquiry Agents Act 2004*.

CARL SCULLY, M.P.,  
Minister for Police

### Explanatory note

The object of this Regulation is to make provision consequent on the enactment of the *Commercial Agents and Private Inquiry Agents Act 2004*. The regulation deals with the following matters:

- (a) application procedures for master licences (Division 1 of Part 2),
- (b) application procedures for operator licences (Division 2 of Part 2),
- (c) other administrative provisions common to master licences and operator licences (Division 3 of Part 2),
- (d) the regulation of the business and activities carried out under master licences and operator licences (Part 3),
- (e) other matters of a preliminary or miscellaneous nature (Parts 1 and 4).

This Regulation is made under the *Commercial Agents and Private Inquiry Agents Act 2004*, including section 39 (the general power to make regulations) and other provisions referred to in the Regulation.

## Commercial Agents and Private Inquiry Agents Regulation 2006

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## Commercial Agents and Private Inquiry Agents Regulation 2006

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Clause 1	Commercial Agents and Private Inquiry Agents Regulation 2006
Part 1	Preliminary

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## Commercial Agents and Private Inquiry Agents Regulation 2006

under the

Commercial Agents and Private Inquiry Agents Act 2004

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Commercial Agents and Private Inquiry Agents Regulation 2006*.

#### 2 Commencement

This Regulation commences on 1 May 2006.

#### 3 Definitions

(1) In this Regulation:

**close associate** is defined in clause 4.

**licence number**, in relation to a licence, means the unique identifier included in the licence pursuant to section 20 of the *Licensing and Registration (Uniform Procedures) Act 2002*.

**licensable activity** means a commercial agent activity or a private inquiry agent activity.

**licensed operator** means a person who holds an operator licence.

**permanent Australian resident** means a person resident in Australia whose continued presence in Australia is not subject to any limitation as to time imposed by or in accordance with law.

**qualified accountant** means:

- (a) a Certified Practising Accountant member of CPA Australia, New South Wales Division, or
- (b) a member of the Institute of Chartered Accountants in Australia, New South Wales Branch, who holds a Certificate of Public Practice issued by that Institute, or
- (c) a member of the National Institute of Accountants who holds a Public Practice Certificate issued by that Institute.

**Registry** means the Security Industry Registry within NSW Police.

Commercial Agents and Private Inquiry Agents Regulation 2006

Clause 4

Preliminary

Part 1

*the Act* means the *Commercial Agents and Private Inquiry Agents Act 2004*.

- (2) Notes included in this Regulation do not form part of this Regulation.

#### 4 Meaning of “close associate”

- (1) For the purposes of this Regulation, a person is a *close associate* of an applicant for, or the holder of, a licence if the person:

- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the licence applicant or holder, and by virtue of that interest or power is or will be able (in the opinion of the Commissioner) to exercise a significant influence over or with respect to the conduct of that business, or
- (b) holds or will hold any relevant position, whether in his or her own right or on behalf of any other person, in the business of the licence applicant or holder.

- (2) In this clause:

*relevant financial interest*, in relation to a business, means:

- (a) any share in the capital of the business, or
- (b) any entitlement to receive any income derived from the business, whether the entitlement arises at law or in equity or otherwise.

*relevant position* means:

- (a) the position of director or manager, or
- (b) any other executive position,

however those positions are designated.

*relevant power* means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others:

- (a) to participate in any directorial, managerial or executive decision, or
- (b) to elect or appoint any person to any relevant position.

#### 5 Major and minor offences

- (1) An offence under Division 10, 10A, 14, 14A or 15 of Part 3 of the *Crimes Act 1900*, or under section 562AB of that Act, is declared to be a *major offence* for the purposes of the Act.
- (2) An offence under section 18Q, 18R, 18S or 18T of the *Privacy Act 1988* of the Commonwealth is declared to be a *minor offence* for the purposes of the Act.

Clause 6	Commercial Agents and Private Inquiry Agents Regulation 2006
Part 2	Licences

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## Part 2 Licences

### Division 1 Master licences

#### 6 Applications for master licences: individuals

An application for a master licence that is made by an individual must be in the approved form, and must include the following information:

- (a) the name, date and place of birth and residential address of:
  - (i) the individual, and
  - (ii) each of the individual's close associates,
- (b) if the individual is not a permanent Australian resident, information establishing the basis on which the individual is permitted to work in Australia,
- (c) the individual's business address,
- (d) any business name, within the meaning of the *Business Names Act 2002*, under which the individual carries on business,
- (e) the licensable activities in respect of which the individual proposes to carry on business under the master licence,
- (f) information establishing that the individual satisfies the requirements referred to in section 7 (2) (c) of the Act,
- (g) if the individual is applying for the renewal of an existing master licence, the licence number of the existing licence.

**Note.** See also the requirements of section 12 of the *Licensing and Registration (Uniform Procedures) Act 2002*.

#### 7 Applications for master licences: corporations

An application for a master licence that is made by a corporation must be in the approved form, and must include the following information:

- (a) the name of the corporation,
- (b) the name, date and place of birth and residential address of each of the corporation's close associates,
- (c) the address of the corporation's registered office and, if that address is not the address of its principal place of business, the address of its principal place of business,
- (d) any business name, within the meaning of the *Business Names Act 2002*, under which the corporation carries on business,
- (e) the licensable activities in respect of which the corporation proposes to carry on business under the master licence,
- (f) if the corporation is applying for the renewal of an existing master licence, the licence number of the existing licence.

Commercial Agents and Private Inquiry Agents Regulation 2006

Clause 8

Licences

Part 2

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**Note.** See also the requirements of section 12 of the *Licensing and Registration (Uniform Procedures) Act 2002*.

## 8 Application fees

- (1) The fees for an application for the granting, renewal or restoration of a master licence, regardless of the number of licensable activities to which it relates, are as follows:
  - (a) \$465 for a licence for a licensee employing no licensed operators (a **Class 1 licence**),
  - (b) \$895 for a licence for a licensee employing one or more, but not more than 10, licensed operators (a **Class 2 licence**),
  - (c) \$1,925 for a licence for a licensee employing more than 10 licensed operators (a **Class 3 licence**).
- (2) The fees for an application for the amendment of a master licence are as follows:
  - (a) \$430 for an amendment that would change a Class 1 licence to a Class 2 licence,
  - (b) \$1,030 for an amendment that would change a Class 2 licence to a Class 3 licence,
  - (c) \$1,460 for an amendment that would change a Class 1 licence to a Class 3 licence,
  - (d) \$65 for any other amendment.
- (3) Of each fee prescribed by subclause (1) or (2), \$65 is a processing fee for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*.
- (4) The fee for an application for the replacement of a master licence is \$50, of which the whole amount is a processing fee for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*.

## 9 Applications in relation to additional licensable activities

An application by the holder of an existing master licence for a licence to carry on business in relation to a licensable activity not covered by the existing licence is taken to be an application for the amendment of the existing licence, and is to be dealt with accordingly.

## 10 Certain persons not required to hold master licence

- (1) Pursuant to section 5 (2) (b) of the Act, each of the following classes of persons is declared to be a class of persons to whom section 5 of the Act does not apply:
  - (a) any subsidiary of a corporation, but only in relation to licensable activities carried out solely on behalf of the corporation,

Clause 11 Commercial Agents and Private Inquiry Agents Regulation 2006

Part 2 Licences

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- (b) any corporation that has a subsidiary, but only in relation to licensable activities carried out by the subsidiary on behalf of persons other than the corporation,
  - (c) any authorised deposit-taking institution,
  - (d) any qualified accountant,
  - (e) any agent of:
    - (i) any insurance company referred to in Schedule 1 to the Act, or
    - (ii) any person carrying on the business of an insurance loss adjuster referred to in Schedule 1 to the Act, or
    - (iii) any authorised deposit-taking institution referred to in Schedule 1 to the Act,
 but only in relation to licensable activities carried out solely on behalf that company, person or institution,
  - (f) ASX Operations Pty Limited (ACN 004 523 782).
- (2) In subclause (1) (a), *subsidiary*, in relation to a corporation, means any corporation that is a related body corporate, within the meaning of the *Corporations Act 2001* of the Commonwealth, in relation to the corporation.
- Note.** The carrying out of a licensable activity by the subsidiary of a corporation will not require the subsidiary to hold a master licence where the corporation is the client (subclause (1) (a)). However, the carrying out of a licensable activity by the subsidiary of a corporation will require the subsidiary, but not the corporation, to hold a master licence where a third party is the client (subclause (1) (b)).

#### 11 Condition as to periodic updating of registered particulars

It is a condition of each master licence that any notice of changed particulars under section 24 of the *Licensing and Registration (Uniform Procedures) Act 2002* must be accompanied by a notification fee of \$50 if the change being notified concerns a particular that is included in the licence.

**Note.** Any such change will result in the issue of a replacement licence with updated particulars.

#### 12 Condition as to record-keeping

It is a condition of each master licence for an activity that the licensee must keep a record of:

- (a) the name, residential address and licence number of each of the licensee's employees who is a licensed operator for that activity, and

Commercial Agents and Private Inquiry Agents Regulation 2006

Clause 13

Licences

Part 2

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- (b) in relation to each occasion on which the licensee is engaged to carry out that activity:
    - (i) the name and address of the person by whom the licensee was engaged, and
    - (ii) the nature of the work carried out pursuant to that engagement, and
    - (iii) the name of the person by whom that work was carried out.

## **Division 2 Operator licences**

### **13 Applications for operator licences**

An application for an operator licence must be in the approved form, and must include the following information:

- (a) the individual's name, date and place of birth and residential address,
- (b) if known, the business address of the person or persons by whom the individual is, or is to be, employed to carry out licensable activities under the operator licence,
- (c) if the individual is not a permanent Australian resident, information establishing the basis on which the individual is permitted to work in Australia,
- (d) the licensable activities that the individual proposes to carry out under the operator licence,
- (e) information establishing that the individual satisfies the requirements referred to in section 13 (2) (c) of the Act,
- (f) if the individual is applying for the renewal of an existing operator licence, the licence number of the existing licence.

**Note.** See also the requirements of section 12 of the *Licensing and Registration (Uniform Procedures) Act 2002*.

### **14 Application fees**

- (1) The fees for an application for the granting, renewal or restoration of an operator licence, regardless of the number of licensable activities to which it relates, are as follows:
  - (a) \$115 for a licence for one year,
  - (b) \$465 for a licence for 5 years.
- (2) Of each fee prescribed by subclause (1), \$65 is a processing fee for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*.

Clause 15	Commercial Agents and Private Inquiry Agents Regulation 2006
Part 2	Licences

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- (3) The fee for an application for the amendment of an operator licence, regardless of the number of licensable activities to which it relates, is \$65, of which the whole amount is a processing fee for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*.
- (4) The fee for an application for the replacement of an operator licence, regardless of the number of licensable activities to which it relates, is \$50, of which the whole amount is a processing fee for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*.
- (5) In the case of an application by an individual for the granting, renewal, restoration, amendment or replacement of both a master licence and an operator licence, no fee is payable in relation to the application for the operator licence.

#### **15 Applications in relation to additional licensable activities**

An application by the holder of an existing operator licence for a licence to carry out a licensable activity not covered by the existing licence is taken to be an application for the amendment of the existing licence, and is to be dealt with accordingly.

#### **16 Certain persons not required to hold operator licence**

- (1) Pursuant to section 11 (3) (b) of the Act, each of the following classes of individuals is declared to be a class of individuals to whom section 11 of the Act does not apply:
  - (a) any employee of a subsidiary of a corporation, but only in relation to licensable activities carried out solely on behalf of the corporation,
  - (b) any employee of an authorised deposit-taking institution,
  - (c) any qualified accountant,
  - (d) any agent, and any employee of an agent, of:
    - (i) any insurance company referred to in Schedule 1 to the Act, or
    - (ii) any person carrying on the business of an insurance loss adjuster referred to in Schedule 1 to the Act, or
    - (iii) any authorised deposit-taking institution referred to in Schedule 1 to the Act,but only in relation to licensable activities carried out solely on behalf that company, person or institution,
  - (e) any employee of ASX Operations Pty Limited (ACN 004 523 782).

Commercial Agents and Private Inquiry Agents Regulation 2006

Clause 17

Licences

Part 2

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- (2) In subclause (1) (a), **subsidiary**, in relation to a corporation, means any corporation that is a related body corporate, within the meaning of the *Corporations Act 2001* of the Commonwealth, in relation to the corporation.

**Note.** The carrying out of a licensable activity by the subsidiary of a corporation will not require an employee of the subsidiary to hold an operator licence where the corporation is the client (subclause (1) (a)).

#### 17 Condition as to collection of licence

- (1) It is a condition of the Commissioner's decision under section 18 of the *Licensing and Registration (Uniform Procedures) Act 2002* to grant an operator licence that the licence must be collected, within 60 days after the date on which notice of the Commissioner's decision on the application for the licence is served on the applicant under section 19 of that Act, from the location specified in the notice for that purpose.
- (2) If an operator licence is not collected within the period referred to in subclause (1), the Commissioner's decision is taken, on and from the end of that period, to be a decision to refuse the application.
- (3) Pursuant to section 3 of the *Licensing and Registration (Uniform Procedures) Act 2002*, Part 2 of that Act is modified in relation to a decision arising under subclause (2) so as:
- (a) not to require the Commissioner to notify that decision under section 19 of that Act, and
  - (b) not to entitle the applicant for the licence to apply for a review of that decision under section 23 of that Act.

**Note.** The applicant will still be entitled to a refund under section 22 of the *Licensing and Registration (Uniform Procedures) Act 2002*.

#### 18 Condition as to periodic updating of registered particulars

- (1) It is a condition of each operator licence that any notice of changed particulars under section 24 of the *Licensing and Registration (Uniform Procedures) Act 2002* must be accompanied by a notification fee of \$50 if the change being notified concerns a particular that is included in the licence.
- (2) Only one such fee is payable in respect of the change by a licensee who holds both a master licence and an operator licence.

**Note.** Any such change will result in the issue of a replacement licence with updated particulars.



Clause 19	Commercial Agents and Private Inquiry Agents Regulation 2006
Part 2	Licences

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### **Division 3      General**

#### **19    Investigation of licence application**

- (1) On receiving an application for a licence, the Commissioner may carry out all such investigations and inquiries as the Commissioner considers necessary to enable the Commissioner to consider the application properly.
- (2) In the case of an application made by an individual, the Commissioner:
  - (a) may require the applicant to do any one or more of the following for the purpose of confirming the applicant's identity:
    - (i) to provide the Commissioner with a photograph of the applicant,
    - (ii) to consent to having his or her photograph taken by an authorised officer,
    - (iii) to consent to having his or her fingerprints taken by an authorised officer, and
  - (b) must refuse to grant the licence unless the applicant has complied with any such requirement.
- (3) Any application for a licence made by any person who was at any time a police officer or a member of the police force of any other jurisdiction (whether in Australia or overseas) must be referred to the Professional Standards Command within NSW Police, which may seek further advice from the Police Integrity Commission as to the suitability of the applicant to hold a licence.
- (4) In this clause, *authorised officer* means any of the following persons authorised in writing by the Commissioner as an authorised officer for the purposes of this clause:
  - (a) any police officer or other person employed within NSW Police,
  - (b) any member of staff of a Department of the Public Service.

#### **20    Contravention of licence conditions**

A licensee must not contravene any condition of the licence.

Maximum penalty: 50 penalty units.

#### **21    Licensee not to sell or dispose of licence**

A licensee must not:

- (a) sell, dispose of, deliver, let out, hire or rent the licence to any other person, or
- (b) permit any other person to use the licence.

Maximum penalty: 50 penalty units.

Commercial Agents and Private Inquiry Agents Regulation 2006

Clause 22

Licences

Part 2

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## 22 Surrender of licence

- (1) A licence that is suspended or cancelled must be immediately surrendered as follows:
  - (a) if the notice of suspension or cancellation is handed to the licensee by a police officer, the person must immediately give the licence to the police officer,
  - (b) if the notice of suspension or cancellation is served on the licensee otherwise than as referred to in paragraph (a), the licensee must immediately deliver the licence to the Commissioner.

Maximum penalty: 50 penalty units.
- (2) For the purposes of this clause, a licence is taken to have been delivered to the Commissioner if it has been handed over to a police officer at a police station or has been sent to the Registry by registered post.

## 23 Notification of lost etc licences

- (1) Within 7 days after becoming aware that his or her licence has been lost, stolen, destroyed, defaced or mutilated, a licensee must notify the Commissioner of that occurrence.

Maximum penalty: 5 penalty units.
- (2) For the purposes of this clause, the Commissioner is taken to have been notified of the occurrence if:
  - (a) written notice of the occurrence has been sent by post to the Commissioner, or
  - (b) oral notice of the occurrence has been given, either in person or by telephone, to a police officer at a police station.

## 24 Register of Licensees

The following particulars are to be recorded in the Register of Licensees in respect of each master licence and operator licence issued under the Act:

- (a) the name of the licensee,
- (b) the nature of the licence,
- (c) the date on which the licence expires,
- (d) any conditions that the Commissioner has imposed on the licence,
- (e) the licence number of the licence.

Clause 25	Commercial Agents and Private Inquiry Agents Regulation 2006
Part 3	Regulation of licensable activities

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### **Part 3 Regulation of licensable activities**

#### **25 Licensees to give name and licence number when conducting business by telephone**

A licensee who is carrying on business under a master licence by telephone, or carrying out licensable activities under an operator licence by telephone, must advise the person to whom he or she is speaking, at the beginning of the telephone call and whenever asked during the telephone call:

- (a) of his or her name and licence number, and
- (b) of the purpose of the call.

Maximum penalty: 50 penalty units.

#### **26 Debt collector to produce evidence of debt if requested**

A licensee under a licence for debt collection who is requesting, demanding or collecting money due under a debt must, on demand by the debtor, provide the debtor with:

- (a) documentary evidence of the debt, or
- (b) the creditor's contact details.

Maximum penalty: 50 penalty units.

#### **27 Records kept in relation to debt collection**

- (1) The records that clause 11 of Schedule 2 to the Act requires to be kept in relation to debt collection:
  - (a) must be kept in the English language, and
  - (b) may be kept in a computer or on paper.
- (2) Computer records are to be backed up at intervals of no more than one month.
- (3) The most recent back-up of computer records must be kept as far from the computer as is reasonably necessary to ensure that an incident affecting the computer will not affect the back-up.
- (4) The holder of a master licence for debt collection must ensure that the requirements of this clause are complied with.

Maximum penalty: 100 penalty units.

Commercial Agents and Private Inquiry Agents Regulation 2006

Clause 28

Miscellaneous

Part 4

## Part 4 Miscellaneous

### 28 Penalty notice offences

For the purposes of section 28 of the Act:

- (a) an offence under a provision of the Act or this Regulation specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence, and
- (b) the amount specified in Column 2 of Schedule 1 in respect of such an offence is the prescribed amount of penalty for the offence.

### 29 Certificates of authority

- (1) For the purposes of section 32 of the Act, an authorised inspector's certificate of authority is to be in the form of an identity card that bears a photograph of the inspector and includes the following particulars:
  - (a) the inspector's name,
  - (b) the nature of the inspector's powers under the Act,
  - (c) the date on which the certificate expires,
  - (d) a statement that the certificate is issued under the Act.

- (2) Police officers are exempt from the operation of section 32 (1) (a) of the Act.

**Note.** Police officers are therefore not required to be in possession of a certificate of authority when exercising the powers conferred on an authorised inspector by Division 2 of Part 4 of the Act.

- (3) An authorised inspector who enters premises in the exercise of any power under Division 2 of Part 4 of the Act must, on demand, produce his or her certificate of authority for inspection by any person who appears to be in charge of the premises.

Maximum penalty: 50 penalty units.

### 30 Authorised inspectors

Persons employed within NSW Police, otherwise than as police officers, comprise a class of persons from whom authorised inspectors may be appointed under section 35 of the Act.

**Note.** Police officers are authorised inspectors by virtue of the definition of *authorised inspector* in section 4 (1) of the Act.

### 31 Licences under the 1963 Act

- (1) In this clause, *the 1963 Act* means the *Commercial Agents and Private Inquiry Agents Act 1963*.

Clause 31      Commercial Agents and Private Inquiry Agents Regulation 2006

Part 4          Miscellaneous

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- (2) The holder of a master licence arising under clause 4 (1) of Schedule 4 to the Act is taken also to hold an operator licence for process serving, debt collection and repossession of goods.
- (3) The holder of a master licence arising under clause 4 (2) of Schedule 4 to the Act is taken also to hold an operator licence for surveillance of persons and investigation of persons.
- (4) A licence arising under subclause (2) or (3), or under clause 4 of Schedule 4 to the Act, has effect until the date on which it would have expired under the 1963 Act were that Act still in force.

Commercial Agents and Private Inquiry Agents Regulation 2006

Penalty notices

Schedule 1

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## Schedule 1 Penalty notices

(Clause 28)

Column 1	Column 2
Provision	Penalty
<b>Commercial Agents and Private Inquiry Agents Act 2004</b>	
Section 26	\$550
Section 30 (2)	\$1,100
Schedule 2, clause 2 (4)	\$1,100
Schedule 2, clause 4	\$1,100
Schedule 2, clause 8 (6)	\$550
Schedule 2, clause 11 (6)	\$550
Schedule 2, clause 14 (offence by a corporation)	\$1,100
Schedule 2, clause 14 (offence by an individual)	\$550
Schedule 2, clause 16	\$1,100
Schedule 2, clause 33 (1)	\$1,100
Schedule 2, clause 51 (2)	\$550
<b>Commercial Agents and Private Inquiry Agents Regulation 2006</b>	
Clause 20	\$550
Clause 21	\$550
Clause 22 (1)	\$550
Clause 27 (4)	\$1,100



New South Wales

# Conveyancing (Sale of Land) Amendment (Smoke Alarms) Regulation 2006

under the

Conveyancing Act 1919

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Conveyancing Act 1919*.

ANTHONY KELLY, M.L.C.,  
Minister for Lands

## Explanatory note

The object of this Regulation is to amend the *Conveyancing (Sale of Land) Regulation 2005* as follows:

- (a) to require the vendor under a contract for the sale of land to attach to the contract a statement that any building situated on the land concerned complies with Division 7A of Part 9 of the *Environmental Planning and Assessment Regulation 2000* (that relates to the obligation of owners of certain buildings to install smoke alarms (or in certain cases heat alarms)),
- (b) to prevent attachment by the vendor of an inaccurate statement to a contract for the sale of land from being a ground on which the contract may be rescinded by the purchaser (although the failure to attach any such statement, if required, will be grounds for such rescission),
- (c) to provide that a vendor who attaches an inaccurate statement to a contract for the sale of land is guilty of an offence carrying a maximum penalty of 5 penalty units (currently \$550).

This Regulation is made under the *Conveyancing Act 1919*, including sections 52A (2) and (6) and 202 (the general regulation-making power).

Clause 1            Conveyancing (Sale of Land) Amendment (Smoke Alarms) Regulation 2006

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## **Conveyancing (Sale of Land) Amendment (Smoke Alarms) Regulation 2006**

under the

Conveyancing Act 1919

### **1 Name of Regulation**

This Regulation is the *Conveyancing (Sale of Land) Amendment (Smoke Alarms) Regulation 2006*.

### **2 Commencement**

This Regulation commences on 1 May 2006.

### **3 Amendment of Conveyancing (Sale of Land) Regulation 2005**

The *Conveyancing (Sale of Land) Regulation 2005* is amended as set out in Schedule 1.



Conveyancing (Sale of Land) Amendment (Smoke Alarms) Regulation 2006

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 3)

[1] **Clause 19 Circumstances under which purchaser may rescind contract or option**

Insert after clause 19 (4):

- (5) A contract for the sale of land may not be rescinded on the ground of any inaccuracy in the document referred to in clause 15 of Schedule 1.

[2] **Clause 22A**

Insert after clause 22:

**22A Offence relating to smoke alarm notices attached to contracts of sale**

If, by operation of section 52A of the Act and this Regulation, a person is required to attach to a contract for the sale of land a statement that a building situated on the land complies with Division 7A (Smoke alarms) of Part 9 (Fire safety and matters concerning the Building Code of Australia) of the *Environmental Planning and Assessment Regulation 2000*, the person must not attach a statement that the person knows is inaccurate.

Maximum penalty: 5 penalty units.

**Note.** The legal obligation to install smoke alarms is contained in clause 186A of the *Environmental Planning and Assessment Regulation 2000*.

Clause 186F of that Regulation provides that the legal obligation to install smoke alarms does not arise until 1 November 2006.

[3] **Schedule 1 Prescribed documents**

Insert after clause 14:

- 15** If the contract relates to land on which a building is situated and smoke alarms or heat alarms are required by Division 7A (Smoke alarms) of Part 9 (Fire safety and matters concerning the Building Code of Australia) of the *Environmental Planning and Assessment Regulation 2000* to be installed in the building, a statement by the vendor that the building complies with that requirement.

**Note.** The legal obligation to install smoke alarms is contained in clause 186A of the *Environmental Planning and Assessment Regulation 2000*.

Clause 186F of that Regulation provides that the legal obligation to install smoke alarms does not arise until 1 November 2006.



New South Wales

# Environmental Planning and Assessment Amendment (Development Control Plans) Regulation 2006

under the

Environmental Planning and Assessment Act 1979

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

JOHN HATZISTERGOS, M.L.C.,  
Acting Minister for Planning

## Explanatory note

The object of this Regulation is to provide for the phasing-in of the operation of section 74C of the *Environmental Planning and Assessment Act 1979* (which amongst other things renders invalid multiple development control plans applying to the same land) so that it co-incides with the making of local environmental planning instruments that adopt the provisions of the standard instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006* made on 31 March 2006.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including Part 1 of Schedule 6 (savings and transitional provisions).

Clause 1 Environmental Planning and Assessment Amendment (Development Control Plans) Regulation 2006

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## **Environmental Planning and Assessment Amendment (Development Control Plans) Regulation 2006**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Regulation**

This Regulation is the *Environmental Planning and Assessment Amendment (Development Control Plans) Regulation 2006*.

### **2 Amendment of Environmental Planning and Assessment Regulation 2000**

Clause 289A (Transitional provisions relating to development control plans) of the *Environmental Planning and Assessment Regulation 2000* is amended by omitting subclause (2) (b) and by inserting instead the following paragraph:

- (b) the expiration of the period of 5 years following the date of commencement of the *Standard Instrument (Local Environmental Plans) Order 2006*.



New South Wales

# Marine Parks Amendment (Cape Byron) Regulation 2006

under the

Marine Parks Act 1997

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Marine Parks Act 1997*.

IAN MACDONALD, M.L.C.,  
Minister for Primary Industries

BOB DEBUS, M.P.,  
Minister for the Environment

## Explanatory note

The *Marine Parks Act 1997* and the *Marine Parks Regulation 1999* (the **principal Regulation**) provide for the classification of areas within marine parks for different uses by means of zoning plans. Currently, the principal Regulation provides for four classes of zones in marine parks (sanctuary zones, habitat protection zones, general use zones and special purpose zones) and sets out objects and special provisions applying to those zones.

The object of this Regulation is to provide for a zoning plan for the Cape Byron Marine Park. The zoning plan, which is to be included in Schedule 1 to the principal Regulation, divides the Cape Byron Marine Park into the various zones and contains special provisions regulating and prohibiting the carrying out of certain activities in those zones.

This Regulation also makes a number of other amendments to the principal Regulation.

The amendments include:

- (a) amendments to permit (with Ministerial consent) certain activities in a marine park for the purpose of a traditional use, being a use that satisfies the personal, domestic or non-commercial communal needs of Aboriginal people, and
- (b) changes to the circumstances in which fishing gear may be transported through areas of a marine park in which fishing is prohibited, and
- (c) a new prohibition on contravention of the conditions of use displayed on a Marine Park Authority mooring in a marine park, and

Marine Parks Amendment (Cape Byron) Regulation 2006

Explanatory note

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- (d) a new prohibition on discharging ballast water, drawn from waters outside a marine park, within the marine park, and
- (e) further provision for the cancellation of a Ministerial permit, and
- (f) further provision for the conditions that apply to the use of hauling nets in the habitat protection zone of the Jervis Bay Marine Park, and
- (g) further provision with respect to the anchoring of vessels in the Lord Howe Island lagoon, within the Lord Howe Island Marine Park.

This Regulation also makes some amendments in the nature of law revision.

This Regulation also makes a consequential amendment to the *Fisheries Management (Aquatic Reserves) Regulation 2002*.

This Regulation is made under the *Marine Parks Act 1997*, including sections 15, 16, 17 and 48 (the general regulation-making power) and Schedule 3.

Marine Parks Amendment (Cape Byron) Regulation 2006

Clause 1

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## **Marine Parks Amendment (Cape Byron) Regulation 2006**

under the

Marine Parks Act 1997

### **1 Name of Regulation**

This Regulation is the *Marine Parks Amendment (Cape Byron) Regulation 2006*.

### **2 Commencement**

This Regulation commences on 1 May 2006.

### **3 Amendment of Marine Parks Regulation 1999**

The *Marine Parks Regulation 1999* is amended as set out in Schedule 1.

### **4 Amendment of Fisheries Management (Aquatic Reserves) Regulation 2002**

The *Fisheries Management (Aquatic Reserves) Regulation 2002* is amended by omitting Part 4 and Schedule 3.

## Marine Parks Amendment (Cape Byron) Regulation 2006

## Schedule 1 Amendments

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**Schedule 1 Amendments**

(Clause 3)

**[1] Clause 3 Definitions**

Insert in alphabetical order:

*set line* has the same meaning as it has in the *Fisheries Management (General) Regulation 2002*.

*traditional use* means a use that satisfies personal, domestic or non-commercial communal needs of Aboriginal people.

**[2] Clause 7 Protection of animals, plants and habitat in sanctuary zone**

Insert “, traditional use” after “public health” in clause 7 (2).

**[3] Clause 9A**

Omit the clause. Insert instead:

**9A Fishing not permitted from moorings**

A person must not take, or attempt to take, fish from a mooring, or a vessel attached to a mooring, in the sanctuary zone of a marine park.

Maximum penalty: 100 penalty units.

**[4] Clause 11 Protection of animals, plants and habitat in habitat protection zone**

Insert “, traditional use” after “public health” in clause 11 (2).

**[5] Clause 15 Protection of animals, plants and habitat in general use zone**

Insert “, traditional use” after “public health” in clause 15 (2).

**[6] Clause 16 Limited fishing activities in general use zone**

Insert “, traditional use” after “public health” in clause 16 (4).

**[7] Clause 18A Protection of animals, plants and habitat in special purpose zone**

Insert “, traditional use” after “public health” in clause 18A (2).

**[8] Clause 18A (3)**

Omit the subclause.

**[9] Clause 18B Limited fishing activities**

Insert “, traditional use” after “public health” in clause 18B (3).

## Marine Parks Amendment (Cape Byron) Regulation 2006

Amendments

Schedule 1

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**[10] Clause 18B (4)**

Omit the subclause.

**[11] Clause 19 Possession of animals or plants taken illegally or of equipment used to take animals or plants**

Omit clause 19 (3) (a) and (b). Insert instead:

- (a) if the equipment concerned was fishing gear—that the fishing gear was being transported to any place where the person could lawfully use the equipment to take fish and was in the authorised state, or
- (b) if the equipment concerned was not fishing gear—that the equipment was being transported to any place where the person could lawfully use the equipment to take animals or plants, and was in a state in which it could not have been used to take animals or plants, or

**[12] Clause 19 (4)**

Insert after clause 19 (3):

- (4) For the purposes of subclause (3) (a), the *authorised state* is:
  - (a) in the case of a fishing line—no part of the line was immersed in the waters of the marine park and no hook was baited, or
  - (b) in the case of a fishing net—no part of the net was immersed in the waters of the marine park, or
  - (c) in the case of fishing gear not referred to in paragraph (a) or (b)—the gear was stowed away.

**[13] Clause 20 Protection of marine park moorings, buoys, signs and facilities**

Omit clause 20 (2). Insert instead:

- (2) A person must not contravene the conditions of use displayed on a mooring in a marine park that is provided by or on behalf of the Authority.



## Marine Parks Amendment (Cape Byron) Regulation 2006

## Schedule 1 Amendments

**[14] Clause 20B**

Insert after clause 20A:

**20B Discharge from vessels**

A person must not discharge ballast water, drawn from waters outside a marine park, within the marine park.

Maximum penalty: 100 penalty units.

**[15] Clause 32L Cancellation of permit**

Insert after clause 32L (1) (f):

- (f1) the carrying out of the activity to which the permit relates did not commence within the period of 120 days dating from the date of the grant of the permit,

**[16] Schedule 1 Zoning plans for marine parks**

Omit the definition of *set line* from clause 1 (1) of Division 1 of Part 1.

**[17] Schedule 1, Part 1, Division 2, heading**

Omit “**Zone**”. Insert instead “**zone**”.

**[18] Schedule 1, Part 1, Division 4, heading**

Omit “**Use Zone**”. Insert instead “**use zone**”.

**[19] Schedule 1, Part 2, Division 1**

Omit the definition of *set line* from clause 1 (1).

**[20] Schedule 1, Part 2, Division 2, clause 2**

Omit “35°04’43”S, 150°46’11”E” from the matter relating to Groper Coast.

Insert instead “35°04’44”S, 150°46’15”E”.

**[21] Schedule 1, Part 2, Division 3, clause 6 (2) (a) and (a1)**

Omit clause 6 (2) (a). Insert instead:

- (a) the person is the holder of:
- (i) a permit issued under section 37 of the *Fisheries Management Act 1994* that expressly permits commercial hauling at a location that is in the habitat protection zone and the person was first issued with a permit of that kind within 12 months after 1 October 2002, and

## Marine Parks Amendment (Cape Byron) Regulation 2006

## Amendments

## Schedule 1

- 
- (ii) a current commercial fishing licence endorsed for the taking of fish in the ocean hauling fishery under the *Fisheries Management Act 1994*, or
- (a1) the person is a member of the crew of a boat, licensed under Division 2 of Part 4 of the *Fisheries Management Act 1994*, who takes fish as an employee or agent of the master of the boat and the master of the boat is a person referred to in paragraph (a), and
- [22] Schedule 1, Part 2, Division 3, clause 6 (3) (a) and (a1)**  
Omit clause 6 (3) (a). Insert instead:
- (a) the person is the holder of:
- (i) a permit issued under section 37 of the *Fisheries Management Act 1994* that expressly permits gar fishing at a location that is in the habitat protection zone and the person was first issued with a permit of that kind within 12 months after 1 October 2002, and
- (ii) a current commercial fishing licence endorsed for the taking of fish in the ocean hauling fishery under the *Fisheries Management Act 1994*, or
- (a1) the person is a member of the crew of a boat, licensed under Division 2 of Part 4 of the *Fisheries Management Act 1994*, who takes fish as an employee or agent of the master of the boat and the master of the boat is a person referred to in paragraph (a), and
- [23] Schedule 1, Part 2, Division 4, heading**  
Omit “Use Zone”. Insert instead “use zone”.
- [24] Schedule 1, Part 2, Division 5, heading**  
Omit “Purpose Zone”. Insert instead “purpose zone”.
- [25] Schedule 1, Part 3, Division 2, clause 4**  
Insert at the end of the clause:
- (d) anywhere within 250 metres of a point at the mean high water mark on the coast of Lord Howe Island near the navigational marker trees for Erscotts Passage at 31°32.882’S, 159°04.476’E.

## Marine Parks Amendment (Cape Byron) Regulation 2006

## Schedule 1 Amendments

**[26] Schedule 1, Part 3, Division 8, clause 18**

Insert at the end of the clause:

- (2) This clause does not prohibit a person from anchoring a vessel that is less than 10 metres long at the following locations:
- (a) within the North Passage or South Passage, provided that the vessel is anchored at a location where the water depth exceeds 3 metres at low tide height,
  - (b) within 50 metres of the mean high water mark along the northern coast of Blackburn Island between the westernmost extent of that island at 31°32.089'S, 159°03.490'E and the easternmost extent of that island at 31°32.089'S, 159°03.661'E,
  - (c) within 50 metres of the mean high water mark at a point on the coast of Lord Howe Island at the boat launching ramp at 31°31.356'S, 159°03.468'E,
  - (d) within 250 metres of a point at the mean high water mark on the coast of Lord Howe Island near the navigational marker trees for Erscotts Passage at 31°32.882'S, 159°04.476'E.

**[27] Schedule 1, Part 3, Division 8, clause 21**

Omit the clause.

**[28] Schedule 1, Part 3, Division 8, clause 22**

Omit "vessels" from clause 22 (2). Insert instead "vehicles".

**[29] Schedule 1, Part 4**

Insert after Part 3:

## **Part 4 Cape Byron Marine Park Zoning Plan**

**Note.** The GPS coordinates used in this Part to describe the boundaries of the zones of the Cape Byron Marine Park are given in degrees and decimal minutes using the Geocentric Datum of Australia 1994 (GDA 94).

### **Division 1 Preliminary**

#### **1 Definitions**

In this Part:

*extensive aquaculture* has the same meaning as it has in the *Fisheries Management (Aquaculture) Regulation 2002*.

## Marine Parks Amendment (Cape Byron) Regulation 2006

## Amendments

## Schedule 1

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**hand held line** has the same meaning as it has in clause 12 of this Regulation.

**intensive aquaculture** has the same meaning as it has in the *Fisheries Management (Aquaculture) Regulation 2002*.

**landing net** has the same meaning as it has in clause 12 of this Regulation.

**map** means a map set out in Division 10.

**marine park** means the Cape Byron Marine Park as described in Part 2 of the Proclamation made under sections 6 and 7 of the Act and published in Gazette No 189 on 25 October 2002 at page 9060.

**regulatory authority** means each of the following:

- (a) the council of an area (within the meaning of the *Local Government Act 1993*) that adjoins the marine park,
- (b) the Department of Primary Industries,
- (c) the Department of Environment and Conservation,
- (d) the Department of Planning,
- (e) NSW Police,
- (f) the Waterways Authority,
- (g) the Department of Lands.

**scoop net** has the same meaning as it has in clause 12 of this Regulation.

**spear gun** includes a spear, bow and arrow or other similar device.

**table** means a table set out in Division 11.

**tidal lands** means any area of land that is covered from time to time by tidal waters, and that is above the lowest astronomical tide level.

**tidal waters** means any area of waters of the sea or subject to tidal influence.

## Marine Parks Amendment (Cape Byron) Regulation 2006

## Schedule 1 Amendments

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**Division 2 Sanctuary zones****2 Description of sanctuary zones**

The sanctuary zones of the marine park are comprised of the following areas:

**Byron Bay (Map 1)**

From point 1A on Tyagarah Beach, approximately 2 kilometres south of the Brunswick River southern training wall at the intersection of the mean high water mark and 28°33.376'S latitude, then due east approximately 100 metres to point 1B at 28°33.376'S, 153°33.601'E, then following the coastline generally north at 100 metres seaward from the mean high water mark to the northern boundary of the marine park at point 1C at 28°32.251'S, 153°33.538'E, then following the northern boundary of the marine park due east approximately 825 metres to point 1D at 28°32.251'S, 153°34.045'E, then generally in a south-easterly direction in a direct line of sight with the Cape Byron Lighthouse approximately 8.8 kilometres to point 1E at 28°36.337'S, 153°36.833'E, then due east approximately 7.1 kilometres to point 1F at 28°36.337'S, 153°41.207'E at the eastern boundary of the marine park, then following the marine park boundary generally south approximately 4.7 kilometres to point 1G at 28°38.780'S, 153°41.690'E, then due west approximately 1.7 kilometres to point 1J at 28°38.780'S, 153°40.683'E, then due north approximately 885 metres to point 1K at 28°38.313'S, 153°40.683'E, then due west approximately 3.9 kilometres to point 1L at Cape Byron, in line with the Cape Byron Lighthouse, at the intersection of the mean high water mark and 28°38.313'S latitude, then following the mean high water mark generally north to point 1A, as shown on map 1, but not including the Cape Byron, Little Wategos Beach, Main Beach, Belongil Beach, Tyagarah Beach or Wilsons Reef and Bait Reef habitat protection zones as described in Division 3.

## Marine Parks Amendment (Cape Byron) Regulation 2006

## Amendments

## Schedule 1

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**Marshalls Creek (Map 2)**

The whole of the tidal waters and tidal lands to the mean high water mark of Marshalls Creek, including all its creeks, bays and tributaries, upstream of a line (being the junction of the Brunswick River and Marshalls Creek) bearing  $135^\circ$  from point 2A (at the intersection of the mean high water mark on the north-western bank of Marshalls Creek and  $153^\circ 32.772'E$  longitude), to the intersection of the line with the mean high water mark on the south-eastern bank of Marshalls Creek, as shown on map 2, but not including the following:

- (i) the tidal waters and tidal lands to the mean high water mark of the stretch of Marshalls Creek that is both:
  - (A) upstream of a line bearing due west from point 2B, at the intersection of the mean high water mark on the eastern bank and  $28^\circ 30.665'S$  latitude, approximately 250 metres south of the New Brighton Post Office, to the intersection of the line with the mean high water mark on the western bank, and
  - (B) downstream of a line bearing  $045^\circ$  from point 2C, at the intersection of the mean high water mark and  $28^\circ 30.553'S$  latitude at the western end of Casons Lane, to the intersection of the line with the mean high water mark on the eastern bank,
- (ii) the tidal waters and tidal lands to the mean high water mark of Billinudgel Creek (Capricornia Canal) upstream of a line (being the line of the upstream edge of the North Ocean Shores bridge) bearing generally north-west from point 2D, at the intersection of the mean high water mark on the southern bank and  $153^\circ 32.503'E$  longitude, to point 2E, at the intersection of the mean high water mark on the northern bank and  $153^\circ 32.496'E$  longitude,
- (iii) special purpose zone 2 (Marshalls Creek Oyster Leases), as described in Division 4.

## Marine Parks Amendment (Cape Byron) Regulation 2006

## Schedule 1 Amendments

**Simpsons Creek (Map 2)**

The whole of the tidal waters and tidal lands to the mean high water mark of Simpsons Creek, including all its creeks, bays and tributaries, upstream of a line bearing due east from point 2F, at the intersection of 28°32.967'S latitude and the mean high water mark on the western bank, to the intersection of the line with the mean high water mark on the eastern bank, located near the Brunswick Heads Bowling Club, as shown on map 2.

**Broken Head (Map 4)**

From point 4A at the northern end of Kings Beach at the intersection of the mean high water mark and 28°42.528'S latitude, then due east approximately 215 metres to point 4B at 28°42.528'S, 153°37.184'E, then due north approximately 640 metres to point 4C at 28°42.181'S, 153°37.184'E (which is approximately 200 metres north of Cocked Hat Rocks), then due east approximately 1.2 kilometres to point 4D at 28°42.181'S, 153°37.923'E, then generally south south-west approximately 2.7 kilometres to point 4E at 28°43.621'S, 153°37.578'E, then due west approximately 945 metres to point 4F, located approximately 100 metres seaward from the mean high water mark at the south-eastern extremity of Jews Point, at 28°43.621'S, 153°36.997'E, then following the shoreline generally north at 100 metres seaward from the mean high water mark to point 4G at 28°43.315'S, 153°37.177'E, then due west approximately 100 metres to point 4H located approximately 100 metres north of the easternmost rock outcrop at Snapper Rock, at the intersection of the mean high water mark and 28°43.315'S latitude, then following the mean high water mark generally north to point 4A, as shown on map 4.

**The Moat/Bream Hole (Map 5)**

From point 5A on the southern side of the Lennox Head boat channel at the intersection of the mean high water mark and 28°47.962'S latitude, then following the southern side of the boat channel generally east approximately 160 metres to point 5B at 28°47.932'S, 153°35.847'E, then generally south south-east to point 5C at the intersection of the mean high water mark and 153°35.924'E longitude then generally north, following the shoreline at the mean high water mark to point 5A, as shown on map 5 but not including special purpose zone 5 (Lennox Head).

## Marine Parks Amendment (Cape Byron) Regulation 2006

## Amendments

## Schedule 1

**Lennox Head (Map 5)**

From point 5D at the intersection of the mean high water mark and 153°36.129'E longitude, then due north approximately 100 metres to point 5E at 28°48.264'S, 153°36.129'E, then following the shoreline for approximately 500 metres generally north-west at 100 metres seaward from the mean high water mark to point 5F at 28°48.116'S, 153°35.974'E, then generally north to point 5G at 28°47.931'S, 153°35.908'E, then generally north approximately 590 metres, to point 5H at 28°47.622'S, 153°35.830'E, approximately 235 metres seaward from the mean high water mark, then due east approximately 1.3 kilometres to point 5I at 28°47.622'S, 153°36.598'E, then generally south south-west approximately 1.8 kilometres to point 5J at the intersection of the mean high water mark and 28°48.571'S latitude (being the intersection of the mean high water mark and the southern boundary of the marine park), then generally north-west following the mean high water mark to point 5D, as shown on map 5.

**3 Fish cleaning**

- (1) A person must not clean any fish or any fishing gear while in a sanctuary zone of the marine park except at a fish cleaning facility (if any) designated by the relevant Ministers for that purpose.
- (2) This clause does not prohibit the cleaning of fish or fishing gear while on a vessel with the consent of the relevant Ministers.

**4 Vessels not to be anchored at certain sites in sanctuary zone**

- (1) This clause applies despite clause 9 of this Regulation.
- (2) A person may anchor a vessel in a sanctuary zone if:
  - (a) neither the anchor nor the vessel are within 700 metres of the trigonometrical station on Julian Rocks, and
  - (b) no part of the vessel (including the vessel's anchor and anchor line) is touching a reef, and
  - (c) anchoring the vessel in such a place would not contravene any provision of this Regulation other than clause 9.
- (3) A person may anchor a vessel in a sanctuary zone if such anchoring is permitted by a permit issued under Part 3A of this Regulation to authorise the carrying out of an activity referred to in clause 23, 24 or 26 (1) (d) of this Regulation.



## Marine Parks Amendment (Cape Byron) Regulation 2006

## Schedule 1 Amendments

**5 Speed restrictions**

- (1) A person must not operate a vessel within 200 metres of the trigonometrical station on Julian Rocks at a speed exceeding 4 knots.
- (2) It is a defence to a prosecution for an offence under subclause (1) if the person charged satisfies the court that the operation of the vessel at the speed the vessel was used at was in an emergency and was necessary to protect life or property.
- (3) This clause does not apply to an officer or employee of a regulatory authority operating a vessel in the course of the regulatory authority's business.

**Division 3 Habitat protection zones****6 Description of habitat protection zones**

The habitat protection zones of the marine park are comprised of the following areas:

**Brunswick River (Map 2)**

The whole of the tidal waters and tidal lands to the mean high water mark of the Brunswick River, including its creeks, bays and tributaries, as shown on map 2, but not including:

- (i) the Marshalls Creek or Simpsons Creek sanctuary zone, as described in Division 2, or
- (ii) special purpose zone 1 (Brunswick River Boat Harbour) or 2 (Marshalls Creek Oyster Leases), as described in Division 4.

**Brunswick River Offshore (Map 2)**

From point 2G, approximately 925 metres from the easternmost point of the Brunswick River northern training wall, on the northern boundary of the marine park at 28°32.251'S, 153°34.045'E, then due east approximately 3.3 kilometres to point 2H at 28°32.251'S, 153°36.104'E, then due south approximately 5.6 kilometres to point 2I at 28°35.269'S, 153°36.104'E, then generally north-west approximately 6.5 kilometres to point 2G, as shown on map 2.

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**Tyagarah Beach (north) (Map 2)**

From point 2J on Tyagarah Beach, approximately 2 kilometres south of the Brunswick River southern training wall at the intersection of the mean high water mark and 28°33.376'S latitude, then due east approximately 100 metres to point 2K at 28°33.376'S, 153°33.601'E, then following the coastline generally north at 100 metres seaward from the mean high water mark to the northern boundary of the marine park to point 2L at 28°32.251'S, 153°33.538'E, then due west to the easternmost point of the Brunswick River northern training wall to point 2M at the intersection of the mean high water mark and 28°32.251'S latitude, then generally south, adjoining the Brunswick River habitat protection zone (as described in this Division), and following the mean high water mark to point 2J, as shown on map 2.

**Grays Lane (Map 2)**

From point 2N, approximately 2 kilometres north of the Grays Lane access on Tyagarah Beach, at the intersection of the mean high water mark and 28°35.277'S latitude, due east approximately 100 metres to point 2O at 28°35.277'S, 153°34.126'E, then generally south approximately 4.1 kilometres at 100 metres seaward from the mean high water mark to point 2P at 28°37.209'S, 153°35.298'E, then due west approximately 100 metres to point 2Q at the intersection of the mean high water mark and 28°37.209'S latitude, then following the mean high water mark generally north to point 2N, as shown on map 2.

**Belongil Beach, Main Beach and Clarkes Beach (Map 3)**

From point 3A, approximately 500 metres south of Belongil Creek at the intersection of the mean high water mark and 28°37.776'S latitude, due east approximately 100 metres to point 3B at 28°37.776'S, 153°35.792'E, then generally south-east approximately 3 kilometres at 100 metres seaward of the mean high water mark to point 3C at 28°38.399'S, 153°37.437'E, then due south approximately 100 metres to point 3D at the intersection of the mean high water mark and 153°37.437'E longitude, then following the mean high water mark generally north-west to point 3A, as shown on map 3.

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**Cape Byron (Map 3)**

From point 3E on the western rocky shore of Little Wategos Beach, at the intersection of the mean high water mark and 153°38.180'E longitude, then due north approximately 100 metres to point 3F at 28°37.999'S, 153°38.180'E, then generally east and then generally south around Cape Byron at 100 metres seaward from the mean high water mark for approximately 830 metres to point 3G at 28°38.179'S, 153°38.348'E, then due west approximately 100 metres to the easternmost point of Cape Byron to point 3H at the intersection of the mean high water mark and 28°38.179'S latitude, then generally north and then generally west along the mean high water mark to point 3E, as shown on map 3.

**Wilsons Reef and Bait Reef (Map 3)**

From point 3I at 28°37.516'S, 153°36.296'E, then due east approximately 1.3 kilometres to point 3J at 28°37.516'S, 153°37.093'E, then due south approximately 500 metres to point 3K at 28°37.783'S, 153°37.093'E, then due west approximately 1.3 kilometres to point 3L at 28°37.783'S, 153°36.296'E, then due north to point 3I, as shown on map 3.

**Mackerel Boulder (Map 3)**

From point 3M at 28°36.337'S, 153°36.833'E, then generally north-east for approximately 1.7 kilometres to point 3N at 28°35.900'S, 153°37.708'E, then generally south-east approximately 1.7 kilometres to point 3O at 28°36.337'S, 153°38.589'E, then due west approximately 2.9 kilometres to point 3M, as shown on map 3.

**Cape Byron Offshore (Map 1)**

From point 1G at 28°38.780'S, 153°41.690'E, generally south approximately 1.5 kilometres following the boundary of the marine park to point 1H at 28°39.576'S, 153°41.466'E, then due west approximately 1.3 kilometres to point 1I at 28°39.576'S, 153°40.683'E, then due north approximately 1.5 kilometres to point 1J at 28°38.780'S, 153°40.683'E, then due east approximately 1.7 kilometres to point 1G, as shown on map 1.

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**Tallow Beach (Map 1)**

From point 1L, in line with the Cape Byron Lighthouse, at the intersection of the mean high water mark and 28°38.313'S latitude, then due east approximately 1.1 kilometres to point 1M at 28°38.313'S, 153°38.877'E, then generally south south-west approximately 7.3 kilometres to point 1N at 28°42.181'S, 153°37.923'E, then due west approximately 1.2 kilometres to point 1O, approximately 540 metres seaward from the mean high water mark and approximately 200 metres north of Cocked Hat Rocks at 28°42.181'S, 153°37.184'E, then due south approximately 640 metres to point 1P at 28°42.528'S, 153°37.184'E then due west approximately 215 metres to the northern point of Kings Beach at point 1Q at the intersection of the mean high water mark and 28°42.528'S latitude, then following the mean high water mark generally north along Tallow Beach to point 1L, as shown on map 1.

**Seven Mile Beach (Map 1)**

From point 1R, approximately 100 metres north of the easternmost rock outcrop at Snapper Rock, at the intersection of the mean high water mark and 28°43.315'S latitude, then due east approximately 100 metres to point 1S at 28°43.315'S, 153°37.177'E, then following the shoreline generally south at 100 metres seaward from the mean high water mark to point 1T at 28°43.621'S, 153°36.997'E, then due east approximately 945 metres to point 1U at 28°43.621'S, 153°37.578'E, then generally south south-west approximately 7.6 kilometres to point 1V at 28°47.622'S, 153°36.598'E, then due west approximately 1.3 kilometres to point 1W at 28°47.622'S, 153°35.830'E, then generally south approximately 590 metres to point 1X at 28°47.931'S, 153°35.908'E, then generally west approximately 160 metres along the southern boundary of the Lennox Head boat channel to point 1Y at the intersection of the mean high water mark and 28°47.962'S latitude, then following the mean high water mark generally north along Seven Mile Beach to point 1R, as shown on map 1.

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**Lennox Head Boulder Foreshore (Map 5)**

From point 5D at the intersection of the mean high water mark and 153°36.129'E longitude, then due north approximately 100 metres to point 5E at 28°48.264'S, 153°36.129'E, then following the shoreline for approximately 500 metres generally north-west at 100 metres seaward from the mean high water mark to point 5F at 28°48.116'S, 153°35.974'E, then generally north to point 5G at 28°47.931'S, 153°35.908'E, then due west approximately 100 metres to point 5B at 28°47.932'S, 153°35.847'E, then generally south approximately 390 metres along the eastern margin of the oceanic lagoon (the Moat) to point 5C at the intersection of the mean high water mark and 153°35.924'E longitude, then generally south-east along the mean high water mark to point 5D, as shown on map 5.

**7 Taking of certain plants permitted**

- (1) A person may take a plant of a species listed in table A, by hand or using a knife, a spade, a fork or a pump, for recreational purposes, in all habitat protection zones other than Mackerel Boulder, Wilsons Reef and Bait Reef or Lennox Head Boulder Foreshore.
- (2) A person may take a plant of a species listed in table A, by hand or using a knife, a spade, a fork or a pump, for commercial purposes, but only in the Grays Lane or Seven Mile Beach habitat protection zone.
- (3) This clause applies despite clause 11 of this Regulation.

**Note.** Clause 11 of this Regulation makes it an offence to harm a plant or damage, take or interfere with any part of the habitat in a habitat protection zone except with the consent of the relevant Ministers.

**8 Permitted fishing activities**

**Note.** Clause 12 of this Regulation makes it an offence to take or attempt to take fish in a habitat protection zone unless the person is engaging in a permitted fishing activity referred to in that clause. A permitted fishing activity includes the taking of fish by a method that is permitted by the zoning plan for a marine park. This clause sets out such permitted fishing activities (in addition to those described in clause 12).

- (1) Clause 12 (1) of this Regulation (relating to permitted fishing activities) applies to the habitat protection zone of the marine park subject to the provisions of this Part. Accordingly, that subclause is not to be construed as authorising any fishing activity that would contravene this clause.

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- (2) Subject to clause 9 of this Part, the following fishing activities are permitted in a habitat protection zone of the marine park:

(a) **Netting—general**

The taking, other than in the Mackerel Boulder, Wilsons Reef and Bait Reef or Lennox Head Boulder Foreshore habitat protection zone of the marine park, of any fish of a kind that may lawfully be taken in the habitat protection zone by use of one of the following nets, if the use of the net to take that fish is lawful under the *Fisheries Management Act 1994*:

- (i) push or scissors net (prawns),
- (ii) hoop or lift net,
- (iii) spanner crab net,
- (iv) submersible lift net (bait), but only if it is used to take fish for use as bait (and not for the purposes of sale).

(b) **Haul netting in part of Seven Mile Beach habitat protection zone**

The taking, in the part of the Seven Mile Beach habitat protection zone between Byron Street at Lennox Head and Jews Point, of any fish of a kind that may lawfully be taken in the habitat protection zone by use of one of the following nets, if the use of the net to take that fish is lawful under the *Fisheries Management Act 1994*:

- (i) hauling net (general purpose),
- (ii) garfish net (hauling),
- (iii) pilchard, anchovy and bait net (hauling).

(c) **Fish and lobster trapping**

The taking of fish by use of a fish trap or lobster trap in all habitat protection zones other than Mackerel Boulder, Wilsons Reef and Bait Reef or Lennox Head Boulder Foreshore.

(d) **Eel and crab trapping**

The taking of fish by use of an eel trap or crab trap in all habitat protection zones other than Mackerel Boulder, Wilsons Reef and Bait Reef, Lennox Head Boulder Foreshore or those parts of Marshalls Creek or Simpsons Creek that are part of the Brunswick River habitat protection zone.

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**(e) Collecting**

The taking of species listed in table B, by hand or using a knife, a spade, a fork or a pump, for recreational purposes, in all habitat protection zones other than Mackerel Boulder, Wilsons Reef and Bait Reef or Lennox Head Boulder Foreshore.

The taking of species listed in table B, by hand or using a knife, a spade, a fork or a pump, for commercial purposes, but only in the Grays Lane or Seven Mile Beach habitat protection zone.

**Note.** The taking of fish in a habitat protection zone of the marine park is subject to the provisions of the *Fisheries Management Act 1994* and the regulations under that Act. Part 3 of the *Fisheries Management (General) Regulation 2002* also sets out requirements in relation to the lawful use of fishing gear such as traps and nets.

**9 Prohibited fishing activities****Note.**

- 1 Clause 12 (2) of this Regulation makes it an offence to take or attempt to take fish while in the habitat protection zone unless the person complies with any restrictions imposed on that activity by the zoning plan for the marine park. This clause imposes such restrictions.
  - 2 Clause 12 (3) of this Regulation provides that a person does not commit an offence under clause 12 for anything done with the consent of the relevant Ministers.
- (1) A person must not, while in a habitat protection zone of the marine park, take or attempt to take:
    - (a) any fish the harming of which is prohibited under the *Fisheries Management Act 1994*, or
    - (b) any fish of a species not listed in table B.
  - (2) A person must not, while in a habitat protection zone of the marine park, take or attempt to take any species of shark or ray (Class Chondrichthyes).
  - (3) A person must not, while in the Wilsons Reef and Bait Reef habitat protection zone of the marine park, take or attempt to take any fish of a species not listed in table C.
  - (4) A person must not, while in the Mackerel Boulder habitat protection zone between 1 May and 31 December in any year (both dates inclusive), take or attempt to take fish.

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- (5) A person must not, while in the Mackerel Boulder, Wilsons Reef and Bait Reef or Lennox Head Boulder Foreshore habitat protection zone of the marine park take or attempt to take fish by the use of a net (other than by the use of a landing net and only if such use of the landing net is lawful under the *Fisheries Management Act 1994*).
  - (6) A person must not, while in the Mackerel Boulder, Wilsons Reef and Bait Reef or Lennox Head Boulder Foreshore habitat protection zone, take, or attempt to take, a fish by hand or using a knife, a spade, a fork or a pump.
  - (7) A person must not, while in any habitat protection zone in the marine park except the Grays Lane or Seven Mile Beach habitat protection zone, take, or attempt to take, a fish by hand or using a knife, a spade, a fork or a pump, for commercial purposes.
  - (8) A person must not, while in the Brunswick River, Tyagarah Beach (north), Belongil Beach, Main Beach and Clarkes Beach, or Lennox Head Boulder Foreshore habitat protection zone, take or attempt to take fish by use of a spear gun.

**10 Aquaculture**

Despite clause 13 of this Regulation, aquaculture is not permissible in the habitat protection zone of the marine park, except extensive aquaculture of shellfish.

**Division 4 Special purpose zones****11 Description of special purpose zones**

The special purpose zones of the marine park are comprised of the following areas:

**Special purpose zone 1 (Brunswick River Boat Harbour) (Map 2)**

Lot 1, Deposited Plan 811063, being approximately 1 kilometre from the mouth of the Brunswick River, as shown on map 2.



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**Special purpose zone 2 (Marshalls Creek Oyster Leases) (Map 2)**

All oyster leases within Marshalls Creek that:

- (i) were the subject, immediately before the commencement of this Part, of an aquaculture permit issued under the *Fisheries Management Act 1994*, and
- (ii) are bounded by the Marshall's Creek sanctuary zone,

as shown on map 2.

**Special purpose zone 3 (Belongil Creek) (Map 3)**

The whole of the tidal waters and tidal lands to the mean high water mark of Belongil Creek, including all its creeks, bays and tributaries, as shown on map 3.

**Special purpose zone 4 (Tallow Creek) (Map 3)**

The whole of the tidal waters and tidal lands to the mean high water mark of Tallow Creek, including all its creeks, bays and tributaries, as shown on map 3.

**Special purpose zone 5 (Lennox Head) (Map 5)**

The area adjacent to and within 50 metres of the Lennox Head boardwalk, as shown on map 5, but not including The Moat/Bream Hole sanctuary zone.

**12 Special purpose zones—objects**

- (1) The object of special purpose zone 1 (Brunswick River Boat Harbour) is to provide for the management of port and harbour facilities and boating requirements.
- (2) The object of special purpose zone 2 (Marshalls Creek Oyster Leases) is to provide for the management of aquaculture.
- (3) The object of special purpose zones 3 (Belongil Creek) and 4 (Tallow Creek) is to provide for rehabilitation and traditional use.
- (4) The object of special purpose zone 5 (Lennox Head) is to provide for recreational fishing by disabled persons.

**Note.** Clauses 18A and 18B of this Regulation create offences relating to the taking or harming of plants, animals, fish and other materials in a special purpose zone.

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**13 Special purpose zones—fishing**

- (1) A person must not take or attempt to take fish in special purpose zone 1 (Brunswick River Boat Harbour) unless the taking of the fish, and the method used to take the fish, is permitted in the Brunswick River habitat protection zone.
- (2) A person must not take or attempt to take fish in special purpose zone 2 (Marshalls Creek Oyster Leases). However, a person may carry out oyster aquaculture in that zone in accordance with a permit issued under the *Fisheries Management Act 1994*.
- (3) A person must not take or attempt to take fish in special purpose zone 3 (Belongil Creek) or 4 (Tallow Creek).
- (4) A person must not take or attempt to take fish in special purpose zone 5 (Lennox Head) unless the person does so with the consent of the relevant Ministers and is, or is accompanying:
  - (a) a disabled person for whose use a mobility parking scheme authority has been issued under Division 2 of Part 6 of the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*, or
  - (b) a disabled person conveyed to the zone by an organisation for whose use a mobility parking scheme authority has been issued under Division 2 of Part 6 of that Regulation, or
  - (c) any other person who is a disabled person within the meaning of that Regulation.

**Note.** Clause 18B of this Regulation creates an offence of taking or attempting to take fish in contravention of the zoning plan for a marine park. However, a person may obtain the consent of the relevant Ministers to take or attempt to take fish for research, environmental protection, public health, traditional use or public safety purposes.

**Division 5 General use zone****14 Description of general use zones**

The general use zone of the marine park is comprised of all parts of the marine park that are not included in a sanctuary zone, a habitat protection zone or a special purpose zone.

**15 Fishing permitted**

- (1) A person must not take, or attempt to take, fish in the general use zone of the marine park unless the taking of the fish, and the method used to take the fish, is lawful under the *Fisheries Management Act 1994*.

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- (2) This clause is subject to the other provisions of this Regulation. Accordingly, this clause is not to be construed as authorising any fishing activity that would contravene another provision of this Regulation.

**Note.** Division 6 of this Part sets out some general restrictions on fishing in the marine park. Those provisions apply to the general use zone.

## **Division 6      General prohibitions**

### **16    Aquaculture**

Despite any other provision of this Regulation, intensive aquaculture is not permissible in the marine park.

### **17    Taking fish or plants for aquarium collection prohibited**

- (1) A person must not, while in any part of the marine park, take or attempt to take any fish or plant for aquarium collection purposes.
- (2) A person does not commit an offence in respect of a contravention of subclause (1) if:
- (a) the fish or plant the subject of the charge was taken while in the habitat protection zone or general use zone, and
  - (b) the activity was not carried out for a commercial purpose, and
  - (c) the activity was carried out with the consent of the relevant Ministers.

### **18    Setlining, droplining, drift lining, estuary mesh netting and purse seine netting**

A person must not while in any part of the marine park take, or attempt to take, fish by the following activities:

- (a) use of a set line, dropline or drift line,
- (b) use of an estuary mesh net,
- (c) use of a purse seine net.

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## Division 7 Species protection

### 19 Identification of protected species

For the purposes of clause 22A of this Regulation, any species:

- (a) not listed in table B, or
- (b) the harming of which is prohibited under the *Fisheries Management Act 1994*,

is identified as a protected species for the purposes of the marine park.

**Note.** Clause 22A of this Regulation prohibits a person in a marine park from taking or harming, or attempting to take or harm, any species identified in a zoning plan as a protected species. A contravention of that prohibition is designated as a serious offence.

## Division 8 Domesticated animals

### 20 Prohibition on domesticated animals

- (1) A person may bring a domesticated animal into the marine park except as provided by subclause (2).
- (2) A person must not bring a domesticated animal into any tidal lands in the marine park if such lands are directly seaward of a nature reserve or national park dedicated or reserved under the *National Parks and Wildlife Act 1974*.
- (3) Despite subclause (2), a person may bring a domesticated animal into any part of the marine park:
  - (a) if the animal is an assistance animal (within the meaning of the *Companion Animals Act 1998*) being used by a person with a disability (within the meaning of the *Disability Discrimination Act 1992* of the Commonwealth), or
  - (b) if the animal remains confined to a vessel, or
  - (c) if the animal is a horse and the horse is brought into the marine park with the consent of the relevant Ministers.
- (4) This clause applies despite clause 22 of this Regulation.

**Note.** Clause 22 of this Regulation makes it an offence to bring a domesticated animal into a marine park except with the consent of the relevant Ministers.

- (5) This clause is subject to the provisions of the *Companion Animals Act 1998*.

**Note.** Sections 14 and 30 of the *Companion Animals Act 1998* prohibit cats and dogs in certain public places.

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**Division 9 Use, mooring and anchoring of vessels and vehicles**

**Note.** Clause 27 of this Regulation makes it an offence to use, anchor or moor any motorised vessel or vehicle in a marine park in contravention of the zoning plan for the marine park.

**21 Anchoring large vessels**

- (1) A person must not anchor a vessel that is longer than 25 metres in the marine park between latitude 28°36.609'S (Julian Rocks) and latitude 28°38.594'S (Cape Byron), except with the consent of the relevant Ministers.
- (2) It is a defence to a prosecution for an offence under clause 27 of this Regulation in respect of a contravention of subclause (1) if the person charged satisfies the court that the anchoring of the vessel was in an emergency and was necessary to protect life or property.

**22 Personal watercraft and hovercraft**

- (1) A person must not use a personal watercraft or motorised vessel that is a hovercraft in any part of the marine park.
- (2) Subclause (1) does not apply to:
  - (a) an officer or employee of a regulatory authority using the personal watercraft or hovercraft in the course of the regulatory authority's business, or
  - (b) a person carrying out an activity referred to in clause 26 (1) (a), (b), (c) or (d) of this Regulation with the consent of the relevant Ministers.
- (3) It is a defence to a prosecution for an offence under clause 27 of this Regulation in respect of a contravention of subclause (1) if the person charged satisfies the court that the person was in an emergency and the use of the personal watercraft or hovercraft was necessary to protect life or property.

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**23 Areas in which use of vehicles prohibited**

- (1) A person must not use a motorised vehicle in the marine park, except for the purpose of launching and retrieving vessels from designated boat-launching facilities.
- (2) This clause does not apply to or in respect of the following:
  - (a) an authorised vehicle, a police vehicle or an emergency vehicle,
  - (b) a commercial fisher (within the meaning of the *Fisheries Management Act 1994*) lawfully using a vehicle on a beach in connection with his or her fishing activities,
  - (c) a person who has been issued with a permit by the Byron Shire Council authorising the use of a motorised vehicle and who is using the vehicle in accordance with that permit.
- (3) In this clause:
  - (a) a regulatory authority,
  - (b) any other government department or public or local authority,
  - (c) a surf life saving club.

**authorised vehicle** means a vehicle being used by an officer, employee or other authorised person acting on behalf of any of the following:

**designated boat-launching facility** means a facility in the marine park designated by the Authority or another relevant government department or public or local authority as appropriate for boat-launching.

**emergency vehicle** has the meaning given by the *Road Transport (Vehicle Registration) Regulation 1998*.

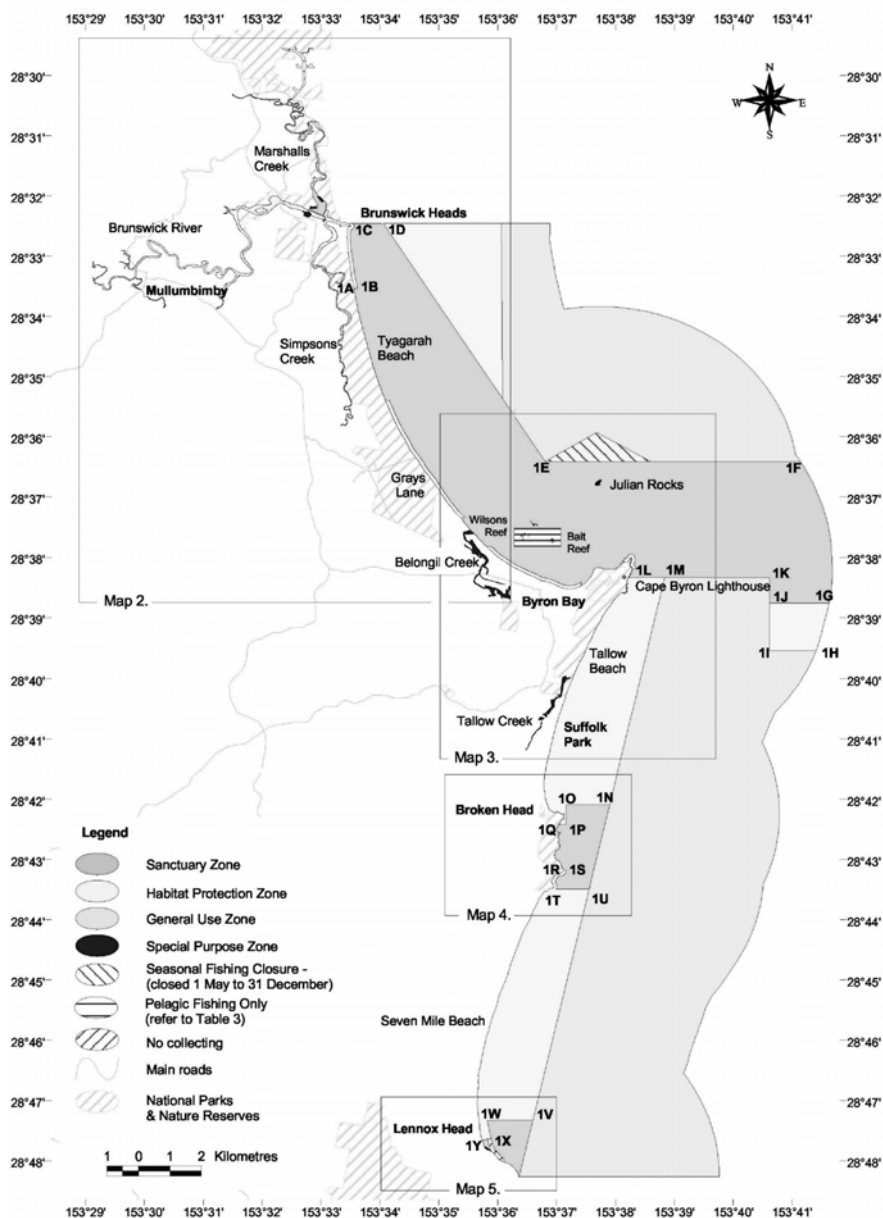
**police vehicle** has the meaning given by the *Road Transport (Vehicle Registration) Regulation 1998*.

**Note.** Clause 27 of this Regulation makes it an offence to use any motorised vehicle in a marine park in contravention of the zoning plan for the marine park.

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**Division 10 Maps**  
**Map 1 Cape Byron Marine Park**

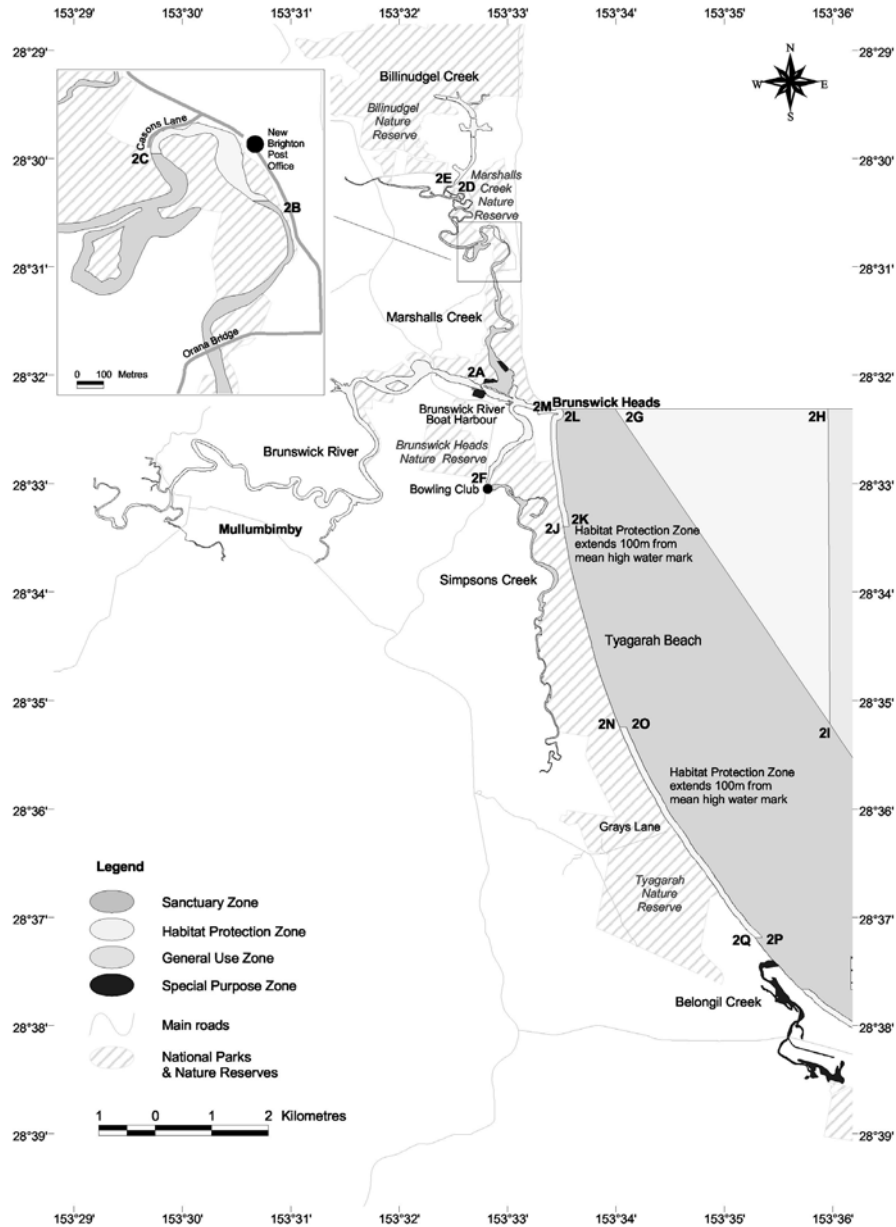


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Map 2 Brunswick River and Tyagarah Beach

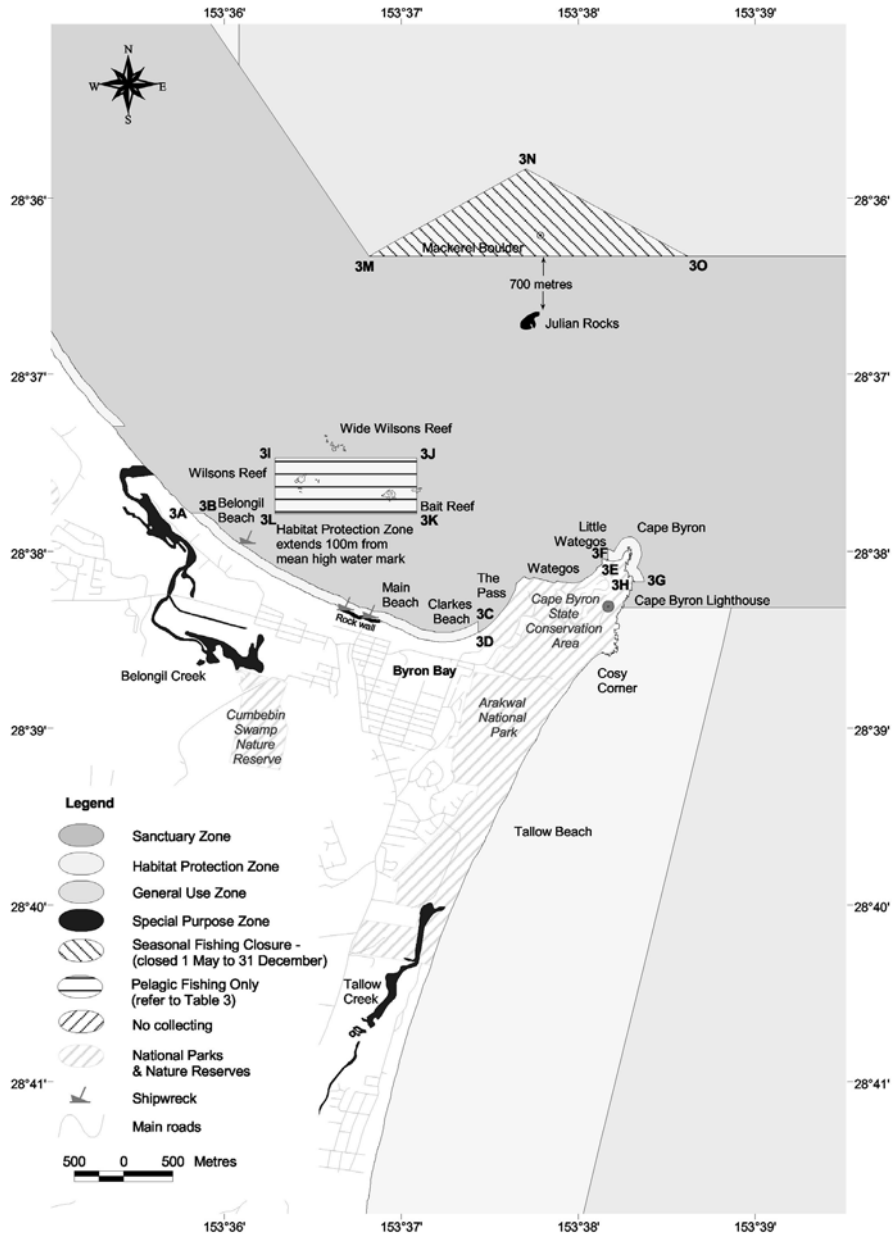




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Map 3 Cape Byron

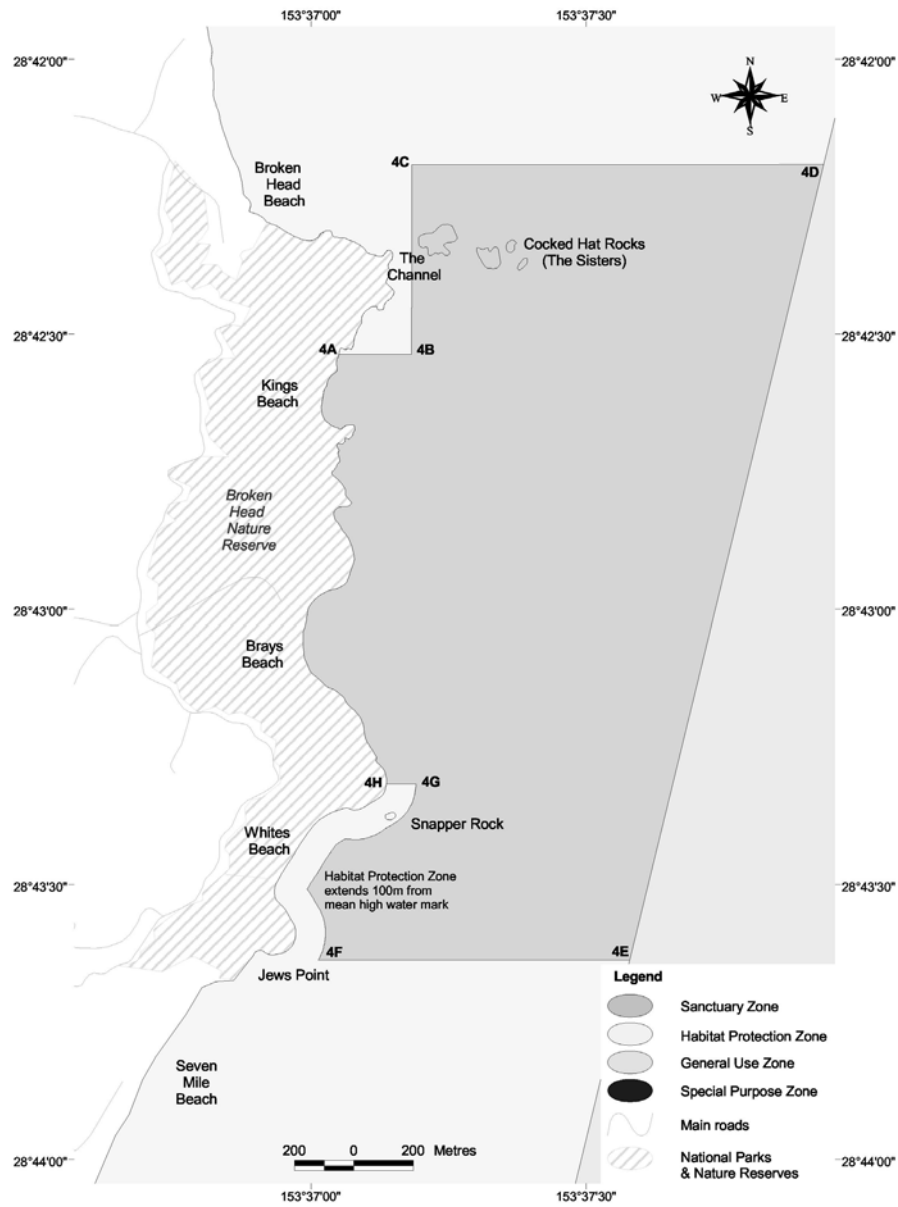


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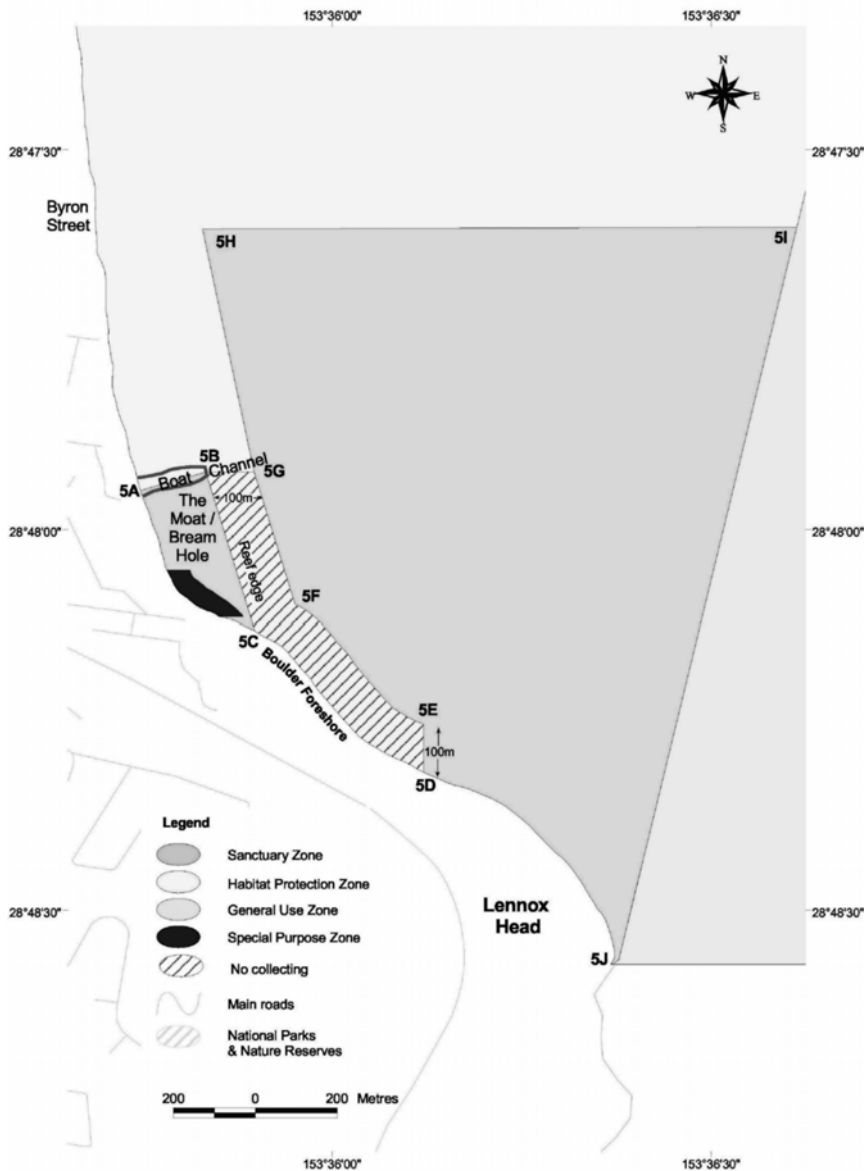
Map 4 Broken Head



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Map 5 Lennox Head



**Note.** Map 1 provides an overview of the draft zoning scheme for the Cape Byron Marine Park. Maps 2-5 provide additional detail.

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**Division 11 Tables****Table A—Plants that may be taken in habitat protection zones**

<b>Common name</b>	<b>Class/Family</b>	<b>Species</b>
Sea lettuce	Family Ulvaceae	<i>Ulva lactuca</i>
Bait weed	Family Ulvaceae	<i>Enteromorpha intestinalis</i>

**Table B—Fish that may be taken in habitat protection zones**

<b>Common name</b>	<b>Class/Family</b>	<b>Species</b>
Finfish	Class Osteichthyes	All species (except any specified in Schedule 4 to the <i>Fisheries Management Act 1994</i> )
Lobster, crayfish	Family Palinuridae	All species (except any specified in Schedule 4 to the <i>Fisheries Management Act 1994</i> )
Prawns	Family Penaeidae	All species (except any specified in Schedule 4 to the <i>Fisheries Management Act 1994</i> )
Squid	Family Sepiidae	All species (except any specified in Schedule 4 to the <i>Fisheries Management Act 1994</i> )
Pipis	Family Donacidae	All species (except any specified in Schedule 4 to the <i>Fisheries Management Act 1994</i> )
Rock and beach worms	Family Onuphidae	All species (except any specified in Schedule 4 to the <i>Fisheries Management Act 1994</i> )
Marine yabbies (nippers)	Family Callinassidae	<i>Callinassa</i> spp.
Mud crabs	Family Grapsidae	<i>Scylla serrata</i>
Blue swimmer crabs	Family Portunidae	<i>Portunus pelagicus</i>
Rock crabs	Family Grapsidae	All species
Spanner crabs	Family Raninidae	<i>Ranina ranina</i>
Oysters	Family Ostreidae	<i>Saccostrea</i> spp. and <i>Crassostrea</i> spp.

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Common name	Class/Family	Species
Turban shell ( <i>Googoombull</i> )	Family Turbinadae	<i>Turbo</i> spp.
Abalone	Family Haliotidae	<i>Haliotis rubra</i>
Periwinkles	Family Trochidae	<i>Austrocochlea</i> spp.

**Note.** Bag and size limits apply and are specified in the *Fisheries Management Act 1994*.

**Table C—Fish that may be taken from Wilsons Reef and Bait Reef habitat protection zone**

Common name	Family	Species
Mullet	Family Mugilidae	All species
Garfish	Family Hemiramphidae	All species
Sea pike, snook	Family Sphyraenidae	All species
Hardyheads	Family Atherinidae	All species
Mackerels, wahoo, tuna	Family Scombridae	All species
Trevallies, kingfish, scad, etc	Family Carangidae	All species
Pilchards, herring, sprats etc	Family Clupeidae	All species
Cobia	Family Rachycentridae	<i>Rachycentron canadum</i>
Dolphinfish	Family Coryphaenidae	<i>Coryphaena hippurus</i>
Tailor	Family Pomatomidae	<i>Pomatomus saltatrix</i>

**Note.** Bag and size limits apply and are specified in the *Fisheries Management Act 1994*.

**[30] Schedule 2 Penalty notice offences**

Insert “(1)” after “20G” under the heading “*Offences created by a provision of the Act*”.

**[31] Schedule 2, heading “Offences created by a provision of the Act”**

Insert in appropriate order in Columns 1 and 2:

Section 20G (2)	\$500
Section 20H (2)	\$500

## Marine Parks Amendment (Cape Byron) Regulation 2006

## Amendments

## Schedule 1

**[32] Schedule 2, heading “Offences created by a provision of this Regulation”**

Omit “7 (a)”. Insert instead “7 (1) (a)”.

**[33] Schedule 2, heading “Offences created by a provision of this Regulation”**

Omit “7 (b)”. Insert instead “7 (1) (b)”.

**[34] Schedule 2, heading “Offences created by a provision of this Regulation”**

Omit “7 (c)”. Insert instead “7 (1) (c)”.

**[35] Schedule 2, heading “Offences created by a provision of this Regulation”**

Omit “7 (d)”. Insert instead “7 (1) (d)”.

**[36] Schedule 2, heading “Offences created by a provision of this Regulation”**

Insert the following in numerical order of provision:

Clause 8A (1)	\$500
Clause 20B	\$200
Clause 24A (b)	\$300
Clause 24A (c)	\$300
Clause 24A (d)	\$300
Clause 32G (2)	\$500

**[37] Schedule 2, heading “Offences created by a provision of this Regulation”**

Omit “9”. Insert instead “9 (1)”.

**[38] Schedule 2, heading “Offences created by a provision of this Regulation”**

Omit “11 (a)”. Insert instead “11 (1) (a)”.

**[39] Schedule 2, heading “Offences created by a provision of this Regulation”**

Omit “11 (b)”. Insert instead “11 (1) (b)”.

## Marine Parks Amendment (Cape Byron) Regulation 2006

## Schedule 1 Amendments

- 
- [40] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “11 (c)”. Insert instead “11 (1) (c)”.
- [41] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “15 (a)”. Insert instead “15 (1) (a)”.
- [42] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “15 (b)”. Insert instead “15 (1) (b)”.
- [43] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “15 (c)”. Insert instead “15 (1) (c)”.
- [44] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “18A (a)”. Insert instead “18A (1) (a)”.
- [45] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “18A (b)”. Insert instead “18A (1) (b)”.
- [46] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “18A (c)”. Insert instead “18A (1) (c)”.
- [47] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “20 (a)”. Insert instead “20 (1) (a)”.
- [48] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “20 (b)”. Insert instead “20 (1) (b)”.
- [49] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “20 (c)”. Insert instead “20 (1) (c)”.
- [50] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “20 (d)”. Insert instead “20 (1) (d)”.

## Marine Parks Amendment (Cape Byron) Regulation 2006

## Amendments

## Schedule 1

- 
- [51] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “20 (e)”. Insert instead “20 (1) (e)”.
- [52] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Insert “(2)” after “20A”.
- [53] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Insert “(1) (a) and (b)” after “22A”.
- [54] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Insert “(a)” after “24A”.
- [55] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “26 (a)”. Insert instead “26 (1) (a)”.
- [56] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “26 (b)”. Insert instead “26 (1) (b)”.
- [57] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “26 (c)”. Insert instead “26 (1) (c)”.
- [58] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit “26 (d)”. Insert instead “26 (1) (d)”.
- [59] **Schedule 2, heading “Offences created by a provision of this Regulation”**  
Omit the matter relating to clause 32.





New South Wales

# Occupational Health and Safety Amendment (Electrical Equipment) Regulation 2006

under the

Occupational Health and Safety Act 2000

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Occupational Health and Safety Act 2000*.

JOHN DELLA BOSCA, M.L.C.,  
Minister for Commerce

## Explanatory note

The object of this Regulation is to amend the *Occupational Health and Safety Regulation 2001* in relation to the testing, inspection and maintenance of electrical installations and electrical articles at places of work. In particular, the amendments provide:

- (a) more precise guidance to employers as to when electrical installations and electrical articles at places of work are to be inspected, tested or maintained to ensure they remain safe for use, and
- (b) that employers are not required to make and keep records of certain inspections and tests made and maintenance carried out on electrical installations.

This Regulation is made under the *Occupational Health and Safety Act 2000*, including section 33 (the general regulation-making power)

Clause 1 Occupational Health and Safety Amendment (Electrical Equipment)  
Regulation 2006

---

## **Occupational Health and Safety Amendment (Electrical Equipment) Regulation 2006**

under the

Occupational Health and Safety Act 2000

### **1 Name of Regulation**

This Regulation is the *Occupational Health and Safety Amendment (Electrical Equipment) Regulation 2006*.

### **2 Amendment of Occupational Health and Safety Regulation 2001**

The *Occupational Health and Safety Regulation 2001* is amended as set out in Schedule 1.

Occupational Health and Safety Amendment (Electrical Equipment)  
Regulation 2006

Amendments

Schedule 1

---

## Schedule 1 Amendments

(Clause 2)

### [1] Clause 64 Electricity—particular risk control measures

Omit clause 64 (2) (a). Insert instead:

- (a) **Electrical installations at places of work**  
all electrical installations at a place of work are inspected and tested, after they are installed and prior to their energising for normal use, by a competent person to ensure they are safe for use, and
- (a1) all electrical installations at a place of work are maintained by a competent person to ensure they remain safe for use, and
- (a2) **Electrical articles used in construction work**  
all electrical articles that are used in construction work are regularly inspected, tested and maintained by a competent person to ensure they are safe for use if the articles are supplied with electricity through an electrical outlet socket, and
- (a3) **Electrical articles that may be affected by hostile environment**  
all electrical articles that are supplied with electricity through an electrical outlet socket that are at a place of work where the safe operation of the electrical article could be affected by a hostile operating environment are regularly inspected, tested and maintained by a competent person to ensure they are safe for use, and
- (a4) **Electrical installations and articles found to be unsafe**  
all electrical installations and electrical articles at a place of work that are found to be unsafe are disconnected from the electricity supply and are repaired, replaced or permanently removed from use, and

Occupational Health and Safety Amendment (Electrical Equipment)  
Regulation 2006

Schedule 1 Amendments

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**[2] Clause 64 (3)**

Insert after clause 64 (2) (but before the maximum penalty amount):

- (3) In this clause, *hostile operating environment* means an operating environment at a place of work where an electrical article is in its normal use subjected to operating conditions that are likely to result in damage to the article, and, for example, includes an operating environment that may:
- (a) cause mechanical damage to the article, or
  - (b) expose the article to moisture, heat, vibration, corrosive substances or dust that is likely to result in damage to the article.

**[3] Clause 65 Maintenance of records—electricity**

Omit “and electrical installations” from clause 65 (1).



New South Wales

# Protection of the Environment Operations (General) Amendment Regulation 2006

under the

Protection of the Environment Operations Act 1997

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

BOB DEBUS, M.P.,  
Minister for the Environment

## Explanatory note

The object of this Regulation is to amend the *Protection of the Environment Operations (General) Regulation 1998* as follows:

- (a) to define certain expressions used in a provision providing for defences for the land pollution offence under the *Protection of the Environment Operations Act 1997*,
- (b) to provide for evaluation of green offset schemes or green offset works and for reports of evaluations,
- (c) to prescribe the fee payable for the administrative costs of preparing and giving a noise control notice.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 142D, 267A (2) and 295Q (2) and section 323 (the general regulation-making power).

Clause 1                    Protection of the Environment Operations (General) Amendment Regulation  
2006

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## **Protection of the Environment Operations (General) Amendment Regulation 2006**

under the

Protection of the Environment Operations Act 1997

### **1 Name of Regulation**

This Regulation is the *Protection of the Environment Operations (General) Amendment Regulation 2006*.

### **2 Commencement**

This Regulation commences on 1 May 2006.

### **3 Amendment of Protection of the Environment Operations (General) Regulation 1998**

The *Protection of the Environment Operations (General) Regulation 1998* is amended as set out in Schedule 1.

Protection of the Environment Operations (General) Amendment Regulation  
2006

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 3)

### [1] Chapters 3C and 3D

Insert after Chapter 3B:

## Chapter 3C Land pollution

### 57S Meaning of certain expressions

For the purposes of section 142D of the Act:

*manure*, *virgin excavated natural material* and *biosolids* have the same meanings as they have in Division 2 of Part 3 of Schedule 1 to the Act.

*non-hazardous agricultural or crop waste* means agricultural or crop waste that is not hazardous waste, or industrial waste, within the meaning of Division 2 of Part 3 of Schedule 1 to the Act.

## Chapter 3D Green offsets

### 57T Evaluation of green offset schemes or works

- (1) Each green offset scheme, and each green offset work that is not part of a green offset scheme, must be evaluated in accordance with this clause.
- (2) An evaluation is to be carried out and reported on:
  - (a) in the case of a green offset scheme—at the intervals (not being greater than 5 years) determined by the EPA for the duration of the scheme and at the end of the scheme, and
  - (b) in the case of a green offset work that is not part of a green offset scheme—at the intervals determined by the EPA in respect of the work.
- (3) An evaluation is to be carried out and reported on by the EPA or by a manager of a green offset scheme or green offset work if directed to do so in accordance with subclause (4).
- (4) The EPA may, by notice in writing given to the manager of a green offset scheme or green offset work, direct that the manager do any of the following:
  - (a) provide the EPA with information relating to the effectiveness of the scheme or work,

Protection of the Environment Operations (General) Amendment Regulation  
2006

Schedule 1 Amendments

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- (b) carry out and report on an evaluation required under this clause and provide a copy of the evaluation report to the EPA,
  - (c) amend any such evaluation report.
- (5) An evaluation report:
- (a) must list the participants in the green offset scheme or green offset work, and
  - (b) must relate to the period since the commencement of the scheme or work or, if the scheme or work has been evaluated under this clause, since the last evaluation of the scheme or work, and
  - (c) must set out the environmental effects and benefits arising from the scheme or work, and
  - (d) in the case of a scheme, must contain any of the following matters that are relevant to the scheme:
    - (i) whether any applicable cap or target has been met,
    - (ii) particulars of the costs of and payments for the purposes of the scheme under Part 9.3B of the Act,
    - (iii) particulars of the implementation of any works for the purposes of the scheme, and
  - (e) in the case of a work that is not part of a scheme, must contain any of the following matters that are relevant to the work:
    - (i) particulars of the implementation of the work by or on behalf of the participants,
    - (ii) particulars of the costs of and payments for the purposes of the work under Part 9.3B of the Act, and
  - (f) must contain any other matters directed to be included by the EPA, and
  - (g) must be made publicly available in the manner determined by the EPA.
- (6) Nothing in this clause requires or permits the EPA or the manager of a green offset scheme or green offset work to make publicly available any information of a kind referred to in section 319 (1) of the Act.

**[2] Part 4.3, heading**

Insert “and noise control notices” after “notices”.



Protection of the Environment Operations (General) Amendment Regulation  
2006

Amendments

Schedule 1

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**[3] Clause 61A**

Insert after clause 61:

**61A Fee for administrative costs of preparing and giving noise control notice**

The fee payable under section 267A (2) of the Act to a regulatory authority by a person who is given a noise control notice is \$320.

**Note.** Section 267A of the Act provides that the fee is payable within 30 days (subject to appeal proceedings). Application may be made under that section to the authority for an extension of time to pay the fee or for the waiving of payment of the fee. A failure to pay the fee within the requisite time constitutes an offence.



New South Wales

# Protection of the Environment Operations (Penalty Notices) Amendment (Pollution and Other Offences) Regulation 2006

under the

Protection of the Environment Operations Act 1997

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

BOB DEBUS, M.P.,  
Minister for the Environment

## Explanatory note

The object of this Regulation is to amend the *Protection of the Environment Operations (Penalty Notices) Regulation 2004* to enable offences relating to failing to comply with smoke abatement notices, land pollution, supplying false or misleading information about waste, failing to pay an administrative fee for a noise control notice (under the *Protection of the Environment Operations Act 1997*) and contravening conditions of licences and chemical control orders (under the *Environmentally Hazardous Chemicals Act 1985*) to be dealt with by the issue of penalty notices.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including Division 3 of Part 8.2 and section 323 (the general regulation-making power).

Clause 1                    Protection of the Environment Operations (Penalty Notices) Amendment  
                                  (Pollution and Other Offences) Regulation 2006

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## **Protection of the Environment Operations (Penalty Notices) Amendment (Pollution and Other Offences) Regulation 2006**

under the

Protection of the Environment Operations Act 1997

### **1 Name of Regulation**

This Regulation is the *Protection of the Environment Operations (Penalty Notices) Amendment (Pollution and Other Offences) Regulation 2006*.

### **2 Commencement**

This Regulation commences on 1 May 2006.

### **3 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 2004**

The *Protection of the Environment Operations (Penalty Notices) Regulation 2004* is amended as set out in Schedule 1.

Protection of the Environment Operations (Penalty Notices) Amendment  
(Pollution and Other Offences) Regulation 2006

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 3)

### [1] Schedule 1 Penalty notice offences

Insert in appropriate order in Schedule 1:

#### Environmentally Hazardous Chemicals Act 1985

Column 1	Column 2	Column 3	Column 4
Provision of Act	Officer	Penalty (individuals)	Penalty (corporations)
Section 26	2	\$1500	\$5000
Section 32 (2)	2	\$1500	\$5000

### [2] Schedule 1

Insert in numerical order in Columns 1, 2, 3 and 4, respectively, under the heading “**Protection of the Environment Operations Act 1997**”:

Section 135C (1)	1 (limited to officer or employee of local authority)	\$200	\$400
Section 142A	1, 2	\$750	\$1500
Section 144AA (1): Supply information, or cause or permit information to be supplied, that is false or misleading in a material respect about waste that is asbestos waste or hazardous waste (within the meaning of Schedule 1 to the Act)	2	\$1500	\$5000
Section 144AA (1): Supply information, or cause or permit information to be supplied, that is false or misleading in a material respect about any other waste	2	\$750	\$1500
Section 267A (7)	1, 2, 3, 13	\$500	\$1000



New South Wales

# Strata Schemes Management Amendment (Sinking Funds) Regulation 2006

under the

Strata Schemes Management Act 1996

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Strata Schemes Management Act 1996*.

DIANE BEAMER, M.P.,  
Minister for Fair Trading

## Explanatory note

The object of this Regulation is to extend section 75A of the *Strata Schemes Management Act 1996* (which currently applies only to owners corporations established on or after 7 February 2005) to all owners corporations (other than certain owners corporations for strata schemes comprising only 2 lots). Section 75A requires the owners corporation for a strata scheme to prepare 10-year sinking fund plans and to complete and review the plans at specified intervals.

This Regulation is made under the *Strata Schemes Management Act 1996*, including sections 75A and 246 (the general regulation-making power).

Clause 1            Strata Schemes Management Amendment (Sinking Funds) Regulation  
                         2006

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## **Strata Schemes Management Amendment (Sinking Funds) Regulation 2006**

under the

Strata Schemes Management Act 1996

### **1 Name of Regulation**

This Regulation is the *Strata Schemes Management Amendment (Sinking Funds) Regulation 2006*.

### **2 Commencement**

This Regulation commences on 1 May 2006.

### **3 Amendment of Strata Schemes Management Regulation 2005**

The *Strata Schemes Management Regulation 2005* is amended as set out in Schedule 1.

Strata Schemes Management Amendment (Sinking Funds) Regulation  
2006

Amendment

Schedule 1

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## Schedule 1 Amendment

(Clause 3)

### Clause 30A

Insert after clause 30:

#### 30A Extension of section 75A of Act to all owners corporations

- (1) Subject to section 69 (2) of the Act, the operation of section 75A of the Act is extended to the following owners corporations on the following dates (the *application date*):
  - (a) an owners corporation for a strata scheme with a strata plan number equal to or greater than 50,000—1 July 2006,
  - (b) an owners corporation for a strata scheme with a strata plan number equal to or greater than 30,000 and less than 50,000—1 July 2007,
  - (c) an owners corporation for a strata scheme with a strata plan number equal to or greater than 10,000 and less than 30,000—1 July 2008,
  - (d) an owners corporation for a strata scheme with a strata plan number equal to or greater than 1 and less than 10,000—1 July 2009.
- (2) This clause applies only to owners corporations established before 7 February 2005.
- (3) For the purposes of this clause, a reference in section 75A of the Act to:
  - (a) the first annual general meeting is taken to be a reference to the first annual general meeting held on or after the application date, and
  - (b) the second annual general meeting is taken to be a reference to the second annual general meeting held on or after the application date.



New South Wales

# Workers Compensation Amendment (Insurance Excess) Regulation 2006

under the

Workers Compensation Act 1987

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Workers Compensation Act 1987*.

JOHN DELLA BOSCA, M.L.C.,  
Minister for Commerce

## Explanatory note

The object of this Regulation is to amend the *Workers Compensation Regulation 2003* to provide as follows:

- (a) that clause 51 (1), as inserted into that Regulation by the *Workers Compensation Amendment (Premiums Review) Regulation 2005*, (which deals with the excess that an employer must repay to a workers compensation insurer after a weekly compensation claim is paid to an injured worker), applies only to claims that are covered by a policy of insurance that was issued or renewed so as to take effect on or after 4 p.m. on 31 December 2005,
- (b) that clause 51 (1) as in force immediately before its repeal by the *Workers Compensation Amendment (Premiums Review) Regulation 2005* (which dealt with the ability of certain small business employers and insurers to agree that a reduced excess, or no excess, is to be paid in such cases) continues to apply in relation to policies of insurance that were issued or renewed so as to take effect before 4 p.m. on 31 December 2005.

This Regulation also makes a number of law revision amendments to make it clear that certain clauses of the *Workers Compensation Regulation 2003* apply to policies of insurance based on the date on which those policies take effect, not the date on which those policies were issued or renewed.

This Regulation is made under the *Workers Compensation Act 1987*, including sections 160 and 280 (the general regulation-making power).



Clause 1            Workers Compensation Amendment (Insurance Excess) Regulation 2006

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## **Workers Compensation Amendment (Insurance Excess) Regulation 2006**

under the

Workers Compensation Act 1987

### **1 Name of Regulation**

This Regulation is the *Workers Compensation Amendment (Insurance Excess) Regulation 2006*.

### **2 Amendment of Workers Compensation Regulation 2003**

The *Workers Compensation Regulation 2003* is amended as set out in Schedule 1.

Workers Compensation Amendment (Insurance Excess) Regulation 2006

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 2)

- [1] **Clauses 49 (2), 51 (1) (b) (ii), 137 (2) (c) (ii) (B), 138 (2) (c) (ii) (B), 148 (4) and 210 (b)**

Insert “so as to take effect” after “renewed” wherever occurring.

- [2] **Clause 51 Prescriptions for purposes of excess recoverable from employer**

Insert after clause 51 (1):

- (2) Subclause (1), as inserted by the *Workers Compensation Amendment (Premiums Review) Regulation 2005*, applies only to claims that are covered by a policy of insurance that was issued or renewed so as to take effect on or after 4 p.m. on 31 December 2005.
- (2A) Subclause (1), as in force immediately before its repeal by the *Workers Compensation Amendment (Premiums Review) Regulation 2005*, continues to apply in relation to policies of insurance that were issued or renewed so as to take effect before 4 p.m. on 31 December 2005.

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# Orders

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New South Wales

## Order

under the

Local Courts Act 1982

JAMES JACOB SPIGELMAN, Lieutenant-Governor  
I, the Honourable James Jacob Spigelman AC, Lieutenant-Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 6 of the *Local Courts Act 1982*, do, by this my Order, establish a Local Court to be held at 59 North Parade, Mount Druitt, within the Parramatta Local Courts District.

Dated, this 26th day of April 2006.

By His Excellency's Command,

BOB DEBUS, M.P.,  
Attorney General

### Explanatory note

The object of this Order is to establish a Local Court to be held at 59 North Parade, Mount Druitt, within the Parramatta Local Courts District. Pursuant to clause 5 (1) of Schedule 2 to the *Children's Court Act 1987*, sittings of the Children's Court may be held at that Local Court.

This Order is made under section 6 of the *Local Courts Act 1982*.



New South Wales

## Order

under the

Local Courts Act 1982

KEITH MASON, Administrator

I, The Hon. Justice Keith Mason AC, Administrator of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 6 of the *Local Courts Act 1982*, do, by this my Order, establish a Local Court to be held at 19–23 Lambton Road, Broadmeadow, within the Newcastle Local Courts District.  
Dated, this 19th day of April 2006.

By The Administrator's Command,

BOB DEBUS, M.P.,  
Attorney General

### Explanatory note

The object of this Order is to establish a Local Court to be held at 19–23 Lambton Road, Broadmeadow, within the Newcastle Local Courts District. Pursuant to clause 5 (1) of Schedule 2 to the *Children's Court Act 1987*, sittings of the Children's Court will be held at that Local Court.

This Order is made under section 6 of the *Local Courts Act 1982*.

# OFFICIAL NOTICES

## Appointments

### COAL MINES REGULATION ACT 1982

Appointment of an Inspector of Coal Mines

The Honourable Justice KEITH MASON, AC,  
Administrator

I, The Hon. Justice KEITH MASON, AC, Administrator of the State of New South Wales, with the advice of the Executive Council, pursuant to section 7(1)(d) of the Coal Mines Regulation Act 1982 and under and subject to the provisions of the Public Sector Management Act 2002, appoint David Joseph MACPHERSON as an Inspector of Coal Mines from the date of the Governor's approval.

Signed and sealed at Sydney, this 19th day of April 2006.

By The Administrator's Command,

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

GOD SAVE THE QUEEN!

### CRIMES (ADMINISTRATION OF SENTENCES) ACT 1999

Appointment of Community Member

Serious Offenders Review Council

HIS Excellency the Lieutenant Governor, with the advice of the Executive Council, pursuant to the provisions of the Crimes (Administration of Sentences) Act 1999, has approved the appointment of Ms Jan McCLELLAND as a community member of the Serious Offenders Review Council for a period of three years commencing on 26 April 2006 and expiring on 25 April 2009.

TONY KELLY, M.L.C.,  
Minister for Justice

### FISHERIES MANAGEMENT ACT 1994

Fisheries Management (General) Regulation 2002  
Clause 402

Instrument of Delegation

Appointment of Deputies for Management Advisory  
Committee Members

I, RENATA BROOKS, Deputy Director-General, Agriculture, Fisheries and Regional Relations, with the delegated authority of the Minister and the Director-General pursuant to sections 227 and 228 of the Fisheries Management Act 1994, do by this instrument delegate the powers conferred in Clause 402 of the Fisheries Management (General) Regulation 2002, to the persons who from time to time hold the following positions:

Director, Wild Harvest Fisheries.

Manager, Commercial Fisheries.

Dated: 18 April 2006.

RENATA BROOKS,  
Deputy Director-General,  
Agriculture, Fisheries and Regional Relations,  
NSW Department of Primary Industries

### GENE TECHNOLOGY (GM CROP MORATORIUM) ACT 2003

Appointment of Inspectors

I, B. D. BUFFIER, Director-General of the NSW Department of Primary Industries, pursuant to section 22(1) of the Gene Technology (GM Crop Moratorium) Act 2003 ("the Act"), appoint the persons named in Schedule 1 as inspectors for the purposes of the Act:

#### SCHEDULE 1

Christopher WETHERALL;  
Adrian KNOBEL;  
Michael RANKMORE;  
Ian GERRARD;  
Ross TYALOR;  
James BOYCE;  
Eryn KNOBEL;  
Terry RAFFERTY;  
David PATTERSON;  
Peter TRELOAR; and  
Robert BOWMAN.

Dated this 19th day of April 2006.

B. D. BUFFIER,  
Director-General,  
NSW Department of Primary Industries

### NSW WINE INDUSTRY RESEARCH AND DEVELOPMENT ADVISORY COUNCIL

Appointment of Member

I, IAN MACDONALD, M.L.C., Minister for Primary Industries hereby appoint the following person as a member of the NSW Wine Industry Research and Development Advisory Council for a term commencing from the date hereof for a period of three years:

Bruno BROMBAL.

Dated this 31st day of March 2006.

IAN MACDONALD, M.L.C.,  
Minister for Primary Industries

### RURAL FIRES ACT 1997

Appointment of Member  
Bush Fire Coordinating Committee

I, TONY KELLY, M.L.C., Minister for Emergency Services, in pursuance of section 47(1)(l) of the Rural Fires Act 1997, appoint the following person as a Member of the Bush Fire Coordinating Committee:

Wendy Ruth GRAHAM,

for the remainder of the five year period expiring on 1 March 2008.

TONY KELLY, M.L.C.,  
Minister for Emergency Services

**STOCK (CHEMICAL RESIDUES) ACT 1975**

## Appointment of Inspector

I, B. D. BUFFIER, Director-General of the NSW Department of Primary Industries, pursuant to section 5 of the Stock (Chemical Residues) Act 1975 ("the Act"), appoint the person named in Schedule 1 as an Inspector under the Act:

## SCHEDULE 1

Alan William TAYLOR.

Dated this 23rd day of March 2006.

B. D. BUFFIER,  
Director-General,  
NSW Department of Primary Industries

**STOCK DISEASES ACT 1923**

## Appointment of Inspector

I, B. D. BUFFIER, Director-General of the NSW Department of Primary Industries, pursuant to section 6(1) of the Stock Diseases Act 1923 ("the Act"), appoint the person named in Schedule 1 as Inspector under the Act:

## SCHEDULE 1

Gaven Ian YOUNG.

Dated this 23rd day of March 2006.

B. D. BUFFIER,  
Director-General,  
NSW Department of Primary Industries

**STOCK DISEASES ACT 1923**

## Appointment of Inspector

I, B. D. BUFFIER, Director-General of NSW Department of Primary Industries, pursuant to section 6(1) of the Stock Diseases Act 1923, appoint the person named hereunder as an Inspector for the purposes of the Act:

Alan William TAYLOR.

Dated this 23rd day of March 2006.

B. D. BUFFIER,  
Director-General,  
NSW Department of Primary Industries

**STOCK MEDICINES ACT 1989**

## Appointment of Inspector

I, B. D. BUFFIER, Director-General of the NSW Department of Primary Industries, pursuant to section 48 of the Stock Medicines Act 1989 ("the Act"), appoint the person named in Schedule 1 as Inspector under the Act:

## SCHEDULE 1

Gaven Ian YOUNG.

Dated this 23rd day of March 2006.

B. D. BUFFIER,  
Director-General,  
NSW Department of Primary Industries

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## Department of Lands

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### BOARD OF SURVEYING AND SPATIAL INFORMATION

**Panorama Avenue (PO Box 143), Bathurst NSW 2795**

**Phone: (02) 6332 8238 Fax: (02) 6332 8240**

#### SURVEYING ACT, 2002

##### Registration of Surveyors

PURSUANT to the provisions of the Surveying Act 2002, section 10(1)(a), the undermentioned persons have been Registered as Land Surveyors in New South Wales from the dates shown.

Name	Address	Effective Date
Rodney Ian BRUMBY.	424 Richmond Road, Cambridge TAS 7170.	14 December 2005.
Timothy William COX.	24 Maluuna Crescent, Burnie TAS 7320.	24 February 2006.
Anthony Martin ONLEY.	24 Lightfoot Street, Shepparton VIC 3630.	3 April 2006.

W. A. WATKINS,  
President

G. K. A. LEATHERLAND,  
Registrar

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#### SURVEYING ACT 2002

##### Registration of Surveyors (Change of Name)

PURSUANT to the provisions of the Surveying Act 2002, section 10(1)(a), the undermentioned person has been Registered as a Land Surveyor in New South Wales from the date shown.

Name	Date of original Registration	Name	Effective Date of Name Change
Karen Elizabeth NORTON.	6 February 2003.	Karen Elizabeth GREGORY.	28 January 2006.

W. A. WATKINS,  
President

G. K. A. LEATHERLAND,  
Registrar

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#### SURVEYING ACT 2002

PURSUANT to the provisions of the Surveying Act 2002, section 10(1)(b), the undermentioned persons have been Registered as Mining Surveyors (Unrestricted) in New South Wales from the dates shown.

Name	Address	Effective Date
Keith James DROWER.	12 Blueberry Place, Coachwood Park, Unanderra NSW 2526.	19 November 2005.
David James HURLEY.	266 Wills Street, Broken Hill NSW 2880.	8 March 2006.

W. A. WATKINS,  
President

G. K. A. LEATHERLAND,  
Registrar

**SURVEYING ACT 2002**

## Registration of Surveyors

PURSUANT to the provisions of the Mutual Recognition Act 1993, the undermentioned person has been Registered as a Mining Surveyor (Open Cut) in New South Wales from the dates shown.

<b>Name</b>	<b>Address</b>	<b>Effective Date</b>	<b>Original Jurisdiction</b>
Mark Bernard BROUWER.	1/342 Conadilly Street, Gunnedah NSW 2380.	18 January 2006.	Queensland.

W. A. WATKINS,  
President

G. K. A. LEATHERLAND,  
Registrar

**SURVEYING ACT 2002**

## Removal of Name from the Register of Surveyors

PURSUANT to the provisions of the Surveying Act 2002, section 10, the undermentioned Land Surveyor has been removed from the Register of Surveyors.

<b>Name</b>	<b>Date of Removal</b>	<b>Date of Registration</b>
Stephen James CONOLLY.	1 November 2005.	9 September 1988.

W. A. WATKINS,  
President

G. K. A. LEATHERLAND,  
Registrar

**SURVEYING ACT 2002**

## Removal of Name from the Register of Surveyors

PURSUANT to the provisions of the Surveying Act 2002, section 10, the undermentioned Mining Surveyor has been removed from the Register of Surveyors.

<b>Name</b>	<b>Date of Removal</b>	<b>Date of Registration</b>
Glyndwr John CARPENTER.	14 July 2005.	8 September 2003.

W. A. WATKINS,  
President

G. K. A. LEATHERLAND,  
Registrar

**SURVEYING ACT 2002**

## Restoration of Name to the Register of Surveyors

PURSUANT to the provisions of the Surveying Act 2002, section 10(1)(a), the undermentioned Land Surveyors have been restored to the Register of Surveyors.

<b>Name</b>	<b>Date of Original Registration</b>	<b>Removal Date</b>	<b>Restoration Date</b>
Gareth Samuel BRACKENREG.	3 October 1967.	1 November 2005.	3 January 2006.
Ralph Chard BULLOCK.	1 April 1968.	1 November 2005.	14 December 2005.
Mark Ernest BUTTSWORTH.	19 March 1982.	1 November 2005.	14 December 2005.
Stephen James CONOLLY.	9 September 1988.	1 November 2005.	20 January 2006.
Barry Joseph COOPER.	13 March 1981.	1 November 2005.	21 December 2005.
Patrick Arthur CRAM.	30 September 1996.	1 November 2005.	16 December 2005.
John Stanley DAYMAN.	14 September 1984.	1 November 2005.	10 February 2006.
Tony Robert FITZSIMMONS.	29 March 1976.	1 November 2005.	18 January 2006.
Geoffrey Mark LENTON.	11 September 1987.	1 November 2005.	20 March 2006.
Matthew Peter FORSYTH.	25 March 1994.	1 November 2005.	6 December 2005.
Richard Ashman GLOVER.	26 September 1956.	1 November 2005.	6 December 2005.



<b>Name</b>	<b>Date of Original Registration</b>	<b>Removal Date</b>	<b>Restoration Date</b>
Bryan Joseph HANNIGAN.	11 June 1963.	1 November 2005.	7 December 2005.
Anthony Peter HART.	18 September 1986.	1 November 2005.	9 December 2005.
Guy McDONALD.	15 March 1985.	1 November 2005.	16 March 2006.
Glenn Arthur McFALL.	23 September 1984.	1 November 2005.	10 February 2006.
Jace Thomas PEARSON.	11 March 1988.	1 November 2005.	15 February 2006.
John Brian RICHARDS.	23 October 1967.	1 November 2005.	19 December 2005.
Peter David RICHMOND.	22 April 2004.	1 November 2005.	27 March 2006.
Peter James SHAW.	1 April 1980.	1 November 2005.	8 February 2006.
Ian Vincent SHEERIN.	20 March 1972.	1 November 2005.	8 December 2005.
Ian James SOUTER.	19 March 1979.	1 November 2005.	6 December 2005.
Peter Edward STONE.	21 March 1975.	1 November 2005.	9 December 2005.
Brian TUCKER.	23 March 1984.	1 November 2005.	22 December 2005.
Craig John WHITE.	23 July 1999.	1 November 2005.	27 January 2006.

W. A. WATKINS,  
President

G. K. A. LEATHERLAND,  
Registrar

### SURVEYING ACT 2002

#### Restoration of Name to the Register of Surveyors

PURSUANT to the provisions of the Surveying Act 2002, section 10(1)(a), the undermentioned Mining Surveyor (Unrestricted) has been restored to the Register of Surveyors.

<b>Name</b>	<b>Date of Original Registration</b>	<b>Removal Date</b>	<b>Restoration Date</b>
Andrew James LOOMES.	28 July 2003.	1 November 2005.	10 February 2006.

W. A. WATKINS,  
President

G. K. A. LEATHERLAND,  
Registrar

### SURVEYING REGULATION 2001

#### Certificate of Meritorious Service

PURSUANT to the provisions of Clause 4K of the Surveying Regulation 2001, the undermentioned Land Surveyors have been awarded a Certificate of Meritorious Service in recognition of their long service and contribution to the surveying profession in New South Wales, with effect 8 December 2004.

<b>Name</b>	<b>Removed from Register</b>	<b>Date of Original Registration</b>
George Gordon BENNETT.	8 May 1992.	23 March 1961.
Richard Andrew SIMPSON.	13 February 1987.	23 April 1945.

W. A. WATKINS,  
President

G. K. A. LEATHERLAND,  
Registrar

**FAR WEST REGIONAL OFFICE**  
**45 Wingewarra Street (PO Box 1840), Dubbo NSW 2830**  
**Phone: (02) 6883 3000 Fax: (02) 6883 3099**

**NOTICE OF PROCLAMATION OF A PRIVATE  
IRRIGATION DISTRICT WATER MANAGEMENT  
ACT 2000**

IT is hereby notified under the provisions of Part 2 of Chapter 4 of the Water Management Act 2000 that Tibooburra Private Water Supply District is proclaimed effective from the date of publication of this notice.

The Board appointed to manage the Tibooburra Private Water Supply District is hereby assigned the corporate name Tibooburra Private Water Supply Board.

The boundaries of the Tibooburra Private Water Supply District are hereby defined as: the land within the village of Tibooburra and adjoining parts of Tibooburra Common, Travelling Stock Route, Allpress Dam Water Catchment and other included small tenures.

Plans of the Tibooburra Private Water Supply District can be examined at the Far West Regional Office at Dubbo and the Broken Hill District Office of the Department of Natural Resources.

IAN MACDONALD M.L.C.,  
Minister for Natural Resources

ALTERATION OF CONDITIONS OF A WESTERN  
LANDS LEASE

IT is hereby notified that in pursuance of the provisions of Section 18J, Western Lands Act 1901, the conditions of the undermentioned Western Lands Lease have been altered as shown.

IAN MACDONALD MLC,  
Minister for Natural Resources

*Administrative District – Wentworth;*  
*Shire – Wentworth;*  
*Parish – Tugima;*  
*County – Wentworth*

The conditions of Western Lands Lease 10615, being the land contained within Folio Identifiers 5142/720089 and 27/756989 have been altered effective from 10 April 2006.

As a consequence of the alteration of conditions rent will be assessed annually in line with the Western Lands Act 1901 and Regulations.

The conditions previously annexed to Western Lands Lease 10615 have been revoked and the following conditions have been annexed thereto.

CONDITIONS AND RESERVATIONS ATTACHED TO  
WESTERN LANDS LEASE 10615

(1) In the conditions annexed to the lease, the expression “the Minister” means the Minister administering the Western Lands Act 1901, and any power, authority, duty or function conferred or imposed upon the Minister by or under those conditions may be exercised or performed either by the Minister or by such officers of the Department of Natural Resources as the Minister may from time to time approve.

(2) In these conditions and reservations the expression “the Commissioner” means the Commissioner charged with the administration of the Western Lands Act 1901 (“the Act”) in accordance with section 4(2) of the Act.

(3) (a) For the purposes of this clause the term Lessor shall include Her Majesty the Queen Her Heirs and Successors the Minister and the agents servants employees and contractors of the Lessor Her Majesty Her Majesty’s Heirs and Successors and the Minister.

(b) The lessee covenants with the Lessor to indemnify and keep indemnified the Lessor from and against all claims for injury loss or damage suffered by any person or body using or being in or upon the Premises or any adjoining land or premises of the Lessor arising out of the Holder’s use of the Premises and against all liabilities for costs charges and expenses incurred by the Lessor in respect of the claim of any such person or body except to the extent that any such claims and demands arise wholly from any negligence or wilful act or omission on the part of the Lessor.

(c) The indemnity contained in this clause applies notwithstanding that this Lease authorised or required the lessee to undertake or perform the activity giving rise to any claim for injury loss or damage.

(d) The lessee expressly agrees that the obligations of the Holder under this clause shall continue after the expiration or sooner determination of this Lease in respect of any act deed matter or thing occurring before such expiration or determination.

(4) The rent of the lease shall be assessed in accordance with Part 6 of the Western Lands Act 1901.

(5) The rent shall be due and payable annually in advance on 1 July in each year.

(6) (a) “GST” means any tax on goods and/or services, including any value-added tax, broad-based consumption tax or other similar tax introduced in Australia.

“GST law” includes any Act, order, ruling or regulation, which imposes or otherwise deals with the administration or imposition of a GST in Australia.

(b) Notwithstanding any other provision of this Agreement:

If a GST applies to any supply made by either party under or in connection with this Agreement, the consideration provided or to be provided for that supply will be increased by an amount equal to the GST liability properly incurred by the party making the supply.

If the imposition of a GST or any subsequent change in the GST law is accompanied by or undertaken in connection with the abolition of or reduction in any existing taxes, duties or statutory charges (in this clause “taxes”), the consideration payable by the recipient of the supply made under this Agreement will be reduced by the actual costs of the party making the supply that are reduced directly or indirectly as a consequence of the abolition of or reduction in taxes.

- (7) The lessee shall pay all rates and taxes assessed on or in respect of the land leased during the currency of the lease.
- (8) The lessee shall hold and use the land leased bona fide for the lessee's own exclusive benefit and shall not transfer, convey or assign the land or any portion thereof without having first obtained the written consent of the Minister.
- (9) The lessee shall not enter into a sublease of the land leased unless the sublease specifies the purpose for which the land may be used under the sublease, and it is a purpose which is consistent with the purpose for which the land may be used under this lease.
- (10) If the lessee enters into a sublease of the land leased, the lessee must notify the Commissioner of the granting of the sublease within 28 days after it is granted.
- (11) The land leased shall be used only for the purpose of Mixed Farming.
- (12) The lessee shall maintain and keep in reasonable repair all improvements on the land leased during the currency of the lease and shall permit the Minister or the Commissioner or any person authorised by the Minister or the Commissioner at all times to enter upon and examine the whole or any part of the land leased and the buildings or other improvements thereon.
- (13) All minerals within the meaning of the Mining Act 1992, and all other metals, gemstones and semiprecious stones, which may be in, under or upon the land leased are reserved to the Crown and the lessee shall permit any person duly authorised in that behalf to enter upon the land leased and search, work, win and remove all or any minerals, metals, gemstones and semiprecious stones in, under or upon the land leased.
- (14) Mining operations may be carried on, upon and in the lands below the land leased and upon and in the lands adjoining the land leased and the lands below those lands and metals and minerals may be removed therefrom and the Crown and any lessee or lessees under any Mining Act or Acts shall not be subject to any proceedings by way of injunction or otherwise in respect of or be liable for any damage occasioned by the letting down, subsidence or lateral movement of the land leased or any part thereof or otherwise by reason of the following acts and matters, that is to say, by reason of the Crown or any person on behalf of the Crown or any lessee or lessees, having worked now or hereafter working any mines or having carried on or now or hereafter carrying on mining operations or having searched for, worked, won or removed or now or hereafter searching for, working, winning or removing any metals or minerals under, in or from the lands lying beneath the land leased or any part thereof, or on, in, under or from any other lands situated laterally to the land leased or any part thereof or the lands lying beneath those lands, and whether on or below the surface of those other lands and by reason of those acts and matters or in the course thereof the Crown reserves the liberty and authority for the Crown, any person on behalf of the Crown and any lessee or lessees from time to time to let down without payment of any compensation any part of the land leased or of the surface thereof.
- (15) The lessee shall comply with the provisions of the Local Government Act 1993, and of the ordinances made thereunder.
- (16) The lessee shall not erect or permit any person to erect any buildings or extend any existing buildings on the land leased except in accordance with plans and specifications approved by the Council of the local Government area.
- (17) The lessee shall ensure that the land leased is kept in a neat and tidy condition to the satisfaction of the Commissioner and not permit refuse to accumulate on the land.
- (18) Upon termination or forfeiture of the lease the Commissioner may direct that the former lessee shall remove any structure or material from the land at his own cost and without compensation. Where such a direction has been given the former lessee shall leave the land in a clean and tidy condition free from rubbish and debris.
- (19) The lessee shall, within 1 year from the date of commencement of the lease or such further period as the Commissioner may allow, enclose the land leased, either separately or conjointly with other lands held in the same interest, with a suitable fence to the satisfaction of the Commissioner.
- (20) The lessee shall not obstruct or interfere with any reserves, roads or tracks on the land leased, or the lawful use thereof by any person.
- (21) The lessee shall erect gates on roads within the land leased when and where directed by the Commissioner for public use and shall maintain those gates together with approaches thereto in good order to the satisfaction of the Commissioner.
- (22) The right is reserved to the public of free access to, and passage along, the bank of any watercourse adjoining the land leased and the lessee shall not obstruct access or passage by any member of the public to or along the bank.
- (23) Any part of a reserve for travelling stock, camping or water supply within the land leased shall, during the whole currency of the lease, be open to the use of bona fide travellers, travelling stock, teamsters and carriers without interference or annoyance by the lessee and the lessee shall post in a conspicuous place on the reserve a notice board indicating for public information the purpose of such reserve and, in fencing the land leased, the lessee shall provide gates and other facilities for the entrance and exit of travelling stock, teamsters and others. The notice board, gates and facilities shall be erected and maintained to the satisfaction of the Commissioner. The lessee shall not overstock, wholly or in part, the areas leased within the reserve, the decision as to overstocking resting with the Commissioner.
- (24) The Crown shall not be responsible to the lessee or the lessee's successors in title for provision of access to the land leased.
- (25) The lessee shall comply with requirements of section 18DB of the Western Lands Act 1901 which provides that, except in the circumstances referred to in subsection (4) of that section, any native vegetation on the land the subject of the lease, and any part of the

land that is protected land, must not be cleared except in accordance with the Native Vegetation Conservation Act 1997.

- (26) Notwithstanding any other condition annexed to the lease, the lessee shall, in removing timber for the purpose of building, fencing or firewood, carefully preserve all timber, scrub, vegetative cover and any regeneration thereof (except noxious plants and those "woody weeds" specified in Clause 28(1) and parts 9 and 13 in Schedule 4 of the Regulations) on the following parts of the land leased:
- (a) between the banks of, and within strips at least 20 metres wide along each bank of, any creek or defined watercourse;
  - (b) within strips at least 30 metres wide on each side of the centre line of any depression, the sides of which have slopes in excess of 1 (vertically) in 4 (horizontally), that is, approximately 14 degrees;
  - (c) where the slopes are steeper than 1 (vertically) in 3 (horizontally), that is, approximately 18 degrees;
  - (d) within strips not less than 60 metres wide along the tops of any ranges and main ridges;
  - (e) not in contravention of section 21CA of the Soil Conservation Act 1938.
- In addition to the foregoing requirements of this condition, the lessee shall preserve on so much of the land leased as is not the subject of a clearing licence (where possible, in well distributed clumps or strips) not less than an average of 30 established trees per hectare, together with any other timber, vegetative cover or any regeneration thereof which may, from time to time, be determined by the Commissioner to be useful or necessary for soil conservation or erosion mitigation purposes or for shade and shelter.
- (27) The lessee shall not interfere with the timber on any of the land leased which is within a State forest, timber reserve or flora reserve unless authorisation has been obtained under the provisions of the Forestry Act 1916 and shall not prevent any person or persons duly authorised in that behalf from taking timber on the land leased. The lessee shall not have any property right in the timber on the land leased and shall not ringbark, kill, destroy or permit the killing or destruction of any timber unless authorised under the Forestry Act 1916 or unless a clearing licence has been issued in accordance with the Native Vegetation Conservation Act 1997, but the lessee may take such timber as the lessee may reasonably require for use on the land leased, or on any contiguous land held in the same interest, for building, fencing or firewood.
- (28) The lessee shall take all necessary steps to protect the land leased from bush fire.
- (29) The lessee shall, as the Commissioner may from time to time direct, foster and cultivate on the land leased such edible shrubs and plants as the Commissioner may consider can be advantageously and successfully cultivated.
- (30) Whenever so directed by the Commissioner, the lessee shall, on such part or parts of the land leased as shall be specified in the direction, carry out agricultural practices, or refrain from agricultural practices, of such types and for such periods as the Commissioner may in the direction specify.
- (31) The lessee shall not overstock, or permit or allow to be overstocked, the land leased and the decision of the Commissioner as to what constitutes overstocking shall be final and the lessee shall comply with any directions of the Commissioner to prevent or discontinue overstocking.
- (32) The lessee shall, if the Commissioner so directs, prevent the use by stock of any part of the land leased for such periods as the Commissioner considers necessary to permit of the natural reseedling and regeneration of vegetation and, for that purpose, the lessee shall erect within the time appointed by the Commissioner such fencing as the Commissioner may consider necessary.
- (33) The lessee shall furnish such returns and statements as the Commissioner may from time to time require on any matter connected with the land leased or any other land (whether within or outside the Western Division) in which the lessee has an interest.
- (34) The lessee shall, within such time as may be specified by the Commissioner take such steps and measures as the Commissioner shall direct to destroy vermin and such animals and weeds as may, under any Act, from time to time be declared (by declaration covering the land leased) noxious in the Gazette and shall keep the land free of such vermin and noxious animals and weeds during the currency of the lease to the satisfaction of the Commissioner.
- (35) The lessee shall not remove or permit any person to remove gravel, stone, clay, shells or other material for the purpose of sale from the land leased unless the lessee or the person is the holder of a quarry licence under regulations made under the Crown Lands Act 1989 or, in respect of land in a State forest, unless the lessee or the person is the holder of a forest materials licence under the Forestry Act 1916, and has obtained the special authority of the Minister to operate on the land, but the lessee may, with the approval of the Commissioner, take from the land such gravel, stone, clay, shells or other material for building and other purposes upon the land as may be required by the lessee.
- (36) The lessee shall comply with the provisions of the Protection of the Environment Operations Act 1997, particularly in relation to disposal of tailwaters or waters, which may be contaminated with fertiliser, herbicide or pesticide or similar chemicals.
- (37) The lessee shall ensure that cultivation and associated activities do not interfere with any road formation within the allowable area.
- (38) Incised drainage lines, other than man made structures, which carry water after storms shall be left uncultivated in the channels and for a distance of at least 20 metres on either side of the banks of the channels except when the Commissioner specifies otherwise.
- (39) Aboriginal sites are protected under the National Parks and Wildlife Act 1974, and are extremely vulnerable to many kinds of agricultural development. Should any Aboriginal archaeological relics or sites be uncovered during the proposed works, work is to cease immediately. The lessee must consider the requirements of the National Parks and Wildlife Act 1974, with regard to Aboriginal relics. Under Section 90 it is an offence to damage or destroy relics without prior consent of the Director-General of the Department of Environment and Conservation.

If an Aboriginal site is found in this area, the subject of this consent, the activity must cease until the consent holder has notified the Department of Environment and Conservation of the existence of the Aboriginal site. Contact details are: The Manager, Cultural Heritage Unit, Department of Environment and Conservation, Phone (02) 6883 5324 or at 58-62 Wingewarra Street, Dubbo.

- (40) Stubble shall be retained on the soil surface and shall not be burnt, except with the approval of the Commissioner or his delegate. Where such approval is granted and stubble burning is carried out with the approval as per requirements of the NSW Rural Fire Services.
- (41) The lessee shall establish windbreaks at his/her own expense as may be ordered by the Commissioner to provide adequate protection of the soil.
- (42) The lessee shall undertake any appropriate measures, at his/her own expense, ordered by the Commissioner to rehabilitate any degraded cultivated areas.

### GRANTING OF A WESTERN LANDS LEASE

IT is hereby notified that under the provisions of Section 28A of the Western Lands Act 1901, the Western Lands Leases specified in the following Schedule have been granted.

The leases are subject to the provisions of the Western Lands Act 1901 and the Regulations thereunder.

The land is to be used only for the purpose of Residence.

Initial rent will be \$100.00 per annum and re-assessed thereafter annually on 1st April of each year.

The Conditions and Reservations annexed to the leases are those published in the Government Gazette of 18 February 2005, Folios 434 and 435.

All amounts due and payable to the Crown must be paid to the Department of Lands by the due date.

IAN MACDONALD, M.L.C.,  
Minister for Natural Resources

### SCHEDULE

*Administrative District – Walgett North;*

*LGA – Walgett;*

*Parish – Wallangulla;*

*County – Finch*

WLL No.	Name of Lessee	Lot	Deposited Plan	Folio Identifier	Area(m2)	Term of Lease	
						From	To
WLL14583	Charles Jay ANTONIEVICH	27	1076808	27/1076808	1993	13-04-2006	12-04-2026
WLL14598	Michele Noeline KNEE	117	1076808	117/1076808	2902	13-04-2006	12-04-2026
WLL14569	Ivan Henry SMITH	126	1073508	126/1073508	2502	13-04-2006	12-04-2026

### ALTERATION OF PURPOSE AND CONDITIONS OF A WESTERN LANDS LEASE

IT is hereby notified that in pursuance of the provisions of section 18FA(6) of the Western Lands Act 1901, the purpose and conditions of the undermentioned Western Lands Lease have been altered as shown.

IAN MACDONALD, M.L.C.,  
Minister for Natural Resources

*Administrative District – Wentworth;  
Shire – Wentworth;  
Parish – Euston;  
County – Taila*

The purpose and conditions of Western Lands Lease 14572, being the land contained within Folio Identifier 2/1071926 has been altered from “Mixed Farming” to “Conservation” effective from 10 April 2006.

As a consequence of the alteration of purpose rent will be assessed annually in line with the Western Lands Act 1901 and Regulations.

The conditions previously annexed to Western Lands Lease 14572 have been revoked and the following conditions have been annexed thereto.

#### CONDITIONS AND RESERVATIONS ATTACHED TO WESTERN LANDS LEASE 14572

- (1) In the conditions annexed to the lease, the expression “the Minister” means the Minister administering the Western Lands Act 1901, and any power, authority, duty or function conferred or imposed upon the Minister by or under those conditions may be exercised or performed either by the Minister or by such officers of the Department of Infrastructure, Planning and Natural Resources as the Minister may from time to time approve.
- (2) In these conditions and reservations the expression “the Commissioner” means the Commissioner charged with the administration of the Western Lands Act 1901 (“the Act”) in accordance with section 4(2) of the Act.
- (3) (a) For the purposes of this clause the term Lessor shall include Her Majesty the Queen Her Heirs and Successors the Minister and the agents servants employees and contractors of the Lessor Her Majesty Her Majesty’s Heirs and Successors and the Minister.  
(b) The lessee covenants with the Lessor to indemnify and keep indemnified the Lessor from and against all claims for injury loss or damage suffered by any person or body using or being in or upon the Premises or any adjoining land or premises of the Lessor arising out of the Holder’s use of the Premises and against all liabilities for costs charges and expenses incurred by the Lessor in respect of the claim of any such person or body except to the extent that any such claims and demands arise wholly from any negligence or wilful act or omission on the part of the Lessor.  
(c) The indemnity contained in this clause applies notwithstanding that this Lease authorised or required the lessee to undertake or perform the activity giving rise to any claim for injury loss or damage.
- (d) The lessee expressly agrees that the obligations of the Holder under this clause shall continue after the expiration or sooner determination of this Lease in respect of any act deed matter or thing occurring before such expiration or determination.
- (7) The rent of the lease shall be assessed in accordance with Part 6 of the Western Lands Act 1901.
- (8) The rent shall be due and payable annually in advance on 1 July in each year.
- (9) (a) “GST” means any tax on goods and/or services, including any value-added tax, broad-based consumption tax or other similar tax introduced in Australia.  
“GST law” includes any Act, order, ruling or regulation, which imposes or otherwise deals with the administration or imposition of a GST in Australia.  
(b) Notwithstanding any other provision of this Agreement:
  - (i) If a GST applies to any supply made by either party under or in connection with this Agreement, the consideration provided or to be provided for that supply will be increased by an amount equal to the GST liability properly incurred by the party making the supply.
  - (ii) If the imposition of a GST or any subsequent change in the GST law is accompanied by or undertaken in connection with the abolition of or reduction in any existing taxes, duties or statutory charges (in this clause “taxes”), the consideration payable by the recipient of the supply made under this Agreement will be reduced by the actual costs of the party making the supply that are reduced directly or indirectly as a consequence of the abolition of or reduction in taxes.
- (10) The lessee shall pay all rates and taxes assessed on or in respect of the land leased during the currency of the lease.
- (11) The lessee shall hold and use the land leased bona fide for the lessee’s own exclusive benefit and shall not transfer, convey or assign the land or any portion thereof without having first obtained the written consent of the Minister.
- (12) The lessee shall not enter into a sublease of the land leased unless the sublease specifies the purpose for which the land may be used under the sublease, and it is a purpose which is consistent with the purpose for which the land may be used under this lease.
- (13) If the lessee enters into a sublease of the land leased, the lessee must notify the Commissioner of the granting of the sublease within 28 days after it is granted.
- (14) The land leased shall be used only for the purpose of “Conservation”.
- (15) The lessee shall maintain and keep in reasonable repair all improvements on the land leased during the currency of the lease and shall permit the Minister or the Commissioner or any person authorised by the Minister or the Commissioner at all times to enter upon and examine the whole or any part of the land leased and the buildings or other improvements thereon.

- (16) All minerals within the meaning of the Mining Act 1992, and all other metals, gemstones and semiprecious stones, which may be in, under or upon the land leased are reserved to the Crown and the lessee shall permit any person duly authorised in that behalf to enter upon the land leased and search, work, win and remove all or any minerals, metals, gemstones and semiprecious stones in, under or upon the land leased.
- (17) Mining operations may be carried on, upon and in the lands below the land leased and upon and in the lands adjoining the land leased and the lands below those lands and metals and minerals may be removed therefrom and the Crown and any lessee or lessees under any Mining Act or Acts shall not be subject to any proceedings by way of injunction or otherwise in respect of or be liable for any damage occasioned by the letting down, subsidence or lateral movement of the land leased or any part thereof or otherwise by reason of the following acts and matters, that is to say, by reason of the Crown or any person on behalf of the Crown or any lessee or lessees, having worked now or hereafter working any mines or having carried on or now or hereafter carrying on mining operations or having searched for, worked, won or removed or now or hereafter searching for, working, winning or removing any metals or minerals under, in or from the lands lying beneath the land leased or any part thereof, or on, in, under or from any other lands situated laterally to the land leased or any part thereof or the lands lying beneath those lands, and whether on or below the surface of those other lands and by reason of those acts and matters or in the course thereof the Crown reserves the liberty and authority for the Crown, any person on behalf of the Crown and any lessee or lessees from time to time to let down without payment of any compensation any part of the land leased or of the surface thereof.
- (18) The lessee shall comply with the provisions of the Local Government Act 1993, and of the ordinances made thereunder.
- (19) The lessee shall not erect or permit any person to erect any buildings or extend any existing buildings on the land leased except in accordance with plans and specifications approved by the Council of the local Government area.
- (20) The lessee shall ensure that the land leased is kept in a neat and tidy condition to the satisfaction of the Commissioner and not permit refuse to accumulate on the land.
- (21) Upon termination or forfeiture of the lease the Commissioner may direct that the former lessee shall remove any structure or material from the land at his own cost and without compensation. Where such a direction has been given the former lessee shall leave the land in a clean and tidy condition free from rubbish and debris.
- (22) The lessee shall, within 1 year from the date of commencement of the lease or such further period as the Commissioner may allow, enclose the land leased, either separately or conjointly with other lands held in the same interest, with a suitable fence to the satisfaction of the Commissioner.
- (23) The lessee shall not obstruct or interfere with any reserves, roads or tracks on the land leased, or the lawful use thereof by any person.
- (24) The Crown shall not be responsible to the lessee or the lessee's successors in title for provision of access to the land leased.
- (25) The lessee shall comply with requirements of section 18DB of the Western Lands Act 1901 which provides that, except in the circumstances referred to in subsection (4) of that section, any native vegetation on the land the subject of the lease, and any part of the land that is protected land, must not be cleared except in accordance with the Native Vegetation Conservation Act 1997.
- (26) The lessee shall comply with requirements of section 18DA of the Western Lands Act 1901 which provides that except in circumstances referred to in subsection (3) of that section, cultivation of the land leased or occupied may not be carried out unless the written consent of the Department has first been obtained and any condition to which the consent is subject under subsection (6) is complied with.
- (27) Notwithstanding any other condition annexed to the lease, the lessee shall, in removing timber for the purpose of building, fencing or firewood, carefully preserve all timber, scrub, vegetative cover and any regeneration thereof (except noxious plants and those "woody weeds" specified in Clause 28(1) and parts 9 and 13 in Schedule 4 of the Regulations) on the following parts of the land leased:
- between the banks of, and within strips at least 20 metres wide along each bank of, any creek or defined watercourse;
  - within strips at least 30 metres wide on each side of the centre line of any depression, the sides of which have slopes in excess of 1 (vertically) in 4 (horizontally), that is, approximately 14 degrees;
  - where the slopes are steeper than 1 (vertically) in 3 (horizontally), that is, approximately 18 degrees;
  - within strips not less than 60 metres wide along the tops of any ranges and main ridges;
  - not in contravention of section 21CA of the Soil Conservation Act 1938.
- In addition to the foregoing requirements of this condition, the lessee shall preserve on so much of the land leased as is not the subject of a clearing licence (where possible, in well distributed clumps or strips) not less than an average of 30 established trees per hectare, together with any other timber, vegetative cover or any regeneration thereof which may, from time to time, be determined by the Commissioner to be useful or necessary for soil conservation or erosion mitigation purposes or for shade and shelter.
- (28) The lessee shall not interfere with the timber on any of the land leased which is within a State forest, timber reserve or flora reserve unless authorisation has been obtained under the provisions of the Forestry Act 1916 and shall not prevent any person or persons duly authorised in that behalf from taking timber on the land leased. The lessee shall not have any property right in the timber on the land leased and shall not ringbark, kill, destroy or permit the killing or destruction of any

timber unless authorised under the Forestry Act 1916 or unless a clearing licence has been issued in accordance with the Native Vegetation Conservation Act 1997, but the lessee may take such timber as the lessee may reasonably require for use on the land leased, or on any contiguous land held in the same interest, for building, fencing or firewood.

- (29) The lessee shall not clear any vegetation or remove any timber within the area shown hatched on the diagram hereunder unless written approval has been granted by either the Commissioner or the Minister.
- (30) The lessee shall manage the area shown hatched on the diagram hereunder in accordance with best management practices specified in the document known as "Southern Mallee Regional Guidelines for the Department of Land Use Agreement".
- (31) Special Condition 1 above shall be revoked, upon application by the lessees, in the event of the revocation of Clearing Consent for any reason other than a breach of Consent condition(s).
- (32) The lessee shall take all necessary steps to protect the land leased from bush fire.
- (33) The lessee shall, within such time as may be specified by the Commissioner take such steps and measures as the Commissioner shall direct to destroy vermin and such animals and weeds as may, under any Act, from time to time be declared (by declaration covering the land leased) noxious in the Gazette and shall keep the land free of such vermin and noxious animals and weeds during the currency of the lease to the satisfaction of the Commissioner.
- (34) The lessee shall not remove or permit any person to remove gravel, stone, clay, shells or other material for the purpose of sale from the land leased unless the lessee or the person is the holder of a quarry licence under regulations made under the Crown Lands Act 1989 or, in respect of land in a State forest, unless the lessee or the person is the holder of a forest materials licence under the Forestry Act 1916, and has obtained the special authority of the Minister to operate on the land, but the lessee may, with the approval of the Commissioner, take from the land such gravel, stone, clay, shells or other material for building and other purposes upon the land as may be required by the lessee.

### ESTABLISHMENT OF RESERVE TRUST

PURSUANT to Section 92(1) of the Crown Lands Act 1989, the reserve trust specified in Column 1 of the Schedule hereunder is established under the name stated in that Column and is appointed as trustee of the reserve specified opposite thereto in Column 2 of the Schedule

TONY KELLY, M.L.C.,  
Minister for Lands

#### SCHEDULE

##### COLUMN 1

Ivanhoe Bushfire Brigade  
Reserve Trust.

##### COLUMN 2

Reserve No.: 83244.  
Public Purpose: Bush Fire  
Brigade purposes.  
Notified: 30 June 1961.  
File No.: WL88 R 150/1



**GOULBURN OFFICE**

**159 Auburn Street (PO Box 748), Goulburn NSW 2580**

**Phone: (02) 4824 3700 Fax: (02) 4822 4287**

**NOTIFICATION OF FORFEITURE TO THE  
CROWN OF HOLDING AND NOTICE OF  
INTENTION TO TRANSFER CROWN LAND  
CONTAINED IN FORFEITURE TO THE CURRENT  
OCCUPIER**

PURSUANT to Part 6 of the Crown Lands Act 1989, the holding described hereunder is declared to be forfeited, with effect from the date of publication of this notice.

It is proposed to bring the land comprised in this holding under the provisions of the Real Property Act 1900 and transfer title in fee simple to the current occupier, described hereunder, pursuant to section 34(1) of the Crown Lands Act 1989.

TONY KELLY, M.L.C.,  
Minister for Lands

Description

Holding: Residue of Non Residential Conditional Purchase (NRCP) 1890/42 Moss Vale.

Description of Land: Lot 133, DP 751298 in Parish of Wingello, County of Camden and described in Crown Plan C. 2507.2041

Area of Land: 3946 square metres.

Holder: Edward William MOLESWORTH.

Current Occupant: The Anglican Church Property Trust Diocese of Sydney.

File No.: GB06 H 162.

**NOTIFICATION OF CLOSING OF A ROAD**

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be public road and the rights of passage and access that previously existed in relation to the road are extinguished. Upon closing, title to the land, comprising the former public road, vests in the body specified in the Schedules hereunder.

TONY KELLY, M.L.C.,  
Minister for Lands

SCHEDULE 1

Description

*Parish – Berrima; County – Camden;  
Land District – Moss Vale; L.G.A. – Wingecarribee.*

Lot 1, DP 1074659 (not being land under the Real Property Act).

File No.: GB04 H 146:JK.

Note: On closing, the title for the land in Lot 1, DP 1074659 remains vested in the State of New South Wales as Crown Land

SCHEDULE 2

Description

*Parish – Coghill; County – St Vincent;  
Land District – Braidwood; L.G.A. – Palerang Council.*

Lot 6, DP 1080548 (not being land under the Real Property Act).

File No.: GB05 H 393.BA.

Notes: On closing, the title for the land in Lot 6 remains vested in Palerang Council as operational land.

In accordance with section 44 of the Roads Act 1993, the Crown consents to the land in Lot 6 being vested in the Palerang Council as operational land, to be given by the Council as compensation for other land acquired by the Council for the purpose of the Roads Act. Council's Reference DA 129/03.

**HAY OFFICE**  
**126 Lachlan Street (PO Box 182), Hay NSW 2711**  
**Phone: (02) 6993 1306 Fax: (02) 6993 1135**

**APPOINTMENT OF TRUST BOARD MEMBERS**

Pursuant to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder, are appointed for the terms of office specified thereunder, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,  
 Minister for Lands

\_\_\_\_\_  
 SCHEDULE

<b>COLUMN 1</b>	<b>COLUMN 2</b>	<b>COLUMN 3</b>
Ian Thomas MAHER (re-appointment), Wayne John MORRIS (re-appointment), Robert John SHAW (re-appointment), John Samuel BOLITHO (re-appointment), Bradley John CARLON (re-appointment), Barry Norman WILSON (re-appointment), Allan Raymond PRYSE (re-appointment).	Finley Lake Trust.	Reserve No.: 88291. Public Purpose: Public recreation. Notified: 2 July 1971. File No.: HY81 R 139.

Term of Office

For a term commencing 1 June 2006 and expiring 30 May 2011.

**REVOCATION OF RESERVATION OF CROWN LAND**

PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown Land specified in Column 1 of the Schedule hereunder, is revoked to the extent specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
 Minister for Lands

\_\_\_\_\_  
 SCHEDULE

<b>COLUMN 1</b>	<b>COLUMN 2</b>
Land District: Deniliquin. Local Government Area: Conargo Shire Council. Locality: Waragoon. Reserve No.: 84314. Public Purpose: Quarry. Notified: 2 August 1963. File No.: HY05 H 12.	The whole being Lot 7001, DP No. 96269, Parish Thurgoon, County Townsend, of an area of 6.475 hectares.

Note: Private treaty sale to adjoining landowner.

## MAITLAND OFFICE

Corner Newcastle Road and Banks Street (PO Box 6), East Maitland NSW 2323

Phone: (02) 4937 9300 Fax: (02) 4934 2252

## APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedules hereunder, are appointed for the terms of office specified thereunder, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedules.

TONY KELLY, M.L.C.,  
Minister for Lands

## SCHEDULE 1

COLUMN 1	COLUMN 2	COLUMN 3
Robert John BUGGY (re-appointment).	Tuggerah Lake (R1003002) Reserve Trust.	Reserve No.: 1003002. Public Purpose: Public recreation and coastal environmental protection. Notified: 22 June 2001. File No.: MD01 R 8/5.

## Term of Office

For a term commencing the date of this notice and expiring  
3 October 2007.

## SCHEDULE 2

COLUMN 1	COLUMN 2	COLUMN 3
Peter John RAMPLIN (new member).	Dudley War Memorial Trust.	Reserve No.: 55270. Public Purpose: War Memorial. Notified: 7 April 1922. File No.: MD80 R 139/2.

## Term of Office

For a term commencing the date of this notice and expiring  
15 January 2009.

## SCHEDULE 3

COLUMN 1	COLUMN 2	COLUMN 3
Joseph Alfred HAYES (new member), Roslyn Anne SCOTT (new member), Patricia AUSTIN (new member), Julie Anne LATHAM (new member).	Pelican Memorial Park Trust.	Reserve No.: 72521. Public Purpose: Public recreation. Notified: 21 November 1947. File No.: MD83 R 36/1.

## Term of Office

For a term commencing the date of this notice and expiring  
14 October 2009.

## NOTIFICATION OF CLOSING OF ROAD

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be a public road and the rights of passage and access that previously existed in relation to the road are extinguished.

TONY KELLY, M.L.C.,  
Minister for Lands

## Description

*Parish – Kahibah;  
County – Northumberland;  
Land District – Newcastle;  
Local Government Area – Lake Macquarie.*

Road Closed: Lot 1, DP 1086490 at Belmont.

File No.: MD03 H 187.

Note: On closing, the land within Lot 1, DP 1086490 will  
remain vested in the Crown as Crown Land.

## REVOCATION OF APPOINTMENT OF RESERVE TRUST

PURSUANT to section 92(3) of the Crown Lands Act 1989, the appointment of the reserve trust specified in Column 1 of the Schedule hereunder, as trustee of the reserve specified opposite thereto in Column 2 of the Schedule, is revoked to the extent specified in Column 3 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

## SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Lake Liddell Recreation Area (R87894) Reserve Trust.	Reserve No. 87894 for the public purpose of public recreation, notified in the <i>Government Gazette</i> of 17 August 1973.	That part comprising Lots 24, 25, 26, 27, 28, 38, 39, 40 and 41 in DP 241179. File No.: LANDS06/180.

## APPOINTMENT OF RESERVE TRUST

PURSUANT to section 92(1) of the Crown Lands Act 1989, the reserve trust specified in Column 1 of the Schedule hereunder, is appointed as trustee of that part of the reserve specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

## SCHEDULE

COLUMN 1	COLUMN 2
Crown Lands Reserve Trust.	Part Reserve No. 87894 for the public purpose of public recreation, notified in the <i>Government Gazette</i> of 17 August 1973, comprising Lots 24, 25, 26, 27, 28, 38, 39, 40 and 41 in DP 241179. File No.: LANDS06/180

**REVOCAION OF DEDICATION OF CROWN  
LAND FOR A PUBLIC PURPOSE**

PURSUANT to section 84 of the Crown Lands Act 1989, the dedication of Crown Land specified in Column 1 of the Schedule hereunder, is revoked to the extent specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

SCHEDULE

COLUMN 1	COLUMN 2
Land District: Newcastle.	The whole of Lot 142,
Local Government Area: Port Stephens.	DP 753194.
Locality: Swan Bay.	Parish: Sutton.
Dedication No.: 570203.	County: Gloucester.
Public Purpose: Public School Site (former Mulwee Public School).	Area: 8094 square metres.
Notified: 9 September 1899.	
File No.: MD95 H 435.	

**NOWRA OFFICE**

**5 O'Keefe Avenue (PO Box 309), Nowra NSW 2541**

**Phone: (02) 4428 6900 Fax: (02) 4428 6988**

**NOTIFICATION OF CLOSING OF ROAD**

IN pursuance of the provisions of the Roads Act 1993, the road hereunder specified is closed and the road ceases to be public road and the rights of passage and access that previously existed in relation to the road are extinguished.

TONY KELLY, M.L.C.,  
Minister for Lands

Description

*Land District – Moruya; L.G.A. – Eurobodalla.*

Lot 2, DP 1092657 at North Narooma, Parish Wagonga and County Dampier.

File No.: NA03 H 163.

Note: On closing, the land remains vested in Eurobodalla Shire Council as "Operational land" (91.2958.E).

Description

*Land District – Bega; L.G.A. – Bega Valley.*

Lots 1 and 2, DP 1083374 at Kalaru, Parish Wallagoot and County Auckland.

File No.: NA05 H 243.

Note: On closing, the land remains vested in Bega Valley Shire Council as "Operational land".

**SYDNEY METROPOLITAN OFFICE**  
**Level 12, Macquarie Tower, 10 Valentine Avenue, Parramatta 2150**  
**(PO Box 3935, Parramatta NSW 2124)**  
**Phone: (02) 8836 5300 Fax: (02) 8836 5365**

**NOTIFICATION OF CLOSING OF ROADS**

IN pursuance of the provisions of the Roads Act 1993, the roads hereunder specified are closed and the roads cease to be public roads and the rights of passage and access that previously existed in relation to the roads are extinguished.

TONY KELLY, M.L.C.,  
 Minister for Lands

Description

*Land District – Metropolitan; L.G.A. – Hornsby.*

Lot 1, DP 1093736 at Arcadia, Parish Berowra, County Cumberland.

File No.: MN02 H 311.

Note: On closing, title for the land in Lot 1 remains vested in the Crown.

## Description

*Land District – Metropolitan; L.G.A. – Sydney City.*

Lot 1, DP 1095863 at Sydney, Parish St James, County Cumberland.

File No.: MN05 H 269.

Note: On closing, title for the land in Lot 1 remains vested in Sydney City Council.

**TAREE OFFICE**

**102-112 Victoria Street (PO Box 440), Taree NSW 2430**  
**Phone: (02) 6552 2788 Fax: (02) 6552 2816**

**APPOINTMENT OF ADMINISTRATOR TO  
MANAGE A RESERVE TRUST**

PURSUANT to section 117, Crown Lands Act 1989, the person specified in Column 1 of the Schedule hereunder, is appointed as administrator for the term also specified thereunder, of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

TONY KELLY, M.L.C.,  
 Minister for Lands

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Kevin CARTER.	Lansdowne (Sandy Point) Recreation and Flora Reserve Trust.	Reserve No.: 50557. Public Purpose: Public recreation and preservation of native flora. Notified: 10 March 1915. File No.: TE80 R 186.

For a term commencing 8 April 2006 and expiring 7 October 2006.

**ERRATUM**

IN the notification appearing in the *Government Gazette* of 7 April 2006, Folio 2050, under the heading "Reservation of Crown Land" Lot 508, DP 754434 should be added to Column 1 and the "Area" changed to 2.514 hectares.

TONY KELLY, M.L.C.,  
 Minister for Lands

**WAGGA WAGGA OFFICE**  
**Corner Johnston and Tarcutta Streets (PO Box 60), Wagga Wagga NSW 2650**  
**Phone: (02) 6937 2700      Fax: (02) 6921 1851**

**ROADS ACT 1993**

**ORDER**

Transfer of Crown Road to a Council

IN pursuance of the provisions of section 151, Roads Act 1993, the Crown public roads specified in Schedule 1 are transferred to the Roads Authority specified in Schedule 2 hereunder, as from the date of publication of this notice and as from that date, the roads specified in Schedule 1 cease to be Crown public road.

TONY KELLY, M.L.C.,  
Minister for Lands

SCHEDULE 1

*Parish – Adelong; County – Wynyard;  
Land District – Tumut; Shire – Tumut.*

Crown public road being Neill Street separating Lot 1140, DP 757211; Lots 1, 2 and 3, DP 222465 from Lot 270, DP 1042683; Lots 265, 266 and 257, DP 757211.

SCHEDULE 2

Roads Authority: Tumut Shire Council.

File No.: WA06 H 147.

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## Department of Natural Resources

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### WATER ACT 1912

AN application under Part 2 of the Water Act 1912, being within a proclaimed (declared) local area under section 5(4) of the Water Act 1912.

An application for a licence under section 10 of Part 2 of the Water Act 1912, has been received as follows:

*Murray River Valley*

Graeme William SPARNON and Lynnette SPARNON for a pump on Billabong Creek on Lot 4/2/12777, Parish of Mahonga, County of Hume, for water supply for stock purposes and irrigation (replacement licence due to subdivision) (Reference: 50SL75684) (GA2:484869).

Any enquiries regarding the above should be directed to the undersigned (telephone: [03] 5898 3900).

Written objections to the application specifying the grounds thereof may be made by any statutory authority or a local occupier within the proclaimed area and must be lodged at the Department's Office at Deniliquin within 28 days of the date of this publication.

L. HOLDEN,  
Senior Natural Resource Officer,  
Murray Murrumbidgee Region

Department of Natural Resources,  
PO Box 205, Deniliquin NSW 2710.

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### WATER ACT 1912

AN application for a licence under the section 10 of Part 2 of the Water Act 1912, as amended, has been received as follows:

Anthony Dennis BECK, Frances Jane BECK and Wayne Harrie ADAMS for a pump on the Wollondilly River on Pt Lot 3//198294, Parish of Towrang, County of Argyle, for water supply for domestic purposes (new licence) (not subject to the 1995 Hawkesbury/Nepean Embargo) (Reference:10SL056711) (GA2:493341).

Any inquiries regarding the above should be directed to the undersigned (telephone: [02] 9895 7194).

Written objections specifying grounds thereof must be lodged with the Department within 28 days of the date of this publication as prescribed by the Act.

WAYNE CONNERS,  
Natural Resource Project Officer,  
South Coast Region

Department of Natural Resources,  
PO Box 3720, Parramatta NSW 2124.

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### WATER ACT 1912

AN application under Part 8, being within a proclaimed (declared) local area under section 5(4) of the Water Act 1912.

An application for Approval of Controlled Works under section 167 within the proclaimed (declared) local area described hereunder has been received as follows:

*Namoi River Valley*

WESTPAR PTY LIMITED for controlled works consisting of levees, supply channels and water storages on the Namoi River Floodplain on Lots 5, 7, 14 and 24, DP 754952; Lots 7, 23, 50 and 72, DP 754936; Lots 2 and 4, DP 131155 and Lot 1, DP 404982, all Parish of Durrisdeer, Count of Narrabri, on the property known as "The Myalls" for prevention of inundation of land, irrigation and/or drainage development on the floodplain and conservation of water (Reference: 90CW810865) (GA2:472381).

Written objections to the application specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed area, whose interest may be affected must be lodged with the Department's Resource Access Manager at Tamworth by 26th May 2006.

Plans showing the location of the works referred to in the above application may be viewed at the Moree or Narrabri offices of the Department of Natural Resources.

GEOFF CAMERON,  
Manager,  
Resource Access

Department of Natural Resources,  
PO Box 550, Tamworth NSW 2340.

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## Department of Planning

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### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

#### ORDERS

I, the Minister for Planning, declare under section 75B of the Environmental Planning and Assessment Act 1979, that the development described in the Schedule below is a project to which section 75ZA of the Environmental Planning and Assessment Act 1979 applies.

FRANK SARTOR, M.P.,  
Minister for Planning

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#### SCHEDULE

Development to which Section 75ZA applies

The Development Application (Reference: DA 268-6-2003) approved by the Minister on 10 June 2005, under Part 4 of the Environmental Planning and Assessment Act 1979, on land known as 40 Walker Street, Rhodes (Lot 10 in DP 1007931), in the Council of the City of Canada Bay, for the following development:

Approved Master Plan (DA 268-6-2003) for Precinct B of Rhodes Peninsula identifying residential and mixed retail/residential development of 8 parcels of land, open space, community uses, road network, staging of development and allocation of floor space.





New South Wales

## **Manly Local Environmental Plan 1988 (Amendment No 66)**

under the

**Environmental Planning and Assessment Act 1979**

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S04/00343/S69)

FRANK SARTOR, M.P.,  
Minister for Planning

Clause 1 Manly Local Environmental Plan 1988 (Amendment No 66)

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## **Manly Local Environmental Plan 1988 (Amendment No 66)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of plan**

This plan is *Manly Local Environmental Plan 1988 (Amendment No 66)*.

### **2 Aims of plan**

This plan aims:

- (a) to rezone part of the land to which this plan applies from Special Uses (Church) to the Zone No 3 Business Zone under *Manly Local Environmental Plan 1988*, and
- (b) to provide that development consent will not be granted to the erection of a building or buildings on the land to which this plan applies unless a minimum of 20% of the gross floor area of all buildings on the land is to be used for the purpose of a place of public worship.

### **3 Land to which plan applies**

- (1) In respect of the aim set out in clause 2 (a), this plan applies to Lot 1, DP 599383, known as 122 Condamine Street, Balgowlah, as shown distinctively coloured and edged heavy black on the map marked “Manly Local Environmental Plan 1988 (Amendment No 66)” deposited in the office of Manly Council.
- (2) In respect of the aim set out in clause 2 (b), this plan applies to the land referred to in subclause (1) and adjoining land, being Lot 5, DP 978325, known as 120 Condamine Street, Balgowlah.

### **4 Amendment of Manly Local Environmental Plan 1988**

*Manly Local Environmental Plan 1988* is amended as set out in Schedule 1.

Manly Local Environmental Plan 1988 (Amendment No 66)

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 4)

### [1] Clause 7 Interpretation

Insert in appropriate order in the definition of *the map* in clause 7 (1):

Manly Local Environmental Plan 1988 (Amendment No 66)

### [2] Clause 38

Insert after clause 37:

#### **38 Development of land—120–122 Condamine Street, Balgowlah**

- (1) This clause applies to Lot 1, DP 599383, known as 122 Condamine Street, Balgowlah and Lot 5, DP 978325, known as 120 Condamine Street, Balgowlah.
- (2) Despite any other provision of this plan, consent must not be granted to the erection of a building or buildings on the land to which this clause applies unless a minimum of 20% of the gross floor area of all buildings on the land is to be used for the purpose of a place of public worship.

## Department of Primary Industries

### MINERAL RESOURCES

NOTICE is given that the following applications have been received:

#### EXPLORATION LICENCE APPLICATIONS

(06-139)

No. 2716, **CROSSLAND RESOURCES LTD** (ACN 114 187 978), area of 148 units, for Group 1, dated 13 April 2006. (Mining Division).

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following applications have been granted:

#### EXPLORATION LICENCE APPLICATIONS

(05-307)

No. 2625, now Exploration Licence No. 6545, **MALACHITE RESOURCES NL** (ACN 075 613 268), Counties of Georgiana and Westmoreland, Map Sheet (8830), area of 100 units, for Group 1, dated 24 March 2006, for a term until 23 March 2008.

(05-5558)

No. 2629, now Exploration Licence No. 6544, **BARRICK AUSTRALIA LIMITED** (ACN 007 857 598), County of Gipps, Map Sheet (8430), area of 31 units, for Group 1, dated 24 March 2006, for a term until 23 March 2008.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following applications for renewal have been received:

(T03-0062)

Exploration Licence No. 6239, **MOUNT CONQUEROR MINERALS NL** (ACN 003 312 721), area of 4 units. Application for renewal received 13 April 2006.

(T04-0020)

Exploration Licence No. 6241, **RIMFIRE PACIFIC MINING NL** (ACN 006 911 744), area of 15 units. Application for renewal received 18 April 2006.

(T95-0101)

Mining Purposes Lease No. 280 (Act 1973), **LIGHTNING RIDGE MINERS' ASSOCIATION LTD** (ACN 001 204 726), area of 41.81 hectares. Application for renewal received 21 January 2005.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

### RENEWAL OF CERTAIN AUTHORITIES

NOTICE is given that the following authorities have been renewed:

(T93-0680)

Exploration Licence No. 4616, **NEWCREST MINING LIMITED** (ACN 005 683 625), Counties of Ashburnham and Bathurst, Map Sheet (8631, 8731), area of 6 units, for a further term until 7 November 2007. Renewal effective on and from 11 April 2006.

(T03-0842)

Exploration Licence No. 6186, **GOLDEN DRAGON RESOURCES PTY LTD** (ACN 106 269 738), County of Narromine, Map Sheet (8532, 8533), area of 54 units, for a further term until 27 January 2008. Renewal effective on and from 11 April 2006.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following applications have been received:

#### EXPLORATION LICENCE APPLICATIONS

(06-137)

No. 2715, **NEWCREST OPERATIONS LIMITED** (ACN 009 221 505), area of 39 units, for Group 1, dated 11 April 2006. (Orange Mining Division).

(06-140)

No. 2717, **Leslie Herbert SAVAGE**, area of 3 units, for Group 5, dated 19 April 2006. (Cobar Mining Division).

(06-142)

No. 2718, **BIG SKY HOLDINGS PTY LIMITED** (ACN 108 476 384), area of 30 units, for Group 1, dated 21 April 2006. (Orange Mining Division).

#### MINING LEASE APPLICATIONS

(06-93)

No. 273, **STRAITS (HILLGROVE) GOLD PTY LTD** (ACN 102 660 506), area of about 17.45 hectares, to mine for antimony, arsenic, bentonite (including fuller's earth), bismuth, cadmium, caesium, chromite, clay/shale, cobalt, columbium, copper, galena, germanium, gold, indium, iron minerals, kaolin, lead, lithium, manganese, mercury, molybdenite, nickel, niobium, platinum, platinum group minerals, rare earth minerals, rubidium, scandium and its ores, selenium, silver, structural clay, tantalum, thorium, tin, tungsten and its ores, vanadium, zinc and zirconia, dated 20 February 2006. (Armidale Mining Division).

(06-94)

No. 274, **STRAITS (HILLGROVE) GOLD PTY LTD** (ACN 102 660 506), area of about 30.74 hectares, to mine for antimony, arsenic, bentonite (including fuller's earth), bismuth, cadmium, caesium, chromite, clay/shale, cobalt, columbium, copper, galena, germanium, gold, indium, iron minerals, kaolin, lead, lithium, manganese, mercury, molybdenite, nickel, niobium, platinum, platinum group minerals, rare earth minerals, rubidium, scandium and its ores, selenium, silver, structural clay, sulphur, tantalum, thorium, tin, tungsten and its ores, vanadium, zinc and zirconia, dated 20 February 2006. (Armidale Mining Division).

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following applications have been refused:

#### EXPLORATION LICENCE APPLICATIONS

(04-608)

No. 2421, **GOLD SEARCH INTERNATIONAL PTY LTD** (ACN 104 089 581), County of Darling, Map Sheet (9037). Refusal took effect on 2 March 2006.

(05-162)

No. 2481, INTERNATIONAL MINERALS CORPORATION PTY LIMITED (ACN 106 416 513), County of Darling, Map Sheet (9037). Refusal took effect on 2 March 2006.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following applications have been granted:

**EXPLORATION LICENCE APPLICATIONS**

(T01-0197)

No. 1815, now Exploration Licence No. 6557, Reginald Thomas O'BRIEN and Norman Edward SLAPE, Counties of Clive and Drake, Map Sheet (9339), area of 2 units, for Group 1, dated 11 April 2006, for a term until 10 April 2008.

(05-279)

No. 2597, now Exploration Licence No. 6551, TRI ORIGIN MINING PTY LIMITED (ACN 115 529 112), Counties of Argyle and Murray, Map Sheet (8827), area of 7 units, for Group 2, dated 31 March 2006, for a term until 30 March 2008.

(05-301)

No. 2617, now Exploration Licence No. 6556, BALRONE HOLDINGS PTY LTD (ACN 009 369 788), County of Yancowinna, Map Sheet (7233), area of 38 units, for Group 1, dated 11 April 2006, for a term until 10 April 2008.

(05-302)

No. 2620, now Exploration Licence No. 6543, BEMAX RESOURCES NL (ACN 009 247 858), County of Windeyer, Map Sheet (7132, 7232), area of 17 units, for Group 10, dated 22 March 2006, for a term until 21 March 2008.

(05-303)

No. 2621, now Exploration Licence No. 6518, GOLDEN CROSS OPERATIONS PTY LTD (ACN 050 212 827), County of Yancowinna, Map Sheet (7133, 7233, 7234), area of 139 units, for Group 1, dated 7 March 2006, for a term until 6 March 2008. As a result of the grant of this title, Exploration Licence No. 5784 and Exploration Licence No. 6368 have ceased to have effect and Exploration Licence No. 6369 and Exploration Licence No. 6371 have partly ceased to have effect.

(05-5561)

No. 2632, now Exploration Licence No. 6549, COMET RESOURCES LIMITED (ACN 060 628 202), Counties of Bland and Harden, Map Sheet (8528, 8529), area of 88 units, for Group 1, dated 5 April 2006, for a term until 4 April 2008.

(06-62)

No. 2646, now Exploration Licence No. 6560, MALACHITE RESOURCES NL (ACN 075 613 268), County of Hardinge, Map Sheet (9137), area of 100 units, for Group 1, dated 13 April 2006, for a term until 12 April 2008.

**MINING LEASE APPLICATION**

(05-4014)

Armidale No. 266, now Mining Lease No. 1579 (Act 1992), WHITEHAVEN COAL MINING LIMITED (ACN 086 426 253) and IDEMITSU BOGGABRI COAL PTY

LIMITED (ACN 001 787 711), Parish of Leard, County of Nandewar; and Parish of Wean, County of Nandewar, Map Sheet (), area of 656.1 hectares, to mine for coal, dated 3 April 2006, for a term until 2 April 2027. As a result of the grant of this title, Coal Lease No. 368 (Act 1973) and Exploration Licence No. 5967 have partly ceased to have effect.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following applications for renewal have been received:

(C96-2388)

Exploration Licence No. 5306, BICKHAM COAL COMPANY PTY LIMITED (ACN 087 270 899), area of 3040 hectares. Application for renewal received 19 April 2006.

(T99-0215)

Exploration Licence No. 5740, ILUKA RESOURCES LIMITED (ACN 008 675 018), area of 101 units. Application for renewal received 19 April 2006.

(C00-1585)

Exploration Licence No. 5888, BICKHAM COAL COMPANY PTY LIMITED (ACN 087 270 899), area of 2040 hectares. Application for renewal received 19 April 2006.

(T02-0459)

Exploration Licence No. 6082, ADANAK EXPLORATIONS PTY LIMITED (ACN 001 955 513), area of 10 units. Application for renewal received 19 April 2006.

(T04-0013)

Exploration Licence No. 6242, AUSTRALIA ORIENTAL MINERALS NL (ACN 010 126 708), area of 47 units. Application for renewal received 18 April 2006.

(T04-0018)

Exploration Licence No. 6246, GIRALIA RESOURCES NL (ACN 009 218 204), area of 12 units. Application for renewal received 24 April 2006.

(06-2855)

Mining Lease No. 1398 (Act 1992), RESOURCE PACIFIC LIMITED (ACN 106 177 708), area of 56 hectares. Application for renewal received 10 April 2006.

(05-1755)

Mining Purposes Lease No. 487 (Act 1906), CEMENT AUSTRALIA (KANDOS) PTY LIMITED (ACN 004 158 972), area of 13.46 hectares. Application for renewal received 19 April 2006.

(05-1755)

Mining Purposes Lease No. 564 (Act 1906), CEMENT AUSTRALIA (KANDOS) PTY LIMITED (ACN 004 158 972), area of 296.2 hectares. Application for renewal received 19 April 2006.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

**RENEWAL OF CERTAIN AUTHORITIES**

NOTICE is given that the following authorities have been renewed:

(T92-0390)

Exploration Licence No. 4474, Noel Norman DENNIS, Counties of Clarke and Sandon, Map Sheet (9336), area of 4 units, for a further term until 12 January 2007. Renewal effective on and from 3 January 2006.

(T97-1287)

Exploration Licence No. 5393, TRIAKO RESOURCES LIMITED (ACN 008 498 119), County of Flinders, Map Sheet (8233), area of 4 units, for a further term until 25 November 2007. Renewal effective on and from 24 March 2006.

(T97-1272)

Exploration Licence No. 5483, PROBO MINING LIMITED (ACN 079 938 819), IMPERIAL MINING (AUST) NL (ACN 062 193 266) and PEREGRINE MINERAL SANDS NL (ACN 009 307 591), County of Windeyer, Map Sheet (7232), area of 33 units, for a further term until 20 May 2007. Renewal effective on and from 5 April 2006.

(T03-0116)

Exploration Licence No. 6165, MINOTAUR OPERATIONS PTY LTD (ACN 108 925 284), Counties of Tandora and Yancowinna, Map Sheet (7233, 7234), area of 28 units, for a further term until 30 November 2007. Renewal effective on and from 19 April 2006.

(T03-0858)

Exploration Licence No. 6196, MALACHITE RESOURCES NL (ACN 075 613 268), County of Gough, Map Sheet (9138), area of 50 units, for a further term until 18 February 2008. Renewal effective on and from 11 April 2006.

(T98-0476)

Private Lands Lease No. 1294 (Act 1924), DRONVISA PTY LIMITED (ACN 002 070 680), Parish of Lennox, County of Phillip, Map Sheet (8833-2-N), area of 24.07 hectares, for a further term until 18 May 2023. Renewal effective on and from 9 February 2006.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

**CANCELLATION OF AUTHORITY AT REQUEST OF HOLDER**

NOTICE is given that the following authority has been cancelled:

(T04-0040)

Exploration Licence No. 6270, Michael John KEEGAN, County of Parry, Map Sheet (9135), area of 13 units. Cancellation took effect on 19 April 2006.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

**TRANSFERS**

(06-929)

Exploration Licence No. 5973, formerly held by STRAITS EXPLORATION (AUSTRALIA) PTY LTD (ACN 061 614 695) has been transferred to STRAITS (HILLGROVE) GOLD PTY LTD (ACN 102 660 506). The transfer was registered on 3 April 2006.

(06-929)

Exploration Licence No. 5997, formerly held by STRAITS EXPLORATION (AUSTRALIA) PTY LTD (ACN 061 614 695) has been transferred to STRAITS (HILLGROVE) GOLD PTY LTD (ACN 102 660 506). The transfer was registered on 3 April 2006.

(T03-0015)

Exploration Licence No. 6118, formerly held by MOLY MINES LIMITED (ACN 103 295 521) has been transferred to BIG ISLAND MINING LIMITED (ACN 112 787 470). The transfer was registered on 14 March 2006.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

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## Roads and Traffic Authority

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### ROADS ACT 1993

Notice of Dedication of Land as Public Road  
at Castle Hill in the Baulkham Hills Shire Council area

THE Roads and Traffic Authority of New South Wales, by its delegate, dedicates the land described in the schedule below as public road under section 10 of the Roads Act 1993.

T D Craig  
Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

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#### SCHEDULE

ALL those pieces or parcels of land situated in the Baulkham Hills Shire Council area, Parish of Castle Hill and County of Cumberland, shown as:

Lot 54 Deposited Plan 1060302;  
Lot 11 Deposited Plan 1051170;  
Lot 1 Deposited Plan 1091721;  
Lots 3 and 5 Deposited Plan 448036;  
Lot 3 Deposited Plan 217560; and  
Lot 3 Deposited Plan 502260.  
(RTA Papers: FPP 31.1221; RO 31.1221)

### ROADS ACT 1993

Notice of Dedication of Land as Public Road at Kings Plains  
and Blayney in the Blayney Shire Council area

THE Roads and Traffic Authority of New South Wales, by its delegate, dedicates the land described in the schedule below as public road under section 10 of the Roads Act 1993.

T D Craig  
Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

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#### SCHEDULE

ALL those pieces or parcels of land situated in the Blayney Shire Council area, Parish of Torrens and County of Bathurst, shown as:

Lot 1 Deposited Plan 609361;  
Lots 23 and 25 to 29 inclusive Deposited Plan 811019; and  
Lot 3 Deposited Plan 812944.  
(RTA Papers: FPP 1M3898; RO 6/43.1170)

**ROADS ACT 1993****LAND ACQUISITION (JUST TERMS  
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land at Bardwell Park and Arncliffe in the Rockdale City Council area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act 1993.

T D Craig  
Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

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SCHEDULE

ALL those pieces or parcels of sub surface strata of land situated in the Rockdale City Council area, Parish of St George and County of Cumberland shown as:

Lot 2 Deposited Plan 1088147, being part of the land in Certificate of Title 1/18335;

Lot 4 Deposited Plan 1087393, being part of the land in Certificate of Title Auto Consol 7835-162;

Lot 5 Deposited Plan 1087393, being part of the land in Certificate of Title 226/15625;

Lot 6 Deposited Plan 1087393, being part of the land in Certificate of Title 223/15625;

Lot 4 Deposited Plan 1085864, being part of the land in Certificate of Title Volume 8381 Folio 127;

Lots 5 and 7 Deposited Plan 1085864, being parts of the land in Certificate of Title Volume 1114 Folio 102;

Lot 6 Deposited Plan 1085864, being part of the land in Certificate of Title Auto Consol 8433-226;

Lot 4 Deposited Plan 1088303, being part of the land in Certificate of Title 48/222779;

Lot 5 Deposited Plan 1088303, being part of the land in Certificate of Title 63/627125; and

Lot 6 Deposited Plan 1088303, being part of the land in Certificate of Title 3/232421.

The land is said to be in the possession of Rockdale City Council.

(RTA Papers: FPP 98M1918; RO F5/386.12058)

**ROADS ACT 1993****LAND ACQUISITION (JUST TERMS  
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition and Dedication as Public Road of Land at Faulconbridge in the Blue Mountains City Council area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act 1993 and further dedicates the land as public road under Section 10 of the Roads Act 1993.

T D Craig  
Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

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SCHEDULE

ALL those pieces or parcels of land situated in the Blue Mountains City Council area, Parish of Coomassie and County of Cook, shown as:

Lots 33, 34 and 35 Deposited Plan 1083259, being parts of the land in Certificate of Title Auto Consol 6989-132.

The land is said to be in the possession of Blue Mountains City Council.

(RTA Papers FPP 6M797; RO 5/44.12192)



**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 of the Road Transport (Mass, Loading and Access) Regulation 2005

GUNDAGAI SHIRE COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

G. A. J. TICKNER,  
General Manager,  
Gundagai Shire Council  
(by delegation from the Minister for Roads)  
12 April 2006

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**SCHEDULE**
**1. Citation**

This Notice may be cited as Gundagai Shire Council 25 Metre B-Double Notice No. 02/2006.

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2010, unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those B-Double vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<b>Road No.</b>	<b>Road Name</b>	<b>Starting Point</b>	<b>Finishing Point</b>
000.	Gobarralong Road.	Hume Highway.	Adjungbilly Road.
000.	Hopewood Road.	Adjungbilly Road.	Property gate 300m north of Adjungbilly Road.

**SUBORDINATE LEGISLATION ACT 1989**

NOTICE is given, in accordance with section 6 (2) of the Subordinate Legislation Act 1989, of the intention to publish a Regulatory Impact Statement (RIS) after a Regulation has been made. The Road Transport (General) Regulation 2005 commenced along with the Road Transport (General) Act 2005 on 30 September 2005.

The RIS deals with those parts in the Regulation that were not exempted under section 6 (1) (a) of the Subordinate Legislation Act and include:

- Appeals to a Local Court concerning vehicle registration decisions, driver licensing decisions and other matters.
- Information to be given to the RTA relating to wrecked vehicles.
- Fees for information from RTA records
- Certain offences.

Copies of the Regulation may be obtained from the Parliamentary Counsel website at [www.legislation.gov.au](http://www.legislation.gov.au).

Copies of the RIS are available from the RTA website [www.rta.nsw.gov.au/rulesregulations](http://www.rta.nsw.gov.au/rulesregulations) or by contacting Ed Ramsay, Driver and Vehicle Strategy Branch, Roads and Traffic Authority, PO Box K198, Haymarket NSW 1240, Fax (02) 9218 6717 or email [Ed\\_Ramsay@rta.nsw.gov.au](mailto:Ed_Ramsay@rta.nsw.gov.au).

Comments and submissions on the RIS and Regulation are invited and must be received in writing by no later than Monday 22 May 2006.

**ROADS ACT 1993****LAND ACQUISITION (JUST TERMS  
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land at Nerong in the Great Lakes Council area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act 1993.

T D Craig  
Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

—————  
SCHEDULE

ALL that piece or parcel of land situated in the Great Lakes Council area, Parish of Nerong and County of Gloucester, shown as Lot 14 Deposited Plan 1028489, being part of the land in Certificate of Title 162/753190.

The land is said to be in the possession of Salvano Silvestri.

(RTA Papers: FPP 4M3610; RO 10/410.1851)

## Other Notices

### ANTI-DISCRIMINATION ACT 1977

#### Exemption Order

UNDER the provisions of section 126 of the Anti-Discrimination Act 1977, and on the recommendation of the Anti-Discrimination Board, an exemption is given from the provisions of sections 8 and 51 of the Anti-Discrimination Act 1977, to Penrith City Council to designate, advertise and recruit six (6) positions each year on its Traineeship and Entry Level Program for people of Aboriginal and Torres Strait Islander background.

This exemption will remain in force for a period of ten years from the date given.

Dated this 4th day of April 2006.

BOB DEBUS, M.P.,  
Attorney General

### ASSOCIATIONS INCORPORATION ACT 1984

#### Cancellation of Incorporation pursuant to Section 55A

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to section 55A of the Associations Incorporation Act 1984.

Cancellation is effective as at the date of gazettal.

HIGHLAND STORM NETBALL CLUB  
INCORPORATED INC9879380

EAST BOWRAL PROGRESS ASSOCIATION  
INCORPORATED Y2293715

KILLARA RESERVOIR TENNIS CLUB INC  
Y1616234

THE BOSNIA AND HERZEGOVINA - AUSTRALIAN  
CHAMBER OF COMMERCE AND INDUSTRY  
INCORPORATED INC9878886

RICHMOND RESIDENTS ACTION GROUP  
INCORPORATED INC9881807

WILLOUGHBY YOUTH CLUB GYMNASTICS  
INCORPORATED Y1330602

CONSTRUCTION WORKERS FIRST INCORPORATED  
INC9879429

WESTERN SUBURBS BASKETBALL CLUB  
(ILLAWARRA) INC Y1530445

CREST AGORA CLUB OF THE BLUE MOUNTAINS  
INCORPORATED INC9874410

INVERELL UNITED R.L.F.C. INCORPORATED  
Y1739114

GLOUCESTER MEN'S BOWLING CLUB  
INCORPORATED INC9882503

PUTNEY VILLAGE CHAMBER OF COMMERCE  
INCORPORATED Y2669346

OUR CHILDREN FOUNDATION INCORPORATED  
INC9875974

PALMERS ISLAND AERO CLUB INC Y0012919

ZHI-QING ASSOCIATION OF AUSTRALIA  
INCORPORATED INC9875971

COAST MINI CLUB INCORPORATED INC9880527

NEWCASTLE ROLLER SPORTS CLUB  
INCORPORATED INC9875708

CALALA CREEK LANDCARE GROUP  
INCORPORATED Y2202411

I.R.S.A. SHOTGUN CLUB INCORPORATED  
INC9875701

I.R.S.A. PISTOL CLUB INCORPORATED  
INC9875700

I.R.S.A. RIFLE CLUB INCORPORATED  
INC9875698

I.R.S.A. HUNTING CLUB INCORPORATED  
INC9875699

THE ASIA-PACIFIC MODEL YOUNG LEADERS  
CONFERENCE INCORPORATED INC9879739

LATERAL HEALING INCORPORATED  
INC9883967

WHITE CLIFFS TELECENTRE INCORPORATED  
INC9875585

Dated: 21 April 2006.

COLIN CROSSLAND,  
General Manager,  
Registry of Co-operatives and Associations,  
Office of Fair Trading,  
Department of Commerce

### ASSOCIATIONS INCORPORATION ACT 1984

#### Cancellation of Incorporation pursuant to Sections 55A and 55B

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to sections 55A and 55B of the Associations Incorporation Act 1984.

Cancellation is effective as at the date of gazettal.

THE APEX CLUB OF PADSTOW/EAST HILLS INC  
Y0847509

ALBURY WODONGA MULTICULTURAL RESOURCE  
CENTRE INC Y1594948

MACQUARIE COMMUNITY COLLEGE INC  
Y0082744

ST GEORGE STROKE SUPPORT GROUP INC  
Y1007314

TILLIGERRY NEIGHBOURHOOD CENTRE  
INCORPORATED Y3005308

TEMORA AQUATIC CLUB INC Y0190202

FRIENDS OF KALINDA SCHOOL INCORPORATED  
Y2799329

PEEL MARKETS INCORPORATED Y1744713

AUSTRALIAN SOCIETY OF RUGBY REFEREES  
INC Y0757804

TILION ASSOCIATION OF NSW INC Y0203126

Dated: 21 April 2006.

COLIN CROSSLAND,  
General Manager,  
Registry of Co-operatives and Associations,  
Office of Fair Trading,  
Department of Commerce

**BANKS AND BANK HOLIDAYS ACT 1912**

## Notice

I, JOHN DELLA BOSCA, Minister for Industrial Relations, in pursuance of section 19(3) of the Banks and Bank Holidays Act 1912, appoint Friday, 26 May 2006, to be observed as a public holiday within the Lake Macquarie City Council and Newcastle City Council areas.

Dated this 19th day of April, 2006.

JOHN DELLA BOSCA, M.L.C.,  
Minister for Industrial Relations

**CO-OPERATIVES ACT 1992**

Notice under Section 601AC of the Corporations Law as applied by Section 325 of the Co-operatives Act 1992

NOTICE is hereby given that the Co-operative mentioned below will be deregistered when three months have passed since the publication of this notice.

Parkes Leagues Club Co-operative Limited.

Dated this 20th day of April 2006.

C. GOWLAND,  
Delegate of the Registrar of Co-operatives

**ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000**

## Order—clause 186A (1) (b)

I, Anthony Bernard Kelly, Minister for Justice, pursuant to clause 186A (1) (b) of the Environmental Planning and Assessment Regulation 2000, determine, by this order, that those parts of buildings that are occupied by the Department of Corrective Services and in which inmates or periodic detainees sleep are not subject to clause 186A of that regulation.

TONY KELLY, M.L.C.,  
Minister for Justice

**HEALTH ADMINISTRATION ACT 1982**Order Amending the Name of an  
Approved Quality Assurance Committee

PURSUANT to section 20E(1) of the Health Administration Act 1982, I, JOHN HATZISTERGOS, M.L.C., Minister for Health, do by this Order hereby amend the name of the Wentworth Area Health Service Clinical Advisory Committee (approval published in *Government Gazette* No. 39 of 24 February 2000), so that it is instead to be known as the Clinical Advisory Group – Western Cluster of the Sydney West Area Health Service.

This Order shall take effect on gazettal of this Order.

Signed this 13th day of April 2006.

JOHN HATZISTERGOS, M.L.C.,  
Minister for Health

**HERITAGE ACT 1977**

## Erratum

THE Heritage Act 1977 Orders published in the Special Supplement No 48 of the 4 April 2006 pages 2013 to 2020 contained errors. The titles of the delegated authorities in the orders were incorrect. The orders are now republished in full with the gazettal date remaining 4 April 2006.

**HERITAGE ACT, 1977**

## Order Under Section 57(2) of the Heritage Act, 1977

I, the Minister for Planning, pursuant to section 57(2) of the Heritage Act 1977, on the recommendation of the Heritage Council of New South Wales, do by this Order:

1. revoke the Schedule of Exemptions to subsection 57(1) of the Heritage Act made under subsection 57(2) and published in the *Government Gazette* on 7 March 2003, 18 June 2004 and 8 July 2005; and
2. grant standard exemptions from section 57(1) of the Heritage Act 1977, described in the Schedule below.

FRANK SARTOR, M.P.,  
Minister for Planning

Sydney, 25 March 2006.

**SCHEDULE OF EXEMPTIONS TO SUBSECTION 57(1) OF THE HERITAGE ACT 1977 MADE UNDER SUBSECTION 57(2)****GENERAL CONDITIONS**

1. These general conditions apply to all of the following Exemptions.
2. Anything done pursuant to the following Exemptions must be carried out in accordance with relevant Guidelines issued by the Heritage Office including “The Maintenance of Heritage Assets: A Practical Guide” 1998, “Movable Heritage Principles” 2000 and “The Heritage Council Policy on Managing Change to Heritage Items”.
3. The following Standard Exemptions do not apply to anything affecting relics, places, items or sites of heritage significance to Aboriginal people or which affect traditional access by Aboriginal people.
4. The Executive Director, Director and Managers employed by the Heritage Office, Department of Planning; the Executive Director, Tenant and Asset Management Services, employed by the Sydney Harbour Foreshore Authority; the Executive Director Cultural Heritage employed by the Department of Environment and Conservation; and the Director of Planning employed by the Sydney City Council may perform any of the functions of the Director-General of the Department of Planning (Director-General) under these exemptions.

The authorisation to the Executive Director, Tenant and Asset Management Services of the Sydney Harbour Foreshore Authority is restricted to land for which it is the delegated approval body under section 169 of the Heritage Act, and the preparation and submission of information required to demonstrate that compliance with the criteria contained in these exemptions is satisfied, must not be carried out by the Executive Director, Tenant and Asset Management Services.

The authorisation to the Executive Director Cultural Heritage of the Department of Environment and Conservation is restricted to land for which it is the delegated approval body under section 169 of the Heritage Act, and the preparation and submission of information required to demonstrate that compliance with the criteria contained in these exemptions is satisfied, must not be carried out by the Executive Director Cultural Heritage.

The authorisation to the Director of Planning, Sydney City Council is restricted to land for which the Council is the delegated approval body under section 169 of the Heritage

Act, and the preparation and submission of information required to demonstrate that compliance with the criteria contained in these exemptions is satisfied, must not be carried out by the Director of Planning, Sydney City Council.

5. In these Exemptions, words shall be given the same meaning as in the Heritage Act 1977 ("the Act") unless the contrary intention appears from the context of the exemption.
6. Anything done pursuant to the following Exemptions must be specified, supervised and carried out by people with knowledge, skills and experience appropriate to the work.

#### **STANDARD EXEMPTION 1: MAINTENANCE AND CLEANING**

1. The following maintenance and cleaning does not require approval under s. 57(1) of the Act:
  - (a) the maintenance of an item to retain its condition or operation without the removal of or damage to the existing fabric or the introduction of new materials;
  - (b) cleaning including the removal of surface deposits, organic growths or graffiti by the use of low pressure water (less than 100 psi at the surface being cleaned) and neutral detergents and mild brushing and scrubbing.

NOTE 1: Traditional finishes such as oils and waxes must continue to be used for timber surfaces rather than modern alternative protective coatings such as polyurethane or acrylic which may seal the surface and can cause damage.

NOTE 2: Surface patina which has developed on the fabric may be an important part of the item's significance and if so needs to be preserved during maintenance and cleaning.

#### **STANDARD EXEMPTION 2: REPAIRS**

1. Repair to an item which is of the type described in (a) or (b) below does not require approval under s. 57(1) of the Act:
  - (a) the replacement of services such as cabling, plumbing, wiring and fire services that uses existing service routes, cavities or voids or replaces existing surface mounted services and does not involve damage to or the removal of significant fabric;
  - (b) the repair (such as refixing and patching) or the replacement of missing, damaged or deteriorated fabric that is beyond further maintenance, which matches the existing fabric in appearance, material and method of affixing and does not involve damage to or the removal of significant fabric.

NOTE 1: Repairs must be based on the principle of doing as little as possible and only as much as is necessary to retain and protect the element. Therefore replacement must only occur as a last resort where the major part of an element has decayed beyond further maintenance.

NOTE 2: Any new materials used for repair must not exacerbate the decay of existing fabric due to chemical incompatibility, obscure existing fabric or limit access to existing fabric for future maintenance.

NOTE 3: Repair must maximise protection and retention of fabric and include the conservation of existing detailing, such as vents, capping, chimneys, carving, decoration or glazing.

#### **STANDARD EXEMPTION 3: PAINTING**

1. Painting does not require approval under s. 57(1) of the Act if the painting:
  - (a) does not involve the disturbance or removal of earlier paint layers other than that which has failed by chalking, flaking, peeling or blistering;
  - (b) involves over-coating with an appropriate surface as an isolating layer to provide a means of protection for significant earlier layers or to provide a stable basis for repainting; and
  - (c) employs the same colour scheme and paint type as an earlier scheme if they are appropriate to the substrate and do not endanger the survival of earlier paint layers.
2. Painting which employs a different colour scheme and paint type from an earlier scheme does not require approval under s. 57(1) of the Act, provided that:
  - (a) the Director-General is satisfied that the proposed colour scheme, paint type, details of surface preparation and paint removal will not adversely affect the heritage significance of the item; and
  - (b) the person proposing to undertake the painting has received a notice advising that the Director-General is satisfied.
3. A person proposing to undertake repainting of the kind described in paragraph 2 must write to the Director-General and describe the proposed colour scheme, paint type, details of surface preparation and paint removal involved in the repainting. If the Director-General is satisfied that the proposed development meets the criteria set out in paragraph 2(a) the Director-General shall notify the applicant.

NOTE: Preference should be given to the re-establishment of historically significant paint schemes of the item that are appropriate to the significance of the building.

#### **STANDARD EXEMPTION 4: EXCAVATION**

1. Excavation or disturbance of land of the kind specified below does not require approval under s. 57(1) of the Act, provided that the Director-General is satisfied that the criteria in (a), (b) or (c) have been met and the person proposing to undertake the excavation or disturbance of land has received a notice advising that the Director-General is satisfied:
  - (a) where an archaeological assessment has been prepared in accordance with Guidelines published by the Heritage Council of NSW which indicates that any relics in the land are unlikely to have State or local heritage significance; or
  - (b) where the excavation or disturbance of land will have a minor impact on archaeological relics; or
  - (c) where the excavation or disturbance of land involves only the removal of unstratified fill which has been deposited on the land.
2. A person proposing to excavate or disturb land in the manner described in paragraph 1 must write to the Director-General and describe the proposed excavation or

disturbance of land and set out why it satisfies the criteria set out in paragraph 1. If the Director-General is satisfied that the proposed development meets the criteria set out in paragraph (a), (b) or (c) the Director-General shall notify the applicant.

NOTE 1: Any excavation with the potential to affect Aboriginal objects must be referred to the Director-General of the Department of Environment and Conservation.

NOTE 2: If any Aboriginal objects are discovered on the site, excavation or disturbance is to cease and the Department of Environment and Conservation is to be informed in accordance with s. 91 of the National Parks and Wildlife Act, 1974.

NOTE 3: This exemption does not allow the removal of State significant relics.

NOTE 4: Where substantial intact archaeological relics of State or local significance, not identified in the archaeological assessment or statement required by this exemption, are unexpectedly discovered during excavation, work must cease in the affected area and the Heritage Office must be notified in writing in accordance with s. 146 of the Act. Depending on the nature of the discovery, additional assessment and possibly an excavation permit may be required prior to the recommencement of excavation in the affected area.

#### **STANDARD EXEMPTION 5: RESTORATION**

1. Restoration of an item by returning significant fabric to a known earlier location without the introduction of new material does not require approval under s. 57(1) of the Act.
2. The following restoration does not require approval under s. 57(1) of the Act, provided that the Director-General is satisfied that the criteria in (a) have been met and the person proposing to undertake the restoration has received a notice advising that the Director-General is satisfied:
  - (a) the restoration of an item without the introduction of new material (except for fixings) to reveal a known earlier configuration by removing accretions or reassembling existing components which does not adversely affect the heritage significance of the item.
3. A person proposing to undertake restoration of the kind described in paragraph 2 must write to the Director-General and set out why there is a need for restoration to be undertaken and the proposed material and method of restoration. If the Director-General is satisfied that the proposed development meets the criteria set out in paragraph 2(a), the Director-General shall notify the applicant.

#### **STANDARD EXEMPTION 6: DEVELOPMENT ENDORSED BY THE HERITAGE COUNCIL OR DIRECTOR-GENERAL**

1. Minor development specifically identified as exempt development which does not materially impact on heritage significance, by a conservation policy or strategy within a conservation management plan which has been endorsed by the Heritage Council of NSW or by a conservation management strategy endorsed by the Director-General does not require approval under s. 57(1) of the Act.

2. A person proposing to do anything of the kind described in paragraph 1 must write to the Director-General and describe the proposed development. If the Director-General is satisfied that the proposed development meets the criteria set out in paragraph 1, the Director-General shall notify the applicant.

#### **STANDARD EXEMPTION 7: MINOR ACTIVITIES WITH NO ADVERSE IMPACT ON HERITAGE SIGNIFICANCE**

1. Anything which in the opinion of the Director-General is of a minor nature and will not adversely affect the heritage significance of the item does not require approval under s. 57(1) of the Act.
2. A person proposing to do anything of the kind described in paragraph 1 must write to the Director-General and describe the proposed activity. If the Director-General is satisfied that the proposed activity meets the criteria set out in paragraph 1, the Director-General shall notify the applicant.

#### **STANDARD EXEMPTION 8: NON-SIGNIFICANT FABRIC**

1. The following development does not require approval under s. 57(1) of the Act, provided that the Director-General is satisfied that the criteria in (a) have been met and the person proposing to undertake the development has received a notice advising that the Director-General is satisfied:
  - (a) the alteration of a building involving the construction or installation of new fabric or services or the removal of building fabric which will not adversely affect the heritage significance of the item.
2. A person proposing to do anything of the kind described in paragraph 1 must write to the Director-General and describe the proposed development. If the Director-General is satisfied that the proposed development meets the criteria set out in paragraph 1(a), the Director-General shall notify the applicant.

#### **STANDARD EXEMPTION 9: CHANGE OF USE**

1. The change of use of an item or its curtilage or the commencement of an additional or temporary use does not require approval under s. 57(1) of the Act, provided that the Director-General is satisfied that the criteria in (a) and (b) have been met and the person proposing to undertake the change of use has received a notice advising that the Director-General is satisfied:
  - (a) the use does not involve the alteration of the fabric, layout or setting of the item or the carrying out of development other than that permitted by other standard or site specific exemptions; and
  - (b) the use does not involve the cessation of the primary use for which the building was erected, a later significant use or the loss of significant associations with the item by current users;
2. A person proposing to change the use of an item or its curtilage or to commence an additional or temporary use of an item or its curtilage in the manner described in paragraph 1 must write to the Director-General and describe the changes proposed. If the Director-General is satisfied that the proposed development meets the criteria set out in paragraph 1(a) and (b), the Director-General shall notify the applicant.

**STANDARD EXEMPTION 10: NEW BUILDINGS**

1. Subdivision under the Strata Scheme (Freehold Development) Act or Strata Scheme (Leasehold Development) Act of the interior of a building that has been constructed since the listing of the item on the State Heritage Register or the publication of an interim heritage order in the Gazette which applies to the land does not require approval under s. 57(1) of the Act.
2. Alteration to the interior of a building which has been constructed since the listing of the item on the State Heritage Register or the publication of an interim heritage order in the Gazette which applies to the land does not require approval under s. 57(1) of the Act.

**STANDARD EXEMPTION 11: TEMPORARY STRUCTURES**

1. The erection of temporary structures does not require approval under s. 57(1) of the Act, provided that the Director-General is satisfied that the criteria in (a) and (b) have been met and the person proposing to erect the structure has received a notice advising that the Director-General is satisfied:
  - (a) the structure will be erected within and used for a maximum period of 4 weeks after which it will be removed within a period of 2 days and not erected again within a period of 6 months; and
  - (b) the structure is not to be located where it could damage or endanger significant fabric including landscape or archaeological features of its curtilage or obstruct significant views of and from heritage items.
2. A person proposing to erect a structure of the kind described in paragraph 1 must write to the Director-General and set out the nature of the structure, the use for the structure and how long it will remain in place and the next occasion on which it is anticipated that the structure will be erected. If the Director-General is satisfied that the proposed development meets the criteria set out in paragraphs 1(a) and 1(b) the Director-General shall notify the applicant.

**STANDARD EXEMPTION 12: LANDSCAPE MAINTENANCE**

1. Landscape maintenance which is of the type described below does not require approval under s. 57(1) of the Act:
  - (a) weeding, watering, mowing, top-dressing, pest control and fertilizing necessary for the continued health of plants, without damage or major alterations to layout, contours, plant species or other significant landscape features;
  - (b) pruning to control size, improve shape, flowering or fruiting and the removal of diseased, dead or dangerous material, not exceeding 20% of the crown of a tree within a period of 2 years; or
  - (c) tree surgery by a qualified horticulturist or tree surgeon necessary for the health of those plants.

NOTE 1: In relation to cemeteries, landscape features include monuments, grave markers, grave surrounds, fencing, path edging and the like.

**STANDARD EXEMPTION 13: SIGNAGE**

1. The erection of signage which is of the types described in (a) or (b) below does not require approval under s. 57(1) of the Act:
  - (a) temporary signage which is located behind or on the glass surface of a shop window which is not internally illuminated or flashing and is to be removed within eight weeks; or
  - (b) a real estate sign indicating that the place is for auction, sale or letting and related particulars and which is removed within 10 days of the sale or letting of the place;
2. The erection of signage which is of the types described in (a) or (b) below does not require approval under s. 57(1) of the Act, provided that the Director-General is satisfied that the criteria in (a) and (b) respectively have been met and the person proposing to erect it has received a notice advising that the Director-General is satisfied:
  - (a) the erection of non-illuminated signage for the sole purpose of providing information to assist in the interpretation of the heritage significance of the item and which will not adversely affect significant fabric including landscape or archaeological features of its curtilage or obstruct significant views of and from heritage items; or
  - (b) signage which is in the form of a flag or banner associated with a building used for a purpose which requires such form of promotion such as a theatre or gallery, which is displayed for a maximum period of eight weeks and which will not adversely affect significant fabric including landscape or archaeological features of its curtilage;
3. A person proposing to erect signage of the kind described in paragraph 2 must write to the Director-General and describe the nature and purpose of the advertising or signage. If the Director-General is satisfied that the proposed development meets the criteria set out in paragraph 2(a) or 2(b), the Director-General shall notify the applicant.
4. Signage of the kind described in paragraphs 1 and 2 must:
  - (a) not conceal or involve the removal of signage which has an integral relationship with the significance of the item;
  - (b) be located and be of a suitable size so as not to obscure or damage significant fabric of the item;
  - (c) be able to be later removed without causing damage to the significant fabric of the item; and
  - (d) reuse existing fixing points or insert fixings within existing joints without damage to adjacent masonry.

**STANDARD EXEMPTION 14: BURIAL SITES AND CEMETERIES**

1. Development on land within a burial site or cemetery which is of the type described in (a), (b) or (c) below does not require approval under s. 57(1) of the Act:
  - (a) the creation of a new grave;
  - (b) the erection of monuments or grave markers in a place of consistent character, including materials, size and form, which will not be in conflict with the character of the place; or

- (c) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers;  
provided that there will be no disturbance to human remains, to relics in the form of grave goods, associated landscape features or to a place of Aboriginal heritage significance.
2. A person proposing to carry out development in the manner described in paragraph 1(b) or (c) must write to the Director-General and describe the development proposed. If the Director-General is satisfied that the proposed development meets the criteria set out in paragraph 1, the Director-General shall notify the applicant.
3. This exemption does not apply to the erection of above-ground chambers, columbaria or vaults, or the designation of additional areas to be used as a burial place.

NOTE 1: Other standard exemptions apply to the maintenance, cleaning and repair of burial sites and cemeteries.

#### **STANDARD EXEMPTION 15: COMPLIANCE WITH MINIMUM STANDARDS AND ORDERS**

1. Development which is required for the purpose of compliance with the minimum standards set out in Part 3 of the Heritage Regulation 1999 or an order issued under either:
- (a) section 120 of the Heritage Act 1977 regarding minimum standards of maintenance and repair; or
- (b) section 121S of the Environmental Planning and Assessment Act 1979 regarding an order which is consistent with a submission by the Heritage Council under section 121S(6) of that Act;
- does not require approval under s. 57(1) of the Act.

#### **STANDARD EXEMPTION 16: SAFETY AND SECURITY**

1. The following development does not require approval under s. 57(1) of the Act, provided that the Director-General is satisfied that the criteria in (a) or (b) have been met and the person proposing to undertake the development has received a notice advising that the Director-General is satisfied:
- (a) the erection of temporary security fencing, scaffolding, hoardings or surveillance systems to prevent unauthorised access or secure public safety which will not adversely affect significant fabric of the item including landscape or archaeological features of its curtilage; or
- (b) development, including emergency stabilisation, necessary to secure safety where a building or part of a building has been irreparably damaged or destabilised and poses a safety risk to its users or the public.
2. A person proposing to undertake development of the kind described in paragraph 1 must write to the Director-General and describe the development and, if it is of the kind set out in 1(b), provide certification from a structural engineer having experience with heritage items confirming the necessity for the development with regard to the criteria set out in 1(b) and any adverse impact on significant fabric. If the Director-General is satisfied that the proposed development meets the criteria set out in paragraph 1(a) or (b), the Director-General shall notify the applicant.

#### **STANDARD EXEMPTION 17: MOVABLE HERITAGE ITEMS**

1. The temporary relocation of movable heritage items, including contents, fixtures and objects, to ensure their security, maintenance and preservation, for conservation or exhibition, to ensure health or safety, the need for a controlled environment for those heritage items, or to protect the place, and which are to be returned to their present location within six months, does not require approval under s. 57(1) of the Act.
2. A person proposing to relocate a movable heritage item as set out in paragraph 1 must advise the Director-General in writing of the proposed location and the reasons for its relocation. If the Director-General is satisfied that the temporary relocation meets the criteria set out in paragraph 1 the Director-General shall notify the applicant.

#### **HERITAGE ACT 1977**

##### **Notice of Order Under Section 139(4)**

I, Chair of the Heritage Council of New South Wales, pursuant to section 139(4) of the Heritage Act 1977, in accordance with the resolution of the Heritage Council of New South Wales, do by this Order, revoke the exceptions to subsections 139(1) and (2) of the Heritage Act 1977 published in the Government Gazette on 22 July 2005 and create exceptions to subsections 139(1) and (2) of the Heritage Act 1977, described in the Schedule below.

MICHAEL COLLINS,  
Chair, Heritage Council of New South Wales

Sydney, 4 April 2006.

#### **SCHEDULE OF EXCEPTIONS TO SECTION 139(1) AND (2) OF THE HERITAGE ACT 1997 MADE UNDER SECTION 139(4)**

##### **SCHEDULE**

1. Excavation or disturbance of land of the kind specified below does not require an excavation permit under s. 139 of the Heritage Act, provided that the Director-General of the Department of Planning (the Director-General) is satisfied that the criteria in (a), (b) or (c) have been met and the person proposing to undertake the excavation or disturbance of land has received a notice advising that the Director-General is satisfied:
- (a) where an archaeological assessment has been prepared in accordance with Guidelines published by the Heritage Council of NSW which indicates that any relics in the land are unlikely to have State or local heritage significance; or
- (b) where the excavation or disturbance of land will have a minor impact on archaeological relics; or
- (c) where the excavation or disturbance of land involves only the removal of unstratified fill which has been deposited on the land.
2. A person proposing to excavate or disturb land in the manner described in paragraph 1 must write to the Director-General and describe the proposed excavation or disturbance of land and set out why it satisfies the criteria set out in paragraph 1. If the Director-General is satisfied that the proposed development meets the criteria set out in paragraph (a), (b) or (c) the Director-General shall notify the applicant.



3. The Executive Director, Director, and Managers employed by the Heritage Office, Department of Planning; the Executive Director, Tenant and Asset Management Services employed by the Sydney Harbour Foreshore Authority; and the Executive Director Cultural Heritage employed by the Department of Environment and Conservation may perform any of the functions of the Director-General under this exception.

The authorisation to the Executive Director, Tenant and Asset Management Services of the Sydney Harbour Foreshore Authority is restricted to land for which the Sydney Harbour Foreshore Authority is the delegated approval body under section 169 of the Heritage Act, and the preparation and submission of information required to demonstrate that compliance with the criteria contained in this exception is satisfied, must not be carried out by the Executive Director, Tenant and Asset Management Services.

The authorisation to the Executive Director Cultural Heritage of the Department of Environment and Conservation is restricted to land for which the Department of Environment and Conservation is the delegated approval body under section 169 of the Heritage Act, and the preparation and submission of information required to demonstrate that compliance with the criteria contained in this exception is satisfied, must not be carried out by the Executive Director Cultural Heritage.

- NOTE 1: Any excavation with the potential to affect Aboriginal objects should be referred to the Director-General of the Department of Environment and Conservation.
- NOTE 2: If any Aboriginal objects are discovered on the site, excavation or disturbance is to cease and the Department of Environment and Conservation is to be informed in accordance with s. 91 of the National Parks and Wildlife Act, 1974.
- NOTE 3: This exception does not allow the removal of State significant relics.
- NOTE 4: Where substantial intact archaeological relics of State or local significance, not identified in the archaeological assessment or statement required by this exception, are unexpectedly discovered during excavation, work must cease in the affected area and the Heritage Office must be notified in writing in accordance with s. 146 of the Act. Depending on the nature of the discovery, additional assessment and possibly an excavation permit may be required prior to the recommencement of excavation in the affected area.
- NOTE 5: Anything done pursuant to this exception must be specified, supervised and carried out by people with knowledge, skills and experience appropriate to the work.

#### NATIONAL PARKS AND WILDLIFE ACT 1974

Tumblong State Conservation Area  
Burra Creek Nature Reserve  
Plans of Management

DRAFT plans of management for the above parks have been prepared and are available free of charge from the NPWS offices at 7 Adelong Road, Tumut (telephone: 6947 7000) and 6 Rutledge Street, Queanbeyan (telephone: 6299 2929) and on the NPWS website: [www.nationalparks.nsw.gov.au](http://www.nationalparks.nsw.gov.au).

Written submissions on these plans must be received by the Planner, South West Slopes Region, PO Box 472, Tumut NSW 2720, by 31 July 2006.

All submissions received by NPWS are a matter of public record and are available for public inspection upon request to NPWS. Your comments may contain information that is defined as "personal information" under the NSW Privacy and Personal Information Protection Act 1998. The submission of personal information with your comments is voluntary.

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#### NSW EMERGENCY MANAGEMENT DISTRICTS

**Central West Emergency Management District** comprises the areas of Bathurst Regional Council, Blayney Council, Cabonne Council, Cowra Council, Forbes Council, City of Lithgow Council, Lachlan Council, Oberon Council, Orange City Council and Parkes Council.

**Far West Emergency Management District** comprises the areas of Bogan Council, Bourke Council, Brewarrina Council, Broken Hill City Council, Central Darling Council, Cobar Council and the Unincorporated Area of NSW.

**Georges River Emergency Management District** comprises the areas of Council of the City of Botany Bay, Hurstville City Council, Kogarah Municipal Council, Randwick City Council, Rockdale City Council, Sutherland Council and the waters of Botany Bay and Port Hacking.

**Hunter-Central Coast Emergency Management District** comprises the areas of Cessnock City Council, Dungog Council, Gosford City Council, Lake Macquarie City Council, Maitland City Council, Muswellbrook Council, Newcastle City Council, Port Stephens Council, Singleton Council, Upper Hunter Council, Wyong Council and the waters of Brisbane Water, Port Stephens, and Port Hunter.

**Illawarra Emergency Management District** comprises the areas of Council of the Municipality of Kiama, Shellharbour City Council, Shoalhaven City Council, Wollongong City Council and the waters of Jervis Bay.

**Mid North Coast Emergency Management District** comprises the areas of Bellingen Council, Coffs Harbour City Council, Gloucester Council, Greater Taree City Council, Great Lakes Council, Hastings Council, Kempsey Council, Nambucca Council and Lord Howe Island.

**Monaro Emergency Management District** comprises the areas of Bega Valley Council, Bombala Council, Cooma-Monaro Council, Eurobodalla Council, Palerang Council, Queanbeyan City Council and Snowy River Council.

**Murray Emergency Management District** comprises the areas of City of Albury Council, Balranald Council, Berrigan Council, Conargo Council, Corowa Council, Deniliquin Council, Greater Hume Council, Jerilderie Council, Murray Council, Tumbarumba Council, Urana Council, Council of the Shire of Wakool and Wentworth Council.

**Northern Rivers Emergency Management District** comprises the areas of Ballina Council, Byron Council, Clarence Valley Council, Kyogle Council, Lismore City Council, Richmond Valley Council and Tweed Council.

**Peel Emergency Management District** comprises the areas of Armidale Dumaresq Council, Glen Innes Severn Council, Gunnedah Council, Guyra Council, Gwydir Council,

Inverell Council, Liverpool Plains Council, Moree Plains Council, Narrabri Council, Tamworth Regional Council, Tenterfield Council, Uralla Council and Walcha Council.

**Riverina Emergency Management District** comprises the areas of Bland Council, Carrathool Council, Coolamon Council, Griffith City Council, Hay Council, Junee Council, Leeton Council, Lockhart Council, Murrumbidgee Council, Narrandera Council, Temora Council and Wagga Wagga City Council.

**Southern Highlands Emergency Management District** comprises the areas of Boorowa Council, Cootamundra Council, Goulburn Mulwaree Council, Gundagai Council, Harden Council, Tumut Council, Upper Lachlan Council, Weddin Council, Yass Valley Council and Young Council.

**Sydney East Emergency Management District** comprises the areas of Council of the City of Sydney, Leichhardt Municipal Council, Mosman Municipal Council, North Sydney Council, Waverley Council, Woollahra Municipal Council and the waters of Port Jackson and Parramatta River up to the Parramatta Weir.

**Sydney Mid West Emergency Management District** comprises the areas of Auburn Council, Council of the Municipality of Ashfield, Burwood Council, Canterbury City Council, City of Canada Bay Council, Marrickville Council and Strathfield Municipal Council.

**Sydney North Emergency Management District** comprises the areas of Council of the Shire of Hornsby, Council of the Municipality of Hunters Hill, Ku-ring-gai Council, Lane Cove Municipal Council, Manly Council, Pittwater Council, Ryde City Council, Warringah Council, Willoughby City Council, and the waters of Broken Bay, Pittwater, and the Hawkesbury River upstream to Wisemans Vehicle Ferry.

**Sydney South West Emergency Management District** comprises the areas of Bankstown City Council, Camden Council, Campbelltown City Council, Fairfield City Council, Liverpool City Council, Wingecarribee Council and Wollondilly Council.

**Western Slopes Emergency Management District** comprises the areas of Coonamble Council, Dubbo City Council, Gilgandra Council, Mid Western Regional Council, Narromine Council, Walgett Council, Warren Council, Warrumbungle Council and Wellington Council.

**Western Sydney Emergency Management District** comprises the areas of Council of the Shire of Baulkham Hills, Blacktown City Council, Blue Mountains City Council, Hawkesbury City Council, Holroyd City Council, Parramatta City Council and Penrith City Council.

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#### POISONS AND THERAPEUTIC GOODS ACT 1966

Order under Clause 171(1)  
Poisons and Therapeutic Goods Regulation 2002  
Withdrawal of Drug Authority

IN accordance with the provisions of Clause 171(1) of the Poisons and Therapeutic Goods Regulation 2002, an Order has been made on Dr Kenneth Collingwood KITTO of 348 High Street, Penrith NSW 2750, prohibiting him, until further notice, as a medical practitioner from having possession of and supplying drugs of addiction as authorised by Clause 101 of the Regulation and issuing a prescription for a drug of addiction as authorised by Clause 76 of the Regulation.

This order is to take effect on and from 5 April 2006.

ROBYN KRUK,  
Director-General

Department of Health, New South Wales,  
Sydney, 31 March 2006.

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#### POISONS AND THERAPEUTIC GOODS ACT 1966

##### PROCLAMATION

KEITH MASON,  
Administrator

I, the Hon. Justice KEITH MASON, AC, Administrator of the State of New South Wales, with the advice of the Executive Council, on the recommendation of the Minister for Health and in pursuance of section 8(6) of the Poisons and Therapeutic Goods Act 1966, do, by this my Proclamation, amend the Poisons List as set out in the Schedule hereunder with effect on the date of gazettal of this proclamation.

Signed and sealed at Sydney, this 19th day of April 2006.

By The Administrator's Command,

JOHN HATZISTERGOS, M.L.C.,  
Minister for Health

GOD SAVE THE QUEEN!

##### SCHEDULE

The Poisons List is hereby amended with immediate effect as follows:

Omit from Schedule 4 the following material:

“In addition the following entries are included in this Schedule:

ANTIBODIES, ANTIGENS and IMMUNOGLOBULINS or conjugates thereof in preparations for the diagnosis of human immunodeficiency virus infection.”

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#### PUBLIC WORKS ACT 1912

##### LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Compulsory Acquisition – Cooperbrook Sewerage

THE Minister for Utilities, with the approval of Her Excellency the Governor-in-Council, declares that the Land and Interests in Land described in the Schedule hereto (“Land” and “Interests in Land”), are acquired by compulsory process under s.19 of the Land Acquisition (Just Terms Compensation) Act 1991, for an authorised work within the meaning of the Public Works Act 1912.

On publication of this notice in the *Government Gazette* the Land and Interests in Land are vested in the Minister for Utilities pursuant to section 4 of the Public Works Act 1912.

CARL SCULLY, M.P.,  
Minister for Utilities

##### SCHEDULE

Land

Lot 1 in Deposited Plan 1066819.

Lot 1 in Deposited Plan 1069019.

## Interests in Land

Easement rights as described under the heading Water Pipeline in Memorandum E931212 filed in the Office of Land and Property Information NSW over the site shown in:

Deposited Plan 1066819 (SB55429) as '(F) PROPOSED EASEMENT FOR SEWER AND WATER PIPELINE 5 WIDE'.

Easement rights as described under the heading Sewer Pipeline in Memorandum E931212 filed in the Office of Land and Property Information NSW over the site shown in:

Deposited Plan 1066819 (SB55429) as '(C) PROPOSED EASEMENT FOR SEWER PIPELINE 5 WIDE'. '(F) PROPOSED EASEMENT FOR SEWER AND WATER PIPELINE 5 WIDE'.

Deposited Plan 1069019 (SB55487) as '(C) PROPOSED EASEMENT FOR SEWER PIPELINE VARIABLE WIDTH'. '(D) PROPOSED EASEMENT FOR SEWER PIPELINE VARIABLE WIDTH'.

Deposited Plan 1076149 (SB55497) as '(D) PROPOSED EASEMENT FOR SEWER PIPELINE 5 WIDE AND VARIABLE WIDTH' within Lot 2 in Deposited Plan 182364.

Deposited Plan 1075321 (SB55559) as '(C) PROPOSED EASEMENT FOR SEWER PIPELINE 4 WIDE'.

Easement rights as described under the heading Access in Memorandum E780099 filed in the Office of Land and Property Information NSW over the site shown in:

Deposited Plan 1066819 (SB55429) as '(D) PROPOSED EASEMENT FOR ACCESS 20.115 WIDE'.

Easement rights for Overhead Powerlines as described in Part A of Memorandum AA26009 filed in the Office of the Land and Property Information Division of the Department of Lands, where the definition of "Country Energy" in Clause 5.1 is also taken to mean "the Minister his heirs and assigns (being a public or local authority)" over the site shown in:

Deposited Plan 1066819 (SB55429) as '(E) PROPOSED EASEMENT FOR OVERHEAD CABLES'.

DoC Reference: 279.

**RETENTION OF TITLE**

HER Excellency the Governor, by deputation of Her Majesty the Queen, has been pleased to approve of the retention of the title "Honourable" by Mr Craig Knowles following his retirement from office and Parliament on 10 August 2005.

**RURAL FIRES ACT 1997**

## Local Bush Fire Danger Period Variation

PURSUANT to section 82 of the Rural Fires Act 1997, as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

Area of Variation:

Southern Tablelands Zone Incorporating:

Goulburn Mulwaree Council;  
Upper Lachlan Shire Council;  
Yass Valley Council.

The Local Bush Fire Danger period has been extended for the period 1 May until 31 May 2006.

During this period permits pursuant to section 87 of the Rural Fires Act 1997, as amended, will be required for the lighting of fire for the purposes of land clearance or fire breaks.

PHIL KOPERBERG, AO, AFSM, BEM,  
Commissioner

**RURAL FIRES ACT 1997**

## Local Bush Fire Danger Period Variation

PURSUANT to section 82 of the Rural Fires Act 1997, as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

Area of Variation:

South West Slopes Zone Incorporating:

Boorowa Council;  
Cootamundra Shire Council;  
Harden Shire Council;  
Young Shire Council.

The Local Bush Fire Danger period has been extended for the period 1 May until 14 May 2006.

During this period permits pursuant to section 87 of the Rural Fires Act 1997, as amended, will be required for the lighting of fire for the purposes of land clearance or fire breaks.

Mark Crossweller, AFSM,  
Assistant Commissioner,  
Executive Director,  
Operations and Regional Management

**SPORTING INJURIES INSURANCE ACT 1978**

## Order of Declaration under Section 5

IN pursuance of section 5 of the Sporting Injuries Insurance Act 1978, I declare by this order the THE UNIVERSITY OF NEW ENGLAND SPORTS ASSOCIATION to be a sporting organisation, for the purposes of the provisions of the Act, in respect of the activities of Aquarobics, Gym Activities, Aerobics, Tennis, Squash, Cricket, Athletics (Track and Field), Archery, Hockey, Touch Football, Netball, Soccer, Basketball, Water Polo, Badminton, Volleyball, Kick Boxing, Karate, Rock Climbing, Australian Rules Football, Scuba Diving, Underwater Hockey, Ultimate Frisbee, Caving, Canoe Polo and Sports Officials.

Dated: Sydney, 11th April 2006.

ROB THOMSON,  
Deputy Chairperson,  
Sporting Injuries Committee

**SPORTING INJURIES INSURANCE ACT 1978**

## Order of Declaration under Section 5

IN pursuance of section 5 of the Sporting Injuries Insurance Act 1978, I declare by this order the GUNDAROO SOCIAL SOCCER to be a sporting organisation, for the purposes of the provisions of the Act, in respect of the activity of Soccer.

Dated: Sydney, 6th April 2006.

ROB THOMSON,  
Deputy Chairperson,  
Sporting Injuries Committee

**CONTAMINATED LAND MANAGEMENT ACT 1997**

I, LISA CORBYN, Director General of the Department of Environment and Conservation, on behalf of the Department publish the document “Guidelines for the NSW Site Auditor Scheme (2nd Edition)” in accordance with section 105 of the Contaminated Land Management Act 1997.

Date: 12 April 2006.

LISA CORBYN,  
Director General

**CONTAMINATED SITES**

Guidelines for the  
NSW Site Auditor Scheme  
(2nd edition)

## Disclaimer

These guidelines have been made by the Department of Environment and Conservation (DEC) under the *Contaminated Land Management Act 1997*. DEC has prepared this document in good faith exercising all due care and attention, but no representation or warranty, express or implied, is made as to the relevance, accuracy, completeness or fitness of this document for any other purpose in respect of any particular user's circumstances. Users of this document should satisfy themselves about its application to their situation, and where necessary seek expert advice.

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## PREFACE

Industrial, agricultural and other commercial activities can sometimes result in the discharge of chemicals to the environment which accumulate in soil, sediments, groundwater or surface water. Some of these chemicals can remain in the environment for a long time. In some places they are present at levels that can have an adverse impact on human health or the environment and impede the productive use of land or water.

Planning authorities need information about a site's known or suspected history of potentially contaminating activities to be able to decide whether the land is suitable for an alternative use, such as residential or commercial development. They must be sure that the levels of any chemicals in the environment are within acceptable limits and that the land is suitable for its proposed use. In some cases the land and its immediate environment may have to be remediated to make it suitable.

The assessment and remediation of contaminated sites, usually conducted by contaminated site consultants, is technically difficult because of the complex behaviour of chemicals in the environment and their effects on ecosystems and human health. Obtaining dependable information for making reliable decisions can be difficult. It is therefore important that planning authorities and developers have access to advice from appropriately qualified and experienced people in making their land-use planning and development decisions.

To improve access to competent technical advice and increase certainty in the assessment and remediation of contaminated sites, the NSW Government introduced the NSW Site Auditor Scheme in 1998.

Under the scheme, the management of contaminated sites involves both contaminated site consultants and accredited site auditors. Contaminated site consultants, typically engaged by the site owner or developer, conduct site assessments, undertake any necessary remediation and validate their work. Accredited site auditors independently review these consultant activities to ensure the work complies with current regulations and guidelines and meets the standard appropriate for the proposed land use. It is highly desirable that a site auditor is engaged as early in the assessment and remediation process as possible, as early communication between parties to the project improves the efficiency of the audit, usually reflected in timeliness and cost savings.

These *Guidelines for the NSW Site Auditor Scheme* apply to individuals seeking to be accredited as site auditors in NSW and to those already

accredited. They may also be of use to other people with an interest in contaminated sites, such as contaminated site consultants and local councils, as guidance on what is expected of site auditors whom they may engage or whose work they may assess.

These guidelines consist of four sections:

1. Introduction to the NSW Site Auditor Scheme
2. Accreditation and renewal of accreditation
3. Conducting site audits
4. Contamination assessment, remediation and management.

Appendices provide additional technical and administrative information relating to the scheme.

These guidelines have been made in accordance with the *Contaminated Land Management Act 1997*. They should be read in conjunction with that Act, the *Contaminated Land Management Regulation 1998* and any guidelines made or approved by the Department of Environment and Conservation (DEC) under the Act.

The guidelines were first published in 1998 and have been updated to reflect comments received about them by DEC and the experience gained by DEC through administering the scheme. More detailed guidance for both site auditors and contaminated site consultants can be found in the Appendices.

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# I INTRODUCTION TO THE NSW SITE AUDITOR SCHEME

## I.1 Objectives

The objectives of the NSW Site Auditor Scheme are to:

- ensure that public health and the environment are protected through proper management of contaminated sites, particularly during changes of land use
- improve access to technical advice on contaminated sites for planning authorities and the community by establishing a pool of accredited site auditors
- provide greater certainty for planning authorities and the community through the independent review by those auditors of contaminated site assessment<sup>1</sup> and remediation reports, and reports that validate the successful completion of the assessment or remediation.

## I.2 Background

In Australia, the use of accredited auditors to review work conducted by contaminated site consultants<sup>2</sup> was first introduced in Victoria in 1989 through the Victorian EPA's Environmental Auditor (Contaminated Land) Scheme.

In 1998, NSW commenced its own Site Auditor Scheme under the *Contaminated Land Management Act 1997* (CLM Act). The scheme is administered by the Department of Environment and Conservation (DEC).<sup>3</sup>

The CLM Act empowers DEC to accredit individuals as site auditors<sup>4</sup> and to establish guidelines for them.

The Contaminated Land Management Regulation 1998 (CLM Regulation) specifies some of the procedural requirements of the scheme.

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1 In these guidelines 'assessment' includes the investigation of a site and drawing conclusions about the contamination of a site in light of that investigation.

2 Within the context of these guidelines, 'contaminated site consultants' means individuals or corporations engaged to carry out the assessment, remediation, management and validation of contaminated sites.

3 In these guidelines references to 'DEC' should be read as referring also to the Environment Protection Authority. It is the latter, rather than DEC, which has the powers and functions under the *Contaminated Land Management Act 1997* and the *Mutual Recognition (New South Wales) Act 1992*.

4 Within the context of these guidelines, a 'site auditor' means any individual accredited as a site auditor under Part 4 of the CLM Act.

A list of site auditors accredited under the CLM Act is available from the DEC website at [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au) or by phoning Environment Line on 131 555 (within NSW) or (02) 9995 5000.

### 1.3 Site audits in relation to contaminated sites

Site auditors review the work of contaminated site consultants. The CLM Act calls these reviews '**site audits**' and defines a site audit as an independent review:

- (a) that relates to investigation or remediation carried out (whether under the CLM Act or otherwise) in respect of the actual or possible contamination of land,<sup>5</sup> and
- (b) that is conducted for the purpose of determining any one or more of the following matters:
  - (i) the nature and extent of any contamination of the land
  - (ii) the nature and extent of the investigation or remediation
  - (iii) whether the land is suitable for any specified use or range of uses
  - (iv) what investigation or remediation remains necessary before land is suitable for any specified use or range of uses
  - (v) the suitability and appropriateness of a plan of remediation, a long-term management plan, a voluntary investigation proposal or a remediation proposal.

The main products of a site audit are a 'site audit statement' and a 'site audit report'.

A **site audit statement** is the written opinion by a site auditor, on a DEC-approved form, of the essential findings of a site audit. It includes, where relevant, the auditor's conclusions regarding the suitability of the site for its current or proposed use. The current approved site audit statement form can be found on the DEC website at [www.environment.nsw.gov.au/clm/auditorscheme.htm](http://www.environment.nsw.gov.au/clm/auditorscheme.htm).

Before issuing a site audit statement, the site auditor must prepare and finalise a detailed **site audit report**. The report must be clearly expressed and presented and contain the information, discussion and rationale that support the conclusions in the site audit statement.

In some circumstances a site audit is required by law. These audits are known as '**statutory site audits**' and may be carried out only by site auditors accredited under the CLM Act. A statutory site audit is one that is required by:

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<sup>5</sup> The CLM Act defines 'land' to include 'water on or below the surface of land and the bed of such water'.

- a regulatory instrument issued under the CLM Act, including DEC agreements issued by DEC to voluntary proposals
- the *Environmental Planning and Assessment Act 1979*, including an environmental planning instrument or development consent condition
- any other Act.

The requirements that site auditors must follow in conducting site audits and preparing site audit statements and site audit reports are outlined in Sections 2–4 of these guidelines.

#### 1.4 Role of site auditors

The services of a site auditor can be used by anyone who needs an independent and authoritative review of information relating to possible or actual contamination of a site. The review may involve independent expert technical advice or ‘sign-off’ of contaminated site assessment, remediation or validation work conducted by a contaminated site consultant.

It is imperative that a site auditor is engaged as early in the site assessment and remediation process as possible. Early communication between the land owner or developer, consultant and site auditor improves the efficiency of the audit process by ensuring all environmental issues have been addressed to the satisfaction of the auditor, in an appropriate manner and in accordance with guidelines made or approved by DEC.

However, as outlined in greater detail later in these guidelines, it is very important that an auditor’s involvement is not such that their review is effectively a review of their own work as this would compromise the independence and objectivity of the audit.

#### 1.5 Site assessment and audit process

The usual stages in the assessment, remediation and validation of a contaminated site, and in the audit of those activities, are as follows:

##### **1. Consultant is commissioned to assess contamination**

In most cases, a site owner or developer engages a contaminated site consultant to assess a site for contamination and, where required, to develop a remediation plan, implement the plan and validate the remediation.

The contaminated site consultant designs and undertakes the site assessment and, where required, all remediation and validation activities to achieve the objectives specified by the owner or developer.

Before undertaking their work, consultants should refer to the *Guidelines for Consultants Reporting on Contaminated Sites* (EPA 1997) and other relevant guidelines made or approved by DEC. The 1997 guidelines provide a brief description of the various stages of contaminated site assessment, remediation and validation, and list information that should be included in consultants' reports.

## **2. Site auditor reviews the consultant's work**

The site owner or developer commissions the site auditor to review the consultant's work. The auditor prepares a site audit report and a site audit statement at the conclusion of the review, which are given to the owner or developer.

Where the local planning authority or DEC uses its legal powers to require the carrying out of a site audit, the site owner or developer must commission a site auditor accredited under the CLM Act to perform this task. This is known as a 'statutory' audit. The CLM Act requires that an auditor must notify DEC when he or she has been commissioned by anyone other than DEC to perform a statutory site audit. The auditor is also required to furnish the local authority and DEC with a copy of the completed site audit statement.

In some cases, the site owner or developer may wish to have a site audit undertaken although it is not a legal requirement. The audit is termed 'non-statutory'. If their intention is to obtain a site audit statement, they must commission a site auditor accredited under the CLM Act to perform this task. This is because only a site auditor so accredited can issue a site audit statement and they are obliged to issue one at the end of any site audit. For non-statutory audits, the site auditor must give a copy of the site audit report to the local authority or DEC, or both, on request.

As required by the CLM Act, DEC maintains a record of all statutory site audit statements issued in relation to land that is the subject of a regulatory instrument under the CLM Act. Copies are available for public inspection through DEC's website at [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au). If the local council receives a copy of a site audit statement, it must list the statement on any certificate it issues under section 149 of the *Environmental Planning and Assessment Act 1979* in relation to the land concerned.

Section 3.2 outlines the site audit process in greater detail.

## I.6 Role of DEC

DEC is responsible for:

- establishing selection criteria and processes for accrediting competent individuals as site auditors and renewing their accreditation
- developing regulations relating to site auditors
- developing guidelines for site auditors, contaminated site consultants, local government and the community on the investigation and remediation of contaminated sites
- conducting reviews of the performance of site auditors to ensure that the required standards are maintained, and taking any necessary disciplinary action.

DEC also works with the Department of Planning in the development of land-use planning guidelines relating to contaminated sites.

## I.7 Using these guidelines

In doing audit work, including the preparation and issuing of site audit statements and site audit reports, accredited site auditors must comply with the mandatory aspects of these guidelines. The mandatory aspects are indicated throughout the guidelines as something that the auditor **'must'** do or refrain from doing. Site auditors must also be able to demonstrate to DEC's satisfaction, if required, that they have complied with these aspects. This applies to any site audit undertaken by a site auditor, whether it is a statutory or non-statutory audit.

Aspects of the guidelines that are recommendations to site auditors and not mandatory are indicated in the guidelines as something that the auditors **'should'** do or refrain from doing. Site auditors are expected to exercise their professional judgment in these areas and clearly document in the site audit report the reasoning that supports their conclusions.

## 2 ACCREDITATION AND RENEWAL OF ACCREDITATION

This section outlines the requirements that individuals must satisfy before they can be accredited as site auditors or have their accreditation renewed under the CLM Act. It also outlines some of the quality control mechanisms that are used by DEC to maintain the integrity of the scheme.

### 2.1 Application process

There are two ways to apply for accreditation as a NSW site auditor. Applications can be made under:

- the *Contaminated Land Management Act 1997*, or
- the *Mutual Recognition (New South Wales) Act 1992*.

DEC does not set a limit on the number of site auditors who can be accredited under the NSW Site Auditor Scheme at any one time.

Only individuals can be accredited as site auditors, a body corporate cannot.

Special arrangements apply where an application is made under the Mutual Recognition Act: see Appendix III. The following sections deal with applications under the CLM Act.

#### 2.1.1 Submitting an application for accreditation

DEC anticipates inviting applications for accreditation under the CLM Act at least once every two years.

Applications must be made on the form available from DEC, sent to the person and address identified in the advertisement and received by DEC with the application fee before the advertised deadline. Late applications will not be considered.

Applications will be accepted for consideration by DEC if they include:

- (a) Six copies of:
  - (i) the applicant's curriculum vitae, including full name, address, phone number, fax number, certificates evidencing professional qualifications (either the original or a certified copy of the original), employment history, and evidence of membership of any relevant professional associations in Australia
  - (ii) a statement clearly addressing all selection criteria

- (iii) contact details of two referees who are not associated with the applicant's employer, and who have direct and recent knowledge of the applicant's contaminated sites work
  - (iv) synopses of projects (listed in chronological order) in which the applicant has made a major contribution to the design, implementation, scientific analysis and reporting of contaminated site assessments, and which describe the applicant's role in the projects and their work and field activities
- (b) Two copies of each of two reports prepared by the applicant on contaminated site management and/or remediation projects which clearly demonstrate the applicant's expertise in advising on the assessment and remediation of contaminated sites and their role in undertaking the project and preparing the report. (Consent from those who commissioned the reports should be obtained before sending them to DEC which treats all reports sent to it in relation to site auditor applications as confidential and returns them to the applicant.)
- (c) A cheque for the prescribed application fee, currently \$285, made out to the Department of Environment and Conservation NSW.

DEC may seek further information from the applicant, refuse to consider an application or postpone considering an application if it considers any of the statements or information in the application to be unsatisfactory, materially false, misleading or incomplete.

### 2.1.2 Selection criteria

DEC may refuse an application for accreditation if, in its opinion, the applicant does not satisfy the requirements in these guidelines on eligibility for accreditation or for any other reason it considers sufficient. Accreditation can also be refused if within the two years preceding the application DEC revoked or refused to renew the applicant's accreditation as a site auditor.

DEC will consider the recommendations of the accreditation panel (see Section 2.1.4 below) in deciding whether to grant accreditation.

To be eligible for accreditation the applicant must demonstrate, to DEC's satisfaction, in their application and any associated examination and interview that they have:

- (a) a relevant bachelor's or higher degree from a recognised college or university



- (b) at least five years' broad experience in contaminated site assessment and remediation involving a wide range of contamination in various media, including at least two years of relevant experience in Australia and two years as a supervisor or project manager
- (c) a good understanding of:
- (i) contaminated site assessment
  - (ii) soil sampling, and soil sampling design and methodology
  - (iii) groundwater sampling, and groundwater sampling design and methodology
  - (iv) interpretation of analytical data
  - (v) quality assurance and quality control procedures
  - (vi) assessment of contaminant exposure pathways and risks
- (d) a good understanding of the impacts of contaminated sites on:
- (i) the environment
  - (ii) public health
  - (iii) worker health
- (e) a good understanding of NSW legislation relating to contaminated sites, environment protection and planning (see Appendix IX)
- (f) a good understanding of national and NSW guidelines, policies and legislation relating to contaminated sites, for example:
- *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites* (ANZECC & NHMRC 1992) and updates
  - *Australian and New Zealand Guidelines for Fresh and Marine Water Quality* (ANZECC & ARMCANZ 2000)
  - *National Environment Protection (Assessment of Site Contamination) Measure 1999* (NEPC 1999)
  - *Managing Land Contamination: Planning Guidelines* (DUAP & EPA 1998)
  - *State Environmental Planning Policy No. 55: Remediation of Land* (DUAP 1998)
  - *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-liquid Wastes* (EPA 1999)

- Chemical Control Orders (CCOs) issued by DEC under the *Environmentally Hazardous Chemicals Act 1985* (see Appendix IX)
- all contaminated sites guidelines and policies issued by DEC, including these guidelines (see Appendix IX)
- any other guidelines made or approved by DEC under the CLM Act (see Appendix X)
- relevant guidelines and monographs issued by the enHealth Council, the National Health and Medical Research Council (NHMRC) and the Environment Protection and Heritage Council
- relevant national environment protection measures (NEPMs).

(Note: This list is not exhaustive. Reference should also be made to other documents listed in Appendix XI.)

- (g) a good understanding of the methods and tools used for assessing, remediating and managing contaminated sites
- (h) access to a support team with expertise in any of the following areas in which the auditor is not expert:
  - geotechnology and hydrogeology
  - environmental and analytical chemistry
  - soil science
  - ecotoxicology and toxicology
  - contaminant fate and transport
  - exposure assessment
  - data evaluation
  - environmental sampling
  - risk evaluation
  - remedial technologies and associated requirements.

(Applicants must give details of their access to technical resources, including services and personnel in each of the above areas. Australian-based resources are preferred. All support team members must have appropriate academic qualifications and a thorough knowledge of relevant Australian guidelines and policies. Detailed curriculum vitae for all support team members, both external and internal, will be required prior to accreditation together with a consent letter from suppliers of external resources. At each renewal of accreditation, confirmation of the composition of the support

team and their willingness to continue in their role will be required. Auditors must allocate each of their support team to one or more of the specific areas of expertise listed above.)

- (i) an up-to-date knowledge of relevant scientific literature
- (j) access to an insurance policy for professional liability that will cover their site audit work (minimum \$5 million) (see Section 2.6)
- (k) proven high standards of integrity and objectivity – successful applicants will be required to complete the declaration in Appendix VIII to this effect before they receive accreditation.

### 2.1.3 Assessment of applicants

The general procedures outlined here may be varied from time to time in the light of any changes to legislation and administrative processes. Any such changes will be advised to all prospective applicants well ahead of their implementation.

All applications will be assessed against the above criteria by DEC and the accreditation panel. They will consider whether they are satisfied with the standard of an individual's application, including whether it addresses all the selection criteria. The manner in which the application does so will also be considered (for example, whether the selection criteria are clearly and directly addressed and the application is clearly expressed and logically set out). This is because clarity, logic and comprehensiveness are important qualities expected by DEC in an auditor's written work.

Individuals whose applications are considered by DEC to meet the selection criteria will generally be invited to sit a written examination. The examination will cover legislative, technical and policy aspects of contaminated site management, including, but not limited to, the following:

- regulatory requirements applicable to the assessment, remediation, validation and management of contaminated sites
- site investigation techniques
- quality assurance and quality control
- chemicals and their behaviour in the environment
- remediation techniques
- how to assess sampling data and reports
- analytical reasoning and decision-making skills.

Applicants who have demonstrated a good understanding of these aspects based on the results of the examination will generally be invited to attend an interview with the accreditation panel. The interview will typically comprise consideration and discussion of a case study. However DEC may vary the format of the examination and interview from time to time. Applicants will be advised of any changes well in advance of the examination and interview.

At the interview, the accreditation panel will consider whether an applicant:

- has the capacity to conduct a site audit in a logical and objective way
- can critically review information on contaminated site assessment and remediation
- is able to provide a clear rationale for their conclusions.

#### 2.1.4 Accreditation panel

The accreditation panel advises DEC on the suitability of applicants for accreditation. The panel is appointed by DEC and has at least four members:

- a DEC officer who chairs the panel
- a representative of community environmental groups appointed on the nomination of the Nature Conservation Council of NSW
- a representative of industry
- a representative of academia with tertiary qualifications in a discipline relevant to contaminated sites.

DEC may also appoint additional technical or policy experts to the accreditation panel. Panel members hold office for a period not exceeding five years but are eligible for re-appointment.

#### 2.1.5 Period of accreditation

Applicants granted accreditation are entitled to practise as an accredited auditor for the term specified in the notice of their accreditation. The CLM Act allows DEC to grant accreditation to auditors for any period up to three years. Newly appointed auditors are generally accredited for an initial period of one year.

## 2.2 Accreditation conditions

DEC may attach conditions to a site auditor's accreditation. Auditors must comply with all conditions of their accreditation. Failure to do so is grounds for their accreditation to be suspended, revoked or not renewed.

## 2.3 Renewal of accreditation

A site auditor's accreditation is not automatically renewed at the end of their accreditation term. Auditors must formally request renewal of their accreditation by:

- applying in writing to DEC 30–60 days before the expiry of their current term of accreditation – Applications not received within this period will not be accepted and the auditor's accreditation will automatically expire when their accreditation term ends. In this case, a new accreditation application would need to be submitted when applications are next called for.
- submitting to DEC documentation to confirm that the auditor still has access to the resources referred to in the original application for accreditation.

The *Contaminated Land Management Act 1997* sets out the grounds on which DEC may refuse to renew a site auditor's accreditation.

DEC's decision on a renewal application, including the period of any renewal, will be based principally on the results of its review of the auditor's work (see Section 2.7.1). DEC will consider whether it is satisfied with the standard of the work and whether in that work the auditor has met the requirements outlined in Sections 3 and 4 of these guidelines. DEC may also have regard to any matter that it considers relevant to the auditor's suitability for accreditation, which may extend, for example, to the auditor's conduct in carrying out other relevant professional services.

If DEC decides to renew the auditor's accreditation, the auditor must pay the accreditation fee (see Section 2.5). The auditor must also submit to DEC a copy of a current insurance certificate with a statement that the cover is sufficient to meet DEC's requirements (as outlined in Section 2.6). The policy must cover the period of accreditation and their site audit work.

Auditors will generally be given accreditation periods of longer than one year only if they satisfy DEC that they have maintained an acceptable quality of work for no less than the previous three years and have conducted enough site audits during those years to demonstrate they have maintained their understanding of relevant

technical and policy issues. In determining what is a sufficient number of audits, DEC will consider the scale, scope and complexity of the audits undertaken in the period under review.

Where the period of accreditation is to be greater than one year, DEC will still consider an auditor's insurance policy on an annual basis.

## 2.4 Changes in site auditors' circumstances

Site auditors must notify DEC within 14 days of any material changes in the circumstances of their employment, and of any other changes that could affect their eligibility for accreditation or their capacity to do site audits.

Such changes include:

- a change of employer
- a change in the membership of their support team
- a change in their insurance
- the commencement of legal or disciplinary proceedings against the site auditor in their capacity as a site auditor, a third party reviewer or an environmental consultant in NSW or any other jurisdiction.

As site auditors are accredited as individuals, a change of employer will not automatically affect an auditor's ongoing suitability to remain accredited. However if, for example, an auditor's support team is no longer available because the team members are staff of the auditor's previous employer, the auditor would need to satisfy DEC that he/she had an appropriate new support team.

## 2.5 Accreditation fee

Site auditor accreditation is subject to payment of the correct accreditation fee. The fee is prescribed in the CLM Regulation, as follows:

- Up to and including one year: \$3500
- More than one and up to and including two years: \$7000
- More than two and up to and including three years: \$10,500.

The fee for the full period of accreditation is to be paid within 30 days of the date of the notification to the auditor of their accreditation or as specified in the accreditation notice. The fee is non-refundable.

## 2.6 Insurance

Applicants for accreditation and accreditation renewal must satisfy DEC that they will have insurance cover in respect of any liability or claims for damages for professional negligence on their part arising out of site auditing activities under the CLM Act.

Insurance cover for not less than \$5 million with provision for reinstatement would generally be acceptable to DEC.

The insurance policy may be written on either an occurrence basis or a claims-made basis. However, for insurance written on a claims-made basis DEC would expect:

- the policy to have unlimited retroactivity
- the cover to be maintained in respect of the site auditor for a minimum of two years after the site auditor ceases to be accredited.

It is the auditor's responsibility to ensure that their insurance coverage meets the requirements of the CLM Act and these guidelines.

## 2.7 Quality control of the Site Auditor Scheme

DEC monitors the activities and reviews the work of site auditors on an ongoing basis to ensure that the standard of their performance is acceptable. Such routine monitoring will include reviewing site audit reports and site audit statements, examination of records held at auditor offices, discussions with auditors on audits in progress, and internal consultation. Where it is considered unacceptable, DEC may take action under the CLM Act to require improvement in particular areas of an auditor's work.

This section sets out the procedures that DEC will generally follow when, after reviewing the performance of a site auditor, it considers the auditor's performance is unacceptable. It may depart from these procedures in particular cases where it is appropriate to do so. In such cases, DEC will notify the site auditor involved of changes to the procedures.

Factors which may lead DEC to consider that a special review of an auditor's performance is warranted would include where it considers the legislation may have been breached, where the auditor is believed to have failed to adhere to guidelines, where there are perceptions of conflicts of interest, or where DEC has received complaints about an auditor's work.

### 2.7.1 Review of site auditors' work

When DEC is to specially review a site auditor's work after forming a view that the auditor's performance is not acceptable, the auditor will generally be notified in advance and told the nature of the review.

As part of the review, DEC will check whether the auditor has complied with the requirements for site auditors, including those described in Sections 3 and 4 of these guidelines.

In carrying out a review, or at any other time, DEC may use its powers under the CLM Act to:

- examine documents within the site auditor's files
- require the site auditor to provide a written explanation or other supporting evidence to justify the auditor's decisions and conclusions in a site audit
- request the site auditor to meet with DEC officers to discuss the conduct of the audit and the basis for the auditor's decisions and conclusions
- conduct an investigation (including collecting samples at a site and inspecting records, site conditions, and/or equipment) in relation to a site or a site audit
- make inquiries of administrators of site audit schemes operating elsewhere in Australia about an auditor's work under those schemes
- refer work done by the auditor to appropriate experts for independent review
- take any other action it deems necessary to determine the standard of the auditor's performance.

DEC may also refer site audit reports and statements to members of the accreditation panel for their information or review or to other experts if appropriate.

DEC will provide feedback to the site auditor on the review of their work to assist them to address any areas of concern and/or clarify DEC's expectations of the auditor.

### 2.7.2 Complaints and their resolution

If DEC receives a complaint about a site auditor's work, it may choose to review that work.

DEC will first write to the site auditor with details of the complainant's concerns and requesting the auditor to provide a written response. If the response and the outcome of any review



undertaken are acceptable to DEC, no further action will be taken. If they are not, DEC will determine the action needed to address the complainant's concerns.

In all cases, DEC will notify both the site auditor and the complainant in writing of its decision in relation to the complaint.

### 2.7.3 Disciplinary measures

Where a problem with an auditor's work is identified, DEC will advise the auditor of the problem and attempt to identify why it is occurring. It will also seek feedback from the auditor on how he/she intends to address the problem.

Where necessary, disciplinary action may be taken. This may include:

- placing conditions on the auditor's accreditation (see Section 2.2)
- issuing directions to the auditor
- suspending or revoking the auditor's accreditation
- not renewing the auditor's accreditation or renewing it for a shorter period than previously.

The nature of any disciplinary action will depend on the severity or significance of the issue identified and the auditor's previous performance.

### 2.7.4 Directions to an auditor

DEC may at any time issue directions to an auditor under the CLM Act, stating particular requirements with which the auditor must comply in conducting their site audit work.

DEC's intent in issuing these directions will generally be to focus the auditor on improving specific areas of their site audit work.

Auditors must comply with all directions issued to them under the CLM Act. Failure to do so is grounds for suspension, revocation or non-renewal of their accreditation.

### 2.7.5 Suspension, revocation or non-renewal of accreditation

The grounds for suspension, revocation or non-renewal of an auditor's accreditation are set out in the CLM Act.

Where DEC proposes to take such action, it will give the auditor notice in writing and invite them to make a written submission on why this action should not be taken within a reasonable specified time (usually 14 days).

On occasions it will be appropriate to suspend an auditor while DEC investigates performance issues.

### 3 CONDUCTING SITE AUDITS

This section outlines requirements that site auditors must comply with in undertaking site audits. In assessing auditor performance, DEC will examine whether an auditor has complied with these mandatory aspects as well as how the auditor has addressed the non-mandatory aspects.

This section also provides guidance to assist other interested parties understand the site audit process.

#### 3.1 Obligations of site auditors

In conducting their work, site auditors owe a primary duty of care to the environment and the health, safety and welfare of the people of NSW.

When carrying out their site audits, including the preparation of site audit reports and statements, site auditors must:

- maintain a high professional standard
- exercise their professional and independent judgment, applying their knowledge and skill appropriately to each audit they undertake
- be objective
- conduct the audits at arm's length from any person who engaged them to do the audit and whose work they are reviewing in the audit
- act with due care and diligence.

At the outset of an audit commission, the auditor should make themselves aware of the circumstances which triggered the need for an audit. The auditor should also ensure the client is aware of what the site audit process entails.

The site auditor must check that all relevant legal requirements applicable to the site assessment, remediation and validation work have been complied with and are considered in the site audit. Examples of the principal requirements are set out in Appendix VI, although this list is not exhaustive. All cases of apparent non-compliance (or deficiencies of information) should be reported and discussed in the site audit report.

The site auditor must meet the following particular requirements regardless of whether the audit is statutory or non-statutory:

- (a) comply with applicable provisions of the CLM Act, regulations, environmental planning instruments, and any guidelines made or

approved by DEC under the CLM Act as in force from time to time

- (b) not have a conflict of interest in relation to the audit as defined by the CLM Act
- (c) where these guidelines allow an auditor to adopt or endorse an approach that differs from policies made or approved by DEC, exercise independent professional judgment in doing so and provide in the site audit report adequate and explicit justification for taking this course
- (d) finalise the site audit report before signing the site audit statement
- (e) provide in the site audit report a clear, logical discussion of issues covered in the site audit and clearly substantiate the rationale for the auditor's conclusions
- (f) discuss in the site audit report all issues pertinent to the actual or potential contamination of the site and all issues required by these guidelines to be raised during a site audit
- (g) state clearly why any human health and environmental issues that would normally be of concern are not of concern in the case of this audit
- (h) make every reasonable effort to identify and review all relevant data, reports and other information held by the person who commissioned the site audit, or which is readily available from other sources, that provides evidence about conditions at the site which is relevant to the audit
- (i) obtain advice from the appropriate technical support team members on issues that are outside the auditor's professional education, training or experience, and document in the site audit report where and from whom advice has been obtained
- (j) exercise independent and professional judgment in deciding whether or not they have sufficient information to make a decision about the suitability of a site or a plan or to draw any other conclusion in relation to actual or potential contamination of a site in the course of a site audit, with justification for conclusions to be given in the site audit report
- (k) make reasonable endeavours to find out whether any other audits have been commissioned in relation to the site and, if so, whether any of them were terminated and why

- (l) state in the audit report the scope and findings of any previous audits
- (m) in cases where the audit involves a review of site assessment, remediation or management work, visit the site to observe and verify, as far as is practicable, the completion of this work
- (n) undertake site audits of work carried out by several different contaminated site consultancies involving a range of contamination issues to avoid a perception that their audits lack impartiality.

## 3.2 Site audit process

### 3.2.1 Stages in site assessment and remediation

A site audit is the second in two tiers of work in the site assessment and remediation process.

The **'first tier' is the work of a contaminated site consultant**, generally engaged by the site owner or developer. The contaminated site consultant designs and conducts a site assessment and any necessary remediation and validation, and documents the processes and information in reports.

The **'second tier' is the site audit** which involves a site auditor independently and at arm's length reviewing, for one of the audit purposes stated in the CLM Act, the consultant's assessment, remediation and validation plans or reports. The material outcomes of a site audit are a site audit report and site audit statement.

### 3.2.2 Independence

The integrity and rigour of the NSW Site Auditor Scheme depends on the auditor's critique of site assessment, remediation and validation work being carried out at arm's length from the people who did the work.

A site auditor must be able to demonstrate that in conducting their audits they have exercised their own professional judgment and that the opinions they express in the audit documentation have been reached independently. The auditor must be able to satisfy DEC that in forming those opinions they have not been unduly influenced by the views or actions of others, particularly those who may have an interest in the outcome of the audit.

To help ensure that an audit is conducted at arm's length, the auditor should not be engaged by the consultant whose work is to be reviewed. Such an engagement is one that might reasonably be seen

to give rise to a conflict between the site auditor's duties as a site auditor and their interests under the engagement.

Auditors must not audit first tier work if they have been involved in any aspect of that work because they would not have the necessary independence from this work.

An independent review undertaken by a consultant in his or her capacity as an accredited site auditor cannot be changed into something other than a site audit by such expedients as not issuing a site audit statement, issuing a disclaimer to the effect that 'this is not a site audit', or not complying with provisions about site audits in the CLM Act or these guidelines.

A consultant who is an accredited site auditor must ensure that their participation in any first tier work is manifestly being carried out in their capacity as a consultant. For example, any reports or correspondence produced in this work must not be signed off as an accredited site auditor for and on behalf of the consultancy.

A consultant who is also an accredited site auditor and who carries out first tier activities (for example, by being directly involved in the design, or implementation of the site assessment, its remediation or validation) is not, in carrying out those activities, conducting an independent review of the first tier work.

#### **Site auditors as expert witnesses**

The CLM Act is not intended to capture as 'site audits', situations where site auditors provide independent opinions solely for the purpose of giving evidence as expert witnesses in Court proceedings. In these circumstances, site auditors need not comply with the requirements relating to site audits in giving those opinions or that evidence. However they should, of course, exercise all due care and comply with all relevant legal requirements.

#### **3.2.3 Conflicts of interest**

The obligations of site auditors with regard to avoiding conflicts of interest are detailed in the CLM Act. In broad terms, a site auditor must not carry out a site audit of land:

- (a) if he or she is, or is related to, a person by whom any part of the land is owned or occupied
- (b) if he or she has a pecuniary interest in any part of the land or any activity carried out on any part of the land
- (c) if it involves the site auditor reviewing any aspect of work carried out by, or a report written by, the site auditor or a person to whom the site auditor is related.

The categories of persons that are considered to be related to the site auditor and the tests for pecuniary interest are set out in the CLM Act.

The responsibility to ensure that there is no conflict of interest rests with the auditor. If an auditor is uncertain whether there is a conflict, they should seek independent legal advice. DEC cannot provide that advice.

#### 3.2.4 Scope of a site audit

Depending on its purpose, a site audit determines whether, in the auditor's opinion, the consultant's work complied with relevant procedures and guidelines, whether it provides a robust basis for decisions or actions relating to the land concerned and/or whether the land is suitable for particular uses.

While a site audit must be for one or more of the purposes referred to in the CLM Act, the precise scope of work involved in the audit is usually defined by a site owner or developer. They may wish to know the current condition of the land for which they are contemplating a change in use, require an independent review of plans for assessment, investigation and/or remediation of the site, or need to know if remediation work has been completed to the level required for a particular land-use category. In some situations, local planning authorities may define or contribute to, the scope of the site audit, particularly where the outcome of the audit is intended to be used to support the development consent process.

A site audit may include, but is not limited to, review of:

- the site's history of contaminating or potentially contaminating activities
- planning of the sampling and analysis program
- sample collection and sample transport procedures
- quality control and quality assurance procedures
- chemical analyses of site samples
- impacts of chemicals and chemical mixtures on human health and the environment
- potential for off-site migration of contamination
- data collection, evaluation and interpretation
- mathematical modelling
- assessment of risk
- remedial action plans

- validation and monitoring
- conclusions and recommendations.

### 3.2.5 Procedures for statutory and non-statutory site audits

The meaning of statutory and non-statutory audits is given in Section 1.5.

#### **Statutory site audits**

For statutory site audits, a site auditor must carry out the following steps in the order indicated:

1. Notify DEC in writing within seven days of being commissioned by any person to carry out a site audit, specifying the name of the person and the location of the land concerned.
2. Prepare and finalise a site audit report.
3. After finalising the report, prepare a site audit statement using the form approved by DEC.
4. Issue the site audit report and statement to the person who commissioned the site audit.
5. Provide a copy of the site audit statement to DEC and the local authority at the same time as it is issued to the person who commissioned the site audit.
6. Submit the details of the site audit in the auditor's annual return (see Section 3.9).

#### **Non-statutory site audits**

For non-statutory site audits, steps 2–4 and 6 (above) must be followed and in the same order.

### 3.2.6 Role of support team

The role of the auditor's support team is limited to providing advice to the auditor in areas relating to the team member's expertise.

The auditor is personally responsible for undertaking the site audit and making the final decision about the audit conclusions. The auditor must critically assess the information provided by the support team when forming that decision and preparing the site audit report and site audit statement. The advice of team members should be acknowledged in the audit report.

### 3.3 Site audit report

The site audit report must be a critical review of the information gathered by consultants during the site assessment and remediation process. The site audit report must clearly set out the rationale for the auditor's findings and any conclusions that will be contained in the site audit statement. The site audit report must not be a narrative summary of the work conducted by the consultants.

The site auditor must as far as practicable, ensure that the report is a self-contained document which requires little or no direct reference by the reader to other material or documents to support the audit findings or the conclusions contained in the site audit statement.

In particular, the auditor must include in the report all of the following information or a clear and reasonable rationale for not doing so:

- (a) site location details, including maps giving details of potential receptors
- (b) site history, describing all potentially contaminating activities
- (c) a clear outline of the actual or potential contamination of the land
- (d) potential contaminants of concern from both on-site and off-site sources, listing each specific contaminant – where the auditor considers that a contaminant that would usually be expected to be of concern is not in this case, the auditor must state this and give reasons for this conclusion
- (e) soil stratigraphy and hydrogeology
- (f) a clear statement of the investigation and remediation that has taken place
- (g) evaluation of quality assurance and quality control plans, including appropriate implementation of sampling plan(s), sample handling, collection and transport processes
- (h) analytical results and an evaluation of those results
- (i) a summary of environmental quality criteria used by the auditor in assessing the reports of consultants
- (j) assessment of risks to human health, structures and the environment arising from the actual or potential contamination of land
- (k) the need for any ongoing management of residual contamination and how that management should be achieved



- (l) requirements imposed by the planning consent authority, DEC or any other public authority and documented evidence that these requirements have been met
- (m) any evidence of, or potential for, migration of contaminants from the site including odour, air quality, stormwater, sedimentation and groundwater issues – where the auditor considers that off-site migration is not a potential issue, the auditor must say this and give reasons for this conclusion
- (n) an assessment of aesthetic issues, odours and background soil concentrations where these are required by these guidelines or other guidelines made or approved by DEC
- (o) conclusions and recommendations, and details of how they have been reached
- (p) any other information relevant to the site audit, including copies of correspondence between the auditor and consultant(s) relevant to the outcome of the assessment, remediation and validation works
- (q) the auditor's opinion of the adequacy of the work of each consultant in relation to all of the above areas
- (r) documentation of all cases where the consultants have departed from applicable guidelines with appropriate comment on whether these departures are acceptable.

If requested by DEC, the site auditor must promptly submit a copy of the site audit report to DEC, together with any other related information requested by DEC.

A planning authority may also request a copy of the site audit report to assist it in decision-making or determine factual information that needs to be recorded for planning purposes.

The site auditor must prepare and finalise the site audit report before issuing the site audit statement.

### 3.4 Site audit statements

#### 3.4.1 Preparing a site audit statement

The site auditor must prepare and issue a site audit statement which is consistent with the scope of the site audit which he or she was commissioned to do. For example, if the commission was solely to review whether a remedial action plan was appropriate for its purpose, the conclusions in the site audit statement must be limited to that review.

The auditor must prepare the statement on the form approved by DEC at the time the statement is issued. This form is available on DEC's website at [www.environment.nsw.gov.au/clm/auditorscheme.htm](http://www.environment.nsw.gov.au/clm/auditorscheme.htm). The wording on the approved form must not be altered except as permitted by the instructions on the form.

To assist in describing the area which is the subject of the audit, a current map or survey plan clearly depicting the area may be attached to the site audit statement provided it is in a format that can be readily used by a planning authority and is capable of clear black and white reproduction.

If contamination is to remain on the site in a discrete area, such as in a containment cell, a surveyed plan showing the area concerned should be attached to the site audit statement.

### 3.4.2 Signing and issuing site audit statements

When signing a site audit statement, auditors are certifying that they have personally completed a site audit and have examined and are familiar with the information contained in the statement and all reports and other information referred to in the statement or report.

A site auditor must not sign a site audit statement on behalf of another auditor.

The site auditor must give a signed copy of the completed site audit statement to the person who commissioned the site audit.

For **statutory** site audits only, the auditor must also give a copy of the site audit statement to DEC and the local authority at the same time it is issued to the person who commissioned it.

The auditor must assign each site audit statement its own consecutive number and keep a copy of each statement.

### 3.4.3 Finality of site audit statements

The site auditor must not change or withdraw the site audit statement after they have signed it. It is therefore crucial that site auditors ensure the accuracy of all information contained in the site audit statement before signing it.

Should errors be found after the site audit statement has been signed, the site auditor must send a corrected version of the statement to the person who commissioned the site audit. The same site audit statement number must be retained but suffixed or prefixed with an 'R' to indicate that this is a revised statement. If it is a **statutory** site audit, copies of the revised statement must also be sent to DEC and

the local authority, within 14 days of signing, with a letter specifying what the amendments were.

Errors which may be corrected in this manner include changes which do not affect the auditor's conclusions such as typographical or formatting changes or amended property descriptors.

#### **Further remediation after a site audit statement has been issued**

In some cases after a site audit statement which certifies that a site is suitable for a particular use has been issued, further remedial work is undertaken on the site to allow a more sensitive use. A new site audit may be necessary if the planning authority requires confirmation that the new land use is suitable.

#### 3.4.4 Significant new findings

After a site audit statement has been issued, the site auditor may become aware of new information about contamination at the site that may materially affect the validity or appropriateness of the conclusions in the site audit statement or report. Such circumstances may arise, for instance, where formerly unknown and unrecorded site history information becomes available after the statement is issued. The auditor must promptly notify the client and, where the audit is statutory, DEC and the local authority.

Where an auditor is commissioned to do so, they must issue a revised site audit report and/or statement (as appropriate) to take account of this new information and issue the revised version to the client (with a different number from the original). If it was a **statutory** site audit the auditor must also send the revised site audit statement to DEC and the local authority.

The auditor must not issue the revised site audit report and/or statement without first providing to DEC written justification for issuing a revised document and receiving DEC's written approval to do so.

#### 3.4.5 Conditions included in site audit statements

Site audit statements must be issued with as few conditions as practicable, since these qualify the auditor's conclusions, and therefore detract from the definitive nature of the statement.

However, there will be some occasions when it will be appropriate for a site audit statement to contain conditions, such as a condition requiring the implementation of an environmental management plan (EMP) (see Section 3.4.6).

Where the site audit statement states that future assessment or remediation of the site is required – for example, if development is proposed on an area where contaminated soils were contained – it must also state whether the assessment or remediation should be audited by an accredited site auditor.

Where the site audit is being done as part of the planning approval process under the *Environmental Planning and Assessment Act 1979*, the method for ensuring compliance with any condition must be discussed by the auditor with the consent authority, and agreed to by the authority prior to the audit's completion.

Where compliance with a condition could only be ensured with the involvement of an authority, auditors must seek written approval from the relevant authority before issuing a site audit statement with that condition. For example, auditors must have written approval from DEC or a local council before issuing conditions that involve DEC or the local council, respectively.

Any conditions that are included in the site audit statement must also be able to be complied with by lawful means.

#### 3.4.6 Environmental management plans

Within the context of contaminated sites management, an environmental management plan (EMP, sometimes also called a 'site management plan') means a plan which addresses the integration of environmental mitigation and monitoring measures for soil and groundwater throughout an existing or proposed land use. An EMP succinctly describes the nature and location of contamination remaining on-site and states what the objectives of the plan are, how contaminants will be managed, who will be responsible for the plan's implementation and over what time frame actions specified in the plan will take place.

An EMP can be an effective means of ensuring the environment is protected, users of the site are not exposed to contamination remaining on-site and the site remains suitable for the specified use when:

- complete clean-up of contamination affecting an area is not practicable (for example low levels of contamination under a concrete slab)
- contaminants are being capped or contained on-site
- remediation is likely to cause a greater adverse impact than would occur if the site were left undisturbed.

The length and precise content of the EMP will depend on the complexity of site issues. However a short, concise EMP may be adequate to address issues at a simple site. Regardless of its length, an EMP must be a stand-alone document with enough detail and clarity in the description of the site and the actions required to be readily understood. Generally, EMPs should be prepared by an environmental consultant for review by the site auditor, rather than by the site auditor. However, where the requirements of an EMP are of a minor nature, it may be acceptable for the site auditor to prepare it.

Implementation of an EMP must not be included by a site auditor as a condition on a site audit statement nor accepted by the auditor as a means of managing contamination of a site unless the following conditions have been met.

- (a) The EMP has been reviewed by the auditor.
- (b) The EMP can reasonably be made to be legally enforceable, for example because compliance with it is a requirement of a notice under the CLM Act or of development consent conditions issued by the relevant planning authority. The relevant authority (DEC or the local council in these cases, respectively) should be asked their view on the legality of the draft EMP.
- (c) There will be appropriate public notification of any restrictions applying to the land to ensure that potential purchasers or other interested individuals are aware of the restrictions, for example appropriate notations on a planning certificate issued under section 149(2) of the *Environmental Planning and Assessment Act 1979* or a covenant registered on the title to land under section 88B of the *Conveyancing Act 1919*.
- (d) There is no off-site migration of contamination from the site which is the subject of the site audit or, where there is off-site migration or its potential, that contamination within the site is managed or monitored so that it does not present an unacceptable risk to either the on-site or off-site environments.

### 3.5 Finalising audit statements

#### 3.5.1 Site audit statement findings

Site auditors must ensure that their finding that a site is suitable for a particular use does not assume or depend on the completion of unfinished remediation work to make the land suitable for that use.

Before a site auditor certifies a site can be made suitable if remediated in accordance with a specified plan, they must be satisfied that:

- the plan takes into account the particular conditions of that site, that is it is not a generic 'off the shelf' plan
- it is feasible to implement the plan at the site at some time.

### 3.5.2 Unsatisfactory assessment, remediation or validation

Where an auditor is not satisfied with the assessment, remediation or validation of a site, or considers that the site is not suitable for the proposed land use, the auditor must discuss this with the person who commissioned the audit, before issuing the site audit statement. Where appropriate, the auditor should suggest further work that would satisfy them that the site is suitable for the proposed use. Alternatively, the auditor may suggest the development of the site for a less sensitive use.

If the site auditor decides to issue the site audit statement without further work being done, they must certify that the site is not suitable for its proposed use.

## 3.6 Progressive development of a site

### 3.6.1 Development of a site in sections or stages

Where a site is to be developed progressively, section by section, discrete site audits may be required in relation to each section. As each section is developed, the site auditor may issue a site audit statement concerning the suitability of that section for the proposed land use. The land parcel subject to the audit must be clearly identified in the site audit statement in an appropriate format for use by a planning authority, for example as a separate lot in a deposited plan, or – where it is part of a lot – depicted on a current map or survey plan attached to the statement.

The site auditor must consider the compatibility of land uses during staged developments and take reasonable steps to ensure that sections that have been certified as suitable for a proposed use are not re-contaminated by ongoing site works or adjacent contamination.

### 3.6.2 Multi-stage audits

If a site auditor is commissioned to undertake a single site audit involving a lengthy, multi-stage or multi-purpose review, the auditor

must issue a site audit statement only when the process is completed. An example would be an audit involving reviews of the adequacy of firstly the site investigation, then the remediation, followed by the validation leading to a statement about the suitability of the land use.

However the auditor may provide written interim advice on the work plans or reports in the lead-up to issuing the final site audit statement at the end of the entire audit.

When this interim advice is provided, the site auditor must:

- specify that the interim advice does not constitute a site audit report or statement
- ensure the interim advice is consistent with DEC guidelines and policy
- not pre-empt the conclusion to be drawn at the end of the site audit process
- clarify that a site audit statement will be issued at the end of the audit process
- document in the site audit report all interim advice that was given.

However, if the auditor is expressly commissioned to provide a series of site audits for certain discrete, designated stages of a project, the auditor should issue a separate site audit statement for each of those audits.

### 3.7 Other considerations for auditors

#### 3.7.1 Change of site auditor

If a site auditor is unable to proceed with or finalise an audit and another site auditor is appointed, the new auditor must undertake a full audit in relation to the site concerned. The new auditor should comment on the circumstances surrounding the change of auditor in the site audit report if it has a material bearing on the audit.

The new site auditor may refer to the work of the previous auditor. However, they must not defer to the previous auditor's judgment on any of the matters required to be considered in undertaking the audit. The new auditor must exercise their own professional judgment and make their own independent decisions about all matters that form part of the site audit report and site audit statement.

#### 3.7.2 False audits or information

Under the CLM Act it is an offence for a person to make any statement, either in connection with a site audit or a site audit

statement, that the person knows is false or misleading in a material respect. The maximum penalty for the offence for an individual is 600 penalty units or imprisonment for two years or both, and for a body corporate 1250 penalty units.

### 3.7.3 Falsely claiming to be a site auditor

It is an offence under the CLM Act for an individual to represent themselves as a site auditor accredited under the CLM Act when they are not, including while their accreditation is under suspension, or to conduct types of site audits which they are prohibited from conducting as a condition of their accreditation. It is also an offence for an auditor to allow someone else to make this sort of representation about them.

It is an offence for a body corporate to represent itself, or allow others to represent it, as an accredited site auditor.

The maximum penalty for these offences for an individual is 600 penalty units and for a body corporate 1250 penalty units.

## 3.8 Communications with DEC

### 3.8.1 Significant health or environmental problems posed by the site

Site auditors should bring to the attention of DEC any significant environmental or public health problem that the auditor considers is posed by a site being audited, as soon as practicable after the auditor becomes aware of the problem.

### 3.8.2 Premature cessation of a statutory site audit

If, after commencing a statutory site audit, the site auditor permanently stops working on the audit for any reason (for example, because they have been directed to cease work by the person who commissioned the audit), the auditor must provide DEC with the following information in writing:

- the number of the auditor's notification to DEC
- the site details
- the details of the person who commissioned the site audit (name, address, phone number)
- the reason for the audit being stopped
- the date on which the audit was stopped.

The auditor should also send this information to the relevant local authority.



### 3.9 Auditors' returns

Once a year site auditors are required to provide DEC with details of all completed statutory and non-statutory audits, as well as those in progress. The CLM Regulation currently requires this annual return covering audit activity between March of one year and the end of February the next year to be furnished by 31 March. For newly accredited auditors, it runs from the date of accreditation to the end of February. Any changes to the reporting dates in the Regulation will be notified to auditors.

In their annual return, an auditor must provide the following information for each site as prescribed by the CLM Regulation:

- the location of the site, including lot and DP numbers, street address, suburb and local government area
- the size of the site
- the site's zoning under the *Environmental Planning and Assessment Act 1979* and, if a change in zoning is proposed, its proposed zoning
- the date when the auditor was commissioned to conduct the site audit
- the date the site audit commenced
- the date by which the site audit was completed or is expected to be completed
- the land use(s) of the site that have caused the contamination for which remedial action was carried out
- the current land use of the site and any proposed land use
- the conclusions of the site audit about the suitability of the site for the current and proposed land uses
- the name of the person who did, or is doing, the remedial work that has been reviewed, or is being reviewed, and the titles of any of their reports that have been reviewed or are being reviewed.

### 3.10 Auditor meetings

DEC holds meetings with auditors as required. Auditors are given written notice of these meetings. Attendance is highly recommended. An auditor's record of attendance is taken into account when considering whether to re-accredit an auditor.

## 4 CONTAMINATION ASSESSMENT, REMEDIATION AND MANAGEMENT

This section outlines some of DEC's policies in relation to the assessment and remediation of contaminated sites and the management of any contamination remaining on-site. The policies are relevant to auditors' decision-making about (among other things):

- the quality of the data used in the assessment of contamination
- issues encountered in the investigation of contamination
- remediation activities
- land-use suitability.

Site auditors must be able to demonstrate to DEC's satisfaction that they have complied with the requirements in this section.

Where these guidelines state that a site auditor must 'check' something, for example an aspect of a consultant's work, it is also a requirement that they:

- state in the site audit report whether or not this checking has been done
- are able to provide evidence of such checking by, for instance, referring to sources
- document in the site audit report any instances where a consultant's work departs from policies or guidelines made or endorsed by DEC, together with their reasons for accepting such departures.

### 4.1 Assessing quality assurance and quality control (QA/QC)

In the course of a site audit, an auditor must ensure that the data from the site assessment is reliable and representative of the condition of the site. To achieve this objective, site auditors must check the reliability and fitness for purposes of both field sampling procedures and laboratory programs.

Appendix V contains the essential issues which must be included in the quality assurance program conducted by the contaminated site consultant during site assessment and remediation processes.

### 4.2 Assessment of site contamination

#### 4.2.1 Soil investigation levels

The decision-making process for assessing urban sites (Appendix I) aims to help site auditors satisfy themselves that soil investigation

levels (SILs) shown in Appendix II have been used appropriately by contaminated site consultants to assess concentrations of contaminants in soil. SILs are the soil concentration levels above which further investigation and evaluation are required. SILs do not take account of all possible environmental impacts, but they are intended as a practical response to contaminated site issues dealt with in the NSW urban environment. SILs include health-based investigation levels and provisional phytotoxicity-based investigation levels.

SILs do not:

- apply to land being, or proposed to be, used for agricultural purposes (consult NSW Agriculture and NSW Health for the appropriate criteria for agricultural land)
- take into account all environmental concerns, such as the potential effects on wildlife (where relevant, these would require consideration against different criteria).

The **health-based investigation levels** (HILs) shown in Appendix II and the exposure scenarios on which they are based are published in the *National Environment Protection (Assessment of Site Contamination) Measure 1999* (the NEPM) and also in the *enHealth Monographs—Soil Series*:

- *Health-based Soil Investigation Levels* (Imray & Langley 2001)
- *Exposure Scenarios and Exposure Settings* (Taylor & Langley 2001).

Site auditors should refer to these papers for information about the development of the HILs.

The phytotoxicity (toxicity to plants) of contaminants is used as the indicative environmental effect to be considered in the context of urban redevelopment. The provisional **phytotoxicity-based investigation levels** (PILs) proposed in the NEPM are single-number criteria. They should be compared against individual data points rather than contaminant concentrations averaged across a site.

These criteria are intended to be used as a screening guide. They do have significant limitations because phytotoxicity depends on soil and species parameters in ways that are not fully understood. If the soil is not sandy loam or in the pH range 6–8, other tests need to be undertaken to determine appropriate PILs. If ecotoxicity tests of site soils for plant species relevant to the proposed use of the land concerned have been undertaken, site auditors must check that the limitations of these tests have been addressed by the consultant.

The decision-making process flowchart in Appendix I describes how HILs and PILs must be applied to different proposed land uses.

### Assessment of imported fill

HILs and PILs are not appropriate criteria for assessing fill material that has been, or will be, imported to a site. Auditors must check that HILs and PILs have not been used for this purpose by consultants. Sections 4.1.1 and 4.1.2 of the *Sampling Design Guidelines* (EPA 1995b) provide advice on the validation of imported fill.

#### 4.2.2 Risk assessments

A site-specific risk assessment may have been undertaken by the contaminated site consultant where SILs are not available for particular contaminants, or assessment of contaminants against SILs at a particular site is inconclusive. The auditor must check whether the risk assessment is in accordance with the NEPM and any relevant guidelines made or approved by DEC. The auditor must also check that any human health risk assessment satisfies all the requirements in the checklist in Appendix VII.

The auditor must check that all site-specific risk assessments are scientifically valid and that the site-specific criteria recommended by the consultant are appropriate to protect public health and the environment.

#### 4.2.3 Petroleum hydrocarbons

Currently, there are no nationally endorsed human health-based investigation levels or DEC provisional phytotoxicity-based investigation levels for volatile petroleum hydrocarbons. In the interim, and subject to the case discussed below for applying NEPM criteria, site auditors must apply, without multiplication, the criteria listed in the *Guidelines for Assessing Service Station Sites* (EPA 1994) to all land uses in their assessment of consultants' work.

Auditors may apply the NEPM criteria for semi-volatile TPH fractions ( $C_{16}$ – $C_{35}$  and  $> C_{35}$ ) for soil, but they must not apply the NEPM health-based criteria unless the laboratory analysis can unequivocally differentiate between aromatic and aliphatic compounds. If this cannot be done, the  $C_{10}$ – $C_{40}$  criteria in the service station guidelines must be applied by auditors as above.

Criteria based on aesthetic considerations cannot be used as surrogates for investigation levels. The criterion of 10 mg/L for oil and grease in the explanatory notes of Table 4 of the service station guidelines is based on aesthetic (visual) issues. It is not an appropriate assessment criterion for TPHs as this criterion cannot be translated into carbon fraction ranges of TPHs, e.g.  $C_{10}$ – $C_{36}$ .

#### 4.2.4 Off-site migration of contamination

Site auditors must consider the potential for contamination to migrate from the site which is the subject of the site audit. The auditor must discuss in the site audit report evidence for the occurrence of off-site migration of contaminants and give an opinion on the impacts on likely receptors. If the auditor believes the off-site migration of contamination should be addressed to protect human health or the environment, the auditor must state this explicitly in the site audit report and in the 'comments' section of the site audit statement.

Auditors should also be aware of the potential for off-site impacts, such as air quality, odour and aesthetics, in considering the appropriateness of remediation or the suitability of a site for a specified use.

The site auditor must take all reasonable steps to advise the site owner or occupier of any potential risk of off-site migration and draw their attention to the circumstances where they may have obligations under the CLM Act.

#### 4.2.5 Assessing groundwater

##### **Groundwater assessment criteria**

Site auditors must check that the potential for groundwater contamination has been adequately assessed. This includes checking that the relevant groundwater assessment criteria have been appropriately applied and discussed in the consultant's report in accordance with relevant guidelines approved by DEC including:

- Schedule B (6) of the *National Environment Protection (Assessment of Site Contamination) Measure* (NEPC 1999)
- the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality* (ANZECC & ARMCANZ 2000) and updates
- *Guidelines for Drinking Water Quality in Australia* (NHMRC & NRMCC 2004)
- future guidance on assessing and managing groundwater contamination which is made or endorsed by DEC after publication of these guidelines.

The site auditor must state in the site audit report whether or not the most appropriate groundwater assessment criteria have been applied. If they have not, the auditor must state the reasons why this is acceptable.

**Plume delineation**

If groundwater contamination is identified, the site auditor must check that the lateral and vertical extent of the contaminant plume have been adequately delineated. Where they have not, this must be noted by the auditor in the site audit report.

**Separate phase contaminants**

Site auditors must ensure that the presence of separate phase contaminants has been adequately investigated where it is possible that separate phase may be present.

Where a site auditor concludes that separate phase contaminants are present at a site and/or there is potential for off-site migration of contaminants at a site, the auditor should take reasonable steps to bring this to the attention of the person who commissioned the site audit and indicate any potential obligation under the CLM Act to report certain contamination to DEC. Any written responses to the auditor from the person concerned should be appended to the site audit report.

**4.2.6 Assessing sediment quality**

Guidance for assessing contamination of sediments is contained in the sediment quality guidelines in the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality* (ANZECC & ARMCANZ 2000). Where assessment of sediments has been undertaken, site auditors must check that the consultant has applied these guidelines.

**4.2.7 Aesthetic issues**

The auditor must check that aesthetic issues have been considered in the assessment of contamination. Aesthetic issues include the generation of odours from the site and any discolouration of the soil as a result of contamination.

While the decision-making process for assessing urban sites (Appendix I) requires that contamination assessments address aesthetic issues, this does not extend to consideration of discolouration on commercial or industrial sites.

**4.3 Remediation of contamination****4.3.1 General considerations**

A site auditor must be satisfied that any proposed or completed remediation is technically feasible, environmentally justifiable and consistent with relevant laws, policies and guidelines. Where an

auditor is satisfied of these matters, they must document the reasoning in the site audit report.

In reviewing remediation strategies proposed by the consultant or remediation actions already taken, site auditors must have regard to:

- national and NSW remediation policies
- the *Protection of the Environment Operations Act 1997* and Regulations
- other legislation such as the *Environmentally Hazardous Chemicals Act 1985* and the *Environmental Planning and Assessment Act 1979*
- relevant technical guidance documents issued by DEC.

#### 4.3.2 Site remediation policy

The policy of the then Australian and New Zealand Environment and Conservation Council (ANZECC) and the National Health and Medical Research Council (NHMRC) on remediation of contaminated sites is published in the *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites* (ANZECC & NHMRC 1992) and is followed in NSW.

This means that soil remediation and management is implemented in the following preferred order:

1. on-site treatment of the soil so that the contaminant is either destroyed or the associated hazard is reduced to an acceptable level
2. off-site treatment of excavated soil so that the contaminant is either destroyed or the associated hazard is reduced to an acceptable level, after which the soil is returned to the site
3. removal of contaminated soil to an approved site or facility, followed where necessary by replacement with clean fill
4. consolidation and isolation of the soil on-site by containment within a properly designed barrier.

If remediation is likely to cause a greater adverse effect than leaving the site undisturbed, remediation should not proceed.

In cases where it is not viable to remediate large quantities of soil with low levels of contamination, alternative strategies should be considered or developed.

The appropriateness of any particular option will depend on a range of local factors. Where a site auditor supports, in the site audit report, any specific remediation option or options proposed by the consultant, they must clearly justify the reasons for their support in

terms of relative advantages, as well as the reasons for the rejection of particular options.

#### 4.3.3 On-site containment and capping

Site auditors must, where relevant, demonstrate in their site audit reports that they have considered the technical issues associated with on-site capping or the use of other physical barriers to contain contamination.

Such options should be considered only where other preferred approaches from the ANZECC and NHMRC remediation hierarchy, outlined in Section 4.3.2 and followed in NSW, are not applicable.

The capping and/or containment strategy must be appropriate for the contaminants of concern. Before endorsing any capping and/or containment proposal site auditors must check that it:

- maximises the long-term stability of the capping and/or containment system(s) and any proposed structures above it (from an engineering perspective) and, where applicable, minimises the potential for leachate formation and/or volatilisation
- does not include the erection of structures on the capped and/or contained area that may result in a risk of harm to public health or the environment
- recommends a notification mechanism to ensure that the capped and/or contained areas are protected from any unintentional or uncontrolled disturbance that could breach the integrity of the physical barrier, such as recommending placing a notation or covenant on the property title or a notation on a s.149 certificate or issuing a notice or placing a covenant on the title to land under the CLM Act to require maintenance of remediation action under the Act.

Refer also to Sections 3.4.5 and 3.4.6 regarding conditions placed on site audit statements and reliance on environmental management plans.

#### 4.3.4 Contamination at depth

As a general principle, contamination at a site must be remediated to meet the appropriate clean-up criteria.

Clean-up criteria for contaminated soils at depth may differ from the criteria for shallow soils due to differences in exposure opportunities. However, the inhalation of volatile contaminants and the need to protect groundwater require consideration, irrespective of depth. Where clean-up criteria for contaminated soils at depth are



different from those for shallower soils, an auditor must consider, in the site audit report, the need for any ongoing management of the contamination at depth in addition to any requirements for managing shallow soil contamination. An auditor must document in their report the rationale supporting the conclusion on this issue.

Irrespective of the depth of contamination, an auditor must not endorse any proposal to leave contamination which may pose an unacceptable human health or environmental risk *in situ* unless they have first checked that the following issues are satisfactorily addressed:

- investigation has demonstrated that the remaining contamination will not affect the groundwater quality and that any contaminant vapours will not migrate to the surface and pose a risk to human health
- an environmental management plan has been developed, will be implemented, and can be enforced under relevant laws to ensure that, if the contaminated soil is disturbed, it will be handled in an appropriate manner to avoid any increase in potential risks to human health or the environment
- the local planning authority is notified that contamination remains at depth on the site, together with its location, nature and extent, details of the environmental management plan and any other regulatory requirements that relate to the contamination, thus allowing the local authority to record this information, as it considers appropriate, in its property information system for the site, such as s.149 certificates.

#### 4.3.5 Vertical mixing or other mixing techniques

The technique of mechanically mixing the contaminated surface soil with cleaner soil found at greater depths ('vertical mixing') has been developed for use on broad-acre agricultural land where there is no readily available or economically feasible method available for remediating large quantities of soil with low levels of contamination.

Vertical mixing must only be carried out where **all** prerequisites listed in the *Guidelines for the Vertical Mixing of Soil on Former Broad-acre Agricultural Land* (EPA 1995a) are satisfied.

Where such mixing is proposed as a remedial strategy in contexts other than broad-acre agricultural land, the site auditor must not endorse the proposal unless they have first checked that DEC agrees with the proposal and the pre-requisites outlined in the vertical mixing guidelines have been met.

#### 4.3.6 Bioremediation

Where relevant, site auditors must demonstrate in their site audit reports an awareness of the issues associated with the introduction of imported organisms for bioremediation. DEC encourages the use of local species in bioremediation because this eliminates the risks associated with introducing foreign living organisms to the environment. However, where imported organisms are used, a site auditor must not endorse the use of those organisms unless they are satisfied that:

- for species imported from overseas, details of the relevant Australian Quarantine Inspection Services permit, including any conditions accompanying the permit, are contained in the consultant's report
- a certificate from a recognised laboratory identifying the species to be released is contained in the report
- an assessment of the human and animal health risks arising from the use of the imported organisms has been made and is presented in the report and these risks are acceptable
- the distribution of the organisms in Australia and the dispersal mechanisms in air, water and soil are known
- the expected survival period of the organisms in the environment and the possible consequences of the release have been assessed and are acceptable
- an estimate of the number of organisms to be released and the frequency of release has been documented
- the survival of the organism in the environment has been monitored by appropriate methodologies
- contingency measures are in place to remove or destroy the organisms if a hazard becomes evident during the course of the release.

#### 4.3.7 Contaminated wastes

When reviewing proposals or reports relating to the management of contaminated wastes, site auditors must have regard to the provisions of the NSW Government's framework for managing wastes, including:

- the *Protection of the Environment Operations Act 1997*
- the *Protection of the Environment Operations (Waste) Regulation 1996*, which contains provisions relating to the management of wastes (such as transportation, treatment and processing)

- *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-liquid Wastes* (EPA 1999), as revised from time to time
- the *Waste Avoidance and Resource Recovery Act 2001* which establishes the following hierarchy for the management of resources:
  - avoid unnecessary resource consumption
  - recover resources (including reusing, reprocessing, recycling and recovering energy)
  - disposal (as a last resort).

#### 4.3.8 Chemicals and wastes controlled by chemical control orders

The chemicals and declared chemical wastes controlled in NSW by chemical control orders (CCOs) issued by DEC under the *Environmentally Hazardous Chemicals Act 1985* are listed in Table 1.

CCOs set out requirements for manufacturing, keeping, using, processing, storing, selling, transporting or disposing of chemicals and declared chemical wastes.

**Table 1: Chemicals and declared chemical wastes controlled by chemical control orders in NSW**

Chemical or declared chemical waste	Chemical control order
Aluminium smelter wastes	Chemical Control Order in Relation to Aluminium Smelter Wastes Containing Fluoride and/or Cyanide 1986
Dioxin-contaminated wastes	Chemical Control Order in Relation to Dioxin-contaminated Wastes 1986
Organotin wastes	Organotin Waste Materials Chemical Control Order 1989
Polychlorinated biphenyls (PCBs) and PCB wastes	PCB Chemical Control Order 1997
Scheduled chemical wastes (pertaining to certain chlorinated chemicals)	Scheduled Chemical Wastes Chemical Control Order 2004

Site auditors should be aware that CCOs may be revised by DEC as part of the implementation of national management plans, and auditors must check that the requirements of the current version of the CCO have been complied with in a consultant's remediation strategy.

A site auditor must not endorse a management strategy proposed for a site which involves chemicals or chemical wastes subject to a CCO, unless they are satisfied it complies with the requirements set down in the CCO. For example, certain chemicals occurring above the prescribed concentrations are prohibited from being disposed of at any landfill.

There is a program of national management plans for Schedule X wastes (ANZECC 1994). Schedule X wastes are those associated with:

- hexachlorobenzene (HCB) (ANZECC 1996a)
- polychlorinated biphenyls (PCBs) (ANZECC 1996b)
- organochlorine pesticides (OCPs) (ANZECC 1999).

The national management plans set time lines for the destruction and disposal of Schedule X wastes. The relevant authorities implement the regulatory aspects of those plans.

#### 4.3.9 Asbestos and asbestos waste

There are currently no national or DEC-endorsed guidelines relating to human health or environmental investigation of material containing asbestos on sites.

Until such guidelines become available, auditors must exercise their professional judgment when assessing whether a site is suitable for a specific use in the light of evidence that asbestos may be a contaminant of concern. NSW Health will provide advice to auditors on this subject on a case-by-case basis where appropriate.

There are particular requirements for asbestos waste in the Protection of the Environment Operations (Waste) Regulation 1996. Auditors must check that documentation is produced for the disposal of asbestos at appropriate waste facilities in accordance with the Regulation. The Asbestos Wastes Chemical Control Order 1989 has been repealed.

#### 4.3.10 Unexploded ordnance

A site containing unexploded ordnance (UXO) represents a safety hazard and must only be assessed by someone qualified to manage UXO safely. Where it is not within an auditor's area of expertise to assess whether a site is safe or whether there has been an appropriate level of site investigation, an auditor must obtain advice from someone qualified to draw conclusions on the presence of UXO or future likelihood of finding it on the site.

Where an auditor suspects that a site may contain ordnance, they should be satisfied that appropriate searches have been undertaken to ensure that the site's history has been adequately assessed. The Land Titles Office holds records of lands affected by military activities. These records must be searched before the Department of Defence will provide additional details about the site.

The Department of Defence is able to advise on suitably qualified experts who can assess the presence of UXO on the site. The expert should also be able to assess the risk of future finds and develop a management plan for addressing any risks associated with them.

#### 4.3.II Groundwater clean-up and management

##### **Source removal**

Site auditors must check that all primary sources of groundwater contamination, such as leaking infrastructure, and secondary sources, such as non-aqueous phase liquids and adsorbed phase product, have been removed or otherwise addressed appropriately.

If a source cannot be removed, the auditor must clearly state in the site audit report the reasons why and also the implications that this has for groundwater quality.

##### **Impacts of groundwater contamination**

If groundwater beneath a site is contaminated, the site auditor should ensure that the investigation and remediation reports have adequately considered:

- the nature and extent of contamination including:
  - the toxicity effects of the contaminants
  - all potential contaminant transport pathways
  - all potential biotic and abiotic receptors
- the risks which the contamination may be posing to human health and the environment.

If the auditor concludes that groundwater contamination may be having an impact on human health or the environment by moving off-site:

- this should be specifically discussed in the site audit report and noted on the site audit statement
- the auditor must take reasonable steps clearly and in writing to advise the person who commissioned the site audit of the duty of site owners and polluters to notify DEC of contamination under the CLM Act.

If a proposal to remediate groundwater is reviewed as part of a site audit, in the site audit report the auditor should comment on:

- the adequacy of the data available to support the proposed remedial design
- whether the remediation proposal has examined in detail the adequacy and practicability of other remedial options, not just the preferred option
- the technical feasibility of the proposed remediation in being able to meet the remediation objectives
- the likely time frame for remediation
- the monitoring requirements
- validation requirements.

#### **Monitored natural attenuation (MNA)**

DEC's policy is that a natural attenuation proposal must be accompanied by an appropriate monitoring program. MNA should only be considered as a remediation methodology where the following conditions are met:

- the source of the contamination has been removed as far as practicable
- the lateral and vertical extent of the contamination has been defined
- the site and hydrogeology have been adequately characterised, and there is clear evidence that attenuation rates are sufficient to achieve the remedial goals at the site within a reasonable time frame
- the effects of the products of degradation have been considered.

Where MNA is proposed as part of an overall remedial strategy for ongoing management of groundwater contamination, the site auditor must assess whether or not the appropriateness of using MNA has been comprehensively examined by the proponent in the remedial action plan and whether the proponent's conclusions are appropriate.

A proposal for MNA at a site must demonstrate an understanding of the particular attenuation processes relevant to the contaminants of concern under the conditions at the site. MNA proposals must be supported by sufficient and appropriate field data and an ongoing monitoring program.

The auditor's role is to critically review the evidence presented by the MNA proposal and assess whether it is adequate to demonstrate

that natural attenuation is occurring, that remedial goals are capable of being met in an adequate time frame, and that the proposed monitoring program is suitable.

#### 4.4 Evaluating land-use suitability

##### 4.4.1 Decision-making process

In assessing the suitability of a site for an existing or proposed land use in an urban context, site auditors must follow the decision-making process for assessing urban redevelopment sites, as presented in Appendix I.

Where more than one land use is proposed for the site to which the audit relates (for example, commercial land use at the base of a building and residential upstairs), an auditor's assessment of the suitability of the site must be related to the more sensitive of the proposed land uses (see Appendix II).

##### 4.4.2 Assessing land-use suitability where groundwater contamination is present

Where groundwater contamination is present, an auditor must discuss its impact on the suitability of the site for a proposed use in the site audit report. This applies equally to contamination originating from the site and contamination sourced off-site.

Where groundwater contamination under a site poses an unacceptable risk to users of the site for a proposed use, an auditor must indicate in the site audit statement that the site is unsuitable for that use.

Where groundwater contamination is present under a site but does not or is unlikely to make the site unsuitable for use because it does not pose an unacceptable risk to users of the site, an auditor may issue a site audit statement certifying that the land is suitable for a specific use despite the contamination, provided:

- the auditor has advised the person who commissioned the site audit in writing that groundwater contamination is present
- a copy of the advice to the person who commissioned the audit is appended to the site audit report and is also noted or summarised in the site audit statement
- the auditor has discussed with DEC whether any remediation may be required to address potential risks to off-site receptors and, if so, what regulatory mechanism may be required for this further work.

The auditor should explain that if future remediation is required this could interfere with activities on the site while remediation is carried out. The auditor should take reasonable steps to draw attention to any duty to report contamination under the CLM Act (see Section 4.2.5).

**Impacts on buildings and structures**

Where a site auditor considers that building structures on the site may be affected by the presence of contaminants in groundwater, they should recommend in the site audit report that specialist advice on possible impacts on structures is obtained.



## REFERENCES

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ANZECC 1996b, *Polychlorinated Biphenyls Waste Management Plan*, Australian and New Zealand Environment and Conservation Council, Canberra

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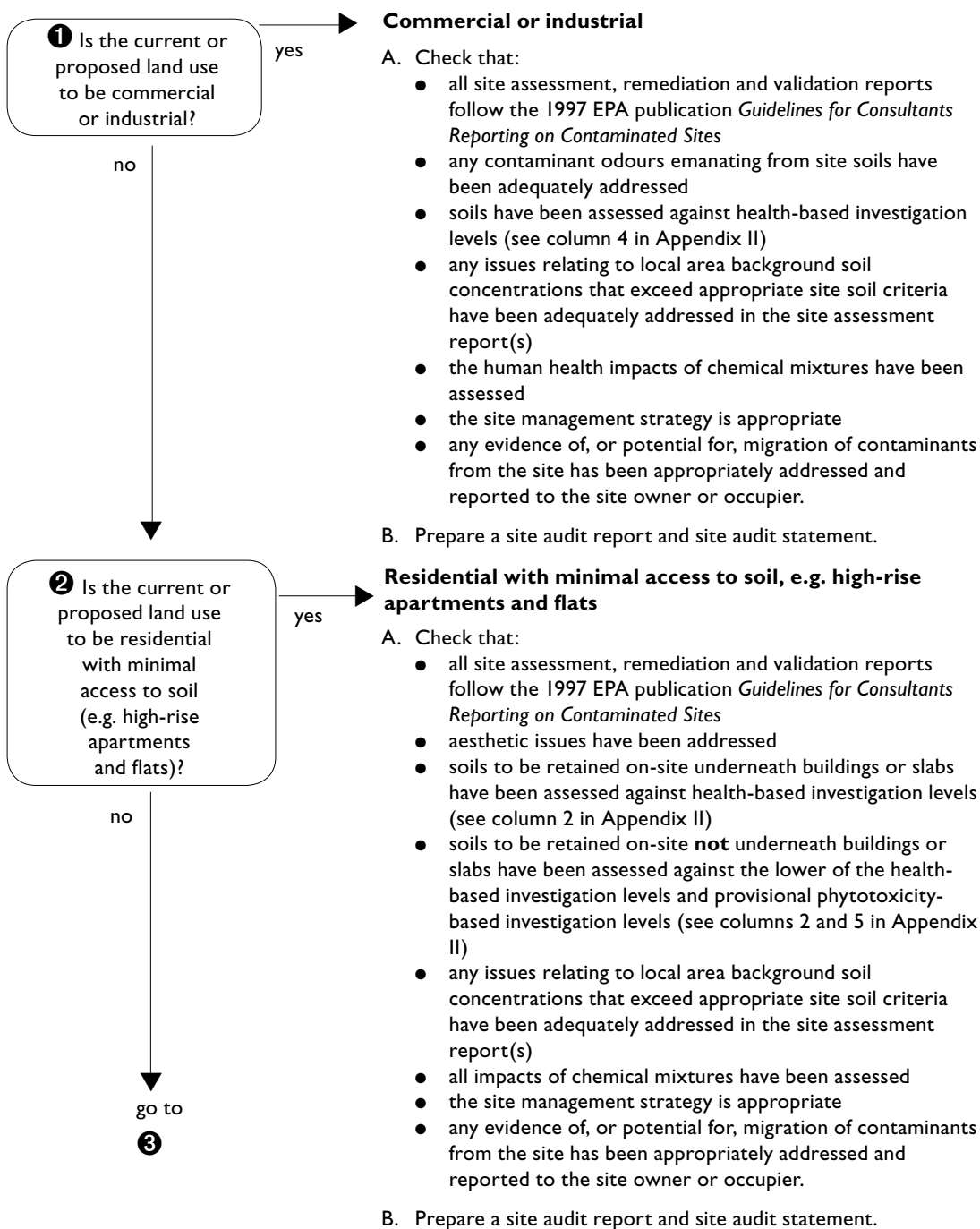
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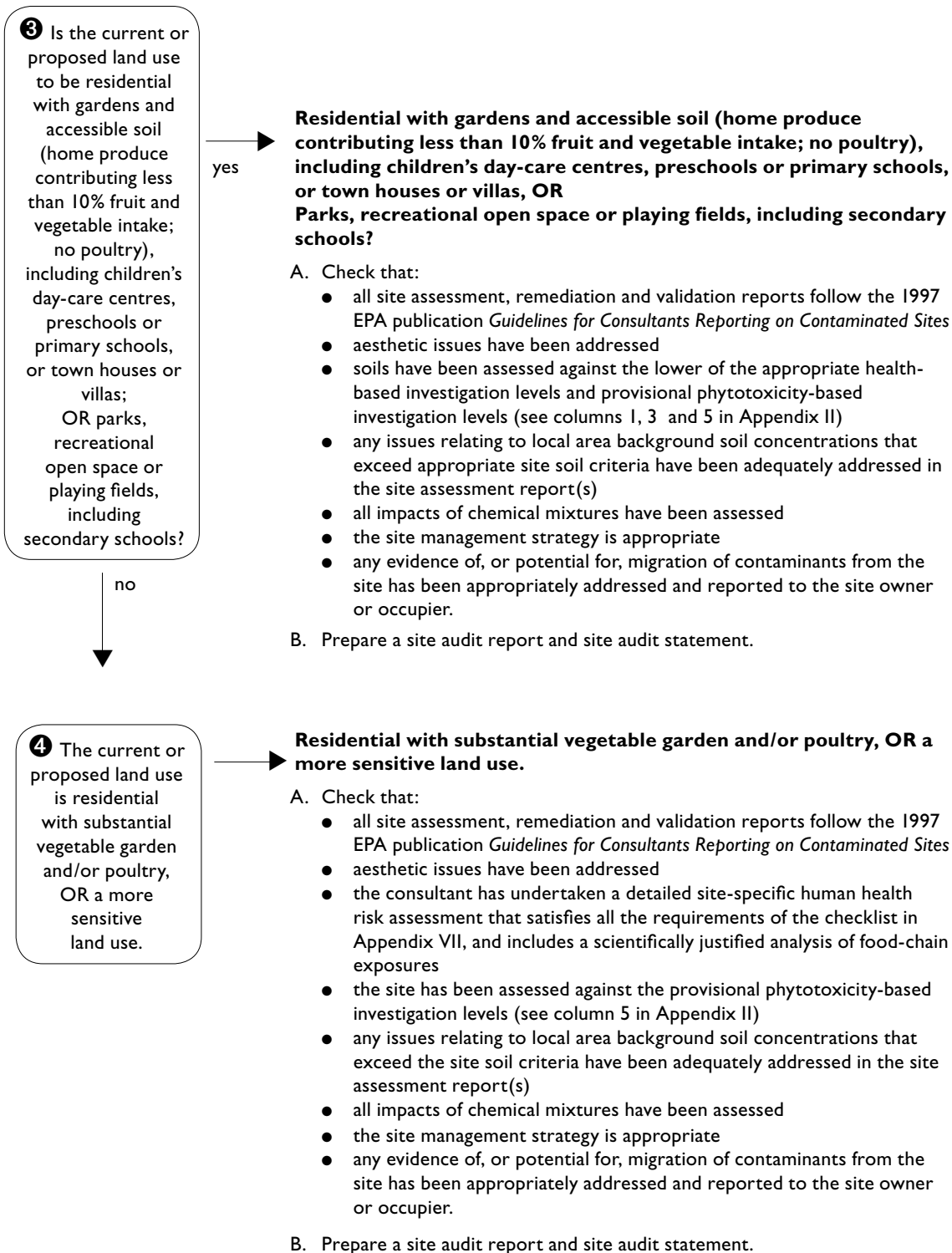
NHMRC & NRMCMC 2004, *Guidelines for Drinking Water Quality in Australia*, National Health and Medical Research Council and Natural Resource Management Ministerial Council, Canberra

Taylor, R. & Langley, A. 2001, *Exposure Scenarios and Exposure Settings*, enHealth Council, Soil Series No. 2, 3rd edition, Canberra

## APPENDIX I: Decision-making process for assessing urban redevelopment sites

Note: Where SILs are not available, or assessment against them is inconclusive for the site, and either an abridged or detailed human health site-specific risk assessment has been undertaken, check that all the requirements of the checklist in Appendix VII are satisfied.





## APPENDIX II

## Soil investigation levels for urban development sites in NSW

Substance	Health-based investigation levels <sup>1</sup> (mg/kg)				Provisional phytotoxicity-based investigation levels <sup>2</sup> (mg/kg)
	Residential with gardens and accessible soil (home-grown produce contributing < 10% fruit and vegetable intake; no poultry), including children's day-care centres, preschools, primary schools, townhouses, villas (NEHF A) <sup>3</sup>	Residential with minimal access to soil including high-rise apartments and flats (NEHF D)	Parks, recreational open space, playing fields including secondary schools (NEHF E)	Commercial or industrial (NEHF F)	
	Column 1	Column 2	Column 3	Column 4	Column 5
<b>Metals and metalloids</b>					
Arsenic (total)	100	400	200	500	20
Beryllium	20	80	40	100	–
Cadmium	20	80	40	100	3
Chromium (III) <sup>4</sup>	12%	48%	24%	60%	400
Chromium (VI)	100	400	200	500	1
Cobalt	100	400	200	500	–
Copper	1,000	4,000	2,000	5,000	100
Lead	300	1,200	600	1,500	600
Manganese	1,500	6,000	3,000	7,500	500
Methyl mercury	10	40	20	50	–
Mercury (inorganic)	15	60	30	75	1 <sup>5</sup>
Nickel	600	2,400	600	3,000	60
Zinc	7,000	28,000	14,000	35,000	200
<b>Organics</b>					
Aldrin + dieldrin	10	40	20	50	–
Chlordane	50	200	100	250	–
DDT + DDD + DDE	200	800	400	1,000	–
Heptachlor	10	40	20	50	–
PAHs (total)	20	80	40	100	–
Benzo(a)pyrene	1	4	2	5	–
Phenol <sup>6</sup>	8,500	34,000	17,000	42,500	–
PCBs (total)	10	40	20	50	–
<b>Petroleum hydrocarbon components<sup>7</sup></b>					
> C16–C35 (aromatics)	90	360	180	450	–
> C16–C35	5,600	22,400	11,200	28,000	–
> C35 (aliphatics)	56,000	224,000	112,000	280,000	–
<b>Other</b>					
Boron	3,000	12,000	6,000	15,000	– <sup>8</sup>
Cyanides (complex)	500	2,000	1,000	2,500	–
Cyanides (free)	250	1,000	500	1,250	–

- 1 The limitations of health-based soil investigation levels are discussed in Schedule B(1) Guidelines on the Investigation Levels for Soil and Groundwater and Schedule B(7a) Guidelines on Health-based Investigation Levels, *National Environment Protection (Assessment of Site Contamination) Measure 1999* (NEPC 1999)
- 2 The provisional phytotoxicity-based investigation levels proposed in this document are single number criteria. Their use has significant limitations because phytotoxicity depends on soil and species parameters in ways that are not fully understood. They are intended for use as a screening guide and may be assumed to apply to sandy loam soils or soils of a closely similar texture for pH 6–8.
- 3 National Environmental Health Forum (NEHF) is now known as enHealth.
- 4 Soil discolouration may occur at these concentrations.
- 5 Total mercury
- 6 Odours may occur at these concentrations.
- 7 The carbon number is an 'equivalent carbon number' based on a method that standardises according to boiling point. It is a method used by some analytical laboratories to report carbon numbers for chemicals evaluated on a boiling point GC column.
- 8 Boron is phytotoxic at low concentrations. A provisional phytotoxicity-based investigation level is not yet available.

**Notes:**

This table is adapted from Table 5-A in Schedule B(1): Guidelines on Investigation Levels for Soil and Groundwater to the *National Environment Protection (Assessment of Site Contamination) Measure 1999* (NEPC 1999).

Soil investigation levels (SILs) may not be appropriate for the protection of ground water and surface water. They also do not apply to land being, or proposed to be, used for agricultural purposes. (Consult NSW Agriculture and NSW Health for the appropriate criteria for agricultural land.)

SILs do not take into account all environmental concerns (for example, the potential effects on wildlife). Where relevant, these would require further consideration.

Impacts of contaminants on building structures should also be considered.

For assessment of hydrocarbon contamination for residential land use, refer to the *Guidelines for Assessing Service Station Sites* (EPA 1994).

## APPENDIX III

### Recognition of applicants under other schemes under the Mutual Recognition (New South Wales) Act 1992

#### Mutual recognition provisions and process

Part 3 of the Schedule to the *Mutual Recognition (New South Wales) Act 1992* applies the principle of mutual recognition to occupations. It deals with the ability of a person who is registered in connection with an occupation in one Australian State to carry on an equivalent occupation in another State.<sup>6</sup> Registration includes accreditation.

The mutual recognition principle is that, subject to the provisions of Part 3 of the Mutual Recognition Act, if an individual is registered for an occupation in the first State, after notifying the local registration authority for the equivalent occupation in the second State, they are entitled:

- to be registered for the equivalent occupation in the second State
- pending their registration, to carry on the equivalent occupation in the second State.

Auditors registered/accredited in another State who wish to be accredited in NSW under the mutual recognition principle must lodge a written notice with DEC. The notice must:

- state that they are registered for the occupation in another State and specify that State
- state the occupation for which they are seeking accreditation and that they are seeking it in accordance with the mutual recognition principle
- specify all the States in which they have substantive accreditation for the equivalent occupation
- state that they are not the subject of disciplinary proceedings in any State (including any preliminary investigations or action that might lead to disciplinary proceedings) in relation to that occupation
- state that their accreditation in any State is not cancelled or currently suspended as a result of disciplinary action
- state that they are not otherwise prohibited from carrying on any such occupation in any State, and are not subject to any special

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<sup>6</sup> All references to a 'State' should also be read as including the Australian Capital Territory and the Northern Territory.

conditions in carrying on that occupation, as a result of criminal, civil or disciplinary proceedings in any State

- specify any special conditions to which they are subject in carrying on any such occupation in any State
- give consent to the making of inquiries of, and the exchange of information with, the authorities of any State regarding their activities in the relevant occupation or occupations or otherwise regarding matters relevant to the notice.

The notice must be accompanied by a document that is either the original or a copy of the instrument evidencing the existing registration in the other State (or if there is no such instrument, by sufficient information to identify them and their registration).

The notice must certify that the accompanying document evidencing the person's existing registration is the original or a complete and accurate copy of the original. The statements and other information in the notice must be verified by a statutory declaration.

DEC may permit the notice to be amended after it is lodged.

DEC must either grant, postpone or refuse to grant accreditation within one month of the notice being lodged with it. When granted, accreditation takes effect from the date of the lodgement.

If DEC fails to grant, postpone or refuse accreditation within one month, the person concerned is entitled to accreditation immediately at the end of that period, and no objection may be taken to the notice on any of the grounds on which accreditation may be refused or postponed, except where fraud is involved.

Prior to being accredited, applicants must pay the appropriate accreditation fee.

Once accredited in NSW, an auditor's entitlement to accreditation continues, whether or not their accreditation continues in the other State. However, if accreditation in one State is cancelled or suspended or is subject to a condition on disciplinary grounds, or as a result of or in anticipation of criminal, civil or disciplinary proceedings, then accreditation in the other State is affected in the same way. The authority in the other State can choose to reinstate the auditor or waive the conditions.

DEC may impose conditions on accreditation, but may not impose conditions that are more onerous than would be imposed in similar circumstances (having regard to relevant qualifications and experience) if the accreditation were granted under the *Contaminated Land Management Act 1997* instead of Part 3 of the Mutual



Recognition Act. This is subject to the proviso that DEC may attach the conditions that apply to the accreditation in the other State or that are necessary to achieve equivalence of occupations.

Once an individual is registered in NSW through mutual recognition, continuance of registration is subject to the laws of NSW.

#### Postponement of accreditation

DEC may postpone the granting of accreditation if:

- any of the statements or information in the notice as required under the Mutual Recognition Act is materially false or misleading, or
- any document or information that must accompany the notice has not been provided or is materially false or misleading, or
- an auditor's circumstances have materially changed since the date of the notice or the date on which they lodged the notice, or
- DEC decides that the occupation in which they are seeking accreditation is not an equivalent occupation.

If DEC postpones the granting of accreditation, it may subsequently either grant accreditation or refuse to grant it, provided that the postponement is for not longer than six months. At the end of this period, unless registration has been refused, auditors are entitled to be accredited immediately.

#### Refusal of accreditation

DEC may refuse accreditation if:

- any of the statements or information given in the notice is materially false or misleading, or
- any document or information that must accompany the notice has not been provided or is materially false or misleading, or
- DEC decides that the occupation in which accreditation is being sought is not an equivalent occupation, and equivalence cannot be achieved by imposing conditions.

If DEC refuses accreditation on the last ground above, that decision takes effect at the end of a specified period (not less than two weeks) after an auditor is notified of the decision, unless in the meantime the decision is revoked or they make an application for review of decision under the provisions of the Mutual Recognition Act. If they apply for review, the review body (the Administrative Appeals Tribunal) can make whatever orders it considers appropriate.

### Deemed accreditation

The mutual recognition principle includes provision that once a person seeking accreditation as a site auditor in NSW under the Mutual Recognition Act has notified DEC in accordance with the requirements of the Act, that person is entitled to carry on that occupation pending notice of DEC's decision. This is called 'deemed accreditation'. Note, however, that deemed accreditation in one State cannot itself provide the basis for accreditation or registration in another State.

If an auditor has deemed accreditation in NSW, that deemed accreditation ceases if:

- they are granted substantive accreditation in NSW, or
- DEC refuses to grant substantive accreditation (subject to determination of any application for review of that decision), or
- they cease to be registered in every other State on the basis of which the notice seeking accreditation in NSW has been lodged, or
- they request cancellation.

Deemed accreditation is not affected if DEC decides to postpone the grant of substantive accreditation.

If an auditor has deemed accreditation in NSW, they may carry on the activities of a site auditor, but only:

- within the limits of their registration/accreditation in another State, and subject to any conditions that apply to it in that State (unless DEC in NSW has waived those conditions)
- within the limits conferred by the deemed accreditation in NSW and subject to any conditions that DEC imposes on that deemed accreditation.

Note that, so far as deemed accreditation in NSW is concerned, DEC has the power to waive any conditions that apply to a registration/accreditation in another State.

However, DEC may impose conditions on deemed accreditation in NSW, provided those conditions are not more onerous than those that would be imposed in similar circumstances (having regard to relevant qualifications and experience) if the accreditation were effected under the *Contaminated Land Management Act 1997*. This is subject to the proviso that DEC may attach conditions that apply to the accreditation in another State or that are necessary to achieve equivalence of occupations.

Note also that DEC imposes the following conditions on deemed accreditation in NSW:

- the site auditor must comply with insurance requirements specified by DEC, which are designed to protect the public, clients, customers or others
- the site auditor is subject to any disciplinary provisions and arrangements that apply to accredited site auditors
- the site auditor complies with all laws of NSW that apply to accredited site auditors.

## APPENDIX IV

### Data quality objectives: Outline of the DQO process

The Data Quality Objectives (DQOs) process is used to define the type, quantity and quality of data needed to support decisions relating to the environmental condition of a site. It provides a systematic approach for defining the criteria that a data collection design should satisfy, including when, where and how to collect samples or measurements; determination of tolerable decision error rates; and the number of samples or measurements that should be collected.

DQOs must be adopted for all assessment and remediation programs. Site auditors must check that the consultant has properly addressed and adopted DQOs for the investigation or validation program and that the consultant's report includes the following:

- a statement of pre-determined DQOs for field and laboratory procedures, including quantitative DQOs
- a plan to achieve pre-determined DQOs
- procedures to be undertaken if the data does not meet the expected DQOs.

The US Environmental Protection Agency (USEPA) describes the DQO process as a seven-step iterative planning approach used to prepare plans for environmental data collection and is summarised below.

For more details about DQOs and the DQO process, refer to the USEPA 2000 documents *Guidance for the Data Quality Objective Process* and *Data Quality Objectives Process for Hazardous Waste Site Investigations*.

#### Timing

The timing for the various stages of the project must be clearly understood by all parties prior to commencing any work on the project.

The DQO process must be commenced before any investigative work begins on the project.

#### Step I: State the problem

##### **Purpose**

Summarise the contamination problem that will require new environmental data, and identify the resources available to resolve the problem; develop a conceptual site model

### Matters considered in this step

- The objective (purpose) of the proposed investigation (the ability to meet objectives may be limited by constraints such as time, resources, money, climatic conditions, access restrictions)
- A problem statement: a brief summary of the contamination issue(s) at the site that are to be addressed in the project
- The reason the project is being undertaken
- Identify the project team and technical support experts, such as field manager, field personnel, toxicologists, risk assessors, statisticians, etc.
- Other matters such as the budget and community concern issues which may also be factors in designing and carrying out the environmental assessment
- Identification of the regulatory authority(ies) and the local government area

### Expected outputs

- A concise description of the problem
- A list of the planning team members and identification of decision-maker
- A summary of available resources and relevant deadlines for the study
- A conceptual model of the site based on available information prior to the commencement of the site investigation covering:
  - previous investigations
  - historical uses of the site
  - geology, hydrogeology
  - present and past use(s) of adjacent sites
  - chemicals of concern
  - potential contaminant migration pathways both to and from the site (waterways, drains, service conduits)
  - areas of environmental concern (drawings showing chemical storage, use, disposal)
  - media in which chemicals of concern may be present and through which they may migrate (habitat(s) of contamination, lateral, depth extent, temporal, climatic variability)

- potential exposure pathways to human and/or environmental receptors
- clean-up concerns
- future land uses.

The conceptual model of contamination on each segment of the site is proposed as early as possible and progressively refined through all stages of the investigation.

## Step 2: Identify the decisions

### **Purpose**

Identify the decisions that need to be made on the contamination problem and the new environmental data required to make them

This step identifies the objective(s) of the data collection part of the investigation by:

- referring to the history of use of the site, chemicals of concern and likely concentration ranges, media that may be impacted and likely migration routes, such as groundwater, surface water flow, wind, service trenches
- considering relevant site criteria for each medium (fill, soil, sediment, groundwater, surface water, air)
- making a series of decision statements that need to be addressed (for example a decision statement could consider whether parts of the site would be suitable for a proposed use if the 95% UCL on the mean concentrations for all chemicals of potential concern were less than the site criteria)

### **Expected outputs**

A decision statement that links the principal study question to possible actions that will solve the problem

### **Refining the model**

Review the existing conceptual model to determine whether existing data is satisfactory for the investigation or whether data gaps or uncertainty exist

## Step 3: Identify inputs to decision

### **Purpose**

Identify the information needed to support any decision and specify which inputs require new environmental measurements

Decisions made during this step are of a 'draft' or preliminary nature and are reviewed in Step 7 to derive the optimal design for the Sampling Analytical and Quality Plan.

**Expected outputs**

- A list of informational inputs needed to resolve the decision statement
- A list of environmental variables or characteristics that will be measured
- The information required to allow informed, defensible decisions to be made and decisions that need to be made to resolve decision statements
- Identification of the media, such as fill, soil, groundwater, sediments, surface water and air, that need to be collected
- Identification of the site criteria for each medium of concern
- Identification of the analytical methods that are required for chemicals of potential concern so that assessment can be made relative to the site criteria
- Defining the basis for any decisions that are to be made from field screening, such as from PID data, what action to be taken if a defined concentration is attained
- A list of additional information required to make decisions

Step 4: Define the study boundaries

**Purpose**

Specify the spatial and temporal aspects of the environmental media that the data must represent to support decision

**Matters considered in this step**

- The geographical extent of the proposed investigation, time and budget constraints
- The boundaries may be both spatial (property boundaries, accessibility to parts of the site, potential exposure areas) or temporal (the time frame of the investigation taking into account seasonal conditions, presence of near-surface groundwater or surface water and discharges, access restrictions, availability of key personnel)
- Definitions of the segments of the site that are required to be investigated (consider the use proposed for the site which will influence required sample density, NSW DEC guidelines, etc.)

- Divide the site into strata in which contamination distribution is believed to be uniformly distributed
- Consider the scale of required decisions: site-wide, each residential lot, etc.
- Consider the presence of heterogeneous materials that require special sampling methods
- Identify potential constraints to carrying out the investigation, such as access, health and safety issues

**Expected outputs**

- A detailed description of the spatial and temporal boundaries of the problem
- Any practical constraints that may interfere with the study

**Step 5: Develop a decision rule****Purpose**

To define the parameter of interest, specify the action level, and integrate previous DQO outputs into a single statement that describes a logical basis for choosing from alternative actions

**Matters considered in this step**

Defining acceptable limits for:

- Chemicals of concern detected in field blanks, rinsate blanks, volatile-spiked trip samples, laboratory method blanks
- Recovery of matrix spike additions, surrogate spike additions, laboratory control samples
- RPDs of matrix spike and matrix spike duplicates.

**Expected outputs**

- The statistical parameter (the parameter of interest) that characterises the population
- Confirmation that the action level exceeds measurement detection limits
- An 'if . . . , then . . .' statement that defines the conditions that would cause a decision-maker to choose from alternative actions



## Step 6: Specify limits on decision errors

### **Purpose**

Specify the decision-maker's acceptable limits on decision errors, which are used to establish performance goals for limiting uncertainties in the data (for more on decision errors, see note below)

### **Matters considered in this step**

- Determine the possible range of the parameter of interest
- Identify the decision errors and choose the null hypothesis
- Specify a range of possible parameter values where the consequences of decision errors are relatively minor
- Assign probability values to points above and below the action level that reflect the tolerable probability for the occurrence of decision errors.

### **Expected outputs**

Decision-maker's tolerable decision error rates based on a consideration of the consequences of making an incorrect decision

## Step 7: Optimise the design for obtaining data

### **Purpose**

Identify the most resource-effective sampling and analysis design for general data that are expected to satisfy the DQOs

### **Expected outputs**

- The most resource-effective design for the study that is expected to achieve the DQOs
- The optimum manner in which to collect the data required to meet the objectives for the assessment and which will meet the project DQOs
- Development of the sampling analytical and quality plan (SAQP) (see Appendix V).

## Note on decision errors

These are incorrect decisions caused by using data that is not representative of site conditions because of sampling or analytical error, that is used to decide that site clean-up is not needed when it really is, or *vice versa*.

Decision errors are of two types:

- **Sampling errors** which occur when the sampling program does not adequately detect the variability of a contaminant from point to point across the site, that is the samples collected are not representative of the site conditions (for example, an appropriate number of representative samples must be collected from each stratum to account for estimated variability).
- **Measurement errors** which occur during sample collection, handling, preparation, analysis and data reduction.

The combination of the above errors is referred to as 'total study error'. This directly affects the probability of making decision errors. Study error is managed through the correct choice of sample design and measurement systems.

Attainment of a nominated probability generally requires use of a statistically based sampling plan.

### **Decision-making**

The possibility of making a decision error, although small, is undesirable because of the adverse consequences arising from that incorrect decision. It can be controlled through the use of hypothesis testing. This test can be used to show either that the baseline condition is false (and therefore the alternative condition is true) or that there is insufficient evidence to indicate that the baseline condition is false (and therefore the site manager decides by default that the baseline condition is true). The burden of proof is placed on rejecting the baseline condition, because the test hypothesis structure maintains the baseline condition as being true until overwhelming evidence is presented to indicate that the baseline condition is not true.

### **Null hypothesis**

This is an assumption assumed to be true in the absence of contrary evidence, for example the site is dirty unless proved to be clean.

If we reject a hypothesis when it should be accepted, we say that a **type I error** has been made. If, on the other hand, we accept a hypothesis when it should be rejected, we say that a **type II error** has been made. In either case, a wrong decision or error in judgment has occurred.

- **Type I error (false positive decision error)** – Rejecting the hypothesis as false when it is really true
- **Type II error (false negative decision error)** – Accepting the hypothesis as true when it is really false

In order for decision rules (or tests of hypotheses) to be sound, they must be designed to minimise errors of decision. This is not always simple, as for any given sample size, an attempt to decrease one type of error is generally accompanied by an increase in the other type of error. The only way to reduce both types of error is to increase the sample size, which may or may not be always possible.

**Level of significance**

In testing a given hypothesis, the maximum probability with which we would be willing to risk a Type I error is referred to as the 'level of significance' or significance level of test. A significance level of 0.05 or 0.01 is customary, although other values are used. If for example the 0.05 (or 5%) significance level is chosen in designating a decision rule, there are about 5 chances in 100 that we would reject the hypothesis when it should be accepted; that is we are about 95% confident that we have made the right decision. In such cases we say that the hypothesis has been rejected at the 0.05 significance level, which means that the hypothesis has a 0.05 probability of being wrong.

As a general rule, 95% confidence is used for sensitive land use, but 90% may be acceptable for non-sensitive land uses.

## APPENDIX V

### Quality assurance and quality control

#### Assessment of reliability of field procedures and laboratory results

Site auditors must ensure that an assessment of the reliability of field procedures and analytical results has been undertaken by the consultant by using the Data Quality Indicators (DQI) (precision, accuracy, representativeness, completeness and comparability).

DQI are used to document and quantify compliance, or otherwise, with the requirements of the project Sampling, Analytical and Quality Plan (SAQP).

#### QA/QC analytical methods

The DQI for chemical data will differ depending on which analytical methods have been used in a site assessment. These fall into three main categories:

- field methods
- laboratory screening methods
- methods specific for contaminants that are known or expected to be present at a site.

#### Field methods

Site auditors must check that:

- the applicability and limitations of field methodology are discussed appropriately in contaminated site consultants' reports
- the consultant has ensured adequate calibration of instruments and validation of field measurements, including comparison with laboratory results
- the consultant's report has adequately assessed the significance of the results of field screening methods compared with the results of laboratory analyses, for example that the results reported for field screening using a photo-ionisation detector are compatible with the results reported by the laboratory for volatile organic compounds and where not compatible, auditors must check that the consultant's report has adequately explained this.

#### **Laboratory screening methods**

Laboratory screening methods are used to determine the type of contamination present and the constituents of a sample that might cause interferences in specific methods.

Site auditors must check that the applicability and limitations of screening methodology used by the laboratory are appropriately discussed in the consultant's report.

DQI for screening methods might be less rigorous than for specific analytical methods. Nevertheless, screening method performance must be known and should be expressed as a multiple of specific analytical method performance.

#### **Methods specific for contaminants**

Site auditors must check that:

- the analytical methods used for site validation are of appropriate precision and accuracy, and that the sensitivity and selectivity of the analytical methods are appropriate for the assessment of the risk
- the precision and accuracy criteria set out in the consultant's QA/QC plan, for a given method and matrix, meet the performance expected of the reference method
- consultants include in their reports written documentation on quality of data supplied by the analytical laboratory which meets the objectives of the testing laboratory's quality plan for at least 95% of test results. (Note these DQOs do not refer to field duplicate reproducibility or other measures of sampling variance. Sampling variance should be addressed in the choice of sampling method.)

#### **Data Quality Indicators (DQIs)**

The DQIs, as indicated on the next two pages, relate to both field and laboratory procedures, which site auditors must check have been appropriately assessed by the consultants in their reports.

<b>Completeness</b>		
A measure of the amount of useable data (expressed as %) from a data collection activity		
Field considerations	Laboratory considerations	Comments
All critical locations sampled All samples collected (from grid and at depth) SOPs appropriate and complied with Experienced sampler Documentation correct	All critical samples analysed according to SAQP All analytes analysed according to SAQP Appropriate methods and PQLs Sample documentation complete Sample holding times complied with	The required percentage completeness should be specified in the SAQP. All required data must be obtained for critical samples and chemicals of concern. Incompleteness is influenced by: <ul style="list-style-type: none"> <li>• field performance problems (access problems, difficulties on site, damage, ...)</li> <li>• laboratory performance problems (matrix interference, invalid holding times, ...)</li> <li>• matrix problems</li> </ul>
<b>Comparability</b>		
The confidence (expressed qualitatively) that data may be considered to be equivalent for each sampling and analytical event		
Field considerations	Laboratory considerations	Comments
Same SOPs used on each occasion Experienced sampler Climatic conditions (temperature, rainfall, wind, ...) Same types of samples collected (filtered, size fractions, ...)	Sample analytical methods used (including clean-up) Sample PQLs (justify/quantify if different) Same laboratories (justify/quantify if different) Same units (justify/quantify if different)	Same approach to sampling (SOPs, holding times...) Quantify influence from climatic or physical conditions Samples collected, preserved, handled in same manner (filtered, same containers)

<b>Representativeness</b>		
The confidence (expressed qualitatively) that data are representative of each media present on the site		
Field considerations	Laboratory considerations	Comments
Appropriate media sampled according to SAQP  All media identified in SAQP sampled	All samples analysed according to SAQP	Samples must be collected to reflect the characteristics of each media  Sample analyses must reflect properties of field samples  Homogeneity of the samples  Appropriate collection, handling, storage and preservation  Detection of laboratory artefacts, e.g. contamination blanks
<b>Precision</b>		
A quantitative measure of the variability (or reproducibility) of data		
Field considerations	Laboratory considerations	Comments
SOPs appropriate and complied with	Analysis of: <ul style="list-style-type: none"> <li>laboratory and interlaboratory duplicates</li> <li>field duplicates</li> <li>laboratory-prepared volatile trip spikes</li> </ul>	Measured by the coefficient of variance or standard deviation of the mean or by RPDs  Field duplicates measure field and laboratory precision  Laboratory duplicates measure analytical precision
<b>Accuracy (bias)</b>		
A quantitative measure of the closeness of reported data to the true value		
Field considerations	Laboratory considerations	Comments
SOPs appropriate and complied with	Analysis of: <ul style="list-style-type: none"> <li>field blanks</li> <li>rinsate blanks</li> <li>reagent blanks</li> <li>method blanks</li> <li>matrix spikes</li> <li>matrix spike duplicates</li> <li>surrogate spikes</li> <li>reference materials</li> <li>laboratory control samples</li> <li>laboratory-prepared spikes</li> </ul>	Bias introduced: <ul style="list-style-type: none"> <li>by chemicals during handling or transport</li> <li>from contaminated equipment</li> <li>from contaminated reagents</li> <li>during laboratory analysis</li> <li>during laboratory preparation and analysis (may be high or low)</li> <li>precision of preparation and analytical method</li> </ul>

## Field QA/QC

The site auditor must check the following in reviewing the consultant's report:

- the consultant's field QA/QC program includes replicate samples split in the field and submitted to two separate laboratories in accordance with the requirements of the *National Environment Protection (Assessment of Site Contamination) Measure 1999*
- the consultant's sampling program includes assessment of all relevant environmental media, including soil, dust, surface water, groundwater, air, sediments and biota
- the sampling strategy is appropriate for the conditions at the site and the nature of the contamination with the rationale for the strategy described in the consultant's report and the sampling locations shown on a scaled site sampling plan
- sample collection, handling and transportation procedures are documented and appropriate to meet the project DQOs
- sampling is representative of site conditions, based on the selection of appropriate number of sampling points and of samples from each relevant strata and material types stated in a site sampling plan to meet the project DQOs
- a field QA/QC plan has been included in the consultant's report, which includes details of:
  - the sampling team
  - sampling method(s), including the actual methods employed for obtaining samples, type(s) of sample containers, order and degree of filling, preservation, labelling, logging, custody
  - evidence of appropriate decontamination procedures carried out between sampling events
  - logs for each sample collected showing time, location, initials of sampler, duplicate locations, duplicate type, chemical analyses to be performed, site observations and weather conditions
  - chain of custody documentation fully identifying for each sample the name of the sampler, the nature of the sample, collection date, analyses to be performed, sample preservation method, departure time from the site and dispatch courier(s) and condition of samples at dispatch
  - sample splitting techniques
  - a statement of duplicate frequency for intra-laboratory and inter-laboratory duplicate samples and duplicate sample results
  - field blank results



- background sample results
- rinsate sample results
- laboratory-prepared trip spike results for volatile analytes
- trip blank results
- field instrument calibrations on-site (when used).

### Laboratory QA/QC

The site auditor must check that the consultant's report(s) includes the following in its review of the laboratory data:

- sample analyses use appropriate methodologies for each potential contaminant in the matrix in laboratories accredited for those analyses by the National Association of Testing Authorities (NATA) or an equivalent (government-endorsed provider of accreditation for laboratories)
- appropriate Practical Quantitation Limits for the chemicals of concern for use in the assessment of risk
- a laboratory QA/QC plan with the following information:
  - a copy of signed chain-of-custody forms acknowledging receipt date and time, conditions of samples on receipt and identity of samples included in shipments
  - record of holding times and a comparison with method specifications
  - analytical methods used
  - laboratory accreditation for analytical methods used
  - laboratory performance in inter-laboratory trials for the analytical methods used, where available
  - the results for blind duplicate samples collected from the field.

### QA/QC documentation

The site auditor must check that the consultant's site assessment, remediation, monitoring and validation reports includes a QA/QC narrative describing all information relevant to the site assessment and that the consultant's reports include:

- the QA/QC checklist items in the *Guidelines for Consultants Reporting on Contaminated Sites* (EPA 1997) related to field quality assurance and quality control, laboratory QA/QC and data evaluation QA/QC

- the names of the accredited laboratories used and relevant details of their accreditation for each analytical method
- the limits of reporting (ensuring that appropriate assessment can be made according to site criteria as stated in the DQOs for relevant media)
- the acceptance limit(s) for each QC test, such as duplicate relative percentage differences (RPDs) and recoveries for laboratory quality control analyses
- where used, the origin of certified reference material (CRM), its batch number and the concentrations of the chemicals of potential concern
- the QC results relevant to the sample analysis
- for each sample, the highest measurement result wherever replicate measurements are taken (or all measurement results for each sample)
- results for all data tabulated separately according to each type of soil, fill materials, groundwaters, surface waters and sediments, with appropriate statistical analysis according to the *National Environmental Protection (Assessment of Site Contamination) Measure 1999* requirements
- the laboratory specifying compliance with the requirements of the NEPM and equivalence with the reference method or non-standard methods.

## APPENDIX VI

### Examples of consent, licence, notification and other requirements

Regulatory consent, licences, notifications and other requirements may apply for some aspects of contaminated site investigation, remediation and validation work. These may include:

- a licence from the Department of Natural Resources (DNR) to establish a groundwater bore for any purpose
- DNR's approval, where necessary, for excavation, dredging or other works within the bed of a water body, or within 40 metres of the banks of any water body, or on a floodplain (approval may also be required for clearing of vegetation)
- approval from Sydney Water, or the relevant local water authority, for the discharge of contaminated water to sewer
- some classes of demolition work to be undertaken by contractors licensed by WorkCover NSW
- development consent or building approval for some classes of demolition work from the relevant planning authority
- notifications of WorkCover NSW when underground storage tanks licensed by it are being decommissioned
- notifications of the planning authority of, and in some cases seeking consent for, remediation activities in accordance with the requirements of *State Environmental Planning Policy No. 55: Remediation of Land* (DUAP 1998)
- remedial works that:
  - are classed as Category I works under SEPP 55 and require development consent
  - can constitute a 'designated development' under Schedule 3 of the Regulations to the *Environmental Planning and Assessment Act 1979* requiring development consent by the planning authority
  - are undertaken on a Major Project as defined under part 3A of the *Environmental Planning and Assessment Act 1979* and thus require approval from the Minister for Planning
  - must comply with the requirements of any relevant state environmental planning policies, regional environmental planning policies and local environmental plans
  - must comply with guidelines made or approved by DEC under the *Contaminated Land Management Act 1997* or any other legislation

- DEC and/or planning authority licences for the discharge of chemicals into the environment, such as the release of chemicals to air, or discharge of potentially contaminated waters to stormwater drains
- DEC licences for the transportation, treatment and disposal of wastes under the *Protection of the Environment Operations Act 1997*
- sites subject to DEC regulatory control, where written consent must be obtained before prescribed actions are commenced, such as notices issued under s.35 of the *Environmentally Hazardous Chemicals Act 1985* and s.28 of the *Contaminated Land Management Act 1997*.

## APPENDIX VII

### Human health risk assessment checklist

The following is a checklist that must be used by an auditor to review any human health risk assessments undertaken by a consultant. Where the auditor's check reveals that the consultant's risk assessment has omitted one or more of the points specified in the checklist, the auditor must document this in the site audit report and take this into account in reaching their site audit conclusions.

#### Hazard identification

- Have all appropriate sources of information regarding chemicals of potential concern been identified and appraised?
- Has justification been given for the selection of the chemicals of potential concern?
- Has justification been given for the omission of chemicals from the analysis?

#### Toxicological information

- Have all relevant toxicological facts been checked for accuracy and currency?
- Has the adequacy of the available toxicological database been commented on?
- Have the effects on each body system (for example renal, hepatic, cardiovascular and developmental) and the types of effects (for example genotoxic and carcinogenic) been summarised?
- Have all relevant allergic/idiosyncratic toxicological effects been noted?
- Have the critical toxic effects been identified?
- Has the experimental basis of the toxicological reference dose or potency factor, where applicable, been discussed and the uncertainties noted?
- Have the NHMRC (where applicable) or World Health Organisation (WHO) toxicological assessments been considered as the primary toxicological resource?
- Where relevant, have differences between, for example, WHO and US Environmental Protection Agency (USEPA) toxicological assessments been discussed?
- Has the dose-response relationship for chemicals of potential concern been discussed?

- Has the data been presented in a form amenable to efficient interpretation and review?

#### Exposure assessment

- Has the potentially exposed population been identified?
- Have potentially exposed, unusually susceptible sub-populations been identified?
- Have the estimates of chemical exposure for each exposure route and chemical of potential concern been quantified and tabulated?
- In cases of presumed insignificant risk, has the risk been demonstrated to be small?
- Has the relative significance of each exposure pathway, based on the risk analysis, been discussed?

#### Equations

- Have all equations used in the risk assessment been presented in the report?
- Are all equations consistent?
- Have all parameters in each equation been clearly defined?
- Have the correct units been allocated to each parameter?
- Are all equations dimensionally correct?
- Have all unit conversion factors, where applicable, been included in the equations?
- Has all pertinent information been provided to enable calculations to be checked through in a step-wise process?

#### Data evaluation

- What were the data collection objectives and are they consistent with the requirements of the risk assessment?
- Have the laboratories that did the chemical analyses been noted, and do they have NATA accreditation (or equivalent) to perform each particular chemical analysis?
- Has laboratory QA/QC been reported and analysed?
- Has field QA/QC been reported and analysed?
- Where appropriate, has the size of any 'hot spot' detected by the sampling pattern been stated?
- Have statements of the accuracy of the laboratory data for each contaminant been made?

### Assessment and report presentation

- Have all tables and figures been referred to correctly in the text of the report?
- Has information from other sites been excluded from the report?
- Has information from previous reports on the site been appropriately selected and incorporated into this report?
- Have all assumptions and default data been identified and justified?
- Has the analysis been based on an up-to-date literature appraisal?
- Have all conclusions been justified?
- If toxicological data and the exposure scenario lead to the conclusion that a high concentration of contaminant is permissible, does the result violate ecological, aesthetic, land-use or physical principles?
- Has a risk management decision been made during the course of the risk assessment and, if so, how might that have influenced the calculation of risk?
- Has a detailed uncertainty discussion been included in the report?
- Has information been presented coherently and in an appropriate sequence to enable efficient appraisal of the report?

APPENDIX VIII

Declaration for an applicant to NSW Site Auditor Scheme

(Strike through the non-applicable response)

Have you ever been refused a licence, permit or authority under any environment protection or planning legislation or had any such licence, permit or authority revoked or withdrawn either in Australia or elsewhere? Yes/No

Has any company of which you are or were, at the relevant time, a director or officer been refused a licence, permit or authority under any environment protection or planning legislation or had any such licence, permit or authority revoked or withdrawn in Australia? Yes/No

Has any company of which you are or were, at the relevant time, a director or officer been refused a licence, permit or authority under any environment protection or planning legislation or had any such licence, permit or authority revoked or withdrawn in relation to overseas sites or projects for which you have been directly involved? Yes/No

Have you been convicted of or are you presently charged with committing an offence under any environment protection or planning legislation or other laws either in Australia or elsewhere? Yes/No

Has any company of which you are or were, at the relevant time, a director or officer been convicted of or been presently charged with committing an offence under any environment protection or planning legislation or other laws in Australia? Yes/No

Has any company of which you are or were, at the relevant time, a director or officer been convicted of or been presently charged with committing an offence under any environment protection or planning legislation in relation to overseas sites or projects for which you have been directly involved? Yes/No

Are you aware of any circumstances that may detrimentally affect your ability to fulfill the obligations of a site auditor accredited under the Contaminated Land Management Act 1997? Yes/No

If you have answered Yes to any of the above, please provide details (attach extra pages if there is insufficient space below).

Four horizontal lines for providing details.

(Signature)

(Date)

(Print name)



## APPENDIX IX NSW legislative instruments

### Legislation

Available from the NSW Government Information Service, phone (02) 9743 7200 or the NSW Parliamentary Counsel's Office website at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au):

- *Contaminated Land Management Act 1997*
- *Contaminated Land Management Regulation 1998*
- *Environmentally Hazardous Chemicals Act 1985*
- *Environmental Planning and Assessment Act 1979*
- *Mutual Recognition (New South Wales) Act 1992*
- *Protection of the Environment Operations Act 1997*
- *Waste Avoidance and Resource Recovery Act 2001*

### Chemical control orders

Available from the Department of Environment and Conservation NSW, phone 131 555 or (02) 9995 5000:

- *Aluminium Smelter Wastes Containing Fluoride and/or Cyanide Chemical Control Order 1986*
- *Dioxin-Contaminated Wastes Chemical Control Order 1986*
- *Organotin Waste Materials Chemical Control Order 1989*
- *PCB Chemical Control Order 1997*
- *Scheduled Chemical Wastes Chemical Control Order 2004*

## APPENDIX X

### Guidelines made or approved under the CLM Act

The *Contaminated Land Management Act 1997* (CLM Act) allows the EPA to make or approve guidelines for purposes connected with the objects of the Act. These guidelines must be taken into consideration by DEC, acting on behalf of the EPA, whenever they are relevant and by accredited site auditors when conducting a site audit. They are also used by contaminated land consultants in undertaking investigation, remediation, validation and reporting on contaminated sites.

A list of guidelines made or approved by the EPA under the CLM Act current at September 2005 appears below. To check the current list of approved documents visit [www.environment.nsw.gov.au/clm/guidelines.htm](http://www.environment.nsw.gov.au/clm/guidelines.htm) which also provides links to most documents. To obtain hard copies of guidelines, contact Environment Line on 131 555.

#### Guidelines made by the EPA

*Guidelines for Assessing Service Station Sites* (December 1994)

*Guidelines for the Vertical Mixing of Soil on Former Broad-acre Agricultural Land* (January 1995)

*Sampling Design Guidelines* (September 1995)

*Guidelines for Assessing Banana Plantation Sites* (October 1997)

*Guidelines for Consultants Reporting on Contaminated Sites* (November 1997)

*Guidelines on Significant Risk of Harm from Contaminated Land and the Duty to Report* (April 1999)

*Guidelines for Assessing Former Orchards and Market Gardens* (June 2005)

**Note:** All references in the EPA's contaminated sites guidelines to the *Australian Water Quality Guidelines for Fresh and Marine Waters* (ANZECC, November 1992) are replaced as of 6 September 2001 by references to the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality* (ANZECC & ARMCANZ, October 2000), subject to the same terms.

#### Guidelines approved by the EPA

##### **ANZECC publications**

ANZECC & ARMCANZ 2000, *Australian and New Zealand Guidelines for Fresh and Marine Water Quality*, Australian and New Zealand

Environment and Conservation Council and Agriculture and Resource Management Council of Australia and New Zealand, Paper No. 4, October 2000

ANZECC & NHMRC 1992, *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites*, published by Australian and New Zealand Environment and Conservation Council and the National Health and Medical Research Council, January 1992

### **enHealth publications**

[formerly National Environmental Health Forum monographs]

Department of Health and Ageing and enHealth Council 2002, *Environmental Health Risk Assessment: Guidelines for assessing human health risks from environmental hazards*, Commonwealth of Australia, June 2002

Lock, W.H. 1996, *Composite Sampling*, National Environmental Health Forum Monographs, Soil Series No.3, South Australian Health Commission, Adelaide

### **NEPC publications**

NEPC 1999, *National Environment Protection (Assessment of Site Contamination) Measure 1999*, National Environment Protection Council, Canberra

This NEPM consists of a policy framework for the assessment of site contamination in Schedule A (*Recommended General Process for the Assessment of Site Contamination*), while Schedule B has the following guidelines:

- B(1) – Guideline on investigation levels for soil and groundwater
- B(2) – Guideline on data collection, sample design and reporting
- B(3) – Guideline on laboratory analysis of potentially contaminated soils
- B(4) – Guideline on health risk assessment methodology
- B(5) – Guideline on ecological risk assessment
- B(6) – Guideline on risk-based assessment of groundwater contamination
- B(7a) – Guideline on health-based investigation levels
- B(7b) – Guideline on exposure scenarios and exposure settings
- B(8) – Guideline on community consultation and risk communication

- B(9) – Guideline on protection of health and the environment during the assessment of site contamination
- B(10) – Guideline on competencies and acceptance of environmental auditors and related professionals

**Other documents**

NHMRC & NRMCC 2004, *Guidelines for Drinking Water Quality in Australia*, National Health and Medical Research Council and Natural Resource Management Ministerial Council, Canberra

NSW Agriculture and CMPS&F Environmental 1996, *Guidelines for the Assessment and Clean Up of Cattle Tick Dip Sites for Residential Purposes*, February

## APPENDIX XI

### Further reading

#### EPA/DEC documents

DEC 2005, *Information for the Assessment of Former Gasworks Sites*, Department of Environment and Conservation NSW, Sydney, available at [www.environment.nsw.gov.au/clm/gasworksassessment.htm](http://www.environment.nsw.gov.au/clm/gasworksassessment.htm)

EPA 1997, *Technical Report: Bananalands Contaminant Distribution Study*, NSW Environment Protection Authority, Sydney

#### ANZECC documents

ANZECC 1994, *Financial Liability for Contaminated Site Remediation: A Position Paper*, Australian and New Zealand Environment and Conservation Council, Canberra

ARMCANZ & ANZECC 1995, *Guidelines for Groundwater Protection in Australia*, Agriculture and Resource Management Council of Australia and New Zealand and Australian and New Zealand Environment and Conservation Council, Canberra

#### South Australian Health Commission Contaminated Sites monographs

Edwards, J.W., Van Alphen, M. & Langley, A. (eds) 1994, *Identification and Assessment of Contaminated Land: Improving Site History Appraisal*, South Australian Health Commission, Adelaide

El Saadi, O. & Langley, A. (eds) 1991, *Workshop Proceedings of the National Workshop on the Health Risk Assessment and Management of Contaminated Sites*, South Australian Health Commission, Adelaide

Langley, A. 1991, *The Health Risk Assessment and Management of Contaminated Sites*, Contaminated Sites Monograph Series, No.3, South Australian Health Commission, Adelaide

Langley, A., Imray, P. & Hill, H. (eds) 1998, *The Health Risk Assessment and Management of Contaminated Sites, Proceedings of the Fourth National Workshop on the Health Risk Assessment and Management of Contaminated Sites*, Contaminated Sites Monograph Series, No.7, South Australian Health Commission, Adelaide

Langley, A., Markey, B. & Hill, H. (eds) 1996, *The Health Risk Assessment and Management of Contaminated Sites, Proceedings of the Third National Workshop on the Health Risk Assessment and Management of Contaminated Sites*, Contaminated Sites Monograph Series, No.5, South Australian Health Commission, Adelaide

Langley, A. & Van Alphen, M. (eds) 1993, *The Health Risk Assessment and Management of Contaminated Sites, Proceedings of the Second National Workshop on the Health Risk Assessment and Management of Contaminated Sites*, Contaminated Sites Monograph Series, No.2, South Australian Health Commission, Adelaide

Olszowy, H., Torr, P. & Imray, P. 1995, *Trace Element Concentrations in Soils from Rural and Urban Areas of Australia*, Contaminated Sites Monograph Series, No.4, South Australian Health Commission, Adelaide

#### QA/QC methodologies

American Public Health Association, American Water Works Association & Water Environment Federation 1998, *Standard Methods for the Examination of Water and Wastewater*, 20th edition, Washington DC

Department of Water Resources (NSW) 1992, *A Practical Guide to Groundwater Sampling*, 1st edition, Technical Service Division, Sydney

USEPA 1987, *Data Quality Objectives for Remedial Response Activities*, USEPA 540/G-87/003, United States Environmental Protection Agency Office of Emergency Response and Office of Waste Programs Enforcement, Washington DC

USEPA 1992, *Guidance for Data Useability in Risk Assessment (Parts A and B)*, USEPA 9285.7-09A&B, PB92-963356, United States Environmental Protection Agency Office of Emergency and Remedial Response, Washington DC

USEPA 1992, *Test Methods for Evaluating Solid Waste – Physical/ Chemical Methods SW-846*, 3rd Edition, United States Environmental Protection Agency Office of Solid Waste and Emergency Response, Washington DC

USEPA 1993, *Reference Guidance for Planning for Data Collection in Support of Environmental Decision-making Using the Data Quality Objectives Process*, USEPA QA/G-4 United States Environmental Protection Agency Quality Assurance Management Staff, Washington DC

USEPA 1998, *EPAC Guidance for Quality Assurance Project Plans*, EPA/600/R-98/018, United States Environmental Protection Agency Office of Research and Development, Washington DC

USEPA 2000, *Data Quality Objectives Process for Hazardous Waste Site Investigations*, EPA QA/G-4HW Final, Washington DC

USEPA 2000, *Guidance for the Data Quality Objectives Process*, EPAC QA/G-4 DEC/600/R-96/055, United States Environmental Protection Agency Office of Environmental Information, Washington DC

#### Other documents

ARMCANZ 1997, *Minimum Construction Requirements for Water Bores in Australia*, Agriculture and Resource Management Council of Australia and New Zealand, Canberra

Department of Land and Water Conservation (NSW) 1997, *The NSW State Groundwater Policy Framework Document*, Sydney

Department of Land and Water Conservation (NSW) 1998, *The NSW State Groundwater Quality Protection Policy: A Component Policy of the NSW State Groundwater Policy*, Sydney

Department of Land and Water Conservation (NSW) 2002, *The NSW State Groundwater Dependent Ecosystems Policy: A Component Policy of the NSW State Groundwater Policy*, Sydney

Langley, A., Gilbey, M. & Kennedy, B. (eds) 2003, *Health and Environmental Assessment of Site Contamination*, Proceedings of the Fifth National Workshop on the Assessment of Site Contamination, National Environment Protection Council Service Corporation, Adelaide

Ministry of Housing (Netherlands) 1994, *Environmental Quality Objectives in the Netherlands*, Risk Assessment and Environmental Quality Division, Directorate for Chemicals, External Safety and Radiation Protection, Spatial Planning and the Environment, The Hague

Murray–Darling Basin Commission 1997, *Murray–Darling Basin Groundwater Quality Sampling Guidelines*, Technical Report No.3, Groundwater Working Group, Canberra

USEPA 1989, *Methods for Evaluating the Attainment of Cleanup Standards Volume 1: Soils and Solid Media*, EPA 230/02–89–042, United States Environmental Protection Agency, Washington DC

USEPA 1989, *Risk Assessment Guidance for Superfund, Volume 1: Human Health Evaluation Manual (Part A)*, United States Environmental Protection Agency, Washington DC

USEPA 1991, *Summary Report on Issues in Ecological Risk Assessment*, United States Environmental Protection Agency, Washington DC

USEPA 1998, *Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA*, Oswer Directive 9355.3–0, United States Environmental Protection Agency Office of Emergency and Remedial Response, Washington DC

**CONTAMINATED LAND MANAGEMENT ACT 1997**

Environment Protection Authority

Declaration of remediation site

(Section 21 of the Contaminated Land Management Act 1997)

Declaration Number 21087 Area Number 3147

THE Environment Protection Authority (EPA) declares the following land to be a remediation site under the Contaminated Land Management Act 1997 (“the Act”):

**1. Land to which this declaration applies (“the site”)**

- Lot 2 DP 787827 and Lot 11 DP 518287 in Castlereagh Road Penrith;

The site is outlined by a thick black line in the attached map.

The site lies within the local Government area of Penrith.

**2. Nature of contamination affecting the site:**

The EPA has found that the site is contaminated with a range of volatile chlorinated hydrocarbons including trichloroethylene and its degradation products (“the contaminants”).

In particular the EPA has found that the contaminants are present in soil and groundwater on Lot 2 DP787827 and the contaminated groundwater has migrated from Lot 2 onto the neighbouring property at Lot 11 DP518287.

**3. Nature of harm that the contaminants may cause or has caused:**

The EPA has considered the matters in s.9 of the Act and for the following reasons has determined that the chlorinated hydrocarbon contaminated groundwater presents a significant risk of harm to human health and the environment because:

- harm has occurred in that the contamination has degraded an aspect of the environment (in particular the groundwater in the area which the Department of Natural Resources has identified as being of high beneficial use);
- concentrations of chlorinated hydrocarbons in water within the plume exceed the Australian and New Zealand Guidelines for Fresh and Marine Water Quality (ANZECC 2000 ) trigger levels for the protection of 95% of species, the ANZECC 2000 water quality guidelines for recreational purposes and the Australian Drinking Water Guidelines;
- the contaminant plume is approximately 800 -1,000 metres in length and discharges through a permeable aquifer into the Nepean River and into a stormwater pipe which intercepts groundwater and discharges into the river.

**4. Further action under the Act**

The making of this declaration does not prevent the carrying out of a voluntary remediation of the site and any person may submit a voluntary remediation proposal for the site to the EPA. If the proposal satisfies the requirements of s.26 of the Act, the EPA may agree not to issue a remediation order to the person or persons bringing the proposal.

**5. Submissions invited**

The public may make written submissions to the EPA on:

- Whether the EPA should issue a remediation order in relation to the site; or
- Any other matter concerning the site.

Submissions should be made in writing to:

Director Contaminated Sites  
Department of Environment and Conservation  
PO Box A290  
SYDNEY SOUTH NSW 1232  
or faxed to 02 9995 5930  
by not later than 26 May 2006

NIALL JOHNSTON,  
A/Director Contaminated Sites  
Department of Environment and Conservation

Date: 13 April 2006.

**NOTE:****Remediation order may follow**

If remediation of the site or part of the site is required, the EPA may issue a remediation order under s.23 of the Act.

**Variation/Revocation**

This declaration may be varied by subsequent declarations. It remains in force until it is otherwise revoked. A declaration may only be revoked when the EPA does not have reasonable grounds to believe that land is contaminated in such a way as to present a significant risk of harm (s.44 of the Act).

**Information recorded by the EPA**

Section 58 of the Contaminated Land Management Act 1997 requires the EPA to maintain a public record. A copy of this remediation declaration will be included in the public record.

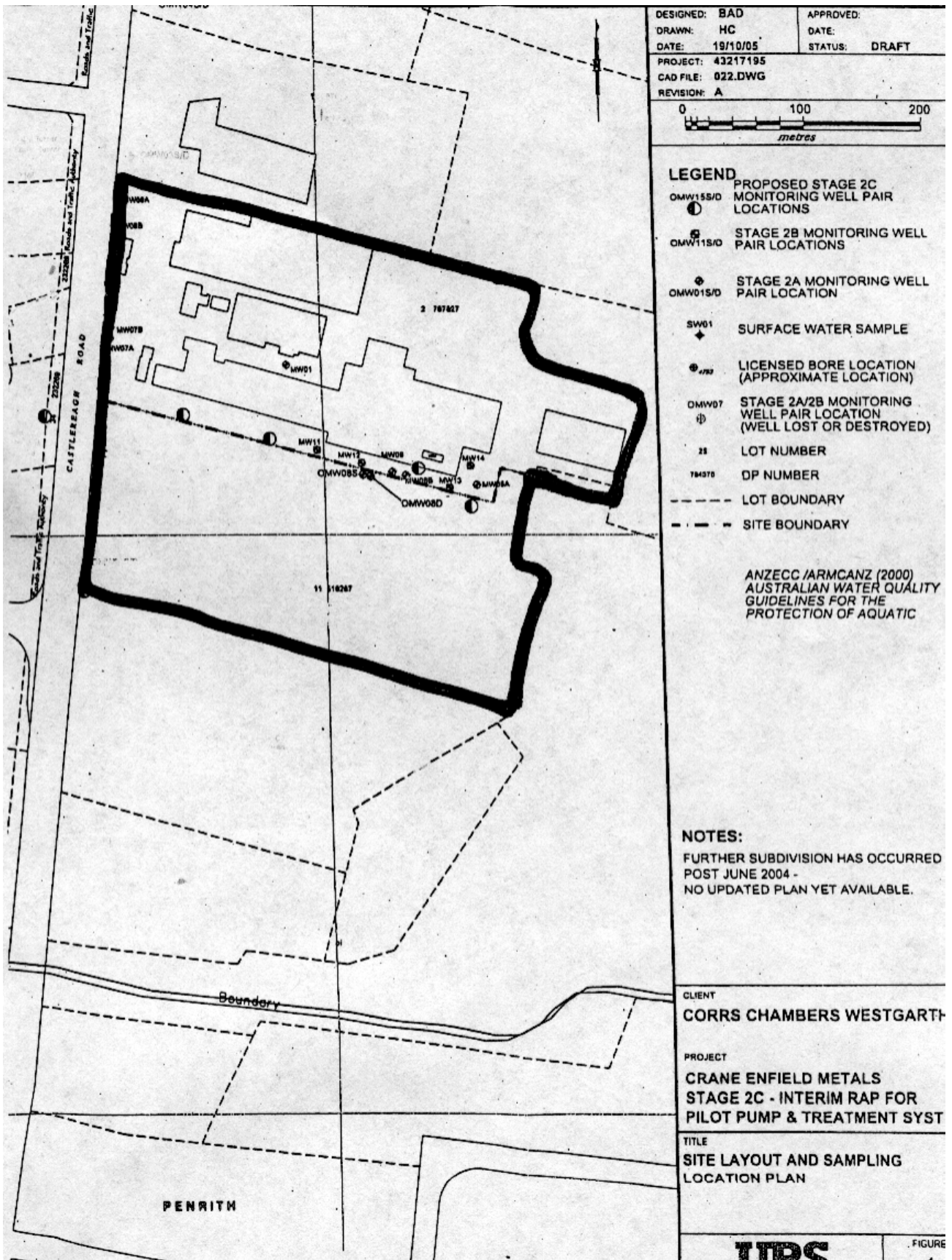
**Information recorded by councils**

Section 59 of the Act requires the EPA to give a copy of this declaration to the relevant local council. The council is then required to note on its planning certificate issued pursuant to s.149 (2) of the Environmental Planning and Assessment Act that the land is currently within a remediation site. The EPA is required to notify council as soon as practicable when the declaration is no longer in force and the notation on the s.149 (2) certificate is no longer required.

**Relationship to other regulatory instrument**

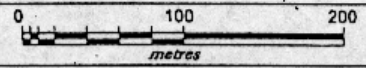
This declaration does not affect the provisions of any relevant environmental planning instruments which apply to the land or provisions of any other environmental protection legislation administered by the EPA.





DESIGNED: BAD  
 DRAWN: HC  
 DATE: 19/10/05  
 PROJECT: 43217195  
 CAD FILE: 022.DWG  
 REVISION: A

APPROVED: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 STATUS: DRAFT



- LEGEND**
- PROPOSED STAGE 2C MONITORING WELL PAIR LOCATIONS
  - STAGE 2B MONITORING WELL PAIR LOCATIONS
  - ⊕ STAGE 2A MONITORING WELL PAIR LOCATION
  - ◆ SURFACE WATER SAMPLE
  - ⊙ LICENSED BORE LOCATION (APPROXIMATE LOCATION)
  - ⊕ DMW07 STAGE 2A/2B MONITORING WELL PAIR LOCATION (WELL LOST OR DESTROYED)
  - 28 LOT NUMBER
  - 784370 DP NUMBER
  - - - LOT BOUNDARY
  - - - SITE BOUNDARY

ANZECC / ARMCANZ (2000)  
 AUSTRALIAN WATER QUALITY  
 GUIDELINES FOR THE  
 PROTECTION OF AQUATIC

**NOTES:**  
 FURTHER SUBDIVISION HAS OCCURRED  
 POST JUNE 2004 -  
 NO UPDATED PLAN YET AVAILABLE.

CLIENT  
**CORRS CHAMBERS WESTGIRTH**

PROJECT  
**CRANE ENFIELD METALS  
 STAGE 2C - INTERIM RAP FOR  
 PILOT PUMP & TREATMENT SYST**

TITLE  
**SITE LAYOUT AND SAMPLING  
 LOCATION PLAN**

**TIDC** . FIGURE 4



# SAFE USE AND STORAGE OF CHEMICALS (INCLUDING PESTICIDES AND HERBICIDES) IN AGRICULTURE

**CODE OF PRACTICE** 2006

**Disclaimer**

This publication contains information regarding occupational health, safety, injury management or workers compensation. It includes some of your obligations under the various workers compensation and occupational health and Safety legislation that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate Acts.

This publication may refer to WorkCover NSW administered legislation that has been amended or repealed. When reading this publication you should always refer to the latest laws. Information on the latest laws can be checked at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) or contact 1300 656 986.

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**CODE OF PRACTICE FOR THE SAFE USE  
AND STORAGE OF CHEMICALS  
(INCLUDING PESTICIDES AND HERBICIDES)  
IN AGRICULTURE**

Revised 2nd edition 2006

Code of practice for the safe use and storage of chemicals (including pesticides and herbicides)  
in agriculture

Revised edition 2004

WorkCover NSW

Locked Bag 2906

LISAROW NSW 2252

ISBN

Order No 422

## FOREWORD

This is the second edition of this Code of practice, which has been amended to take into account legislative changes including changes to provisions applying to dangerous goods.

WorkCover NSW prepared this Code of practice to provide a practical and informative guide to persons working in agricultural industries on how to conform with the relevant legislation relating to the use and storage of chemicals. This includes pesticides and herbicides.

This Code of practice will promote safe and healthy practices in the use, storage and transport of agricultural chemicals by end users. It will assist users to minimise detrimental effects to human health and the environment by suggesting ways to control the risks of exposure to those substances classified as hazardous substances. This Code of practice covers chemicals commonly used in agriculture including substances such as pesticides, fertilisers, fuels, disinfectants, and emissions such as dusts or fumes. It includes advice on the storage and handling of those substances classified as dangerous goods.

Persons who will find this Code of practice useful include farmers, pastoralists, horticulturists, orchardists, and foresters.

This Code of practice will assist users to comply with the *Occupational Health and Safety Regulation 2001*. This Code of practice has also been written to ensure consistency with the *Pesticides Act 1999* and environmental legislation where relevant.

Trainers, educators, medical practitioners and government officers may also find this Code provides useful background material which will assist in providing advice to their clients.

Note: Illustrations used in this Code of Practice are illustrative only and are not intended to demonstrate exact requirements or procedures.

## What is an approved industry code of practice?

An approved industry code of practice is a practical guide to employers and others who have duties under the *Occupational Health and Safety Act 2000* (the OHS Act) and the *Occupational Health and Safety Regulation* (OHS Regulation) with respect to occupational health, safety and welfare.

An industry code of practice is approved by the Minister administering the OHS Act. It comes into force on the day specified in the code or, if no day is specified, on the day it is published in the *NSW Government Gazette*. An approved industry code of practice may be amended from time to time (or it may be revoked) by publication in the *Gazette*.

An approved industry code of practice should be observed unless an alternative course of action that achieves the same or a better level of health, safety and welfare at work is being followed.

An approved industry code of practice is intended to be used in conjunction with the requirements of the OHS Act and the OHS Regulation but does not have the same legal force. An approved industry code of practice is advisory rather than mandatory. However, in legal proceedings under the OHS Act or OHS Regulation, failure to observe a relevant approved industry code of practice is admissible in evidence concerning an offence under the OHS Act or OHS Regulation.

A WorkCover Authority inspector can draw attention to an approved industry code of practice in an improvement or prohibition notice as a way of indicating the measures that could be taken to remedy an alleged contravention or non-compliance with the OHS Act or OHS regulation. Failure to comply with an improvement or prohibition notice without reasonable excuse is an offence.

*In summary an approved industry*

### CODE OF PRACTICE

- Gives practical guidance on how health, safety and welfare at work can be achieved.
- Should be observed unless an alternative course of action that achieves the same or a better level of health, safety and welfare in the workplace is being followed.
- Can be referred to in support of the preventive enforcement provisions of the OHS Act or OHS Regulation.
- Can be used as evidence to support a prosecution for failing to comply with or contravening the OHS Act or OHS Regulation.

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## CHAPTER 1 – INTRODUCTION

### 1.1 Title

This is the *Code of practice for the safe use and storage of chemicals (including pesticides and herbicides) in agriculture*.

### 1.2 Purpose

This Code of practice provides practical guidance on the safe use and storage of all types of chemicals, including pesticides, herbicides and other agricultural chemicals, to protect the health and safety of workers. This will assist users achieve a safe system of work, and comply with the *Occupational Health and Safety Act 2000* and the *Occupational Health and Safety Regulation 2001*.

In meeting OHS obligations, this code has attempted to ensure that there is no conflict with other obligations such as environmental legislation.

### 1.3 Scope

#### 1.3.1 Matters included

This Code of practice applies to employers, self-employed persons and employees engaged in the use, storage and disposal of chemicals (including pesticides and herbicides) in agricultural workplaces.

Examples of chemicals used in agriculture covered by this code include ammonia, LP Gas, detergents, cleaning agents, degreasers, solvents, fuels, dyes, fertilisers and antiseptics, as well as registered agricultural chemicals such as pesticides.

#### 1.3.2 Exclusions

This Code of practice does *not* apply to the following:

- i. The manufacture, warehousing, distribution or sale of chemicals.
- ii. Workplaces processing or storing agricultural products when not part of an agricultural premises (property). Such industries (eg wineries, oil extraction) should consult other relevant codes of practice relating to hazardous substances and dangerous goods.
- iii. Use of timber preservatives and treated timber where covered in the *National Code of Practice and Guidance Note for the Safe Handling of Timber Preservatives and Treated Timber* (an approved Code of Practice under Section 43 of the *NSW Occupational Health and Safety Act 2000*).
- iv. Storage or use of explosives.
- v. The use of pesticides and herbicides in non-agricultural workplaces, which are covered by the *Code of practice for the safe use of pesticides including herbicides in non-agricultural workplaces*. Examples of non-agricultural work with pesticides include urban pest control, green keeping, local government park maintenance, and the protection of food processing and bulk grain storage silos when not on a farm.



#### 1.4 Commencement

This amended code of practice commenced on the day of publication in the *Gazette*. It amends the *Code of practice for the safe use and storage of chemicals (including pesticides and herbicides) in agriculture* that commenced on 1 September 1998.

#### 1.5 Authority

This is an approved industry code of practice, approved by the Minister for Commerce in accordance with the provisions of Section 43 of the *Occupational Health and Safety Act 2000* (OHS Act), and amended as provided by Section 45 of the OHS Act.

#### 1.6 Definitions

Most of the following definitions are those used in the OHS Act and OHS Regulation. However, some have been specifically developed for the purposes of this code of practice.

**ADG Code** means the *Australian Code for the Transport of Dangerous Goods by Road and Rail* approved by the Ministerial Council for Road Transport and published by the Australian Government from time to time.

Note: This code has the force of law and is adopted into regulations in NSW. It is produced by the Federal Office of Road Safety of the Commonwealth Department of Transport and Communications.

**agricultural workplace** means a workplace predominantly engaged in the production of stock and/or crops and/or animal or crop products (such as oils, wine, milk or wool), including farms, pastoral leases, orchards, vineyards, market gardens and forestry. This does not include workplaces solely processing or storing agricultural products.

**anti-cholinesterase** describes a health effect of certain compounds such as organophosphate pesticides. These health effects are described in section 6.5

Note: Health surveillance may be required for organophosphate pesticides, see section 6.4.

**application** means any method of application of a pesticide by any means including spraying, puddling, gaseous fumigation and the use of baits, foams, gels, granules, powders or fogs, for the purposes of this Code of practice.

**authorised medical practitioner** means a medical practitioner authorised by WorkCover, or authorised by another body or under a scheme approved by WorkCover to perform health surveillance for the purposes of the OHS Regulation.

**bulk** means solids in an undivided quantity of more than 400 kg, or a container for liquids or solids of capacity of more than 450 Litres, or a container for gas with a (water) capacity of more than 500 L, and includes a bulk container, such as an intermediate bulk container (IBC).

**bund** means an embankment or wall, which may form part or all of the perimeter of a compound, designed to contain spills of liquid.

Note: Both the bund and the compound floor must be sufficiently impervious to retain spillage or leakage.

**chemical** means any chemical or gas, and includes any of the following products:

- a pesticide (including a herbicide or fumigant),
- a hazardous substance,

- a dangerous goods, or
- a poison.

Note: This definition was developed for this specific Code of practice.

**Class** means the Class allocated to dangerous goods under the ADG code.

**confined space** means a space which may become contaminated or oxygen deficient.

Notes: This is fully defined in clause 66 of the *Occupational Health and Safety Regulation 2001*. This is not normally a workplace and includes locations such as pits and tunnels and may include farm silos.

**consumer package** means a container that is intended for retail display and sale, and includes a container that is transported and distributed as part of a larger consolidated container that consists of a number of identical consumer packages.

**container** means anything in or by which a substance or item is wholly or partly cased, covered, enclosed, or packed, whether it is empty, or partially or completely full.

**dangerous goods** has the same meaning as in the ADG Code.

Notes: The dangerous goods classification includes physical hazards such as flammability, but also includes some health hazards. Some dangerous goods are also hazardous substances. Diesel fuel is a combustible liquid C1, and is defined as a dangerous goods for the purposes of chapter 6A of the OHS Regulation. The supplier has the obligation to identify dangerous goods and provide material safety data sheets.

**employee** means an individual who works under a contract of employment or apprenticeship.

**employer** means a person who employs persons under a contract of employment or apprenticeship.

Note: A person includes a corporation or an individual person.

**exposure standard** means the standard determined in accordance with the documents entitled *Guidance Note on the Interpretation of Exposure Standards for Atmospheric Contaminants in the Occupational Environment* [NOHSC: 3008] and *Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment* [NOHSC: 1003], as amended from time to time by amendments published in the Chemical Gazette of the Commonwealth of Australia.

Note: this refers to the airborne concentration of a particular substance in a person's breathing zone and does not include an evaluation of skin contact.

**fumigant** means any of the following chemicals:

- (b) methyl bromide,
- (c) phosphine,
- (d) ethylene oxide (except single dose canisters),
- (e) ethylene dichloride,
- (f) carbon disulphide,
- (g) chloropicrin,
- (h) hydrogen cyanide.

Note: A certificate of competency is required for the use of the above fumigants.

**fumigation** means the process of applying a pesticide in the gaseous phase, including the use of liquids that evaporate, or solids that sublime, burn or react, to produce a gas.

**hazard** means anything (including work practices and procedures) that has the potential to harm the health and safety of a person.

Note: The hazard of a pesticide is the potential for a pesticide to cause an adverse effect, due to its intrinsic properties. This can be a health hazard or a physical hazard or both. The possibility of this is risk (see the definition of risk).

**hazardous substance** means a substance that is:

- (a) is listed in the National Occupational Health and Safety Commission's publication, *List of Designated Hazardous Substances*, as in force from time to time, or
- (b) fits the criteria set out in the National Occupational Health and Safety Commission's *Approved Criteria for Classifying Hazardous Substances*, as in force from time to time.

Notes: A hazardous substance has an adverse health effect, as distinct from the physical hazards shown by some dangerous goods. The above information is available online by searching the Hazardous Substances Information System (HSIS) on the web site [www.ascc.gov.au](http://www.ascc.gov.au).

**health surveillance** means the monitoring of persons to identify changes (if any) in their health due to exposure to a hazardous substance, and includes biological monitoring, but does not include atmospheric monitoring.

**herbicide** is included in the legal definition of pesticide.

**ignition source** means any source of energy sufficient to ignite combustible dusts, combustible fibres, flammable vapours, flammable gases, or flammable or combustible fumes and includes the following:

- a naked flame,
- exposed incandescent material,
- hot surfaces,
- radiant heat,
- a spark from mechanical friction,
- a spark from static electricity,
- an electrical arc,
- any electrical, electronic, mechanical or other equipment.

**MSDS** means a material safety data sheet prepared in accordance with the OHS Regulation.

Note: A MSDS provides comprehensive health and safety information.

**must** means a legal obligation imposed by an Act or Regulation.

**OHS Act** means the *Occupational Health and Safety Act 2000*.

**OHS Regulation** means the *Occupational Health and Safety Regulation 2001*.

Note: This is reviewed and remade every 5 years and so the date may change.

**organophosphate** pesticide is an organic compound which contains phosphorous.

Note: This usually has the words "anti-cholinesterase compound" or "cholinesterase inhibitor" on the label. Organophosphate pesticides exert their health effect by inhibiting enzymes in the nervous system. Health checks may be required (see sections 6.4 and 6.5).

**package** means the completed product of the packing of a substance (including a pesticide) and consists of the substance and its packaging but does not include a bulk container.

**Packing Group (PG)** means the division of certain classes of *dangerous goods* into three hazard groups, indicated by the Roman numerals I (great danger), II (medium danger), or III (minor danger).

**pest** means:

Note: this definition is the same as that in the Australian AgVet Code.

**pesticide** means a substance as defined by the *Pesticides Act 1999*, used for controlling pests.

Note 1 – this includes herbicides, bactericides, baits, fungicides, insecticides, rodenticides, repellents and chemicals used for the control of animal ectoparasites.

Note 2 – a pesticide may also be a hazardous substance, a dangerous goods, a scheduled poison, and/or a fumigant.

Note 3 – the Pesticides Act adopts the AgVet Code definition.

**place of work** means premises where persons work.

**poison** means any substance contained in a schedule of the *Standard for Uniform Scheduling of Drugs and Poisons (SUSDP)*, published by the Commonwealth Government Printer.

**premises** includes any place, and in particular includes:

- (a) any land, building or part of any building, or
- (b) any vehicle, vessel or aircraft, or
- (c) any installation on land, on the bed of any waters or floating on any waters, or
- (d) any tent or moveable structure.

**record** includes any form in which information is stored on a permanent basis or from which information may be reproduced.

**retailer** means a person who sells goods to any member of the public who themselves are not engaged in any further resale of the goods.

Notes: Examples of retailers are supermarkets or hardware stores. A reseller or trade outlet is not a retailer.

**risk** is a combination of the likelihood of an adverse effect occurring and its severity.

**self-employed person** means a person who works for gain or reward otherwise than under a contract of employment or apprenticeship, whether or not he or she employs others.

Note: Some of the legal obligations in the OHS Regulation applying to “employers” also apply to self-employed persons in relation to their duties to others in the workplace (see the definitions in clause 3 of the OHS Regulation).

**should** means an optional way of establishing a safe system of work. You can carry out an alternative method, but you would need to be able to demonstrate that it was a safe system of work.

**source of ignition** – see ignition source.

**supplier** includes a manufacturer, importer, wholesaler, reseller or distributor.

**use** includes the production, handling, storage, transport or disposal of a substance.

**worker** includes employees, self-employed persons and any other person carrying out work activity.

**workplace** – see place of work (above).

## CHAPTER 2 – LEGAL RESPONSIBILITIES

People who use or store agricultural chemicals in workplaces, or supply chemicals for use at work, have legal responsibilities under the *Occupational Health and Safety Act 2000* (OHS Act) and the *Pesticides Act 1999*. Employers and the self-employed have an obligation to establish and maintain a safe system of work.

Other legislation requires chemical users to take steps to protect the environment, including taking care when disposing unwanted chemicals.

This code provides advice which will help you comply with the relevant legislation and adopt a safe system of work. Inquiries about the pesticides legislation should be directed to the Department of Environment and Conservation (web site [www.dec.nsw.gov.au](http://www.dec.nsw.gov.au)).

### 2.1 *Pesticides Act 1999*

Any chemical substance used for the control of pests must be registered with the Australian Pesticides and Veterinary Medicines Authority (AVPMA) for Agricultural and Veterinary Chemicals (NRA) before use.

Under the *Pesticides Act 1999* all pesticide users must:

- use only pesticides registered by the AVPMA that are approved for the intended situation of use
- read the registered label on the pesticide container (or have them read to the user) and strictly follow the label directions
- not risk injury to persons, property and non-target plants and animals through the use of the pesticide
- obtain an AVPMA permit if the user wishes to vary the label directions or use pattern
- make a record of pesticide applications (see the advice in chapter 13)
- be trained.

Use and disposal of pesticides is subject to requirements enforced by the environmental legislation and relevant authorities such as local councils. Enquires should be directed to the Department of Environment and Planning. Information, such as training competencies, can be found on the web site [www.dec.nsw.gov.au/pesticides/training.htm](http://www.dec.nsw.gov.au/pesticides/training.htm)

### 2.2 Occupational health and safety legislation

The OHS Act imposes general obligations on employers, those self-employed, suppliers and employees which are intended to ensure the health and safety of all those in workplaces including visitors (such as students on work experience). These obligations apply to chemicals used in workplaces.

The OHS Act is supported by the OHS Regulation which provides detailed requirements for the supply and use of hazardous substances and dangerous goods in workplaces. This code provides guidance about how to comply with these requirements. Many of the pesticides registered under the *Pesticides Act* are classified as hazardous substances and/or dangerous goods by the OHS Regulation.

When these pesticides are supplied or used in a workplace, the requirements of both the OHS Act and *Pesticides Act* and corresponding regulations apply. The classification of chemicals into the categories of poison, hazardous and dangerous, and identification on the label is the responsibility of manufacturers and suppliers (see section 2.5).

### 2.3 Employers

Under the OHS Act employers must ensure the health, safety and welfare of their employees and other persons at their place of work. This includes preventing health risks created by the use and storage of chemicals. Employers have specific obligations to carry out the following:

- ensure that information is available so that chemicals can be used safely and without risks to health
- provide employees with instruction, training and supervision
- provide safe systems of work, including the use of plant and equipment.

Employers must also protect the health and safety of other persons who are not their employees, such as contractors and their employees, or members of the public. This includes risks arising from the application of pesticides, spray drift and any residues left after application. These functions may be delegated to a manager.

### 2.4 Self-employed persons

Self-employed persons have the same responsibilities as employers to others at the workplace, under the OHS Act. The OHS Regulation specifies that a reference to employer duties also applies to self-employed persons. Since they do not have employees, some aspects do not apply. However, meeting the relevant requirements of this Code will help protect the health of self-employed persons.

### 2.5 Sources of information – suppliers of chemicals

Manufacturers and importers are responsible for the following:

- classifying hazardous substances and dangerous goods (including those that are pesticides)
- preparing and providing material safety data sheets (MSDS) for any hazardous substance or dangerous goods that they supply for use in a workplace.

Suppliers, including resellers, are responsible for:

- ensuring containers of chemicals which are classified as hazardous substances, dangerous goods and pesticides are properly labelled or placarded
- providing MSDS to end users for any hazardous substances or dangerous goods they supply for use at work.

Labels for pesticides approved by the AVPMA when the pesticide is registered under the *Agricultural and Veterinary Chemicals Code Act 1994* (of the Commonwealth), are usually suitable labels.

### 2.6 Retailers and resellers

A retailer is someone who sells to any member of the public who is an end user. Retailers (eg supermarkets and hardware stores) are not required to provide MSDS to customers. However, retailers of chemicals in rural areas should provide them to purchasers on request.

Resellers and trade sales outlets are not retailers and so must provide end users with MSDS. Trade sales include sales of substances or goods intended solely for use in workplaces.

**2.7 Employees**

An employee working with or near chemicals has a responsibility to maintain safe work practices, to protect their own health and safety and that of others at the workplace.

Employees must report promptly to their employer anything which in the employee's view may affect compliance with any relevant legislation.

The general duties of employees are set out in Sections 20 and 21 of the *Occupational Health and Safety Act 2000*.

**2.8 Licensing of aerial applicators**

Under the *Pesticides Act 1999*, aerial applicators of pesticides must be licensed. Inquiries about this licensing should be directed to the Department of Environment and Conservation (web site [www.dec.nsw.gov.au](http://www.dec.nsw.gov.au)).

**2.9 Use of this code**

In this code, words such as "should", "may" or "consider" indicate recommended courses of action. This has the evidentiary status accorded to codes of practice. However, you may choose an alternative method of achieving a safe system of work.

Words such as "must", "requires", and "mandatory" indicate legal requirements with which the relevant person must comply.

Consider using this code to help you develop an industry best practice approach to occupational health and safety in your workplace.



## CHAPTER 3 – CONSULTATION WITH EMPLOYEES AND CONTRACTORS

Employees must be consulted and advised on chemical issues that may affect their health and safety (OHS Act section 13). Since employees know their jobs and often are able to identify risks, and contribute to the risk assessment process.

The OHS Act requires employers to ensure that consultation occurs with employees during the identification and assessment of risks, the development of control measures and changes to systems of work that may affect health and safety (OHS Act section 15). Consequently, employers should consult with employees about the implementation of this code of practice.

Consultation involves the sharing of information and the exchange of views between the employer, employees and their representatives, or contractors. Consultation should include seasonal workers. It provides the opportunity to contribute to decision making in a timely fashion to pre-empt or resolve any problems. Consultation fosters cooperation in the workplace.

In a small workplace, consultation can take the form of an informal discussion between employer and employees, and other persons including contractors, over the content of an MSDS, or during an inspection of the work. In a large workplace, with a number of employees, it may be appropriate to use a formal process through a workplace occupational health and safety committee. Guidance on consultation arrangements and undertaking consultation is provided in the *Code of practice: OHS consultation*.

### 3.1 What consultation should address

In relation to the use and storage of chemicals, address:

- (a) identifying hazards and assessing risks associated with the storage and handling of chemicals
- (b) planning the introduction of a new chemical, new application method or modifying an existing process
- (c) deciding on control measures and how their use and maintenance can be checked
- (d) training requirements
- (e) communication with a contractor (where appropriate)
- (f) advice on particular chemicals
- (g) selecting and wearing PPE (personal protective equipment)
- (h) administrative measures adopted in your workplace
- (i) the role of air monitoring and health surveillance, and the choice of a medical practitioner (when applicable at workplaces where these procedures are carried out).





## CHAPTER 4 – OVERVIEW – MANAGING THE RISKS OF CHEMICALS

The aim of the risk management of chemicals is to minimise or eliminate illness or injury by going through the following steps:

- identifying the chemical hazards
- assessing the degree of risk created by the chemical hazards, in storage and work processes
- eliminating risks, or if this is not reasonably practicable, determining appropriate measures to control risks including improving existing controls
- ensuring appropriate supervision of workers
- ensuring appropriate instruction, information and training is provided to workers
- recording any action or work procedure established for the workplace
- checking the implementation and success of control measures.

The aim of this code is to help you establish practical methods appropriate for your workplace and take steps to establish a safe system of work.



### 4.1 The types of risks

Risk assessments should be made in the following three major areas:

- Risks to users from the preparation and use of chemicals, where the emphasis is on controlling contact with chemicals (see chapter 6).

- Risks to others from spray drift, contamination (eg crop re-entry) and disposal (see chapter 8).
- Risks to persons, property and the environment by accidental events such as spillage or fire in storage or transport (see chapters 10 and 11).

In addition, under the OHS Regulation, you may need to assess all other types of risks such as those arising from manual handling and the use of plant and machinery.

#### **4.2 Identification of hazards**

Chemical hazards can be identified from the label on containers and the MSDS for the chemicals supplied to you (see chapter 5).

Hazards created by work, such as the generation of fumes or dust, may not be covered by an MSDS and so other relevant information should be sought. Examples are welding, cutting, or grinding, or entry into dusty areas such as a silo. Information should be obtained about health effects, precautions for use and safe handling. Seek advice from an expert or authority such as WorkCover.

If you undertake work such as essential oil distillation, then you take on the manufacturer's legal obligations to produce an MSDS.

Risks from the biological or explosion hazards arising from organic dusts are not covered in this Code of Practice. You may also need to consider the physical risks arising from pressurised equipment.

#### **4.3 Assessing risk**

A risk assessment is based on information supplied on the label and/or MSDS, and involves an inspection of the actual work location and work practices. In some situations it may be necessary to obtain specialist advice.

This code will help you examine the work practices related to storage, handling and use and then estimate the risk to employees and other persons, property and the environment.

Review risk assessments when:

- work practices change
- a new chemical is introduced
- when an updated MSDS is produced by the supplier
- need is indicated by adverse results of health surveillance or monitoring
- five years has elapsed since the last assessment (check that you have the latest MSDS).

#### **4.4 Controls**

Controls are methods that eliminate or reduce the risks of chemical accidents and exposures. Controls and their maintenance must be part of any plan to introduce a chemical into the workplace. The continuing use and effectiveness of controls should be checked.

#### 4.5 Records and the register of chemicals

Maintaining records is an important part of risk management and risk assessment.

The starting point is forming the register, which includes a listing of all hazardous substances and dangerous goods in a workplace. The minimum information that must be included in a register is a list of all hazardous substances and/or dangerous goods used or produced in the workplace and the relevant MSDS (OHS Regulation clauses 167, 174ZW). Note – some chemicals will have both a hazardous substances and a dangerous goods classification. There are a number of ways of forming a register – see section 13.2.1.

See step 8 of section 6.4 for more advice on recording exposure risk assessments and Appendix 1 for a way of recording a storage risk assessment.

Other types of records are also described in chapter 13.

## CHAPTER 5 – IDENTIFICATION OF HAZARDS – SOURCES OF INFORMATION ABOUT CHEMICALS

Information about the hazards of a chemical can be found on the container label and the MSDS. This information should be used to assess risks and establish control measures. Additional advice can be found in other publications produced by the pesticide manufacturer, importer or supplier, which give advice on the intended method of use of the chemical and suitable application equipment.

For emissions such as welding fumes, or dusts, the above sources of information may not be available and so equivalent information should be sought. Common hazardous substances are listed in the *List of Designated Hazardous Substances*. This information is available online by searching the Hazardous Substances Information System (HSIS) on the web site [www.ascc.gov.au](http://www.ascc.gov.au).

### 5.1 Labels

The purpose of labelling is to ensure correct identification, use and disposal of the chemicals in a package. A “package” is a container of a capacity less than bulk. Labels must be kept fixed to the package at all times.

Hazardous substances, dangerous goods and poisons, all have similar labelling provisions. Pesticide labels show the active ingredients and indicate other hazardous or dangerous ingredients (eg by showing dangerous goods symbols).

Some packages of pesticides have labels that contain extensive information in booklet form that is inserted into an envelope or pocket on the container. These booklets should be returned to the envelope or pocket after use for future reference. Some gas cylinders have tags which display the relevant information.

The *Pesticides Act 1999* requires that a person using a registered pesticide must read the instructions on the label, or have the instructions read to them by another person, before preparing or using a pesticide. The instructions covering the concentration of the mixture and the application must be followed, unless there is a permit to do otherwise. Each pesticide registered for sale has been approved for use under conditions specified on the label. These conditions should be considered when estimating and controlling risk.

Stores containing packages of dangerous goods over certain quantities and bulk containers such as tanks require placards under the OHS Regulation (see chapters 11 and 12). Generally, these dangerous goods requirements do not apply to chemicals mixed and diluted for use.

### 5.2 Material safety data sheets (MSDS)

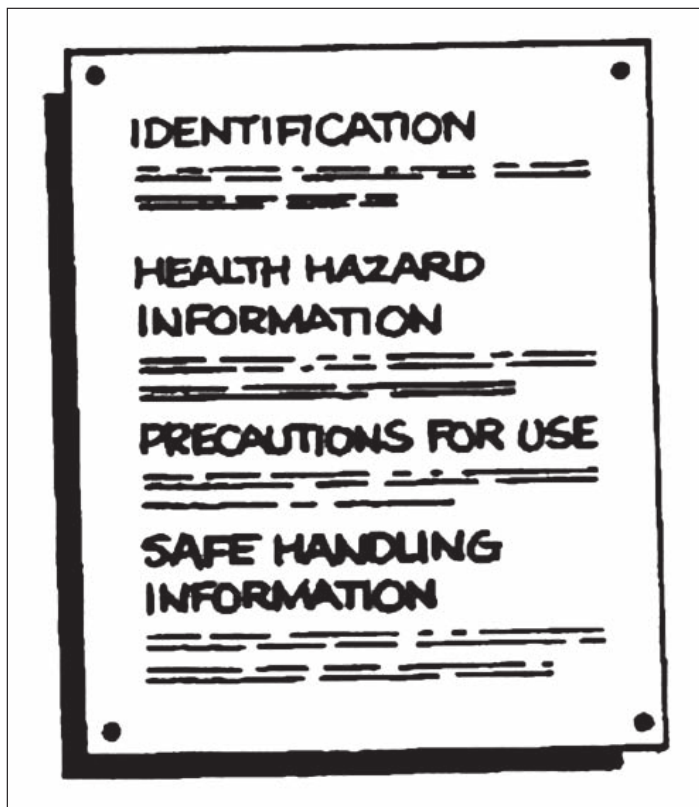
Material Safety Data Sheets (MSDS) provide information on each hazardous substance and dangerous goods additional to that on a label. Methods to control risks including exposure risks, and relevant exposure standards can also be found in the MSDS. An MSDS for a substance provides the following information:

- identification
- health and physical hazard information, including dangerous goods classification if applicable
- precautions for use at application strength, including the exposure standard
- safe storage and handling information
- all the hazardous and/or dangerous ingredients, not just the “active constituent”

- where a chemical may release another hazardous substance during normal use such as when reacting with other common materials or when heated
- emergency procedures (to assist planning).

Use MSDS for guidance on the safe use and storage of chemicals. Other persons working in the area where the chemical is being used may also need to see the MSDS.

MSDS are not available (nor required) for hazardous substances produced by the work such as dusts or fumes.



**5.3 Obtaining MSDS and provision of MSDS to others**

**5.3.1 Obtaining MSDS from the supplier**

A supplier must provide an MSDS for each chemical classified as a hazardous substance or a dangerous goods on request and for the first supply (OHS Regulation clauses 155 and 174M).

Retailers, such as hardware stores and supermarkets, are not required by law to provide MSDS for consumer packages.

A reseller, such as a person who supplies to trade only, is not a retailer (since they are not dealing with consumer packages) and so must provide MSDS. Trade sales include substances intended solely for use in workplaces, and so MSDS must be provided to you on first supply and on request.

**5.3.2 Employer duties**

MSDS must be made available to employees who may be exposed to the hazardous substance in use or dangerous goods handled or stored (OHS Regulation clauses 162 and 174ZG).

Access to MSDS may be required:

- during training (including induction)
- during consultation before the introduction of a new substance
- when an employee is working with or near the chemical (eg when it is applied)
- when working in the storage area.

At each workplace, or designated work area, where hazardous substances or dangerous goods are stored or mixed, ensure that:

- employees have easy access to an MSDS for each substance stored or used
- the most recent edition of the MSDS is available (check every five years)
- any information retrieval system for MSDS is kept in working order
- employees are trained on how to access and understand the information.

### 5.3.3 Self-employed persons

Self-employed persons should note that to meet their responsibilities to others under the OHS Regulation they should make an MSDS available to others at the workplace for the substance in use. Contractors should make MSDS available to others at the site including employers and their workers.

## 5.4 Decanting

Decanting should be avoided because of the difficulty of maintaining identification of decanted contents in new containers, unless used immediately. An example of immediate use is when measuring out an amount of pesticide and pouring it directly into a spray tank.

A chemical must not be transferred from one container to another (decanted), unless both containers are properly labelled.

A chemical should be decanted only into another container designed for the chemical. Some chemicals can react with the container, if the wrong type of container is used.

Do not decant a chemical into a food or beverage container.



**5.5 Labelling of pesticide application equipment**

When the pesticide is in the application equipment, such as a small spray tank, signs or labelling are not required where all of the following are observed:

- it is filled with a pesticide that has been prepared or diluted ready for immediate use
- it will be controlled by the applicator
- there is a low risk of any other person misusing it.

If the diluted pesticide is in a tank and not used immediately, it should display a warning sign with at least the following words:

POISON (followed by the common name of the pesticide)

AVOID CONTACT

HAZARDOUS PESTICIDE

This includes a tank carried on a vehicle such as a tractor or truck but not a portable tank such as a knapsack spray.

Unused diluted pesticide should be disposed of (see section 8.3) or kept in a labelled container.

**5.6 Container that is not properly labelled**

Under the *Pesticides Act 1999*, a pesticide must not be used from a container that does not have a registered label fixed to it. All unlabelled chemical containers should be identified or disposed of promptly.

If the label has been lost and the contents of a container are known, attach a temporary label. If the product name is unknown it should be labelled: 'CAUTION. DO NOT USE. UNKNOWN SUBSTANCE' and then stored securely or disposed of as a hazardous waste by a commercial waste contractor.



## CHAPTER 6 – ASSESSING EXPOSURE RISKS

### 6.1 Legal duties

#### 6.1.1 Duty to assess risks

Employers and self-employed persons are required by the OHS Regulation to assess the:

- health risks of all work with chemicals and other substances that are classified as hazardous substances
- physical risks of dangerous goods.

This includes chemicals that are in current use and new chemicals when they are introduced.

#### 6.1.2 Scope of the risk assessment

Risk assessments must include risks to seasonal and casual workers, and risks to non-employees at the workplace. Self-employed farmers and contractors must assess the health and exposure risks to *other persons* working at the site.

Employers and self-employed persons also have a duty of care to members of the public who may later come into contact with hazardous residues.

Even though pesticides are assessed for health hazards before registration, risks vary with the way a pesticide is used. Consequently, it is important to assess the health and safety risks arising from the *actual circumstances* of use at *your* workplace, including the method of application, equipment used and the weather. Off label use may require a thorough risk assessment as the label precautions may not apply. The permit directions must be followed.

Use the risk assessment to examine the effectiveness of existing controls.

Detailed advice on the hazards and risks associated with dusts and gases produced in crop storage, such as in silos, is provided in the *Code of practice for the safe use of bulk solids containers and flatbed storage including silos, field bins and chaser bins*.

#### 6.1.3 General risk assessments

If hazards identified as being likely to arise in the conduct of an employer's undertaking are of the same kind but arise in different places or circumstances, a general assessment of risk is sufficient compliance with the OHS Regulation so long as it has been applied to each such place or circumstance.

You can use a general assessment for several locations or occasions where the hazard and degree of risk are comparable, such as where the same chemical is used in a number of different locations in similar circumstances. Examples are applying a particular herbicide to a pasture, or when jetting sheep. The use of general risk assessments will simplify the overall task of assessment of the different locations where you work.

This may be of particular use to contractors who do similar tasks in a number of different locations. Relevant variable factors should be included (eg weather) and any limitations specified.

To apply general assessments you must ensure that the work practices, equipment and materials are the same in each case.

You may need to specify controls such as not doing work when weather conditions are unfavourable. For example, you might specify in the risk assessment the wind speeds that are too high or too low.



## 6.2 Routes of exposure to health risks

There are three main ways chemicals can enter the body, called routes of exposure. Consider each possibility separately when conducting a risk assessment:

- **Inhalation** may be an important route of entry. Exposure occurs by breathing in airborne concentrations of a chemical in the form of an aerosol, vapour, mist or suspended dust. For example, consider this risk when spraying.
- **Skin contact** is a common route of entry. Many chemicals are readily absorbed through the skin or eyes. For example, consider skin contact risks when mixing sprays. Formulations which contain solvents and surfactants may increase skin absorption. Higher temperatures or humidity may increase absorption.
- **Ingestion** (swallowing) is normally a minor route of exposure, except in the cases of accidents such as splashing while mixing or spraying. Smoking or eating while handling chemicals is often the cause of ingestion. Dusts and aerosols can be breathed in and then swallowed.

An additional route of entry is the risk of injection from "stick" injuries – for example vaccination needles when using veterinary chemicals, or from injector guns.

## 6.3 Exposure standards and air monitoring

The OHS Regulation requires employers (and the self-employed) to control exposure to ensure that exposure of an employee, or other persons at the workplace, to hazardous substances is prevented, or if that is not practicable, minimised.

Exposure must not be greater than the relevant exposure standards in the NOHSC publication *Exposure Standards for Atmospheric Contaminants in the Occupational Environment*. This information can also be found on the web site [www.ascc.gov.au](http://www.ascc.gov.au) by searching the Hazardous Substances Information System (HSIS).

This is relevant where inhalation is the main route of entry. Not all hazardous substances have an exposure standard. The exposure standard is given in the MSDS, if a standard has been allocated. It may relate to an individual component of the spray mixture such as the solvent or surfactant. Exposure standards are of most relevance to those workers who use chemicals regularly and continuously as part of their daily duties (including contractors).

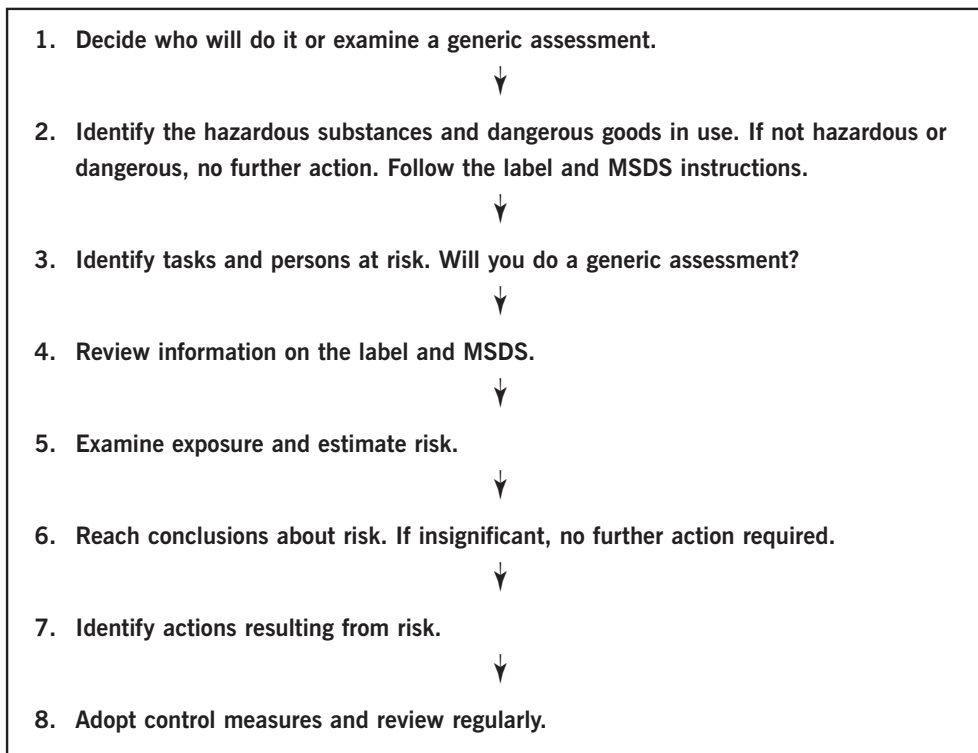
If spraying produces vapours, aerosols or particles in the air, then for the purposes of a risk assessment, it may be appropriate to assume that the airborne exposure standard is likely to be exceeded and that control measures such as respirators or other PPE are necessary. For chemicals used in agriculture, strict compliance with the safety directions on the label and MSDS will normally ensure that exposure is sufficiently controlled so that quantitative measurement will not be necessary.

If there is uncertainty about risks, it may be necessary to measure airborne concentrations and compare these with the mandatory exposure standards. This may be useful for fixed locations such as indoors or situations of off-label use. Care must be taken when applying these to outdoor situations where conditions are variable, such as changes in the wind.

These measurements are normally undertaken and interpreted by a qualified occupational hygienist.

#### 6.4 Eight step risk assessment

Flow Chart – Risk Assessment



Use the eight step plan below to carry out a risk assessment:

##### Step 1 Decide who will do the assessment and where

Most employers or contractors should be able to do a simple assessment. In large organisations, the employer might delegate this duty to someone with a sufficient knowledge of the workplace. Labels, MSDS and other supplier information provide the basis for the risk assessment.

However, you may need to seek expert advice where there are doubts about the degree of exposure and there is a need for a more complex risk assessment (see step 7).



## Step 2 Identification of hazardous substances and dangerous goods

Identify all chemicals from the labels and MSDS.

Stock lists and inventories are useful, particularly if the inventory is marked with the category of poison or dangerous good at the time of purchase.

Hazardous dusts and other emissions from items not covered by a label or MSDS, such as the generation of dusts, welding fumes, or skin contact when handling pesticide treated timber should also be considered.

From the label, identify the pesticides, herbicides or chemicals which are classified as:

- dangerous goods
- hazardous substances
- scheduled poisons.

These classifications can be identified from symbols or words on the label or MSDS. Dangerous goods will show a “diamond” symbol and a “UN” number – see appendix 5 for symbols. If you have dangerous goods, you may also need special storage arrangements (see section 11) in addition to the assessment of health risks covered in this section.

Then list these in a register, in the form of an inventory, together with the relevant MSDS. Also list any additional hazardous substances *created* in the workplace such as dusts and fumes, on the register (these do not need MSDS).

Some herbicides and pesticides (eg those with low human toxicity) may not be hazardous or dangerous, and so the remaining steps of the risk assessment will not be necessary. However, an assessment of environmental risk may be necessary.

## Step 3 Identify persons at risk and tasks

Divide up the work activities into units for assessment, based on the different chemicals used. Look at each job or task using each chemical separately. For example:

- (a) preparing, mixing or diluting (including handling the concentrate);
- (b) applying, such as spraying;
- (c) handling in the storage area;
- (d) loading and handling on vehicles;
- (e) other tasks such as welding or degreasing;
- (f) treating buildings, silos and other situations where contact with hazardous residue is possible;
- (g) cleaning, adjusting and maintaining equipment;
- (h) dusts from grain handling or contaminated land (such as around dips); and
- (i) access by workers to treated areas or contact with hazardous residue.

Use the list in section 6.7 as a checklist of high risk activities.

#### **Step 4 Review the information from the label and MSDS**

For each chemical find out the following:

- the degree and type of hazard (eg flammability, toxicity, risk of cancer or foetal damage)
- routes of exposure likely during use
- recommended control measures.

The degree of the hazard is indicated on the label and in the MSDS. For example, find out the poisons schedule number – 5 is the least toxic, 6 is intermediate toxicity and 7 is highly toxic. Do not just focus on the “active” ingredient. The most toxic component of the pesticide mixture may not be the active ingredient but could be the surfactant, such as a glycol, or the solvent used, such as xylene. Hazards are indicated by the “risk phrases” on the label.

Check your existing control measures in use and compare these with the recommendations on the MSDS and label, including the “safety phrases”. If you have a permit for off-label use, then the label recommendations may not apply, in which case you must follow the permit conditions instead. If you are not using the recommended controls, then you will need to take steps to adopt these (see chapter 7).

#### **Step 5 Estimate exposure and risk**

To estimate exposure and risk, inspect the work practices and existing control measures. The risk assessment may vary with the form of the substance (eg powder versus liquid) and the method of application.

To estimate exposure consider:

- evidence of contamination – visible dust or fumes, dust on surfaces, skin or clothing, visible leaks, spills, or residues, odour
- direct contact with the substance, such as handling powder without gloves
- splashes
- experience or symptoms of exposure
- likely vapours or hazardous residues remaining after the application of the chemical
- spray drift
- hot working conditions where absorption through skin occurs more readily as a result of increased blood supply to the skin.

Health risk is a combination of hazard (toxicity) and dose. Dose is the amount entering the body as a result of exposure. The dose is affected by both of the following:

- likelihood of exposure
- length of time of exposure.

Also consider flammability risks – such as decanting near sources of ignition.

#### ***Likelihood of exposure***

The likelihood of exposure should be determined. This depends on a number of factors. The most important are: the hazard itself, the type of work done (task), and how it is being done.

Factors to consider include:

- the situation (eg is it an enclosed space or well ventilated?)
- the form of the substance (eg is it a powder or a vapour? Does this change with temperature?)
- are workers using the Personal Protective Equipment (PPE) prescribed on the label or in the MSDS?
- are engineering controls such as ventilation correctly used?
- how often is the chemical used?
- the likely airborne concentration of the chemical in comparison to the exposure standard
- spray or dust drift and the factors such as particle size, wind speed and temperature (see also advice in sections 8.2 and 8.3).

***Length of exposure (contact time)***

The length of time a person is in contact with a chemical directly affects the dose. Also consider the possible contact others may experience, for example pickers in a field. Workers who use a chemical every day will have a much higher potential exposure than employees who use chemicals only occasionally, as part of other duties.

Contact time and contact area of skin are important in estimating the dose. Skin contact can be estimated by observing the actual circumstances of the work activity. Is the appropriate PPE being used?



For example, if a knapsack spray is being used and a pesticide leaks out of the unit and over clothing, the operator will be in contact with the pesticide until the contaminated clothing is removed. If the clothing is not immediately removed, this will increase the length of time when skin absorption may occur.

**Step 6 Reach conclusions about risk**

***Significant risk***

A 'significant risk' means that the work could adversely affect the health of people in the workplace. Consider the outcome in terms of possible health effects.

Examples of significant risk factors are:

- exposure is high (eg the length of time and/or likelihood is high)
- the chemical is highly toxic (even if exposure time is short)
- the health effect is severe – both the chronic (long term) effects and the acute (short term) effects should be considered (check the MSDS)
- leaks or spills might occur
- the individual is particularly susceptible (eg evidence of previous allergic reactions, pregnant or breast feeding).

### ***Reaching a conclusion***

There are four possible conclusions about risk:

1. No significant risk if it is unlikely that the work will adversely affect the health of people in the workplace. This may be an appropriate conclusion if all the label and MSDS instructions and PPE are followed. However, this may not apply to off label use.
2. The risks are significant but effectively controlled, but could increase in the future. Consider if there is a need for monitoring or health surveillance.
3. The risks are significant, and not adequately controlled. Consider immediate control measures or re-designing the process, and then determine if monitoring or health surveillance is required (see section 6.5 below). Seek expert advice if needed.
4. There is uncertainty about the risks, there is not enough information about the hazards or there is uncertainty about the degree of exposure. Seek expert assistance, or more information, to do a more detailed assessment.

### **Step 7 Identify actions resulting from conclusions about risks**

If the work evaluation shows that exposure is, or can be, readily controlled in accordance with the MSDS and label, then you may conclude that there is no significant risk to health. The risk assessment is complete. This will usually apply to chemical use if you have followed the label and MSDS directions. The record of assessment may just be a notation on the relevant MSDS in the register.

You may have to include a note on the conditions of use, such as not using the chemical during adverse weather conditions.

Where the assessment indicates that there is a significant risk to health:

- select appropriate measures to achieve and sustain control (see section 7)
- ensure that those control measures are properly used and maintained
- arrange induction and training, especially in areas where the assessment indicates risks are not easily controlled
- determine if air monitoring or health surveillance are required, and whether or not it is needed on a regular basis – see section 6.4 for more advice on health surveillance.

### ***Air monitoring and exposure standards***

Air monitoring may be useful in fixed locations, such as indoors. Such measurements are normally undertaken and interpreted by a qualified occupational hygienist. For the purposes of risk assessment, it may be appropriate to assume the exposure standard is exceeded if aerosols or other suspensions are produced.

### **Step 8 Record conclusions about risk and adopt controls**

Details of recording an assessment of risk and the controls chosen are covered in the next section on control measures (see section 7.3). Once controls are introduced their use should be reviewed regularly.

A step by step checklist to help risk assessment is given in appendix 6.

### **6.5 Health surveillance**

Advice should be sought from an authorised medical practitioner on when health surveillance is necessary. The following advice is a guide to when it may be required and the steps you should take.

Health surveillance of workers is the health assessment of a person to identify any changes resulting from exposure to a chemical. It may involve a medical examination and taking blood or urine samples. Adverse results would indicate the need to revise the risk assessment and implement better control methods.

The need for health surveillance should be determined as part of the risk assessment process, when identifying conclusions from risks (section 6.3, step 7 above). This is particularly important for contractors who are regularly exposed to pesticides. To help with this decision, the advice of a WorkCover authorised medical practitioner may need to be sought when preparing the record of the risk assessment. This could be in the form of a written plan of action, for the circumstances of use in your workplace, identifying control measures and the occasions on when health surveillance will be required. Remember that improved control measures (see section 7) may reduce the need for health surveillance.

Health surveillance is not the primary means of managing occupational exposure and is not an alternative to control measures. It is used to:

- check control measures by confirming that the absorbed dose is below the accepted level (the dose may arise either from use or contact with hazardous residues)
- detect biological effects requiring cessation or reduction of exposure
- collect data to evaluate the effects of exposure over a period of time.

#### **6.5.1 Requirements under the OHS Regulation**

The OHS Regulation (clause 165) requires that health surveillance be undertaken for employees using a pesticide containing organophosphate pesticides (see anti-cholinesterase on the label or MSDS) and who have been identified as having a risk to their health.

For other hazardous substances, the OHS Regulation also requires health surveillance for employees who have been identified as having a risk to their health, if a suitable method of examination or biological test is available (clause 165). Tests are available for some herbicides, and pesticides containing heavy metals. The effect of exposure to anticoagulant rodenticides such as bromadiolone or brodifacoum can be detected by measuring the ability of blood to clot.

Periodic health surveillance should also be considered for all workers who are exposed to a variety of chemicals and/or pesticides for considerable periods of their work time (eg spraying contractors).

Employees and others working in the industry should participate in the health surveillance program, unless there is some compelling reason not to. These reasons should be discussed with the medical practitioner responsible for the program.

You may need to consider including casual or seasonal workers in the program if they move from one area to another to ensure adequate coverage of their exposure.

### 6.5.2 When health surveillance should be undertaken

Consider undertaking health surveillance in the following situations:

- (a) At the onset of poisoning or symptoms of exposure. Poisoning can result from either a single large dose or through cumulative effects of small doses over a number of days. If you suspect pesticide poisoning, always arrange for a health check the same day, or as soon as practicable.
- (b) At least once per year for workers regularly exposed to chemicals. For example, a yearly examination during periods of potential exposure, such as the middle of a spraying season or during any periods which involves the regular use of pesticides.
- (c) When using organophosphate pesticides (see advice below).

Observe the following procedures and criteria for organophosphate pesticides:

Establish a baseline at a time when there has been at least four weeks without exposure. This is to measure a baseline cholinesterase level in each individual worker prior to exposure where organophosphate pesticides are used. It is recommended that blood be taken again within a few days of using the pesticide. To assist the medical practitioner, each worker should bring a written record of the names of the pesticides and dates of use (eg a copy of the record of use form).

For very occasional use no test is needed, unless the person has symptoms which could be related to exposure. Very occasional use is periods of half a day per month or less. However, for seasonal or casual workers, you may need to consider whether they have been exposed at other work locations.

Intermittent use is two or three days at a time, all day, with gaps of a month or more between use. A test during a period of use provides feedback on the effectiveness of control measures.

Seasonal use is 4 days per week or more, for periods over a season. Test early in the season (eg on the last day of the first week, when work practices have settled) to check on the effectiveness of control measures. The medical practitioner will judge the need for further tests based on the nature of the work and previous test results.

### 6.5.3 Arranging health surveillance

An authorised medical practitioner should be consulted for advice and to supervise the health surveillance program. For a list of authorised medical practitioners, contact WorkCover on 13 10 50.

If health surveillance is required, the employer should:

- (a) Consult with employees and inform them of the purpose and procedures for health surveillance.
- (b) Seek advice from the medical practitioner on procedures and how frequently it should be done. The practitioner must follow the health surveillance procedure in clause 165 of the OHS Regulation if the risk assessment shows a *significant* risk of exposure.
- (c) Arrange for people to carry it out (eg a person to take blood samples).
- (d) Provide the medical practitioner with access to a list of hazardous substances for which the health surveillance is required, the MSDS, the exposure standards, and risk assessment reports.
- (e) Make acceptable arrangement for employees to participate in the health surveillance program.
- (f) Pay the expenses, including the wages of employees (see clause 165(5) of the OHS Regulation).
- (g) Keep records confidential (OHS Regulation clause 166(2)) and record information such as when it was done, names of workers, and the outcomes if adverse findings were advised by the medical practitioner.



Advice for authorised medical practitioners is provided in training and publications by WorkCover NSW and guidelines published by ASCC (web site [www.ascc.gov.au](http://www.ascc.gov.au)).

#### **6.5.4 Results of health surveillance**

The interpretation of health surveillance results is the role of the medical practitioner, whose advice must be followed by the employer.

If adverse results are obtained from health surveillance, action must be taken. These results can be used to identify where excessive exposure has occurred. Jobs and tasks must then be examined, and control measures introduced or existing ones reviewed to prevent recurrence. More frequent examinations may be necessary for individuals showing an adverse result.

### **6.6 Health effects of organophosphate pesticides**

The purpose of this section is to describe the health effects of organophosphate pesticides and why health surveillance may be necessary.

The organophosphate pesticides interfere with the normal functioning of the nervous system. They do this by blocking cholinesterase enzyme activity. This is the reason for calling the organophosphate pesticides "anticholinesterase compounds".

The function of cholinesterase in the body is to prevent the build-up of acetylcholine in the nerve junctions by breaking it down. Acetylcholine is a chemical responsible for transmitting nerve stimuli. Consequently, a large reduction in cholinesterase leads to a build-up of acetylcholine which can result initially in sustained nerve transmission between nerve and muscle cells, and if levels are high enough this leads to sustained muscle contraction.

Two types of cholinesterase enzymes exist in blood: erythrocyte (red blood cell) cholinesterase and serum cholinesterase.

Red blood cell (erythrocyte) cholinesterase shows a sustained drop after organophosphate exposure and also reflects more closely how organophosphates affect the cholinesterase in the nervous system. Consequently red blood cell (erythrocyte) cholinesterase is taken as the best indicator of chronic exposure since it is the best estimate of cumulative exposure. However, it may not drop to its lowest level until several days after exposure.

Serum cholinesterase levels usually react more quickly to organophosphate exposure and so may be a more sensitive marker of exposure. However, serum cholinesterase levels also recover more quickly and may also be affected by other medical conditions.

#### **6.6.1 Entry into the body**

Organophosphate pesticides are readily absorbed through all routes of entry and can cause systemic toxicity. Systemic effects are whole body effects, that is body organs away from the site of absorption are also affected.

#### **6.6.2 Acute health effects**

Exposure to a concentrate or a highly toxic organophosphate pesticide may cause symptoms within minutes of exposure. Skin exposure to a working solution of an organophosphate pesticide may cause adverse effects in an hour or so. A splash in the eye may cause blurred vision due to persistent contraction of the eye muscle. Inhalation may cause bronchoconstriction (a decrease in the size of the air passages) and produce an excess of respiratory tract secretions. Splashes on the skin may cause localised sweating as well as localised muscle contractions.

### 6.6.3 Chronic effects

Continual exposure may cause persistent loss of appetite, weakness and malaise. Certain neurobehavioural effects may rarely occur such as twitching and loss of hand coordination.

Many organophosphate pesticides cause primary irritant dermatitis. A few are known to cause allergic contact dermatitis (eg parathion and malathion).

### 6.6.4 Carbamate pesticides

Carbamate pesticides may also affect cholinesterase activity. However this cholinesterase inhibition is reversed so quickly that in practice it is difficult to obtain a valid blood specimen before this occurs. For this reason monitoring cholinesterase activity for carbamate exposure is not usually recommended for routine health surveillance.

## 6.7 High risk activities – a checklist

Some activities create a high risk because they expose people to situations in which the chemical can be absorbed easily. These should be given special consideration when conducting a risk assessment. Examples are when pesticides are handled or used in the concentrated form (eg when mixing) or when application techniques may cause excessive exposure.

Use the following list of tasks as a checklist when assessing risk.

### Checklist – high risk activities

Activity	Risk factors
Mixing and loading spray tanks	<ul style="list-style-type: none"> <li>• Handling liquids or dust in concentrate form.</li> <li>• Pouring concentrates under awkward conditions where splashes are highly likely.</li> </ul>
Marking for aerial spraying	<ul style="list-style-type: none"> <li>• The marker has the potential to be exposed repeatedly to spray mist during aerial spray operations. Markers may absorb pesticide through the skin and by breathing in the spray mist. This risk can be reduced by using electronic swath markers.</li> </ul>
Boom spray	<ul style="list-style-type: none"> <li>• Filling tanks above head height increases risk of spills if manually performed.</li> <li>• Wind blows spray onto the tractor operator.</li> <li>• Operator is wet from waist down when adjusting nozzles.</li> <li>• Operator blows or sucks blocked nozzles.</li> <li>• Self propelled units with front mounted booms pose a greater inhalation risk.</li> </ul>

Blower misters	<ul style="list-style-type: none"> <li>• Spraying trees poses a particular risk because the foliage canopy creates a tunnel effect. Fine spray mist is easily inhaled and also absorbed through skin of operator.</li> <li>• Blower misters create a fine mist which remains in still air for long periods or will drift to neighbouring properties. High exit velocity from blower can cause widespread contamination.</li> </ul>
Knapsack spray tank and other hand held equipment	<ul style="list-style-type: none"> <li>• Leaking equipment wets back, buttocks and legs of the operator. Hot working conditions increases operator absorption. Incorrect use of handpiece can cause spraying onto feet and legs leading to a high skin absorption rate.</li> <li>• Spraying above shoulder height may cause the operator to be covered by blow back of mist leading to skin exposure plus mist inhaled.</li> </ul>
Spraying by wand from tractor supply or ag bike tank	<ul style="list-style-type: none"> <li>• Feet and legs can be sprayed by mist deflected from plants and the ground. If the pressure is too high, a fine mist will be produced which may blow back on operator. Absorption is via skin and inhalation. Hot working conditions increase skin absorption.</li> <li>• Note that ag bikes and quads (ATVs) can become unstable if overloaded by a spray tank, leading to overturning and spillage.</li> </ul>
Fumigation	<ul style="list-style-type: none"> <li>• Fumigants move into the gaseous phase and are lethal due to the inhalation risk. Consider the risk of residues in area or material fumigated. Examples are the use of fumigants in grain silos or soil fumigation.</li> <li>• It is recommended that soil fumigation be carried out by a licensed contractor, holding a fumigation licence from WorkCover.</li> <li>• Carbon disulphide is readily flammable and combustible. Because it is easily ignited extra care is required to eliminate any source of ignition (including any static electricity from containers or clothing) or heat. It is also toxic and so carefully follow the label, MSDS and any other instructions from the supplier.</li> </ul>
Dipping	<ul style="list-style-type: none"> <li>• spray drift (in the case of shower dips)</li> <li>• dermal exposure,</li> <li>• timing of application (both seasonal and time of day),</li> <li>• PPE,</li> <li>• disposal of rinsate and wastes.</li> </ul>
Jetting	absorption via the skin, especially in hot working conditions

Hand dressing (eg to prevent fly strike in sheep)	<ul style="list-style-type: none"> <li>• dermal exposure</li> <li>• timing of application</li> <li>• site (eg not to be done in the shearing shed)</li> <li>• PPE</li> <li>• inhalation (from aerosols or dust)</li> <li>• spills, fumes or splashes.</li> </ul>
Enclosed spaces	<ul style="list-style-type: none"> <li>• Entry into buildings, where atmospheric contaminants will not disperse quickly. For example, fruit dipping in packing sheds.</li> <li>• Hand dressing of fly-struck sheep in shearing sheds.</li> </ul>
Confined spaces	<ul style="list-style-type: none"> <li>• Entry into silos, vats (eg in wine making), tanks or pits is controlled by clauses 66 to 78 of the OHS Regulation.</li> <li>• An Australian Standard, AS 2865 Safe Working in a Confined Space provides further advice.</li> <li>• Exhaust fumes from running pumps powered by internal combustion engines creates additional hazards and such engines should not be used in enclosed or confined spaces.</li> </ul>
Re-entry of crops after spraying	dermal exposure from brushing against foliage – see section 8.5.
Welding	Fumes from welding. The exact hazard depends on the type of welding and the material being welded.

Advice on control measures are covered in the next two sections.

## CHAPTER 7 – MANAGING THE CONTROL OF CHEMICAL RISKS

The OHS Regulation requires that measures must be adopted that eliminate, or if that is not reasonably practicable, control risks. These include risks resulting from the exposure of any person to a hazardous substance and the physical hazards posed by dangerous goods.

The purpose of control measures is to eliminate or reduce exposure to chemicals in the actual circumstances of use and storage. It may be necessary to adopt more than one control measure to reduce exposure. Also consider controls that reduce environmental impact, including the reduction of waste. Take all the instructions on the label of pesticides into account when considering the practicability of control measures. Controls for storage are outlined in chapter 10.

Workplace exposures should always be kept as low as reasonably achievable, even where occupational exposure is quantified and exposure standards met.

### 7.1 The control hierarchy

The hierarchy of control will help you decide the best way to control risks. The hierarchy ranks control measures from the most effective to the least preferable. However, not all types of strategies will be practicable and more than one type of strategy may be needed for best exposure protection.

Methods to eliminate or control risk must be considered and adopted in the following order:

#### 7.1.1 Elimination and reduction

Exposure to a chemical can be eliminated by removing the substance from the workplace, or by reducing its use.

For example, the use of a pesticide can be eliminated by removing the pest through manipulation of the environment. At the same time this can benefit production and the environment, including eliminating wastes.

Consider practices that involve:

- better hygiene
- removing pest breeding areas
- biological control and beneficial insects
- rotating crops or alternative crop varieties
- physical barriers
- biotechnology and integrated pest management (IPM)
- eradication.

Use these along with pest monitoring to reduce the frequency of chemical application (this is called integrated pest management, or IPM)

Do not use de-registered pesticides.

### 7.1.2 Substitution

It may be possible to substitute a chemical for a less hazardous one. Choosing appropriate containers will help reduce waste. Examples of substitution include:

- using a less toxic chemical
- using a less volatile chemical
- altering the physical form such as replacing an emulsifiable concentrate formulation with a granular formulation or encapsulated product to reduce the handling risks
- purchasing only returnable or reuseable containers.

### 7.1.3 Isolation

Isolation of the process can be achieved by distancing it from the rest of the workplace or by a physical barrier between the process and any person. Examples of isolation include:

- (a) separate areas used for storing, mixing and preparing pesticides with limited access to all but properly authorised employees.
- (b) using an air-conditioned truck or tractor cabins with properly functioning and maintained activated carbon filters designed to remove pesticide vapours.
- (c) carriage of chemicals in a section of a vehicle isolated from the driver and passengers during transport.
- (d) storage in a separate building or fenced area.
- (e) fencing off a contaminated dip site.
- (f) closed chemical transfer systems which reduce the risk of contact with concentrate (eg induction hoppers, direct injection).

If using an air-conditioned cabin, observe the following precautions: Check door seals for wear. Keep windows, doors and hatches or vents closed and air-conditioning on recycle during operations. Carbon filters must be maintained properly. Consider wearing a respirator if a carbon filter is not available. (At present there is no Australian Standard applying to vehicle carbon filters). The use of air-conditioning without carbon filters, on "recycle" could contaminate the cabin over a period of time.

### 7.1.4 Engineering controls

An engineering control is a system which:

- minimises the generation or emission of a chemical
- suppresses or contains a chemical
- delivers the chemical in a way that reduces misting.

Types of engineering controls include the choice of application equipment, a local extraction ventilation system or an automated process. Consider engineering controls for indoor work if air contamination is likely, for example in a green house or packing shed.

Examples of engineering controls include:

- using an extraction ventilation equipment (ventilator) over a fruit dipping bath to remove solvent vapours
- changing nozzles to control droplet size or spray pattern
- using a purpose designed workplace with good natural or mechanical ventilation (to provide adequate air movement).

### 7.1.5 Administrative controls and work practices

Administrative controls are planned work practices which enable you to manage risks. These include: the time of work, hours of work restrictions, taking wind and weather conditions into account, and restricting who does the work and who has access to a work area or chemical store. Administrative controls are implemented to ensure safe work practices are adopted in the workplace and that environmental impact is minimised.

Examples of administrative controls include:

- (a) Reducing the number of persons exposed and excluding non-essential personnel from the area. For example, treat a building when not in use. Minimising the number of workers during dipping. Delay grain unloading and entry into silos for a period following fumigation.
- (b) Limiting the time period of exposure for an employee.
- (c) Prohibiting eating, drinking and smoking when handling chemicals.
- (d) Providing and ensuring the use of adequate facilities for effective decontamination such as washing facilities.
- (e) Ensuring that outdoor tasks are done at the most appropriate time of day (eg wind drift or heat stress).
- (f) Correctly calculating crop volume, area to be treated and amount of spray required. This has the added benefit of minimising the amount used and costs.
- (g) Correctly calibrating equipment
- (h) Restricting crop re-entry after spraying (see section 8.6)
- (i) Signs indicating hazards.
- (j) Notification of neighbours.
- (k) Establishing procedures for disposal of waste and containers.

### 7.1.6 Personal Protective Equipment (PPE)

PPE should only be relied upon where it is not possible to control exposure by one or more of the above measures. PPE should be used:

- according to instructions on the container label
- in an open field situation where engineering controls are not available
- when mixing, decanting or spraying
- in some circumstances as a back-up for other control measures.

Employers must provide PPE to workers free of charge.

## 7.2 Selection, use and maintenance of personal protective equipment

Employers should ensure that:

- (a) PPE is appropriate for the task (see selection, below)
- (b) PPE is suitable for the wearer
- (c) PPE is readily available, clean and in fully operational condition.
- (d) Employees are trained in the use of the PPE, including the selection and maintenance (and where appropriate when to discard disposable PPE)
- (e) The employees wear the PPE as intended.

- (f) Any maintenance, such as cleaning, is carried out.
- (g) The likelihood of a secondary injury risk due to wearing PPE, such as skin rash or heat stress or dehydration caused by unsuitable clothing in hot conditions, has been assessed. A suitable control measure would be avoiding chemical use during the hottest part of the day.

#### **7.2.1 Selection**

Check that the protective equipment you use has the appropriate Australian Standard number on the label. Various standards not only provide specifications but also indicate the type to be selected.

Use labels and MSDS (material safety data sheet) as a guide. If in doubt as to suitability ask the supplier for a recommendation for your intended purpose. Also check the supplier's specifications.

#### **7.2.2 Eye protection**

Your eyes are the most vulnerable parts of your body to chemical or physical damage, and the most difficult to repair surgically. In any area where there is the possibility of flying objects or where chemicals might splash, you should wear appropriate eye protection. This could be in the form of safety glasses, goggles, a face shield, or full face respirator. Splashes are most likely when mixing, pouring and loading application equipment.

Select eye protection which should conform to AS 1337 *Eye Protection for Industrial Application*.

Australian Standard AS1336 *Recommended Practices for eye protection in the Industrial Environment* gives the requirements for the selection of the correct type of eye protection. If you wear ordinary spectacles it may be necessary to wear coverall safety glasses or a face shield over the top. Prescription eye wear is covered in AS 1336.

#### **7.2.3 Gloves, aprons and other equipment**

Gloves should be always worn during cleaning operations to protect the skin from the corrosive effects of cleaning agents. Gloves may also be necessary when decanting or preparing chemicals. Check the MSDS for glove type. Also confirm with the glove supplier on suitability of the glove provided for the chemical used. Rubber gloves are usually not sufficient.

Select gloves which comply with Australian Standard AS 2161 *Protective Gloves and Mittens*.

#### **7.2.4 Respiratory protection**

In some situations, respiratory protection will be necessary. An example is the use of pesticides, where the pesticide label specifies the use of a respirator or protective equipment. Sometimes the labels will use phrases such as avoid inhalation of spray, or vapour, or dust.

Select respirators which conform with Australian Standard AS 1716 *Respiratory Protective Devices*.

Respirators should be used, stored and maintained in accordance with the Australian Standard AS 1715 *Selection, Use and Maintenance of Respiratory Protective Equipment*. A respiratory program conforming with section 7 of AS 1715 would ensure maximum efficiency of the respirators.

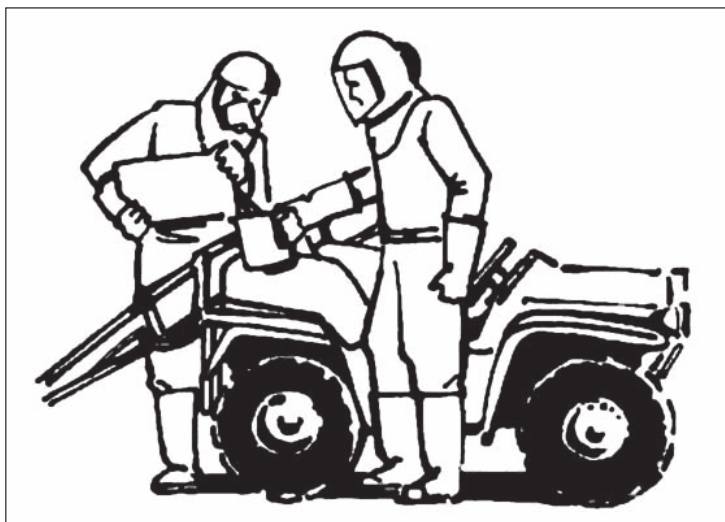
Welding should be done with adequate cross flow ventilation and a respirator with P2 type particulate filters. Combined filters may be necessary depending on the type of flux, electrode, or filler material used. Consult MSDS for information.



### 7.2.5 Footwear

Footwear is an important safety item. Good soles provide you with a sound grip preventing accidents from slipping. Footwear can also protect your feet from mechanical or chemical damage. Gumboots are often practical when carrying out preparation or application where splashes are possible.

In some cases, safety footwear is necessary. Where impact, cuts or chemical spills are possible, select footwear which conforms to AS 2210 *Occupational Protective Footwear. Part 2 Specification* provides information on the suitability of footwear, sole designs and materials for different types of surfaces. Part 1 provides information on selection, care and use.



### 7.3 Recording control measures

As part of the risk assessment report, records should be maintained which confirm that exposure to hazardous substances and the storage and handling of dangerous goods is being controlled. These must be kept for at least five years, or 30 years if monitoring or health surveillance is required due to the long period before some health conditions become evident (see OHS Regulation clauses 168, 171 and 174X). If you cease business and the business records are not passed on to a new owner, then records of monitoring and health surveillance must be offered to WorkCover NSW.

#### 7.3.1 Content of the record

The record should show the degree of the risk and how decisions were made concerning:

- the selection, design, construction or adoption of any control measure used
- the selection and use of any PPE
- the arrangements for training to ensure an appropriate application procedure is followed and the equipment is correctly used
- consider including suitable weather conditions in the assessment and restricting the chemical use if the weather is unfavourable.

#### 7.3.2 Form of the record

On small properties, where the number of chemicals and persons is limited, a simple report attached to the original MSDS or written on the MSDS and dated would be sufficient (this must be kept for at least five years).

For example, if the MSDS for a chemical states:

- do not use in a confined space
- wear a respirator or avoid inhalation of vapours

In response note on the MSDS:

- Do not use indoors unless certain ventilation methods are used.
- Details of the respirator/canister selected, including manufacturers advice.

If you are using the Farmsafe documentation, you can combine the simple risk assessment with the form in Farmsafe Australia Part 3 – Register of Farm Chemicals.

For a large operation, where the same chemical may be used by groups of employees involved in different tasks and where there are many “work units”, the assessment record should include many of the items in the following list.

The range of topics on a complex assessment report include:

- (a) Description of work unit
- (b) Name of assessor or assessment team
- (c) Personnel involved in the assessment
- (d) Work area, date and time of assessment
- (e) A list of chemicals used in that work unit
- (f) Summary of the task(s) of the work unit
- (g) Risk identification including all risks to health and safety
- (h) Conclusions about the level of risk
- (i) Recommendations for control measures and training
- (j) Signature of assessor
- (k) Signature of employer.

In addition, the day to day use of control measures can be recorded on the same form used for recording chemical use. This will help you check that controls are being used. Controls can be recorded on the risk assessment record form (see Appendix 4).

An overview of all record keeping requirements is given in section 13.



## CHAPTER 8 – RECOMMENDED SPECIFIC CONTROL MEASURES

Use the advice in this section to check on your use of control measures.



### 8.1 Spray drift risks

To reduce risks from spray drift:

- Identify sensitive areas where spray drift is likely to have the greatest impact, such as water sources, occupied buildings, public roads, schools and other public amenities, livestock, crops and pasture.
- Separate the application site and the area of potential risk with a barrier, such as vegetation, or distance. For example, encourage vegetation growth to act as a barrier. Wherever possible, a buffer zone should be left between a sprayed and unsprayed area.
- Farmers should prepare property plans as a means of communicating to others all the factors that need to be considered when applying chemicals on a property. The plan should identify houses and farm buildings, neighbouring properties, sensitive areas, roads and access points, public roads and public places, watercourses and storages, paddock boundaries, and powerlines and aerial hazards such as transmitter towers. The property plans is both a tool for communicating with neighbours and a management tool when spraying contractors are used or employees given directions.
- Farmers should communicate with neighbours to minimise drift problems and to avoid conflict. Communication could include: pre-season discussion with neighbours to identify farming activities involving chemical application, chemicals used and potential interactions with neighbours, notification of neighbours prior to application, and agreement on conditions under which application will not proceed or will be abandoned.
- Use a formulation or product (if available) which reduces spray drift, or alternative application method (if permitted by the label). Some formulations are more volatile than others. Low volatility formulations are preferable in areas where exposure to others nearby is possible, or where elevated temperatures may occur after spraying. Dust can ionise and suspend on a dry day, creating drift.
- Check wind speed and direction (see also section 8.3 below). Spraying should only take place when the breeze is blowing away from an area that may be at risk from drift.

- Choose equipment that is designed to reduce or eliminate drift (if permitted by the label instructions). Equipment should be used according to the manufacturer's instructions and be the most appropriate for the task in hand, for the particular pesticide and target requirements.

For each type of application equipment, variables such as nozzle type, hydraulic pressure, height of delivery and the presence or absence of a directed airstream will affect the size and movement of droplets produced, and the efficiency with which they impact on the target. Application equipment needs to be set up to maximise pest control efficiency and to minimise spray drift.

Spray volume should be controlled by changing nozzles and not by varying pressure. A higher pressure generally forms a finer spray that may drift excessively.

Droplet drift before the pesticide hits the target is reduced if the release height is as low as possible. However, if the release height is too low it may be difficult to obtain a uniform spray pattern.

Non-drip valves and recirculating systems should be used where possible. Pressure gauges should be maintained and functional. Ensure that the spray rig is calibrated accurately and frequently.

Calibration and maintenance should be undertaken regularly and include checks of nozzle performance and wear, pressure, the accurate working of gauges and regulators, spray output, filters, and the speed of ground rigs.

## 8.2 Weather conditions

To minimise spray drift it is necessary to monitor weather conditions during and immediately after application. Without access to real time weather information in the vicinity of the target crop, aerial and ground based spraying should not be undertaken.

Ideally, relative humidity should be high and temperature not greater than recommended for the product.

- *Temperature* affects the rate of evaporation, particularly water based sprays. Evaporation can reduce the size of droplets making them more drift prone. ULV formulations, which rely on light oil as a carrier, are less prone to evaporation.
- High *relative humidity* is preferable to minimise drift that can occur through evaporation. Applications at temperatures above 30°C and at relative humidities below 45% increase the risk of drift.

Ensure that spraying is done in cross-wind conditions rather than directly into or with the breeze.

Application should be avoided in calm, stable conditions which may occur early in the morning, late in the afternoon or during a temperature inversion.

Technologically superior spraying equipment, such as a rain drop nozzle, may allow spraying to occur in a wider range of weather conditions without creating a drift hazard.

### 8.2.1 Rain

Rain may cause run-off of the pesticide with a risk of environmental contamination. This should be taken into account when assessing risk to the environment. Pesticides must not be applied if rain is likely to wash the pesticides from the site of application.

### 8.2.2 Inversion

Do not spray under conditions of atmospheric temperature inversion, where air closer to the ground cools faster than the air above it, and forms a layer where air temperature increases with altitude instead of decreasing. Small spray droplets released into an inversion layer can remain suspended and drift long distances. Inversion conditions are most likely in the early morning and late afternoon in the absence of wind, and are often marked by fog, smog or smoke drifting at a constant height instead of rising.

### 8.2.3 Aerial application

Aerial application, and droplet capture by the target crop, are improved where cross winds create turbulence in the crop. Cross winds of between 3 to 10 kph are preferable for aerial application to broad acre crops. In the case of bare earth or fallow, lower cross wind speeds are preferable. No application should occur at speeds above 15 kph unless specific drift minimisation strategies are in place. Variable low speed winds should also be avoided.

If conditions are not suitable to minimise potential risks from drift, the spray operation should be delayed until conditions are suitable.

## 8.3 Minimising chemical waste and disposal

Some pesticides are no longer registered and restrictions may exist for disposal of such pesticides – for details on the deregistered organochlorine pesticides see appendix 8.

You must never dispose of pesticide wastes or rinsates down drains, sinks, toilets, gully traps or into bodies of water.

### 8.3.1 Minimising disposal

Minimisation of use is an important part of minimising the potential environmental and health harm. Consider eliminating chemical use (see the hierarchy of control in section 8).

- (a) Choose the least persistent product available for the application.
- (b) Purchase pesticides in reusable or returnable containers if possible. Otherwise try and obtain recyclable containers.
- (c) Cooperate with other commercial users to minimise the amount purchased.
- (d) Minimise the number of articles (such as measuring containers, funnels and stirrers) used in preparation and application.
- (e) Add rinsates to the tank of pesticide to be used.

### 8.3.2 Surplus chemicals

The options in descending order of preference are:

1. Return unopened containers to the supplier or manufacturer.
2. Use the chemical for its intended purpose.
3. If the container is sound and the label intact, offer surplus chemicals to another commercial operator who needs them for an approved use.
4. Arrange for collection by a waste contractor (listed in the Yellow Pages under "Waste reduction and disposal services"). If using a disposal contractor ensure that the contractor is licensed to handle the chemical to be removed.
5. Label and store securely, pending one of the above actions

### 8.3.3 Burial of wastes on your property

If other disposal options are not available or practicable, and if burial will not result in human or environmental risk, then when disposing of a chemical on your property, note the following:

- the label advice on disposal should be followed
- only pesticides and chemicals that biodegrade or hydrolyse can be disposed of by burial
- only diluted pesticide (use rate), spray tank waste or other rinsate waste can be buried
- waste water should be first diluted and then disposed in a pit drain at least 1 metre below the surface, well away from water courses, ground water discharge areas, areas of high water table or highly permeable soils.
- coverage should be at least 500 mm of soil
- the pit drain should be constructed along the contour of the land surface and be of sufficient length to accommodate the waste water
- the pit drain should be backfilled and a different site chosen for future waste water disposal.

The disposal site should be:

- sited to avoid seepage and run off which may contaminate other areas, and be remote, flood free, clearly marked and fenced
- in an area where there is no danger of contaminating dwellings, underground water, surface water, crops or livestock
- level, with a suitable plastic liner and have hydrated lime spread across the bottom
- suitably identified for a future owner or user of the property.

Some pesticides are not completely bio-degradable and as a result some contamination of the land may occur. Under contaminated land legislation, future sale and subsequent use of the land may be affected.



The disposal of waste from aircraft and pad washdown after aerial spraying is covered by a Department of Environment and Conservation guideline: *Draft Environmental Guidelines for Aerial Spraying Facilities*.

If you store more than 500kg of hazardous waste, or generate more than 2 tonnes per year than you must be licensed under the *Waste Avoidance and Resource Recovery Act 2001*.

Further information can be obtained from the Department of Environment and Conservation's pesticide inspectors (telephone 131 555 for details).

#### **8.4 Disposal of empty containers**

Empty containers must be rinsed and disposed of, or re-cycled in the manner suggested on the label. If manually rinsed, they should be triple rinsed.

Disposal of drums becomes a lesser environmental issue if they are rinsed correctly.

##### **8.4.1 Triple rinsing**

An effective manual rinsing procedure is:

1. On emptying the contents into the spray tank, drain the container for an extra thirty seconds after the flow has reduced to drops.
2. Fill the container with suitable solvent to about 20% to 25% of its capacity.
3. Replace the cap securely.
4. Shake, rotate, roll and/or invert the container to wash all of the inside with rinse.
5. Remove the cap and add rinsate from the container to the spray tank. Drain the contents for an extra thirty seconds after the flow has reduced to drops.
6. Repeat steps 1 to 5 two more times.
7. Check the container thread, cap and thread, and outside surfaces, and if contaminated, rinse with a hose or hand wash.
8. Let the container dry completely and replace the cap.

Various rinsing attachments and transfer systems which have flush and rinse cycles are available.

Containers should be returned to the supplier when they are marked 'returnable', or the label specifies return to point of sale. Where rinsed containers are stored ensure that lids or bungs are removed to prevent re-use and that containers are secure. If not returned to the supplier it may be appropriate to puncture or crush the container to ensure that it cannot be used again. Steel containers should be punctured using a rod or steel crowbar, by passing it through the neck or pouring opening and out the base of the container.

Containers should not be burned. Explosions may occur and the smoke and fire products are a risk to health.

The decision on whether a landfill will accept a properly cleaned pesticide container rests with the landfill operator. Holders of such waste should discuss the disposal of these items with their local government authority.

For further information consult industry leaflets such as the AVCARE publication *Disposal of Farm Chemicals and Containers on the Farm*. Empty containers should be managed in accordance with the Department of Environment and Conservation publication *Environmental Guidelines – Assessment, Classification and Management of Non-liquid Wastes*. See also the web site: [www.drummuster.com.au](http://www.drummuster.com.au)

## **8.5 Re-entry periods**

### **8.5.1 Crops**

The re-entry period is the period in which a treated field must not be re-entered by unprotected persons after the application of a chemical on a crop. This should be considered as part of the risk assessment. Workers and others should be advised of the correct time-lapse. It is important to observe the re-entry period where contact between foliage and skin is unavoidable.

Look to see if the re-entry period is on the label.

Where no re-entry period is stated, a minimum of 24 hours should be observed or until the chemical has dried upon the crop, whichever is the later (subject to the risk assessment), unless appropriate PPE is provided and worn as intended. Caution should be exercised entering wet crops where chemicals have previously been applied, irrespective of the time lapse between application and re-entry.

Even after the re-entry period has been observed, some PPE may be necessary. Appropriate PPE should be indicated by the risk assessment.

### **8.5.2 Silos**

Administrative controls should be adopted to restrict entry into silos following fumigation, to allow time for the dispersal of fumigants prior unloading or to entry into the container. Engineering controls include forced ventilation.

## **8.6 Handling produce and the use of mechanical equipment – residues**

Exposure to residues may occur in the following situations:

- persons enter crops or pastures if some skin contact with residue or other exposure is possible (eg consultants who inspect crops or insects, weed chippers, pruners, vine trainers, fruit pickers)
- handling or packing dipped or treated produce, cut flowers or livestock, picking fruit, moving nursery plants, shearing – observe any label or permit conditions for post-harvest treatment
- dusts containing hazardous residues are produced during mechanical harvesting or bulk transfer
- fumigants are emitted during transfer from bulk silos.

Evaluate the need for suitable PPE, such as gloves and respirators, in such situations.

## **8.7 Control of risks to other people at or near the workplace**

The protection of other people is an important objective and the following should be observed:

- do not allow others, including children, in the vicinity of the areas where pesticides are being sprayed or mixed
- provide copies of MSDS to other people working at the workplace, if requested
- keep pesticides away from children and keep vehicle carrying chemicals locked or supervised at all times
- after the application of pesticides, make sure that residues are not left on surfaces or suspended in the air so that other persons will not come into contact with pesticide residues
- do not allow spray drift risks.



Notify neighbours prior to the commencement of spraying if there is a risk of spray drift. This advice should include the following:

- type of pesticide to be sprayed
- time of spraying
- area to be sprayed
- re-entry period
- hazards and risks associated with the chemicals to be used.

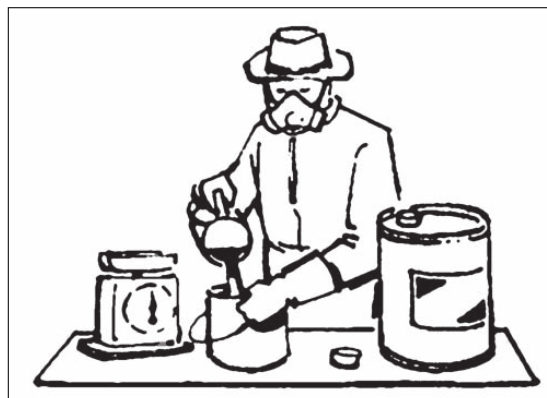
### 8.8 Checking controls and assessment of personal exposure

Check that procedures follow the label and MSDS recommendations. Use the following points as a checklist.

#### 8.8.1 Preparing, mixing and handling concentrates

Great care should be taken when handling concentrates and powders, as this is the time of greatest risk. Observe the following precautions:

- (a) Wear appropriate protective clothing and equipment and have an adequate supply of filters for the respirator.
- (b) Handling powders or concentrates and mixing should be done in a well ventilated area. Stand up-wind while opening, pouring and mixing.
- (c) Do not eat, drink or smoke while preparing and mixing pesticides.
- (d) Avoid contact with the skin, eyes or mouth. If contamination occurs, wash the affected area immediately with copious amounts of water (if indicated by the label).
- (e) Avoid leftover prepared spray by effective calculation of the amount to be used and accurate calibration of equipment.
- (f) The measuring and mixing process is the best time to wash empty pesticide containers. All pesticide containers should be triple-rinsed (see section 8.4). The water used to rinse the container should be added to the spray tank during mixing.
- (g) Spills should be cleaned up immediately.
- (h) Prepare pesticides in the application tank, or on a drip tray over an impervious surface, at least 15 metres from any waterway.
- (i) If the chemical is flammable, decant and prepare away from any possible ignition sources or heat sources.



### 8.8.2 Using pesticides

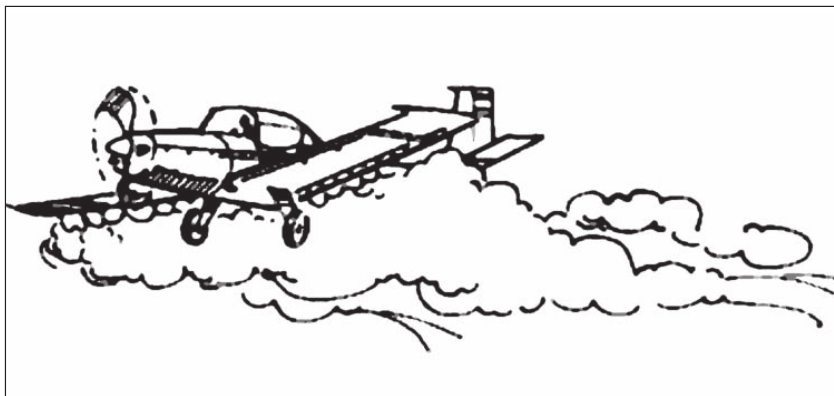
- (a) Avoid inhalation of pesticide vapours or dust.
- (b) Avoid skin contact. If contact occurs, wash with copious amounts of water (check safety directions on label).
- (c) Do not eat, drink or smoke.
- (d) Manage spray drift by carefully assessing wind direction and strength. Never spray in high winds, assess for weather conditions, and stop spraying if weather conditions deteriorate (see section 8.3).
- (e) Avoid, as far as practicable, pesticide run-off to ensure that adjacent properties, persons, flora, fauna and waterways are not affected.
- (f) Take steps to ensure the safety of occupants or users of treated facilities, buildings or areas (eg glass houses, grain storage areas).
- (g) If you feel ill, or start developing symptoms, stop work and seek medical attention.
- (h) Do not use your mouth to blow or suck pipes or nozzles to clear them.

### 8.8.3 Human markers for aerial spraying

Marking means providing visual signals on the ground in connection with spraying from aeroplanes or other means. The use of human markers is discouraged. As alternatives, consider the use of electronic swath markers which increase accuracy and can provide a record of where spray was released, mechanical signals or GPS systems. This can be specified in the contract with the aerial sprayer.

Markers have a high potential for exposure to pesticides. Employers and persons in control of workplaces should make arrangements so that:

- Aircraft never pass and spray over markers.
- Markers move up-wind to the next mark before the aeroplane is within 300 metres of them.
- Markers wear the correct protective clothing and equipment, or use vehicle with a carbon filter fitted to air-conditioning.
- Contact with any freshly sprayed area is avoided (see section 8.5).
- Markers have a 20 litre container of clean water for washing available in a convenient location.
- If spray or spray drift contacts clothing, markers stop work immediately, remove contaminated clothing and wash the parts of their body which have been contaminated.
- When marking is finished, work clothing is removed and the marker should wash thoroughly with water and soap.



**8.8.4 Clothing and equipment**

Use of the following items should be considered:

- (a) Cotton overalls buttoned to the neck and wrist.
- (b) Chemical resistant water-proof aprons when mixing or pouring concentrate.
- (c) Gloves (chemical resistant), preferably gauntlets, to be worn when handling or using chemicals.
- (d) A wide brim washable hat. If contaminated the hat should be removed immediately and washed before re-use.
- (e) Boots such as rubber or PVC. Waterproof leggings provide additional protection. Leather boots can absorb pesticide and cause exposure during high volume applications.
- (f) A face shield or splash proof goggles when mixing or pouring. When spraying consider non-ventilated goggles.
- (g) An appropriate respirator, especially if exposure to spray drift is likely.

**8.8.5 Washing and equipment clean-up**

Regular cleaning and maintenance avoids the build up of residues in and on equipment.

After each application:

- (a) Remove any remaining pesticide mix from the tank. The tank should be partially filled with clean water and rinsed.
- (b) PPE should be worn during cleaning. It should also be cleaned after use.
- (c) The suction filter, and in-line filters on boom sprays, should be removed and washed, spray lines flushed and nozzles and nozzle filters washed.
- (d) Pesticide washed from the tank should be stored in a labelled container for reuse, or sprayed over the area just treated.
- (e) Flush out and hose down equipment and machinery used for spraying.
- (f) Water used for hosing down should be collected in a sump or soakaway pit.
- (g) Return pesticide containers to the store or safely dispose of empty containers after triple rinsing them.
- (h) Remove and wash protective clothing and equipment.
- (i) Wash or shower thoroughly with water and soap. Employers should provide adequate washing amenities including water, soap and towel.
- (j) Change clothes, store and wash work clothes separately from other laundry.
- (k) Vehicles and equipment used to apply pesticides must be washed at least 15 metres from any waterway.
- (l) Washdown water must not flow or percolate into any waterway or area of high water table.

Advice on clean up and disposal of residue for aircraft and aircraft pads is provided in the *Environmental Guidelines for Aerial Spraying* produced by the NSW Department of Environment and Conservation.



#### 8.8.6 Use and maintenance of respirators

- (a) Ensure that the correct type of filter is used. Check the expiry date on the pack.
- (b) Filters should be renewed regularly – consult the manufacturer or supplier for use times. A maximum of eight hours of actual use is recommended. However if the odour or taste of the pesticide is noticed, the filters should be changed immediately.
- (c) The respirator should be tested for a good comfortable seal on the face by following these procedures:
  - (i) Place the hands over the filter(s) and inhale. In the case of a good seal, the face-piece will collapse inwardly, and no leak can be heard.
  - (ii) If air enters, tighten the fit by adjusting the headband.

Note: A proper fit cannot be achieved if the person has a beard or facial hair where the seal should touch the face.
- (d) Face-pieces are available in different shapes and sizes, it is important to ensure the type used provides a satisfactory seal.
- (e) Ensure that the face-piece, valves, filters and hoses are in good condition and well maintained.
- (f) Do not expose the inside of the respirator to any pesticide during use or storage.
- (g) After use, remove filter(s) and wash the face-piece using warm water and soap.
- (h) Many respirator filters absorb other fumes and chemicals in the air even when they are not being worn. This will shorten the use life of the filter. Keep the filter in an air tight container while you are not using it.
- (i) The respirator and filter(s) should be placed in a sealed plastic bag and stored in a clean dry place, away from the pesticide storage area.
- (j) Each pesticide user should have their own face-piece. Respirators should not be shared, borrowed or lent without proper sterilisation.

## CHAPTER 9 – TRAINING

Employers must provide appropriate induction and on-going training for employees (OHS Regulation clause 13). The training must be commensurate with any risk to health or safety, and provided in an appropriate manner. Records of training must be kept (OHS Regulation clauses 171(1)(b) and 174ZV).

Also, under the *Pesticides Act 1999*, employers may be liable for any breaches of that Act, where the breach resulted from the activity of employees.

Training in the use of chemicals covered in this code can be obtained by completing an accredited course such as the Farm Chemical End User Training Course (also known as the Farmcare course or ChemCert). The Managing Farm Safety Course may also be helpful. For aerial spraying the Aerial Agricultural Association has the Spray Safe Accreditation program.

However, additional on the job training may be required for those who are likely to be exposed to hazardous substances or who handle or store dangerous goods, under the particular circumstances and equipment used in your workplace, as outlined below.

### 9.1 Provision of training by employers

The detail and the extent of a training program will depend on the hazards associated with the chemicals that are used and the work procedures carried out by each employee. This should be considered when doing the risk assessment.

Suitable training on the use and application of chemicals covered in this code can be obtained by completing an accredited course such as the Farm Chemical End User Training Course. Consider the appropriate content for induction training for new employees including casual employees, or when an employee is assigned to a new task or work area.

Training can be formal or on-the-job. It should take into account literacy levels, work experience and specific skills required for the job. It should be practical and hands-on where this is relevant. For example, hands-on training should be used for the use and fitting of PPE.

The following must have appropriate training:

- workers who are required to store or use a chemical
- workers who are supervising others working with a chemical
- those who are required to work in close proximity to where chemicals are stored and used, or who may come into contact with hazardous residue
- everyone likely to be involved in fire or emergency action
- casual or seasonal workers who may use or come into contact with a chemical or residue – consider limiting the tasks performed by casual or seasonal workers as an alternative to providing a greater degree of training.

### 9.2 Training about the requirements of legislation

A training program should cover all of the following:

- duties under the OHS Act and OHS Regulation
- applying this Code of practice
- advice regarding the specific hazardous substances or dangerous goods that may be stored or used in the workplace

- the legal significance of a label and any restrictions resulting from it
- any other relevant legislation or guidance material relating to the transport, use, storage and disposal of chemicals.

### 9.3 Information on a substance

Where relevant, training should also cover:

- (a) Recognising and interpreting the information on a label including:
  - safety directions and risk phrases
  - poison scheduling, dangerous goods and hazardous substances classifications and symbols
  - first aid and emergency procedures, and special directions
  - application rates, compatibility and withholding periods for pesticides.
- (b) The importance of being able to:
  - know the parts of the label and the significance of the information in each part
  - extract and interpret information from a product label
  - relate the hazard to the poison schedule, dangerous goods classification and risk phrases
  - calculate the amount of pesticide to use to give the correct application rate.
- (c) How to obtain access to the MSDS, and the information each part of the MSDS can provide.
- (d) The selection, use, maintenance and storage of safety equipment required.
- (e) Any work practice or procedure to be followed in any aspect of the use of a chemical in the workplace, including any appropriate Australian Standard, Code of practice or national Code to be followed.
- (f) Re-entry periods.

### 9.4 Personal safety

Where relevant, training should also cover:

- the routes of entry into the body of chemicals
- the risks posed by chemicals commonly used in the particular industry
- the precautions to be taken for a particular task, including the use of machinery
- the risk assessment process
- control measures and maintenance
- the correct selection, use, fit and maintenance of protective equipment and clothing, including respirators and filters
- exposure controls when working in a truck or tractor cabin
- air monitoring (where indicated by the risk assessment)
- health surveillance (where indicated by the risk assessment)
- first aid and incident reporting procedures
- confined spaces, where applicable, for example, cleaning inside a vat or silo.

### **9.5 Application of chemicals and environmental safety**

Training should also cover the application of chemicals including:

- selection of appropriate equipment
- importance of accurate and even application
- nozzle selection
- calibration for efficient application and reduction of spray drift
- calculation of the amount of pesticide to give the desired application rate
- decontamination steps for equipment and clothing
- disposal of waste
- maintenance and cleaning of equipment
- protection of others at the workplace.

### **9.6 Record keeping**

Training should also cover the preparation and appropriate use of a pesticide application record sheet, and storage records.

### **9.7 Emergency procedures**

Training should also cover:

- protection of human life
- potential for environmental damage
- initial measures to establish control
- decontamination
- first aid or incident reporting procedures where injury or illness to other persons has occurred.

### **9.8 Review of training**

Review the training program or credentials of employees, when there is a change in the following:

- any hazard information available
- the risk assessment
- a work practice
- a control measure.

### **9.9 Records of training**

The training program record should include:

- the names of persons providing and receiving training and date of attendance
- an outline of the course content
- where applicable, details of any courses they have attended (eg TAFE courses or end user courses and certificate numbers).

A suitable form is provided in the Farmsafe Australia Managing Farm Safety Program, *Part 4 – Register of Training of Farm Workers*.

Training records must be kept for five years (OHS Regulation clauses 171 and 174ZV).





## CHAPTER 10 – STORAGE AND TRANSPORT RISKS

The purpose of this chapter is to reduce emergencies relating to storage risks, such as:

- fires
- leakage
- spills
- accidental exposure.

Accidents and spillage risks arise when:

- opening containers
- handling or mixing chemicals
- gases leak from containers or connections (eg when opening or closing valves)
- maintenance is carried out.

For advice on dealing with spills see section 12.1.

The exposure or physical risks to any person close to the incident may be high. Environmental risks from escaping chemicals may also be considerable. These risks can be controlled by reducing the likelihood of an incident occurring, and establishing emergency procedures to reduce its severity should it occur.

Some chemicals are classified as dangerous goods and above a certain quantity specific Australian Standards should be observed (see also chapter 11).

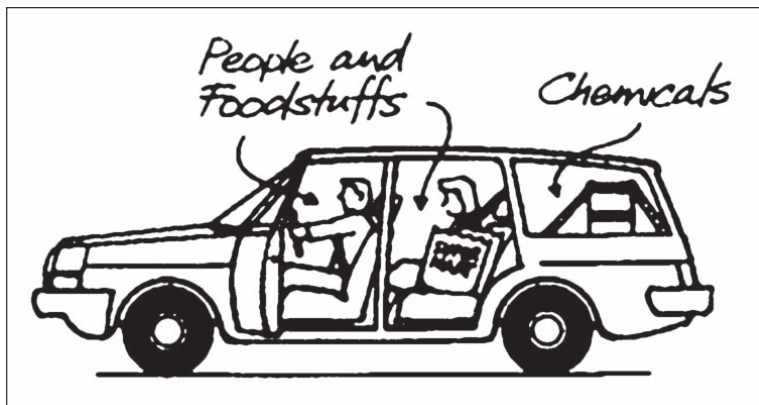
The general principles of this chapter should be applied to all types of chemicals, not just dangerous goods.

### 10.1 Transport in vehicles

#### 10.1.1 Following purchase – unopened containers

When obtaining chemicals from a supplier in the original unopened containers, observe the following:

- keep them in a compartment of the vehicle separate from persons or foodstuffs
- if parked on a public road, the vehicle should be kept locked to prevent public access to chemicals – do not leave your loaded vehicle unlocked or unattended
- protect the load from the weather
- do not accept or load damaged or leaking containers. Secure the load and limit its movement.



### 10.1.2 Transporting chemicals in opened containers

When transporting chemicals once the container has been opened for use observe the following precautions:

- keep in a separate airtight compartment, or on the rear section of an open vehicle
- personal protective equipment, a change of clothes, food and drink, should be carried in clean containers preventing contact with any chemical – a change of clothes may be necessary if clothing could become contaminated by chemical use
- pest control equipment and chemicals carried on the vehicle should not be in contact with porous surfaces
- the internal and external surfaces of the vehicle, chemical containers and spray equipment should be kept free of chemical contamination
- protect the load from the weather
- do not leave your loaded vehicle unlocked or unattended
- do not load damaged or leaking containers
- secure the load and limit its movement.



### 10.2 Australian Code for the transport of dangerous goods (ADG code)

The specific requirements of the ADG Code for the transport of dangerous goods do not usually apply to the transport of chemicals on a farm.

Large operations should check the amounts for which marking of the vehicle and other special conditions are required by the ADG code.

Pesticides that are classified as dangerous goods of classes 2.3, 6 or 3, are covered

by special conditions when transporting more than the following:

- 250kg or L of class 2.3 or class 3 or 6 in Packing Group (PG) I
- 1000 kg or L of class 3 or 6 in PG II or III.

Above these limits you will need special advice on the marking of vehicles and other matters. Consult the ADG Code or the Department of Environment and Conservation.

### 10.3 Storage risks

The key hazards and risks are indicated by the dangerous goods classification on the label of the container – however the general advice in this chapter should be followed for all chemicals.

When assessing risk for stored chemicals, consider the following:

- the quantity of chemical to be stored and the type of containers (ie in packages or in bulk)
- the duration of storage
- the dangerous goods class, Packing Group and other characteristics of the chemicals with respect to toxicity, stability and compatibility (see the MSDS or supplier)
- the separation of chemicals from other classes of dangerous goods. For example, Class 5 oxidising agents, such as solid pool chlorine, are incompatible with many other substances
- spillage control (for liquids)
- fire rating of the structure and walls
- ventilation
- emergency procedures and equipment needed in the store (consult the MSDS for information on fires and other emergencies)
- the need for control of potential ignition and heat sources
- separation from other stores of chemicals, fuels or combustible materials
- separation distances from other activities and accommodation.

Separation distances, the isolation of spills and suitable emergency procedures are important control measures even when small quantities of chemicals are stored for short periods.

### 10.4 Storage quantities

Even small amounts of highly toxic chemicals in packages, such as dangerous goods in Packing group I (eg carbon disulphide), should be stored in a metal cabinet.

Relatively small amounts of PG II or III should be kept on impervious spill trays on shelves.



Some veterinary chemicals should be kept in a refrigerator, separated from food.

You should use a designated storage area for chemicals if storing more than 100 kg or L. This may be a cabinet, part of an existing store or a purpose-built store.

Reducing the quantity of chemicals stored is one of the most cost effective ways of reducing the risk. Many chemicals have a specified shelf life and do not retain their efficiency beyond that date. Minimising purchasing not only saves purchasing costs but also minimises disposal costs.

**Step 1** – Check the factors to consider.

If a dangerous good of Packing Group I in packages then keep in a metal cabinet or other purpose built store. Otherwise go to step 2.

**Step 2** – How much to be stored?

If over 100 kg or litres in packages then consider either a:

- \* cabinet, or
- \* segregated area, or
- \* purpose built store.

**Step 3** – If over 1,000 kg or litres then check if you need to notify WorkCover of the dangerous goods, or if other specific Australian Standards apply (see Chapter 11).

**Step 4** – Consider location and design of the storage area.

### 10.5 Storage design (solids or liquids)

When storing chemicals, consider using a secure separate building, or a segregated area within a building, with the following features:

- cross flow ventilation
- concrete floors with drainage into a sump
- concrete door sills
- concrete block or concrete walls to a suitable height to provide a bund
- impervious shelving or spill control trays on shelving
- a lockable door to keep dangerous goods secure, or child-proof latch if no dangerous goods are stored
- a clean up kit for spills
- access to water for washing and cleaning.

Provision must be made for the containment of spills of those chemicals classified as dangerous goods (OHS Regulation clause 174Y). This is also good practice for those chemicals not classified as dangerous goods.

The walls (or bund) and door sill should be high enough to contain a spillage of 25 per cent of the total volume of packaged liquid chemicals, including at least 100 per cent of the largest package.

All above-ground bulk tanks must have a form of spillage control (also called bunding). Bunding for bulk tanks under a roof must contain 100 per cent of the largest tank, or 110 per cent for outside tanks (to allow for possible rain water accumulation). A bulk tank includes a bulk transport container such as an IBC (Intermediate Bulk Container).

Provide for drainage of spills and clean up water into a sump or pit that can contain the chemical, clean up materials and the wash water. A supply of wash water should be readily available.

Good natural cross-flow ventilation should be provided with vents in opposite walls, above bund height. Substances should be stored at a cool temperature to prevent deterioration. The products should be protected from moisture so that Packing and labelling does not deteriorate (especially cardboard containers).

Check the MSDS for information on chemical compatibilities and other advice in relation to storage. In some cases, specific Australian Standards provide advice on the location, design and separation distances of the store.

If you store relatively large quantities of chemicals (eg more than one tonne or more than 1,000 L of any type) then a specific Australian Standard may need to be observed.

Australian Standard AS 2507 *The storage and handling of agricultural and veterinary chemicals* should be observed if you have more than 1,000 kg or 1,000 L of agricultural chemicals that are dangerous goods.

In some cases where a wider variety of packaged dangerous goods are used (eg where produce is processed such as wineries or oil extraction) AS/NZS 3833 *The storage and handling of mixed classes of dangerous goods in packages and intermediate bulk containers* may be applicable.

The above standards are approved industry codes of practice.

For some applications, Class specific standards should be observed – see chapter 11.

## 10.6 Gases

Gas cylinders should be kept:

- secured in an upright position (except for cylinders mounted on vehicles)
- in a well ventilated area, open on at least two sides
- secure from unauthorised access (eg use a steel grid or wire mesh fence).

For gas tanks, the relevant Australian Standard should be observed (see chapter 11).

## 10.7 Location, security and access to storage

When siting a storage area consider the following:

- (a) Locating the store or storage area separate from other buildings, dwellings, storage of foodstuffs or workplaces.
- (b) Preventing accidental or unauthorised access to the storage area, such as keeping the store locked (dangerous goods must be kept secure) or fitting a child proof latch.
- (c) The risks to children and visitors to the workplace who are not familiar with the hazards of chemicals.
- (d) The risks of dangerous goods indicated by the Class and Packing Group of the chemical stored, and any separation distances required from other activities or stores (including outdoor bulk tanks, bags and drums of dangerous goods).
- (e) The likelihood of flooding. Flood prone areas and potential water courses should be avoided. The likely destination of any water and residues from fire fighting should also be considered.

### 10.8 Chemicals in packages

Chemicals should be stored in their original packages. However, if the package is damaged or leaking, transfer the contents into another correctly labelled package (see also section 5.4). Soft drink bottles or food containers must never be used for storing chemicals.

Ensure that all original labels remain legible and on the package. Lighting should be adequate to enable labels to be read. The recommended level is 200 lux.

Containers should be regularly checked. Containers that are leaking or corroded should be secured by placing in another container, such as an 'over-drum', or removed. Always use old stock first.

Keep containers closed or the lids on while in storage. This helps to reduce dust and/or solvent vapours building up in the storage area. Do not store liquids above solids.

### 10.9 Storage of packages

Apply the following conditions regardless of the amounts stored:

- (a) The storage of flammable or combustible goods must not be near heating or ignition sources such as a stove, heating appliance, light switches, welders, or similar ignition sources.
- (b) Packages should be kept closed when not in use. Opening a package of flammable liquid or decanting (pouring) from it should be carried out in a well ventilated area, away from potential ignition sources and away from combustible material or residues.
- (c) Flammable liquids must be moved from storage to the point of use in a manner that minimises the possibility of spillage or fire.
- (d) Flammable and combustible liquids must not be stored or used where they may jeopardise escape from a building in the event of fire.
- (e) Persons who handle flammable and combustible liquids must be trained in the hazards involved.
- (f) Any spillage must be cleaned up immediately and the materials used in the clean-up must be disposed of properly.
- (g) Any materials which may interact dangerously if mixed, such as pool chlorine or ammonium nitrate fertiliser, must be kept apart to minimise the possibility of interaction.
- (h) Packages must not be pressurised to transfer contents, unless they have been specifically designed for this.
- (i) Packages should be stored on shelves or in cupboards. To reduce the risk of breakage and spillage, all packages should be stored not higher than 2 m above floor level. Do not keep liquids above solids.
- (j) Flammable liquid signs for the storage area are recommended.
- (k) Carbon disulphide is particularly dangerous and must be kept away from any heat source or ignition source, since it is readily flammable and combustible.

### 10.10 Emergency procedures

To assist with establishing emergency plans and procedures refer to labels and MSDS for information about the following:

- emergency equipment such as the correct fire extinguishers
- training for emergencies

- clean up procedures
- flammability
- first aid kit.

The contact number for the *Poisons Information Centre* should be displayed at the telephone nearest to the store, so that prompt advice can be obtained if someone is poisoned.

If the amount of dangerous goods stored exceeds a certain quantity then a written emergency plan is required – see more advice on dangerous goods in the next chapter (chapter 11).

### 10.11 After assessing storage facilities

Following the assessment of the risks of storage of chemicals:

- take steps to remedy any high risk areas and situations as soon as possible
- notify Workcover of the dangerous goods and/or observe standards if necessary (see chapter 11)
- establish emergency procedures or review existing procedures
- improve the quality of storage areas where reasonably practicable
- make plans for the construction of future storage areas if necessary to reduce risks.

Specific requirements for dangerous goods are covered in section 11.

### 10.12 Storage assessment record content

In a storage assessment record note down how all the factors in this section have been addressed. A single site assessment record should be adequate in most workplaces or storage sites. An example record form and checklist is in appendix 1. This form is an example only and should be tailored to meet the specific needs of your business.



## CHAPTER 11 – DANGEROUS GOODS – PLACARDS, NOTIFICATION AND STORAGE

The advice in this chapter covers examples typically found in agriculture. If you have other types of dangerous goods, or any dangerous goods in Packing Group I, consult the *Code of practice for the storage and handling of dangerous goods* for advice on appropriate storage.

### 11.1 Regulatory requirements

An appropriate level of fire protection is required for all areas where dangerous goods are stored or handled (OHS Regulation clause 174ZB).

There are additional legal requirements if you keep dangerous goods over certain quantities on your agricultural property, as follows:

- a placard on the storage area – see the “Placard quantities” in the table in section 11.2 below (OHS Regulation clauses 174ZJ and 174ZK)
- a “manifest” and written emergency plan – see the “Manifest quantities” in the table in section 11.2 (OHS Regulation clauses 174ZN and 174ZC)
- notification to WorkCover NSW above the “manifest quantity” (OHS Regulation clause 174ZS)
- licences and permits are required for explosives (both storage and use) under the *Explosives Act 2003* and the *Explosives Regulation 2005* – see section 11.3.

### 11.2 Placards and notification

#### 11.2.1 Quantities where placards and notification required

Over certain quantities of dangerous goods WorkCover must be notified (OHS Regulation clause 174ZS). This was formerly called licensing under the now repealed *Dangerous Goods Act 1975*, but the quantities have changed. This depends on the Class and either the Packing Group, or sub Class for gases. You need to check this when you form the Register (see section 12.2.1).

In the following table, the capacities in litres are capacities of the container of the dangerous goods, including the “water” capacity of cylinders or tanks of gas. These quantities include those in use (not just the goods stored). The full listing is in schedule 5 of the OHS Regulation.



**Examples of quantities above which placards,  
manifests and notification are required**

Class or type	Placard quantity	Manifest and notification quantity
Any class in bulk, Diesel fuel in bulk.	Any quantity in bulk – above 400 kg, 450 L, of a solid or liquid or 500 L of a gas (including a liquefied gas)	See below
Class 2.1 (eg LP Gas)	500 L	5,000 L
Class 2.2 Sub Risk 5.1 (eg oxygen)	2,000 L in cylinders	10,000 L
Class 2.3 (eg phosphine, liquid ammonia for fertilizer)	50 L in cylinders	500 L
Cryogenic fluids (eg for freezing vegetables)	1,000 L in containers less than 500 L	10,000 L
Class 3, 4, 5, 6 or 8 in PG I	50 kg or L in packages	500 kg or L
Class 3, 4, 5, 6 or 8 in PG II (eg petrol)	250 kg or L in packages	2,500 kg or L
Class 3, 4, 5, 6 or 8 in PG III (including some types of ammonium nitrate, kerosene)	1,000 kg or L in packages	10,000 kg or L
Class 9 ammonium nitrate fertilizer UN 2071, PG III	5,000 kg	10,000 kg
Mixed classes, where none exceed the quantities above	2,000 kg or L in packages, if the placard quantity for any Class present in packages is 2,000 kg or L or less.  5,000 kg or L in packages, only if the placarding quantity for packages shown above for an individual Class that is present is 5,000 kg or L	10,000 kg or L
C1 Combustible liquid in packages, eg Diesel fuel (distillate) in drums	1,000 L	10,000 L

Note that volumes for gases refer to the sum of the water capacities of each cylinder or tank containing the gas. Certain pressure vessels, such as tanks, also require item registration with WorkCover (including those forming part of industrial refrigeration plant, but not gas cylinders).

### 11.2.2 Placards

Placards (signs) indicating the hazard are required for storage areas or tanks containing dangerous goods in notifiable quantities (OHS Regulation clauses 174ZJ and 174ZK). These are based on the dangerous goods “diamond” symbol on the label (or the transport placard).

A dangerous goods symbol does not appear on containers of combustible liquids, since combustible liquids are not classified as dangerous for transport. However, bulk tanks must be placarded to indicate the contents. The placard must display the words “COMBUSTIBLE LIQUID” in black letters not less than 100 mm high on a white or silver background.

Store packaged dangerous goods in a secure area marked at the door with the appropriate Class diamond sign – eg the skull and cross bones for Class 6. If the goods are kept in only one part of the building, put another diamond sign next to or above the actual storage area.

Above placard quantities, consult the *Code of practice for the storage and handling of dangerous goods* for further advice on safe use, handling and storage. Class specific Australian Standards may also be applicable (these have the status of approved industry codes of practice in NSW).

### 11.2.3 Notification

Ask any WorkCover NSW office for a form DG1 Notification of Dangerous Goods on Premises. It includes notes on how to fill out the form and a contact number for further inquiries. It also includes guidance on licensing amounts for classes of dangerous goods not covered in this code.

At notification levels, manifests and written emergency plans are also required. Consult the *Code of practice for the storage and handling of dangerous goods* for further advice on preparing the manifest and emergency plan.

Even if you do not need to notify, for large quantities follow the advice in chapter 10 and this chapter regarding storage, such as the need for separation of storage areas and spillage control.

## 11.3 Explosives (dangerous goods of Class 1)

A strict licensing regime applies to explosives under the *Explosives Act 2003* and the *Explosives Regulation 2005*. The names of some certificates and permits have changed. You can keep any amount of ammunition without an explosives licence (providing it is not for sale).

A licensed magazine is required if you keep (for more than 24 hours) more than any of the following:

- 2.5 kg of blasting explosives
- 110 detonators
- 500 metres of detonating fuse
- 50 kg of security sensitive ammonium nitrate.

You cannot use explosives unless you have a Blasting Explosives Users Licence, appropriately endorsed, issued by WorkCover NSW (previously called a powderman's certificate of competency). TAFE courses are available to enable you to obtain the necessary training. You also need this Licence to purchase explosives, and to mix explosives.

A security plan and restricted access is required when using or storing explosives (see also 11.7 below if ammonium nitrate is used to mix an explosive). Further advice is available from WorkCover (see the web site [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) or phone 13 10 50).

## 11.4 Gases (Class 2)

### 11.4.1 Class 2.1 – Flammable (eg LPG, acetylene)

If you keep more than 500 L of LPG you should observe the Australian Standard *AS/NZS 1596 Storage and handling of LP Gas*. Installations must have a compliance plate issued by a licensed gas fitter.

Take into account the flammability hazard for the storage of other flammable gas such as LPG or acetylene. Flammable gases must be kept away from oxidising agents such as nitrous oxide, chlorine and nitrogen dioxide. A suitable separation is achieved by a vapour tight wall or a distance of three metres.

### 11.4.2 Class 2.3 – Poisonous/Toxic gases (eg ammonia, insectigases, fumigants, sulphur dioxide, chlorine)

For Class 2.3, you will need to notify more than 500 L (water capacity of containers).

For the storage and handling of anhydrous ammonia observe the Australian Standard *AS 2022 Storage and Handling of Anhydrous Ammonia*.

Some fumigants are also flammable, but are allocated the primary risk of toxic (Class 2.3).

Further advice on gas cylinders can be found in Australian Standard *AS 4332 The Storage and Handling of Gases in Cylinders*, which should be observed if you are above placard quantities.

## 11.5 Storage of flammable liquids (class 3) and combustible liquids

### 11.5.1 Typical flammable liquids

Flammable and combustible liquids include the following:

- fuels (eg petrol, kerosene)
- alcohol at high concentrations (eg when used for essential oil extraction and in products)
- pesticides (and related materials such as surfactants) which are dissolved in a flammable liquid and classed as primary risk Class 3 and sometimes Sub-risk 6; or primary risk Class 6 and Sub-risk 3
- produce, such as alcohol, eucalyptus oil, orange oil, tea tree oil (or these used as solvents)
- diesel fuel (distillate) is a combustible liquid.

Alcoholic beverages, such as brandy or fortified wine, are not classified as dangerous goods if the alcohol concentration is less than 24%. For bulk storage of alcoholic beverages of alcohol concentration above 25% (UN 3065) you should check with WorkCover NSW to find out if you need to notify.

Australian Standard *AS 1940 – The Storage and Handling of Flammable and Combustible Liquids* should be observed. This applies to packages, such as drums, as well as bulk tanks and pesticides of risk Class 6 with Sub-Risk Class 3 (eg those in a flammable liquid solvent). AS 1940 does not apply to alcoholic beverages of less than 50% alcohol.

AS 1940 also contains the requirements for filling tanks and drums when fuel is delivered to your property by tanker. Tanks and drums must not be “splash” filled.

Fuel storage tanks must be suitable and the relevant Australian Standards should be observed for their design. For example, converting an old milk tank to a fuel tank is not safe.

### 11.5.2 "Open land" exception

There is an exception from the provisions of AS 1940 for up to 5,000 L of PG I and PG II (eg petrol) and 10,000 L of diesel fuel (or other combustible liquids of C1 (old class 3.3)) *if* your storage is "on open land" and meets the following conditions:

- (a) such liquids are not intended for resale;
- (b) the land area exceeds 2 ha;
- (c) the ground around the storage is kept clear of combustible vegetation or refuse for a distance at least 3 m;
- (d) the natural ground slope, or provision of a diversion channel, kerb or bund is used to prevent the potential flow of spillage from reaching any of the following:
  - (i) a "protected works" such as a dwelling or any building where people assemble, or any accumulation of combustible material (apart from flammable or combustible liquids),
  - (ii) a water course,
  - (iii) the property boundary;
- (e) the storage is at least 15 m from the boundary of the land and a "protected works" (see (d)(i) above);
- (f) if you have two or more storages of flammable or combustible liquids, each may be treated as a separate "minor storage" if the distance separating them is 100 m or more.

If you store flammable or combustible liquids above the amounts indicated above, and/or do not meet the "open land" conditions, then the full provisions of AS 1940 should be applied (such as a special store).

### 11.6 Flammable solids classes 4.1 and 4.3

Class 4.1 includes some smoke bombs.

Some fumigants may be classified as class 4.3 or may fall into another class in some forms. For example, the grain fumigant aluminium phosphide is class 4.3, (PG I, if UN No.1397) in the form of crystals, but in the form of waxed pellets it is class 6.1 (PG II or III). The hazard of class 4.3 is that they evolve dangerous or toxic gases on contact with water. This makes firefighting with water particularly hazardous.

### 11.7 Class 5.1 – Ammonium nitrate, Magnesium Chlorate Mixtures, Pool Chlorine (solid)

Ammonium nitrate fertilizer is Class 5.1, PG III if UN 2067, 2068, 2069, or 2070. Ammonium nitrate in a mixture with other types of fertilizer, if UN 2071, is in Class 9.

Ammonium nitrate should be kept at least 5 m, or separated by a liquid tight wall, from the following:

- combustible or readily oxidisable material
- flammable or combustible liquids (eg fuel), other Class 5 and Class 8 (corrosives)
- any other substances such as sulfur, powdered metal, magnesium chlorate mixtures or carbonaceous material.

A security plan and restricted access is required when using or storing any amount of ammonium nitrate (see also 11.3 above if used to mix an explosive). Further advice is available from WorkCover (see the web site [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) or phone 13 10 50).

Magnesium chlorate mixtures (Chlorate and magnesium chloride mixture, UN No. 1459, PG III), such as those used as a defoliant in the cotton industry (eg "Magsol") should be kept away from ammonium compounds, finely powdered metals, sulfur and combustible materials.

Pool chlorine (solid) is a powerful oxidiser and reacts with many other chemicals. Liquids such as fuels, oils and water must not come into contact with the pool chlorine as they cause fire and explosion. Some types of dry pool chlorine are also incompatible with each other.

### **11.8 Poisons (Toxic, class 6.1)**

When storing class 6.1 poisons above the placard limit (see quantities in section 11.2) the following is recommended.

#### **11.8.1 Prevent the spread of spills and leaks**

Liquid poison should be stored in a bunded area – that is, there must be a liquid-tight floor and wall around the goods to contain any spills or leaks. If the liquid is in packages such as drums, the bund must be able to hold at least 25% of the maximum quantity that the store holds. If the liquid is in a bulk tank, or in IBCs (Intermediate Bulk Containers, such as 1,000 L bulkboxes or similar), the bund must be able to hold the full contents of the largest tank or bulkbox. Make sure that packages cannot fall or spill outside the bund.

#### **11.8.2 Fire extinguishers**

There should be at least one 9 kg powder extinguisher within easy reach, but outside of the bunded area. The extinguisher should be serviced every six months.

Detailed advice is provided in AS/NZS 4452 *The storage and handling of toxic substances*.

#### **11.8.3 Keep other chemicals and combustible material away**

The only other materials that should be kept inside the bunded area are other compatible chemicals, or chemicals used to prepare pesticides for application such as wetting agents and flammable solvents.

Ammonium nitrate, acids, carbon disulphide, solid fumigants (showing a blue 'diamond' class 4.3 such as aluminium phosphide) and petrol should be kept at least 5 m away from the poisons area, or separated by a liquid tight wall. Greater distances may be necessary for larger quantities, especially if they are kept in the same building.

Materials that burn readily should be kept at least 5 m away from the poisons area. This includes liquid fuels, oils, gas cylinders, hay, straw, waste paper and rags, empty boxes, old tyres, sawdust, overhanging trees, tall dry grass and bushy shrubs.

Poisons should be kept 5 m away from foodstuffs and dangerous goods of other classes, or separated by a liquid tight wall.

Those liquid poisons (ie Class 6.1) that have a sub-risk of class 3 (ie. flammable) can be stored with flammable liquids (Class 3) in accordance with AS 1940 (see 11.5 above), including a class 3 placard. Look for both 'diamonds' on the container.

**11.9 Class 8 – Corrosives**

Typical corrosives include wetting agents, sodium hydroxide used in cleaning tanks, and other cleaning agents and disinfectants.

When storing class 8 above the placard limit (see quantities in section 11.2) provide spillage control and fire extinguishers as for Class 6 – see 11.8.1 and 11.8.2 above.

Consult Australian Standard AS 3780 – *Storage and Handling of Corrosive Substances* for further advice on storing corrosives if you store and handle above placard quantities.

## CHAPTER 12 – PLANNING EMERGENCY PROCEDURES

Clause 17 of the OHS Regulation requires employers to provide for emergencies. Procedures should be developed to address risks such as spills and fires, and responses such as first aid and fire fighting. MSDS are important for planning emergency procedures. Use MSDS to obtain information on fire fighting equipment, chemical compatibility with water, and first aid requirements.

If dangerous goods are kept in quantities exceeding the “notifiable quantity” – see table in section 11.2 – a written emergency plan is required, and this must be submitted to the fire brigade (OHS Regulation clause 174ZC). Also consult the *Code of practice for the storage and handling of dangerous goods* for further advice in addition to this chapter.

### 12.1 Spills

#### 12.1.1 Spill containment

Provision must be made to deal with spills of those chemicals classified as dangerous goods (OHS Regulation clause 174Y).

To avoid spills, do not use damaged containers or leaking equipment. Avoid spilling chemicals on the external surfaces of containers or equipment, or on the ground at loading sites.

#### 12.1.2 Dealing with spills

To deal with minor spills, keep a “spill kit” of the equipment necessary to clean up spills at the mixing and storage sites. This “kit” should include an absorbent material, such as lime, sand, vermiculite, or a commercially available absorbent.

Manage accidental spills by ensuring that:

- the spill has ceased or is under control (eg shut off control valves, shut off pumps)
- the amount spilled is contained
- the chemical spilled is safely removed and disposed of properly
- the site is cleaned up and decontaminated.

Solid fumigants or other class 4.3 dangerous goods are incompatible with water so check the MSDS for water compatibility.

Steps to consider in the event of a spill are:

- (a) evacuate non-essential persons from the immediate area of the spillage;
- (b) wear protective clothing and equipment;
- (c) take immediate steps to control the flow of chemical from the spillage source;
- (d) call for assistance and/or raise the alarm if necessary;
- (e) move livestock from the area if necessary;
- (f) avoid direct contact with the chemical or fumes;
- (g) keep naked flames away from the area;
- (h) limit the spill area by restricting its spread, eg with a liquid use an absorbent material, or earth if this is unavailable;

- (i) powder or dust pesticides (but not fumigants) can be contained by slightly wetting the material with a fine water spray (unless incompatible) or covering with plastic sheeting to avoid the emission of dust;
- (j) cover the whole spillage area with absorbing material and allow time for the chemical to be absorbed;
- (k) sweep or scoop the mixture into an appropriately labelled container for reuse, or if contaminated place into one marked 'Waste for Disposal';
- (l) dispose appropriately (eg by burial, see section 8.4 c);
- (m) clean the site using methods recommended by the supplier.

Contaminated cleaning solution should be disposed of in the same manner as chemical waste. If soil is contaminated, remove the top layer of soil (5 to 10 cm) and dispose of it in the same manner as waste chemicals. Cover the ground area with hydrated lime and cover the lime with a layer of clean soil.

Any person involved in the emergency should shower, and wash all clothes separately from other laundry.

All fire fighting equipment and any remaining material should be de-contaminated with lime or hypochlorite bleach, depending on the chemicals involved, and then washed with soap and water.

The integrity of any containers surviving a fire should be checked to ensure that no further risks, such as slow leaks, are likely. In addition, the supplier should be contacted to find out the effect of heat on the chemical.



## 12.2 Fires

Consider the following steps when a fire occurs in a chemical store:

- other persons should be instructed to keep up-wind of the area and not enter the fire area unless suitably protected



- a full face respirator with a self contained air supply is considered the minimum protection for entry to the fire area
- if it cannot be quickly extinguished with the dry chemical extinguisher, then the appropriate fire control agent, usually a water fog or foam, should be used
- water can be used to keep containers cool (unless the contents are incompatible with water)
- consider the option of leaving the fire to burn and limiting its spread.

### 12.3 Emergency treatment – first aid procedures

#### 12.3.1 General instructions

- read and follow the instructions on the label
- if the sufferer is unconscious, do not induce vomiting and do not administer anything by mouth
- first aid is only the first step, and is not a substitute for full professional medical treatment
- following first aid, take the sufferer to a doctor or hospital and make sure you take along the chemical container or label, or MSDS.

#### 12.3.2 Specific first aid instructions:

Check the following procedures for each route of entry:

- spilled on the skin or clothing*, remove the clothing immediately and thoroughly wash the skin with water or soap. Do not scrub the skin harshly and do not use ointments, powders or medication unless instructed to do so by a doctor.
- inhaled*, get the sufferer to fresh air and keep him/her lying down, warm and calm. If breathing stops, use mouth-to-mouth resuscitation.
- splashed into the eye*, hold the eyelid open and gently wash the eye with clean running water for 15 minutes. Cover the eye with a clean cloth and seek medical attention immediately.
- swallowed*, read the instruction on the label – it will direct whether or not vomiting should be induced. Examples where vomiting should not be induced are chemicals which are petroleum based (“Emulsifiable Concentrate”) or corrosive (acid or alkali).

### 12.4 Notification of accidents and illnesses

The OHS Regulation requires employers to notify WorkCover NSW or the workers compensation insurance agent in certain circumstances. For further advice see the WorkCover web site

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au).

### 12.5 First aid requirements

The OHS Regulation requires employers to maintain a first aid kit. Consider keeping a suitable kit in vehicles such as tractors and 4WDs.

## CHAPTER 13 – RECORDS

### 13.1 Legal requirements for record keeping

To assist risk management, accurate records should be kept of all aspects related to the assessment and control of chemical storage and use. Records should be made on prepared forms so that they can be easily completed and understood. Computerised records are acceptable providing employees are trained to use these.

For chemicals classified as hazardous substances or dangerous goods employers and self-employed must keep the following records:

- a register of chemicals and MSDS, which may include any notations in the register recording the risk assessment if no specific measures are necessary to control risks (OHS Regulation clauses 167 and 174W)
- those risk assessments that indicate a significant exposure risk to others at the workplace (OHS Regulation clause 168)
- records of the training of others engaged to work at the workplace by the self-employed person (OHS Regulation clauses 171(1)(b) and 174ZV)
- a record of the risk assessment of the storage and handling of dangerous goods if specific measures are required to control the risks (OHS Regulation clause 174ZX).

#### 13.1.1 Employers

Employers must also keep the following records:

- risk assessments indicating a significant risk to employees at the workplace (OHS Regulation clause 168)
- records of health surveillance, if undertaken for employees (OHS Regulation clause 171(1)(a))
- records of monitoring, if undertaken for employees (clause 171(1)(b))
- records of training of workers (OHS Regulation clauses 171(1)(b) and 174ZV).

Choose a practical method of record keeping and avoid duplication. Records must be accessible to employees and WorkCover NSW inspectors. Up to six forms may be necessary, but some can be combined – examples are outlined below. Even when not legally required, it is good practice to keep these records.

Risk assessment reports must be readily available to any employee or other person working at the place of work who could be exposed to hazardous substances or store or handle dangerous goods (OHS Regulation clauses 168(2) and 174ZX(2)).

### 13.2 Types of records

#### 13.2.1 Register

A register is a listing of all hazardous substances and dangerous goods in the workplace (OHS Regulation clauses 167 and 174ZW). This includes a list of the chemicals kept in a central store. The minimum information that must be included in a register is a list of all hazardous substances used or produced in the workplace, and the relevant MSDS.

This must include emissions such as welding fumes or dusts. You should also include dangerous goods on the register. An example is provided in appendix 3. This form is an example only and should be tailored to meet the specific needs of your business. If you have a small number of chemicals, this could be combined with the storage record, (c) below.

A record of daily use for chemicals purchased and used within 24 hours would suffice as a register – see (b) below. Consider using an existing QA or Integrated Pest Management (IPM) record system.

### **13.2.2 A record of pesticide usage form**

You should keep details of the following:

- type of pesticide(s) and chemicals used
- the name of the person who applied the pesticide
- date of use
- address where the pesticides were used
- application rates
- location of the application areas
- the pest targeted.

This form can also be used to record the assessment of spray drift risks. It also helps to plan pesticide use, such as rotating the type of active ingredient used. An example form is in appendix 2. This form is an example only and should be tailored to meet the specific needs of your business. Alternatively, it can be combined with the register form provided in the Farmsafe booklet *Register of Farm Chemicals*. For aerial contractors, a job sheet or a quotation form could be used as a register.

Contact the NSW Department of Environment and Conservation for advice about their record keeping requirements (telephone 131 555).

### **13.2.3 A storage site assessment record**

A storage site assessment record covers all activities related to the storage of chemicals including facilities for mixing and disposal. It should show how the risk factors are addressed. It should be reviewed yearly or when a new chemical is introduced or a work practice is changed. It can be combined with the register if these are the only chemicals and pesticides in use. An example form and checklist is provided in appendix 1. This form is an example only and should be tailored to meet the specific needs of your business. Use this as part of your dangerous goods risk assessment record as required by clause 174ZX of the OHS Regulation. Consider whether you may need to make MSDS available to emergency services.

### **13.2.4 Record of the risk assessment**

A record of the risk assessment should be kept where it indicates a significant risk arising from hazardous substances or dangerous goods, otherwise a notation on the MSDS in the register is sufficient (OHS Regulation clauses 168 and 174ZX). An example of a complex assessment form is given in appendix 4. This form is an example only and should be tailored to meet the specific needs of your business.

### **13.2.5 Records of health surveillance and monitoring**

Health surveillance and/or monitoring records must be kept for 30 years, if undertaken for employees (OHS Regulation clause 171). Records should indicate the names of workers, dates of medical exams or tests, and indicate if any adverse results were detected. The medical practitioner will also keep a record. These records are confidential, unless released by the employee.

### 13.3 Location and access to records

Records should be located conveniently so that managers, employees and employee representatives can access the information. Suitable storage systems for records include book entry records, microfiche or computerised data bases.

WorkCover NSW inspectors and emergency services have the right to examine those records that must be kept by employers.

Clause 168(2) of the OHS Regulation requires employers to ensure that any risk assessment report prepared in relation to a hazardous substance is readily accessible to any employee or other person working at the place of work who could be exposed to the substance. Clause 174ZX(2) imposes a similar obligation in respect to dangerous goods.

### 13.4 How long to keep records

Records are a valuable reference in case of incident or when an illness is reported. With good records, you can show that correct procedures were developed for storage and use of chemicals in your workplace. This is particularly important for long term (chronic) health effects.

Where an employee or other person is injured as a result of chemical exposure, an employer may be asked to show what action had been taken, or what instructions had been given regarding an employee's use of chemicals.

MSDS for a chemical should be kept and updated at the workplace while that chemical remains in use and for five years after use has ceased.

Application procedure records should be maintained for at least five years, unless health surveillance is required (see below).

Risk assessment outcome and action records should be maintained until they are updated.

Health surveillance records must be kept for 30 years because some health effects, such as cancers, may take a long time to become evident. If your business ceases to trade any health surveillance records should be offered to WorkCover NSW, for storage (OHS Regulation clause 171).

Records of training of employees must be kept for at least five years (see section 9).

## APPENDIX 1 – Chemical storage site assessment record Storage and handling

### 1. Training

1.1 Has training been provided to all who use the store? \_\_\_\_\_

1.2 What type of training? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

1.3 Accreditation certificate numbers \_\_\_\_\_

1.4 Any other certificate/training? \_\_\_\_\_

### 2. Storage

2.1 What types of chemicals do you hold, and what is the maximum amount of these chemicals you would hold at any one time?

Chemical	Dangerous goods class and Sub-risk (if any)	Maximum quantity (kg or L)	MSDS held? Y/N

2.2 Is a dangerous goods notification necessary? \_\_\_\_\_ Yes/No

*Some of the following questions have yes/no answers. Where you answer “no”, then this should be remedied.*

2.3 Are the MSDS held for these chemicals also held in the register (kept elsewhere)? \_\_\_\_\_ Yes/No

2.4 How is the chemical store made secure from access by unauthorised persons?

- locks (necessary if dangerous goods are stored)
- child-proof gates (if child access is a risk)
- other (specify) \_\_\_\_\_

2.5 How are the chemicals protected from moisture?

- On pallets:
- On shelving:
- Other (specify) \_\_\_\_\_

2.6 Are herbicides stored away from insecticides and fungicides? \_\_\_\_\_

2.7 How are spills controlled in the storage area?

- impervious and structurally sound bunds with adequate capacity?
- concrete sill and walls with adequate capacity?
- trays on shelves?
- metal cabinet (with in-built bund)
- other (specify) \_\_\_\_\_

2.8 If spills occur, what equipment is available to clean them up?

- lime
- sand
- absorbent
- broom
- shovel
- drum
- clean water for wash up
- other (specify) \_\_\_\_\_

2.9 Is the storage area resistant to fire? \_\_\_\_\_

2.10 What fire-fighting equipment is available?

- water hose
- water bucket
- dry powder extinguisher
- other extinguisher
- hose
- other (specify) \_\_\_\_\_

2.11 Have employees received training in emergency procedures? \_\_\_\_\_ Yes/No

\_\_\_\_\_  
\_\_\_\_\_

**3. Mixing and preparation**

3.1 Is spillage containment at the mixing site sufficient to contain the contents of the largest container used? \_\_\_\_\_

3.2 What personal protective equipment is available when mixing:

- Apron
- Gloves
- Face mask
- Goggles
- Respirator:    half       full
- Overalls
- Impervious boots
- Other – specify

3.3 What special safety precautions are taken when mixing chemicals in regard to ventilation, static electricity? \_\_\_\_\_

3.4 Is mixing carried out with more than one operator present or within shouting distance? \_\_\_\_\_

3.5 Is water available for personal washing? \_\_\_\_\_

**4. Disposal**

4.1 What procedures are used to dispose of chemical containers? \_\_\_\_\_

4.2 If there is excess chemical, what procedures are used to dispose of it? \_\_\_\_\_

**APPENDIX 2 – A record of pesticide usage form**

Have you read the label? Y/N										
Date, start & finish time	Operator details	Crop or place where pesticide was applied	Type of equipment used	Name of pesticide used (incl mixtures)	Amount of oncentrated product used (L or kg)	Total quantity applied	Size of block sprayed	Order blocks were treated	Estimated wind sped and direction	Other weather details

Application method	Nozzle type	Last calibration date	Pressure of operation	Protective equipment	Y/N	Outcomes (To be filled in later)
a. Boom b. Knapsack c. Air blast d. CDA e. Aerial f. Other (Specify)				Apron Gloves Face mask Goggles Respirator – half, full Overalls Impervious boots Tractor cab (filtered air) hat		<b>Effect on pest population:</b>  <b>Effects/pollution off target (plants, streams, wildlife etc.):</b>  <b>Action taken as a result of reports of pollution:</b>



**APPENDIX 3 – Example inventory record form**

Pesticide application by (name): \_\_\_\_\_

Company: \_\_\_\_\_ Date: \_\_\_\_\_

Workplace: \_\_\_\_\_

**LIST OF SUBSTANCES**  
(To be kept with the MSDS to form a Register)

Name of substances	Location of substances	Current MSDS? Yes/No	Hazardous? Yes/No	Dangerous goods? Yes/No	Labelled? Yes/No	Uses	Comments

**APPENDIX 4 – Example risk assessment record form**

Work unit (job): \_\_\_\_\_ Person's name(s): \_\_\_\_\_ Assessment team: \_\_\_\_\_

Work area: \_\_\_\_\_ date: \_\_\_\_\_ time: \_\_\_\_\_

Summary of process: \_\_\_\_\_

Substance	Hazard information	Task	Exposure routes	Assessment/findings	Comments and /or controls

Controls in place: \_\_\_\_\_

Assessment result and recommendations: \_\_\_\_\_

Assessor's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by, name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## APPENDIX 5 – Chemical exposure risk assessment checklist

Use this checklist as a basis for conducting a chemical exposure risk assessment:

**Step 1** Have you decided who will do it? Yes/No

**Step 2** Have you divided the work into units and listed the work tasks? Yes/No

**Step 3** Have all substances been identified? Yes/No

• Have you determined which are hazardous and/or dangerous? Yes/No

(If there are no hazardous substances or dangerous goods then no further action is required apart from recording this.)

• Has the register been compiled? Yes/No

**Step 4** Have you examined the MSDS and other sources of information on health effects? Yes/No

**Step 5** Has exposure been identified in each work task? Yes/No

For each hazardous substance find out:

• Is it released or emitted into the work area?

• Who is exposed?

• How much are persons exposed?

• What controls are proposed?

**Step 6** – What are the conclusions about risk – is it simple and obvious? Yes/No

If “yes”, go to the record step 8 below, if “no” decide if:

• risks are not significant

• risks are significant but controlled

• risks significant and not adequately controlled

• risks are uncertain

**Step 7** – Have actions resulting from conclusions been identified?

• no further action required? Yes/No

• seek expert help? Yes/No

• introduce control measures? Yes/No

• induction and training required? Yes/No

• monitoring required? Yes/No

• health surveillance required? Yes/No

• emergency procedures and first aid required? Yes/No

**Step 8** – Has the assessment been recorded?

• on the MSDS in the register? Yes/No

• on a record form? Yes/No

## APPENDIX 6 – Deregistered organochlorine pesticides – disposal and storage.

The following information has been provided by the NSW Department of Environment and Conservation.

The following organochlorine pesticides are no longer registered and it is an offence to use them.

- Aldrin
- Chlordane
- Dieldrin
- DDT
- Endrin
- Heptachlor
- Hexachlorobenzene
- Hexachlorophene
- Isodrin
- Lindane
- 2,4,5-T

These pesticide wastes cannot be disposed of to landfill or buried on premises where concentration is above certain thresholds. Owners of any of these pesticide wastes should store them pending collection or arrange collection for storage with a licensed waste contractor.

These pesticide wastes and containers, or other material contaminated with any of these wastes, are classified as scheduled chemical wastes, which are referred to as “waste” in the advice in this appendix.

The Department of Environment and Conservation's *Scheduled Chemical Wastes Chemical Control Order* sets out the requirements for the storage and transport of these pesticide wastes, which are summarised below. These requirements are in addition to the legal requirements for hazardous substances and dangerous goods outlined in other parts of this Code of Practice.

### ***Where less than one tonne (1,000 L) of these wastes are stored***

1. The occupier of any premises where such wastes are kept must ensure that an adequate supply of appropriate PPE (personal protective equipment), clean up materials and equipment (such as absorbents, spades, open head drums and brooms) is readily available in a secure area external to the storage area or storage tank.
2. The occupier of any premises where such wastes are kept must ensure that any person handling scheduled chemical wastes is trained in handling these wastes and the methods of containing spills. Appropriate PPE must be worn when handling wastes.
3. Keeping these wastes is subject to the following conditions:
  - all packages containing such wastes must be clearly marked
  - all packages of such waste must be maintained in good order. The contents of corroded or leaking packages must be immediately be repacked into sound packages, and any spillages cleaned up
  - liquid wastes must be stored in accordance with Australian Standard AS 1940 – *The Storage and Handling of Flammable and Combustible Liquids*.

***Less than one tonne but more than 50 kg***

The following *additional* conditions must also be followed:

- the occupier of the premises must provide written notification to the Department of Environment and Conservation of the identity, amount and location of the scheduled chemical wastes kept in or on the premises, within 30 days of the date on which the quantity of waste becomes greater than 50 kg, and thereafter annually
- the storage area must be clearly identified and defined
- the storage area must be sited and constructed to prevent any discharge of the waste into the external environment.

***More than one tonne (1,000 L)***

There are additional requirements where more than one tonne of scheduled chemical waste (in total) is kept.

Consult the Chemicals Policy Section of the Department of Environment and Conservation for more advice on storage and transport (telephone 131 555).

## APPENDIX 7 – Risk assessment – a case study

Often chemicals are decanted and diluted. A farmer is examining the filling of a tank with pesticide. The MSDS or label indicate that the product should not contact the skin or eyes, and that impervious gloves and a face shield should be worn.

An inspection of the workplace reveals that the normal procedure is to stand on the ground and lift the container of liquid concentrate above head height and pour the contents into a tank on the application equipment. This procedure is adopted for convenience, but has the risk of spillage, ingestion and contamination of the worker's clothing. However, it is possible to climb onto a suitable and adequately guarded access platform on the rig and pour the concentrate at waist height. Alternatively, the use of a probe and pump would also reduce the risk of exposure and also reduces manual handling risks.

Thus, the assessment of this task is complete. It has been recognised that a potential risk exists and that performing this task without wearing appropriate PPE could lead to a problem. Also, it has been noted that the old method of work may lead to an incident where the concentrate is spilt over the worker. The outcome of the risk assessment is that:

- PPE must be worn for the job
- the concentrate must be added to the tank either from the access platform and not from the ground, or by the use of a probe and pump.

This has been noted on the MSDS, which is kept in the register, and kept as a record. The required controls can be easily applied.

## APPENDIX 8 – Publications and further information

### Relevant WorkCover NSW publications.

*First Aid in the workplace – Guide 2001*. Catalogue number 121.

*Reading Labels and Material Safety Data Sheets: how to find out about chemicals at work*. Catalogue number 400.

WorkCover NSW publications can also be viewed on the web site: [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au).

### Australian Standards

If you store relatively large quantities of chemicals then the following standard contains additional advice.

AS/NZS 2507 *The Storage and handling of agricultural and veterinary chemicals*.

### NSW Department of Environment and Conservation

NSW Department of Environment and Conservation publications can be obtained from their website: [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au) or by telephoning 131 555.

Catalogue No. **422** WorkCover Publications Hotline **1300 799 003**



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# PRIVATE ADVERTISEMENTS

## COUNCIL NOTICES

### BOMBALA COUNCIL

Roads Act 1993, Section 10

Dedication of Lands as Public Road

NOTICE is hereby given that Bombala Council dedicates the land described in the Schedule below as public road. DAVID RAWLINGS, General Manager, Bombala Council, 71 Caveat Street, Bombala NSW 2632.

#### SCHEDULE

Located in the Bombala Local Government Area near Ando, Parish Wangellic, County Wellesley, Lot 1 and Lot 2 of Deposited Plan 1091411. [2036]

### COFFS HARBOUR CITY COUNCIL

Local Government Act 1993, Section 553

Extension of Water Mains

NOTICE is given pursuant to section 553 of the Local Government Act 1993, that water mains have been extended and properties serviced are described in the accompanying Schedule. Land, which is not connected thereto, shall become rateable to the Water Local Rate after twenty one (21) days from the date of this notice. Land connected before the expiration of the twenty one (21) days shall be rated to the Local rate from the date of connection.

#### Coffs Harbour:

Lots 29/50 in proposed subdivision Lot 36, DP 1059494, Pearce Drive as shown on Plan 04/43/1W wae; Lots 1/28, DP 1094437 and Lots 29/37 in proposed subdivision; Lot 29, DP 1094437 being Pearce Drive, Walker Close and Ewings Close as shown on Plan 05/16/1W wae.

#### Boambee:

Lots 1/12 in proposed subdivision of Lot 2, DP 1062056 being Lyons Road, as shown on Plan 04/44/1W wae.

#### Woolgoolga:

Lots 1/7, DP 1091436 being Carabeen Close, as shown on Plan 05/36/1W wae.

S. SAWTELL, General Manager, Coffs Harbour City Council, Locked Bag 155, Coffs Harbour NSW 2450. [2037]

### COFFS HARBOUR CITY COUNCIL

Local Government Act 1993, Section 553

Extension of Sewer Mains

NOTICE is given pursuant to section 553 of the Local Government Act 1993, that sewer mains have been extended and properties serviced are described in the accompanying Schedule. Land which is not connected thereto shall become rateable to the Sewerage Local Rate after sixty (60) days from the date of this notice. Land connected before the expiration of the sixty (60) days shall be rated to the Local rate from the date of connection.

#### Coffs Harbour:

Lots 40/41, DP 233220 being 9 and 11 Macleay Place as shown on Plan 05/26/1S wae; Lots 29/50 in proposed subdivision of Lot 36, DP 1059494 being Pearce Drive as

shown on Plan 04/43/1S wae; Lots 311/312, DP 1092962 being 37 and 37A Kratz Drive as shown on Plan 04/18/1S wae; Lots 1171/1172, DP 1092966 being 87 and 89 Roselands Drive as shown on Plan 05/42/1S wae; Lot 2, DP 1077005 being Halls Road; Lot 101, DP 619946 being 50-50A Halls Road; Lot 100, DP 1027468 being Sleeman Avenue as shown on Plan 04/38/1S wae; Lots 1/28, DP 1094437 and Lots 29/37 in proposed subdivision Lot 29, DP 1094437 being Pearce Drive, Walker Close and Ewing Close as shown on Plan 05/16/1S wae.

#### Sapphire:

Proposed subdivision of Lots 6/7, DP 225116 being 15 Headland Road as shown on Plan 04/19/1S wae.

#### Bonville:

Lot 1, DP 390752 and Lot 2, DP 1062056 being Lyons Road as shown on Plan 04/44/1S wae; Lots 1/12 in proposed subdivision Lot 2, DP 1062056 being Lyons Road as shown on Plan 04/44/1S wae.

#### Woolgoolga:

Generally in the localities of Mullaway, Arrawarra and Arrawarra Headland as shown on Plan Reference No. 2060306; Lots 1/7, DP 1091439 being Carabeen Close as shown on Plan 05/36/1S wae.

S. SAWTELL, General Manager, Coffs Harbour City Council, Locked Bag 155, Coffs Harbour NSW 2450. [2038]

### EUROBODALLA SHIRE COUNCIL

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

THE Eurobodalla Shire Council declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below, excluding any mines or deposits of minerals in the land, is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of the Local Government Act 1993. Dated at Moruya this 28th day of April 2006. JAMES F. LEVY, General Manager, Eurobodalla Shire Council, PO Box 99, Moruya NSW 2537.

#### SCHEDULE

Lot 1, DP 1083522. [2039]

### GREAT LAKES COUNCIL

Roads Act 1993, Section 162

Roads (General) Regulation 2000

Naming of Roads

NOTICE is hereby given that Great Lakes Council, pursuant to the aforementioned Act and Regulation, has named the roads described hereunder. KEITH O'LEARY, General Manager, Great Lakes Council, Breese Parade, Forster NSW 2428.

**Description**

The existing lane between Longfellow Street and Hoskins Street, at the rear of properties in Cowper Street and Farnell Street, Nabisac.

**Name**

Farnell Lane.

[2040]

**GREATER TAREE CITY COUNCIL**

Roads Act 1993  
Roads (General) Regulation 2000  
Part 2 – Roads  
Division 2 – Naming of Roads

NOTICE is hereby given that Greater Taree City Council, in pursuance of the above act and regulations, has named new roads within Tallwoods Village Hallidays Point as: St Andrews Court, Barrington Crescent and Falcon Lane. Each road runs off The Fairway. PHIL PINYON, General Manager, Greater Taree City Council, PO Box 482, Taree NSW 2430. [2041]

**MUSWELLBROOK SHIRE COUNCIL**

Roads Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

THE Muswellbrook Shire Council declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below, excluding mines and deposits of minerals within the land, is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of a public road. Dated at Muswellbrook this 24th day of April 2006. S. McDONALD, General Manager, Muswellbrook Shire Council, PO Box 122, Muswellbrook NSW 2333.

**SCHEDULE**

Lot 13 in DP 1072668. [2042]

**PARKES SHIRE COUNCIL**

Roads Act 1993, Section 162.1

Naming of Public Roads

Monastery Close, Carmelite Close, Marie Rose Close, Watsons Road, Thurns Lane and Oakleigh Lane

NOTICE is hereby given that in accordance with section 162.1 of the Roads Act 1993, as amended, Council has named the roads shown hereunder:

<b>Location</b>	<b>Name</b>
Road off Koala Street, Parkes.	Monastery Close.
Cul de sac to the left off Monastery Close, Parkes.	Carmelite Close.
Cul de sac to the right off Monastery Close, Parkes.	Marie Rose Close.
Shire road 44 south of Billabong Creek.	Watsons Road.
Shire road 45 east of SR44.	Thurns Lane.
Shire road 55.	Oakleigh Lane.

No objections to the proposed names were received within the prescribed period of time. A. McCORMACK, General Manager, Parkes Shire Council, PO Box 337, Parkes NSW 2870. [2043]

**PARKES SHIRE COUNCIL**

Roads Act 1993, Section 162.1

Naming of Public Road – Millers Lane

NOTICE is hereby given that in accordance with section 162.1 of the Roads Act 1993, as amended, Council has named the roads shown hereunder:

<b>Location</b>	<b>Name</b>
Shire road 43.	Millers Lane.

No objections to the proposed name was received within the prescribed period of time. A. McCORMACK, General Manager, Parkes Shire Council, PO Box 337, Parkes NSW 2870. [2044]

**PORT MACQUARIE-HASTINGS COUNCIL**

Local Government Act, 1993, Section 553

Waste Water Service Extensions

NOTICE is hereby given pursuant to section 553 of the Local Government Act 1993, that Council's sewer mains have been extended to service the land described hereunder:

Lots 1 to 35, DP 1084479, Trade Circuit, Production Drive and Inventive Way.

Land that is not connected thereto shall become rateable for wastewater availability charges after sixty (60) days from the date of this notice, or from the date upon which the land is connected to Council's service, whichever is the earlier. B. SMITH, General Manager, Port Macquarie-Hastings Council, PO Box 84, Port Macquarie NSW 2444. [2045]

**PORT MACQUARIE-HASTINGS COUNCIL**

Roads Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

THE Port Macquarie-Hastings Council declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below, excluding mines and deposits of minerals within the land, is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of a public road. Dated at Port Macquarie this 28th day of April 2006. B. SMITH, General Manager, Port Macquarie-Hastings Council, Corner Lord and Burrawan Streets, Port Macquarie NSW 2444.

**SCHEDULE**

Lots 1 and 2, DP 1072284.  
Lots 1 to 6 (inclusive), DP 1087774. [2046]

**PORT MACQUARIE-HASTINGS COUNCIL**

Roads Act 1993, Section 10

Dedication of Land as Public Road

NOTICE is hereby given that the Port Macquarie-Hastings Council dedicates the land described in the Schedule below as public road. B. SMITH, General Manager, Port Macquarie-Hastings Council, Corner Lord and Burrawan Streets, Port Macquarie NSW 2444.

**SCHEDULE**

Lots 1 and 2, DP 1072284.

Lots 1 to 6 (inclusive), DP 1087774. [2047]

**TWEED SHIRE COUNCIL**

Roads Act 1993

Naming of Public Road

NOTICE is hereby given that the Tweed Shire Council, in pursuance of section 162 of the Roads Act 1993, has named the road that comes off Crescent Street at Chinderah as ALTONA ROAD. Authorised by resolution of the Council on 22nd March 2006. GENERAL MANAGER, Tweed Shire Council, Civic Centre, Tumbulgum Road, Murwillumbah NSW 2484. [2048]

**WALGETT SHIRE COUNCIL**

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

THE Walgett Shire Council declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below, excluding any mines or deposits of minerals in the land, is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purpose of constructing a long day care centre. Dated at Walgett, this 27th day of April 2006. S. McLEAN, General Manager, Walgett Shire Council, PO Box 31, Walgett NSW 2832.

**SCHEDULE**

Lot 20, DP 759036. [2049]

**WINGECARRIBEE SHIRE COUNCIL**

Roads Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

WINGECARRIBEE SHIRE COUNCIL declares with the approval of Her Excellency the Governor that the land described in the Schedule below, excluding any mines or deposits of minerals in the land is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purpose of a public road. Dated at Moss Vale this 28th day of April 2006. MIKE HYDE, General Manager, Wingecarribee Shire Council, PO Box 141, Moss Vale NSW 2577.

**SCHEDULE**

Lot 1, DP 1070765. [2050]

**WOLLONDILLY SHIRE COUNCIL**

Naming of Roads

AT its Ordinary Meeting on Monday, 20th February 2006, Council resolved to approve the naming of laneway and road, MARY MACKILLOP LANE for the laneway running from Menangle Street, between the National Australia Bank and St Anthony's Church and primary school, to Argyle Street near Stonequarry Creek, Picton; and WALTON STREET for the new road to be constructed between Menangle Street West and Cliffe Street, Picton.

At its Ordinary Meeting on Monday, 20th March 2006, Council resolved to approve the naming of public laneway, VILLAGE SQUARE WALKWAY for the public laneway running from Argyle Street to Picton Village Square, between the Pheasants Kitchen and NRMA building, Picton.

J. L. McMAHON, General Manager, Wollondilly Shire Council, PO Box 21, Picton NSW 2571. [2051]

**WOLLONGONG CITY COUNCIL**

ERRATUM

THE notice appearing in the *Government Gazette* No. 70, dated 8th April 2004, on page 2078, under the heading "Wollongong City Council" has been rescinded and is replaced in full by the following notice.

**WOLLONGONG CITY COUNCIL**

Roads Act 1993 (NSW), Section 10

PURSUANT to section 10 of the Roads Act 1993, Wollongong City Council hereby dedicates the land known as Lot 711, DP 1057565 as shown hatched in the plan below as road. R. J. OXLEY, General Manager, Wollongong City Council, Locked Bag 8821, South Coast Mail Centre NSW 2521.

**SCHEDULE**

That part of Fairwater Drive, Horsley as shown cross hatched in heavy black on the accompanying plan.



[2052]

**ESTATE NOTICES**

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of VLADO GLOC, late of Dee Why, in the State of New South Wales, water board employee, who died on 30th August 2001, must send particulars of his claim to the administrator, c.o. Rees & Tuckerman, Solicitors, 678 Pittwater Road, Brookvale NSW 2100, within one (1) calendar month from publication of this notice. After that time the administrator may distribute the assets of the estate having regard only to the claims of which at the time of distribution he has notice. Letters of Administration were granted in New South Wales to Zlatko Gloc on 23rd March 2006. REES & TUCKERMAN, Solicitors, 678 Pittwater Road (PO Box 34), Brookvale NSW 2100, (DX 832, Sydney), tel.: (02) 9905 1469. [2053]

**COMPANY NOTICES**

NOTICE of final meeting of members.—CAMPBELL PASTORAL PTY LTD, ACN 001 219 370 (in liquidation).—Notice is hereby given that pursuant to section 509 of the Corporations Law, the final meeting of members of the abovementioned company will be held at the offices of Leonard John Richardson, 14/14 Macarthur Parade, Main Beach, Queensland, on the 26th day of May 2006, at 10:00 a.m., for the purpose of laying before the meeting the liquidators final account and report and giving any explanation thereof. Dated this 10th day of April 2006. LEONARD JOHN RICHARDSON, Chartered Accountant, Level 7, 14/14 Macarthur Parade, Main Beach, Queensland 4217, tel.: (07) 5532 8251. [2054]

NOTICE of members' voluntary winding up.—ADAMS PACIFIC INVESTMENTS PTY LIMITED, ACN 051 715 309 (in liquidation).—Notice is hereby given pursuant to the Corporations Act 2001, that at an extraordinary general meeting of the abovenamed company, held on 21st March 2006, the company's members resolved to wind up the company voluntarily and to appoint Colin Wilson as liquidator of the company. After 21 days from today, I will begin distributing the company's assets. All creditors who a claim against the company should give me details of their claims by that date, otherwise I will not recognise their claims when I distribute the Assets. COLIN WILSON, Liquidator, c.o. Wilson Porter Services Pty, Chartered Accountants, 154 Elizabeth Street, Sydney NSW 2000, tel.: (02) 9283 4333. [2055]

NOTICE convening final meeting of creditors.—ELITE ELECTRICAL SERVICES (NSW) PTY LTD, ACN 083 283 185 (in liquidation), not to be confused with Tenlow Tool Pty Ltd.—Notice is hereby given pursuant to section 509 of the Corporations Law that the final creditors meeting of the abovenamed company will be held at the office of Lower, Russell & Farr, First Floor, 81 Henry Street, Penrith, on 19th May 2006, at 10:00 a.m., for the purpose of having an account laid before them showing the manner in which the winding up has been conducted and the property of the company disposed of. Persons claiming to be creditors are required to prove their debt by no later than 4 o'clock of the previous day. In default they will be excluded from the benefit of the dividend. Dated this 24th day of April 2006. STEPHEN HENRY LOWER, Liquidator, c.o. Lower, Russell & Farr, Chartered Accountants, First Floor, 81 Henry Street (PO Box 459), Penrith NSW 2751, tel.: (02) 4732 3033. [2056]

