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NEW SOUTH WALES

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LEGISLATION

Assents to Acts

ACTS OF PARLIAMENT ASSENTED TO

Legislative Council Office, Sydney, 30 June 2008

IT is hereby notified, for general information, that Her Excellency the Governor has, in the name and on behalf of Her Majesty, this day assented to the undermentioned Acts passed by the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, viz.:

Act No. 43, 2008 – An Act to amend the Election Funding Act 1981 in relation to political donations and electoral expenditure. [Election Funding Amendment (Political Donations and Expenditure Act 2008)].

Act No. 44, 2008 – An Act to amend the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979 in relation to political donations. [Local Government and Planning Legislation Amendment (Political Donations) Act 2008].

LYNN LOVELOCK,
Clerk of the Parliaments

Legislative Assembly Office, Sydney, 1 July 2008

IT is hereby notified, for general information, that Her Excellency the Governor has, in the name and on behalf of Her Majesty, this day assented to the undermentioned Acts passed by the Legislative Assembly and Legislative Council of New South Wales in Parliament assembled, viz.:

Act No. 50 2008 – An Act to establish the Clean Coal Fund to provide funding for clean coal technologies; and to establish the Clean Coal Council. [Clean Coal Administration Bill].

Act No. 51 2008 – An Act to amend the Consumer, Trader and Tenancy Tribunal Act 2001 with respect to the constitution, jurisdiction, functions and procedure of the Consumer, Trader and Tenancy Tribunal and the functions, qualifications, education and review of members of that Tribunal; and for other purposes. [Consumer, Trader and Tenancy Tribunal Amendment Bill].

Act No. 52 2008 – An Act to provide for the transfer of the business undertaking of the Australian Jockey Club to Australian Jockey Club Limited and for the granting of further leases of Randwick Racecourse; and for other purposes. [Australian Jockey Club Bill].

Act No. 53 2008 – An Act to amend certain Acts with respect to courts, court procedure, jurisdiction, rights and avenues of appeal and various criminal offences; and for other purposes. [Courts and Crimes Legislation Amendment Bill]

Act No. 54 2008 – An Act to amend the Children (Criminal Proceedings) Act 1987 and certain other legislation to make further provision with respect to the conduct of criminal proceedings against children and other young persons. [Children (Criminal Proceedings) Amendment Bill].

Act No. 55 2008 – An Act to amend the Children (Detention Centres) Act 1987 in relation to the detention and transfer of juvenile offenders; and for other purposes. [Children (Detention Centres) Amendment Bill].

Act No. 56 2008 – An Act to amend the Crimes (Forensic Procedures) Act 2000 with respect to the matching of DNA profiles and the sharing of DNA information with other jurisdictions; and for other purposes. [Crimes (Forensic Procedures) Amendment Bill].

Act No. 57 2008 – An Act to amend the Crimes (Sentencing Procedure) Act 1999 with respect to applications for redeterminations of existing life sentences. [Crimes (Sentencing Procedure) Amendment (Life Sentences) Bill].

Act No. 58 2008 – An Act to authorise and regulate the cultivation and supply of low-THC hemp for commercial production and other legitimate uses; to amend the Drug Misuse and Trafficking Act 1985; and for other purposes. [Hemp Industry Bill].

Act No. 59 2008 – An Act to amend the Marine Safety Act 1998 with respect to boating safety and marine safety licences; and for other purposes. [Marine Safety Amendment Bill].

Act No. 60 2008 – An Act to amend the Police Integrity Commission Act 1996 to provide for the investigation, referral and oversight of matters relating to misconduct of New South Wales Crime Commission officers; to make consequential amendments to the Independent Commission Against Corruption Act 1988; and for other purposes. [Police Integrity Commission Amendment (Crime Commission) Bill].

Act No. 61 2008 – An Act to amend the Road Transport (Driver Licensing) Act 1998, the Road Transport (Driver Licensing) Regulation 1999 and the Road Transport (General) Act 2005 with respect to further sanctions in relation to certain driving offences, and with respect to fatigue management and speeding compliance, and to amend the Roads Act 1993 with respect to approved toll cameras and toll offences. [Road Transport Legislation Amendment Bill].

Act No. 62 2008 – An Act to repeal certain Acts and statutory instruments and to amend certain other Acts and instruments in various respects and for the purpose of effecting statute law revision; and to make certain savings. [Statute Law (Miscellaneous Provisions) Bill].

Act No. 63 2008 – An Act to amend the Thoroughbred Racing Act 1996 to make further provision for the membership and functions of Racing NSW; and for other purposes. [Thoroughbred Racing Amendment Bill].

Act No. 64 2008 – An Act to amend the Threatened Species Conservation Act 1995 with respect to the biodiversity certification of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006; and to amend the Local Government Act 1993 with respect to rates payable on land subject to conservation agreements. [Threatened Species Conservation Amendment (Special Provisions) Bill].

Act No. 65 2008 – An Act to establish authorities to manage sporting venues for the State and specific regions of the State; to establish the Hunter Region Sporting Venues Authority; to repeal the Sporting Venues Management Act 2002 and the Newcastle International Sports Centre Act 1967; and for other purposes. [Sporting Venues Authorities Bill].

RUSSELL D. GROVE, PSM,
Clerk of the Legislative Assembly

Legislative Council Office, Sydney, 1 July 2008

IT is hereby notified, for general information, that Her Excellency the Governor has, in the name and on behalf of Her Majesty, this day assented to the undermentioned Act passed by the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, viz.:

Act No. 66, 2008 – An Act to amend the Firearms Act 1996 and the Firearms Regulation 2006 to make further provision with respect to the regulation and control of firearms; and for other purposes. [Firearms Amendment Act 2008].

LYNN LOVELOCK,
Clerk of the Parliaments

Legislative Assembly Office, Sydney, 2 July 2008

IT is hereby notified, for general information, that Her Excellency the Governor has, in the name and on behalf of Her Majesty, this day assented to the undermentioned Act passed by the Legislative Assembly and Legislative Council of New South Wales in Parliament assembled, viz.:

Act No. 67 2008 – An Act to make miscellaneous amendments to certain State revenue legislation. [State Revenue Legislation Amendment Bill].

RUSSELL D. GROVE, PSM,
Clerk of the Legislative Assembly

Proclamations



New South Wales

Commencement Proclamation

under the

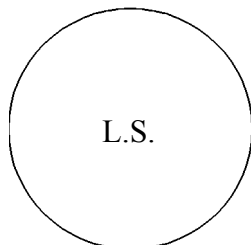
Motor Dealers Amendment Act 2007 No 42

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Motor Dealers Amendment Act 2007*, do, by this my Proclamation, appoint 1 August 2008 as the day on which that Act commences.

Signed and sealed at Sydney, this 9th day of July 2008.

By Her Excellency's Command,



LINDA BURNEY, M.P.,
Minister for Fair Trading

GOD SAVE THE QUEEN!



New South Wales

Commencement Proclamation

under the

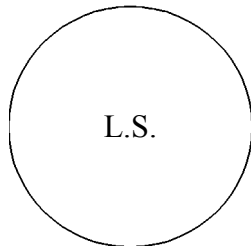
Sporting Venues Authorities Act 2008

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Sporting Venues Authorities Act 2008*, do, by this my Proclamation, appoint 11 July 2008 as the day on which that Act commences.

Signed and sealed at Sydney, this 9th day of July 2008.

By Her Excellency's Command,



GRAHAM WEST, M.P.,
Minister for Sport and Recreation

GOD SAVE THE QUEEN!

Regulations



New South Wales

Criminal Procedure Amendment (Forum Sentencing Program) Regulation 2008

under the

Criminal Procedure Act 1986

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Criminal Procedure Act 1986*.

JOHN HATZISTERGOS, M.L.C.,
Attorney General

Explanatory note

The object of this Regulation is to amend the *Criminal Procedure Regulation 2005* as follows:

- (a) to change the name of the community conference intervention program to the forum sentencing program,
- (b) to exclude certain offences relating to motor vehicles from the ambit of that program,
- (c) to provide that an additional object of the program is to reduce re-offending,
- (d) to remove the requirement that a person may only participate in the program if the person was at least 18 years, and under 25 years, of age at the time that the relevant offence was committed,
- (e) to provide that a person is not eligible to participate in the program if the person has previously been sentenced to a term of imprisonment (including a suspended sentence of imprisonment),
- (f) to provide that domestic violence offences committed by an offender against another person with whom the offender does not or did not have an intimate domestic relationship are not excluded from that intervention program. (Currently all domestic violence offences are excluded).

This Regulation is made under the *Criminal Procedure Act 1986*, including sections 4 (the general regulation-making power), 347 and 348.

Clause 1 Criminal Procedure Amendment (Forum Sentencing Program) Regulation
2008

Criminal Procedure Amendment (Forum Sentencing Program) Regulation 2008

under the

Criminal Procedure Act 1986

1 Name of Regulation

This Regulation is the *Criminal Procedure Amendment (Forum Sentencing Program) Regulation 2008*.

2 Amendment of Criminal Procedure Regulation 2005

The *Criminal Procedure Regulation 2005* is amended as set out in Schedule 1.

Criminal Procedure Amendment (Forum Sentencing Program) Regulation
2008

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 2)

[1] Clause 19A Forum sentencing program

Insert “, but only in relation to an offence committed by an offender against another person with whom the offender has or has had an intimate domestic relationship” after “*Crimes (Domestic and Personal Violence) Act 2007*” in clause 19A (3) (a).

[2] Clause 19A (3) (e)–(h)

Insert after clause 19A (3) (d):

- (e) an offence under section 25 (2) of the *Road Transport (Driver Licensing) Act 1998*,
- (f) an offence under section 25A (1) of the *Road Transport (Driver Licensing) Act 1998*,
- (g) an offence under section 25A (2) of the *Road Transport (Driver Licensing) Act 1998*,
- (h) an offence under section 21A of the *Road Transport (Vehicle Registration) Act 1997* (Offences relating to identification numbers of engines and other parts of motor vehicles or trailers).

[3] Clause 19A (4)

Insert after clause 19A (3):

- (4) For the purposes of this clause, a person has or has had an ***intimate domestic relationship*** with another person if the person:
 - (a) is or has been married to the other person, or
 - (b) has or has had a de facto relationship, within the meaning of the *Property (Relationships) Act 1984*, with the other person, or
 - (c) has or has had a relationship involving his or her dependence on the ongoing paid or unpaid care of the other person, or
 - (d) otherwise has or has had an intimate personal relationship with the other person, whether or not the intimate relationship involves or has involved a relationship of a sexual nature,but not if the person merely:
 - (e) is living or has lived in the same household as the other person, or

Criminal Procedure Amendment (Forum Sentencing Program) Regulation
2008

Schedule 1 Amendments

- (f) is living or has lived as a long-term resident in the same residential facility as the other person (not being a facility that is a correctional centre within the meaning of the *Crimes (Administration of Sentences) Act 1999* or a detention centre within the meaning of the *Children (Detention Centres) Act 1987*), or
- (g) is or has been a relative, within the meaning of section 6 of the *Crimes (Domestic and Personal Violence) Act 2007*, of the other person, or
- (h) in the case of an Aboriginal person or a Torres Strait Islander, is or has been part of the extended family or kin of the other person according to the Indigenous kinship system of the person's culture.

[4] Schedule 5

Omit the heading to Schedule 5. Insert instead:

Schedule 5 Forum sentencing program

[5] Schedule 5, clause 1

Omit the definitions of *conference*, *conference facilitator* and *conference participation order*.

Insert in alphabetical order:

forum means a forum convened or proposed to be convened under Division 2 of Part 4.

forum facilitator means a person appointed as a forum facilitator under Part 5.

forum participation order means:

- (a) a grant of bail that is subject to a condition referred to in section 36A (2) (b) (i) of the *Bail Act 1978*, or
- (b) an order referred to in section 11 (1) (b2) of the *Crimes (Sentencing Procedure) Act 1999*,

made in respect of an offender for the purpose of allowing the offender to participate in the program by attending a forum.

[6] Schedule 5, clause 1, definition of "referred offender"

Omit "conference". Insert instead "forum".

Criminal Procedure Amendment (Forum Sentencing Program) Regulation
2008

Amendments

Schedule 1

-
- [7] Schedule 5, Parts 2–7 (other than the headings to Part 4 and clause 8)**
Omit “conference”, “Conference”, “Conferences” and “conferences” wherever occurring (including in headings).
Insert instead “forum”, “Forum”, “Forums” and “forums” respectively.
- [8] Schedule 5, headings to Part 4 and clause 8**
Omit “community conference intervention” wherever occurring.
Insert instead “forum sentencing”.
- [9] Schedule 5, clause 5**
Insert after clause 5 (f):
(g) to reduce re-offending.
- [10] Schedule 5, clause 7 (1) (a)**
Omit the paragraph.
- [11] Schedule 5, clause 7 (1) (g)**
Insert at the end of clause 7 (1) (f):
, and
(g) the person has not previously been sentenced to a term of imprisonment (including a suspended sentence of imprisonment).



New South Wales

Motor Dealers Amendment Regulation 2008

under the

Motor Dealers Act 1974

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Dealers Act 1974*.

LINDA BURNEY, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to amend the *Motor Dealers Regulation 2004*:

- (a) to omit certain references to demonstrator motor vehicles and disposal notices and to omit redundant forms as a consequence of the amendment of the *Motor Dealers Act 1974* by the *Motor Dealers Amendment Act 2007* (the amending Act removes the requirement that a trade owner provide a disposal notice when selling a second-hand or demonstrator motor vehicle to another trade owner and makes provision for demonstrator motor vehicles to be dealt with under the *Motor Dealers Act 1974* as second-hand motor vehicles unless otherwise specified), and
- (b) to combine the current Form 8 (the prescribed form that must be attached to a second-hand motor vehicle offered or displayed for sale by a car dealer if the sale of the vehicle does not attract a statutory warranty) and Form 14 (the prescribed form that, if attached to certain motor vehicles offered for sale by a dealer, exempts the dealer from a statutory obligation to repair any defects that appear or occur in the vehicle) so that Form 8 will apply to all motor vehicles sold without a warranty (by allowing any inapplicable statement or part of the form to be struck out by the person completing the form), and
- (c) to combine the current Form 18 (the prescribed form for the register kept by the holder of a car market operator's licence in relation to motor vehicles for which the holder of that licence guarantees the vendor's title and also the prescribed form of notice to be attached by the car market operator to such a motor vehicle offered or displayed for sale) and Form 19 (the prescribed form for the register kept by the holder of a car market operator's licence in relation to motor vehicles for which the holder of that licence does not guarantee the vendor's title and also the prescribed form of notice to be attached by the car market operator to such a motor vehicle offered or displayed for

Motor Dealers Amendment Regulation 2008

Explanatory note

sale) so that Form 18 will apply to motor vehicles regardless of whether title is guaranteed (by allowing the inapplicable statement relating to title to be struck out by the person completing the form), and

- (d) to update the prescribed Form for the register kept by a dealer or wholesaler under section 21 (3) and (5) of the *Motor Dealers Act 1974* so that it includes the odometer reading at the date of disposal of the motor vehicle, and
- (e) to improve the layout of several prescribed Forms and make minor law revision amendments.

This Regulation is made under the *Motor Dealers Act 1974*, including sections 21 (8), 24, 28 (5), 29B and 57 (the general regulation-making power).

Motor Dealers Amendment Regulation 2008

Clause 1

Motor Dealers Amendment Regulation 2008

under the

Motor Dealers Act 1974

1 Name of Regulation

This Regulation is the *Motor Dealers Amendment Regulation 2008*.

2 Commencement

This Regulation commences on 1 August 2008.

3 Amendment of Motor Dealers Regulation 2004

The *Motor Dealers Regulation 2004* is amended as set out in Schedule 1.

Motor Dealers Amendment Regulation 2008

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 18 Prescribed form of register: section 21

Omit clause 18 (1) (e) and (f). Insert instead:

- (e) Form 18, in the case of a register referred to in section 21 (8) of the Act that is kept by the holder of a car market operator's licence in relation to motor vehicles offered or displayed for sale.

[2] Clause 31

Omit the clause. Insert instead:

31 Sale notice for demonstrator motor vehicle: section 24 (6)

- (1) For the purposes of section 24 (6) of the Act:
 - (a) Form 4 is the prescribed form where a motor vehicle is to be sold with a statutory warranty but without a defect notice, and
 - (b) Form 6 is the prescribed form where a motor vehicle is to be sold with a statutory warranty and with a defect notice, and
 - (c) Form 8 is the prescribed form where the sale of a motor vehicle does not attract a statutory warranty.
- (2) For the purposes of section 24 (6) of the Act, the prescribed particulars are the particulars required to be inserted to complete the relevant form.
- (3) If particulars for a motor vehicle are not available until the vehicle is sold, those particulars must be inserted at the time of sale.
- (4) For the purposes of the definition of *defect notice* in section 4 (1) of the Act, Form 6 (to the extent to which it deals with warranty exclusions for specified defects) is the prescribed form for a defect notice given in relation to a demonstrator motor vehicle sold by a dealer.

[3] Clause 33 Disposal notice for second-hand motor vehicle sold to trade owner: section 25 (2)

Omit the clause.

Motor Dealers Amendment Regulation 2008

Amendments

Schedule 1

[4] Clause 35 Sale notice for exempted motor vehicle (other than motor cycle) sold without statutory warranty: section 28 (5)

Omit "Form 14". Insert instead "Form 8".

[5] Clause 39

Omit the clause. Insert instead:

39 Sale notice for defective second-hand motor cycle: section 29 (3)

For the purposes of section 29 (3) of the Act, Form 5 is the prescribed form where a motor cycle is not more than 5 years old, has travelled no more than 30,000 kilometres and is offered or displayed for sale with a defect notice.

[6] Clause 40 Sale notice for motor vehicle sold at car market: section 29B

Omit clause 40 (1). Insert instead:

- (1) For the purposes of section 29B of the Act, Form 18 is the prescribed form where a motor vehicle is offered or displayed for sale.

[7] Clause 49 Price-related advertising

Omit "or demonstrator" wherever occurring in clause 49 (b) and (c).

[8] Clause 50 Advertising of charges

Omit "or demonstrator" from clause 50 (1).

[9] Schedule 3 Forms

Omit Form 2. Insert instead:

Form 2 Dealers' and wholesalers' register

(Clause 18 (1) (b))

Motor Dealers Act 1974: section 21

NAME OF LICENSEE **LICENCE No**

DETAILS OF ACQUISITION								
Entry No	Date of acquisition	How acquired	Make and body type	Model designation and date of manufacture	Registration No (if any)	Engine No	VIN or chassis No	Odometer reading

Motor Dealers Amendment Regulation 2008

Schedule 1 Amendments

All columns to be completed

DETAILS OF ACQUISITION continued	DETAILS OF DISPOSAL					
Name and address of person from whom vehicle acquired (If trade owner, also insert licence No)	Date of disposal	How disposed	Type & serial No of disposal form	Cash price at which vehicle disposed	Odometer reading	Name and address of person to whom vehicle disposed (If trade owner also insert motor dealer licence No) (If private purchaser at auction also insert driver licence No)

[10] Schedule 3, Forms 3, 4, 5, 6 and 13

Omit “Name (print) and Signature of Dealer, Agent or Employee Effecting Sale” wherever occurring.

Insert instead “Name (print) and Signature of Person Effecting Sale”.

[11] Schedule 3, Forms 3, 4, 5 and 6

Renumber Part 3 of each Form as Part 2. Renumber existing Part 2 as Part 3.

[12] Schedule 3, Form 3

Omit the following from Part 3 (as renumbered by item [11]):

Trade-in (if any)	(Description)	(Registration No)	Trade-in Allowance \$
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[13] Schedule 3, Form 4

Omit “(Clause 28 (1) (a))” from the matter immediately under the heading.

Insert instead “(Clauses 28 (1) (a) and 31 (1) (a))”.

[14] Schedule 3, Form 5

Omit “39 (a)” from the matter immediately under the heading.

Insert instead “39”.

Motor Dealers Amendment Regulation 2008

Amendments

Schedule 1

[15] Schedule 6, Form 6

Insert “, 31 (1) (b)” after “Clauses 28 (1) (b) and (4)” in the matter immediately under the heading.

[16] Schedule 3, Forms 7, 7A, 11, 11A, 14 and 19

Omit the forms.

[17] Schedule 3, Form 8

Omit the Form. Insert instead:

Form 8 Sale notice—no warranty

No warranty under *Motor Dealers Act 1974* applies to this vehicle.

(Clauses 28 (1) (c), 31 (1) (c) and 35)

Motor Dealers Act 1974: *section 24/section 28

Register Details

Book No _____

Entry No _____

Part 1 (To be completed when vehicle offered or displayed for sale)

Dealer	Licence No		
Full Business Address of Dealer Where Vehicle Sold			
	(No)	(Street)	(Suburb/Town/City)
Make of Vehicle		Engine No	
Model Designation		VIN or Chassis No	
Date of Manufacture		Distance Travelled	km
Body Type		Registration No	
Cash Price \$	Date of Expiry of Registration		
	Date of Notice		

Motor Dealers Amendment Regulation 2008

Schedule 1 Amendments

Part 2 (To be completed when vehicle offered or displayed for sale)

Note. This Part is to be deleted if the form is attached to a vehicle pursuant to section 28 of the Act (for the purpose of exempting a dealer from the statutory obligation to repair defects appearing or occurring in the vehicle).

The information below has been checked with the Register of Encumbered Vehicles (REVS).

Note. REVS records do not include written off vehicles that were repaired and re-registered prior to 1 July 2003. For more information about what is recorded on the register, contact REVS.

THE VEHICLE IS/IS NOT* LISTED ON REVS AS BEING, OR HAVING BEEN, A WRITTEN OFF OR WRECKED MOTOR VEHICLE.

* **NOTE:** Delete whichever is inapplicable

Part 3 (To be completed at or before time of sale)

Cash Price at Which Vehicle Sold \$

Odometer Reading at Time of Sale km

Serial No of Inspection Report (RTA) Date of Issue of Report
(where applicable)

Purchaser's Full Name

Purchaser's Address

Trade-in (if any) (Description) (Registration No) Trade-in Allowance \$

Purchaser's Signature Date of Sale

Name (print) and Signature of Person Effecting Sale

Unless this vehicle is unregistered and the registration plates removed or is substantially demolished, the dealer must deliver to the purchaser an inspection report issued in accordance with the regulations under the *Road Transport (Vehicle Registration) Act 1997*, which has been issued not more than 90 days before the date of sale stating that the vehicle is roadworthy unless registration of the vehicle has been effected within one month before that date.

Part 4

THERE IS NO WARRANTY UNDER THE MOTOR DEALERS ACT 1974 IN RESPECT OF THE SALE OF THIS VEHICLE. ACCORDINGLY THE DEALER IS NOT REQUIRED BY THE ACT TO REPAIR OR MAKE GOOD ANY DEFECT WHICH MAY EXIST OR OCCUR IN THIS VEHICLE.

[18] Schedule 3, Form 13

Omit “**and demonstrator**” from the heading to the Form.

Motor Dealers Amendment Regulation 2008

Amendments

Schedule 1

[19] Schedule 3, Form 18

Omit the Form. Insert instead:

Form 18 Car market register and notice

(Clauses 18 (1) (e) and 40 (1))

Motor Dealers Act 1974: sections 21 and 29B

M

Date

TITLE GUARANTEED/TITLE NOT GUARANTEED*
<p>THIS VEHICLE IS SOLD WITHOUT STATUTORY WARRANTY UNDER THE MOTOR DEALERS ACT 1974.</p> <p>THE CAR MARKET OPERATOR GUARANTEES THE VENDOR HAS UNENCUMBERED TITLE TO THE VEHICLE./THE VENDOR'S TITLE TO THE VEHICLE IS NOT GUARANTEED BY THE CAR MARKET OPERATOR.*</p>

VEHICLE DETAILS	Registered No
Make	Engine No
Model	Odometer km
Body Type	Date of Manufacture
Certificate of Inspection No	Date of Issue

Motor Dealers Amendment Regulation 2008

Schedule 1 Amendments

REGISTERED OWNER	
Name	
Address	
Expiry Date of Registration	
Source of Information	
Registration Papers	YES/NO*
Interim Receipt	YES/NO*
Other (specify)	

DETAILS OF DRIVER (when vehicle enters market)	
Name	
Address	
Licence No	
Expiry Date	
Driver's Signature	

* **NOTE:** Delete whichever is inapplicable



New South Wales

Threatened Species Conservation (Biodiversity Banking) Regulation 2008

under the

Threatened Species Conservation Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Threatened Species Conservation Act 1995*.

VERITY FIRTH, M.P.,
Minister for Climate Change and the Environment

Explanatory note

The object of this Regulation is to make provision for the administration of the biobanking scheme established by Part 7A of the *Threatened Species Conservation Act 1995* (*the Act*).

The Regulation makes provision for the following matters:

- (a) requiring the biobanking assessment methodology to identify areas of high biodiversity conservation value (including areas with highly cleared vegetation types that are not in low condition) and to restrict the circumstances in which a biobanking statement may be issued in respect of development having an impact on those areas,
- (b) requiring the review of the biobanking assessment methodology 2 years after publication and every 5 years thereafter,
- (c) prescribing the circumstances in which the biobanking assessment methodology can be amended, repealed or replaced,
- (d) excluding certain types of land from being designated as a biobank site,
- (e) matters that the Minister is to consider before entering into a biobanking agreement,
- (f) the procedure for requesting the Minister to enter into, vary or terminate a biobanking agreement (including the fees involved),
- (g) the procedure for applying to retire a biodiversity credit,
- (h) contributions to cost recovery by holders of biodiversity credits and applicants for a biobanking statement,
- (i) additional grounds for refusal to issue a biobanking statement,
- (j) payments to the Biobanking Trust Fund on a first transfer of biodiversity credits,

Threatened Species Conservation (Biodiversity Banking) Regulation 2008

Explanatory note

- (k) payments from that Biobanking Trust Fund to owners of biobank sites for or towards the management costs of the biobank site,
- (l) other matters relating to the management of the Biobanking Trust Fund,
- (m) registers to be kept under the Act,
- (n) calculation of fees and contributions under the Act,
- (o) other miscellaneous matters relating to the administration of the scheme.

This Regulation is made under the *Threatened Species Conservation Act 1995*, including sections 127B (5), 127C (4), 127D (4) and (8), 127G (7), 127H (6), 127ZA, 127ZH (4), 127ZL (4) (e), 127ZQ (3), 127ZS (2), 127ZW, 127ZX, 127ZY (4), 127ZZ, 127ZZB, 127ZZC, 127ZZD, 127ZZL and 150 (the general regulation-making power).

Threatened Species Conservation (Biodiversity Banking) Regulation 2008

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Threatened Species Conservation (Biodiversity Banking) Regulation 2008

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Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 1

Preliminary Part 1

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Threatened Species Conservation (Biodiversity Banking) Regulation 2008*.

2 Definitions

(1) In this Regulation:

approved form means a form approved by the Director-General.

biobank site account has the meaning given by clause 30.

fee unit has the meaning given by clause 51.

financial year means the period from 1 July in any year to 30 June in the following year.

Fund means the Biobanking Trust Fund.

impact assessment means an assessment referred to in section 127ZK (3) (c) of the Act.

management payment, in respect of a biobank site, has the meaning given by clause 29.

methodology means the biobanking assessment methodology.

personal information has the same meaning as it has in the *Privacy and Personal Information Protection Act 1998*.

public authority means a public or local authority constituted by or under a law of New South Wales or the Commonwealth, and includes the following:

- (a) a New South Wales or Commonwealth Government department,
- (b) a NSW Government agency, a State owned corporation or a local council,
- (c) a body corporate in which New South Wales or the Commonwealth has a controlling interest.

register means:

- (a) the register of biobank sites, or
- (b) the register of biodiversity credits, or
- (c) the register of biobanking statements.

scheduled management payment, in respect of a biobank site, has the meaning given by clause 29.

the Act means the *Threatened Species Conservation Act 1995*.

total Fund deposit for a biobank site has the meaning given by clause 26.

Clause 2 Threatened Species Conservation (Biodiversity Banking) Regulation 2008
Part 1 Preliminary

- (2) Expressions used in this Regulation have the same meaning as they do in Part 7A of the Act, unless the contrary intention appears.
- (3) Notes included in this Regulation do not form part of this Regulation.

Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 3

Biobanking assessment methodology Part 2

Part 2 Biobanking assessment methodology

3 Special requirements in relation to land with high biodiversity conservation values

- (1) The methodology must provide for a method of identifying areas of land that have high biodiversity conservation values.
- (2) An area of land may be identified as having high biodiversity conservation values because of:
 - (a) the type of vegetation in the area, the extent to which it is cleared or the condition of the vegetation (or any combination of these factors), or
 - (b) the type of species, populations or ecological communities found in the area.
- (3) In addition, the methodology must make provision for the identification of those areas of land that have high biodiversity conservation values because of the presence on the land of any highly cleared vegetation type for the catchment area in which the land is located, which is not in low condition.
- (4) The methodology must include provision to the effect that development is not to be regarded as improving or maintaining biodiversity values if the development site comprises or includes an area of land identified by the methodology as having high biodiversity conservation values, or any part of such an area, and the development has an adverse impact on those biodiversity conservation values, unless the Director-General makes a determination, in the particular case, to the effect that:
 - (a) the contribution of the impacted biodiversity conservation values on the development site to regional biodiversity values is low, and
 - (b) the impacted biodiversity conservation values are not viable, or their viability is low, and
 - (c) the Director-General is satisfied that all reasonable measures to avoid the adverse impact on biodiversity conservation values, or improve the viability of the biodiversity conservation values, have been considered.
- (5) If the area of land identified as having high biodiversity conservation values is so identified because of the presence of a highly cleared vegetation type for the catchment area, which is not in low condition, the methodology must provide that the Director-General must not make a determination referred to in subclause (4) unless the area of land so identified as having high biodiversity conservation values is less than 4 hectares in size.

Clause 4	Threatened Species Conservation (Biodiversity Banking) Regulation 2008
Part 2	Biobanking assessment methodology

- (6) For the purposes of this clause, a vegetation type is a *highly cleared vegetation type* for a catchment area if its distribution in the catchment area is equal to or less than 10% of its estimated distribution in the catchment area before the year 1750.
- (7) In this clause:
catchment area means the area of operations of a catchment management authority established under the *Catchment Management Authorities Act 2003*.

4 Creation of biodiversity credits in respect of land with existing conservation obligations

- (1) The methodology must provide that biodiversity credits may be created in respect of management actions carried out or proposed to be carried out in respect of a biobank site only if the management actions are additional to any biodiversity conservation measures, or other actions, that are already being carried out on the land, or are required to be carried out, under:
- a restriction on use or public positive covenant under Part 4A of the *Crown Lands Act 1989*, or
 - a conservation agreement entered into under the *National Parks and Wildlife Act 1974*, or
 - a trust agreement entered into under the *Nature Conservation Trust Act 2001*, or
 - any agreement entered into with a public authority under which the owner of the land receives funding for biodiversity conservation purposes (other than a biobanking agreement), or
 - in the case of publicly owned land, any Act.
- (2) Subclause (1) does not apply to the following:
- a restriction on use or public positive covenant under Part 4A of the *Crown Lands Act 1989* that is imposed in connection with an application to purchase land that is duly made by a lease holder in respect of that land before 1 January 2009,
 - a conservation agreement entered into under the *National Parks and Wildlife Act 1974* as a result of a proposal made by the landholder to the Minister administering that Act before 1 January 2009,
 - a trust agreement entered into under the *Nature Conservation Trust Act 2001* as a result of a proposal made by the landholder to the Nature Conservation Trust of New South Wales before 1 January 2009.

Threatened Species Conservation (Biodiversity Banking) Regulation 2008	Clause 5
Biobanking assessment methodology	Part 2

- (3) In this clause:

publicly owned land means land owned by, or under the control of, the State, the Commonwealth or a public authority, other than land that is the subject of a perpetual lease or land that the Minister is satisfied is being managed by a person or body (other than the State, the Commonwealth or a public authority) under a long term lease, licence or other arrangement.

Note. See also clause 11, which prevents certain land from being designated as a biobank site. This includes land that is subject to other existing biodiversity conservation arrangements.

5 Review of methodology

- (1) The Minister is to cause a review of the methodology to be carried out:
- (a) as soon as possible after the period of 2 years after the methodology is first published in the Gazette, and
 - (b) at least every 5 years thereafter.
- (2) The Minister is required to give the public an opportunity to make submissions in relation to any such review.

6 Minister may change methodology following review

- (1) The Minister is authorised to make an order that amends, repeals or replaces the methodology if:
- (a) a review of the methodology has been carried out and the public has been given an opportunity to make submissions in relation to the review in accordance with this Part, and
 - (b) the Minister has considered the Director-General's report in relation to the submissions prepared in accordance with this Part, and
 - (c) the Minister certifies in writing that the amendment, repeal or replacement of the methodology is made as a consequence of the review.
- (2) The Minister is authorised to make any such order whether or not the Minister decides to implement all or any of the recommendations contained in the Director-General's report.

7 Minister may change methodology following public consultation

- (1) The Minister is also authorised to make an order that amends, repeals or replaces the methodology (otherwise than as a consequence of a review of the methodology) if:
- (a) the public has been given an opportunity to make submissions in relation to the proposed amendment, repeal or replacement in accordance with this Part, and

Clause 8	Threatened Species Conservation (Biodiversity Banking) Regulation 2008
Part 2	Biobanking assessment methodology

(b) the Minister has considered the Director-General's report in relation to the submissions.

- (2) The Minister is authorised to make any such order whether or not the Minister decides to implement all or any of the recommendations contained in the Director-General's report.

8 Public consultation requirements

- (1) This clause sets out the requirements that must be complied with in order to give the public an opportunity to make submissions on:
- (a) any review of the methodology, or
 - (b) a proposal to amend, repeal or replace the methodology (otherwise than as a consequence of a review).
- (2) In order to give the public an opportunity to make submissions about any such matter, the Director-General is to cause notice of the matter to be published in a newspaper circulating generally throughout the State and on the website of the Department.
- (3) The notice is to:
- (a) invite the public to make written submissions to the Director-General on the matter during the period indicated in the notice (*the consultation period*), being a period ending no earlier than 30 days after the date the notice is first published, and
 - (b) indicate that copies of the methodology are available at the head office of the Department and on the website of the Department.
- (4) During the consultation period, the Director-General is to cause copies of the methodology, and any other explanatory material or information the Director-General considers appropriate, to be exhibited at the head office of the Department and on the website of the Department.
- (5) At the end of the consultation period, the Director-General is to provide a report to the Minister that:
- (a) summarises the main issues raised in any submissions received during the consultation period, and
 - (b) makes such recommendations as the Director-General considers appropriate in relation to those submissions.

9 Minor changes to methodology not requiring public consultation

- (1) The Minister is authorised to make an order that amends the methodology at any time if:
- (a) the Minister is of the opinion that the amendment is of a minor nature, and

Threatened Species Conservation (Biodiversity Banking) Regulation 2008	Clause 10
Biobanking assessment methodology	Part 2

- (b) the Minister certifies in writing that the amendment is of a minor nature.
- (2) Without limiting subclause (1), amendments of a minor nature include amendments that:
 - (a) correct any minor error or omission in the methodology, such as a spelling or grammatical error, a redundant or obsolete reference, obviously missing words, or wrong cross-references, or
 - (b) make any other change necessary to address matters that are of a consequential, transitional, machinery or other minor nature.
- (3) The requirements set out in clause 8 do not apply to amendments authorised under this clause.

10 Changes to methodology—general

The Minister is authorised to make an order that amends, replaces or repeals the methodology only in the circumstances provided for by this Part.

Clause 11	Threatened Species Conservation (Biodiversity Banking) Regulation 2008
Part 3	Biobanking agreements

Part 3 Biobanking agreements

11 Land excluded from being designated as biobank site

- (1) Land is not to be designated as a biobank site by a biobanking agreement if:
 - (a) the Minister is of the opinion that any previous, current or proposed use of the land proposed to be designated as a biobank site is inconsistent with biodiversity conservation or will prevent management actions from being carried out on the land or prevent the purpose of those actions from being achieved, or
 - (b) the Minister is of the opinion that any previous, current or proposed use of any land that is adjacent to or in the vicinity of the land proposed to be designated as a biobank site will prevent management actions from being carried out on the land proposed to be designated as a biobank site or prevent the purpose of those actions from being achieved, or
 - (c) the land is the subject of an offset (within the meaning of the *Native Vegetation Regulation 2005*) under a property vegetation plan approved under the *Native Vegetation Act 2003*, or
 - (d) the Minister is of the opinion that the land is already the subject of a requirement to carry out biodiversity conservation measures of an ongoing nature on the land under a condition of an approval or consent granted under Part 3A, 4 or 5 of the *Environmental Planning and Assessment Act 1979* (this extends to any land that is the subject of a conservation agreement entered into under the *National Parks and Wildlife Act 1974* for the purpose of compliance with such a condition), or
 - (e) the Minister is of the opinion that biodiversity conservation measures are already being carried out, or are required to be carried out, on the land under an offset arrangement made for the purpose of complying with requirements imposed by or under any Act (including the requirements of any authority granted by a public authority under any Act), or
 - (f) the land is reserved under Part 4 or Part 4A of the *National Parks and Wildlife Act 1974*, or
 - (g) the land is a flora reserve or special management zone within the meaning of the *Forestry Act 1916*.
- (2) Subclause (1) does not prevent other parts of a parcel of land (that do not fall within subclause (1) (a)–(g)) from being designated as a biobank site by a biobanking agreement.
- (3) This clause has effect in relation to land at the time that any biobanking agreement in relation to that land is first entered into or proposed to be

Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 12

Biobanking agreements Part 3

entered into. Accordingly, the fact that land designated as a biobank site by a biobanking agreement becomes, after the biobanking agreement is entered into, land excluded from being designated as a biobank site under this clause does not affect the validity of the biobanking agreement (or any subsequent variation of the agreement).

12 Assessment of biobank site

- (1) Land is not to be designated as a biobank site by a biobanking agreement unless an assessment has been made of the proposed biobank site.
- (2) The assessment must be carried out by a person accredited to carry out the assessment under section 142B of the Act.
- (3) The assessment is to determine the number and class of biodiversity credits that may be created, in accordance with the methodology, in respect of the management actions proposed to be carried out on the land under the terms of the proposed biobanking agreement.
- (4) If the assessment is carried out by an officer or officers of the Department, the Director-General may charge a fee in respect of the carrying out of the assessment.
- (5) The amount of the fee, or the manner in which it is to be calculated, is to be determined by the Director-General.

13 Preparation of management plans

- (1) The Director-General may require one or more management plans to be prepared in respect of a proposed biobank site, such as management plans relating to the control of weeds or fire management.
- (2) If such a management plan is prepared by an officer or officers of the Department, the Director-General may charge a fee in respect of the preparation of the management plan.
- (3) The amount of the fee, or the manner in which it is to be calculated, is to be determined by the Director-General.

14 Application to enter into biobanking agreement

- (1) A request to the Minister to enter into a biobanking agreement is to be made by application of the owner of the site proposed to be designated as a biobank site in accordance with this clause.
- (2) An application:
 - (a) is to be made to the Minister in an approved form, and
 - (b) is to include or be accompanied by any information or document specified in the approved form, and

Clause 15	Threatened Species Conservation (Biodiversity Banking) Regulation 2008
Part 3	Biobanking agreements

(c) is to be accompanied by a processing fee of 6 fee units, comprised of:

- (i) a non-refundable component of 1 fee unit, and
- (ii) a refundable component of 5 fee units.

Note. An assessment fee and a fee for the preparation of management plans may also be payable in respect of the application.

- (3) The Minister may waive or refund the whole or any part of the refundable component of the processing fee payable in connection with an application.
- (4) The processing fee payable in connection with an application is additional to any fee payable to the Director-General in respect of an assessment of a proposed biobank site or the preparation of a management plan in respect of a proposed biobank site.

15 Fit and proper person criteria

- (1) The Minister must, before entering into a biobanking agreement with a person, consider whether the person (whether or not an individual) is a fit and proper person to enter into, and fulfil the obligations imposed by, the agreement.
- (2) The Minister may consider any or all of the following matters in determining whether the person is such a fit and proper person:
 - (a) that the person has contravened any relevant legislation, or has held a licence or other authority that has been suspended or revoked under any relevant legislation,
 - (b) that, if the person is a body corporate, a director of the body corporate:
 - (i) has contravened any relevant legislation, or has held a licence or other authority that has been suspended or revoked under any relevant legislation, or
 - (ii) is or has been the director of another body corporate that has contravened any relevant legislation, or has held a licence or other authority that has been suspended or revoked under any relevant legislation,
 - (c) the person's record of compliance with relevant legislation,
 - (d) if the person is a body corporate, the record of compliance with relevant legislation of any director or other person concerned in the management of the body corporate,
 - (e) whether, in the opinion of the Minister, the management actions that are to be carried out under the biobanking agreement will be in the hands of a person competent to undertake them,

Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 15

Biobanking agreements Part 3

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- (f) whether, in the opinion of the Minister, the person is of good repute, having regard to character, honesty and integrity,
 - (g) if the person is a body corporate, whether, in the opinion of the Minister, a director or other person concerned in the management of the body corporate is of good repute, having regard to character, honesty and integrity,
 - (h) whether the person, in the previous 10 years, has been convicted in New South Wales or elsewhere of an offence involving fraud or dishonesty,
 - (i) if the person is a body corporate, whether a director or other person concerned in the management of the body corporate has, in the previous 10 years, been convicted in New South Wales or elsewhere of an offence involving fraud or dishonesty,
 - (j) whether the person, during the previous 3 years, was an undischarged bankrupt or applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors or made an assignment of his or her remuneration for their benefit,
 - (k) if the person is an individual, whether he or she is or was a director or person concerned in the management of a body corporate that is the subject of a winding up order or for which a controller or administrator has been appointed during the previous 3 years,
 - (l) if the person is a body corporate, whether the body corporate is the subject of a winding up order or has had a controller or administrator appointed during the previous 3 years,
 - (m) whether the person has demonstrated to the Minister the financial capacity to comply with the person's obligations under the proposed biobanking agreement,
 - (n) whether the person is in partnership, in connection with carrying out management actions on a proposed biobank site, with a person whom the Minister does not consider to be a fit and proper person under this clause.
- (3) Without limiting the generality of the above, the Minister may disregard contraventions referred to in subclause (2) having regard to the seriousness of the contraventions, the length of time since they occurred, and other matters that appear relevant to the Minister.
- (4) In this clause:
relevant legislation means the following Acts, or parts of Acts, and any regulations, agreements, authorities or other instruments entered into, granted or made under those Acts or parts (whether or not still in force):

Clause 16 Threatened Species Conservation (Biodiversity Banking) Regulation 2008

Part 3 Biobanking agreements

- (a) the Act,
- (b) the *Contaminated Land Management Act 1997*,
- (c) the *Environmental Planning and Assessment Act 1979*,
- (d) the *Environmental Trust Act 1998*,
- (e) the *Environmentally Hazardous Chemicals Act 1985*,
- (f) Parts 7 and 7A of the *Fisheries Management Act 1994*,
- (g) the *Marine Parks Act 1997*,
- (h) the *National Parks and Wildlife Act 1974*,
- (i) the *Native Vegetation Act 2003*,
- (j) the *Ozone Protection Act 1989*,
- (k) the *Pesticides Act 1999*,
- (l) the *Protection of the Environment Administration Act 1991*,
- (m) the *Protection of the Environment Operations Act 1997*,
- (n) the *Radiation Control Act 1990*,
- (o) the *Recreation Vehicles Act 1983*,
- (p) the *Road and Rail Transport (Dangerous Goods) Act 1997*,
- (q) the *Waste Avoidance and Resource Recovery Act 2001*,
- (r) the *Wilderness Act 1987*,
- (s) a repealed Act that corresponds to an above Act,
- (t) an Act of the Commonwealth, another State or a Territory that corresponds to an above Act.

16 Variation of biobanking agreement

- (1) A request for the consent of the Minister to the variation of a biobanking agreement is to be made by application of the owner of the biobank site in accordance with this clause.
- (2) An application for the consent of the Minister to a variation of a biobanking agreement:
 - (a) is to be made to the Minister in an approved form, and
 - (b) is to include or be accompanied by any information or document specified in the approved form, and
 - (c) is to be accompanied by a fee of 11 fee units, comprised of the following:
 - (i) a non-refundable component of 1 fee unit,
 - (ii) a refundable component of 10 fee units.

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Biobanking agreements Part 3

- (3) The Minister may refund the whole or any part of the refundable component of the fee paid in connection with the application (whether or not a biobanking agreement is varied as a consequence of the application).

Note. Section 127H of the Act sets out various pre-conditions that must be satisfied before the Minister can agree to the variation of a biobanking agreement.

17 Termination of biobanking agreement

- (1) A request for the consent of the Minister to the termination of a biobanking agreement is to be made by application of the owner of the biobank site in accordance with this clause.
- (2) An application for the consent of the Minister to the termination of a biobanking agreement:
- (a) is to be made to the Minister in an approved form, and
 - (b) is to include or be accompanied by any information or document specified in the approved form, and
 - (c) is to be accompanied by a fee of 7 fee units, comprised of the following:
 - (i) a non-refundable component of 1 fee unit,
 - (ii) a refundable component of 6 fee units.
- (3) The Minister may refund the whole or any part of the refundable component of the fee paid in connection with the application (whether or not the biobanking agreement is terminated as a consequence of the application).

Note. Section 127G of the Act sets out various pre-conditions that must be satisfied before the Minister can consent to the termination of a biobanking agreement.

18 Annual contribution by owners of biobank site

- (1) The owner of a biobank site is required to pay to the Minister a contribution towards the costs referred to in section 127ZZ of the Act.
- (2) The contribution is payable annually, in accordance with the requirements of an invoice issued to the owner of the biobank site by the Director-General.
- (3) The amount of the annual contribution is 11 fee units.
- (4) The Minister is authorised to waive payment of a contribution or part of a contribution payable under this clause if:
- (a) the owner of the biobank site has not sold any of the biodiversity credits created in respect of the site, or

Clause 18 Threatened Species Conservation (Biodiversity Banking) Regulation 2008

Part 3 Biobanking agreements

- (b) there are insufficient funds in the biobank site account relating to the biobank site to meet the next scheduled management payment when it becomes payable.
- (5) The Minister is authorised to extend the time for payment of a contribution or part of a contribution payable under this clause.

Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 19

Biodiversity credits Part 4

Part 4 Biodiversity credits

19 Retirement of biodiversity credits

- (1) An application for the retirement of a biodiversity credit must:
 - (a) be made in an approved form, and
 - (b) include or be accompanied by any information or document specified in the approved form, and
 - (c) be accompanied by a fee of 5 fee units.
- (2) The Director-General may refuse an application to retire a biodiversity credit if:
 - (a) the application does not comply with the Act or this clause, or
 - (b) the application is illegible or unclear, or
 - (c) any contribution under section 127ZZ of the Act in respect of the application has not been paid, or
 - (d) any amount payable to the Fund in respect of the retirement of the credit has not been paid, or
 - (e) the application is made in purported compliance with a credit retirement condition, credit retirement direction or Part 3A approval but does not comply with the requirements of the condition, direction or approval.
- (3) The Director-General may refund to the applicant the whole or any part of the fee paid in connection with an application if the application is rejected on the grounds provided for by this clause.
- (4) In this clause:

credit retirement direction means a direction made by the Minister or a court under Part 7A of the Act or under the *National Parks and Wildlife Act 1974*.

Part 3A approval means an approval under Part 3A of the *Environmental Planning and Assessment Act 1979* granted by the Minister administering that Act in respect of a project to which that Part applies.

20 Verification of retirement of biodiversity credits

The Director-General may issue a statement under section 127ZS (1) of the Act confirming the retirement of biodiversity credits at the request of any person who is entitled to act on an approval or development consent given under Part 3A, 4 or 5 of the *Environmental Planning and Assessment Act 1979* in relation to the development described in the biobanking statement to which the credit retirement condition applies.

Clause 21 Threatened Species Conservation (Biodiversity Banking) Regulation 2008

Part 4 Biodiversity credits

21 Cost recovery—contribution by holders of biodiversity credits under section 127ZZ

- (1) A person who holds a biodiversity credit is required to pay to the Minister a contribution towards the costs referred to in section 127ZZ of the Act when an application is made to the Director-General to retire the biodiversity credit.
- (2) The amount of the contribution is 100 fee units (regardless of the number of credits that is sought to be retired pursuant to the application).
- (3) A person who applies to retire a biodiversity credit or credits is exempt from paying the contribution under this clause, in respect of that application, if the Director-General is satisfied that the biodiversity credit or credits are being retired for the purpose of complying with a credit retirement condition specified in a biobanking statement or a direction made by the Minister under section 127ZR of the Act in connection with a biobanking statement.
- (4) The Minister is authorised to waive payment, or to extend the time for payment, of a contribution or part of a contribution payable under this clause.

Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 22

Biobanking statements Part 5

Part 5 Biobanking statements

22 Additional grounds for refusal of application for biobanking statement

- (1) In addition to the grounds specified in section 127ZL of the Act, the Director-General may refuse an application for the issue of a biobanking statement if:
- (a) the application is illegible or unclear, or
 - (b) the application is not accompanied by any fee approved by the Director-General under section 127ZK of the Act, or
 - (c) the application is not accompanied by the contribution required under section 127ZZ of the Act, or
 - (d) the applicant fails to provide any further information that the Director-General requests, in connection with the assessment of the application, within the period specified by the Director-General in making the request, or
 - (e) the impact assessment or credit retirement assessment that accompanies the application has not been prepared by a person accredited under arrangements instituted under section 142B of the Act or has not been prepared in accordance with the conditions of the person's accreditation under those arrangements, or
 - (f) the application relates to a development that has been the subject of a previous application that was refused by the Director-General, and the application is not materially different from the previous application.
- (2) In this clause:
credit retirement assessment means the statement referred to in section 127ZK (3) (d) of the Act.

23 Cost recovery—contribution by applicants under section 127ZZ

- (1) A person who applies for a biobanking statement is required to pay to the Minister a contribution towards the costs referred to in section 127ZZ of the Act.
- (2) The contribution is payable when the application is lodged with the Director-General.
- (3) The amount of the contribution is 100 fee units.
- (4) The Minister is authorised to waive payment, or to extend the time for payment, of a contribution or part of a contribution payable under this clause.

Clause 24	Threatened Species Conservation (Biodiversity Banking) Regulation 2008
Part 5	Biobanking statements

24 Modification and revocation of biobanking statement

- (1) An application for the modification or revocation of a biobanking statement:
 - (a) is to be made to the Director-General in an approved form, and
 - (b) is to be accompanied by a fee of 11 fee units, comprised of the following:
 - (i) a non-refundable component of 1 fee unit,
 - (ii) a refundable component of 10 fee units.
- (2) The Director-General may refuse an application for the modification or revocation of a biobanking statement:
 - (a) if the application is illegible or unclear, or
 - (b) if the application is not accompanied by the fee required in respect of the application, or
 - (c) for any other reason specified in section 127ZL of the Act that is relevant to the application.
- (3) The Director-General may refund the whole or any part of the refundable component of the fee paid in respect of an application.

Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 25

Payments to Fund on first transfer of biodiversity credits Part 6

Part 6 Payments to Fund on first transfer of biodiversity credits

25 Payment of amount to Fund on first transfer of credit

- (1) An amount, calculated as provided by this Part, is to be paid into the Fund before a first transfer of a biodiversity credit is registered under the Act.
- (2) If an application for registration of a first transfer is made in respect of all the biodiversity credits created in respect of a biobank site, the amount payable into the Fund before that transfer is registered is the total Fund deposit for the biobank site in respect of which the biodiversity credits were created.
- (3) If an application for registration of a first transfer is made in respect of a number of biodiversity credits that is less than the number of biodiversity credits created in respect of the biobank site, the amount payable into the Fund before that transfer is registered is (subject to this clause) the relevant proportion of the total Fund deposit for the biobank site, or the proceeds of sale of the biodiversity credits, whichever amount is the greater.
- (4) The *relevant proportion* of the total Fund deposit for a biobank site is the proportion that the number of credits to be transferred bears to the number of credits created in respect of the biobank site.
- (5) The *proceeds of sale* of a biodiversity credit is the consideration (if any) for the transfer of the biodiversity credit.
- (6) If the payment of an amount into the Fund in respect of a first transfer of biodiversity credits would result in the total Fund deposit for the biobank site being exceeded, the amount payable into the Fund is to be reduced by the amount by which the payment would exceed the total Fund deposit.
- (7) If the payment of an amount into the Fund results in the total Fund deposit for a biobank site having been paid into the Fund, no further amount is payable into the Fund in respect of any first transfer of biodiversity credits created in respect of that biobank site.

26 Total Fund deposit—meaning

- (1) The *total Fund deposit* for a biobank site is an amount determined by the Director-General, in accordance with this Part, as the present value of the total of all scheduled management payments in respect of the

Clause 27 Threatened Species Conservation (Biodiversity Banking) Regulation 2008

Part 6 Payments to Fund on first transfer of biodiversity credits

biobank site for the period that starts from the time the agreement is entered into and extends to perpetuity.

Note. Scheduled management payments are management payments as specified in the relevant biobanking agreement.

- (2) For the purpose of making a present value calculation, the discount rate determined by the Director-General, as provided for by clause 27, is to be adopted.

27 Discount rates

- (1) The Director-General may, by order published in the Gazette, determine the discount rate or rates to be applied for the purpose of determining the total Fund deposit for a biobank site.
- (2) An order under this clause may require any rate published by the Reserve Bank of Australia, or any authorised deposit-taking institution, as applicable on a specified date or from time to time, to be applied for the purpose of determining the total Fund deposit.
- (3) An order under this clause may require a different discount rate to be applied according to different factors.

28 Part extends to retirement of credits without first transfer

If a biodiversity credit is proposed to be retired without having been transferred by the owner of a biobank site, the amount that would have been payable if the biodiversity credit had been transferred is to be paid into the Fund before the credit is retired and, for the purpose of calculating the amount payable, a reference in this Part to the credits being transferred is to be read as a reference to the credits being retired (without having been transferred).

Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 29

Biobanking Trust Fund Part 7

Part 7 Biobanking Trust Fund

29 Payment of management payments from Fund

- (1) The Minister may direct the payment of amounts out of the Fund to the owner of a biobank site, as referred to in section 127ZW (3) (a) of the Act, so as to facilitate the payment of the management costs of the biobank site.
- (2) The management costs of a biobank site are costs incurred or that may be incurred by the owner of a biobank site in respect of the management actions carried out, being carried out or to be carried out under the biobanking agreement, including, but not limited to, the following:
 - (a) any costs associated with project-managing the biobank site,
 - (b) labour and capital costs incurred in connection with the management actions required under the biobanking agreement (including the costs of raw materials and equipment),
 - (c) costs associated with complying with reporting or audit requirements under the biobanking scheme,
 - (d) any rates, taxes or charges levied on the biobank site or the management actions required under the biobanking agreement,
 - (e) any fees payable by the biobank site owner under the biobanking scheme (other than amounts payable to the Fund on a first transfer of biodiversity credits).
- (3) Payments may be made in respect of any period after the relevant biobanking agreement is entered into.
- (4) Any such payment is referred to in this Regulation as a **management payment**.
- (5) The maximum amount of the management payment for a particular period is the scheduled management payment for that period.
- (6) The **scheduled management payment** for a period is the amount specified in the relevant biobanking agreement as the amount that will be paid (subject to this Part) to the owner of the biobank site, as a management payment, in respect of the relevant period if all conditions precedent to the payment that are specified in the agreement are met.

30 Separate accounts to be kept in relation to each biobank site

- (1) The Fund Manager is to keep a separate account in relation to each biobank site (a **biobank site account**) that records the following:
 - (a) payments paid into the Fund in respect of a transfer of biodiversity credits created in respect of that biobank site (as referred to in section 127ZW (2) (a) of the Act),

Clause 31 Threatened Species Conservation (Biodiversity Banking) Regulation 2008

Part 7 Biobanking Trust Fund

- (b) management payments paid out of the Fund in respect of the biobank site.
- (2) Money held in each biobank site account may be invested as a common pool. The proceeds of investment are to be distributed among the biobank site accounts that contributed to the common pool according to the amount contributed, or in such other manner as the Minister directs.
- (3) The Fund Manager may keep one or more other accounts (referred to in this Part as a *general account*) in relation to any amounts paid into or out of the Fund that are not recorded in a biobank site account.
- (4) Payments made into or out of the Fund that are not referred to in subclauses (1) and (2) are to be recorded in the accounts of the Fund in accordance with the directions of the Minister.

31 Account balances

- (1) The Fund Manager is to advise the Minister, at the end of each financial year and at such other times as may be required by the Minister, of the following:
 - (a) the balance of each biobank site account,
 - (b) any operational deficit or operational surplus in a biobank site account.
- (2) For the purposes of this Part, a biobank site account has an *operational deficit* if the balance of the account is less than the total present value of all scheduled management payments in respect of the biobank site for the period starting from the most recent anniversary of the date on which the biobanking agreement was entered into and extending to perpetuity. The amount of the shortfall is referred to as the *operational deficit amount*.
- (3) For the purposes of this Part, a biobank site account has an *operational surplus* if the balance of the account exceeds the total present value of all scheduled management payments in respect of the biobank site for the period starting from the most recent anniversary of the date on which the biobanking agreement was entered into and extending to perpetuity. The amount of the excess is referred to as the *operational surplus amount*.

32 Payments from biobank site account that has an operational deficit

- (1) The Minister may direct the Fund Manager that a management payment or payments for a biobank site not be made from the Fund, or be reduced, for any specified period or until further notice, if:
 - (a) the biobank site account for that biobank site has an operational deficit, and

Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 33

Biobanking Trust Fund Part 7

- (b) the operational deficit amount exceeds the operational deficit threshold for the biobank site account, and
 - (c) the owner of the biobank site concerned agrees to the direction.
- (2) The *operational deficit threshold* for a biobank site account is:
- (a) 20% of the total present value of all scheduled management payments in respect of the biobank site for the period starting from the most recent anniversary of the date on which the biobanking agreement was entered into and extending to perpetuity, or
 - (b) such other amount as the Minister determines, having regard to the advice of the Fund Manager.
- (3) This clause is subject to clause 34 (Payments from biobank site account that has insufficient funds to cover payment).

33 Payments from biobank site account that has an operational surplus

- (1) The Minister may, in addition to directing any management payment to be paid from the Fund, direct the Fund Manager to pay from the Fund to the owner of a biobank site any amount standing to the credit of the biobank site account for that biobank site if:
- (a) the biobank site account has an operational surplus, and
 - (b) the operational surplus amount exceeds the maximum operational surplus for the biobank site account, and
 - (c) the amount that the Minister directs to be paid from the Fund does not exceed the difference between the operational surplus amount and the maximum operational surplus.
- (2) The *maximum operational surplus* for a biobank site account is:
- (a) 30% of the total present value of all scheduled management payments in respect of the biobank site for the period starting from the most recent anniversary of the date on which the biobanking agreement was entered into and extending to perpetuity, or
 - (b) such other amount as the Minister determines, having regard to the advice of the Fund Manager.
- (3) The Fund Manager is to adjust the balance of the biobank site account concerned to reflect a payment made out of the Fund under this clause.
- (4) For the purposes of section 127ZW (3) (d) of the Act, the payment out of the Fund of an amount in accordance with a direction given by the Minister under this clause is authorised.

Clause 34 Threatened Species Conservation (Biodiversity Banking) Regulation 2008

Part 7 Biobanking Trust Fund

34 Payments from biobank site account that has insufficient funds to cover payment

- (1) If there are no funds available in a biobank site account for a biobank site, no management payments are to be paid from the Fund in respect of that biobank site.
- (2) If the balance of a biobank site account for a biobank site is insufficient to cover any scheduled management payment, any management payment paid from the Fund in respect of that biobank site is to be reduced so that the balance of the biobank site account is sufficient to cover the payment.

35 Termination of biobank site account

- (1) If a biobanking agreement is terminated, the Minister may direct the Fund Manager to close the biobank site account that relates to the biobank site concerned and to transfer the balance of that account (if any) to a general account.
- (2) The Minister may, at any time, direct the Fund Manager:
 - (a) to distribute all or part of the proceeds of a closed biobank site account among any biobank site accounts in respect of which the total Fund deposit has been paid but which have an operational deficit, or
 - (b) to pay out of the Fund, to the Minister or a person or body specified by the Minister, all or part of the proceeds of a closed biobank site account, for the purpose of facilitating the purchase by the Minister, and retirement, of any biodiversity credits, or
 - (c) to pay out of the Fund, to the owner of the biobank site to which the closed biobank site account relates, any part of the proceeds of the closed account that is an operational surplus amount, but only if the biobanking agreement relating to the biobank site was terminated by the Minister under section 127Q (6) or 127S (1) of the Act.
- (3) If a biobank site account to which an amount is distributed under subclause (2) (a) subsequently ceases to have an operational deficit, the Minister may direct the Fund Manager to deduct from that biobank site account the amount distributed to it and transfer that amount to a general account.
- (4) For the purposes of determining an operational surplus amount for a closed biobank site account, the present value of all scheduled management payments in respect of the biobank site is to be calculated as if the biobanking agreement had not been terminated and had continued to have effect in perpetuity.

Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 36

Biobanking Trust Fund Part 7

- (5) For the purposes of section 127ZW (3) (d) of the Act, the payment out of the Fund of an amount in accordance with a direction given by the Minister under this clause is authorised.
- (6) This clause does not apply in respect of a biobanking agreement that is terminated because the land established as a biobank site under the agreement is reserved under Part 4 or 4A of the *National Parks and Wildlife Act 1974* (as referred to in section 127ZZH of the Act).

36 Biobank sites that become national parks or other reserves

- (1) If a biobanking agreement is terminated because the land established as a biobank site under the agreement is reserved under Part 4 or 4A of the *National Parks and Wildlife Act 1974* (as referred to in section 127ZZH of the Act), the Fund Manager is to continue to keep a separate account that records the payments into or out of the Fund that relate to that former biobank site.
- (2) The Minister may direct the Fund Manager to pay out of the Fund to any person or body responsible for the care, control or management of the former biobank site any amount held in the Fund that is credited to that account for the purpose of assisting the person or body to manage the land in a manner that is consistent with the objects of the Act.
- (3) For the purposes of section 127ZW (3) (d) of the Act, the payment out of the Fund of an amount in accordance with a direction given by the Minister under this clause is authorised.
- (4) If an account relating to a biobank site referred to in subclause (1) has no remaining funds, the Minister may direct the Fund Manager to close the biobank site account that relates to the biobank site concerned.

37 Environmental Trust may be appointed as Fund Manager

- (1) The Minister may appoint the Environmental Trust established by the *Environmental Trust Act 1998* as Fund Manager if the Minister administering that Act approves of the Environmental Trust engaging in the activities of Fund Manager (under section 8 (d) of that Act).
- (2) This clause does not prevent the appointment of another person or body as Fund Manager.

38 Annual report of Fund Manager

- (1) As soon as practicable after 30 June in each year, the Fund Manager is to prepare and deliver to the Minister a report on its management of the Fund during the financial year ending on that date.
- (2) The report must include copies of the financial statements and accounts of the Fund Manager for the financial year to which the report relates

Clause 39 Threatened Species Conservation (Biodiversity Banking) Regulation 2008

Part 7 Biobanking Trust Fund

and an auditor's report on those statements and accounts prepared by an auditor approved by the Minister.

- (3) As soon as practicable after the report is delivered to the Minister, the Minister is:
 - (a) to table the report (or cause it to be tabled) in both Houses of Parliament, and
 - (b) to cause the report to be published on the website of the Department.
- (4) The first report under this clause is to be given in respect of the period from the date of commencement of this Regulation to 30 June immediately following that date.

39 Quarterly report of Fund Manager

- (1) As soon as practicable after a quarterly reporting date in each year, the Fund Manager is to prepare and deliver to the Minister a report that summarises the financial position of the Fund and the performance of investments of money vested in the Fund during the 3 months immediately preceding the quarterly reporting date.
- (2) As soon as practicable after a report is delivered to the Minister, the Minister is to cause the report to be published on the website of the Department.
- (3) The first report under this clause is to be given in respect of the period from the date of commencement of this Regulation to the quarterly reporting date immediately following that date.
- (4) In this clause, a *quarterly reporting date* means a date of 31 March, 30 June, 30 September or 31 December in any year.

40 Fund to be kept separate from other accounts

The Fund Manager is to keep a separate account in relation to money held in the Fund (including the investments of the Fund).

41 Insurance

The Fund Manager must take out and maintain a policy of indemnity insurance, in respect of the exercise of its functions as Fund Manager, that complies with any requirements specified by the Minister by notice in writing to the Fund Manager.

42 Winding up of Fund

- (1) The Minister may direct the Fund Manager to wind up the Fund if the Minister is of the opinion that the balance of the Fund is insufficient to meet Fund Manager liabilities.

Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 43

Biobanking Trust Fund Part 7

- (2) For the purposes of this clause, *Fund Manager liabilities* are:
 - (a) the remuneration of the Fund Manager, and
 - (b) any liabilities incurred by the Fund Manager in the exercise of its functions as Fund Manager.
- (3) For the purposes of winding up the Fund, the Fund Manager is to close all accounts in the Fund and distribute the proceeds of the Fund in accordance with this clause and any directions of the Minister.
- (4) Priority in the distribution of the proceeds of the Fund is to be given to the payment of Fund Manager liabilities.
- (5) The proceeds of a biobank site account (after payment of Fund Manager liabilities) are to be paid to the owner of the biobank site.
- (6) The proceeds of a general account (after payment of Fund Manager liabilities) may be either distributed among owners of biobank sites or used for the purpose of facilitating the purchase and retirement of biodiversity credits, or both, as directed by the Minister.

43 Committees

- (1) The Minister may establish one or more committees, in such manner as the Minister considers appropriate, to advise the Fund Manager on the exercise of the Fund Manager's functions under the Act or to oversee the exercise of those functions.
- (2) A committee has such functions as are conferred or imposed on it by the Minister.

44 Directions by Minister

- (1) Directions by the Minister to the Fund Manager are to be made in writing.
- (2) Any such direction may be amended, replaced or revoked by the giving of a further direction to the Fund Manager.
- (3) The Fund Manager is to act in accordance with any direction given by the Minister under this Part.

Clause 45 Threatened Species Conservation (Biodiversity Banking) Regulation 2008

Part 8 Registers

Part 8 Registers

45 Register of biobank sites

- (1) The register of biobank sites is to contain the following information in relation to each biobank site, in addition to the information mentioned in section 127ZZB (2) of the Act:
 - (a) a copy of any variation made to the biobanking agreement relating to the biobank site,
 - (b) the name of the owner (for the time being) of the biobank site,
 - (c) a copy of any management plan in relation to the biobank site that is prepared in accordance with the requirements of the relevant biobanking agreement, including any amendments to such a plan.

Note. Section 127ZZB of the Act also requires the location of the biobank site, and a copy of the biobanking agreement relating to the biobank site, to be included on the register.
- (2) The register of biobank sites is to contain, in relation to any biobank site the registration of which is suspended, all the information that it would be required to contain if registration were in force.
- (3) The register of biobank sites is to contain the following information in relation to any biobank site the registration of which has been cancelled:
 - (a) the location of the biobank site,
 - (b) a copy of the biobanking agreement relating to the biobank site (as in force immediately before the cancellation of registration).

46 Register of biodiversity credits

- (1) The register of biodiversity credits is to contain the following information, in addition to the information mentioned in section 127ZZC (2) of the Act:
 - (a) contact details for the current holder of the biodiversity credit or the holder's conservation broker (if any),
 - (b) the date or dates of any transfer of the biodiversity credit,
 - (c) the consideration paid for the transfer or transfers.
- (2) The names of any previous holders of a biodiversity credit, as recorded on the register, are not to be made available to the public under section 127ZZC of the Act.

Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 47

Registers

Part 8

47 Register of biobanking statements

- (1) The register of biobanking statements is to include the following information, in addition to the information mentioned in section 127ZZD (2) of the Act:
 - (a) particulars of the status of the biobanking statement, including:
 - (i) the date of issue and whether the statement is still in force or has ceased to have effect,
 - (ii) whether the requirements of the biobanking statement have been incorporated in any development consent or approval under the *Environmental Planning and Assessment Act 1979*,
 - (iii) whether the credit retirement conditions of the statement have been met,
 - (b) particulars of any biodiversity credits that have been retired for the purpose of complying with a credit retirement condition specified in the statement.
- (2) If the Director-General issues a biobanking statement in respect of development that can be regarded as improving or maintaining biodiversity values only if the Director-General makes a determination of a kind referred to in clause 3, the Director-General must:
 - (a) record the reasons for that determination, and cause a copy of those reasons to be published on the register of biobanking statements, and
 - (b) cause a copy of the impact assessment relating to the application for a biobanking statement to be published on the register of biobanking statements.

Note. Clause 3 relates to development having an impact on areas identified by the methodology as having high biodiversity conservation values.

48 Information not to be disclosed on registers

- (1) The following information, if contained on a register, is not to be made available to the public:
 - (a) information relating to the location of threatened species, populations or ecological communities, if the Director-General is of the opinion that it is in the public interest that the information not be disclosed,
 - (b) information relating to the location of critical habitat or any area or areas of land proposed to be identified as critical habitat, if the Director-General has determined under section 146 of the Act that such a location should not be disclosed to the public,

Clause 49 Threatened Species Conservation (Biodiversity Banking) Regulation 2008

Part 8 Registers

- (c) any personal information, unless the requirements of section 57 of the *Privacy and Personal Information Protection Act 1998* are met.
- (2) Any provisions of a biobanking agreement or biobanking statement that contain information that is not to be made available to the public are to be deleted from or otherwise obscured in any copy of the agreement or statement that is made available for public inspection on a register.

49 Arrangements for public access generally

The Director-General may put in place arrangements that limit public access to a register for the purpose of ensuring that any personal information kept on the register is used only for the purposes that relate to the purposes of the register.

50 Provision of copies of registers

- (1) The prescribed fee for the provision of paper copies of information on a register is \$10, plus \$1 for each page provided.
- (2) The Director-General may refuse to provide copies of information on a register if the work involved in dealing with the provision of the information would, if carried out, substantially and unreasonably divert the Department's resources away from their use by the Department in the exercise of its functions.
- (3) Subclause (2) does not affect the requirement under the Act that information on a register be made available for public inspection at the head office of the Department and on the website of the Department.

Threatened Species Conservation (Biodiversity Banking) Regulation 2008 Clause 51

Miscellaneous Part 9

Part 9 Miscellaneous

51 Calculation of fee unit

- (1) For the purposes of this Regulation, a fee unit is \$100 (*the base amount*) or, if an adjustment is made to the base amount in accordance with this clause, the base amount as so adjusted.
- (2) On each adjustment date (starting with the adjustment date in 2009), the base amount is to be adjusted in accordance with the following formula:

$$A \times B / C$$

where:

A is the base amount (that is, \$100).

B is the CPI number for the June quarter immediately preceding the adjustment date.

C is the CPI number for the June quarter of 2008.

- (3) For the purposes of this clause, an *adjustment date* is the first day of the month after the month in which the CPI number for the June quarter for a year is first published by the Australian Statistician.
- (4) An amount calculated under this clause is to be rounded to the nearest whole dollar and, if the amount to be rounded is 50 cents, is to be rounded up.
- (5) The Director-General is to cause the amount of a fee unit to be published on the website of the Department.
- (6) In this clause:

CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician.

52 Withdrawal of applications

- (1) An application under Part 7A of the Act may be withdrawn at any time prior to its determination by service on the Minister or the Director-General of a notice to that effect signed by the applicant.
- (2) In this clause, an *application under Part 7A of the Act* means:
 - (a) an application to enter into a biobanking agreement, or
 - (b) an application for consent to the variation of a biobanking agreement, or
 - (c) an application to retire a biodiversity credit, or
 - (d) an application for the issue, or modification or revocation, of a biobanking statement.

OFFICIAL NOTICES

Appointments

ABORIGINAL LAND RIGHTS ACT 1983

Notice

I, the Honourable PAUL LYNCH, M.P., Minister for Aboriginal Affairs, following approval by the New South Wales Aboriginal Land Council (NSWALC), do, by this notice pursuant to section 231 (2) of the Aboriginal Land Rights Act 1983 (the Act) extend the appointment of Mr Darran SINGH as Administrator to the Baryulgil Local Aboriginal Land Council for a period of six (6) calendar months, from 17 July 2008. During the period of his appointment, the Administrator will have all of the functions of the Baryulgil Local Aboriginal Land Council and any other duties as specified by the instrument of appointment. The Administrator's remuneration and expenses are not to exceed \$60 000 excluding GST without the prior approval of NSWALC. The Administrator's remuneration may include fees payable for the services of other personnel within the Administrator's firm who provide services as agents of the Administrator.

Signed and sealed this 5th day of July 2008.

PAUL LYNCH, M.P.,
Minister for Aboriginal Affairs

GOD SAVE THE QUEEN!

CONSTITUTION ACT 1902

Ministerial Arrangements During the Absence of the
Minister for Planning, Minister for Redfern Waterloo and
Minister for the Arts

PURSUANT to section 36 of the Constitution Act 1902, Her Excellency the Governor, with the advice of the Executive Council, has authorised the Hon. J. HATZISTERGOS, M.L.C., Attorney General and Minister for Justice, to act for and on behalf of the Minister for Planning, Minister for Redfern Waterloo, and Minister for the Arts as on and from 14 July 2008, with a view to his performing the duties of the Honourable F. E. SARTOR, M.P., during his absence from duty.

MORRIS IEMMA, M.P.,
Premier

Department of Premier and Cabinet, Sydney 2008.

CONSTITUTION ACT 1902

Ministerial Arrangements During the Absence of the
Minister for Police

PURSUANT to section 36 of the Constitution Act 1902, Her Excellency the Governor, with the advice of the Executive Council, has authorised the Hon. K. K. KENEALLY, M.P., Minister for Ageing and Minister for Disability Services, to act for and on behalf of the Minister for Police as on and from 17 July 2008, with a view to her performing the duties of the Honourable D. A. CAMPBELL, M.P., during his absence from duty.

MORRIS IEMMA, M.P.,
Premier

Department of Premier and Cabinet, Sydney 2008.

POLICE REGULATION (SUPERANNUATION) ACT 1906

Police Medical Board
Appointment of a Member

HER Excellency the Governor, with the advice of the Executive Council, has approved, pursuant to section 15A of the Police Regulation (Superannuation) Act 1906, the appointment of Dr Robert Malcolm KAPLAN as a Member of the Police Medical Board from this date.

Dated at Sydney, 2 July 2008.

JOHN WATKINS, M.P.,
Deputy Premier,
Minister for Transport
and Minister for Finance

Department of Lands

ARMIDALE OFFICE

108 Faulkner Street (PO Box 199A), Armidale NSW 2350

Phone: (02) 6770 3100 Fax (02) 6771 5348

ROADS ACT 1993

ORDER

Transfer of a Crown Road to a Council

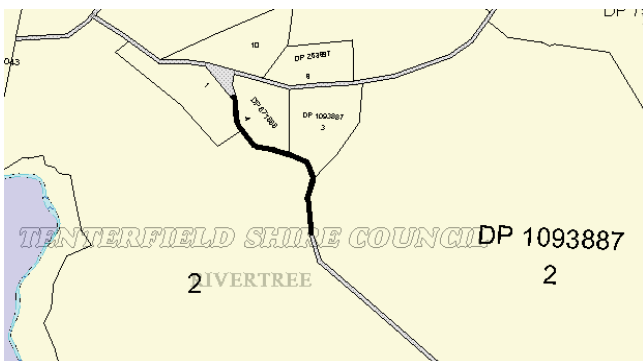
IN pursuance of the provisions of section 151, Roads Act 1993, the Crown public roads specified in each Schedule 1 are transferred to the Roads Authority specified in the corresponding Schedule 2 hereunder, as from the date of publication of this notice and as from that date, the roads specified in each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

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

SCHEDULE 1

*Parish – Bookookoorara; County – Buller;
Land District – Tenterfield; L.G.A. – Tenterfield*

The Crown road 20.115 metres wide at Rivertree known as Bonners Road, as shown by solid black shading on the diagram hereunder.



SCHEDULE 2

Roads Authority: Tenterfield Shire Council.

File No.: AE 07 H 18 : W408575.

Councils Reference: John Martin.

SCHEDULE 1

*Parishes – Undercliffe and Wylie; County – Buller;
Land District – Tenterfield; L.G.A. – Tenterfield*

The Crown road 20.115 metres wide at Wylie Creek known as Faggs Road, as shown by solid black shading on the diagram hereunder.



SCHEDULE 2

Roads Authority: Tenterfield Shire Council.

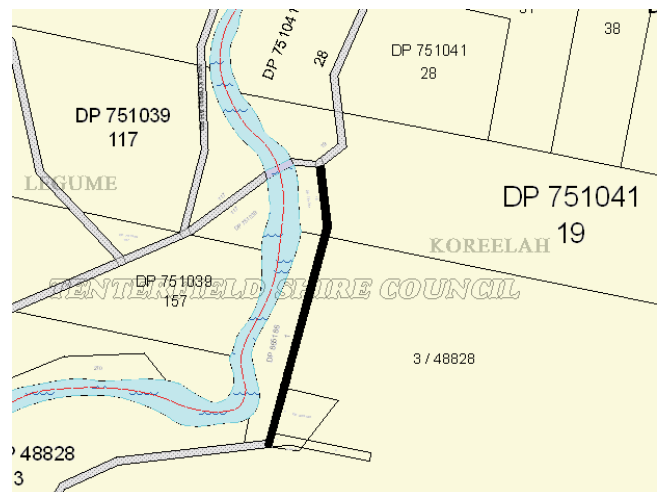
File No.: AE 07 H 18 : W408589.

Councils Reference: John Martin.

SCHEDULE 1

*Parish – Beaury; County – Buller;
Land District – Tenterfield; L.G.A. – Tenterfield*

The Crown road 20.115 metres wide at Koreelah known as Hornesmans Road, as shown by solid black shading on the diagram hereunder.



SCHEDULE 2

Roads Authority: Tenterfield Shire Council.

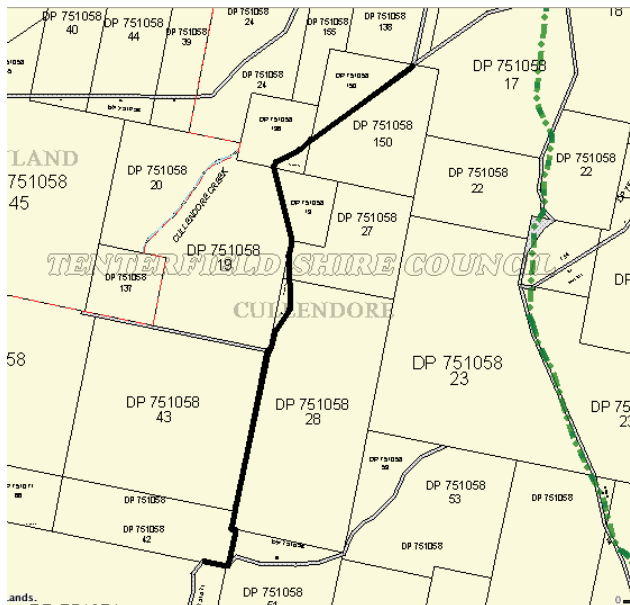
File No.: AE 07 H 18 : W408595.

Councils Reference: John Martin.

SCHEDULE 1

Parish – Cullendore; County – Buller;
Land District – Tenterfield; L.G.A. – Tenterfield

The Crown road 20.115 metres wide at Cullendore known as Cullendore Creek Road, as shown by solid black shading on the diagram hereunder.



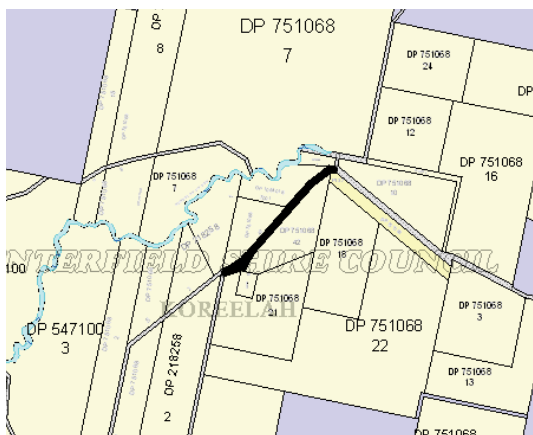
SCHEDULE 2

Roads Authority: Tenterfield Shire Council.
File No.: AE 07 H 18 : W408592.
Councils Reference: John Martin.

SCHEDULE 1

Parish – Koreelah; County – Buller;
Land District – Tenterfield; L.G.A. – Tenterfield

The Crown road 40.23 metres wide and variable at Koreelah known as White Swamp Road, as shown by solid black shading on the diagram hereunder.



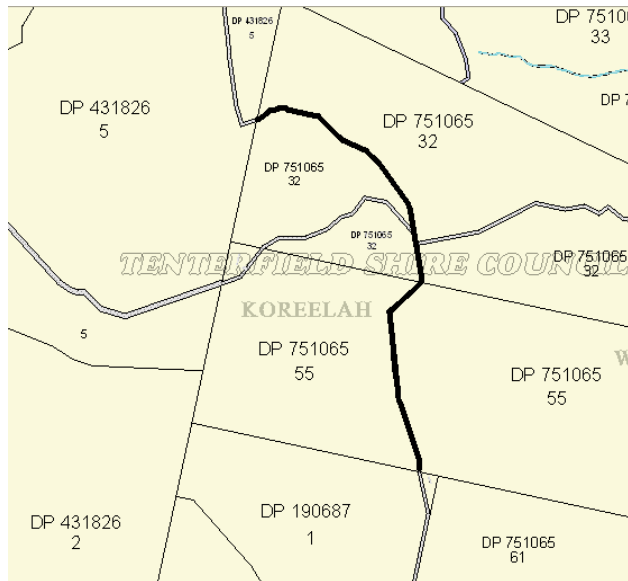
SCHEDULE 2

Roads Authority: Tenterfield Shire Council.
File No.: AE 07 H 18 : W408619.
Councils Reference: John Martin.

SCHEDULE 1

Parish – Gore; County – Buller;
Land District – Tenterfield; L.G.A. – Tenterfield

The Crown road 20.115 metres wide at Koreelah known as Mt Clunie Road, as shown by solid black shading on the diagram hereunder.



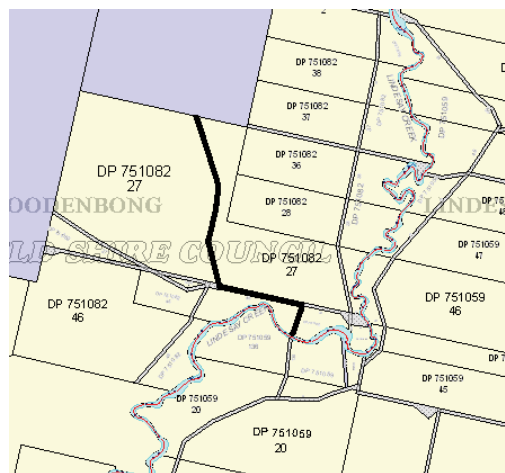
SCHEDULE 2

Roads Authority: Tenterfield Shire Council.
File No.: AE 07 H 18 : W408620.
Councils Reference: John Martin.

SCHEDULE 1

Parish – Woodenbong; County – Buller;
Land District – Tenterfield; L.G.A. – Tenterfield

The Crown road 20.115 metres wide and variable at Woodenbong known as Hills Road, as shown by solid black shading on the diagram hereunder.



SCHEDULE 2

Roads Authority: Tenterfield Shire Council.
File No.: AE 07 H 18 : W408622.
Councils Reference: John Martin.

DUBBO OFFICE**142 Brisbane Street (PO Box 865), Dubbo NSW 2830****Phone: (02) 6883 3300 Fax: (02) 6882 6920****NOTIFICATION OF CLOSING OF ROADS**

IN pursuance of the provision of the Roads Act 1993, the roads hereunder specified are 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 – Mudgee;
L.G.A. – Mid-Western Regional Council*

Lot 1, DP 1121873 in the Parish of Mudgee, County of Wellington.

File No.: W395165.

Note: On closing, title for the land in Lot 1 remains vested in the Mid-Western Regional Council as operational land.

NOTIFICATION OF CLOSING OF ROADS

IN pursuance of the provisions of the Roads Act 1993, the roads hereunder specified are closed and the lands comprised therein are freed and discharged from any rights of the public or any other person to the same as highways.

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

Description

*Local Government Area – Wellington Council;
Land District of Dubbo*

Lot 1, DP 1124935, Parish of Terrabella, County of Gordon (not being land under the Real Property Act).

File No.: DB05 H 284.

Note: On closing, the title for Lot 1 shall vest in the State of New South Wales as Crown Land.

Description

*Local Government Area – Wellington Council;
Land District of Dubbo*

Lots 1 and 2, DP 1125185, Parish of Yarindury, County of Lincoln (not being land under the Real Property Act).

File No.: DB05 H 565.

Note: On closing, the title for Lots 1 and 2 shall vest in the State of New South Wales as Crown Land.

GOULBURN OFFICE**159 Auburn Street (PO Box 748), Goulburn NSW 2580****Phone: (02) 4824 3700 Fax: (02) 4822 4287****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

<i>Column 1</i>	<i>Column 2</i>
Upper Lachlan Shire Council Crown Reserves Reserve Trust.	Reserve No.: 38545. Public Purpose: Public pound. Notified: 3 December 1904. File No.: 08/5890/1.

APPOINTMENT OF CORPORATION TO MANAGE RESERVE TRUST

PURSUANT to section 95 of the Crown Lands Act 1989, the corporation specified in Column 1 of the Schedule hereunder, is appointed to manage the affairs 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

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Upper Lachlan Shire Council.	Upper Lachlan Shire Council Crown Reserves Reserve Trust.	Reserve No.: 38545. Public Purpose: Public pound. Notified: 3 December 1904. File No.: 08/5890/1.

For a term commencing the date of this notice.

GRAFTON OFFICE
76 Victoria Street (Locked Bag 10), Grafton NSW 2460
Phone: (02) 6640 3400 Fax: (02) 6642 5375

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. On road closing, title to the land comprising the former public road vests in the body specified in the Schedule hereunder.

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

Description

Land District – Lismore; L.G.A. – Byron

Roads Closed: Lot 1, DP 1121177 at Wanganui, Parish Whian Whian, County Rous.

File No.: GF04 H 25.

SCHEDULE

On closing, the land within Lot 1, DP 1121177 becomes vested in Byron Shire Council as operational land for the purposes of the Local Government Act 1993.

Councils Reference: eng655000/#732654.

Description

Land District – Murwillumbah; L.G.A. – Byron

Road Closed: Lots 1, DP 1122726 at Myocum, Parish Brunswick, County Rous, subject to an easement to drain water created by Deposited Plan 1122726.

File No.: GF06 H 412.

SCHEDULE

On closing, the land within Lots 1, DP 1122726 remains vested in the State of New South Wales as Crown Land.

MAITLAND OFFICE

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

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

ROADS ACT 1993

ORDER

Transfer of a Crown Road to a Council

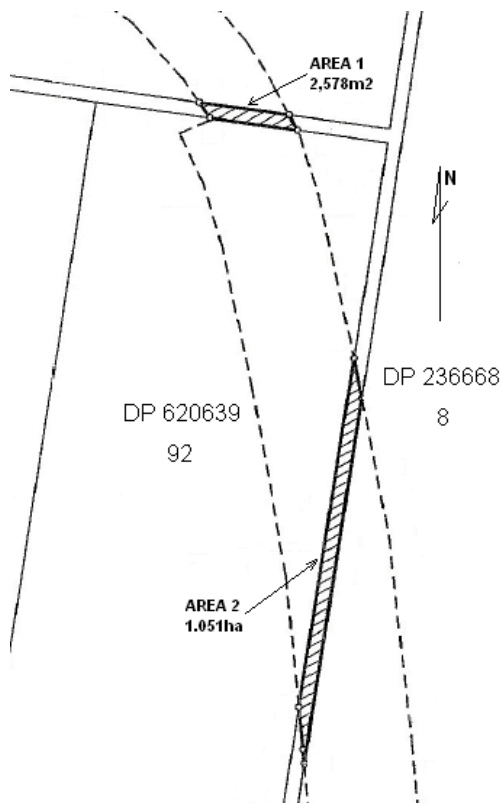
IN pursuance of the provisions of section 151, Roads Act 1993, the Crown road specified in Schedule 1 is transferred to the Roads Authority specified in Schedule 2 hereunder, as from the date of publication of this notice and as from that date, the road specified in Schedule 1 ceases to be a Crown road.

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

SCHEDULE 1

*Parish – Clanricard; County – Brisbane;
Land District – Muswellbrook;
Local Government Area – Muswellbrook Shire*

Those parts of the Crown Public Road, 20.115 metres wide, being part north (2,578 square metres) and part east (1.051 hectares) of Lot 92, DP 620639 (shown by hatching on the diagram hereunder).



SCHEDULE 2

Roads Authority: Muswellbrook Shire Council.

Council's Reference: 580.032.

Lands File Reference: 08/5707.

REVOCATION OF RESERVATION OF CROWN LAND

PURSUANT to Section 90(1) 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

<i>Column 1</i>	<i>Column 2</i>
Land District: Muswellbrook Local Government Area: Muswellbrook Locality: Muswellbrook Reserve No: 752449 Public Purpose: Future Public Requirements Notified: 29 June 2007 File Reference: MD99H164/1	The part being within: Lot 265, DP 1030447 Parish: Brougham County: Durham Area: 9562 m2

RESERVATION OF CROWN LAND

PURSUANT to section 87 of the Crown Lands Act 1989, the Crown land specified in Column 1 of the schedule hereunder is reserved as specified opposite thereto in Column 2 of the Schedule.

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

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Land District: Muswellbrook Local Government Area: Muswellbrook Council Locality: Muswellbrook Lot: 265, DP 1030447 Parish: Brougham County: Durham Area: 9562m2 File Reference: MD99H164/1	Reserve No. 1015048 Public Purpose: Urban Services (Club House)

MOREE OFFICE
Frome Street (PO Box 388), Moree NSW 2400
Phone: (02) 6750 6400 Fax: (02) 6752 1707

**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

<i>Column 1</i>	<i>Column 2</i>
Land District: Warialda.	The whole being Lot 333,
Local Government Area: Gwydir Shire Council.	DP No. 751137, Parish
Locality: Warialda.	Warialda, County Burnett, of
Reserve No.: 90986.	an area of 862 square metres.
Public Purpose: Access.	
Notified: 9 December 1977.	
File No.: ME90 R 9/1.	

Note: The intent is to revoke R90986 for access and add Lot 333, DP 751137 to R90987 for caravan and camping park.

ADDITION TO RESERVED CROWN LAND

PURSUANT to section 88 of the Crown Lands Act 1989, the Crown Land specified in Column 1 of the Schedule hereunder, is added to the reserved land specified opposite thereto in Column 2 of the Schedule.

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

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Land District: Warialda.	Reserve No.: 90987.
Local Government Area: Gwydir Shire Council.	Public Purpose: Caravan and
Locality: Warialda.	camping park.
Lot 333, DP No. 751137,	Notified: 9 December 1977.
Parish Warialda,	Lot 334, DP No. 751137,
County Burnett.	Parish Warialda,
Area: 862 square metres.	County Burnett.
File No.: ME90 R 9/1.	New Area: 5399 square
	metres.

Note: It is intended that this Gazette will replace Reserve R90986 for Access.

**ALTERATION TO AREA MANAGED BY RESERVE
 TRUST**

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

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

SCHEDULE 1

Column 1

Warialda Showground Trust.

Column 2

The area at Warialda dedicated for showground on 5 December 1958 and the addition dedicated for showground on 3 May 1968.

And, in addition, a part of the area at Warialda dedicated for public recreation on 2 June 1893 (the additional area being approximately 3910 square metres in size and comprising the western and southern parts of Lot 7024, DP 1021104 being part of Captain Cook Park D560021).

New Trust area is approximately 9.02 hectares (Refer to Diagram A below).
 File No.: ME81 R 97/3.

Note: This alteration acknowledges that the Warialda Showground Trust Board Members that were appointed in the *New South Wales Government Gazette* on 15 October 2004 and the new members appointed on 21 October 2005, to manage the affairs of the reserve trust specified in Column 1, will now have the function of managing the affairs of the reserve trust for the reserve areas specified in Column 2.

SCHEDULE 2

Column 1

Warialda Caravan Park (R90987) Reserve Trust.

Column 2

The area at Warialda reserved for camping and caravan park on 9 December 1977 and the addition reserved for camping and caravan park on 11 July 2008.

And, in addition, a part of the area at Warialda dedicated for public recreation on 2 June 1893 and addition on 2 October 1970 and addition on 16 May 2003 (this area being approximately 2275 square metres in size and comprising the south eastern corner of Lot 7024, DP 1021104; southern part of Lot 7045, DP 1021107 and Lot 305, DP 751137, all being part of Captain Cook Park D560021).

Column 1

Column 2

SCHEDULE 3

New Trust area is approximately 7763 square metres (Refer to Diagram A below).
File No.: ME90 R 9/1.

Column 1

Captain Cook Park Reserve Trust.

Column 2

A part of the area at Warialda dedicated for public recreation on 2 June 1893 and addition on 2 October 1970 (this area being approximately 3.71 hectares and comprises Lot 7024, DP 1021104, minus the southern and western extremities and the south eastern corner and Lot 7045, DP 1021107, minus the southern part, all being part of Captain Cook Park D560021).

Note: This alteration acknowledges that the Gwydir Shire Council (then Yallaro Shire Council) that was appointed in the *New South Wales Government Gazette* on 23 November 1990, to manage the affairs of the reserve trust specified in Column 1, will now have the function of managing the affairs of the reserve trust for the reserve areas specified in Column 2.

New Trust area is approximately 3.71 hectares (Refer to Diagram A below).
File No.: ME83R28/1.

Note: This alteration acknowledges that the Gwydir Shire Council (then Yallaro Shire Council) that was appointed in the *New South Wales Government Gazette* on 31 January 1997, to manage the affairs of the reserve trust specified in Column 1, will now have the function of managing the affairs of the reserve trust for the reserve area specified in Column 2.

DIAGRAM A



TAMWORTH OFFICE**25-27 Fitzroy Street (PO Box 535), Tamworth NSW 2340****Phone: (02) 6764 5100 Fax: (02) 6766 3805****ROADS ACT 1993****ORDER****Transfer of Crown Road to Council**

IN pursuance of 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 – Garoo; County – Parry;
Land District – Tamworth; L.G.A. – Tamworth Regional*

Crown public road described as west of Lot 24 and 23 and north Lot 24, DP 44222, road west, south and north and Lot 42, DP 1033861 and road north of Lot 41, DP 1033861.

**SCHEDULE 2**

Roads Authority: Tamworth Regional Council.

File Nos.: TH05 H 295 and TH05 H 287.

NOTIFICATION OF CLOSING OF A ROAD

IN pursuance to the provisions of the Roads Act 1993, the road hereunder specified 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

*Locality – North Tamworth; Land District – Tamworth;
L.G.A. – Tamworth Regional*

Roads Closed: Lot 3 in Deposited Plan 1118938, Parish Tamworth, County Inglis.

File No.: TH06 H 116.

Note: On closing, title to the land comprised in Lot 3 will remain vested in the State of New South Wales as Crown Land.

TAREE OFFICE
98 Victoria Street (PO Box 440), Taree NSW 2430
Phone: (02) 6591 3500 Fax: (02) 6552 2816

ROADS ACT 1993

ORDER

Transfer of Crown Road to a Council

IN pursuant of the provisions of section 151, Roads Act 1993, the Crown roads specified in Schedules 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 Schedules 1 cease to be Crown roads.

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

SCHEDULE 1

Parish – Forster; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Gloucester

Crown public roads being south Lot 1, DP 555839; east and south Lot 2, DP 555839; south Lot 1, DP 653156; east and south Lot 213, DP 1111612; 70m west from Seal Rocks Road on northern boundary Lot 692, DP 521209.

Neranie Road south Lots 1-3, section 1, DP 758185.

SCHEDULE 1

Parish – Karuah; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Gloucester

Crown public roads being:

Ebsworth Road between Gunns Gully Road and western boundary Lot 10, DP 881244.

Ironstone Drive between The Bucketts Way and eastern boundary Lot 25, DP 753178.

Jayes Road on north west boundary Lot 5, DP 1060831.

Larpent Street between eastern boundary Lot 4, DP 627004 and southern boundary Lot 3, DP 627004.

SCHEDULE 1

Parish – Wallingat; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Taree

Crown public roads being:

Ede Drive on southern boundary Lot 57, DP 753211 between Shallow Bay Road and south eastern corner Lot 4, DP 1002957.

Illawong Road (including intersections) on northern boundary Lots 103 and 102, DP 830867 and northern and eastern boundary Lot 101, DP 830867.

SCHEDULE 1

Parish – Nerong; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Gloucester

Crown public road being Emu Creek Road between Booral Road and southern boundary Lot 6, DP 822671.

SCHEDULE 1

Parish – Curreeki; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Taree

Crown public road being Eringa Way on western and southern boundary Lot 81, DP 753160.

SCHEDULE 1

Parish – Kyle; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Taree

Crown public roads being:

Fittocks Road on eastern boundary Lot 44, DP 753183.

Kundle Creek Lane between Little Bunyah Road and north east corner Lot 192, DP 753183.

SCHEDULE 1

Parish – Boolambayte; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Gloucester

Crown public roads being:

Fry's Creek Road from Markwell Road to 152m east of western boundary Lot 3, DP 840819 and within Lot 3, DP 840819.

Myall Forest Road within Lot 72, DP 753150, south and within Lot 44, DP 1010568 and south Lot 1, DP 1010568 to Markwell Back Road.

SCHEDULE 1

Parish – Tuncurry; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Taree

Crown public road being on northern boundary Lot 1, DP 1078478 and eastern boundary Lot 11, DP 806418.

SCHEDULE 1

Parish – Bachelor; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Taree

Crown public road being Herivels Road from 152m west of western boundary Lot 2, DP 834790 to Pacific Highway.

SCHEDULE 1

Parish – Teleraree; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Taree

Crown public roads being:

Kennedys Gap Road on northern boundary Lots 101, DP 1018960 and Lots 1-2, DP 794442.

Martins Road on southern boundary Lot 9, DP 1017073 between Pacific Highway and Coolongolook River.

SCHEDULE 1

*Parish – Willabah; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Gloucester*

Crown public road being Lowreys Road between Old Inn Road and southern boundary Lot 43, DP 753215.

SCHEDULE 1

*Parish – Topi Topi; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Gloucester*

Crown public road being Mayers Point Road on northern and eastern boundary Lot 7003, DP 1027374.

SCHEDULE 1

*Parish – Faulkland; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Gloucester*

Crown public road being Lawlers Creek Road between Cherry Tree Road within Lot 8, DP 1067632 and Karuah River on western boundary Lot 100, DP 632706.

SCHEDULE 1

*Parish – Wang Wauk; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Taree*

Crown public roads being:

Minimbah Road between north west corner Lot 5, DP 251789 and Hillcrest Road.

Minimbah Road south Lot 1, DP 255030 and 136m south Lot 2, DP 255030 from its western boundary.

Minimbah Road south Lots 2, 8 and 4, DP 832587 and west Lot 16, DP 870415.

Minimbah West Branch Road between western boundary Lot 2, DP 601326 and Council Public Road on eastern boundary Lot 4, DP 572753.

SCHEDULE 1

*Parish – Trevor; County – Gloucester;
Local Government Area – Great Lakes Council;
Land District – Gloucester*

Crown public road being Moores Road between northern boundary Lot 28, DP 753206 and southern boundary Lot 602, DP 608791.

SCHEDULE 2

Roads Authority: Great Lakes Council.

File No.: TE03 H 191.

WESTERN REGION OFFICE
45 Wingewarra Street (PO Box 1840), Dubbo NSW 2830
Phone: (02) 6883 3000 Fax: (02) 6883 3099

NOTIFICATION OF CLOSING OF PUBLIC ROADS

IN pursuance of the provision of the Roads Act 1993, the roads hereunder described are closed and the lands comprised therein cease to be a public road and the rights of passage and access that previously existed in relation to the roads are extinguished. On closing, the land becomes vested in the State of New South Wales as Crown Land.

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

Description

Administrative District – Walgett North; Shire – Walgett

Roads separating Allotments 3, 4 and 5, section 2 from Allotments 6, 7, and 8, section 5; Allotments 6, 7 and 8, section 5 from Allotments 3, 4 and 5, section 5; Allotments 3, 4 and 5, section 5, from Allotments 6, 7 and 8, section 6; Allotments 6, 7 and 8, section 6 from Allotments 3, 4 and 5, section 6 and part Bourke Street between lane within section 2 and Belalie Street, Town and Parish Enngonia, County Culgoa (not being land under the Real Property Act 1900).

File No.: WL86 R 199.

ERRATUM

IN the notification appearing in the *New South Wales Government Gazette* of 9 May 2008, Folio 3732, appearing under the heading “Granting of a Western Lands Lease”, the holders of Western Lands Lease 15001, Nicholas George NELSON and Ava CVEJIC-VASTAC as Joint Tenants should read Nicholas George NELSON and Ava CVEJIC-VASTAG as Joint Tenants.

ADDITION TO RESERVED CROWN LAND

PURSUANT to section 88 of the Crown Lands Act 1989, the Crown Land specified in Column 1 of the Schedule hereunder, is added to the reserved land specified opposite thereto in Column 2 of the Schedule.

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

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Administrative District: Walgett North.	Reserved No.: 230055.
Local Government Area: Walgett.	Public Purpose: Public baths and public recreation.
Locality: Lightning Ridge. Part Lot 8, DP 1123745.	Notified: 25 August 1989.
Parish: Wallangulla.	Remainder Lot 8, DP 1123745.
County: Finch.	Parish: Wallangulla.
Area: 3600 square metres.	County: Finch.
File No.: WL06 R 17.	New Area: 1.547 hectares.

This addition revokes that part of Reserves 230083 and Reserve 1014508 previously over Lot 8, DP 1123475.

Department of Planning



New South Wales

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Planning. (S07/01186-1)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)*.

2 Aims of Policy

The aims of this Policy are:

- (a) to identify the land to which this Policy applies (being the Illawarra Regional Business Park site) as a State significant site under *State Environmental Planning Policy (Major Projects) 2005*, and
- (b) to establish appropriate zoning and other development controls for that land, and
- (c) to rezone that land for employment purposes, and
- (d) to promote economic development and the creation of employment on that land by allowing development for the purposes of warehouses or distribution centres, light industries and passenger transport facilities and by requiring satisfactory arrangements for contributions to the provision of designated State public infrastructure, and
- (e) to provide for development that is consistent with the effective operation of the Illawarra Regional Airport, and
- (f) to protect the views of the adjoining heritage item, and
- (g) to amend *State Environmental Planning Policy No 14—Coastal Wetlands* to extend its operation with respect to that land.

3 Land to which Policy applies

This Policy applies to the land in the local government area of Shellharbour, shown edged heavy black on the map marked “State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)—Illawarra Regional Business Park Site—Land Application Map” held at the head office of the Department.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

Clause 4

4 Amendment of State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 is amended as set out in Schedule 1.

5 Amendment of State Environmental Planning Policy No 14—Coastal Wetlands

State Environmental Planning Policy No 14—Coastal Wetlands is amended as set out in Schedule 2.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

(Clause 4)

Schedule 3 State significant sites

Insert at the end of the Schedule (before the maps) with appropriate Part numbering:

Part Illawarra Regional Business Park site

Division 1 Preliminary

1 Land to which Part applies

This Part applies to the land shown edged heavy black on the Land Application Map, referred to in this Schedule as the *Illawarra Regional Business Park site*.

2 Interpretation

(1) In this Part:

Airport Height Limitation Plan means the plan titled *Airport Height Limitation and Noise Exposure Forecast Plan*, 17 April 1998, specifying the obstacle limitation surface for the land and held in the office of the Council.

Council means the Shellharbour City Council.

Height of Buildings Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)—Illawarra Regional Business Park Site—Height of Buildings Map.

Land Application Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)—Illawarra Regional Business Park Site—Land Application Map.

Land Reservation Acquisition Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)—Illawarra Regional Business Park Site—Land Reservation Acquisition Map.

Land Zoning Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)—Illawarra Regional Business Park Site—Land Zoning Map.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

Amendment of State Environmental Planning Policy (Major Projects) 2005 Schedule 1

wetland improvement means the creation, enhancement, regeneration or maintenance of wetlands whether the wetland is natural or artificial and whether or not the wetland forms part of an integrated drainage system.

- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless it is otherwise defined in this Part.

3 Consent authority

The consent authority for development on land in the Illawarra Regional Business Park site, other than development that is a project to which Part 3A of the Act applies, is the Council.

4 Maps

- (1) A reference in this Part to a named map adopted by this Part is a reference to a map by that name:
- (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Part to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

5 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to land within the Illawarra Regional Business Park site are this Policy and all other State environmental planning policies, except *State Environmental Planning Policy No 1—Development Standards*.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

Division 2 Provisions applying to development within Illawarra Regional Business Park site

6 Application of Part

This Part applies with respect to development within the Illawarra Regional Business Park site and so applies whether or not the development is a project to which Part 3A of the Act applies.

7 Land use zones

- (1) For the purposes of this Part, land within the Illawarra Regional Business Park site is in a zone as follows if the land is shown on the Land Zoning Map as being within that zone:
 - (a) Zone IN2 Light Industrial,
 - (b) Zone SP2 Infrastructure,
 - (c) Zone E2 Environmental Conservation.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

8 Zone IN2 Light Industrial

- (1) The objectives of Zone IN2 Light Industrial are as follows:
 - (a) to facilitate development for a wide range of employment generating light industrial purposes,
 - (b) to provide for airport related facilities and services, including hotel accommodation and passenger transport facilities,
 - (c) to provide for roads and service stations, warehouses and distribution centres and information and education facilities,
 - (d) to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area,
 - (e) to minimise any adverse effect of industry on other land uses and the environment.
- (2) Development for the following purposes is permitted without development consent on land within Zone IN2 Light Industrial:
environmental protection works

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

Amendment of State Environmental Planning Policy (Major Projects) 2005 Schedule 1

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone IN2 Light Industrial:
- airports; child care centres; depots; fill; flood mitigation works; food and drink premises; freight transport facilities; helipads; heliports; hotel or motel accommodation; industrial retail outlets; information and education facilities; landscape and garden supplies; light industries; liquid fuel depots; neighbourhood shops; office premises (that are ancillary to development for another permitted purpose); passenger transport facilities; public administration buildings; recreation facilities (indoor); roads; service stations; signage; timber and building supplies; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; vehicle sales or hire premises; veterinary hospitals; warehouse or distribution centres
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone IN2 Light Industrial unless it is permitted by subclause (2) or (3).

9 Zone SP2 Infrastructure

- (1) The objectives of Zone SP2 Infrastructure are as follows:
- (a) to provide for infrastructure and related uses,
 - (b) to prevent development that is not compatible with or that may detract from the provision of infrastructure,
 - (c) to protect the infrastructure of Illawarra Regional Airport.
- (2) Development for the following purposes is permitted without development consent on land within Zone SP2 Infrastructure:
- drainage; fencing; vegetation management
- (3) Development for the following purposes is permitted only with development consent on land within Zone SP2 Infrastructure:
- the purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; roads
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone SP2 Infrastructure unless it is permitted by subclause (2) or (3).

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10 Zone E2 Environmental Conservation

- (1) The objectives of Zone E2 Environmental Conservation are as follows:
 - (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
 - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- (2) Development for the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation:
environmental protection works
- (3) Development for the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation:
earthworks; environmental facilities; recreation areas; roads; wetland improvements
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone E2 Environmental Conservation unless it is permitted by subclause (2) or (3).

11 Public utility undertakings excepted

Development for the purpose of a public utility undertaking that is carried out on land within the Illawarra Regional Business Park site does not require development consent.

Note. As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

12 Exempt and complying development

Development within the Illawarra Regional Business Park site that satisfies the requirements for:

- (a) exempt development specified in *Shellharbour City Council Exempt Development Control Plan*, 4 May 2005, or
- (b) complying development specified in *Shellharbour City Council Complying Development Control Plan*, 4 May 2005,

as in force at the commencement of this Part, is exempt development or complying development, as appropriate.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

Amendment of State Environmental Planning Policy (Major Projects) 2005 Schedule 1

13 Subdivision—consent requirements

- (1) Land within the Illawarra Regional Business Park site may be subdivided, but only with development consent.
- (2) However, development consent is not required for a subdivision for the purpose only of any one or more of the following:
 - (a) widening a public road,
 - (b) a minor realignment of boundaries that does not create additional lots or the opportunity for additional buildings,
 - (c) a consolidation of lots that does not create additional lots or the opportunity for additional buildings,
 - (d) rectifying an encroachment on a lot,
 - (e) creating a public reserve,
 - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

14 Height of buildings

- (1) The objectives of this clause are as follows:
 - (a) to regulate the height of buildings on land in the Illawarra Regional Business Park site,
 - (b) to ensure that the effective and on-going operation of Illawarra Regional Airport is not compromised by any development,
 - (c) to protect the views to and from “Ravensthorpe” at 52–56 Tongarra Road, Albion Park, being a heritage item identified by *Shellharbour Rural Local Environmental Plan 2004*.
- (2) The height of a building on any land in the Illawarra Regional Business Park site is not to exceed the maximum height shown for the land on the:
 - (a) Height of Buildings Map, or
 - (b) Airport Height Limitation Plan,whichever is the lesser.
- (3) Despite subclause (2), development consent may be granted for development that exceeds the maximum height for the land if:
 - (a) the consent authority is satisfied that the proposed building is unlikely to adversely affect the views to and from “Ravensthorpe” as referred to in subclause (1) (c), and

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

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- (b) the consent authority is satisfied that the proposed building is unlikely to constitute an obstruction or hazard to aircraft flying in the vicinity, and
- (c) if the proposed building does not comply with the Airport Height Limitation Plan, the Civil Aviation Safety Authority has been given notice of the proposal and any comments made by it to the consent authority within 28 days of its being notified have been taken into consideration by the consent authority.

15 Floor space ratio

The floor space ratio of a building on any land in the Illawarra Regional Business Park site is not to exceed 1:1.

16 Exceptions to development standards

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that:

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

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- (a) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (b) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.
- (5) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (6) This clause does not allow consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated.

17 Controls relating to miscellaneous permissible uses

(1) Industrial retail outlets

If development for the purposes of an industrial retail outlet is permitted on any land in the Illawarra Regional Business Park site, the retail floor area must not exceed:

- (a) 40% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or
 - (b) 400 square metres,
- whichever is the lesser.

(2) Neighbourhood shops

If development for the purposes of a neighbourhood shop is permitted on any land in the Illawarra Regional Business Park site, the retail floor area must not exceed 80 square metres.

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Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

18 Controls relating to office premises

The consent authority must not grant development consent to development for the purpose of office premises on land in the Illawarra Regional Business Park site unless it is satisfied that:

- (a) the office premises are ancillary to another use of the land, and
- (b) the gross floor area of the office premises will not exceed 25% of the gross floor area of all of the buildings on the land.

19 Relevant acquisition authority

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991 (the owner-initiated acquisition provisions)*.

Note. If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the Land Reservation Acquisition Map (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

Type of land shown on Land Reservation Acquisition Map	Authority of the State
--	------------------------

Zone SP2 Infrastructure and marked "Airport"	Council
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- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

Note. If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning is required to take action to enable the designation of the acquiring authority under this clause. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

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Planning (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

20 Zone IN2 Light Industrial—satisfactory arrangements for the provision of regional transport infrastructure and services

- (1) This clause applies to land in Zone IN2 Light Industrial within the Illawarra Regional Business Park site, but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).
- (2) The object of this clause is to require assistance to authorities of the State towards the provision of designated State public infrastructure to satisfy needs that arise from development on land to which this clause applies.
- (3) Despite any other provision of this Part, the consent authority must not consent to the subdivision of land to which this clause applies unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to the land to which this clause applies.
- (4) Subclause (3) does not apply in relation to:
 - (a) any land that is reserved exclusively for a public purpose, or
 - (b) any development that is, in the opinion of the consent authority, of a minor nature.
- (5) In this clause, *designated State public infrastructure* means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:
 - (a) State and regional roads,
 - (b) bus interchanges and bus lanes,
 - (c) rail infrastructure and land,
 - (d) land required for regional open space,
 - (e) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

21 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land in the Illawarra Regional Business Park site to be carried out in accordance with this Policy or with a development consent granted under the Act,

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

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any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.

- (2) This clause does not apply:
 - (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
 - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
 - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
 - (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
 - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
 - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1)–(3).

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)

Amendment of State Environmental Planning Policy No 14—Coastal Wetlands

Schedule 2

Schedule 2 Amendment of State Environmental Planning Policy No 14—Coastal Wetlands

(Clause 5)

[1] Clause 3 Definitions

Omit “57,” from paragraph (k) of the definition of *the map*.

[2] Clause 3, definition of “the map”

Insert after paragraph (k):

- (l) State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)—Illawarra Regional Business Park Site—Coastal Wetlands—map 25.



New South Wales

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Planning. (S07/00929)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)*.

2 Aims of Policy

The aims of this Policy are:

- (a) to identify the land to which this Policy applies (being the UTS Ku-ring-gai Campus site) as a State significant site under *State Environmental Planning Policy (Major Projects) 2005*, and
- (b) to establish appropriate zoning and other development controls for the site in a manner consistent with the Sydney Metropolitan Strategy, and
- (c) to provide for a range of compatible land uses and a variety of housing types, and
- (d) to conserve the UTS Ku-ring-gai Campus main building, and
- (e) to promote a high standard of urban and architectural design of development, and
- (f) to maximise the protection of bushland on the site.

3 Land to which Policy applies

This Policy applies to the land shown edged heavy red on the map marked “State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)—UTS Ku-ring-gai Campus—Land Application Map” held at the head office of the Department.

4 Amendment of State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 is amended as set out in Schedule 1.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)

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(Clause 4)

Schedule 3 State significant sites

Insert in appropriate order in the Schedule (before the maps):

Part 30 UTS Ku-ring-gai Campus site

Division 1 Preliminary

1 Land to which Part applies

This Part applies to the land shown edged heavy red on the Land Application Map, referred to in this Part as the *UTS Ku-ring-gai Campus site*.

2 Interpretation

(1) In this Part:

Building Height Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)—UTS Ku-ring-gai Campus—Building Height Map.

Council means the Ku-ring-gai Council.

Heritage Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)—UTS Ku-ring-gai Campus—Heritage Map.

Land Application Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)—UTS Ku-ring-gai Campus—Land Application Map.

Land Zoning Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)—UTS Ku-ring-gai Campus—Land Zoning Map.

(2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless it is otherwise defined in this Part.

3 Consent authority

The consent authority for development on land in the UTS Ku-ring-gai Campus site, other than development that is a project to which Part 3A of the Act applies, is the Council.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)

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4 Maps

- (1) A reference in this Part to a named map adopted by this Part is a reference to a map by that name:
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Policy to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

5 Relationship with other environmental planning instruments

The only environmental planning instruments that apply according to their terms, to land within the UTS Ku-ring-gai Campus site are this Policy and all other State environmental planning policies except *State Environmental Planning Policy No 1—Development Standards*.

Division 2 Provisions applying to development within UTS Ku-ring-gai Campus site

6 Application of Part

This Part applies with respect to development within the UTS Ku-ring-gai Campus site and so applies whether or not the development is a project to which Part 3A of the Act applies.

7 Land use zones

- (1) For the purposes of this Part, land within the UTS Ku-ring-gai Campus site is in a zone as follows if the land is shown on the Land Zoning Map as being within that zone:
 - (a) Zone R1 General Residential,
 - (b) Zone R2 Low Density Residential,
 - (c) Zone B4 Mixed Use,
 - (d) Zone RE1 Public Recreation,

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)

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- (e) Zone E1 National Parks and Nature Reserves,
 - (f) Zone E3 Environmental Management.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

8 Zone R1 General Residential

- (1) The objectives of Zone R1 Residential are as follows:
- (a) to provide for the housing needs of the community,
 - (b) to provide for a variety of housing types and densities,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
 - (d) to provide for development that is compatible with the environmental and heritage qualities of the locality,
 - (e) to promote a high standard of urban and architectural design of development,
 - (f) to promote the establishment of a sustainable community.
- (2) Development for any of the following purposes is permitted without consent in Zone R1 General Residential:
- home occupations; roads.
- (3) Development for any of the following purposes is permitted only with development consent in Zone R1 General Residential:
- attached dwellings; boarding houses; child care centres; community facilities; dwelling houses; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; residential flat buildings; residential care facilities; semi-detached dwellings; seniors housing; shop top housing.
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone R1 General Residential unless it is permitted by subclause (2) or (3).

9 Zone R2 Low Density Residential

- (1) The objectives of Zone R2 Low Density Residential are as follows:
- (a) to provide for the housing needs of the community within a low density residential environment,
 - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents.

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- (2) Development for any of the following purposes is permitted without consent in Zone R2 Low Density Residential:
home occupations; roads.
- (3) Development for any of the following purposes is permitted only with development consent in Zone R2 Low Density Residential:
dwelling houses; group homes.
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

10 Zone B4 Mixed Use

- (1) The objectives of Zone B4 Mixed Use are as follows:
 - (a) to provide a mixture of compatible land uses,
 - (b) to integrate suitable business, office, residential, retail and other development so as to maximise public transport patronage and encourage walking and cycling and without adversely impacting on heritage items.
- (2) Development for any of the following purposes is permitted only with development consent in Zone B4 Mixed Use:
boarding houses; business premises; child care centres; community facilities; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information and education facilities; kiosks; neighbourhood shops; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; retail premises; roads; seniors housing; shop top housing.
- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone B4 Mixed Use unless it is permitted by subclause (2).

11 Zone RE1 Public Recreation

- (1) The objectives of Zone RE1 Public Recreation are as follows:
 - (a) to enable land to be used for public open space or recreational purposes,
 - (b) to provide a range of recreational settings and activities and compatible land uses,
 - (c) to protect and enhance the natural environment for recreational purposes.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)

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- (2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation:
car parks; roads.
 - (3) Development for any of the following purposes is permitted only with development consent in Zone RE1 Public Recreation:
kiosks; recreation areas.
 - (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2) or (3).

12 Zone E1 National Parks and Nature Reserves

- (1) The objectives of Zone E1 National Parks and Nature Reserves are as follows:
 - (a) to enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act,
 - (b) to enable uses authorised under the *National Parks and Wildlife Act 1974*,
 - (c) to identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and to protect the environmental significance of that land.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E1 National Parks and Nature Reserves:
uses authorised under the *National Parks and Wildlife Act 1974*.
- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2).

13 Zone E3 Environmental Management

- (1) The objectives of Zone E3 Environmental Management are as follows:
 - (a) to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values,
 - (b) to provide for a limited range of development that does not have an adverse effect on those values.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)

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- (2) Development for any of the following purposes is permitted without development consent on land within Zone E3 Environmental Management:
environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management:
dwelling houses; roads.
- (4) Except as otherwise provided by this Policy, development for any of the following purposes is prohibited on land within Zone E3 Environmental Management:
industries; multi dwelling housing; residential flat buildings; retail premises; seniors housing; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

14 Public utility undertakings excepted

Development for the purpose of a public utility undertaking that is carried out on land within the UTS Ku-ring-gai Campus site does not require development consent.

Note. As a consequence of the removal of the requirement from development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

15 Exempt and complying development

Development within the UTS Ku-ring-gai Campus site that satisfies the requirements for exempt development or complying development specified in *Ku-ring-gai Development Control Plan No 46—Exempt and Complying Development*, adopted by the Council on 16 November 1999, is exempt development or complying development, as appropriate.

16 Exceptions to development standards

- (1) The objectives of this clause are:
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)

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- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
 - (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
 - (4) Consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
 - (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
 - (6) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
-

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)

Schedule 1 Amendments

- (7) This clause does not allow consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated.

17 Height of buildings

- (1) The objectives of this clause are as follows:
- (a) to protect the heritage significance of the UTS Ku-ring-gai Campus main building,
 - (b) to protect the views to the UTS Ku-ring-gai Campus main building.
- (2) The height of a building on any land within the UTS Ku-ring-gai Campus site is not to exceed the maximum height shown for the land on the Building Height Map.

18 Maximum number of dwellings

The consent authority must not grant development consent for the erection of a dwelling on land within the UTS Ku-ring-gai Campus site if the number of dwellings within that site would exceed 345.

19 Controls relating to miscellaneous permissible uses

(1) **Kiosks**

If development for the purposes of a kiosk is permitted under this Part, the gross floor area must not exceed 40 square metres.

(2) **Neighbourhood shops**

If development for the purposes of a neighbourhood shop is permitted under this Part, the gross floor area must not exceed 80 square metres.

(3) **Retail premises**

If development for the purposes of retail premises is permitted under this Part, the gross floor area must not exceed 80 square metres.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)

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20 Heritage conservation

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
 - (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
 - (b) damage or remove the relic, or
 - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
 - (d) damage or despoil the tree or place, or
 - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
 - (f) damage any tree or land on which the building, work or relic is situated or on the land which comprises the place, or
 - (g) make structural changes to the interior of the building or work,except with the consent of the consent authority.
- (2) The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Part, if the consent authority is satisfied that:
 - (a) the conservation of the heritage item is facilitated by the granting of consent, and
 - (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
 - (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
 - (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
 - (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.
- (3) Consent is not required under this clause if the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)

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any work is carried out that it is satisfied that the proposed development:

- (a) is of a minor nature, or is for the maintenance of the heritage item, and
 - (b) would not adversely affect the significance of the heritage item.
- (4) In this clause, *heritage item* means the building known as the UTS Ku-ring-gai Campus main building, excluding the gymnasium, as shown on the Heritage Map.

21 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

Note. The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.



New South Wales

Canterbury Local Environmental Plan No 206

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*. (P07/00817/PC)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 Canterbury Local Environmental Plan No 206

Canterbury Local Environmental Plan No 206

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Canterbury Local Environmental Plan No 206*.

2 Aims of plan

This plan aims:

- (a) to amend the *Canterbury Planning Scheme Ordinance (the PSO)*, *Canterbury Local Environmental Plan No 138—Canterbury Precinct (LEP 138)*, *Canterbury Local Environmental Plan No 148—Campsie Precinct (LEP 148)* and *Canterbury Local Environmental Plan No 178—Belmore–Lakemba Precinct (LEP 178)* to bring into those instruments the definitions of **child care centre** and **health consulting rooms** as set out in the *Standard Instrument (Local Environmental Plans) Order 2006*, and
- (b) to amend the PSO:
 - (i) to include a heritage conservation incentives provision similar to what is already in LEP 138, LEP 148 and LEP 178, and
 - (ii) to allow, where land that has been reserved for county open space or parks and recreation under Part 2 of the PSO has been acquired for open space purposes, the same permissible uses for the land as if the land was in Zone No 6 (a) Open Space Existing Recreation, and
- (c) to amend LEP 138 to allow, with consent, advertisements as a permissible use on land in Zones Nos 3 (a), 3 (e), 4 (a), 4 (d), 5, 6 (a), 6 (b), 6 (c) and 9, and
- (d) to amend LEP 148 and LEP 178 to allow, with consent, advertisements as a permissible use on land in Zones Nos 3 (a), 3 (e), 3 (f), 4 (a), 4 (d), 5, 6 (a), 6 (b), 6 (c) and 9, and
- (e) to rezone certain land under LEP 148 to Zone No 2 (a) Residential “A” Zone, and

Canterbury Local Environmental Plan No 206

Clause 3

-
- (f) to amend LEP 178:
- (i) to require that Canterbury City Council must not consent to the subdivision of land on which a dual occupancy is situated where it results in the street frontage of either lot on which a dwelling is situated being less than 7.5 metres (a similar requirement that is already in the PSO, LEP 138 and LEP 148), and
 - (ii) to rezone certain land to Zone No 3 (a) General Business Zone.

3 Land to which plan applies

- (1) In respect of the aims referred to in clause 2 (a)–(d) and (f) (i), this plan applies to all land within the City of Canterbury under the PSO, LEP 138, LEP 148 and LEP 178.
- (2) In respect of the aim referred to in clause 2 (e), this plan applies to Lot 41, DP 3877, 51 Bruce Avenue, Belfield, as shown coloured light scarlet and edged heavy black on Sheet 1 of the map marked “Canterbury Local Environmental Plan No 206” deposited in the office of Canterbury City Council.
- (3) In respect of the aim referred to in clause 2 (f) (ii), this plan applies to Lot 1, DP 124980, 226 Haldon Street, Lakemba, as shown coloured light blue and edged heavy black on Sheet 2 of that map.

4 Amendment of Canterbury Planning Scheme Ordinance

The *Canterbury Planning Scheme Ordinance* is amended as set out in Schedule 1.

**5 Amendment of Canterbury Local Environmental Plan No 138—
Canterbury Precinct**

Canterbury Local Environmental Plan No 138—Canterbury Precinct is amended as set out in Schedule 2.

**6 Amendment of Canterbury Local Environmental Plan No 148—Campsie
Precinct**

Canterbury Local Environmental Plan No 148—Campsie Precinct is amended as set out in Schedule 3.

**7 Amendment of Canterbury Local Environmental Plan No 178—
Belmore–Lakemba Precinct**

Canterbury Local Environmental Plan No 178—Belmore–Lakemba Precinct is amended as set out in Schedule 4.

Canterbury Local Environmental Plan No 206

Schedule 1 Amendment of Canterbury Planning Scheme Ordinance

Schedule 1 Amendment of Canterbury Planning Scheme Ordinance

(Clause 4)

[1] Clause 4 Interpretation

Omit the definition of *Child care centre* from clause 4 (1).

Insert instead:

Child care centre means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
- (i) a school, or

Canterbury Local Environmental Plan No 206

Amendment of Canterbury Planning Scheme Ordinance

Schedule 1

-
- (j) a service provided at exempt premises (within the meaning of section 200 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

[2] Clause 4 (1)

Omit the definition of *Professional consulting rooms*.

Insert in alphabetical order:

Health consulting rooms means a medical centre that comprises one or more rooms within (or within the curtilage of) a dwelling-house used by not more than 3 health care professionals who practise in partnership (if there is more than one such professional) who provide professional health care services to members of the public.

[3] Clause 17 Restriction on use of land

Insert after clause 17 (2):

- (3) Despite any other provisions of this Ordinance, where land that has been reserved for county open space or parks and recreation under Part 2 has been acquired for that purpose by the responsible authority, the use of that land is to be the same as if the land was in Zone No 6 (a), in accordance with clause 22.

[4] Clause 38C

Insert after clause 38B:

38C Conservation incentives

Nothing in this Ordinance prevents the Council from granting consent to the use, for any purpose, of part or all of any building that is a heritage item or the land on which the building is erected if it is satisfied that the proposed use would have little or no adverse effect on the amenity of the surrounding area and the conservation of the building depends on the Council granting that consent.

Canterbury Local Environmental Plan No 206

Schedule 2 Amendment of Canterbury Local Environmental Plan No 138—Canterbury Precinct

Schedule 2 Amendment of Canterbury Local Environmental Plan No 138—Canterbury Precinct

(Clause 5)

[1] Clause 5 Terms used in the plan

Omit the definitions of *child care centre* and *health consulting rooms*.

Insert in alphabetical order:

child care centre means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
- (i) a school, or

Canterbury Local Environmental Plan No 206

Amendment of Canterbury Local Environmental Plan No 138—Canterbury Precinct Schedule 2

- (j) a service provided at exempt premises (within the meaning of section 200 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

health consulting rooms means a medical centre that comprises one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals who practise in partnership (if there is more than one such professional) who provide professional health care services to members of the public.

[2] Clause 10 Development Table

After “o means development only with consent”, insert:

absence of a symbol means development that is prohibited.

[3] Clause 10, Table

Insert in alphabetical order:

Advertisement			o	o	o	o	o	o	o	o	o
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Canterbury Local Environmental Plan No 206

Schedule 3 Amendment of Canterbury Local Environmental Plan No 148—Campsie Precinct

Schedule 3 Amendment of Canterbury Local Environmental Plan No 148—Campsie Precinct

(Clause 6)

[1] Clause 5 Terms used in the plan

Omit the definitions of *child care centre* and *health consulting rooms*.

Insert in alphabetical order:

child care centre means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
- (i) a school, or

Canterbury Local Environmental Plan No 206

Amendment of Canterbury Local Environmental Plan No 148—Campsie Precinct

Schedule 3

- (j) a service provided at exempt premises (within the meaning of section 200 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

health consulting rooms means a medical centre that comprises one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals who practise in partnership (if there is more than one such professional) who provide professional health care services to members of the public.

[2] Clause 5, definition of “the map”

Insert in appropriate order:

Canterbury Local Environmental Plan No 206—Sheet 1

[3] Clause 10 Development Table

After “o means development only with consent”, insert:

absence of a symbol means development that is prohibited.

[4] Clause 10, Table

Insert in alphabetical order:

Advertisement			o	o	o	o	o	o	o	o	o	o
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Canterbury Local Environmental Plan No 206

Schedule 4 Amendment of Canterbury Local Environmental Plan No 178—
Belmore–Lakemba Precinct

Schedule 4 Amendment of Canterbury Local Environmental Plan No 178— Belmore–Lakemba Precinct

(Clause 7)

[1] Clause 5 Terms used in the plan

Omit the definitions of *child care centre* and *health consulting rooms*.

Insert in alphabetical order:

child care centre means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
- (i) a school, or

Canterbury Local Environmental Plan No 206

Amendment of Canterbury Local Environmental Plan No 178—
Belmore–Lakemba Precinct

Schedule 4

- (j) a service provided at exempt premises (within the meaning of section 200 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

health consulting rooms means a medical centre that comprises one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals who practise in partnership (if there is more than one such professional) who provide professional health care services to members of the public.

[2] Clause 5, definition of “the map”

Insert in appropriate order:

Canterbury Local Environmental Plan No 206—Sheet 2

[3] Clause 10 Development Table

Insert in Part 1 of the Table to the clause in alphabetical order:

Advertisement			o	o	o	o	o	o	o	o	o	o
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[4] Clause 10, Table, Part 1

Insert “(4)” after “Dual Occupancy” under the heading “**Development for the purpose of:**”.

[5] Clause 10, Table, Note (4)

Insert after Note (3):

(4) See Clause 32

[6] Clause 32

Insert after clause 31:

32 Subdivision of dual occupancies

The Council must not consent to the subdivision of land on which a dual occupancy is situated where it results in the street frontage of either lot on which a dwelling is situated being less than 7.5 metres.



New South Wales

Rockdale Local Environmental Plan 2000 (Amendment No 46)

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*. (P06/00297/PC)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 Rockdale Local Environmental Plan 2000 (Amendment No 46)

Rockdale Local Environmental Plan 2000 (Amendment No 46)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Rockdale Local Environmental Plan 2000 (Amendment No 46)*.

2 Aims of plan

This plan aims to amend *Rockdale Local Environmental Plan 2000*:

- (a) to rezone certain land to Zone 3 (b)—the Highway Business zone, and
- (b) to reclassify part of the land referred to in paragraph (a) from community land to operational land within the meaning of the *Local Government Act 1993*, and
- (c) to apply floor space ratio and height controls and to permit mixed use premises and shops as additional uses on all the land to which this plan applies so as to facilitate the economic redevelopment of the land.

3 Land to which plan applies

- (1) With respect to the aim referred to in clause 2 (a), this plan applies to land known as 213 Princes Highway and 4 Wardell Street, Arncliffe, as shown coloured light blue with red edging and lettered “3 (b)” on Sheet 1 of the map marked “Rockdale Local Environmental Plan 2000 (Amendment No 46)” deposited in the office of Rockdale City Council.
- (2) With respect to the aim referred to in clause 2 (b), this plan applies to land known as 4 Wardell Street, Arncliffe (Lot 1, DP 652922), as shown edged heavy black on Sheet 3 of that map.
- (3) With respect to the aim referred to in clause 2 (c), this plan applies:
 - (a) to the land referred to in subclause (1), as shown distinctively coloured, edged and lettered on Sheet 1 of that map, and
 - (b) to land known as 108 Princes Highway, Arncliffe, as shown edged heavy black on Sheet 2 of that map.

Rockdale Local Environmental Plan 2000 (Amendment No 46)

Clause 4

4 Amendment of Rockdale Local Environmental Plan 2000

Rockdale Local Environmental Plan 2000 is amended as set out in Schedule 1.

Rockdale Local Environmental Plan 2000 (Amendment No 46)

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 4)

[1] Clause 8 Definitions

Insert in appropriate order in the definition of *the map* in clause 8 (1):

Rockdale Local Environmental Plan 2000 (Amendment No 46)—Sheet 1

[2] Part 1, Appendix 4 (Classification or reclassification of land)

Insert in Part 2 in alphabetical order of locality:

Arncliffe

4 Wardell Street

Lot 1, DP 652922, as shown edged heavy black on Sheet 3 of the map marked “Rockdale Local Environmental Plan 2000 (Amendment No 46)” — *Rockdale Local Environmental Plan 2000 (Amendment No 46)*.

[3] Clause 37 Floor space ratios

Omit “5 or 6” from clause 37 (3). Insert instead “5, 6, 7 or 8”.

[4] Clause 37 (4)

Insert after clause 37 (3):

- (4) *State Environmental Planning Policy No 1—Development Standards* does not apply to the requirement that the residential component of any mixed use premises must not exceed a floor space ratio of 1:1 as provided for in Diagrams 7 and 8 in Appendix 1 to this Part.

[5] Clause 39 Development within the Highway Business zone

Insert after clause 39 (5):

- (6) Notwithstanding any other provisions of this plan, consent may be granted to development for the purposes of mixed use premises and shops on land within Zone 3 (b) shown shaded on Diagrams 7 and 8 in Appendix 1 to this Part.

Rockdale Local Environmental Plan 2000 (Amendment No 46)

Amendments

Schedule 1

[6] Clause 41B

Insert after clause 41A:

41B Development of 213 Princes Highway, 4 Wardell Street and 108 Princes Highway, Arncliffe

- (1) This clause applies to land within Zone 3 (b) at:
 - (a) 213 Princes Highway and 4 Wardell Street, Arncliffe, as shown coloured light blue with red edging and lettered “3 (b)” on Sheet 1 of the map marked “Rockdale Local Environmental Plan 2000 (Amendment No 46)”, and
 - (b) 108 Princes Highway, Arncliffe, as shown edged heavy black on Sheet 2 of that map.
- (2) Despite any other provision of this plan, a building or other structure to be erected on the land to which this clause applies is not to exceed 9 storeys in height.

Rockdale Local Environmental Plan 2000 (Amendment No 46)

Schedule 1 Amendments

[7] **Part 3, Appendix 1 (Special floor space requirements)**

Insert after Diagram 6:

Diagram 7



213 Princes Highway and 4 Wardell Street, Arncliffe

The floor space ratio in respect of the land shown shaded on Diagram 7 and zoned Highway Business (Zone 3 (b)) must not exceed 2.5:1.

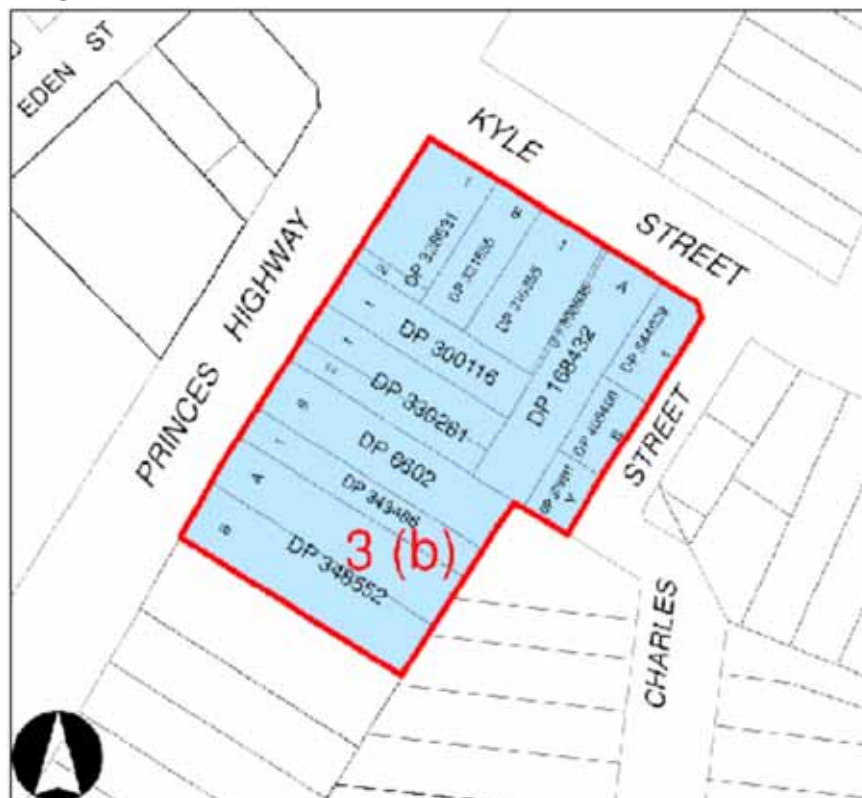
The residential component of any mixed use premises situated on that land must not exceed a floor space ratio of 1:1.

Rockdale Local Environmental Plan 2000 (Amendment No 46)

Amendments

Schedule 1

Diagram 8



108 Princes Highway, Arncliffe

The floor space ratio in respect of the land shown shaded on Diagram 8 and zoned Highway Business (Zone 3 (b)) must not exceed 2.5:1.

The residential component of any mixed use premises situated on that land must not exceed a floor space ratio of 1:1.



New South Wales

Warringah Local Environmental Plan 2000 (Amendment No 20)

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*. (S06/00325/S69)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 Warringah Local Environmental Plan 2000 (Amendment No 20)

Warringah Local Environmental Plan 2000 (Amendment No 20)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Warringah Local Environmental Plan 2000 (Amendment No 20)*.

2 Aims of plan

The aims of this plan are:

- (a) to identify the installation of rainwater collection tanks on land used for child care centres, primary schools and further education with a capacity of up to 25,000 litres as exempt development under *Warringah Local Environmental Plan 2000*, and
- (b) to rezone certain parcels of land from public open space and to rezone other parcels of land to public open space.

3 Land to which plan applies

- (1) With respect to the aim referred to in clause (2) (a), this plan applies to all land to which *Warringah Local Environmental Plan 2000* applies.
- (2) With respect to the aim referred to in clause (2) (b), this plan applies to land fronting Bangaroo Street, North Balgowlah, Notting Lane, Cottage Point, Chard Road, Brookvale and Oaks Avenue, Dee Why, as shown edged heavy black on Sheets 1–4 of the map marked “Warringah Local Environmental Plan 2000 (Amendment No 20)” deposited in the office of Warringah Council.

4 Amendment of Warringah Local Environmental Plan 2000

Warringah Local Environmental Plan 2000 is amended as set out in Schedule 1.

Warringah Local Environmental Plan 2000 (Amendment No 20)

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 4)

[1] Clause 5 What effect has this plan on other environmental planning instruments?

Insert in appropriate order in the definition of *relevant amending plan* in clause 5 (4):

Warringah Local Environmental Plan 2000 (Amendment No 20)

[2] Schedule 1 Exempt development

Omit “10,000 litres” from the first paragraph of the conditions relating to “WATER TANKS” in the Table to the Schedule, under the heading “**ERECTION OF A BUILDING OR STRUCTURE**”.

Insert instead “the maximum capacity”.

[3] Schedule 1, Table

Insert at the end of the conditions relating to “WATER TANKS” under the heading “**ERECTION OF A BUILDING OR STRUCTURE**”:

In this item:

maximum capacity means:

- (a) for a tank installed on a lot used for a child care centre, a primary school or further education—25,000 litres, or
- (b) in any other case—10,000 litres.

[4] Dictionary

Insert in appropriate order in the definition of *the map*:

Warringah Local Environmental Plan 2000 (Amendment No 20)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

ORDER

I, the Minister for Planning, pursuant to section 75P (2) (d) of the Environmental Planning and Assessment Act 1979, by this my Order declare that the development within the Vincentia Coastal Village site (identified in Schedule 1 of this Order) that satisfies the requirements for exempt development or complying development specified in Exempt and Complying Development Controls – Vincentia Coastal Village, dated 8 July 2008, is exempt development or complying development, as appropriate.

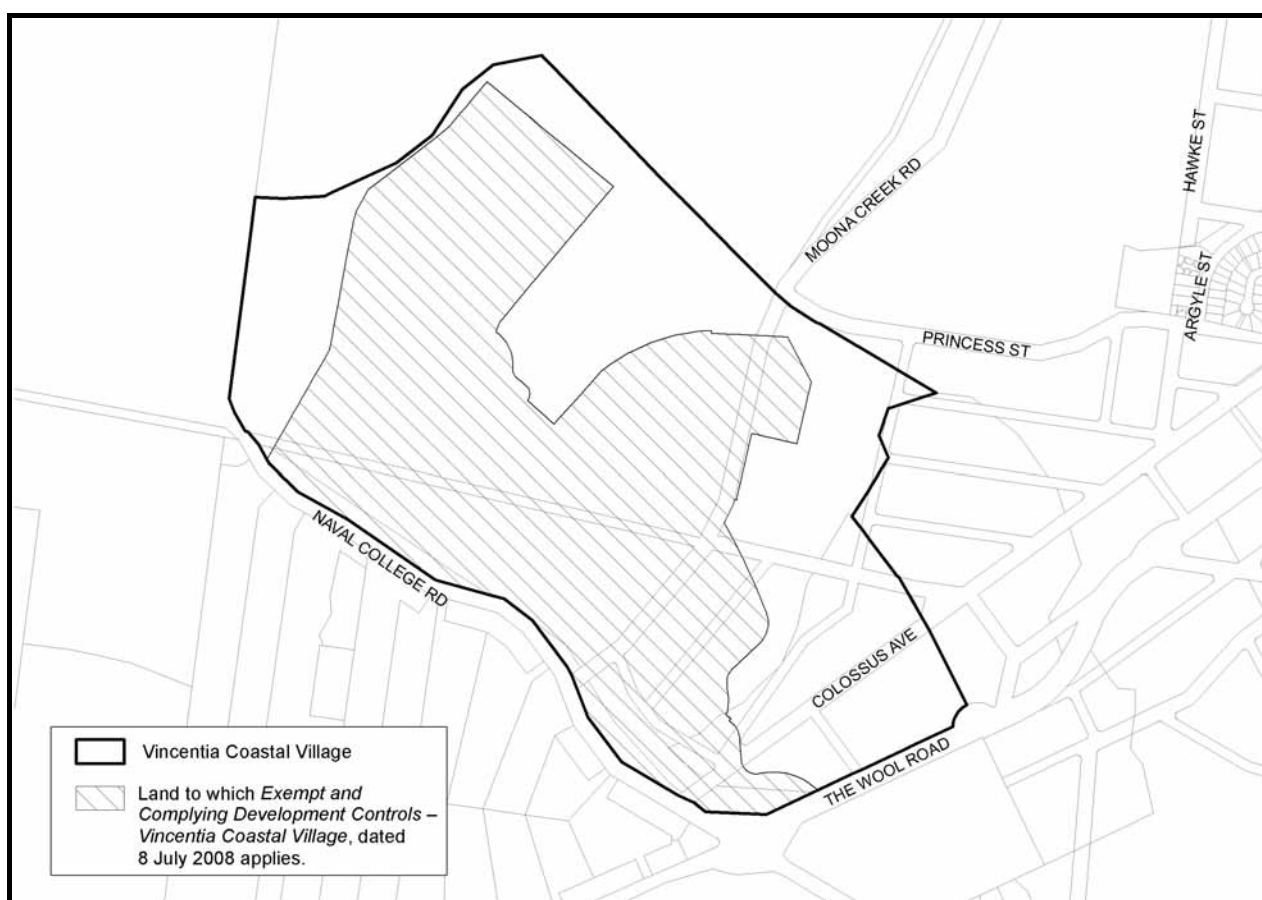
Dated, this 9th day of July 2008.

FRANK SARTOR, M.P.,
Minister for Planning,
Sydney.

SCHEDULE 1

The site known as the ‘Vincentia Coastal Village’ as shown edged heavy black on the map marked Vincentia Coastal Village – Cadastre, within the Shoalhaven Local Government Area.

Vincentia Coastal Village – Cadastre



Department of Primary Industries

FISHERIES MANAGEMENT ACT 1994

Notice of Receipt of Application for Aquaculture Lease

Notification under Section 163 (7) of the Fisheries Management Act 1994 and Clause 33 of the Fisheries Management (Aquaculture) Regulation 2007

NSW Department of Primary Industries (NSW DPI) advises an application has been received for two (2) new aquaculture leases over public water land for the purpose of cultivating Sydney rock oysters. Location is the Hastings River, described as follows:

- Approx. 2.2 hectares over previously unleased ground, between oyster leases OL72/239 and OL84/228 (to be known as AL08/012, if granted)
- Approx. 0.2 hectares over previously unleased ground, south of oyster lease OL58/052 (to be known as AL08/013, if granted)

NSW DPI is calling for written submissions from any person supporting or objecting to the oyster lease proposals, citing reasons for the support/objection. NSW DPI is also calling for expressions of interest from persons or corporations interested in leasing the areas specified above, for the purpose of aquaculture. An expression of interest must be in the form of a written response referring to lease numbers AL08/012 and/or AL08/013 to be signed and dated with a return address.

If additional expressions of interest are received, NSW DPI may offer the areas for leasing through a competitive public tender process, auction or ballot. The applicant will be required to obtain development consent from Council under Part 4 of the Environmental Planning and Assessment Act 1979. If granted, the leases will be subject to standard covenants and conditions of an aquaculture lease and aquaculture permit, under the Fisheries Management Act 1994 and any conditions of consent as imposed by Council.

Specific details of the proposed leases can be obtained, or enquiries made with NSW DPI, Aquaculture Administration Section, Port Stephens on (02) 4982 1232. Objections or expressions of interest for consideration in the determination of the applications must be received at the address below, within 30 days from the date of publication of this notification.

Director, Fisheries Conservation and Aquaculture Branch, Aquaculture Administration Section, Port Stephens Fisheries Centre, Locked Bag 1, Nelson Bay NSW 2315.

BILL TALBOT,
Director,

Fisheries Conservation and Aquaculture Branch,
Department of Primary Industries

FISHERIES MANAGEMENT ACT 1994

Fisheries Management (Aquaculture) Regulation 2007

Clause 39 (4) – Notice of Aquaculture Lease Renewal

THE Minister has renewed the following class 1 Aquaculture Leases:

OL76/162 within the estuary of the Hawkesbury River, having an area 0.8467 hectares to CE & Y Moxham Pty Ltd of Brooklyn NSW, for a term of 15 years expiring on 9 October 2022.

OL78/014 within the estuary of Wallis Lake, having an area of 0.4748 hectares to P D Ralston Pty Ltd and S M Ralston Pty Ltd of Tuncurry NSW, for a term of 15 years expiring on 14 September 2023.

OL59/078 within the estuary of Wapengo Lake, having an area of 0.9191 hectares to Andrew Burhop of Tathra NSW, for a term of 15 years expiring on 3 March 2019.

OL77/092 within the estuary of Macleay River, having an area of 0.3713 hectares to Gary Boatswain and Todd Graham of Stuarts Point NSW, for a term of 15 years expiring on 31 December 2022.

OL61/186 within the estuary of Wallis Lake, having an area of 0.5374 hectares to Stanley Edward Lauff of Forster NSW, for a term of 15 years expiring on 5 October 2021.

OL77/167 within the estuary of Port Stephens, having an area of 1.4773 hectares to Leonard Lilley and Craig Lilley of Swan Bay NSW, for a term of 15 years expiring on 30 May 2023.

OL63/042 within the estuary of Port Stephens, having an area of 0.5091 hectares to Kenneth Lilley and Leonard Lilley of Swan Bay NSW, for a term of 15 years expiring on 5 April 2023.

BILL TALBOT,
Director,

Fisheries Conservation and Aquaculture,
Fisheries, Compliance and Regional Relations,
NSW Department of Primary Industries

FISHERIES MANAGEMENT ACT 1994

Section 8 and Section 11 Notification – Fishing Closure QX Disease

I, DELIADRAY, Acting Deputy Director-General, Agriculture, Biosecurity and Mine Safety, with the delegated authority of the Minister for Primary Industries and the Director-General of the NSW Department of Primary Industries pursuant to sections 227 and 228 of the Fisheries Management Act 1994 (“the Act”), do by this notification:

1. pursuant to section 11 of the Act, revoke the following:
 - (i) the notification titled “QX (Marteliosis) Disease Control” published in *Government Gazette* No. 80 of 7 May 2004 at page 2411-2412;
 - (ii) the notification titled “Macleay River” published in *Government Gazette* No. 41 of 9 March 2007 at page 1751;
 - (iii) the notification titled “Wooli River” published in *Government Gazette* No. 41 of 9 March 2007 at page 1752;
 - (iv) the notification titled “Hawkesbury River and Patonga Creek” published in *Government Gazette* No. 116 of 16 September 2005 at page 7513;

and any notification revived as a result of these revocations.

2. pursuant to section 8 of the Act, prohibit the taking of oysters for movement from an estuary within the waters described in Column 1 of Schedule 1 to this notification to another estuary except in accordance with:
 - (a) the conditions specified opposite in Column 2 of Schedule 1; and
 - (b) any quarantine order that may be in place at the relevant time.

For the purposes of this notification, the term “taking of oysters” does not include the taking of oysters destined for direct sale for human consumption (i.e. packaged, purified, market grade oysters, consigned to a wholesaler or retailer) BUT DOES INCLUDE the taking of oysters for the purpose of relocating and relaying oysters between estuaries.

SCHEDULE 1

For the purposes of this schedule, NSW oyster-producing estuaries are divided into three (3) categories on the basis of QX prevalence as follows:

Category 1 Estuaries – Estuaries with recent and apparent evidence of QX disease expression, recurrent QX disease and/or high QX prevalence

Richmond River, Clarence River, Macleay River, Hawkesbury River and Georges River

Category 2 Estuaries – Estuaries with historic evidence of QX disease expression (i.e. more than 3 years ago), low QX prevalence and/or recent linkage with the movement of oysters from Category 2 estuaries

Tweed River, Brunswick River, Wooli River and Wonboyn River

Category 3 Estuaries – All other oyster-producing estuaries in NSW

<i>Column 1 Waters</i>	<i>Column 2 Conditions</i>
Category 1 Estuaries	<ol style="list-style-type: none"> 1. The taking of oysters for the purposes of movement is permitted between Category 1 estuaries. 2. The taking of oysters for the purposes of movement must be done pursuant to the provisions of any quarantine order as in force from time to time.
Category 2 Estuaries	<ol style="list-style-type: none"> 1. The taking of oysters for the purposes of movement is permitted between Category 2 estuaries. 2. The taking of oysters for the purposes of movement into Category 1 estuaries is permitted. 3. (a) The taking of oysters for the purposes of movement can only occur from category 2 estuaries to Category 3 estuaries in NSW if all leaseholders in the Category 3 estuary unanimously agree to accept the oysters from a Category 2 estuary under a risk minimization strategy approved by NSW Department of Primary Industries. (b) Where a Category 3 estuary has accepted oysters from a Category 2

estuary, that Category 3 estuary will be elevated to Category 2 status, unless and until otherwise determined by NSW Department of Primary Industries.

4. The taking of oysters for the purposes of movement must be done pursuant to the provisions of any quarantine order as in force from time to time.

Category 3 Estuaries

1. The taking of oysters for the purposes of movement is permitted between Category 3 estuaries.
2. The taking of oysters for the purposes of movement into Category 1 and 2 estuaries is permitted.
3. Movements of oysters from any Category 3 estuary to any other estuary must be recorded in an Oyster Shipment Log Book in accordance with the requirements set out in the appendix to this notification.

APPENDIX

Oyster Shipment Logbook System for the Movement of Oysters, Oyster Cultivation Equipment and/or Infrastructure

- (1) All shipment of oysters, oyster cultivation equipment and infrastructure other than those within an estuary or those destined for direct sale for human consumption must be recorded in an Oyster Shipment Log Book prior to shipment.
- (2) Not less than 2 days prior to the shipment of a consignment of oysters, oyster cultivation equipment and infrastructure between estuaries, the shipping permit holder must contact the local District Fisheries Office and identify the shipper, the nature of the shipment and its destination and the Oyster Shipment Log Book shipment permit number (top right hand corner of the shipment sheet).
- (3) Prior to the shipment of oysters, oyster cultivation equipment and infrastructure, the shipping permit holder must record on all four (4) quadruplicate copies of the Oyster Shipment Log Book sheets, details of the destination (including interstate), quantity (bag equivalents) and form (trays, sticks, etc) of oysters to be shipped.
- (4) For each shipment of oysters, oyster cultivation equipment and infrastructure, the completed original white copy (copy 1) of the Oyster Shipment Log Book sheets must accompany the shipment and be retained by the receiving permit holder.
- (5) The Oyster Shipment Log Book, or the original white copy (copy 1) of the Oyster Shipment Log Book that has accompanied a shipment, must be made available to a Fisheries Officer for inspection on demand.
- (6) The holder of an Oyster Shipment Log Book must at the end of each month in which a shipment has occurred, forward all blue copies (copy 3) for those shipments to NSW Department of Primary Industries Aquaculture Management at the address specified below.

Note: Oyster Shipment Log Books are available on application from NSW Department of Primary Industries Aquaculture Administration, Locked Bag

1, Nelson Bay NSW 2315 or by phoning (02) 4982 1232.

In this notification, a reference to an estuary in this fishing closure includes a reference to all creeks, rivers, lakes, lagoons and tributaries flowing into or from that estuary.

Note: For clarification, this fishing closure does not prohibit the movement of oysters within an individual estuary.

Note: The taking of oysters for the purposes of movement is also subject to the provisions of the Pacific Oyster closure and any other oyster closure established under the Fisheries Management Act 1994.

This order commences thirty days from the date of its publication in the NSW Government Gazette and is valid for a period of five (5) years unless sooner amended or revoked.

Dated this 4th day of July 2008.

DELIA DRAY,
Acting Deputy Director-General,
Agriculture, Biosecurity and Mine Safety,
NSW Department of Primary Industries

FISHERIES MANAGEMENT ACT 1994

Section 183 – Quarantine Order QX Disease

I, DELIA DRAY, Acting Deputy Director-General, Agriculture, Biosecurity and Mine Safety, with the delegated authority of the Minister for Primary Industries and the Director-General of the NSW Department of Primary Industries pursuant to sections 227 and 228 of the Fisheries Management Act 1994 (“the Act”), do by this order:

2. pursuant to section 183 of the Act and section 43(2) of the Interpretation Act 1987, repeal the following:
 - (i) the quarantine order titled “QX Disease – Macleay River” published in *Government Gazette* No. 41 of 9 March 2007 at pages 1751 -1752;
 - (ii) the quarantine order titled “QX Disease – Wooli River” published in *Government Gazette* No. 41 of 9 March 2007 at pages 1752-1753;
 - (iii) the quarantine order titled “QX Disease – Hawkesbury River and Patonga Creek” published in *Government Gazette* No. 116 of 16 September 2005 at pages 7513 -7514;
 and any quarantine order revived as a result of these repeals.
3. pursuant to section 183:
 - (i) declare each the following estuaries to be a quarantine area (“the Quarantine Areas”) because of the presence or suspected presence of the declared disease *marsteiliosis* (QX disease):
 - (a) Richmond River
 - (b) Clarence River
 - (c) Macleay River
 - (d) Hawkesbury River
 - (e) Georges River
 - (f) Tweed River
 - (g) Brunswick River
 - (h) Wooli River
 - (i) Wonboyn River

- (ii) prohibit the taking of oysters or the movement of cultivation equipment and/or infrastructure from the Quarantine Areas except under the following conditions:
 - (a) oyster cultivation equipment and infrastructure (e.g. oyster sticks, trays, baskets) used in any of the Quarantine Areas must be dried for 30 days before use in any other NSW estuary.
 - (b) oysters, oyster cultivation equipment and infrastructure may be relocated between the Quarantine Areas but only in accordance with the Oyster Shipment Log Book System for the Movement of Oysters, Oyster Cultivation Equipment and Infrastructure which is detailed below in Schedule 1.
 - (c) oysters may be taken and culled in or adjacent to the Quarantine Areas or in accordance with a protocol approved by the Acting Deputy Director-General, Agriculture, Biosecurity and Mine Safety.
- (iii) exclude sections 185 and 186 of the Fisheries Management Act 1994 with respect to oysters taken from the Quarantine Areas or any part of the Quarantine Areas in accordance with this order (but only in relation to the declared disease *marsteiliosis* (QX disease)).
- (iv) Require all holders of aquaculture permits within the Quarantine Areas to follow all directions of a fisheries officer made under section 183 (4) of the Act.

SCHEDULE 1

Oyster Shipment Logbook System for the Movement of Oysters, Oyster Cultivation Equipment and Infrastructure

- (1) All shipment of oysters, oyster cultivation equipment and infrastructure other than those within an estuary or those destined for direct sale for human consumption must be recorded in an Oyster Shipment Log Book prior to shipment.
- (2) Not less than 2 days prior to the shipment of a consignment of oysters, oyster cultivation equipment and infrastructure between estuaries, the shipping permit holder must contact the local District Fisheries Office and identify the shipper, the nature of the shipment and its destination and the Oyster Shipment Log Book shipment permit number (top right hand corner of the shipment sheet).
- (3) Prior to the shipment of oysters, oyster cultivation equipment and infrastructure, the shipping permit holder must record on all four (4) quadruplicate copies of the Oyster Shipment Log Book sheets, details of the destination (including interstate), quantity (bag equivalents) and form (trays, sticks, etc) of oysters to be shipped.
- (4) For each shipment of oysters, oyster cultivation equipment and infrastructure, the completed original white copy (copy 1) of the Oyster Shipment Log Book sheets must accompany the shipment and be retained by the receiving permit holder.
- (5) The Oyster Shipment Log Book, or the original white copy (copy 1) of the Oyster Shipment Log Book that has accompanied a shipment, must be made available to a Fisheries Officer for inspection on demand.

- (6) The holder of an Oyster Shipment Log Book must at the end of each month in which a shipment has occurred, forward all blue copies (copy 3) for those shipments to NSW Department of Primary Industries Aquaculture Management at the address specified below.

Note: Oyster Shipment Log Books are available on application from NSW Department of Primary Industries Aquaculture Administration, Locked Bag 1, Nelson Bay NSW 2315 or by phoning (02) 4982 1232.

In this Schedule, a reference to an estuary in paragraph 3 (i) includes a reference to all creeks, rivers, lakes, lagoons and tributaries flowing into or from that estuary and any jetty, wharf, boat ramp or land used for aquaculture purposes in the immediate vicinity of the water.

Note: In addition to complying with the terms of this order the taking of oysters or the movement of oyster cultivation equipment and/or infrastructure must comply with the terms of any fishing closure made under section 8 of the Fisheries Management Act 1994 including the fishing closure titled "QX Disease" of the same date as this order.

This order commences thirty days from the date of its publication in the NSW Government Gazette and is valid for a period of five (5) years unless sooner amended or revoked.

Dated this 4th day of July 2008

DELIA DRAY,
Acting Deputy Director-General,
Agriculture, Biosecurity and Mine Safety,
NSW Department of Primary Industries

STOCK DISEASES ACT 1923

Appointment of Inspector

Notification No. 491

I, RICHARD FREDERICK SHELDRAKE, Director-General of the NSW Department of Primary Industries, pursuant to section 6 (1) of the Stock Diseases Act 1923, ("the Act"), hereby appoint Bruce Neil MCDONALD as an inspector for the purposes of the Act.

Dated this 7th day of July 2008.

R. F. SHELDRAKE,
Director-General,
NSW Department of Primary Industries

STOCK DISEASES ACT 1923

Appointment of Inspector

Notification No. 494

I, RICHARD FREDERICK SHELDRAKE, Director-General of the NSW Department of Primary Industries, pursuant to section 6 (1) of the Stock Diseases Act 1923, ("the Act") hereby appoint Nicole Alexia CRONIN as an inspector for the purposes of the Act.

Dated this 7th day of July 2008.

R. F. SHELDRAKE,
Director-General,
NSW Department of Primary Industries

STOCK DISEASES ACT 1923

Appointment of Inspector

Notification No. 493

I, RICHARD FREDERICK SHELDRAKE, Director-General of the NSW Department of Primary Industries, pursuant to section 6(1) of the Stock Diseases Act 1923, ("the Act") hereby appoint Katharine Jane MARSH as an inspector for the purposes of the Act.

Dated this 7th day of July 2008

R. F. SHELDRAKE,
Director-General,
NSW Department of Primary Industries

STOCK DISEASES ACT 1923

Notification No. 1813

Footrot Protected and Protected (Control) Areas – Goats

I, IAN MACDONALD, M.L.C., Minister for Primary Industries, pursuant to sections 3 (2) and 11A of the Stock Diseases Act 1923 ("the Act"):

- (a) revoke Stock Diseases Notification No. 1808 published in the Government Gazette No. 14, of 8 February 2008, pages 681 – 682, and any Notification revived as a result of this revocation;
- (b) declare the lands described in Schedule A to be protected areas as regards the disease footrot in goats (those lands are referred to as "Footrot Protected Areas", and are represented generally on the map titled "NSW Footrot Areas April 2008");
- (c) declare the lands described in Schedule B to be protected (control) areas as regards the disease footrot in goats (those lands are referred to as "Footrot Protected (Control) Areas", and are represented generally on the map titled "NSW Footrot Areas April 2008");
- (d) prohibit a person from moving goats into any protected area or protected (control) area referred to in paragraphs(b) and (c), unless:
 - (i) the goats are moved in accordance with a permit under section 7 (6) of the Act; or
 - (ii) the goats are moved in accordance with an order under section 8 (1) (b) of the Act; or
 - (iii) all the requirements of section 20C (3) of the Act have been satisfied; or
 - (iv) the goats are infected with footrot but are being moved to a feedlot that:
 - transports all of its stock directly to slaughter; and
 - has been authorised in writing by the Director-General as a feedlot to which infected stock may be moved; or
 - (v) the goats are not infected with footrot and one or more of the following conditions are satisfied:
 - the goats are transported in a vehicle from any protected area referred to in paragraph (b) directly to any other protected area referred to in paragraph (b);

- the goats are transported in a vehicle from any protected (control) area referred to in paragraph (c) directly to any other protected (control) area referred to in paragraph (c);
 - the goats are accompanied by a completed Owner/Vendor Declaration of Footrot Freedom form, as approved by the Deputy Director-General, Agriculture, Biosecurity and Mine Safety (“the declaration”), and that declaration is given to the person to whom the goats are delivered;
- (e) declare that, unless otherwise specified, in this Notification, a reference to a Rural Lands Protection District includes all land in that district, and a reference to a Division or part of a Division of a Rural Lands Protection District includes all land in that Division or part of a Division. Rural Lands Protection Districts are established under the Rural Lands Protection Act 1998.

SCHEDULE A

NSW Footrot Protected Areas – Goats

North East Footrot Protected Area

The Rural Lands Protection Districts of Casino, Grafton, Kempsey and Tweed/Lismore.

New England Footrot Protected Area

The Armidale Rural Lands Protection District and Divisions A, B, C, D, I, and J of the Northern New England Rural Lands Protection District.

North West Footrot Protected Area

The Rural Lands Protection Districts of Moree, Narrabri, Northern Slopes and Tamworth.

Orana Footrot Protected Area

The Rural Lands Protection Districts of Coonabarabran, Coonamble, Dubbo, Mudgee/Merriwa, Nyngan and Walgett

Central West Footrot Protected Area

The Rural Lands Protection Districts of Condobolin, Forbes, Molong, Young and Division A of the Central Tablelands Rural Lands Protection District.

Hunter Footrot Protected Area

The Rural Lands Protection Districts of Gloucester, Hunter and Maitland.

South East Footrot Protected Area

The Rural Lands Protection Districts of Bombala, Braidwood, Cooma, Goulburn, Moss Vale, South Coast and Yass.

Riverina Footrot Protected Area

The Rural Lands Protection Districts of Hay, Hume, Riverina, Narrandera, Murray and Wagga Wagga, and Division A, and the parts of Divisions C and D that are within the Kosciuszko National Park, of the Gundagai Rural Lands Protection District.

Western Division Footrot Protected Area

The Rural Lands Protection Districts of Balranald, Bourke, Brewarrina, Broken Hill, Cobar, Hillston, Milparinka, Wanaaring, Wentworth and Wilcannia.

SCHEDULE B

NSW Footrot Protected (Control) Areas – Goats

New England Footrot Protected (Control) Area

Divisions E, F, G and H of the Northern New England Rural Lands Protection District.

Central West Footrot Protected (Control) Area

Divisions B, C, D, E, F, G and H of the Central Tablelands Rural Lands Protection District.

Riverina Footrot Protected (Control) Area

Division B, and the parts of Divisions C and D that are not within the Kosciuszko National Park, of the Gundagai Rural Lands Protection District.

Notes

It is an offence under section 20H (1) (a) of the Act to contravene a provision of this Notification.

Maximum penalty for such an offence is \$11,000.

A Protected (Control) Area is an area with a moderate prevalence of a disease (section 11A (1A) of the Act). This is different to a Protected area, where there is a lower prevalence of a disease (section 11A (1B) of the Act).

A map of the Protected Areas and the Protected (Control) Areas with respect to footrot in sheep and goats is published on the NSW Department of Primary Industries internet website at <http://www.dpi.nsw.gov.au/agriculture/livestock/sheep/health/footrot/map>.

A person who receives a completed Owner/Vendor Declaration of Footrot Freedom form is advised to retain it as evidence of compliance with this Notification.

Notification No. 1813 is the NSW Department of Primary Industries' reference.

For further information, contact the NSW Department of Primary Industries on (02) 6391 3248.

Dated this 19th day of June 2008.

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

MINERAL RESOURCES

NOTICE is given that the following applications have been received:

EXPLORATION LICENCE APPLICATIONS

(T08-0121)

No. 3515, MINERALS AUSTRALIA PTY LTD AND JACARANDA MINERALS LTD, area of 38 units, for Group 1, Group 2, Group 3 and Group 6, dated 2 July 2008. (Armidale Mining Division).

(T08-0122)

No. 3516, STANDARD IRON LTD (ACN 131 971 438), area of 100 units, for Group 1, dated 4 July 2008. (Wagga Wagga Mining Division).

(T08-0123)

No. 3517, STANDARD IRON LTD (ACN 131 971 438), area of 83 units, for Group 1, dated 4 July 2008. (Orange Mining Division).

(T08-0124)

No. 3518, STANDARD IRON LTD (ACN 131 971 438), area of 45 units, for Group 1, dated 4 July 2008. (Orange Mining Division).

(T08-0125)

No. 3519, STANDARD IRON LTD (ACN 131 971 438), area of 98 units, for Group 1, dated 4 July 2008. (Cobar Mining Division).

(T08-0126)

No. 3520, STANDARD IRON LTD (ACN 131 971 438), area of 49 units, for Group 1, dated 4 July 2008. (Orange Mining Division).

(T08-0127)

No. 3521, STANDARD IRON LTD (ACN 131 971 438), area of 30 units, for Group 1, dated 4 July 2008. (Orange Mining Division).

(T08-0128)

No. 3522, STANDARD IRON LTD (ACN 131 971 438), area of 100 units, for Group 1, dated 4 July 2008. (Wagga Wagga Mining Division).

(T08-0129)

No. 3523, STANDARD IRON LTD (ACN 131 971 438), area of 51 units, for Group 1, dated 4 July 2008. (Cobar Mining Division).

(T08-0138)

No. 3532, PERILYA BROKEN HILL LIMITED (ACN 099 761 289), area of 18 units, for Group 1, dated 8 July 2008. (Broken Hill Mining Division).

(T08-0139)

No. 3533, PERILYA BROKEN HILL LIMITED (ACN 099 761 289), area of 6 units, for Group 1, dated 8 July 2008. (Broken Hill Mining Division).

MINING LEASE APPLICATION

(T08-0157)

No. 322, AUSTAR COAL MINE PTY LIMITED (ACN 111 910 822), area of about 469.32 hectares, to mine for coal, dated 8 July 2008. (Singleton Mining Division).

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

NOTICE is given that the following applications have been granted:

EXPLORATION LICENCE APPLICATIONS

(07-101)

No. 2999, now Exploration Licence No. 7142, PLASMINEX PTY LTD (ACN 119 846 927), County of Brisbane, Map Sheet (9034), area of 6 units, for Group 1, Group 2 and Group 5, dated 21 May 2008, for a term until 21 May 2010.

(07-377)

No. 3274, now Exploration Licence No. 7161, BEMAX RESOURCES LIMITED (ACN 009 247 858), Counties of Manara, Perry and Wentworth, Map Sheet (7430, 7431, 7531, 7532, 7631, 7632), area of 651 units, for Group 10, dated 23 June 2008, for a term until 23 June 2010.

(T07-0488)

No. 3348, now Exploration Licence No. 7152, ILUKA RESOURCES LIMITED (ACN 008 675 018), Counties of Livingstone, Perry and Windeyer, Map Sheet (7331, 7332, 7431, 7432, 7531, 7532), area of 1374 units, for Group 10, dated 18 June 2008, for a term until 18 June 2010.

(T07-0489)

No. 3349, now Exploration Licence No. 7153, ILUKA RESOURCES LIMITED (ACN 008 675 018), Counties of Kilfera and Manara, Map Sheet (7630, 7631, 7632), area of 701 units, for Group 10, dated 18 June 2008, for a term until 18 June 2010.

(T07-0498)

No. 3358, now Exploration Licence No. 7169, MINOTAUR OPERATIONS PTY LTD (ACN 108 925 284), Counties of Barrona, Cowper, Gunderbooka, Landsborough and Yanda, Map Sheet (7936, 7937, 8037), area of 367 units, for Group 1, dated 30 June 2008, for a term until 30 June 2010.

(T07-0518)

No. 3380, now Exploration Licence No. 7151, TARONGA MINES LIMITED (ACN 126 854 288), Counties of Gough and Hardinge, Map Sheet (9138), area of 22 units, for Group 1, dated 10 June 2008, for a term until 10 June 2010.

(T07-0521)

No. 3383, now Exploration Licence No. 7164, NSW MINERALS PTY LTD (ACN 129 874 933), County of Irrara, Map Sheet (7839, 7938, 7939), area of 100 units, for Group 1, dated 26 June 2008, for a term until 26 June 2010.

(T07-0525)

No. 3387, now Exploration Licence No. 7154, AUSTRALIAN ASIAN PACIFIC MINES PTY LTD (ACN 128 772 887), Counties of Ewenmar and Narromine, Map Sheet (8533), area of 78 units, for Group 1, dated 23 June 2008, for a term until 23 June 2010.

(T07-0527)

No. 3389, now Exploration Licence No. 7155, AUSTRALIAN ASIAN PACIFIC MINES PTY LTD (ACN 128 772 887), Counties of Bligh and Phillip, Map Sheet (8733, 8833), area of 73 units, for Group 1, dated 23 June 2008, for a term until 23 June 2010.

(T07-0528)

No. 3390, now Exploration Licence No. 7158, AUSTRALIAN ASIAN PACIFIC MINES PTY LTD (ACN 128 772 887), Counties of Clyde and Cowper, Map Sheet (8236, 8237), area of 90 units, for Group 1, dated 23 June 2008, for a term until 23 June 2010.

(T07-0529)

No. 3391, now Exploration Licence No. 7159, AUSTRALIAN ASIAN PACIFIC MINES PTY LTD (ACN 128 772 887), County of Gordon, Map Sheet (8632, 8633), area of 55 units, for Group 1, dated 23 June 2008, for a term until 23 June 2010.

(T07-0530)

No. 3392, now Exploration Licence No. 7156, AUSTRALIAN ASIAN PACIFIC MINES PTY LTD (ACN 128 772 887), Counties of Bligh and Lincoln, Map Sheet (8733, 8833), area of 92 units, for Group 1, dated 23 June 2008, for a term until 23 June 2010.

(T07-0532)

No. 3394, now Exploration Licence No. 7157, AUSTRALIAN ASIAN PACIFIC MINES PTY LTD (ACN 128 772 887), Counties of Cowper and Yanda, Map Sheet (7936, 7937, 8036, 8037), area of 235 units, for Group 1, dated 23 June 2008, for a term until 23 June 2010.

(T07-0535)

No. 3397, now Exploration Licence No. 7165, HORIZON PACIFIC MINES PTY LTD (ACN 128 772 903), County of Yanda, Map Sheet (7936, 8036), area of 136 units, for Group 1, dated 27 June 2008, for a term until 27 June 2010.

(T07-0536)

No. 3398, now Exploration Licence No. 7166, HORIZON PACIFIC MINES PTY LTD (ACN 128 772 903), County of Bland, Map Sheet (8329, 8330), area of 7 units, for Group 1, dated 27 June 2008, for a term until 27 June 2010.

(T07-0537)

No. 3399, now Exploration Licence No. 7167, HORIZON PACIFIC MINES PTY LTD (ACN 128 772 903), Counties of Clyde and Cowper, Map Sheet (8236, 8237), area of 94 units, for Group 1, dated 27 June 2008, for a term until 27 June 2010.

(T07-0544)

No. 3406, now Exploration Licence No. 7171, OROYA MINING LIMITED (ACN 009 146 794), Counties of Phillip, Roxburgh and Wellington, Map Sheet (8832), area of 23 units, for Group 1, dated 2 July 2008, for a term until 2 July 2010.

(T08-0022)

No. 3422, now Exploration Licence No. 7148, IRONBARK GOLD LIMITED (ACN 118 751 027), Counties of Darling and Murchison, Map Sheet (9036, 9037), area of 125 units, for Group 1, dated 30 May 2008, for a term until 30 May 2010.

(T08-0026)

No. 3426, now Exploration Licence No. 7160, AUSTRALIAN ASIAN PACIFIC MINES PTY LTD (ACN 128 772 887), County of Cowper, Map Sheet (8037, 8137), area of 34 units, for Group 1, dated 23 June 2008, for a term until 23 June 2010.

(T08-0032)

No. 3432, now Exploration Licence No. 7148, IRONBARK GOLD LIMITED (ACN 118 751 027), County of Darling, Map Sheet (9036, 9037), area of 125 units, for Group 1, dated 30 May 2008, for a term until 30 May 2010.

(T08-0036)

No. 3436, now Exploration Licence No. 7151, TARONGA MINES LIMITED (ACN 126 854 288), County of Hardinge, Map Sheet (9138), area of 22 units, for Group 1, dated 10 June 2008, for a term until 10 June 2010.

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

NOTICE is given that the following application has been refused:

EXPLORATION LICENCE APPLICATION

(T07-0542)

No. 3404, JOHN GIANNARELLI, County of Forbes, Map Sheet (8530). Refusal took effect on 8 July 2008.

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

NOTICE is given that the following application has been withdrawn:

EXPLORATION LICENCE APPLICATION

(T08-0077)

No. 3479, REEDY LAGOON CORPORATION LIMITED (ACN 006 639 514), County of Hume, Map Sheet (8125, 8126). Withdrawal took effect on 26 June 2008.

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

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

(08-5317)

Authorisation No. 432, ENDEAVOUR COAL PTY LTD (ACN 099 830 476), area of 113.5 square kilometres. Application for renewal received 9 July 2008.

(T91-0066)

Exploration Licence No. 4022, ALKANE RESOURCES LTD (ACN 000 689 216), area of 23 units. Application for renewal received 7 July 2008.

(T94-0244)

Exploration Licence No. 4848, ROBERT PATRICK HEWETT, area of 1 units. Application for renewal received 8 July 2008.

(T03-0969)

Exploration Licence No. 6281, CONARCO MINERALS PTY LTD (ACN 102 750 890), area of 16 units. Application for renewal received 8 July 2008.

(05-199)

Exploration Licence No. 6460, AUSTRALIAN DOLOMITE COMPANY PTY LIMITED (ACN 000 810 551), area of 2 units. Application for renewal received 1 July 2008.

(05-296)

Exploration Licence No. 6608, BOUNTY RESOURCES PTY LIMITED (ACN 108 458 420), area of 34 units. Application for renewal received 2 July 2008.

(T86-0334)

Exploration (Prospecting) Licence No. 1094, ROBERT PATRICK HEWETT, area of 2 units. Application for renewal received 8 July 2008.

(C97-0744)

Consolidated Coal Lease No. 715 (Act 1973), XSTRATA MT OWEN PTY LIMITED (ACN 003 827 361), area of 82 hectares. Application for renewal received 3 July 2008.

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

**CANCELLATION OF AUTHORITIES AT REQUEST
OF HOLDERS**

NOTICE is given that the following authorities have been cancelled:

(06-4203)

Exploration Licence No. 6741, RIMFIRE AUSTRALIA PTY LTD (ACN 121 382 554), County of Harden, Map Sheet (8528), area of 24 units. Cancellation took effect on 24 April 2008.

(06-4204)

Exploration Licence No. 6742, RIMFIRE AUSTRALIA PTY LTD (ACN 121 382 554), County of King, Map Sheet (8629), area of 25 units. Cancellation took effect on 24 April 2008.

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

TRANSFERS

(07-349)

Exploration Licence No. 6971, formerly held by METALLURGICAL REFINING & DEVELOPMENT PTY LTD (ACN 009 756 414) AND JAMES MACAULAY has been transferred to NIMROD RESOURCES LIMITED (ACN 130 842 063). The transfer was registered on 30 June 2008.

(07-350)

Exploration Licence No. 7013, formerly held by METALLURGICAL REFINING & DEVELOPMENT PTY LTD (ACN 009 756 414) AND JAMES MACAULAY has been transferred to NIMROD RESOURCES LIMITED (ACN 130 842 063). The transfer was registered on 30 June 2008.

(07-350)

Exploration Licence No. 7089, formerly held by METALLURGICAL REFINING & DEVELOPMENT PTY LTD (ACN 009 756 414) AND JAMES MACAULAY has been transferred to NIMROD RESOURCES LIMITED (ACN 130 842 063). The transfer was registered on 30 June 2008.

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

EXPIRY

Mining Lease No. 465 (Act 1973), AUSTRALIAN DOLOMITE COMPANY PTY LIMITED (ACN 000 810 551), Parish of Ponsonby, County of Bathurst. This title expired on 5 July 2008.

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

Roads and Traffic Authority

ROADS ACT 1993

Order -Sections 46, 49, 54 and 67

Armidale Dumaresq Council area

Dedication of Land as Public Road and Declaration as a
Controlled Access Road of part of the New England
Highway at Armidale

I, the Minister for Roads, pursuant to Sections 46, 49, 54 and 67 of the Roads Act, 1993, by this order -

1. dedicate as public road the land described in Schedules 1 and 2 under;
2. declare to be a main road the said public road described in Schedule 2 and the public road described in Schedule 3 under;
3. declare to be a controlled access road the said main road described in Schedules 2 and 3;
4. declare that access to the said controlled access road is restricted; and
5. specify in Schedule 4 under, the points along the controlled access road at which access may be gained to or from other public roads.

**HON ERIC ROOZENDAAL MLC
MINISTER FOR ROADS**

SCHEDULE 1

ALL those pieces or parcels of land situated in the Armidale Dumaresq Council area, Parishes of Armidale and Butler and County of Sandon shown as:

Lot 4 Deposited Plan 1096751;

Lots 22, 23 and 24 Deposited Plan 252851;

Lot 6 Deposited Plan 252499;

Lots 12, 13 and 14 Deposited Plan 260738;

Lot 1 Deposited Plan 562563;

Lot 20 Deposited Plan 260769;

Lots 25 to 28 inclusive, 30, 31 and 32 Deposited Plan 250373;

Lots 26 to 31 inclusive Deposited Plan 255035; and

Lots 12 and 13 Deposited Plan 806537.

The above Lots are all shown in RTA Plans 0009 009 AC 4004_1, _2 and _3.

SCHEDULE 2

ALL those pieces or parcels of land situated in the Armidale Dumaresq Council area, Parishes of Armidale and Butler and County of Sandon shown as:

Lots 25 to 34 inclusive Deposited Plan 252851;

Lots 13 and 14 Deposited Plan 604041;

Lots 5, 6 and 7 Deposited Plan 870261;

Lots 7, 8 and 9 Deposited Plan 252499;

Lots 14 to 18 inclusive Deposited Plan 258677;

Lots 2 and 5 Deposited Plan 237776;

Lot 101 Deposited Plan 1124751;

Lots 10 and 11 Deposited Plan 260738;

Lots 16 to 19 inclusive Deposited Plan 260769;

Lot 102 Deposited Plan 739749;

Lots 3 and 4 Deposited Plan 510392;

Lot 79 Deposited Plan 245151;

Lots 1003 and 1018 Deposited Plan 755808;

Lots 33, 34 and 35 Deposited Plan 250373;

Lots 16, 18 to 23 inclusive and 25 Deposited Plan 255035;

Lot 2 Deposited Plan 738275; and

Lot 101 Deposited Plan 739751.

The above Lots are all shown in RTA Plans 0009 009 AC 4004_1, _2 and _3.

SCHEDULE 3

ALL those pieces or parcels of public road situated in the Armidale Dumaresq Council area, Parishes of Armidale and Butler and County of Sandon shown as:

Lot 1 Deposited Plan 1096751;

Lots 52 and 53 Deposited Plan 856473;

Lots 36 to 38 inclusive Deposited Plan 252851;

Lot 8 Deposited Plan 870261;
 Lot 10 Deposited Plan 252499;
 Lots 19 and 20 Deposited Plan 258677;
 Lot 15 Deposited Plan 260738;
 Lots 28 and 29 Deposited Plan 260769;
 Lot 36 Deposited Plan 250373; and
 Lots 34 to 37 inclusive Deposited Plan 255035.

The above Lots are all shown in RTA Plans 0009
 009 AC 4004_1, _2 and _3.

—————
 SCHEDULE 4

Between the points A and B;
 between the points B and C;
 between the points D and E; and
 between the points F and G, all shown on RTA Plans 0009
 009 AC 4004_1, _2 and _3.
 (RTA Papers 9/9.145 Pt 2)

ROADS ACT 1993

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

Notice of Compulsory Acquisition of Land at
 Hinchinbrook in the Liverpool 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 interest in 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

The lessee's interest, vide dealing AC78300, of A B C
 Developmental Learning Centres Pty Ltd in Lot 31
 Deposited Plan 1123873, being part of the land in
 Certificate of Title 7/858426.

(RTA Papers: FPP 8M520)

ROADS ACT 1993

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

Notice of Compulsory Acquisition of Land at
 Milsons Point in the North Sydney 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 those pieces or parcels of land situated in the North
 Sydney Council area, Parish of Willoughby and County of
 Cumberland, shown as Lots 22 to 25 inclusive Deposited
 Plan 1094725.

The land is said to be in the possession of the Roads and
 Traffic Authority of New South Wales.

(RTA Papers: FPP F1/329.1281)

ROADS ACT 1993

Notice of Dedication of Land as Public Road at
 Tuggerah in the Wyong 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

—————
 SCHEDULE

ALL those pieces or parcels of land situated in the Wyong
 Shire Council area, Parish of Tuggerah and County of
 Northumberland, shown as Lots 42 and 43 Deposited Plan
 1118301.

(RTA Papers: 10/505.1509)

ROADS ACT 1993

Notice of Dedication of Land as Public Road at Narraweena and Dee Why
in the Warringah 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

SCHEDULE

ALL those pieces or parcels of land situated in the Warringah Council area, Parish of Manly Cove and County of Cumberland, shown as:

		Description	Title Reference
1 perch	shown on DP 448048	being part of Lot 22 DP 12336	C.T. Vol. 4628 Fol. 43
		Lot 9 DP 109733	C.T. Vol. 3609 Fol. 4
		Lot 2 DP 777386	C.T. Vol. 4200 Fol. 23; and C.T. Vol. 5571 Fol. 117
		Lot 19 DP 12336	C.T. Vol. 3983 Fol. 57
		Lot 10 DP 109733	C.T. Vol. 3609 Fol. 4
Part of the area of 3 roods 36 ⁴ / ₁₀ perches or thereabouts within Portion 784 in the said Parish and described in notification of appropriation published in Government Gazette No 105 dated 8 June 1934 Folios. 2119 and 2120; being the part that is delineated on DP 109733			Notification of appropriation in Government Gazette dated 8 June 1934 Folios. 2119 and 2120
		Lot 1 DP 330974	Folio Identifier 1 / 330974
		Lot 1 DP 186128	Folio Identifier 1 / 186128
		Lot 1 DP 562163	C.T. Vol. 5786 Fol. 85
		Lot 1 DP 330249	C.T. Vol. 4657 Fol. 53
		Lot 11 DP 109733	C.T. Vol. 1803 Fol. 39
That part of Lot 12 DP 109733 exclusive of the land within the said Lot which vested as public road on 4 August 1954 pursuant to the realignment provisions of the Main Roads Act 1924			C.T. Vol. 4924 Fol. 42
		Lot 13 DP 109733	C.T. Vol. 2751 Fol. 250
		Lot 14 DP 109733	C.T. Vol. 3933 Fol. 152
		Lot 15 DP 109733	C.T. Vol. 3061 Fol. 159
		Lot 16 DP 109733	C.T. Vol. 3061 Fol. 159
That part of Lot 6 DP 6808 exclusive of Lot 1 DP 186514 (which vested as public road on 4 August 1954 pursuant to the realignment provisions of the Main Roads Act 1924)			C.T. Vol. 3178 Fol. 135
		Lot 17 DP 109733	C.T. Vol. 3859 Fol. 45
		Lot 18 DP 109733	C.T. Vol. 3933 Fol. 162
		Lot 5 DP 6808	Folio Identifier 5/6808
6 ³ / ₄ perches	shown on DP 443942	being part of Lot 4 DP 6808	C.T. Vol. 6535 Fols. 1 and 2
		Lot 19 DP 109733	C.T. Vol. 3565 Fol. 149
		Lot 20 DP 109733	C.T. Vol. 3127 Fol. 43
		Lot 21 DP 109733	C.T. Vol. 4630 Fol. 107
		Lot 22 DP 109733	C.T. Vol. 2554 Fol. 171

(RTA Papers: FPP 8M129; RO 479.11056)

ROADS ACT 1993

Order – Section 257

ERRATUM

THE Roads and Traffic Authority of New South Wales, by this order under Section 257 of the Roads Act 1993, corrects errors in the notice published in Government Gazette No 55 dated 23 May 2008 on page 3993 and 3994 under the heading “Notice of Dedication of Land as Public Road at Avalon, Newport, Palm Beach, Ingleside, Mona Vale and Bilgola in the Pittwater Council area” by:

deleting from the schedule of the said notice the following land descriptions;

<u>Description</u>		<u>Title Particulars</u>
15 ¼ perches shown on DP 109482 being part of Lots 1 & 2	DP 6248	C.T. Volume 5585 Folio 43
Lot 1	DP 206010	C.T. Volume 3660 Folio 71

and inserting in lieu thereof the land descriptions below;

<u>Description</u>		<u>Title Particulars</u>
15 ¼ perches shown on DP 109482 being part of Lots 1 & 2	DP 6248	C.T. Volume 5855 Folio 43
Lot 1	DP 206010	C.T. Volume 3600 Folio 71

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

(RTA Papers: FPP 8M118; RO 366.12068)

Department of Water and Energy

WATER ACT 1912

APPLICATIONS for licences under section 10 of Part 2 of the Water Act 1912, have been received from:

North Coast

David Chum Yong HO for a pump on Orara River, Lots 132 and 13,3 DP 789434, Parish Qwyarigo, County Clarence, for irrigation of 6 hectares (9 megalitres) (replacement licence application – no increase in authorised area/allocation) (Reference: GRA6322120).

Richard Philip PORTER and Tina Louise PORTER for a pump on Orara River, Lot 130, DP 789434, Parish Qwyarigo, County Clarence, for irrigation of 3 hectares (16.5 megalitres) (replacement licence application – no increase in authorised area/allocation) (Reference: GRA6322091).

Damien JAKUES and Sandra Joan BOREHAM for a pump on Orara River, Lot 131, DP 789434, Parish Qwyarigo, County Clarence, for irrigation of 3 hectares (4.5 megalitres) (replacement licence application – no increase in authorised area/allocation) (Reference: GRA6322118).

Hunter

William John WADE and Dianne Louise WADE for a pump on Wallis Creek on an easement within Lot 24, DP 1085485, Parish Stockrington, County Northumberland, for water supply for stock purposes (exempt from current embargo) (Reference: 20SL061753).

WISSONSETT PTY LIMITED for a pump on the Isis River on Lot 101, DP 1126099, Parish Waverly, County Brisbane, for irrigation of 6.0 hectares (forage crops) (split of existing entitlement under 20SL060816) (Reference: 20SL061756).

WISSONSETT PTY LIMITED for a pump on the Isis River on Lot 102, DP 1126099, Parish of Waverly, County of Brisbane, for irrigation of 12.0 hectares (lucerne forage) (split of existing entitlement under 20SL060816) (Reference: 20SL061755).

APPLICATIONS for licences under Part 5 of the Water Act 1912, have been received as follows:

Gwydir Valley

TALMOI – MIDKIN TRUST, No. 2 Bore for a proposed artesian bore, on Lot 18, DP 45272, Parish Noona, County Benarba, for water supply for stock and domestic purposes to the occupiers of the Talmoi – Midkin Trust Bore No. 2 Water Trust (Reference: 90BL254765).

TALMOI – MIDKIN TRUST, No. 1 Bore for a proposed artesian bore, on Lot 2, DP 602705, Parish of Baroona, County of Benarba, for water supply for stock and domestic purposes to the occupiers of the Talmoi – Midkin Water Trust, Bore No. 1. (Reference: 90BL254766).

Namoi Valley

YARRALDOOL JOINT WATER SCHEME, for a proposed artesian bore on Lot 36, DP 752273, Parish Yarraldool, County Denham, for water supply for stock and domestic purposes to the occupiers of the Yarraldool Joint Water Scheme (Reference: 90BL254781).

Written objections to the applications specifying the grounds thereof must be lodged with the Department of Water and Energy, PO Box 796, Murwillumbah NSW 2484, within 28 days of the date of publication.

DENNIS MILLING,
Manager,
Licensing

Other Notices

ABORIGINAL LAND RIGHTS ACT 1983

Notification of Change of Name of a Local Aboriginal Land Council Area.

PURSUANT to the power vested in me by Clause 20 of the Aboriginal Land Rights Regulation 2002, I hereby alter the name of the Ngunnawal Local Aboriginal Land Council.

Notice is given that the Council is hereby renamed Ngambri Local Aboriginal Land Council.

The Hon. PAUL LYNCH, M.P.,
Minister for Aboriginal Affairs

APPRENTICESHIP AND TRAINEESHIP ACT 2001

NOTICE is given that the Commissioner for Vocational Training has made a Vocational Training Order for the recognised traineeship vocation of Clothing Production, under section 6 of the Apprenticeship and Traineeship Act 2001.

The Order specifies a number of matters relating to the required training for this vocation, including the term/s of training, probationary period/s, competency outcome/s and course/s of study to be undertaken.

The Order will take effect from the date of publication in the *New South Wales Government Gazette*.

A copy of the Order may be inspected at any State Training Services Centre of the Department of Education and Training or on the Internet at <http://apprenticeship.det.nsw.edu.au>.

ASSOCIATIONS INCORPORATION ACT 1984

Cancellation of Incorporation pursuant to Section 57A

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to section 57A of the Associations Incorporation Act 1984.

Cancellation is effective as at the date of gazettal.

Bagawa Birra Murri Women's Council Incorporated
INC9888179

Dated: 8 July 2008.

CHRISTINE GOWLAND,
A/General Manager,
Registry of Co-operatives and Associations,
Office of Fair Trading,
Department of Commerce

ASSOCIATIONS INCORPORATION ACT 1984

Cancellation of Incorporation pursuant to Section 54

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to section 54 of the Associations Incorporation Act 1984.

Cancellation is effective as at the date of gazettal.

Avaiki Nui Polynesian Cultural Group Incorporated
INC9880661

Australian American Foundation Inc Y0551538

Australian Transplant Olympic Association Inc
Y0622101

Australian Lebanese Graduates Society Inc Y0548619

Australasian Society of Acupuncturists Inc Y0582033

Australian Lightweight Vertical Rescue Instructors Inc
Y0646620

Australian Croatian Project Inc Y0427243

Australian Professional Billiards & Snooker Association
Inc Y0320710

Armidale Learning Enrichment Association (Alert) Inc
Y0507442

Albury Street Rodders Incorporated Y0467129

The Arabic Australian Assistance Group Inc Y0266338

Australian Islamic Research and Daawah Centre Inc
Y0042123

Arabian Breeders & Riders Association Central West
Inc Y0012723

Australian Institute of Vocational Rehabilitation Inc
Y0017610

Albury Music Theatre Inc Y0016123

Australian Scuba Council Inc Y0046013

Australian Courier Industry Association Inc Y0356729

Australian Association of Community Physicians Inc
Y0062115

Australian Business Aircraft Association Inc Y0126212

Australian Yugoslav Cultural & Social Club Vojudina
Inc Y0159240

A T C V (NSW) Inc Y0064501

Australian Tae Kwon Do Federation Incorporated
Y0255002

Armenian Relief Society of Australia Regional Executive
Incorporated Y0262742

Australian Egyptian Coordination Council Inc
Y0143213

Apex Club of Camden Inc Y0221320

Australians United for Survival Individual Freedom Inc
Y0268920

Australian Irish Society Inc Y0255835

Ambarvale/Rosemeadow Neighbourhood Centre
Association Inc Y0194631

Brewarrina Aero Club Inc Y0402707

Bendemeer Gymkhana and Rodeo Association Inc
Y0365630

Bankstown Soccer Football Club Inc Y0542735

Big Strut Inc Y0518043

Bathurst's Motor Racing Museum Association Inc
Y0496806

Banksia Rose School Inc Y0432303

Bunnaloo Football/Netball Club Incorporated
Y0229835

Boorowa Rugby Union Club Inc Y0209402

Bowraville Tennis Club Inc Y0330020

- Bilambil Community Hall Association Inc Y0591326
 Bargo Colonial Fair Committee Inc Y0596017
 Balgownie Junior Rugby League Club Inc Y0469123
 Barooga Early Childhood Association Inc Y1312016
 Brazilian Samba Social Centre Inc Y0041224
 Balranald Roo Chasers Inc Y0091743
 Bankstown Child Protection and Resource Centre Inc Y0042809
 Bkerkasha Charitable Association Inc Y0105125
 Brushgrove Cricket Club Inc Y0374629
 Batemans Bay Junior Cricket Inc Y0164202
 Brocklesby Football Club Inc Y0061902
 Christian Cyclists (NSW) Inc Y0253302
 Cooma Monaro Harness Club Inc Y0171305
 Coffs Harbour Combined Motor Sports Inc Y0602109
 Cabramatta Young Peoples Services Association Inc Y0358625
 Coonabarabran Australian Football Club Inc Y0506004
 Cape Byron Youth Activities & Sporting Centre Inc Y0430701
 Citywide Christian Church Incorporated Y0421800
 Christian Performing Arts Company Inc Y0397514
 Coffs Harbour City Centre Association Inc Y0517830
 Chester Hill Junior Rugby League Football Club Inc Y0496904
 Copmanhurst Charity Sports Club Inc Y0111623
 Catalyst Research Inc Y0003332
 Clarence Valley Mobile Life Education Unit Inc Y0010043
 Coleambally Touch Association Inc Y0224605
 Cyprus Chamber of Commerce Inc Y0082646
 City of Newcastle Eisteddfod Inc Y0112816
 The Co-ordination Committee of North Epirus Inc Y0029943
 Cowra's Festival of International Understanding Inc Y0028309
 Cudgen Headland Surf Life Saving Club Inc Y0640246
 Coonabarabran Basketball Association Inc Y0617531
 Denman Hockey Club Inc Y0350306
 Denman Race Club Inc Y0379810
 Dapto Roller Skating Club Incorporated Y0325548
 Dapto Minor Rugby League Football Club Inc Y0283829
 Dorrigo & Guy Fawkes Race Club Inc Y0061118
 Engadine Netball Club Inc Y0628132
 Ethnic Council of Australia for a New Democratic Constitution Inc Y0018215
 Forster-Tuncurry Radio Base Club Inc Y0446238
 Fairmont Social Club Inc Y0613004
 Fairfield/Liverpool Association for Children with Special Needs Inc Y0021232
 Finley Softball Association Inc Y0609823
 Festival of Wagga Wagga Incorporated Y0252844
 Far North Coast School Boys Football Carnival Committee Incorporated Y0663915
 Far South Coast Showjumping Club Inc Y0397808
 Federation Against Software Theft (FAST) Inc Y0540447
 Gravesend Tennis Club Inc Y0407300
 Great Lakes Indoor Hockey Association Inc Y0422846
 Gunnedah BMX Club Inc Y0598844
 Goulburn Australian Football Club Inc Y0493717
 Gunnedah Rugby Football Club Inc Y0263347
 The Geurie District Carnival Committee Incorporated Y0042025
 Goulburn Lilac City Festival Inc Y0151803
 Good Theatre Inc Y0031816
 Gloucester Athletics Centre Inc Y0600311
 Glenbrook Pre-School Kindergarten Inc Y0179820
 Guru Nanak Satsang of Australia Inc Y0221516
 Guyra Little Athletics Association Inc Y0177434
 Glen Innes Community Promotions Committee Incorporated Y0211128
 Holmesville Tennis Club Inc Y0478808
 Hawkesbury Community Aid and Information Centre Inc Y0432009
 Handi-Care Inc Y0167928
 Hunter Poultry Producers Inc Y0408444
 Hills Gym Skills Club Incorporated Y0037847
 Hospital Health Promotion Association of Australia Inc Y0042515
 Hillsdale Australian Turkish Cultural Activity Association Inc Y0194337
 Hunter Region Home & Community Care Forum Inc Y0210033
 HP 3000 Users Group (NSW Region) Inc Y0231610
 Idsia Inc Y0469515
 Inner West Organisation for Disabilities (In Words) Incorporated Y0324306
 Institute of Movement Education Inc Y0197622
 Indian Cultural Society of Australia Inc Y0364829
 Junee Harness Racing Club Inc Y0016809
 Jama'At Al-Ansar Inc Y0568317
 Korean Buddhist Society of Australia Incorporated Y0016711
 Karangi Vintage Machinery Museum Inc Y0434640
 Kemblawarra Portuguese Folk Dancing Group 'Beira Mar' Inc Y0424301
 Kyogle Tennis Club Inc Y0376525
 Kyogle Fairymount Festival Committee Inc Y0109505
 Kyogle Art Club Inc Y0341601
 Lismore Australian Football Club Inc Y0496414
 The LHASA APSO Club Inc Y0592029
 Lightning Ridge Golf Club Inc Y0434738
 Lions Club of Leichhardt-Darling Harbour Inc Y0558125
 Leeton Zone Junior Australian Football League Incorporated Y0543928
 Lions Club of Barham Inc Y0649023
 Leeton Motor Cycle Club Inc Y0656616

- Lower Macleay Sports Club Inc Y0314114
Lansdowne Hall Management Committee Inc Y0249043
Lakes Country Music Association Inc Y0187430
Moruya Youth Accommodation Service Inc Y0440501
M.I.A. Citrus Promotions Inc Y0650438
Mosman Football Club Incorporated Y0569902
Manly Rugby Referees Association Inc Y0355144
Male Chauvinist Pigs Association of Australia Inc Y0490922
Morpeth Promotions Inc Y0621006
Murrumbidgee Life Education Centre Inc Y0059343
Margaret Walker Folk Dance Centre Inc Y0049102
Manly Waratah's Cricket Club Inc Y0037504
Microwave Information Council of Australia Inc Y0134802
Mudgee Bush Craft and Music Inc Y0184341
Manning Valley Kart Club Inc Y0041714
Macleay Valley Canoe Club Inc Y0163009
Murrumbateman Art and Crafts Association Inc Y0617237
Manning Valley Motor Cycle Club Inc Y0305507
Majos Junior Soccer Club Inc Y0098330
Macedonian Cultural Society K.U.D. Gerdan of Sydney Inc Y0280544
NSW Campaign for a Just Society Inc Y0449229
Ninjutsu Federation of Australia Inc Y0636820
Newcastle United Soccer Supporters Club Inc Y0053116
National Italian-Australian Women's Association (NSW Branch) Inc Y0285431
NSW Public Tenants Council Inc Y0422111
Newcastle Historical Bus Club Inc Y0508145
Newcastle-Hunter Inventors' Association Inc Y0516539
National Art School Student Association, East Sydney Incorporated Y0472336
Norml NSW Inc Y0386717
Northern Entertainers Club Inc Y0399900
New South Wales Stone Fruit Growers Council Inc Y0190006
Northern Amateur Fishing Club Inc Y0163940
Nana Glen Goldrush Sports Association Inc Y0369030
Newcastle and Lake Macquarie Skateboard Association Inc Y0270744
Nambucca Valley Rugby Union Club Inc Y0263739
National Union of Lebanese Australian Students and Graduates Inc Y0654916
Narrabri Sporting Car Club Inc Y0508047
North West Cricket Council Inc Y0613200
The Osteoporosis Foundation of Australia Inc Y0612546
Ozbeeb Inc Y0526633
Outreach Posters Inc Y0486418
Pinnacle Guinea Pig Race Club Inc Y0243306
Portland & District A H I & P Society Inc Y0601847
Port Hacking Garden Group Incorporated Y0510900
Parramatta Auburn Holroyd Tenants Advice and Referral Service Inc Y0139101
Photo Marketing Association Australia Inc Y0041322
Proudway (Newcastle) Incorporated Y0352447
Quirindi Polo Club Inc Y0182004
Quota Club of Gilgandra Inc Y0389120
Quirindi Rugby League Football Club Inc Y0372635
Rotary Club of Broken Hill Inc Y0554137
Richmond Before and After School Care Association Inc Y0509534
Saltwater Boardriders Inc Y0623147
Sydney Freeform Workshop Inc Y0452344
The Sydney Axemens Club Inc Y0454044
Sydney Turkish Development Centre (Sydney Turk Gelistirme Merkezi) Inc Y0357726
Shamrock Hotel Fishing Club Inc Y0379712
Sawtell Anglers Club Inc Y0379026
The Society for Estaurine and Marine Studies Inc Y0287621
Smithfield Hotspurs Football Club Inc Y0521844
Share Illawarra Inc Y0042221
SBP Northern Tablelands Inc Y0121227
Self Raising Theatre Inc Y0097529
Serhel Charitable Association Inc Y0041028
Scone Bushmans Campdraft & Rodeo Association Inc Y0189326
South Sydney New Zealand District Rugby Football Club Inc Y0127405
Silverton Community Association Inc Y0570729
Sutherland Shire Special Transport Inc Y0277527
Shellharbour Area Training Inc Y0262105
Trawler Owners Association of Eden Inc Y0448134
Taree United Rugby League Football Club Inc Y0454632
Tweed Byron Ballina Tourism Inc Y0479021
The Tweed Club Inc Y0463827
Tweed Heads and Coolangatta Professional Fishermans Association Inc Y0576221
Tenterfield Volleyball Association Inc Y0545824
Tooma Association Inc Y0023716
Tumbarumba District Softball Association Inc Y0009314
Temora Jaycees Inc Y0325940
Tango Gardelian Association (Fundacion Gardeliana Del Plata - Sydney Australia) Incorporated Y0659705
Tumbarumba Western Gateway Promotions Inc Y0625435
Tabulam & District Chamber of Commerce Incorporated Y0170504
Terrigal Blue Water Sailing Club Inc Y0151607
Tweed Coast Motor Cycle Sports Club Inc Y0105419
Upper Hunter Junior Hockey Association Inc Y0286820

- Uralla Show Society Inc Y0424644
 Voice of Copts "Saut El-Akpat" Inc Y0071702
 Veterans Hall Moorings Association Incorporated Y0483623
 Volleyball New South Wales Inc Y0597700
 Volunteer Home Maintenance Association Inc Y0590329
 Walcha Aero Club Inc Y0289615
 Wellington Triathlon Committee Incorporated Y0632930
 Wollondilly Occasional Child Care Centre Inc Y0549518
 W.T.V.A. (NSW) - Wider Television Access Incorporated Y0493619
 Western Suburbs Junior Australian Football Club (Croydon Park) Incorporated Y0409833
 Warren Flying Club Inc Y0006715
 West Wyalong Festival Committee Inc Y0317938
 Wolseley Car Club (NSW) Inc Y0127111
 Wellington Polocrosse Club Inc Y0061510
 Windrush & Prindle Catamaran Association of NSW Inc Y0189914
 Willow Tree Bushmen's Carnival Association Inc Y0130226
 Woodenbong Amateur Basketball Association Incorporated Y0077831
 Waterfall Community Cottage Inc Y0031228
 Warwick Farm Sports Club Inc Y0514545
 Woodstock Park Speedway Incorporated Y0259921
 Warren Gun Club Inc Y0151215
 Woy Woy Wolves Baseball Club Inc Y0284336
 Yugoslav-Australian Cultural & Sports Centre "Wollongong" NSW Inc Y0639321
 Young Men's Christian Association of Lithgow Inc Y0262546
 Yowaka Egan Peaks Association Inc Y0490040
 Australian Federation of Cypriot Organisations in Australia Inc Y0569510
 Australian Federation of Cyprus Hellene Clubs Inc Y0569608
 Border District Cancer Support Inc Y0527434
 Science of Mind Centre - First Church of Religious Science in Australia Inc Y0315405
 Russell Vale Community Arts Centre Inc Y0308008
 Top Pub Tourers Inc Y0424203
 Wollomi Drug and Alcohol Rehabilitation Program Inc Y0316745
 Alpha House Artists Association Inc Y0226207
 Griffith and District Aqualung Rescue Squad Incorporated Y0430407
 The Friendly Society of the Australian Mid-Eastern Club Incorporated Y0556621
 Port Stephens Womens Crisis and Support Group Incorporated Y0539424
 SBP Merrylands Inc Y0088334
 Youth Affairs Council of NSW Inc Y0604348
 Brick and Segmental Paving Association of NSW Inc Y0222905
 Bankstown City District Touch Association Inc Y0615733
 Carrington Community Development Group Inc Y0154010
 Friends of Ryde Home Care Services Inc Y0430505
 Sydney Full Gospel Church Properties Inc Y0630838
 The Songwriting Society of Australia Incorporated Y0678406
 Northern Youth Ballet D'Action Incorporated Y0675513
 Walgett All Breeds Horse Assoc Inc Y0600409
 Hardware Federation of Australia Inc Y0630936
 Lions Club Of Wilcannia Inc Y0575126
 The Old Colonial Arabian Horse Club of Australia Inc Y0655913
 Belmont Softball Club Inc Y0785602
 Evangelical Church in Australia (Sung Kyul Kyo Hwe Ho-Joo Chong Hwe) Inc Y0810640
 Coonamble Polo Crosse Club Incorporated INC9885601
 Sant Nirankari Mandal Sydney Incorporated Y1740627
 Pipa Peninsula Indigenous Performing Arts Turrongankal Mulbari Inc INC9884621
 Lakeside Quilters Incorporated INC9876346
 The Council of Imams & Dua'ats (NSW) Incorporated INC9885928
 Australian Chinese Youth Council Incorporated INC9885529
 The International Federation of Iranian Refugees (Sydney) Incorporated INC9886048
 Custom Modified Commodore Club Incorporated INC9885679
 Imam Hassan Forum Incorporated INC9886379
 Sydney Electric Car Club Incorporated INC9886203
 Indigenous Information Provision Australia Incorporated INC9885513
 Smiths Lake Village Association Incorporated INC9885839
 Songs of Praise Temple Incorporated INC9886171
 The Wesleyan Revival and Holy Spirit Church Incorporated INC9876151
 Foundation for the Wholistic Treatment of Substance Dependency Incorporated Y2016748
 Australian Halal Authority Incorporated INC9876255
 Gunning Radio Incorporated INC9877322
 Sydney Tigers Rugby Team Incorporated INC9876813
 The Wanaaring Telecentre Incorporated INC9876293
 Trundle Sports Council Incorporated INC9878403
 Commercial Hotel Blue Water Fishing Club Incorporated INC9878389
 Australian Coffee Board of the Australian Coffee Industry Association Incorporated INC9876141
 Brain and Sensory Integrated Learning Illawarra and South Coast (Basilisc) Incorporated INC9878111
 Zhixin Alumni Pacific Incorporated INC9877389

McGrath Breast Cancer Foundation Inc INC9875110
 One Extra Friends Inc Y0812928
 International Comanche Society - Australian Tribe
 Incorporated Y0825621
 Friends of Cook Island Aquatic Reserve Incorporated
 INC9876604
 Human Rights Council for Tamils in Sri Lanka Inc
 Y0044901
 Lions Club of Colyton St Clair Inc Y1073102
 Stroud District Meals on Wheels Inc Y0687405
 Voice of the Egyptian Immigrant "Saut El-Mohager El-
 Masry" Inc Y0130618
 World Chinese Business Advancement Association
 Australia Incorporated INC9883679
 Millionaire Shopper 2002 Incorporated INC9878033
 Bald Blair Tennis Club Inc Y0492916
 Antics Childrens Theatre Inc INC9876583
 Young Australian Football Club Inc Y0080946
 Innovative Resource Management Incorporated
 INC9876153
 Sisters in Sync Incorporated INC9884171
 City Dragons Incorporated INC9884225
 Black Swamp Sports Committee Inc Y0460444
 Dated: 8 July 2008.

CHRISTINE GOWLAND,
 A/General Manager,
 Registry of Co-operatives and Associations,
 Office of Fair Trading,
 Department of Commerce

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.

Auburn Asia Elderly Friendship Group Incorporated
 Y1672712
 Australasian Association for the Betterment of Education,
 Culture and Technology Incorporated INC9878998
 Medical Directors of University Health Services
 Incorporated Y2111219
 Duns Creek and District Association Incorporated
 INC9875264
 Australian - Korean Soccer Association Incorporated
 INC9877046
 Aussie Soccability Incorporated INC9885997
 Illawarra Community Television (ICTV) Incorporated
 INC9883778
 SMHS Reunion Inc INC9887107

Dated: 8 July 2008.

CHRISTINE GOWLAND,
 A/General Manager,
 Registry of Co-operatives and Associations,
 Office of Fair Trading,
 Department of Commerce

FIRE BRIGADES ACT 1989

Order under Section 5 (2)

I, Professor MARIE BASHIR, AC, Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in *New South Wales Government Gazette* No. 154 of 26 September 2003 (Coolamon), No. 107 of 26 August 2005 (Cootamundra and Goulburn), No. 25 of 24 January 2003 (Sydney, Blacktown Shire), No. 55 of 5 May 2000 (Sydney, Hornsby and Ku-ring-gai Shires) and No. 20 of 21 December 1997 (Young) and reconstitute the Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 18th day of June 2008.

By Her Excellency's Command,

NATHAN REES, M.P.,
 Minister for Emergency Services

SCHEDULE

In this Schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the *New South Wales Government Gazette*.

Coolamon Fire District

Comprising the existing Fire District in Coolamon Shire Council, with additions and deletions as delineated on Map No. 262/06/1 kept in the office of the NSW Fire Brigades.

Cootamundra Fire District

Comprising the existing Fire District in Cootamundra Shire Council, with additions and deletions as delineated on Map No. 266/06/1 kept in the office of the NSW Fire Brigades.

Goulburn Fire District

Comprising the existing Fire District in Goulburn Mulwaree Council, with additions and deletions as delineated on Map No. 305/06/1 kept in the office of the NSW Fire Brigades.

Sydney Fire District

Comprising the existing Fire District in Blacktown City Council, with additions and deletions as delineated on Map No. 063/06/1 kept in the office of the NSW Fire Brigades.

Sydney Fire District

Comprising the existing Fire District in Hornsby Shire Council, with additions and deletions as delineated on Map No. 050/06/1 kept in the office of the NSW Fire Brigades.

Sydney Fire District

Comprising the existing Fire District in Ku-ring-gai Council, with additions and deletions as delineated on Map No. 037/06/1 kept in the office of the NSW Fire Brigades.

Young Fire District

Comprising the existing Fire District in Young Shire Council, with additions and deletions as delineated on Map No. 513/06/1 kept in the office of the NSW Fire Brigades.

MARITIME SERVICES ACT 1935

Section 38(4A)

Direction exempting certain persons from the requirements of Clause 49 of the Management of Waters and Waterside Lands Regulations – NSW relating to transfer of an Occupation Licence on the death of the Occupation Licence Holder

DIRECTION

I, Brett Moore, General Manager Recreational Boating of the Maritime Authority of NSW (Trading as NSW Maritime), do pursuant to Section 38(4A) of the Maritime Services Act 1935 HEREBY DIRECT that Clause 49 of the Management of Waters and Waterside Lands Regulations – NSW relating to the transfer of an Occupation Licence (also known as a “Mooring Licence”) DOES NOT APPLY to the persons described in SCHEDULE 1 for the period described therein provided that the persons comply with each Condition set out in SCHEDULE 2.

SCHEDULE 1*PERSONS TO WHOM THIS DIRECTION APPLIES*

This Direction applies to:

- 1 The surviving legal or defacto spouse of the Deceased who is a beneficiary of the Deceased’s estate in relation to the Vessel - for as long as he or she holds at least an equal majority interest in the ownership of the Vessel; and
- 2 Any person other than the Deceased’s legal or defacto spouse who is a Beneficiary of the Deceased’s estate in relation to the Vessel - for a period not exceeding 12 months from the date that the person takes legal ownership of the Vessel.

SCHEDULE 2*CONDITIONS OF THIS DIRECTION*

In order for this Direction to apply the Applicant for the Transfer of the Occupation Licence (“the Applicant”) must comply fully with the Conditions set out below:

1. The Application for transfer of the Occupation Licence must be made before or at the same time as the Application for Renewal of the Occupation Licence but no later than twelve (12) months from the date when ownership of the Vessel passes to either the legal or defacto spouse of the Deceased or the relevant Beneficiary of the Deceased’s estate, other than in exceptional circumstances accepted by NSW Maritime.
- 2 The Applicant must provide evidence of his or her entitlement to transfer the Occupation Licence as required by, and to the reasonable satisfaction of, NSW Maritime.
- 3 The Applicant must also be the Registered Controller of the Vessel or apply at the same time for transfer of the Registration of the Vessel to the Applicant as Registered Controller.
- 4 The Occupation Licence must be surrendered at the expiry of twelve (12) months from the date when ownership of the Vessel passed to the Beneficiary, if the Applicant is a Beneficiary other than a surviving legal or defacto spouse of the Deceased.
- 5 This Direction may not be used more than once in respect of the same Occupation Licence in relation to the same Deceased.

GENERAL

I have made this Direction on the basis that I am satisfied that compliance with Clause 49 of the Management of Waters and Waterside Lands Regulations – NSW, which regulates the transfer of Occupation Licences, is impracticable or unnecessary after the death of the holder of an Occupation Licence (“the Deceased”) if it prevents the transfer of the Occupation Licence to a surviving legal or defacto spouse of the Deceased, or other Beneficiary of the Deceased’s estate, when the vessel associated with the Occupation Licence (“the associated Vessel”) is transferred to such person as part of the distribution of the Deceased’s Estate.

The object of this Direction is to enable:

- (a) a surviving legal or defacto spouse, as Beneficiary of the Deceased, to continue to use the mooring site authorised by the Occupation Licence indefinitely for the period they own the associated Vessel; and
- (b) for any other type of Beneficiary of the Deceased to be able to use the mooring site authorised by the Occupation Licence for a period of 12 months from the date they take legal ownership of the Vessel to facilitate the re-location of the associated Vessel, provided that they continue to own the associated Vessel during that period.

REVOCATION OF THIS DIRECTION

This Direction may be revoked at any time by the Chief Executive or Deputy Chief Executive of NSW Maritime or the General Manager, Recreational Boating, NSW Maritime or their Delegates.

DATE OF EFFECT

This Direction is effective on and from the date of publication in the NSW Government Gazette.

Dated this 1st day of July 2008.

BRETT MOORE,
General Manager
Recreational Boating

NATIONAL PARKS AND WILDLIFE ACT, 1974

Notice of Reservation of a National Park

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, reserve the land described in the Schedule below, as part of Wollemi National Park, under the provisions of Section 30A(1) of the National Parks and Wildlife Act, 1974.

Signed and sealed at Sydney this 4th day of June, 2008.

MARIE BASHIR,
Governor,

By Her Excellency’s Command,

VERITY FIRTH, M.P.,
Minister for Climate Change
and the Environment

GOD SAVE THE QUEEN

SCHEDULE

*Land District – Rylstone;
LGA – Mid-Western Regional*

County Phillip, Parish Nullo, about 390.4ha, being Lot 2 in DP1099568, Lot 49 in DP44097 and Crown Public Road separating Lot 49 from Wollemi National Park: DECC/06/03088

NATIONAL PARKS AND WILDLIFE ACT, 1974

Notice of Reservation of a National Park

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, reserve the land described in the Schedule below, as part of Washpool National Park, under the provisions of Section 30A(1) of the National Parks and Wildlife Act, 1974.

Signed and sealed at Sydney this 4th day of June, 2008.

MARIE BASHIR,
Governor,

By Her Excellency's Command,

VERITY FIRTH, M.P.,
Minister for Climate Change
and the Environment

GOD SAVE THE QUEEN

SCHEDULE

*Land District – Tenterfield;
LGA – Tenterfield*

County Drake, Parishes Malara & Sistova, about 1207 hectares, being Lot 14 in DP752382, Lots 19, 20 & 26 in DP752396 and that part of the bed of Malara Creek separating Lots 26 & 14 aforesaid from Lots 11 & 16 in DP752382 and Lot 31 in DP752396; exclusive of Crown Public Roads within Lots 19, 20, 26 & 14 aforesaid: DECC/04/07269

NATIONAL PARKS AND WILDLIFE ACT 1974

Dananbilla, Koorawatha, Illunie and Gungewalla Nature Reserves

A draft plan of management for the above reserves has been prepared is available free of charge from the NPWS offices at 6 Rutledge St (11 Farrer Place after 28 July), Queanbeyan (ph 6299 2929), and 7a Adelong Street, Tumut (ph 6947 7000), and on the website: www.environment.nsw.gov.au. Copies of the plan may also be viewed at Boorowa Council, Market St, Boorowa; Cowra Shire Council, 116 Kendal St (cnr Darling Street), Cowra; Young Shire Council, Boorowa St, Young; Koorawatha Hotel, Olympic Way, Koorawatha; and Bendick Murrell Tavern, Main St, Bendick Murrell.

Written submissions on this plan must be received by the Planner, NPWS, PO Box 472, TUMUT, NSW 2720 by 13 October 2008.

All submissions received by NPWS are a matter of public record and are available for public inspection upon request to NPWS. Your comments on this plan 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.

NATIONAL PARKS AND WILDLIFE ACT, 1974

Kings Grave Aboriginal Place

IN pursuance of the powers vested in me under section 84 of the National Parks and Wildlife Act 1974, I, the Minister for Climate Change, Environment and Water, do, by this my order, declare such of the lands described hereunder as an Aboriginal Place.

The values of the Aboriginal Place include the burial site of an Aboriginal 'chief', originally marked by a large earthen mound (tumulus) and associated smaller mounds; carved posts commemorating the 'chief's' grave; and a stone cairn commemorating the 'chief's' grave and its discovery by John Oxley's party, which was erected in 1914 and is believed to be located in the vicinity of the burial. The place is an important cultural link to pre-contact culture for the Aboriginal community and a connection with their ancestors.

VERITY FIRTH, M.P.,
Minister for Climate Change and the Environment

Description

*Land Districts – Condobolin;
LGA – Lachlan*

County Gipps, Parish Goobothery, about 4.55 hectares, being Lot 7001 in DP94333: DECC/04/03028

NATIONAL PARKS AND WILDLIFE ACT 1974

Notice of Reservation of a National Park

I, Professor MARIE BASHIR, AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, reserve the land described in the Schedule below, as part of Nymboida National Park, under the provisions of section 30A(1) of the National Parks and Wildlife Act 1974.

Signed and sealed at Sydney, this 4th day of June 2008.

MARIE BASHIR,
Governor

By Her Excellency's Command,

VERITY FIRTH, M.P.,
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

SCHEDULE

Land District – Grafton; L.G.A. – Clarence Valley

County Gresham, Parish Jackadgery, about 448 hectares, being Lot 1 in DP 810962; inclusive of the bed of Talgai Creek within Lot 1; exclusive of Council Public Road within Lot 1: DECC/07/3648.

NATIONAL PARKS AND WILDLIFE ACT 1974

Mount Yengo Aboriginal Place

IN pursuance of the powers vested in me under section 84 of the National Parks and Wildlife Act 1974, the Minister for Climate Change, Environment and Water, do, by this my order, declare such of the lands described hereunder as an Aboriginal Place.

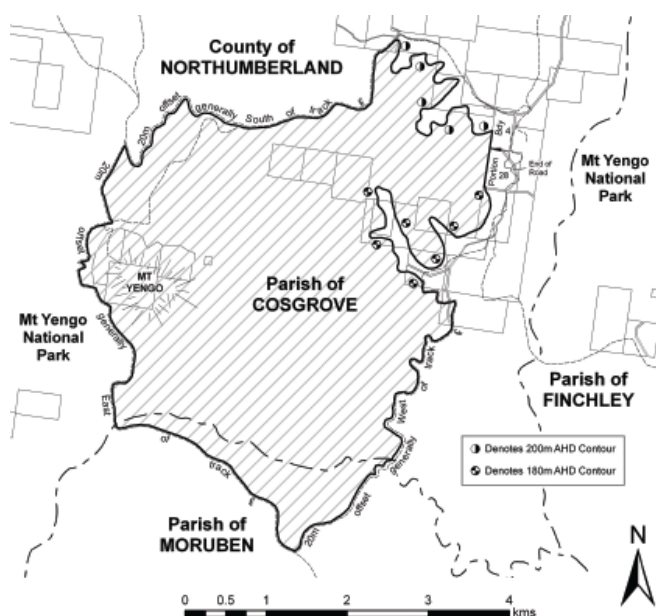
The values of the Aboriginal Place include spiritual and ceremonial sites. The mountain is a tangible link and a central point of connection for all the major rock art sites from northern Sydney to the north of Newcastle and the upper Hunter valley, and as such has special significance to Wonnarua, Awabakal, Worimi and Darkinjung traditional owners and their descendants and to contemporary Aboriginal communities within the greater metropolitan and Hunter areas. The place includes numerous rock art sites linked with the creator and associated spiritual beings and the paths they have taken.

VERITY FIRTH, M.P.,
Minister for Climate Change and the Environment

Description

Land District – Singleton; L.G.A. – Cessnock

County Northumberland, Parishes Cosgrove and Moruben, about 1825 hectares, being the area shown by hatching in the diagram here under: DECC/08/494



PARENTS AND CITIZENS ASSOCIATIONS INCORPORATION ACT 1976

Incorporation of Parents and Citizens Associations

THE following association is hereby incorporated under the Parents and Citizens Associations Incorporation Act 1976.

1. Annandale North Public School.
2. John Palmer Public School.
3. Richmond Public School.

JOHN HATZISTERGOS, M.L.C.,
Acting Minister for Education and Training

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 Radha McKAY, MPO: 254697, of

PO Box 2208, Taren Point NSW 2229, prohibiting her, 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 9 July 2008.

Professor DEBORA PICONE, AM,
Director-General

Department of Health, New South Wales
Sydney, 4 July 2008.

STATUTORY AND OTHER OFFICES REMUNERATION ACT 1975

Report and Determination
Executive Manager, Parliamentary Services

Report:

1. On 11 June 2008 the Premier, the Hon. Morris Iemma, M.P., pursuant to section 14(1) of the Statutory and Other Offices Remuneration Act 1975 (the Act), directed that the Statutory and Other Offices Remuneration Tribunal (the Tribunal) make a determination in respect of the remuneration payable to Mr Brian Ward, Executive Manager, Parliamentary Services.
2. On 18 June 2008 the Tribunal determined that the position of Executive Manager, Parliamentary Services would receive an annual salary of \$206,385 p.a.
3. Mr Ward was appointed to the position of Executive Manager, Parliamentary Services on 3 June 2008. As required under Section 11A(3)(a) of the Act, Mr Ward has elected to receive remuneration packaging as determined by the Tribunal. Mr Ward's election has received the Premier's support.

Background:

4. When the SES was introduced in 1989 the Government considered that some Statutory Office Holders, exercising independent functions (excluding judicial officers) should be able to receive employment benefits similar to those provided to the SES. Section 11A of the Act provides that remuneration for such office holders is to be determined on a total cost basis aligned to the SES in lieu of salary. This Group is known collectively as "11A Office Holders" and their remuneration increases are aligned to those of the SES rather than the Public Office Holder Group. As with the SES, the 11A remuneration packages are expressed as a total cost of employment and all employer on costs, as such employer contribution to superannuation and leave loading are included within the package.
5. Unlike SES officers, these office holders are not subject to contractual employment provisions or performance agreements. In addition, the remuneration of these office holders is expressed as a fixed amount rather than a range as with the normal SES Levels.
6. To ascertain the appropriate remuneration level for an 11A office holder it is the practice that the office is evaluated using standard job evaluation method.

The job size points are used to fix the SES Level for the office for remuneration purposes. The Tribunal has the discretion to determine the remuneration level within the particular SES Level.

Review:

7. The Executive Manager Parliamentary Services is the chief adviser to the Presiding Officers on a range of Parliamentary corporate services. The Executive Manager will direct and coordinate the delivery of security, personnel, financial management, information technology, library services, Hansard, printing, education, archives, building and food and beverages services.
8. The Executive Manager must also develop and maintain high level liaison and consultation with the Clerks of both Houses, who advise their respective Presiding Officers, in the development of policies and strategic decisions affecting the Parliament as a whole and within their respective House Departments.
9. For remuneration purposes the position of Executive Manager Parliamentary Services is listed in Schedule 2 Part 2 of the SOOR Act. The Executive Manager receives an annual salary of \$206,385 as determined by the Tribunal on 18 June 2008. The Clerk of the Legislative Assembly and the Clerk of the Legislative Council receive an equivalent salary and have chosen not to pursue remuneration benefits under section 11A of the Act.
10. The position of the Executive Manager Parliamentary Services has been subject to a job evaluation. The job evaluation found that it is equivalent to a Senior Executive Service Level 4. The current remuneration range for an SES 4 is \$201,551 and \$219,700.
11. In making this determination the Tribunal has given careful consideration to the Executive Manager's roles and responsibilities and has examined the independent job evaluation findings. Having regard to these factors the Tribunal considers that a total remuneration package of \$219,700 p.a. would be appropriate and so determines.

Determination:

Pursuant to section 14(1) of the Statutory and Other Offices Remuneration Act 1975 the Tribunal determines that the total remuneration package for the Executive Manager, Parliamentary Services Parliament House shall be \$219,700 pa with effect from 3 June 2008.

Dated: 18 June 2008.

HELEN WRIGHT,
Statutory and Other Offices Remuneration Tribunal

**THREATENED SPECIES CONSERVATION ACT
1995**

NSW Department of Environment and Climate Change

Notice of the approval of the recovery plan for the brush-tailed rock-wallaby (*Petrogale penicillata*)

THE NSW Department of Environment and Climate Change (DECC), hereby gives notice that the Minister for Climate Change and the Environment, the Hon. VERITY FIRTH, M.P., has approved the recovery plan for the brush-tailed rock-wallaby (*Petrogale penicillata*).

The recovery plan is available on the DECC website (www.environment.nsw.gov.au).

Copies of the approved recovery plan are also available from the DECC libraries and can be obtained through an inter-library loan.

SIMON A. Y. SMITH,
Deputy Director General,
Climate Change, Policy and Programs



Motor Accidents Authority of New South Wales
Motor Accidents Assessment Service
Claims Assessment and Resolution Service

Claims Assessment Guidelines

Guidelines issued under section 69(1) of the Motor Accidents Compensation Act 1999 NSW with respect to the procedures to be followed by Claims Assessors in the assessment of claims under Part 4.4 of the Motor Accidents Compensation Act 1999 NSW and associated matters

Published by the Motor Accidents Authority of New South Wales
Level 25, 580 George Street, Sydney, 2000
Effective: 1 October 2008
Gazetted: 11 July 2008

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Explanatory note

These Guidelines are made pursuant to section 69(1) of the Motor Accidents Compensation Act 1999 ('the Act'). They apply in respect of a motor accident occurring on or after 5 October 1999. Pursuant to section 106(1) these Guidelines operate by force of law as if they were delegated legislation.

The Guidelines explain the operation of those sections of the Act relating to the Claims Assessment and Resolution Service ('CARS'). CARS has been established by the Motor Accidents Authority ('the Authority') to reduce the need for injured persons or insurers to commence legal or court proceedings. It is intended this will assist in the reduction of costs for the Motor Accidents Compensation Scheme and will therefore help maintain the affordability of premiums. It is intended that the CARS process will facilitate the earlier settlement of claims to the benefit of all parties.

These Guidelines instruct officers of the MAA, members of the legal profession and the insurance industry and parties to claims how to make and deal with an application to CARS. Clear and easily accessible information directed towards claimants who wish to represent themselves is also available from the MAA. These Guidelines are also intended to guide Claims Assessors as to the manner in which an assessment is to be conducted.

This new version of the Guidelines replaces the previous Claims Assessment Guidelines and will apply to all new applications received at CARS on or after 1 October 2008 and all matters current at CARS on or after that date, that have not been determined, unless otherwise provided for in these Guidelines. All versions of the Claims Assessment Guidelines that have been issued to date are as follows:

- Version 1 effective 4 April 2000, gazetted 17 December 1999;
- Version 2 effective 1 August 2002, gazetted 22 June 2002;
- Version 3 effective 1 May 2006, gazetted 3 March 2006; and
- Version 4 effective 1 October 2008, gazetted 11 July 2008.

These Guidelines have been developed in consultation with the Insurance Council of Australia Limited, the Council of the Bar Association, and the Council of the Law Society as required by section 69(3) of the Act and with the Council of the Australian Lawyers Alliance.

Questions about CARS and these Guidelines should be directed to the Deputy General Manager MAA / Registrar MAAS.

David Bowen
General Manager
Motor Accidents Authority

Effective: 1 October 2008

Cameron Player
Deputy General Manager, MAA
Registrar, MAAS

Gazetted: 11 July 2008

Division 1 - Introduction and registry

Chapter 1 - Introduction and interpretation

Introduction and commencement date

- 1.1 These Guidelines may be 'referred to as the 'Claims Assessment Guidelines' and are made pursuant to section 69(1) of the Motor Accidents Compensation Act 1999 ('the Act'). They apply in respect of a motor accident occurring on or after 5 October 1999. These Guidelines are delegated legislation.
- 1.2 These Guidelines replace the Claims Assessment Guidelines that came into effect on 1 May 2006 and will apply to all new applications received at CARS on or after 1 October 2008 and all matters current at CARS on or after that date that have not been determined.
- 1.3 These Guidelines have been developed in consultation with the Insurance Council of Australia Limited, the Council of the Bar Association, and the Council of the Law Society as required by section 69(3) of the Act. In addition these Guidelines have also been developed in consultation with the Council of the Australian Lawyers Alliance.
- 1.4 As a transitional arrangement and to avoid requirements that might be unreasonable in the circumstances on any person or entity, the Registrar or PCA may waive observance of any part or parts of these Guidelines for any application that has been lodged with the registry before these Guidelines apply.
- 1.5 The Registrar or PCA may dispense with the formal requirements of these Guidelines after advising the parties to the dispute and considering any submissions by the parties.

Definitions

- 1.6 The terms used in these Guidelines have the following meanings:
 - 1.6.1 **Act** Motor Accidents Compensation Act 1999, as amended from time to time.
 - 1.6.2 **Allocation Review** A consideration of an application for general, special or further assessment and/or reply pursuant to Chapter 12.
 - 1.6.3 **Applicant** The party that initiates the referral of a claim or dispute in connection with a claim.
 - 1.6.4 **Application** The means by which a party requests the referral of a claim or dispute in connection with a claim for assessment or applies for a review.
 - 1.6.5 **Assessor** A Claims Assessor designated by the Authority under section 99. A reference to an Assessor in these Guidelines includes the PCA, unless otherwise stated.

1.6.6	Authority	Motor Accidents Authority (MAA).
1.6.7	CAO	Claims Assessment Officer of the Authority.
1.6.8	CARS	Motor Accidents Claims Assessment and Resolution Service of the Authority.
1.6.9	CARS Assessor	A Claims Assessor designated by the Authority under section 99.
1.6.10	CAS	Claims Advisory Service of the Authority.
1.6.11	Claimant	A person who makes or is entitled to make a claim under the Act.
1.6.12	CTP	Compulsory Third Party.
1.6.13	Determination Review	A consideration of an application for exemption from assessment and/or reply pursuant to Chapter 8.
1.6.14	DX box	Exchange box in the Australian Document Exchange Pty Ltd.
1.6.15	ECM system	An electronic case management system established by the Authority.
1.6.16	ET Act	Electronic Transactions Act 2000, as amended from time to time.
1.6.17	Form	A form approved by the Authority that may contain an application and/or a reply to an application.
1.6.18	Injured person	A person who has suffered an injury that is the subject of a claim made under the Act.
1.6.19	Insurer	Any party against whom a claim is made under the Act.
1.6.20	Licensed insurer	An insurer that is the holder of a license granted under Part 7.1 of the Act and in force.
1.6.21	MAAS	Motor Accidents Assessment Service, a unit of the Authority.
1.6.22	MAS	Motor Accidents Medical Assessment Service of the Authority.
1.6.23	MAS Assessor	A Medical Assessor appointed by the Authority under section 59.
1.6.24	Matter	The application, reply and all supporting documents and correspondence held by CARS in relation to one discrete application in relation to the assessment of a claim or a dispute in connection with a claim. Each matter lodged at CARS is given a discrete matter number.
1.6.25	Officer of CARS	An officer of the Authority undertaking work in relation to claims assessments or exemptions as directed by, or as delegated by the PCA.

- 1.6.26 **PCA** Principal Claims Assessor of the Authority appointed by the Authority under section 99A.
- 1.6.27 **Person under legal incapacity** includes:
- (a) a child under the age of 18 years;
 - (b) a temporary patient, continued treatment patient or forensic patient within the meaning of the Mental Health Act 1990;
 - (c) a person under guardianship within the meaning of the Guardianship Act 1987;
 - (d) a protected person within the meaning of the Protected Estates Act 1983; and
 - (e) an incommunicate person, being a person who has such a physical or mental disability that he or she is unable to receive communications, or express his or her will, with respect to his or her property or affairs.
- (Note: At the time of publication of these Guidelines, this definition has been modeled on, and is similar to, the definition of 'Person under legal incapacity' in section 3 of the Civil Procedure Act 2005.)
- 1.6.28 **Registrar** The Registrar of the Authority.
- 1.6.29 **Registry** That part of the Authority that receives documents for the purpose of assessment of claims or disputes in relation to claims, or exemption of claims from assessment.
- 1.6.30 **Regulation** Motor Accidents Compensation Regulation 2005, as amended from time to time.
- 1.6.31 **Reply** The means by which a respondent answers an application.
- 1.6.32 **Respondent** A party who is required to respond to an application.
- 1.7 A reference in these Guidelines to a section 'X' is a reference to a section of the Motor Accidents Compensation Act 1999 (NSW), as amended from time to time.
- 1.8 To the extent that they are not defined in clause 1.6, the definitions in section 3 and section 57 apply to these Guidelines.
- 1.9 A reference to a party in these Guidelines includes multiples of parties or multiple parties to any application.
- 1.10 A reference in these Guidelines to a number of days is a reference to a number of working days, unless otherwise stated.
- 1.11 A reference in these Guidelines to a service copy of material is a reference to a separate set of the documents that are attached to and lodged with, or in support of, an application or reply.
- 1.12 The Authority will provide and maintain a Claims Advisory Service (CAS) to assist claimants in connection with the claims assessment procedures under the Act.

Objects of CARS

- 1.13 The objects of CARS set out in clause 1.14 should be used as an aid to the interpretation of these Guidelines.
- 1.14 The **objects of CARS** in dealing with claims and disputes in connection with claims referred are:
- 1.14.1 to provide a timely, fair and cost effective system for the assessment of claims under the Motor Accidents Compensation Act 1999 that is accessible, transparent, independent and professional;
 - 1.14.2 to assess claims and disputes fairly and according to the substantial merits of the application with as little formality and technicality as is practicable and minimising the cost to the parties;
 - 1.14.3 to ensure the quality and consistency of CARS decision making;
 - 1.14.4 to make appropriate use of the knowledge and experience of CARS Assessors; and
 - 1.14.5 to establish and maintain effective communication and liaison with stakeholders concerning the role of CARS.
- 1.15 The objects of CARS set out in clause 1.14 are consistent with, and are in support of the objects of the Act as can be gleaned from the Act as a whole, including from the 'Objects of the Act' set out in section 5(1) and the 'Acknowledgements of the Act' set out in section 5(2).
- 1.16 In exercising their functions and interpreting the provisions of these Guidelines, the Registrar, PCA, CAOs, CARS Assessors and officers of CARS must have regard to the objects of CARS, in addition to the objects of the Act.

(Note: At the time of publication of these Guidelines, some of the Objects and Acknowledgements in those specific sections of the Act referred to above most relevant to these Guidelines include:

Objects - Section 5(1)(a) - to encourage early and appropriate treatment and rehabilitation to achieve optimum recovery from injuries sustained in motor accidents, and to provide appropriately for the future needs of those with ongoing disabilities; and

Section 5(1)(b) - to provide compensation for compensable injuries sustained in motor accidents, and to encourage the early resolution of compensation claims; and

Section 5(1)(e) - to keep premiums affordable, in particular, by limiting the amount of compensation payable for non-economic loss in cases of relatively minor injuries, while preserving principles of full compensation for those with severe injuries involving ongoing impairment and disabilities.

Acknowledgements - Section 5(2)(a) - that participants in the scheme under this Act have shared and integrated roles with the overall aim of benefiting all members of the motoring public by keeping the overall costs of the scheme within reasonable bounds so as to keep premiums affordable; and

Section 5(2)(b) - that the law (both the enacted law and the common law) relating to the assessment of damages in claims made under this Act should be interpreted and applied in a way that acknowledges the clear legislative intention to restrict the level of non-economic loss compensation in cases of minor injuries; and

Section 5(2)(c)(i) - that the premium pool from which each insurer pays claims consists at any given time of a finite amount of money; and

Section 5(2)(c)(iii) - that the preparation of fully funded premiums requires a large measure of stability and predictability regarding the likely future number and cost of claims arising under policies sold once the premium is in place; and

Section 5(2)(c)(iv) - that the stability and predictability referred to in subparagraph (iii) require consistent and stable application of the law.)

Chapter 2 - Jurisdiction

- 2.1 An application may be made to CARS for assessment of:
- 2.1.1 whether a certificate of exemption should be issued pursuant to section 92(1)(a) ('an application for exemption');
 - 2.1.2 the insurer's liability for the claim and the amount of damages for that liability and the issue of a certificate pursuant to section 94, and/or whether a certificate of exemption should be issued pursuant to section 92(1)(b) if the claim is found to be 'not suitable for assessment' ('an application for general assessment');
 - 2.1.3 a matter remitted by the Court for further claims assessment and issue of a new certificate of assessment where significant new evidence is produced in court proceedings pursuant to section 111 ('an application for further general assessment'); and/or
 - 2.1.4 a dispute in connection with a claim between a claimant and an insurer that is one of the certain types of disputes as set out in section 96 ('an application for special assessment').
- 2.2 An officer of CARS may reject an application or any part thereof as not duly made if the officer is satisfied that the application or part thereof does not establish that it relates to one of the above types of assessments, and in the case of clause 2.1.4, that it also relates to one of the types of disputes set out in section 96.
- 2.3 An officer of CARS may reject an application made on behalf of, or in respect of, a personal injury claim made by a person who has died after the claim has been made, unless it is accompanied by a grant of probate or letters of administration or equivalent, and confirmation that the estate seeks to pursue the claim.

Chapter 3 - Referrals to the CARS registry

- 3.1 The Authority shall establish and maintain a registry for the referral of applications, managed by the Registrar.
- 3.1.1 For the purposes of delivery or sending of documents for lodgement the address is:
- The Registrar, Claims Assessment and Resolution Service**
Motor Accidents Assessment Service, Motor Accidents Authority of NSW
Level 19, 1 Oxford Street, Darlinghurst, NSW, 2010
DX 10 SYDNEY
- 3.1.2 For the purposes of delivery or sending of documents for lodgement using the ECM system, access is available to registered ECM users via password login to the MAA website address at:
- <http://www.maa.nsw.gov.au>**
- 3.2 Except on Saturdays, Sundays and public holidays, the registry shall be open to the public for lodgement of documents in person between 8.30am and 5:00pm.
- 3.3 The registry may make provision for lodgement of documents electronically and also outside the registry's usual opening hours. Any documents lodged electronically after 5:00pm are deemed to be received on the next registry business day.
- 3.4 The registry shall, notwithstanding clause 3.2, be kept open to the public for business or closed for business, at such times and on such days as the Registrar shall direct.
- 3.5 It is sufficient notification, or service, for any document or correspondence directed to the Registrar, PCA, CAO, an Assessor or CARS to be left in the DX box of the Authority at DX 10 Sydney, or at another DX box for transmission to that exchange box.
- 3.6 The Registrar shall arrange for all applications made under these Guidelines to be allocated a matter number and registered. All subsequent correspondence concerning the application is to quote that matter number.
- 3.7 All correspondence to, and communication with, an Assessor in relation to a claims assessment, either in respect of a current or concluded assessment, must, unless the Registrar, PCA or the Assessor directs otherwise, be directed to the Assessor care of the registry.
- 3.8 If a legal practitioner or agent represents the claimant in respect of the assessment of the matter:
- 3.8.1 it is sufficient notification for the Registrar, PCA, an Assessor, an officer of CARS or an insurer to send any document required to be sent to the claimant, to the legal practitioner or agent; and
- 3.8.2 the Registrar, PCA, CAO, an Assessor or an officer of CARS may, notwithstanding that the claimant has legal or other representation, contact the claimant directly in relation to the assessment of the claim.

- 3.9 If a legal practitioner or agent represents the insurer in respect of the assessment of the claim:
- 3.9.1 it is sufficient notification for the Registrar, PCA, an officer of CARS or a claimant to send any document required to be sent to the insurer to the legal practitioner or agent; and
 - 3.9.2 the Registrar, PCA or an officer of CARS may, notwithstanding that the insurer has legal or other representation, contact the insurer directly in relation to the assessment of the claim.
- 3.10 If a party, represented by a legal practitioner or agent, requests CARS to do so, the Registrar, PCA, an Assessor, or an officer of CARS may at their discretion send a copy of any document required to be sent to that party, to the party direct, in addition to that party's legal representative or agent.
- 3.11 If after an application or reply is lodged at CARS, a party retains a legal practitioner or agent to represent them, or changes their legal practitioner or agent, that party must notify the Registrar and the other party in writing within 5 days of the date of the retainer or change in representation.
- 3.12 If after an application lodged at CARS has been allocated to an Assessor, a party retains a legal practitioner or agent to represent them, or changes their legal practitioner or agent, that party must notify the Registrar, the other party and the CARS Assessor to whom the matter has been allocated in writing within 5 days of the date of the retainer or change in representation.

Exchange and lodgement of application and reply

- 3.13 The applicant must complete the application and:
- 3.13.1 send it to the respondent, together with a copy of all material in support of the application that has not previously been supplied to the respondent; and
 - 3.13.2 lodge it with CARS, with all material in support of the application.
- 3.14 An officer of CARS is to consider the application, and if accepted, send an acknowledgement of the application to the parties within 5 days of receipt of the application in the registry.
- 3.15 The respondent must:
- 3.15.1 in the case of an application for a special assessment under section 96(1)(f), about whether a payment is required to be made under section 84A, within 10 days;
 - 3.15.2 in the case of an application for exemption, within 15 days; or
 - 3.15.3 in the case of all other applications, within 20 days;
- of the date of the sending by CARS of the acknowledgement of the application, complete the reply and:
- 3.15.4 send it to the applicant, together with a copy of all material in support of the reply that has not previously been supplied to the applicant; and
 - 3.15.5 lodge it with CARS, with all material in support of the reply.

- 3.16 The respondent must not attach to the reply any document that the applicant has already attached to the application.
- 3.17 If any documents in support of an application or reply are lodged other than via the ECM system, those documents must be supplied as single-sided copies.
- 3.18 When an application or reply or supporting documents are lodged other than via the ECM system, the lodging party must number the first page of each document in clear dark numerals at the top right hand corner of the front page of each document, in accordance with the numbering in the list of documents attached to, or contained, in the application or reply.
- 3.19 A separate application is required for each injured person, and for each separate motor vehicle accident claim, in relation to which exemption or assessment is sought.
- 3.20 An officer of CARS is to consider the reply, and if accepted send an acknowledgement of the reply to the parties within 5 days of receipt of the reply in the registry.
- 3.21 A reply lodged with CARS after the time limit in clause 3.15 has expired may be accepted by the Registrar or PCA.

Procedural non-compliance

- 3.22 An officer of CARS may reject any form whether lodged physically or electronically, if the form does not substantially comply with these Guidelines including, but not limited to, for one of the following reasons:
 - 3.22.1 the form does not list the documents required in accordance with the requirements of the form;
 - 3.22.2 the form does not attach the documents required in accordance with the requirements of the form; or
 - 3.22.3 the form does not certify that all listed documents have been provided to all other parties before lodgement.unless the non-compliance is technical and of no significance,
- 3.23 If the form is rejected, an officer of CARS shall issue a rejection notice to both parties setting out brief reasons for the rejection within 5 days of receipt of the form in the registry.

Expedited applications

- 3.24 Either party to a dispute may apply at any time for a matter to be expedited by doing so in writing to CARS, and giving notice to the other party setting out full details of the basis on which expedition of the application is sought.
- 3.25 In considering whether they are satisfied that an application for expedition should be granted, the PCA shall consider all relevant factors and circumstances surrounding the matter including, but not limited to:
 - 3.25.1 the objects of the Act;
 - 3.25.2 the objects of CARS;

- 3.25.3 the interests of both parties to the matter; and
- 3.25.4 the interests of other parties to other disputes, particularly regarding the equity of prioritising the matter seeking expedition ahead of other matters.
- 3.26 If the PCA is satisfied that the matter warrants being expedited, having considered any submissions from the parties, the PCA will take all reasonable steps to ensure the matter is dealt with by CARS as quickly as possible.
- 3.27 The types of exceptional circumstances that may warrant an application for expedition being accepted may include, but are not limited to, issues such as:
 - 3.27.1 claimants with seriously deteriorating health requiring an urgent assessment;
 - 3.27.2 claimants who are only able to remain in the country for a limited period of time due to matters outside their control; and/or
 - 3.27.3 claimants with matters currently being heard before a Court or CARS.

Chapter 4 - Interpreters

- 4.1 If a party indicates that an interpreter is required, an officer of CARS will arrange for an interpreter to be present at any assessments.
- 4.2 Interpreters accredited by NAATI (National Accreditation Authority for Translators and Interpreters) should be used during the course of a claims assessment if an interpreter is required.
- 4.3 In the absence of a NAATI interpreter, a non-NAATI interpreter may be used at the discretion of the Assessor, Registrar or PCA.

Chapter 5 - Time

Abridgement or extension of time

- 5.1 The Registrar or PCA or an Assessor may, if the circumstances justify, and on terms, abridge or extend any time limit fixed by these Guidelines, including any time limit affecting the Registrar, PCA, CAO, an officer of CARS, or an Assessor, other than the time fixed in clause 18.3.
- 5.2 The Registrar or PCA or an Assessor may extend time under clause 5.1 after the time expires, whether or not an application is made before the time expires, or at all.

Reckoning of time

- 5.3 Any period of time fixed by these Guidelines for the doing of any act or in connection with any assessment or direction by the Registrar, PCA, CAO or an Assessor shall be reckoned in accordance with clauses 5.4, 5.5 and 5.6.
- 5.4 Where a time of 1 day or a longer time is to be reckoned by reference to a given day or event, the given day or the day of the given event shall not be counted.
- 5.5 Where, apart from this sub-clause, the period in question, being a period of 5 days or less, would include a day on which the registry is closed for lodgement in person, that day shall be excluded.
- 5.6 Where the last day for doing a thing is a day on which the registry is closed for lodgement in person, the thing may be done on the next day on which the registry is open for lodgement in person.

Chapter 6 - Delivery of documents

- 6.1 For matters lodged other than via the ECM system, for the purpose of these Guidelines, where a claimant or insurer notifies in any document lodged an address for delivery or receipt of documents, then leaving a document at that address, or sending a document to that address, shall be taken to be received by the person as follows:
- 6.1.1 in the case of a physical address, on the day the document is left at that address;
 - 6.1.2 in the case of a physical or postal address, on a day 5 days after the document is sent;
 - 6.1.3 in the case of a DX box, leaving a document addressed to that claimant, insurer, solicitor or agent, in that DX box or at another DX box for transmission to that DX box, 2 days after the document is so left;
 - 6.1.4 in the case of an email address, on the day the email or email attachment is sent if sent before 5:00pm, or on the day after the email or email attachment is sent if sent at or after 5:00pm; or
 - 6.1.5 in the case of a facsimile number, on the day the facsimile is sent if sent before 5:00pm, or on the day after the facsimile is sent if sent at or after 5:00pm.
- 6.2 For matters lodged via the ECM system, for the purpose of these Guidelines the provisions of section 13 of the ET Act apply.

Chapter 7 - Electronic case management system

- 7.1 The Authority may establish an ECM system to do one or more of the following:
- 7.1.1 enable documents with respect to applications to CARS for exemption or assessment to be created, exchanged, filed, issued and used in electronic form;
 - 7.1.2 enable parties to applications to CARS for exemption or assessment to communicate in electronic form with CARS and with other parties to those disputes;
 - 7.1.3 enable information concerning the progress of applications to CARS for exemption or assessment to be provided in electronic form to parties to those disputes; and/or
 - 7.1.4 enable CARS and CARS Assessors to communicate in electronic form with parties to applications to CARS for exemption or assessment.
- 7.2 The Registrar may establish a protocol for the use of the ECM system, and for persons to become registered users of the ECM system, in addition to Assessors.
- 7.3 Such a protocol under clause 7.2 may provide, amongst other things, for the specification of the level of access to the system to which persons or specified classes of persons are entitled, the conditions of use of the system applicable to persons generally or persons of any such class, the security methods by which persons using the system are identified and verified, and how users gain access to the system.
- 7.4 Subject to any protocol established under clause 7.2, a person other than an Assessor may not use the ECM system for particular applications unless the person is a registered user of the ECM system and is:
- 7.4.1 a party to the application regarding the application to CARS for exemption or assessment; or
 - 7.4.2 a legal practitioner representing a party to the application regarding the application to CARS for exemption or assessment.
- 7.5 In relation to any proceedings, the level of access to the ECM system to which a user is entitled, and the conditions of use applicable to a user, are subject to any decision of the Registrar.
- 7.6 Documents and information lodged via the ECM system may be dealt with in accordance with the provisions of the ET Act.
- 7.7 When the Authority sends documents, or forwards correspondence to a party who is a registered user of the ECM system, the Authority will generally only do so via electronic communication to that party.

Division 2 - Application types

Chapter 8 - Exemption of claims from general assessment (section 92(1)(a))

Applications (CARS forms 1A and 1R)

- 8.1 An application or reply by either party for a certificate of exemption under this chapter must:
- 8.1.1 be in the form approved by the Authority; or
 - 8.1.2 be in a form as directed by the Registrar, PCA or a Claims Assessor; and
 - 8.1.3 set out or be accompanied by the particulars and information required by that form or as otherwise directed by the Registrar or PCA.
- 8.2 The claimant, the insurer, or both may make an application to the PCA for a certificate of exemption under section 92(1)(a) pursuant to this chapter.
- (Note: For provisions regarding making an application to an Assessor that a claim is not suitable for assessment and is exempt under section 92(1)(b) see Chapter 14 at clause 14.11 and following.)
- 8.3 A separate application is required for each claim that a party seeks to have exempted.

Time limits for referring claims for exemption

Claims made before 1 October 2008

- 8.4 For claims made before 1 October 2008 an application for exemption under this chapter may be made at any time, subject to the time limits prescribed in section 91.

Claims made on or after 1 October 2008

- 8.5 For claims made after 1 October 2008 an application for exemption under this chapter may be made at any time in accordance with section 91(2)(c).

Determination Review

- 8.6 When an application for exemption is made under this chapter the PCA is to arrange for the Determination Review of the matter to consider:
- 8.6.1 the eligibility of the matter for determination in accordance with Chapter 2;
 - 8.6.2 whether the application and/or reply are properly made in accordance with Chapter 3;
 - 8.6.3 whether further information or documentation is required; and/or
 - 8.6.4 whether or not the claim is exempt from assessment.
- 8.7 The PCA is to ensure that a Determination Review of the matter is undertaken within 5 days of the due date for a reply under clause 3.15 or within 5 days of the acknowledgement of the reply under clause 3.20, whichever is the later.
- 8.8 If a claim is to be exempted under section 92(1)(a), the PCA or CAO on behalf of the PCA, must issue a certificate of exemption within 5 days of the Determination Review date.
- 8.9 If a claim is not to be exempted under section 92(1)(a), the PCA or CAO on behalf of the PCA, must advise the parties of the outcome of the Determination Review within 5 days of the Determination Review date.
- 8.10 If no reply is received within the time period referred to in clause 3.15, the PCA may determine the matter in the absence of a reply.
- 8.11 For the purpose of section 92(1)(a), the PCA shall issue a certificate of exemption when satisfied that, as at the time of the consideration of the application, the claim involves one or more of the following circumstances:
- 8.11.1 the fault of the owner or driver of a motor vehicle in the use or operation of the vehicle is denied by the insurer of that vehicle in its written notice issued in accordance with section 81;
 - 8.11.2 the fault of the owner or driver of a motor vehicle, in the use or operation of the vehicle, is not denied by the insurer of that vehicle, but the insurer of that vehicle makes an allegation in its written notice issued in accordance with section 81, that the claimant was at fault or partly at fault and claims a reduction of damages of more than 25%;
 - 8.11.3 the claimant is a 'person under a legal incapacity';
(**Note:** See definition in Chapter 1 at clause 1.6.27)
 - 8.11.4 the person against whom the claim is made is not a licensed or other CTP insurer;
 - 8.11.5 the insurer has declined to indemnify the owner or driver of the motor vehicle against which the claim is made under the third-party policy provided for in section 10 of the Act; and/or
 - 8.11.6 the insurer alleges that the claim is a fraudulent claim in terms of the circumstances of the accident giving rise to the claim.

(**Note:** For example where it is alleged that the accident may have been staged or where a person claiming to have been a passenger in the vehicle is alleged to have been the driver of the vehicle.)

Dismissal of exemption application

- 8.12 The PCA may dismiss an application for exemption made under section 92(1)(a) and clause 8.1 if the PCA is satisfied that:
- 8.12.1 that the claim may not be exempted in accordance with section 92(1)(a) and clause 8.11 of these Guidelines;
 - 8.12.2 the applicant has withdrawn the application;
 - 8.12.3 the claimant is not pursuing or prosecuting the application or the claim; or
 - 8.12.4 the section 91(1) time limits referred to in clauses 8.4 and 8.5 have not been satisfied (if relevant) or the application is otherwise invalid.

Chapter 9 - General assessment (section 94)

Applications (CARS forms 2A and 2R)

- 9.1 An application or reply to an application by either party for general assessment must:
- 9.1.1 be in the form approved by the Authority;
 - 9.1.2 be in a form as directed by the Registrar, PCA or a Claims Assessor; and
 - 9.1.3 set out or be accompanied by the particulars and information required by that form.
- 9.2 Either party may lodge an application for general assessment at any time, subject to the time limits for referring claims in section 91 and this chapter.
- 9.3 An application for general assessment cannot be lodged unless:
- 9.3.1 there is an agreement between the parties as to whether or not the claimant is entitled to compensation for non economic loss;
 - 9.3.2 a MAS Assessor has issued a certificate under section 61(2)(a) and clause 13.5 or clause 13.9 of the Medical Assessment Guidelines determining a medical dispute under section 58(1)(d), by certifying whether the degree of permanent impairment of the injured person as a result of the injury caused by the motor accident is greater than 10%;
 - 9.3.3 a MAS Assessor has declined to make an assessment under section 132(3) of a medical dispute under section 58(1)(d) about whether the degree of permanent impairment of the injured person as a result of the injury caused by the motor accident is greater than 10%, and that assessment has not yet been completed as the Assessor is not satisfied that impairment caused by the injury has become permanent; or
 - 9.3.4 at least 3 calendar months have elapsed since an application was lodged with MAS under section 60(1) and Chapter 8 of the Medical Assessment Guidelines for assessment of a medical dispute under section 58(1)(d) 3 and a certificate in accordance with clause 13.5 or clause 13.9 of the Medical Assessment Guidelines certifying whether the degree of permanent impairment of the injured person as a result of the injury caused by the motor accident is greater than 10%, has not yet been sent to the parties.

(Note: The exclusion in clause 9.3.4 will enable an application for general assessment to be lodged at CARS if the initial application to MAS for assessment of impairment was lodged more than 3 months ago and that assessment has not been completed.

In order to be able to lodge a CARS general assessment application within 3 years of an accident, an application to MAS for assessment of impairment needs to be lodged at least 3 months beforehand, by 2 years and 9 months after the accident.

In the vast majority of claims the degree of impairment is able to be accurately assessed by a MAS Assessor at 12-18 months post accident. It is recommended that applications for assessment of impairment should be lodged at MAS by 18 months post accident at the latest.)

Chapter 10 - Further general assessment (section 111)

Applications (CARS forms 3A and 3R)

- 10.1 Where a Court has adjourned proceedings until a party who has adduced significant new evidence has referred a matter for further general assessment, the application or reply to an application for a further assessment must:
- 10.1.1 be in the form approved by the Authority;
 - 10.1.2 be in a form as directed by the Registrar, PCA or a Claims Assessor; and
 - 10.1.3 set out or be accompanied by the particulars and information required by that form.
- 10.2 The provisions of Chapter 3 'Referrals to the CARS registry' also apply to an application made under this chapter.
- 10.3 The provisions of Chapter 12 'Allocation' in clauses 12.1 to 12.2, and 12.4 to 12.7, do not apply to applications made under this chapter. Instead, the PCA or an officer of CARS is, within 5 days of the due date for a reply to an application as set out in clause 3.15, to allocate the matter to the original Assessor, if available or to a different Assessor, in accordance with the remainder of Chapter 12.

Chapter 11 - Special assessment (section 96)

Applications (CARS forms 5A and 5R)

- 11.1 An application or reply to an application for a special assessment must:
- 11.1.1 be in the form approved by the Authority;
 - 11.1.2 be in a form as directed by the Registrar, PCA or a Claims Assessor; and
 - 11.1.3 set out or be accompanied by the particulars and information required by that form.
- 11.2 Either party may lodge an application for special assessment at any time.
- 11.3 A separate application must be lodged for each dispute lodged under each subsection of section 96.

Disputes about interim payments in cases of financial hardship

- 11.4 An application for a special assessment under section 96(1)(f) about whether a payment is required to be made under section 84A shall, at the time it is acknowledged in accordance with clause 3.14, be referred immediately to the PCA for allocation in accordance with Chapter 12.

Division 3 - Allocations and assessments

Chapter 12 - Allocation

Allocation Review

- 12.1 When an application is made under Chapters 9, 10, or 11 the PCA is to arrange for the Allocation Review of the matter to determine:
- 12.1.1 the eligibility of the matter for assessment in accordance with Chapter 2;
 - 12.1.2 whether the application and/or reply are properly made in accordance with Chapter 3;
 - 12.1.3 whether further information or documentation is required (see clause 12.5);
 - 12.1.4 whether the matter is ready for assessment or whether the assessment should be deferred (see clause 12.6);
 - 12.1.5 whether the application should be dismissed (see Chapter 13); and
 - 12.1.6 the way in which a matter is to be allocated for assessment (see clause 12.10).
- 12.2 The PCA is to ensure that an Allocation Review of the matter is undertaken:
- 12.2.1 in the case of an application for a special assessment under section 96(1)(f) about whether a payment is required to be made under section 84A within 5 days of receipt of the application in the registry; or
 - 12.2.2 for all other applications within 10 days of the due date for a reply under clause 3.15.
- 12.3 The parties are to be advised of the outcome of the Allocation Review within 5 days.
- 12.4 If no reply is received within the time provided referred to in clause 3.15, the PCA may conduct an Allocation Review in the absence of a reply.

Further information or documentation required

- 12.5 In the case of clause 12.1.3, if the PCA is satisfied that further information or documentation is required or is likely to assist in the resolution of the matter the PCA may:
- 12.5.1 after conducting a preliminary assessment of the matter, direct under section 100 that further information or documentation be provided, and notify the other party; and
 - 12.5.2 proceed with processing the application in the absence of the requested further information or documentation.

Defer allocation

- 12.6 In the case of clause 12.1.4, the PCA may defer the allocation of the matter for a period of time that the PCA considers appropriate in the circumstances, and not exceeding 12 months at a time, in circumstances where the PCA is satisfied that:
- 12.6.1 further information or documentation has been requested (see clause 12.5);
 - 12.6.2 there are other claims or issues in dispute or likely to be in dispute which would more conveniently be determined at the same time;
 - 12.6.3 there has not been a genuine attempt by one or both parties to settle the matter or claim and it may be capable of resolution (see clause 12.7);
 - 12.6.4 the issues in dispute involve medical disputes that require a MAS assessment and that MAS assessment has not occurred (see clause 12.8);
 - 12.6.5 the claimant's injury has not sufficiently recovered to enable the claim to be quantified having regard to any medical evidence attached to the application or reply; or
 - 12.6.6 there are other good reasons to defer the allocation of the claim; and
- if the application is to be deferred for more than 3 months the parties shall be given the opportunity to make a submission on that proposed deferral.
- 12.7 In the case of clause 12.6.3, if the PCA is satisfied that the matter or claim is capable of resolution by the parties, the PCA may defer allocating the matter to an Assessor for a period not exceeding 2 months to allow the parties an opportunity to settle the claim. Either party can apply to the PCA to proceed with the assessment at any time if settlement negotiations fail.
- 12.8 In the case of clause 12.6.4, if the PCA is satisfied that the matter requires a MAS assessment and a MAS assessment has not occurred the PCA may:
- 12.8.1 dismiss the application; or
 - 12.8.2 defer allocating the application; and:
 - 12.8.2.1 request that one of the parties to the assessment make a MAS application for medical assessment under section 60(1) or section 62(1)(a); or
 - 12.8.2.2 refer the claim to MAS for medical assessment under section 60(1) or section 62(1)(b).
- 12.9 If the allocation of a matter is deferred in total for more than 6 months, it will be marked as a 'long deferral' matter and the PCA or an officer of CARS may from time to time conduct fresh Allocation Reviews of the matter as needed, seeking submissions from the parties, to assess the readiness of the matter for allocation and to consider whether or not the matter would more appropriately be dismissed in accordance with Chapter 13, rather than continuing to be deferred.

Allocation for assessment

- 12.10 When a matter is considered ready to be allocated for assessment, under section 93 the PCA is responsible for making arrangements as to the Claims Assessor who is to assess any particular claim or class of claims that are not exempt from assessment. The PCA shall determine the way in which a matter is to be allocated for assessment and shall:
- 12.10.1 refer the matter to a Claims Assessor from the Authority's list of Claims Assessors having regard to the nature of the matter, the availability of the Assessor, the experience of the Assessor, the location most convenient to the parties and CARS for the assessment to take place, and any other relevant information;
 - 12.10.2 make the arrangements for a preliminary assessment and Preliminary Conference with the Assessor to whom the matter has been allocated;
 - 12.10.3 notify the parties of the name of the Assessor allocated and the time and date for the Preliminary Conference; and
 - 12.10.4 notify the Assessor of the allocation and provide the Assessor with the application, reply and all documents and material in support of the application and reply.
- 12.11 A party may, within 10 days of the date of sending of notification of the name of the Assessor, apply to the PCA to have the matter re-allocated to a different Assessor. Such an application must be made in writing and be accompanied by a detailed statement of facts and/or reasons as to why the Assessor might no longer be an appropriate Assessor to assess the matter and a copy must be provided to all other parties to the matter.
- 12.12 The PCA shall within 5 days of receiving an application under clause 12.11 make a decision on such an application, and may re-allocate the matter if satisfied that there are reasonable grounds for believing that the Assessor might no longer be an appropriate Assessor to assess the matter.
- 12.13 The PCA may reallocate a matter to a different Assessor for assessment if the original Assessor becomes unwell, is otherwise unable to assess the matter, or is no longer an appropriate Assessor to assess the matter.

Chapter 13 - Dismissal

- 13.1 The PCA or an Assessor may at any stage dismiss an application for general or special assessment in circumstances where they are satisfied that:
- 13.1.1 the applicant has withdrawn the application;
 - 13.1.2 the application is not likely to be ready to be assessed within the next 12 months;
 - 13.1.3 the applicant fails without reasonable excuse to comply with the PCA or Assessor's directions;
 - 13.1.4 it appears that the claimant is not pursuing or prosecuting the application or the claim;
 - 13.1.5 the application is frivolous, vexatious, misconceived or lacking in substance;
 - 13.1.6 the application is being used for an improper purpose or is otherwise an abuse of process; or
 - 13.1.7 the application is made by a person who has died after the application was referred to CARS, unless a copy of the grant of probate or letters of administration or equivalent are provided, and the PCA or Assessor is satisfied that the estate seeks to pursue the CTP claim or the application.
- 13.2 A matter may be dismissed on the application of a party, or of the PCA or Assessor's own initiative, by the PCA or Assessor, after having given all parties the opportunity to make submissions about the proposed dismissal of the matter.

Chapter 14 - Preliminary assessment and Preliminary Conference

- 14.1 The preliminary assessment arranged in accordance with clause 12.10.2 is to be conducted within 15 days of the date of the letter advising the parties of the allocation (or re-allocation in accordance with clause 12.12 or 12.13) of a matter to an Assessor.
- 14.2 On the preliminary assessment, the Assessor is to review the matter to:
- 14.2.1 determine, pursuant to section 92(1)(b) whether the claim is suitable for assessment (see clause 14.11);
 - 14.2.2 determine whether other documentation or information is required as set out in clauses 14.8.2 and 17.8;
 - 14.2.3 determine the way in which an assessment is to proceed as set out in clauses 14.8.1 and 16.8; and
 - 14.2.4 conduct the Preliminary Conference.
- 14.3 The Assessor may conduct one or more further Preliminary Conferences.
- 14.4 If at any stage after being allocated a matter to assess, the Assessor considers that they are no longer suitable to assess the claim, the Assessor may disqualify themselves from assessing the claim by writing to the PCA and the parties setting out the facts and/or reasons why the Assessor considers they might be unable to assess the claim. The PCA shall within 5 days of receiving such advice from an Assessor re-allocate the matter to another Assessor.
- 14.5 A Preliminary Conference may be conducted by way of:
- 14.5.1 a teleconference; or
 - 14.5.2 a face to face conference;
- between the Assessor, the claimant (and/or the claimant's legal representative or agent) and any parent, spouse, legal guardian, carer or other support person of the claimant, the insurer (and/or the insurer's legal representative or agent), and any interpreters or witnesses, or other persons the Assessor requires or allows to appear, and otherwise the Preliminary Conference is not to be open to the public. The Preliminary Conference is not to be recorded by way of a video or tape recording or other electronic device without the prior approval of the Assessor and all of the participants in the Preliminary Conference.
- 14.6 If a party is represented, then the legal representative or agent with day-to-day conduct of the matter must, as far as is practicable, be available for a Preliminary Conference. In the case of an insurer without legal representation, the claims officer with day-to-day conduct of the matter must, as far as is practicable, be available for the Preliminary Conference.
- 14.7 If any party is, without reasonable excuse, unavailable at the time of a Preliminary Conference then the Assessor may conduct the Preliminary Conference in the absence of the party.

- 14.8 The Assessor must within 10 days of any Preliminary Conference provide a Preliminary Conference report to the PCA and the parties in writing advising:
- 14.8.1 the way in which the assessment is to proceed under clause 16.8;
 - 14.8.2 what further documentation or information is required under clause 17.8; and
 - 14.8.3 any other decisions made or directions given at the Preliminary Conference.
- 14.9 During the course of a Preliminary Conference the Assessor shall not enquire about the amount of any offers made by either party.
- 14.10 An Assessor shall not be disqualified from assessing a matter because the Assessor becomes aware in any manner of the amount of any offer. If the Assessor becomes aware of any offer the Assessor shall disregard that information for the purpose of assessing the claim.

Unsuitable for assessment under section 92(1)(b)

- 14.11 For the purpose of section 92(1)(b), an Assessor may, in dealing with an application for general assessment and following a preliminary assessment of the claim, determine that the claim is not suitable for assessment.
- 14.12 An Assessor may make a preliminary determination that a claim is not suitable for assessment on their own initiative or upon application by the claimant, the insurer, or both, at any time during the course of an assessment, after providing the parties with the opportunity to make submissions on that issue and considering any such submissions.
- 14.13 If the Assessor determines that the claim is not suitable for assessment, the matter must be returned within 5 days of making such a determination to the PCA for approval with a brief statement of reasons.
- 14.14 If the PCA approves the preliminary determination under section 92(1)(b), the PCA shall issue a certificate of exemption and notification to the parties within 5 days of the return of the matter from the Assessor.
- 14.15 If the PCA does not approve the preliminary determination, an officer of CARS is to advise the parties within 5 days of the return of the matter from the Assessor, and forward the matter to a different Assessor for assessment within 10 days of the return of the matter from the original Assessor.
- 14.16 In determining whether a claim is not suitable for assessment, an Assessor and the PCA shall have regard to the circumstances of the claim as at the time of the preliminary determination including, but not limited to:
- 14.16.1 whether the claim is exempt under section 92(1)(a) because the claim involves one or more of the circumstances set out in clause 8.11;
 - 14.16.2 the heads of damage claimed by the claimant and the extent of any agreement by the insurer as to the entitlement to those heads of damage;
 - 14.16.3 whether the claim involves complex legal issues;
 - 14.16.4 whether the claim involves complex factual issues;

- 14.16.5 whether the claim involves complex issues of quantum or complex issues in the assessment of the amount of the claim including but not limited to major or catastrophic, spinal or brain injury claims;
- 14.16.6 whether the claimant has been medically assessed and is entitled to non-economic loss pursuant to section 131 and the claim involves other issues of complexity;
- 14.16.7 whether the claim involves complex issues of causation in respect of the relationship between the accident, the injuries sustained and disabilities arising from it including but not limited to multiple accidents or pre-existing injuries or medical conditions;
- 14.16.8 whether the insurer is deemed to have denied liability under section 81(3);
- 14.16.9 whether the claimant or a witness, considered by the Assessor to be a material witness, resides outside New South Wales;
- 14.16.10 whether the claimant or insurer seeks to proceed against one or more non-CTP parties; and/or
- 14.16.11 whether the insurer makes an allegation that a person has made a false or misleading statement in a material particular in relation to the injuries, loss or damage sustained by the claimant in the accident giving rise to the claim.

(**Note:** If an insurer makes an allegation of 'fraud' in terms of the circumstances of the accident, the matter will be exempt under section 92(1)(a) and clause 8.11.6. If an insurer makes an allegation that a person has made a false or misleading statement in a material particular in relation to the injuries, loss or damage sustained by the claimant in the accident, the insurer may be required to provide particulars in writing of the general nature of any such allegation under clause 17.13, and an Assessor may then consider whether a matter is not suitable for assessment under clause 14.11 to 14.16, particularly in light of clause 14.16.11.)

Chapter 15 - Assessment Conference

- 15.1 Where the Assessor notifies the parties of an intention to conduct an Assessment Conference the parties must advise the Assessor and the other party within 10 days of the notification:
 - 15.1.1 whether or not they will be represented by an agent or legal practitioner and as far as is practicable the name of the legal practitioner or agent;
 - 15.1.2 if an agent is to represent the party, the extent of the agent's authority;
 - 15.1.3 whether or not an interpreter is required and if so the language; and
 - 15.1.4 the names of any person who the party wishes the Assessor to question at the Assessment Conference.
- 15.2 The Assessor may direct the parties to the assessment to submit to the Assessor and to any other party to the assessment a signed statement detailing the evidence to be given by any witness to be questioned. If the witness does not attend the assessment, the statement by the witness need not be disregarded, and may be taken into account by the Assessor.
- 15.3 The Assessor may require the presentation of the respective cases of the parties to be limited to the periods of time that the Assessor determines are reasonably necessary for the fair and adequate presentation of the cases.
- 15.4 The Assessor shall determine the manner in which evidence is presented at an Assessment Conference, ensuring that:
 - 15.4.1 each party is to be given an opportunity to address the Assessor on any issue in dispute and to put to the Assessor any questions that the party seeks that the Assessor ask or any areas that the party wants the Assessor to explore;
 - 15.4.2 the examination of parties and witnesses is usually by the Assessor and questions to other parties or witnesses may only be put as directed by the Assessor;
 - 15.4.3 the Assessor may, at the request of a party allow the questioning of a witness or a party, by either party's legal representative or agent, subject to any limitations as determined by the Assessor;
 - 15.4.4 the Assessor may question any party or witness to such extent as the Assessor thinks proper in order to elicit information relevant to the claim; and
 - 15.4.5 the Assessor cannot compel any party or witness to answer any question, but may have regard to the failure of a party or witness to answer a question in the determination of the assessment, unless the party has a reasonable excuse for that failure to answer.
- 15.5 The Assessor may adjourn a conference to another time and place at the request of a party or on the Assessor's own initiative.
- 15.6 The Assessor may conclude the conference to give effect to any agreed settlement reached by the parties.

- 15.7 During the course of an assessment, the Assessor shall not enquire about the amount of any offers made by either party.
- 15.8 An Assessor shall not be disqualified from assessing a matter because the Assessor becomes aware in any manner of the amount of any offer. If the Assessor becomes aware of any offer, the Assessor shall disregard that information for the purpose of assessing the claim.
- 15.9 An Assessor may not take into consideration in respect of the case of each party, reports (excluding reports from treating practitioners) from:
- 15.9.1 more than one medical expert in any specialty (unless there is a substantial issue as to a medical dispute referred to in section 58 – in which case two medical expert reports in any specialty relevant to the injury concerned may be allowed); and
 - 15.9.2 experts in the same field of any other kind;
- except as provided in clause 15.10.
- 15.10 An Assessor may decide to take into consideration a greater number of reports than allowed in clause 15.9, and in deciding whether to take into account a greater number of expert reports in the claim the Assessor should consider:
- 15.10.1 the objects of the Act, and the objects of CARS;
 - 15.10.2 clauses 14(1) and (2) of the Regulation; and
 - 15.10.3 fairness to both parties.
- 15.11 If a claim, or a dispute in connection with a claim, is to be assessed by holding an Assessment Conference, the Assessment Conference is to be conducted between the Assessor, the claimant (and/or the claimant's legal representative or agent) and any parent, spouse, legal guardian, carer or other support person of the claimant, the insurer (and/or the insurer's legal representative or agent), and any interpreters or witnesses, or other persons the Assessor requires or allows to appear, and otherwise the Assessment Conference is not to be open to the public. The Assessment Conference is not to be recorded by way of a video or tape recording or other electronic device without the prior approval of the Assessor and all of the participants in the Assessment Conference.

Summons

- 15.12 In accordance with section 102, if a party fails to appear at an Assessment Conference, the PCA may issue a summons requiring their attendance at the time and date specified in the notice, being a day more than 10 days after the date of the issue of the summons.
- 15.13 The summons must be in the form approved by the Authority.

Representation

- 15.14 In accordance with section 104(2) a party may be represented at an Assessment Conference by a legal practitioner or an agent. A party may not be represented by more than one advocate without the prior approval of the Assessor.
- 15.15 A representative of the claimant and the insurer, each with full authority to settle and give instructions, must be present at any Preliminary Conference or Assessment Conference.

Assessment location

- 15.16 Unless the Assessor directs otherwise, the location at which an Assessment Conference should be listed should be the location specified by the applicant in the application for general assessment.
- 15.17 The location must be a place where CARS is able to conduct an assessment according to the list of locations in Schedule 1.
- 15.18 If an Assessor seeks to list a matter for an Assessment Conference at a location other than those listed in Schedule 1, the Assessor must obtain the prior approval of the PCA to that proposed location.

Chapter 16 - Assessment procedure

Assessor's role

- 16.1 In conducting an assessment the Assessor may determine the Assessor's own procedure and is not bound by the rules of evidence and may inquire into any matter in such manner as the Assessor thinks fit.
- 16.2 The Assessor is to take such measures as are reasonably practicable to:
 - 16.2.1 ensure that the parties to the application understand the nature of the application, the issues to be considered and the role of the Assessor as an independent decision-maker;
 - 16.2.2 explain to the parties any aspect of the procedure of the assessment, and any interim decision or ruling made by the Assessor during the course of the assessment, in respect of that procedure, that relates to the application;
 - 16.2.3 ensure that the parties have an opportunity to have their submissions considered; and
 - 16.2.4 ensure that the parties have had an opportunity to explore the settlement of the dispute.
- 16.3 The Assessor is to act with as little formality as the circumstances of the matter permit and according to equity, good conscience and the substantial merits of the matter without regard to technicalities and legal forms.
- 16.4 The Assessor is to take into account the objects of the Act and the objects of CARS at all times.
- 16.5 The Assessor is to ensure that relevant material is available so as to enable all of the relevant facts in issue to be determined.
- 16.6 The Assessor may admit into evidence the contents of any document that has previously been provided by one party to the other party, despite non-compliance with any time limit or other requirement specified in the Act or the Guidelines in relation to that document or service or exchange of it after taking into account any submissions of the parties.
- 16.7 The Assessor is to progress the resolution of the matter as quickly, fairly and as cost effectively as is practicable.
- 16.8 The Assessor shall determine the way in which an assessment is to proceed and may:
 - 16.8.1 decide the elements of a claim on which oral evidence or oral argument may be submitted;
 - 16.8.2 direct that evidence or argument be presented in writing;
 - 16.8.3 direct that submissions be presented in writing;
 - 16.8.4 determine whether an Assessment Conference is necessary and the time and place for any Assessment Conference that is to be held;
 - 16.8.5 determine whether any other conference is necessary; and
 - 16.8.6 direct the number and/or type of witnesses who can give evidence at the conference.

- 16.9 Subject to the location of the Assessment Conference, the Assessor must hold such a conference within 25 days of the final preliminary assessment, or 25 days after compliance with all directions made by the Assessor, whichever is the later.
- 16.10 In accordance with section 104(5), if the Assessor intends to conduct separate Assessment Conferences in private with either of the parties or with relevant witnesses or experts, the Assessor must inform the parties before any such conference takes place.
- 16.11 For the purpose of section 104(6), an Assessor may make an assessment without conducting an Assessment Conference if satisfied that the information before the Assessor is sufficient to enable the Assessor to make a determination of the issues that are the subject of the assessment. In exercising the discretion not to hold an Assessment Conference, the Assessor must have regard to:
- 16.11.1 the complexity of the claim;
 - 16.11.2 the likely quantum of the claim;
 - 16.11.3 whether the credit of the claimant or any witness is in issue;
 - 16.11.4 whether the matter is a general or special assessment; and
 - 16.11.5 any submission by the parties as to why a conference is required.
- 16.12 When undertaking an assessment and making an assessment of the amount of damages for the claim under section 94(1), the Assessor is to assess damages in accordance with Chapter 5 of the Act in the same the way in which a Court is required to assess damages.

Authorities and production of documents under section 100

- 16.13 For claims relating to accidents occurring after commencement of the amendment to section 100 made by the Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Act 2007 an Assessor may:
- 16.13.1 direct a claimant to execute an authority to a third party under section 100(c), authorising the release of documents in relation to the claim, however the authority may not be an authority directed to a Federal Government Agency who are otherwise empowered to refuse the production of documents to a Court on subpoena, such as the Health Insurance Commission, the Australian Taxation Office, or Centrelink; or
 - 16.13.2 direct a third party to produce documents under section 100(1A), however the direction to produce to a third party:
 - 16.13.2.1 must be made in a form approved by the Authority;
 - 16.13.2.2 shall set out the time to produce, which shall be not less than 20 days;
 - 16.13.2.3 must be accompanied by the appropriate fee to be paid by the party requesting the documents, in accordance with any Regulation under Chapter 6 of the Act that is in force; and

16.13.2.4 may be sent to the third party by the Assessor or, at the direction of the Assessor, by the party requesting the documents, or by another party.

16.14 The Assessor may make directions as to the exchange and provision of any information produced to, and between, the parties.

16.15 A person who fails without reasonable excuse to comply with an Assessor's direction under section 100, and clause 16.13 is guilty of an offence under section 100(2) which is subject to a maximum penalty of 50 penalty units.

Directions

16.16 The PCA or an Assessor may, at any time and from time to time, give such directions for the conduct of any assessment as appear convenient for the just, quick and cost effective disposal of the matter.

16.17 The PCA or an Assessor may, at any time and from time to time, of their own initiative, appoint a date for a preliminary or other conference at which the PCA or the Assessor may give or make any such directions.

16.18 An Assessor may give directions on their own initiative or at the request of a party.

16.19 Without limiting the generality of clause 16.18, directions may relate to any of the following:

16.19.1 the lodgement of any application to MAS or CARS;

16.19.2 the defining of issues, including requiring the parties, or their legal practitioners, to exchange memoranda in order to clarify questions;

16.19.3 the provision of any essential particulars;

16.19.4 the filing of lists of documents, either generally or with respect to specific issues;

16.19.5 the delivery or exchange of experts' reports and the holding of conferences of experts;

16.19.6 the provision of copies of documents, including their provision in electronic form;

16.19.7 the service and filing of witness statements or other documents to be relied on;

16.19.8 the giving of evidence at any Assessment Conference, including whether evidence of witnesses must be given orally, or by affidavit or witness statement, or both;

16.19.9 the use of telephone or video conference facilities, videotapes, film projection, computer and other equipment and technology;

16.19.10 the provision of evidence in support of an application for an adjournment or amendment;

16.19.11 a timetable with respect to any issues to be dealt with, including a timetable for the conduct of any Assessment Conference; and/or

16.19.12 the filing of written submissions.

Chapter 17 - Documentation and other supporting material

- 17.1 Whenever a party submits physical copies of documents and other material (including videotape, CD, DVD, electronic image or file, film or photographs) in support of an application or reply, the party lodging the material must have already provided a copy of the material to each other party to the dispute.
- 17.2 Only copies of documents are to be lodged at CARS or with the Assessor.
- 17.3 An officer of CARS, or any Assessor is not to take into consideration any documentation or information that has not been provided to the other party, except as provided in this chapter.

Language of documents and other supporting material

- 17.4 All documents and other supporting material lodged must be in the English language, except where the document or other supporting material:
- 17.4.1 is accompanied by an English translation of the document; and
 - 17.4.2 the English translation is supported by a declaration, made by the translator, in the English language, that the translation is an accurate translation of the document or other supporting material.
- 17.5 CARS may reject any documentation or other supporting material which does not comply with clause 17.4.

Surveillance images

- 17.6 In the case of surveillance images:
- 17.6.1 the images are to be provided to CARS in DVD format; and
 - 17.6.2 any investigator's or loss adjuster's report concerning those surveillance images must be provided with the images when provided to each other party and must be lodged at CARS with the images; and
 - 17.6.3 surveillance images cannot be lodged at CARS or submitted to an Assessor unless they have been provided to each party.
- 17.7 If surveillance images have been provided by an insurer in support of an application or a reply, the claimant will be offered an opportunity to respond to the surveillance images and unless the claimant indicates otherwise, the claimant will be taken to have no objection to the Assessor considering the surveillance images.

Documents sought by Assessor

- 17.8 Subject to the restrictions in clause 17.9 and clause 17.10, the Assessor may direct a party to produce documents or furnish information to the Assessor and the other party and:
- 17.8.1 any such direction must be made in writing by the Assessor within 10 days of a Preliminary Conference;
 - 17.8.2 any other parties to the assessment must, at the same time, be advised by the Assessor of the nature of the direction;
 - 17.8.3 any documents or information requested are to be provided to the Assessor within 5 days of the date of the receiving the request or as the Assessor requests; and
 - 17.8.4 if documents or information cannot be supplied within that time, the party must as soon as is practicable, apply to the Assessor for an extension of time, in which case the Assessor may set a further date.
- 17.9 An Assessor's request to produce documents or furnish information pursuant to this chapter can only be directed to the parties to the assessment.
- 17.10 The following documents or information are exempted from the operation of clause 17.8:
- 17.10.1 file notes, internal memoranda and estimates from the file of the insurer or the legal representative or agent of either party;
 - 17.10.2 legal advice, including Counsel's advice on any issue;
 - 17.10.3 draft statements, submissions or schedules;
 - 17.10.4 communications between the parties and their legal representatives; and
 - 17.10.5 documents that the Assessor accepts are exempted as the party in possession has a reasonable excuse for not providing them.
- 17.11 Subject to the restrictions in clause 17.12, the Assessor shall give a copy of any documents or information provided to the other party.
- 17.12 The following documents or information are exempted from the operation of clause 17.11:
- 17.12.1 material irrelevant to the case of either party and having no adverse effect on either party; and
 - 17.12.2 confidential material where there is a threat to life or the author of the report advises the report should not be made available to the claimant. Any party, officer of CARS, Assessor, or Court should advise the PCA of any of these grounds as soon as practicable.

- 17.13 If during the course of an assessment by an Assessor, or the determination by the PCA of an application for exemption, a party makes an allegation that a person has made a false or misleading statement in a material particular in relation to the injuries, loss or damage sustained by the claimant in the accident giving rise to the claim, the Assessor may require that party to give to the other party and the Assessor particulars in writing of the general nature of any such allegation (but not necessarily the evidence or proof of same), sufficient to enable the Assessor to determine whether or not the claim is suitable for assessment in accordance with the provisions in clauses 14.11 to 14.16.

Late additional documents

- 17.14 No additional documents or information sought to be added to the list of documents to be referred to the Assessor may be lodged by either party after the lodgement of their application or their reply, except:

17.14.1 by consent of the other party;

17.14.2 before allocation to an Assessor, in response to a specific request or direction from the PCA, or an officer of CARS, in circumstances where:

17.14.2.1 the PCA, or officer of CARS is satisfied that any such document would be of assistance to the conduct of the assessment; or

17.14.2.2 the PCA is satisfied that appropriate circumstances exist;
or

17.14.3 after allocation to an Assessor, in response to a specific request or direction from the Assessor, in circumstances where;

17.14.3.1 the Assessor is satisfied that any such document would be of assistance to the conduct of the assessment; or

17.14.3.2 the Assessor is satisfied that appropriate circumstances exist;

and any such documents must have been provided to the other party.

Chapter 18 - Certificate and statement of reasons

- 18.1 Upon completion of the assessment the Assessor is to issue a certificate under section 94 or 96.
- 18.2 A copy of the certificate and any statement of reasons should be provided to the PCA and each party within 15 days of the conclusion of any Assessment Conference, or in the absence of any Assessment Conference, within 15 days of the provision by the parties of all information and documentation sought by the Assessor at the Preliminary Conference or any date fixed by the Assessor.
- 18.3 The time fixed for the provision of the certificate and statement of reasons may not be extended by an Assessor except with leave of the PCA.
- 18.4 A certificate under section 94 or 96 is to have attached to it a statement of the reasons for the assessment. The statement of reasons is to set out as briefly as the circumstances of the assessment permit:
- 18.4.1 the findings on material questions of fact;
 - 18.4.2 the Assessor's understanding of the applicable law if relevant;
 - 18.4.3 the reasoning processes that lead the Assessor to the conclusions made; and
 - 18.4.4 in the case of an assessment certificate pursuant to section 94, the Assessor must specify an amount of damages and the manner of determining that amount.
- 18.5 The Assessor may at any time issue a certificate in accordance with an agreed settlement, provided the terms of the agreed settlement are reduced to writing, signed by or on behalf of the parties and sighted by the Assessor, and the Assessor is satisfied that the terms of the agreed settlement are issues upon which the Assessor has power to make an assessment.
- 18.6 The Assessor may with the consent of both parties provide reasons orally at the Assessment Conference provided that, in accordance with section 94(4) and (5), a certificate is issued with a brief written statement summarising those reasons.

Privacy

- 18.7 CARS assessments are conducted in private and are not open to the public, under clause 14.5 and 15.11, and a certificate and any statement of reasons issued by an Assessor are not available to the public.

(Note: An individual's privacy should be respected. Failure to respect the privacy of an individual may result in a breach of the Privacy and Personal Information Protection Act 1998 (NSW) and/or the Health Records and Information Privacy Act 2002 (NSW). The MAA recommends that no certificate and/or statement of reasons should be published, distributed or used in any way unless the privacy of all individuals referred to in the documents is respected, including claimants, their relatives, support persons, claims officers, legal representatives, medical practitioners, witnesses, interpreters, Assessors, and any other individual person. The MAA recommends that no such documents should be published, distributed or used in any way unless the express consent of any such individuals has first been obtained, or unless the documents have been thoroughly and sufficiently de-identified to ensure that the privacy of those individuals is respected.)

Accepting or rejecting an assessment

- 18.8 The method by which a party to an assessment accepts or rejects an assessment of the issue of liability for a claim (under section 95(1)) is to notify the other party in writing of the acceptance or rejection. In these cases the insurer is required to advise CARS in writing no later than 2 calendar months after the issue of the certificate of assessment, whether or not that certificate of assessment has as yet been accepted or rejected by either party.
- 18.9 The method by which a claimant accepts or rejects an assessment of damages for liability under a claim (under section 95(2)) is to notify the insurer in writing of the acceptance or rejection within 21 calendar days after the certificate of assessment was issued. In these cases the insurer is required to advise CARS in writing no later than 2 calendar months after the issue of the certificate of assessment, whether or not that certificate of assessment was accepted by the claimant.

Division 4 - Corrections and costs

Chapter 19 - Corrections

19.1 If a party to an assessment considers that the Assessor has made an obvious error in a certificate or a statement of reasons attached to the certificate, that party may make an application to the PCA to have the error corrected within 21 calendar days after the certificate of assessment was issued.

(Note: This period is different to the obvious error correction period at MAS, which is set at 30 working days after the MAS certificate was sent to the parties, which is timed to be generally consistent with the period of time for lodging a MAS review. Instead this CARS obvious error correction period is timed to be consistent with the period for accepting a CARS assessment as set out in clause 18.9 of these Guidelines.)

19.2 Any such application is to be made in writing, setting out details of the obvious error and the terms of the suggested correction.

19.3 The party making the application is to send a copy of the application to the other party.

19.4 Examples of obvious errors in the certificate or statement of reasons include, but are not limited to:

19.4.1 an arithmetic, clerical or typographical error in the certificate or statement of reasons;

19.4.2 an error arising from an accidental slip or omission;

19.4.3 a defect of form; or

19.4.4 an obvious inconsistency between the certificate and the statement of reasons explaining the certificate.

19.5 Within 5 days of receiving the application the PCA shall acknowledge the application by writing to both parties, and the PCA may seek any further submissions from the parties.

Principal Claims Assessor's determination

19.6 In deciding whether or not there is an obvious error in the certificate the PCA may:

19.6.1 seek submissions from the parties to the assessment; and/or

19.6.2 seek a response from the Assessor.

19.7 The PCA is to consider the application within 5 days of the application being acknowledged under clause 19.5.

- 19.8 In accordance with section 94(6), if the PCA is satisfied that there is an obvious error in a certificate as to an assessment or in the statement attached to the certificate, the PCA may:
- 19.8.1 issue a replacement certificate or statement of reasons; or
 - 19.8.2 approve the Assessor issuing a replacement certificate or statement of reasons;
- that corrects the obvious error that was sought to be corrected and that will replace the previous certificate.
- 19.9 If a replacement certificate or statement of reasons is issued, the replacement certificate or statement is to:
- 19.9.1 be titled as a 'replacement' certificate or statement of reasons;
 - 19.9.2 be dated the same day as the original certificate or statement of reasons, and also identify the date the replacement certificate was issued; and
 - 19.9.3 be taken to be the decision of the Assessor or the reasons for the decision.
- 19.10 If the certificate or statement of reasons is replaced, the PCA or Assessor must provide the parties with a copy of the replacement certificate or statement of reasons within 5 days of the PCA's determination in clause 19.8.

Chapter 20 - Costs

- 20.1 Pursuant to section 94A and any Regulation under Chapter 6 of the Act that is in force, an Assessor may, when assessing a claim, make an assessment of the amount of the claimant's entitlement to costs.
- 20.2 Costs are to be assessed pursuant to relevant provisions of the Act and any Regulation under Chapter 6 of the Act that is in force.
- 20.3 An assessment is to include an amount of costs in respect of the legal costs associated with the assessment of any medical disputes.
- 20.4 If a claimant fails, without reasonable excuse, to attend, or cancels at short notice, a medical examination arranged by the insurer, without reasonable excuse, and as a result a non-attendance fee or cancellation fee is incurred, the insurer may have credit for any such non-attendance or cancellation fee.
- 20.5 If there is a dispute over the apportionment of costs between 2 or more firms of solicitors, the Assessor is to apportion the amount of costs allowed according to the proportion of work undertaken and the stages of work undertaken by the firms.
- 20.6 When assessing the costs of a CARS assessment, the Assessor shall have regard to the amount of any written offer of settlement made by either party and, if the claim is made on or after 1 October 2008, section 89D.
- 20.7 The Assessor's certificate issued pursuant to section 94 and 96 and clause 18.1 of these Guidelines is to include an assessment of the claimant's costs and disbursements.
- 20.8 The Assessor's statement of reasons in respect of the assessment of costs is to attach to it a calculation of the claimant's costs and disbursements and set out as briefly as the circumstances permit in respect of any disputed costs or disbursements:
- 20.8.1 the amount claimed;
 - 20.8.2 the amount allowed; and
 - 20.8.3 brief reasons for not allowing the amount claimed.

Schedule 1



CARS Approved Assessment Locations

(Issued pursuant to clause 15.17 of the MAA Claims Assessment Guidelines)

- Sydney
- Albury
- Armidale
- Bathurst
- Bega
- Broken Hill
- Byron Bay
- Campbelltown
- Canberra
- Coffs Harbour
- Cowra
- Dubbo
- Forbes
- Forster
- Glen Innes
- Gosford
- Goulburn
- Griffith
- Lismore
- Lithgow
- Maitland
- Muswellbrook
- Newcastle
- Nowra
- Orange
- Penrith
- Port Macquarie
- Queanbeyan
- Tamworth
- Taree
- Wagga Wagga
- Wollongong
- Young



Motor Accidents Authority of New South Wales
Motor Accidents Assessment Service
Medical Assessment Service

Medical Assessment Guidelines

Guidelines issued under section 44(1)(d) of the Motor Accidents Compensation Act 1999 NSW with respect to the procedures for the referral of disputes for assessment or review of assessments, and the procedure for assessments and Review Panel assessments under Part 3.4 of the Motor Accidents Compensation Act 1999 NSW

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Explanatory note

These Guidelines are made pursuant to section 44(1)(d) of the Motor Accidents Compensation Act 1999 ('the Act'). They apply in respect of a motor accident occurring on or after 5 October 1999. Pursuant to section 65(1) of the Act these Guidelines operate by force of law as if they were delegated legislation.

The Guidelines explain the operation of those sections of the Act relating to medical assessments and the Medical Assessment Service ('MAS'). MAS has been established by the Motor Accidents Authority ('the MAA') to resolve medical disputes as they arise during the course of a claim and usually before proceedings are commenced at the Claims Assessment Resolution Service ('CARS') or Court. This will assist in the reduction of costs for the Motor Accidents Compensation Scheme and help maintain the affordability of premiums. The MAS process facilitates the earlier settlement of claims to the benefit of all parties.

These Guidelines instruct officers of the MAA, members of the legal profession and the insurance industry and parties to claims how to make and deal with an application to MAS for assessment of a medical dispute or for the review of an assessment of a medical dispute. Clear and easily accessible information directed towards claimants who wish to represent themselves is also available from the MAA. These Guidelines are also intended to direct Medical Assessors as to the manner in which an assessment is to be conducted.

This new version of the Guidelines replaces the previous Medical Assessment Guidelines and will apply to all new applications received at MAS on or after 1 October 2008 and all disputes current at MAS on or after that date, that have not been determined, unless otherwise provided for in these Guidelines. All versions of the Medical Assessment Guidelines that have been issued to date are as follows:

- Version 1 effective 4 April 2000, gazetted 17 December 1999;
- Version 2 effective 1 October 2001, gazetted 31 August 2001;
- Version 3 effective 1 May 2006, gazetted 3 March 2006; and
- Version 4 effective 1 October 2008, gazetted 11 July 2008.

These Guidelines have been developed in consultation with all relevant medical colleges, the para-medical professional associations and other relevant colleges and associations as required by section 44(6) of the Act. In addition these Guidelines have also been developed in consultation with the Insurance Council of Australia Limited, the Council of the Bar Association, the Council of the Law Society, and the Council of the Australian Lawyers Alliance.

Questions about MAS and these Guidelines should be directed to the Deputy General Manager MAA / Registrar MAAS.

David Bowen
General Manager
Motor Accidents Authority

Effective: 1 October 2008

Cameron Player
Deputy General Manager, MAA
Registrar, MAAS

Gazetted: 11 July 2008

Division 1 - Introduction and registry

Chapter 1 - Introduction and interpretation

Introduction and commencement date

- 1.1 These Guidelines may be referred to as the 'Medical Assessment Guidelines' and are made pursuant to section 44(1)(d) of the Motor Accidents Compensation Act 1999 ('the Act'). They apply in respect of a motor accident occurring on or after 5 October 1999. These Guidelines are delegated legislation.
- 1.2 These Guidelines replace the Medical Assessment Guidelines that came into effect on 1 May 2006 and will apply to all new applications received at MAS on or after 1 October 2008 and all disputes current at MAS on or after that date that have not been determined.
- 1.3 These Guidelines have been developed in consultation with all relevant medical colleges, the para-medical professional associations and other relevant colleges and associations as required by section 44(6) of the Act. In addition these Guidelines have also been developed in consultation with the Insurance Council of Australia Limited, the Council of the Bar Association, the Council of the Law Society, and the Council of the Australian Lawyers Alliance.
- 1.4 As a transitional arrangement and to avoid requirements that might be unreasonable in the circumstances on any person or entity, the Registrar or Proper Officer may waive observance of any part or parts of these Guidelines for any application that has been lodged with the registry before these Guidelines apply.
- 1.5 The Registrar or Proper Officer may dispense with the formal requirements of these Guidelines after advising the parties to the dispute and considering any submissions by the parties.

Definitions

- 1.6 The terms used in these Guidelines have the following meanings:
 - 1.6.1 **Act** Motor Accidents Compensation Act 1999, as amended from time to time.
 - 1.6.2 **Allocation Review** A consideration of an application and/or reply pursuant to Chapter 9.
 - 1.6.3 **Applicant** The party that initiates the referral of a dispute.
 - 1.6.4 **Application** The means by which a party requests the referral of a dispute for assessment or applies for a review.
 - 1.6.5 **Assessment** A medical assessment of a dispute referred under section 60(1).
 - 1.6.6 **Assessor** A Medical Assessor appointed by the Authority under section 59.
 - 1.6.7 **Authority** Motor Accidents Authority (MAA).

1.6.8	CARS	Motor Accidents Claims Assessment and Resolution Service of the Authority.
1.6.9	CARS Assessor	A Claims Assessor designated by the Authority under section 99.
1.6.10	CAS	Claims Advisory Service of the Authority.
1.6.11	Certificate	A certificate issued under section 61(1) including the reasons for any finding under section 61(9).
1.6.12	Claimant	A person who makes or is entitled to make a claim under the Act.
1.6.13	Combined certificate	A certificate issued under section 61(10)(b) including the reasons for any finding under section 61(10)(b).
1.6.14	CTP	Compulsory Third Party.
1.6.15	Dispute	Any medical dispute referred to in section 58.
1.6.16	DX box	Exchange box in the Australian Document Exchange Pty Ltd.
1.6.17	ECM system	An electronic case management system established by the Authority.
1.6.18	ET Act	Electronic Transactions Act 2000, as amended from time to time.
1.6.19	Form	A form approved by the Authority that may contain an application and/or a reply to an application.
1.6.20	Further assessment	A further assessment under section 62.
1.6.21	Injured person	A person who has suffered an injury that is the subject of a claim made under the Act.
1.6.22	Insurer	Any party against whom a claim is made under the Act.
1.6.23	Licensed insurer	An insurer that is the holder of a license granted under Part 7.1 of the Act and in force.
1.6.24	MAAS	Motor Accidents Assessment Service, a unit of the Authority.
1.6.25	MAS	Motor Accidents Medical Assessment Service of the Authority.
1.6.26	MAS Assessor	A Medical Assessor appointed by the Authority under section 59.
1.6.27	Matter	The application, reply and all supporting documents and correspondence held by MAS in relation to one discrete application. Each matter lodged at MAS is given a discrete matter number.
1.6.28	Officer of MAS	An officer of the Authority undertaking work in relation to medical assessments or reviews as directed by, or as delegated by the Proper Officer.

- 1.6.29 **Person under legal incapacity** includes:
- (a) a child under the age of 18 years;
 - (b) a temporary patient, continued treatment patient or forensic patient within the meaning of the Mental Health Act 1990;
 - (c) a person under guardianship within the meaning of the Guardianship Act 1987;
 - (d) a protected person within the meaning of the Protected Estates Act 1983; and
 - (e) an incommunicate person, being a person who has such a physical or mental disability that he or she is unable to receive communications, or express his or her will, with respect to his or her property or affairs.

(Note: At the time of publication of these Guidelines, this definition has been modeled on, and is similar to, the definition of 'Person under legal incapacity' in section 3 of the Civil Procedure Act 2005.)

- 1.6.30 **Proper Officer** A Proper Officer of the Authority.
- 1.6.31 **Reasons** The reasons under section 61(9) for any finding by an Assessor in a certificate.
- 1.6.32 **Registrar** The Registrar of the Authority.
- 1.6.33 **Registry** That part of the Authority that receives documents for the purpose of medical assessments.
- 1.6.34 **Reply** The means by which a respondent answers an application.
- 1.6.35 **Respondent** A party who is required to respond to an application.
- 1.6.36 **Review** A review of a medical assessment by a panel of Medical Assessors under section 63.
- 1.7 A reference in these Guidelines to a section 'X' is a reference to a section of the Motor Accidents Compensation Act 1999 (NSW), as amended from time to time.
- 1.8 To the extent that they are not defined in clause 1.6 the definitions in section 3 and section 57 apply to these Guidelines.
- 1.9 A reference to a party in these Guidelines includes multiples of parties or multiple parties to any application.
- 1.10 A reference in these Guidelines to a number of days is a reference to a number of working days, unless otherwise stated.
- 1.11 A reference in these Guidelines to a service copy of material is a reference to a separate set of the documents that are attached to and lodged with, or in support of, an application or reply.
- 1.12 The Authority will provide and maintain a Claims Advisory Service (CAS) to assist claimants in connection with the medical assessment procedures under the Act.

Objects of MAS

- 1.13 The objects of MAS set out in clause 1.14 should be used as an aid to the interpretation of these Guidelines.
- 1.14 The **objects of MAS** in dealing with medical disputes referred are:
- 1.14.1 to provide a timely, fair and cost effective system for the assessment of medical disputes under the Motor Accidents Compensation Act 1999 that is accessible, transparent, independent and professional;
 - 1.14.2 to assess medical disputes fairly and according to the substantial merits of the application with as little formality and technicality as is practicable and minimising the cost to the parties;
 - 1.14.3 to ensure the quality and consistency of MAS decision making;
 - 1.14.4 to make appropriate use of the knowledge and experience of MAS Assessors; and
 - 1.14.5 to establish and maintain effective communication and liaison with stakeholders concerning the role of MAS.
- 1.15 The objects of MAS set out in clause 1.14 are consistent with, and are in support of the objects of the Act as can be gleaned from the Act as a whole, as amended from time to time, including from the 'Objects of the Act' set out in section 5(1) and the 'Acknowledgements of the Act' set out in section 5(2).
- 1.16 In exercising their functions and interpreting the provisions of these Guidelines, the Registrar, Proper Officer, MAS Assessors and officers of MAS must have regard to the objects of MAS, in addition to the objects of the Act.

(**Note:** At the time of publication of these Guidelines, some of the Objects and Acknowledgements in those specific sections of the Act referred to above most relevant to these Guidelines include:

Objects - Section 5(1)(a) - to encourage early and appropriate treatment and rehabilitation to achieve optimum recovery from injuries sustained in motor accidents, and to provide appropriately for the future needs of those with ongoing disabilities; and

Section 5(1)(b) - to provide compensation for compensable injuries sustained in motor accidents, and to encourage the early resolution of compensation claims; and

Section 5(1)(e) - to keep premiums affordable, in particular, by limiting the amount of compensation payable for non-economic loss in cases of relatively minor injuries, while preserving principles of full compensation for those with severe injuries involving ongoing impairment and disabilities.

Acknowledgements - Section 5(2)(a) - that participants in the scheme under this Act have shared and integrated roles with the overall aim of benefiting all members of the motoring public by keeping the overall costs of the scheme within reasonable bounds so as to keep premiums affordable; and

Section 5(2)(b) - that the law (both the enacted law and the common law) relating to the assessment of damages in claims made under this Act should be interpreted and applied in a way that acknowledges the clear legislative intention to restrict the level of non-economic loss compensation in cases of minor injuries; and

Section 5(2)(c)(i) - that the premium pool from which each insurer pays claims consists at any given time of a finite amount of money; and

Section 5(2)(c)(iii) - that the preparation of fully funded premiums requires a large measure of stability and predictability regarding the likely future number and cost of claims arising under policies sold once the premium is in place; and

Section 5(2)(c)(iv) - that the stability and predictability referred to in subparagraph (iii) require consistent and stable application of the law.)

Chapter 2 - Jurisdiction

- 2.1 An application may be made to MAS for assessment, further assessment, or a review of an assessment of a medical dispute in accordance with Part 3.4. Section 58 defines these disputes as:
 - 2.1.1 whether treatment provided, or to be provided, to the injured person (a 'treatment dispute') is:
 - 2.1.1.1 reasonable and necessary in the circumstances (a 'reasonable and necessary treatment dispute');
 - 2.1.1.2 related to the injury caused by the motor accident (a 'related treatment dispute'); or
 - 2.1.2 whether the degree of permanent impairment of the injured person as a result of the injury caused by the motor accident is greater than 10% (a 'permanent impairment dispute').
- 2.2 An officer of MAS may reject an application or any part thereof as not duly made if the officer is satisfied that the application or part thereof does not establish that it relates to one of the above types of disputes.
- 2.3 An officer of MAS may reject an application made on behalf of, or in respect of, a personal injury claim made by a person who has died after the claim has been made, unless it is accompanied by a grant of probate or letters of administration or equivalent, and confirmation that the estate seeks to pursue the claim.

Chapter 3 - Referrals to the MAS registry

- 3.1 The Authority shall establish and maintain a registry for the referral of applications, managed by the Registrar.
- 3.1.1 For the purposes of delivery or sending of documents for lodgement the address is:
- The Registrar, Medical Assessment Service**
Motor Accidents Assessment Service, Motor Accidents Authority of NSW
Level 19, 1 Oxford Street, Darlinghurst, NSW, 2010
DX 10 SYDNEY
- 3.1.2 For the purposes of delivery or sending of documents for lodgement using the ECM system, access is available to registered ECM users via password login to the MAA website address at:
- <http://www.maa.nsw.gov.au>**
- 3.2 Except on Saturdays, Sundays, and public holidays, the registry shall be open to the public for lodgement of documents in person between 8.30am and 5:00pm.
- 3.3 The registry may make provision for lodgement of documents electronically and also outside the registry's usual opening hours. Any documents lodged electronically after 5:00pm are deemed to have been received on the next registry business day.
- 3.4 The registry shall, notwithstanding clause 3.2, be kept open to the public for business or closed for business, at such times and on such days as the Registrar shall direct.
- 3.5 It is sufficient notification, or service, for any document or correspondence directed to the Registrar, Medical Assessments Manager, the Proper Officer, an Assessor or MAS to be left in the DX box of the Authority at DX 10 Sydney or at another DX box for transmission to that exchange box.
- 3.6 The Registrar shall arrange for all applications made under these Guidelines to be allocated a matter number and registered. All subsequent correspondence concerning the application is to quote that matter number.
- 3.7 All correspondence to, and communication with, an Assessor in relation to a medical dispute, either in respect of a current or concluded assessment, must, unless the Registrar, Proper Officer or the Assessor directs otherwise, be directed to the Assessor care of the registry.
- 3.8 If a legal practitioner or agent represents the claimant in respect of the medical dispute being assessed:
- 3.8.1 it is sufficient notification for the Registrar, Proper Officer, an officer of MAS or an insurer to send any document required to be sent to the claimant, to the legal practitioner or agent; and
- 3.8.2 the Registrar, Proper Officer or an officer of MAS may, notwithstanding that the claimant has legal or other representation, contact the claimant directly in relation to a medical assessment.
- 3.9 If a legal practitioner or agent represents the insurer in respect of the medical dispute being assessed:

- 3.9.1 it is sufficient notification for the Registrar, Proper Officer, an officer of MAS or a claimant to send any document required to be sent to the insurer to the legal practitioner or agent; and
 - 3.9.2 the Registrar, Proper Officer or an officer of MAS may, notwithstanding that the insurer has legal or other representation, contact the insurer directly in relation to a medical assessment.
- 3.10 If a party, represented by a legal practitioner or agent, requests MAS to do so, the Registrar, Proper Officer or an officer of MAS may at their discretion send a copy of any document required to be sent to that party, to the party direct, in addition to that party's legal representative or agent.
- 3.11 If after an application or reply is lodged at MAS, a party retains a legal practitioner or agent to represent them, or changes their legal practitioner or agent, that party must notify the Registrar and the other party in writing within 5 days of the date of the retainer or change in representation.
- 3.12 If after an application lodged at MAS has been allocated to an Assessor, a party retains a legal practitioner or agent to represent them, or changes their legal practitioner or agent, that party must notify the Registrar and the other party in writing within 5 days of the date of the retainer or change in representation.

Exchange and lodgement of application and reply

- 3.13 The applicant must complete the application and:
- 3.13.1 send it to the respondent, together with a copy of all material in support of the application that has not previously been supplied to the respondent; and
 - 3.13.2 lodge it with MAS, with all material in support of the application. If lodged other than via the ECM system, 2 paper copies are required, however unrepresented claimants need lodge only a single copy of the application and supporting documents.
- 3.14 An officer of MAS is to consider the application, and if accepted, send an acknowledgement of the application to the parties within 5 days of receipt of the application in the registry.
- 3.15 The respondent must within 20 days of the date of the sending by MAS of the acknowledgement of the application, complete the reply and:
- 3.15.1 send it to the applicant, together with a copy of all material in support of the reply that has not previously been supplied to the applicant; and
 - 3.15.2 lodge it with MAS, with all material in support of the reply. If lodged other than via the ECM system, 2 paper copies are required, however unrepresented claimants need lodge only a single copy of the reply and supporting documents.
- 3.16 The respondent must not attach to the reply any document that the applicant has already attached to the application.
- 3.17 If any documents in support of an application or reply are lodged other than via the ECM system, those documents must be supplied as single-sided copies.

- 3.18 When an application or reply or supporting documents are lodged other than via the ECM system, the lodging party must number the first page of each document in clear dark numerals at the top right hand corner of the front page of each document, in accordance with the numbering in the list of documents attached to, or contained in, the application or reply.
- 3.19 A separate application is required for each injured person, and for each separate motor vehicle accident claim, in relation to which assessment is sought.
- 3.20 An officer of MAS is to consider the reply, and if accepted send an acknowledgement of the reply to the parties within 5 days of receipt of the reply in the registry.
- 3.21 A reply lodged with MAS after the time limit in clause 3.15 has expired may be accepted by the Registrar or Proper Officer, if they are satisfied that the respondent has a reasonable explanation for the delay. A reply sought to be lodged after the time limit in clause 3.15 has expired must attach an explanation for the delay, and must first have been provided to the applicant who is to be given an opportunity to make a submission on the issue.

Procedural non-compliance

- 3.22 An officer of MAS may reject any form, whether lodged physically or electronically, if the form does not substantially comply with these Guidelines, including, but not limited to, for one of the following reasons:
 - 3.22.1 the form does not list the documents required in accordance with the requirements of the form;
 - 3.22.2 the form does not attach the documents required in accordance with the requirements of the form; or
 - 3.22.3 the form does not certify that all listed documents have been provided to all other parties before lodgement;unless the non-compliance is technical and of no significance,
- 3.23 If the form is rejected, an officer of MAS shall issue a rejection notice to both parties setting out brief reasons for the rejection within 5 days of receipt of the form in the registry.

Expedited applications

- 3.24 Either party to a dispute may apply at any time for a matter to be expedited by doing so in writing to MAS, and giving notice to the other party setting out full details of the basis on which expedition of the application is sought.
- 3.25 In considering whether they are satisfied that an application for expedition should be granted, the Proper Officer shall consider all relevant factors and circumstances surrounding the matter including, but not limited to:
- 3.25.1 the objects of the Act;
 - 3.25.2 the objects of MAS;
 - 3.25.3 the interests of both parties to the matter; and
 - 3.25.4 the interests of other parties to other disputes, particularly regarding the equity of prioritising the matter seeking expedition ahead of other matters.
- 3.26 If the Proper Officer is satisfied that the matter warrants being expedited, having considered any submissions from the parties, the Proper Officer will take all reasonable steps to ensure the matter is dealt with by MAS as quickly as possible.
- 3.27 The types of exceptional circumstances that may warrant an application for expedition being accepted may include, but are not limited to, issues such as:
- 3.27.1 claimants with seriously deteriorating health requiring an urgent assessment;
 - 3.27.2 claimants who are only able to remain in the country for a limited period of time due to matters outside their control; and/or
 - 3.27.3 claimants with matters currently being heard before a Court or CARS.

Chapter 4 - Interpreters

- 4.1 If a party indicates that an interpreter is required, an officer of MAS will arrange for an interpreter to be present at any assessments.
- 4.2 Interpreters accredited by NAATI (National Accreditation Authority for Translators and Interpreters) should be used during the course of an assessment if an interpreter is required.
- 4.3 In the absence of a NAATI interpreter, a non-NAATI interpreter may be used at the discretion of the Registrar or Proper Officer, as long as that person is not a person accompanying the claimant to a medical examination.

Chapter 5 - Time

Abridgement or extension of time

- 5.1 The Registrar or Proper Officer may, if the circumstances justify, and on terms, abridge or extend any time limit fixed by these Guidelines, including any time limit affecting the Registrar, Proper Officer, an officer of MAS, or an Assessor.
- 5.2 The Registrar or Proper Officer may extend time under clause 5.1 after the time expires, whether or not an application is made before the time expires, or at all.

Reckoning of time

- 5.3 Any period of time fixed by these Guidelines for the doing of any act or in connection with any assessment or request by the Registrar, Proper Officer or an Assessor shall be reckoned in accordance with clauses 5.4, 5.5 and 5.6.
- 5.4 Where a time of 1 day or a longer time is to be reckoned by reference to a given day or event, the given day or the day of the given event shall not be counted.
- 5.5 Where, apart from this sub-clause, the period in question, being a period of 5 days or less, would include a day on which the registry is closed for lodgement in person, that day shall be excluded.
- 5.6 Where the last day for doing a thing is a day on which the registry is closed for lodgement in person, the thing may be done on the next day on which the registry is open for lodgement in person.

Chapter 6 - Delivery of documents

- 6.1 For matters lodged other than via the ECM system, for the purpose of these Guidelines where a claimant or insurer notifies in any document lodged an address for delivery or receipt of documents, then leaving a document at that address, or sending a document to that address, shall be taken to be received by the person as follows:
- 6.1.1 in the case of a physical address, on the day the document is left at that address;
 - 6.1.2 in the case of a physical or postal address, on a day 5 days after the document is sent;
 - 6.1.3 in the case of a DX box, leaving a document, addressed to that claimant, insurer, solicitor or agent, in that DX box or at another DX box for transmission to that DX box, 2 days after the document is so left;
 - 6.1.4 in the case of an email address, on the day the email or email attachment is sent if sent before 5:00pm, or on the day after the email or email attachment is sent if sent at or after 5:00pm; or
 - 6.1.5 in the case of a facsimile number, on the day the facsimile is sent if sent before 5:00pm, or on the day after the facsimile is sent if sent at or after 5:00pm.
- 6.2 For matters lodged via the ECM system, for the purpose of these Guidelines the provisions of section 13 of the ET Act apply.

Chapter 7 - Electronic case management system

- 7.1 The Authority may establish an ECM system to do one or more of the following:
- 7.1.1 enable documents with respect to medical disputes to be created, exchanged, filed, issued and used in electronic form;
 - 7.1.2 enable parties to medical disputes to communicate in electronic form with MAS and with other parties to those disputes;
 - 7.1.3 enable information concerning the progress of medical disputes to be provided in electronic form to parties to those disputes; and/or
 - 7.1.4 enable MAS and MAS Assessors to communicate in electronic form with parties to medical disputes.
- 7.2 The Registrar may establish a protocol for the use of the ECM system, and for persons to become registered users of the ECM system, in addition to Assessors.
- 7.3 Such a protocol under clause 7.2 may provide, amongst other things, for the specification of the level of access to the system to which persons or specified classes of persons are entitled, the conditions of use of the system applicable to persons generally or persons of any such class, the security methods by which persons using the system are identified and verified, and how users gain access to the system.
- 7.4 Subject to any protocol established under clause 7.2, a person other than an Assessor may not use the ECM system for particular applications unless the person is a registered user of the ECM system and is:
- 7.4.1 a party to the application regarding the medical dispute; or
 - 7.4.2 a legal practitioner representing a party to the application regarding the medical dispute.
- 7.5 In relation to any proceedings, the level of access to the ECM system to which a user is entitled, and the conditions of use applicable to a user, is subject to any decision of the Registrar.
- 7.6 Documents and information lodged via the ECM system may be dealt with in accordance with the provisions of the ET Act.
- 7.7 When the Authority sends documents, or forwards correspondence to a party who is a registered user of the ECM system, the Authority will generally only do so via electronic communication to that party.

Division 2 - Primary application types

Chapter 8 - Application for medical assessment (section 60)

- 8.1 An application for assessment, or reply to an application, must:
- 8.1.1 be in the form approved by the Authority; or
 - 8.1.2 be in a form as directed by the Registrar or Proper Officer; and
 - 8.1.3 set out or be accompanied by the particulars and information required by that form or as otherwise directed by the Registrar or Proper Officer.

Treatment disputes (MAS forms 1A and 1R)

- 8.2 An application for assessment of a treatment dispute may be lodged at any time, and should be lodged as soon as practicable after the treatment dispute arises between the parties, to enable the outcome of the assessment of the treatment dispute to have as early an opportunity as possible of influencing the treatment and rehabilitation of the claimant.
- 8.3 The parties must have first made some attempt to resolve the specific treatment dispute in question before the dispute will be assessed by MAS.
- 8.4 Before allocating the application for assessment of a treatment dispute to an Assessor, the Proper Officer will require evidence from the parties to substantiate that:
- 8.4.1 the claimant has requested specific treatment and the insurer disputes that the treatment is reasonable and necessary in the circumstances or that the treatment relates to the injury caused by the motor accident; and
 - 8.4.2 the insurer has had a reasonable opportunity to respond to the request from the claimant and either has not responded, or has rejected the specific treatment requested by the claimant.
- 8.5 In conducting an Allocation Review pursuant to Chapter 9 the Proper Officer may seek such submissions, clarifications, or further information from the parties to the assessment that the Proper Officer believes will assist in considering that Allocation Review.

Permanent impairment disputes (MAS forms 2A and 2R)

8.6 An application for assessment of a permanent impairment dispute may be lodged at any time. If there is a dispute about whether or not the claimant is entitled to claim damages for non-economic loss in accordance with section 132(1), the application should be lodged as soon as possible after the dispute arises. Submitting an application as soon as possible after a dispute arises will assist the parties in attempting to resolve the dispute as a whole.

(Note: In the vast majority of claims the degree of impairment is able to be accurately assessed at 12-18 months post accident. MAAS strongly recommends that applications for assessment of impairment should be lodged by 18 months post accident at the latest.)

8.7 The parties must have first made some attempt to resolve the dispute about whether or not the claimant is entitled to claim damages for non-economic loss before the permanent impairment dispute will be assessed by MAS.

8.8 As required by the Claims Handling Guidelines, where the insurer rejects a claimant's claim to be entitled to damages for non-economic loss, as it believes the claimant's degree of whole person permanent impairment is not greater than 10%, the insurer should give written reasons to the claimant for that rejection and advise the claimant of their right to apply to MAS for assessment of the permanent impairment dispute.

8.9 Before allocating the application for assessment of a permanent impairment dispute to an Assessor, the Proper Officer will require evidence from the parties to substantiate that:

8.9.1 the claimant has put the insurer on notice that the claimant believes the claimant is entitled to damages for non-economic loss by either:

8.9.1.1 making a request or offer of settlement to the insurer seeking an entitlement to damages for non-economic loss;

8.9.1.2 requesting that the insurer concede that the claimant is entitled to claim damages for non-economic loss; or

8.9.1.3 indicating to the insurer that it believes the claimant's degree of whole person impairment is greater than 10%.

8.9.2 the insurer has had an opportunity to respond to the claimant's claim to be entitled to damages for non-economic loss and either has not responded, or has rejected the claim.

8.10 The insurer's written reasons for rejecting the claimant's claim to be entitled to damages for non-economic loss should be included in any application to MAS for assessment of a permanent impairment dispute lodged by the claimant or insurer.

8.11 In conducting an Allocation Review pursuant to Chapter 9 the Proper Officer may seek such submissions, clarifications, or further information from the parties to the assessment that the Proper Officer believes will assist in considering that Allocation Review.

Division 3 - Allocations and assessments

Chapter 9 - Allocation

Allocation Review

- 9.1 When an application is made under Chapters 8, 14, 15, or 16, an officer of MAS is to arrange for the Allocation Review of the matter to determine:
- 9.1.1 the eligibility of the dispute for assessment in accordance with Chapter 2;
 - 9.1.2 whether any application and/or reply are properly made in accordance with Chapter 3 and Chapters 8, 14, 15, and 16 as far as they apply to the dispute;
 - 9.1.3 whether further information or documentation is required (see clause 9.4);
 - 9.1.4 whether a matter is ready for assessment or whether the assessment should be deferred (see clause 9.7);
 - 9.1.5 whether the application should be dismissed (see Chapter 10); and
 - 9.1.6 the way in which an assessment is to proceed (see clause 9.10).
- 9.2 The Proper Officer is to ensure that within 10 days of the due date for a reply under clause 3.15, the parties are advised of the outcome of the Allocation Review in accordance with the remainder of this chapter.
- 9.3 If no reply is received within the time provided, referred to in clause 3.15, the Proper Officer may allocate the matter in the absence of a reply.

Further information or documentation required

- 9.4 In the case of clause 9.1.3, if an officer of MAS is satisfied that further information or documentation is required or is likely to assist in the resolution of the dispute, the officer may:
- 9.4.1 request that further information or documentation be provided and notify the other party; and
 - 9.4.2 proceed with processing the application in the absence of the requested further information or documentation.
- 9.5 The Proper Officer may, but only with the consent of the claimant and the insurer, communicate with any of the injured person's treating health practitioners or service providers in order to clarify the issue or issues in dispute or to identify the existence of relevant documentation.
- 9.6 The Proper Officer or an Assessor may, at their discretion, communicate with any of the claimant's treating health practitioners in relation to health or physical safety issues noted by an Assessor as being of an urgent or serious nature, where necessary to prevent or lessen a serious or imminent threat to life or health, or with the consent of the claimant.

Defer allocation

- 9.7 In the case of clause 9.1.4, an officer of MAS may defer the allocation of the dispute, for a period not exceeding 6 months at a time in circumstances where the officer of MAS is satisfied that:
- 9.7.1 further information or documentation has been requested (see clause 9.4);
 - 9.7.2 there are other issues in dispute or likely to be in dispute which would more conveniently be determined at the same time;
 - 9.7.3 there has not been a genuine attempt by one or both parties to settle the dispute, and it may be capable of resolution (see clause 9.8);
 - 9.7.4 a Medical Assessor has previously declined under section 132(3) to assess the claimant's permanent impairment arising from the injuries sustained, and any pre-conditions to the impairment becoming assessable that were identified by the Assessor, have not as yet been satisfied; or
 - 9.7.5 there are other good reasons to defer the allocation of the matter.
- 9.8 In the case of clause 9.7.3, if the officer of MAS is satisfied that the matter is capable of resolution by the parties, the officer of MAS may defer allocating the dispute to an Assessor for a period not exceeding 2 months to allow the parties an opportunity to settle the matter and/or the claim. Either party can apply to MAS to proceed with the assessment, at any time, if settlement negotiations fail.
- 9.9 If the allocation of a matter is deferred in total for more than 6 months, it will be marked as a 'deferred' matter and the Proper Officer or an officer of MAS may from time to time conduct fresh Allocation Reviews of the matter as needed, seeking submissions from the parties, to assess the readiness of the matter for allocation and to consider whether or not the matter would more appropriately be dismissed in accordance with Chapter 10, rather than continuing to be deferred.

Allocation for assessment

- 9.10 When a dispute is considered ready to be allocated for assessment, an officer of MAS shall determine the way in which an assessment is to proceed and may:
- 9.10.1 request that a claimant attend a medical or other examination or examinations at a designated location (see clause 9.11);
 - 9.10.2 request that one or more Medical Assessors assess the dispute on the documentary material provided, having considered any submissions from the parties on this issue (see clauses 9.11 and 9.12);
 - 9.10.3 request that the parties attend a conference to clarify issues and/or explore settlement of the dispute (see clause 9.13); or
 - 9.10.4 refer the matter to an officer of MAS to attempt to facilitate resolution of the dispute (see clause 9.14).

- 9.11 In the case of clauses 9.10.1 and 9.10.2, an officer of MAS shall:
- 9.11.1 refer the dispute to one or more Medical Assessors having regard to the nature of the injury and any continuing disabilities, the nature of the dispute, the location of the claimant, the location of the Assessor, and any other relevant fact or issue;
 - 9.11.2 in permanent impairment disputes ensure that impairment resulting from a physical injury is assessed separately from any impairment resulting from psychological injury;
 - 9.11.3 make arrangements with the Assessor or Assessors to whom the dispute has been allocated for an examination or an assessment on the documentary material provided;
 - 9.11.4 notify the parties of the name of the Assessor or Assessors allocated and the time, date and location of any examinations; and
 - 9.11.5 provide the Assessor or Assessors with:
 - 9.11.5.1 a copy of the application and reply and all documents and material in support of the application and reply;
 - 9.11.5.2 the notification letter sent to the parties under clause 9.11.4;
 - 9.11.5.3 a copy of any certificates and reasons previously issued by MAS in relation to the same claimant, not limited to the same matter, after the parties have been provided with a copy of these documents; and
 - 9.11.5.4 details of any other Assessor allocated to also assess the dispute and the injuries referred to them, if the dispute is to be assessed by more than one Assessor.
- 9.12 In the case of clause 9.10.2, an officer of MAS may determine that a matter be assessed without a medical examination if the officer of MAS is satisfied that:
- 9.12.1 the parties consent;
 - 9.12.2 that an examination is considered unnecessary or impractical; or
 - 9.12.3 there are other reasons why an examination is not feasible or appropriate.
- 9.13 In the case of clause 9.10.3, the Proper Officer may request that the parties attend a conference to clarify issues and/or explore settlement of the dispute, by notifying the parties of the proposed time, date and location of the conference.
- 9.14 In the case of clause 9.10.4, the Proper Officer may refer the dispute to an officer of MAS to attempt to facilitate resolution of the dispute.
- 9.15 A party may, within 10 days of the date of sending of notification of the name of the Assessor, apply to the Proper Officer to have the dispute reallocated to a different Assessor. Such an application must be made in writing and be accompanied by a detailed statement of facts and/or reasons as to why the Assessor might no longer be an appropriate Assessor to assess the matter, and a copy must first be provided to all other parties to the matter.
- 9.16 The Proper Officer shall within 5 days of receiving an application under clause 9.15 make a decision on such an application and may re-allocate the dispute if satisfied

that there are reasonable grounds for believing that the Assessor might no longer be an appropriate Assessor to assess the matter.

- 9.17 The Proper Officer shall within 5 days of making such a decision under clause 9.16 advise the parties of the decision, providing brief reasons.
- 9.18 The Proper Officer may reallocate a matter to a different Assessor for assessment if the original Assessor becomes unwell, or is otherwise unable to assess the matter or is no longer an appropriate Assessor to assess the matter.

Chapter 10 - Dismissal

- 10.1 The Proper Officer may at any stage dismiss an application for medical assessment in circumstances where they are satisfied that:
- 10.1.1 the applicant has withdrawn the application;
 - 10.1.2 the application is not likely to be ready to be assessed within the next 12 months;
 - 10.1.3 the applicant fails without reasonable excuse to comply with the Proper Officer or Assessor's directions;
 - 10.1.4 it appears that the claimant is not pursuing or prosecuting the application or the claim;
 - 10.1.5 the application is frivolous, vexatious, misconceived or lacking in substance;
 - 10.1.6 the application is being used for an improper purpose or is otherwise an abuse of process; or
 - 10.1.7 the application is made by a person who has died after the application was referred to MAS, unless a copy of the grant of probate or letters of administration or equivalent are provided, and the Proper Officer is satisfied that the estate seeks to pursue the CTP claim or the application.
- 10.2 A matter may be dismissed on the application of a party, or of the Proper Officer's own initiative, by the Proper Officer, after having given all parties the opportunity to make submissions about the proposed dismissal of the matter.

Chapter 11 - Assessment procedure

Assessor's role

- 11.1 In conducting an assessment an Assessor, including a member of any Review Panel, may determine the Assessor's own procedure and is not bound by the rules of evidence and may inquire into any issue in such manner as they think fit.
- 11.2 The Assessor is to take such measures as are reasonably practicable to:
 - 11.2.1 ensure that the claimant understands the nature of the application and the issues to be considered, the role of the Assessor as an independent decision-maker, and the conclusive nature of any certificate that is to be issued; and
 - 11.2.2 explain to the claimant any aspect of the procedure of any medical examination that the claimant does not apparently understand.
- 11.3 The Assessor is to inform him or herself on any issue as they see fit.
- 11.4 The Assessor is to take into account the objects of the Act and objects of MAS at all times.
- 11.5 The Assessor is to progress the assessment of the dispute as quickly, fairly and as cost effectively as is practicable.

Persons who may be present during medical examinations

- 11.6 A parent, legal guardian, carer or other support person may be present during a medical assessment examination if the person being examined is a person under a legal incapacity. If the person being examined is not a person under a legal incapacity then a support person may only be present during a medical assessment examination if the Assessor conducting the examination is satisfied it is reasonable in the circumstances.
- 11.7 Legal, medical or other representatives of the claimant or any other party to a dispute may not be present during a medical examination unless the Proper Officer gives prior approval and is satisfied that the circumstances warrant it.
- 11.8 During the conduct of a medical examination any person other than the claimant who has been permitted to be present may not respond to questions or speak on behalf of the claimant, unless invited to do so by the Assessor, unless the person is a parent, legal guardian, carer or other support person of a person being examined who is a person under a legal incapacity.

Failure to attend medical assessment examination

- 11.9 If a claimant becomes aware that they will be unable to attend a medical assessment examination or Review Panel examination arranged for them, the claimant should advise MAS immediately.
- 11.10 MAS may then cancel the examination and re-schedule a new examination with the same Assessor or another Assessor. This will enable the dispute to be assessed as promptly as possible, and minimise the cost of cancellation and non-attendance fees payable by MAS to Assessors and interpreters.
- 11.11 If a claimant notifies MAS under clause 11.9 that they will be unable to attend an examination:
- 11.11.1 72 hours or more before the scheduled time for an examination, the claimant will not be required to pay a cancellation fee, as that allows sufficient time for MAS to cancel the examination and to avoid MAS being required to pay any cancellation fees to the Assessor and any interpreter; or
 - 11.11.2 less than 72 hours before the scheduled time for an examination, the claimant will be required to pay a cancellation fee, equal to the amount of any cancellation fees that MAS is required to pay to the Assessor and any interpreter.
- 11.12 If a claimant fails to notify MAS under clause 11.9 that they will be unable to attend a medical assessment examination and the claimant fails to attend that examination at all, or attends that examination late resulting in the assessment being cancelled by the Assessor, the claimant will be required to pay a cancellation fee, equal to the amount of any cancellation fees that MAS is required to pay to the Assessor and any interpreter.
- 11.13 If MAS is required to pay a cancellation fee to an Assessor or interpreter under clause 11.11, or 11.12, MAS will, within 5 days of the scheduled examination, send a tax invoice to the claimant seeking payment of the cancellation fee.
- 11.14 A new date for an examination will be scheduled if, within 1 calendar month of the cancellation fee invoice being sent to the claimant, the Proper Officer is satisfied that:
- 11.14.1 MAS has received payment from the claimant of the full amount of the cancellation fee;
 - 11.14.2 MAS has received a signed 'Irrevocable Authority and Direction' in a form approved by the Authority, addressed to the insurer directing the insurer to pay the full amount of the cancellation fee from the claimant's settlement monies when they are paid out;
 - 11.14.3 the claimant has provided to MAS in writing a reasonable excuse for the non-attendance; or
 - 11.14.4 MAS is satisfied the payment of the cancellation fee would cause the claimant financial hardship.

- 11.15 If the Proper Officer is not satisfied that the requirements set out in clause 11.14 have been satisfied within 1 calendar month of the cancellation fee invoice being sent to the claimant, the Proper Officer will determine how the assessment of the dispute will proceed and may decide not to re-schedule a new date for an examination and may instead refer the dispute to an Assessor to be assessed without an examination under clause 9.10.2 and clause 9.12 on the documentary material provided.
- 11.16 If the claimant subsequently becomes liable to pay another cancellation fee under clause 11.11 or clause 11.12 in relation to any other examination regarding the same dispute or any other dispute, the Proper Officer will determine how the assessment of that dispute will proceed and may decide not to re-schedule a new date for an examination and may instead refer the dispute to an Assessor to be assessed without an examination under clause 9.10.2 and clause 9.12 on the documentary material provided.
- 11.17 When re-scheduling a new date for such an examination the dispute may be referred to the same Assessor or a different Assessor.
- 11.18 If the Proper Officer is satisfied under clause 11.14.2 that MAS has received a signed 'Irrevocable Authority and Direction' in a form approved by the Authority, MAS will forward a copy of that 'Irrevocable Authority and Direction' to the Insurer within 5 days of receiving that document.

Chapter 12 - Documentation and other supporting material

- 12.1 Whenever a party submits physical copies of documents and other material (including videotape, CD, DVD, electronic image or file, film or photographs) in support of an application or reply, the party lodging the material must have already provided a copy of the material to each other party to the dispute.
- 12.2 Only copies of documents are to be lodged at MAS.
- 12.3 An officer of MAS, or any Assessor is not to take into consideration any documentation or information that has not been provided to the other party, except as provided in this chapter.

Language of documents and other supporting material

- 12.4 All documents and other supporting material lodged must be in the English language, except where the document or other supporting material:
 - 12.4.1 is accompanied by an English translation of the document; and
 - 12.4.2 the English translation is supported by a declaration, made by the translator, in the English language, that the translation is an accurate translation of the document or other supporting material.
- 12.5 MAS may reject any documentation or other supporting material which does not comply with clause 12.4.

Surveillance images

- 12.6 In the case of surveillance images in any format:
 - 12.6.1 the images are to be provided to MAS in DVD format; and
 - 12.6.2 any investigator's or loss adjuster's report concerning those surveillance images must be provided with the images when provided to each other party, and must be lodged at MAS with the images; and
 - 12.6.3 surveillance images cannot be lodged at MAS or submitted to an Assessor unless they have been provided to each party.
- 12.7 If surveillance images have been provided by an insurer in support of an application or a reply, the claimant will be offered an opportunity to respond to the surveillance images and unless the claimant indicates otherwise, the claimant will be taken to have no objection to the Assessor considering the surveillance images.

Radiological scans

- 12.8 In the case of X-rays, Computerised Tomography (CT or CAT scans), Magnetic Resonance Imaging or other radiological or similar investigations:
- 12.8.1 all documents including any film or scans and any associated reports must be plainly identified and listed by the parties in the application or reply in order for them to be considered by the Assessor;
 - 12.8.2 original film or scans are not to be submitted to the MAS registry without the consent of the Proper Officer; and
 - 12.8.3 any original films or scans listed by the parties in the application or reply must be taken by the claimant, or sent by the insurer, to any relevant medical examination with an Assessor.
- 12.9 Irrespective of whether they have been provided to the other party, a MAS Assessor may take into consideration any such radiological scans and their accompanying reports that are taken to the examination, and:
- 12.9.1 where these documents have not previously been included in the documentation supporting the application or reply exchanged by the parties, the MAS Assessor will list those documents in their certificate and will attach a copy of all such reports to their certificate; and
 - 12.9.2 the party in possession of those scans shall make those scans available to the other party to inspect on request.

Late additional documents

- 12.10 No additional documents or information sought to be added to the list of documents to be referred to the Assessor may be lodged by either party after the lodgement of their application or their reply, except:
- 12.10.1 by consent of the other party;
 - 12.10.2 in response to a specific request or direction from the Proper Officer, an Assessor or an officer of MAS, in circumstances where the Proper Officer is satisfied that any such document would be of assistance to the conduct of the assessment; or
 - 12.10.3 if the Proper Officer is satisfied that exceptional circumstances exist; and any such documents must have been provided to the other party.

Chapter 13 - Certificates

- 13.1 A certificate required under clause 13.3, 13.5 or 13.7 is to be provided by the Assessor to MAS within 15 days of the completion of the medical examination or assessment on the papers.
- 13.2 The certificate shall include written reasons for the determination in the form approved by the Authority.

Treatment disputes

- 13.3 An Assessor or Assessors to whom a treatment dispute is referred is to send to MAS a certificate certifying:
 - 13.3.1 in the case of a reasonable and necessary treatment dispute under section 58(1)(a), whether the particular treatment in dispute in relation to the injuries caused by the accident, was or is reasonable and necessary in the circumstances; and/or
 - 13.3.2 in the case of a related treatment dispute under section 58(1)(b), whether the particular treatment in dispute relates to the injury caused by the accident.
- 13.4 An officer of MAS shall forward a copy of any such certificate to all parties, and to a CARS Assessor if the medical dispute relates to a claim with a current general assessment allocated to a CARS Assessor, within 5 days of receipt.

Permanent impairment disputes

No combined certificate required

- 13.5 An Assessor to whom a permanent impairment dispute is referred requiring either a psychiatric or psychological injury assessment, or requiring a physical injuries assessment by a single Assessor, that does not require the issuing of a combined certificate, is to send to MAS a certificate certifying:
 - 13.5.1 the list of the injuries referred and whether they were each found to have been caused by the accident;
 - 13.5.2 the degree of permanent impairment of the injured person as a result of each of those injuries referred that were found to be caused; and
 - 13.5.3 whether the degree of permanent impairment of the injured person as a result of those injuries referred that were found to be caused, is greater than 10%.
- 13.6 An officer of MAS shall forward a copy of any such certificate to all parties, and to a CARS Assessor if the medical dispute relates to a claim with a current general assessment allocated to a CARS Assessor, within 5 days of receipt.

Combined certificate required

- 13.7 An Assessor to whom a permanent impairment dispute is referred regarding physical injuries that requires more than one assessment, by more than one Assessor, and that requires the issuing of a combined certificate (see clause 13.9), is to send to MAS a certificate certifying:
- 13.7.1 the list of the injuries referred and whether they were each found to have been caused by the accident;
 - 13.7.2 the degree of permanent impairment of the injured person as a result of each of those injuries referred that were found to be caused.
- In this circumstance, no certificate is required from the single Assessor certifying whether the degree of permanent impairment of the injured person as a result of those injuries referred is greater than 10%, as a combined certificate is required combining the assessments of more than one Medical Assessor to address that issue.
- 13.8 An officer of MAS shall forward a copy of any such certificate to all parties, and to a CARS Assessor if the medical dispute relates to a claim with a current general assessment allocated to a CARS Assessor, within 5 days of receipt of the combined certificate, enclosing at the same time the combined certificate under clause 13.9 and all single Assessor's certificates under clause 13.7.

Combined certificate

- 13.9 In the case of clause 13.7, within 5 days of the receipt of all single Assessors' certificates on a dispute, the Proper Officer will refer the dispute to an Assessor for the completion of a combined certificate certifying whether the degree of permanent impairment of the injured person as a result of those injuries referred is greater than 10%.
- 13.10 A combined certificate required under clause 13.9 is to be provided by the Assessor to MAS within 5 days of the referral of the dispute to the Assessor.
- 13.11 An officer of MAS shall forward a copy of any such combined certificate to all parties, and to a CARS Assessor if the medical dispute relates to a claim with a current general assessment allocated to a CARS Assessor, within 5 days, enclosing at the same time all single Assessor's certificates under clause 13.7.

Assessor declines to assess

- 13.12 In the case of the assessment of a permanent impairment dispute an Assessor may under section 132(3) decline to assess the impairment of one or more injuries referred, if the Assessor is unable to assess the impairment because the Assessor is satisfied that the impairment caused by the injury has not yet become permanent.
- 13.13 When an Assessor does decline to assess one or more injuries referred, the Assessor is to include in the certificate they send to MAS under either clause 13.5 or 13.7 a statement certifying:
- 13.13.1 the list of the injuries that they have declined to assess;
 - 13.13.2 detailed reasons for declining to assess the injuries; and
 - 13.13.3 an estimate of when the Assessor believes the impairment caused by those injuries is expected to become permanent and capable of assessment.
- 13.14 When an Assessor does decline to assess one or more injuries referred, the Assessor is to certify that fact (see clause 13.13) within the certificates required to be sent to MAS under either clause 13.5 or 13.7.
- 13.15 In addition to the certification required under clause 13.13, the Assessor is still required to issue the certificates of assessment required by either clause 13.5 or 13.7 certifying the outcome of the assessment for all injuries that the Assessor did assess, excluding those injuries the Assessor declined to assess.
- 13.16 When an Assessor issues a certificate under clause 13.13 the Proper Officer is to review the matter and is to determine how the matter will proceed after considering any submissions of the parties and in particular whether the application shall be:
- 13.16.1 allocated again, in accordance with clauses 9.10 to 9.18;
 - 13.16.2 deferred, in accordance with clauses 9.7 and 9.8 to allow the provision of further information or documentation under clauses 9.4 to 9.6 and/or marked as a 'long deferral' matter in accordance with clause 9.9; or
 - 13.16.3 dismissed, in accordance with Chapter 10.

Privacy

- 13.17 MAS assessments are conducted in private and are not open to the public, under clause 11.6, 11.7 and 11.8, and a certificate and/or statement of reasons issued by an Assessor or Review Panel are not available to the public.

(Note: An individual's privacy should be respected. Failure to respect the privacy of an individual may result in a breach of the Privacy and Personal Information Protection Act 1998 (NSW) and/or the Health Records and Information Privacy Act 2002 (NSW). The MAA recommends that no certificate and/or statement of reasons should be published, distributed or used in any way unless the privacy of all individuals referred to in the documents is respected, including claimants, their relatives, support persons, claims officers, legal representatives, medical practitioners, witnesses, interpreters, Assessors, and any other individual person. The MAA recommends that no such documents should be published, distributed or used in any way unless the express consent of any such individuals has first been obtained, or unless the documents have been thoroughly and sufficiently de-identified to ensure that the privacy of those individuals is respected.)

Incomplete certificates

- 13.18 Section 61(1) requires that a MAS Assessor to whom a dispute is referred is to give a certificate 'as to the matters referred for assessment'. If a MAS Assessor or Review Panel provides a certificate to MAS which does not comply with this requirement, an officer of MAS may remit the matter to the Assessor or Review Panel to ensure it complies with section 61(1).
- 13.19 The officer of MAS may make such a request of their own initiative prior to the issue of the certificate to the parties, or on the request of the parties.
- 13.20 Examples of incomplete certificates include, but are not limited to:
- 13.20.1 disputes and/or injuries referred;
 - 13.20.2 disputes and/or injuries not referred;
 - 13.20.3 unsigned certificates submitted; or
 - 13.20.4 certificates and/or parts of certificates omitted.
- 13.21 In considering whether or not the certificate may be incomplete the officer of MAS may seek submissions from all parties to the dispute.
- 13.22 On becoming aware of an incomplete certificate prior to the issue of such a certificate, the officer of MAS will, within 5 days, refer the matter back to the MAS Assessor or Review Panel concerned. The officer of MAS will advise the parties that such a request has been made to the MAS Assessor or Review Panel concerned.
- 13.23 The MAS Assessor or Review Panel may require a re-examination of the claimant.
- 13.24 The MAS Assessor or Review Panel may issue a completed certificate satisfying the requirements of section 61(1). If a completed certificate is issued, the completed certificate is to:
- 13.24.1 be sent to MAS within 5 days of the request or any re-examination;
 - 13.24.2 replace any previous certificate sent to MAS;
 - 13.24.3 have the same status as any other certificate; and
 - 13.24.4 an officer of MAS shall forward a copy of any such certificate to all parties within 5 days of receipt.

Division 4 - Further assessment and review applications

Chapter 14 - Application by a party for further medical assessment (section 62(1)(a))

Applications (MAS forms 4A and 4R)

- 14.1 An application by either party for further assessment of a medical dispute referred to in section 62(1)(a), or a reply to an application by either party, must:
- 14.1.1 be in the form approved by the Authority; or
 - 14.1.2 be in a form as directed by the Registrar or Proper Officer; and
 - 14.1.3 set out or be accompanied by the particulars and information required by that form or as otherwise directed by the Registrar or Proper Officer.
- 14.2 An application for further assessment of a medical dispute may be lodged by either party but only after:
- 14.2.1 that dispute has previously been assessed by a MAS Assessor;
 - 14.2.2 all certificates pertaining to that dispute have been issued (including combined certificates and Review Panel certificates);
 - 14.2.3 the time period for lodging an application for either a correction of an obvious error or review, arising from the original assessment of that dispute has expired; and
 - 14.2.4 any application for correction of an obvious error or for a review of the assessment of the dispute has been completed; and
- in any case when the requirements of section 62(1) may be established.

Proper Officer determination

- 14.3 The Allocation Review of an application for further assessment is to be conducted in accordance with Chapter 9.
- 14.4 When conducting an Allocation Review of an application for further assessment pursuant to Chapter 9, the Proper Officer is to determine whether the application is suitable for referral for further assessment.

- 14.5 When determining whether a matter should be referred for further assessment under section 62(1)(a) whilst conducting an Allocation Review, the Proper Officer shall have regard to:
- 14.5.1 the application and any reply;
 - 14.5.2 any other applications and replies and/or MAS certificates on this medical dispute or any other medical disputes at MAS in relation to the same claimant, not limited to the same matter, after the parties have been provided with a copy of these documents; and
 - 14.5.3 the objects of the Act and the objects of MAS.
- 14.6 For the purposes of section 62(1A) the word 'material' includes that it is relevant and capable of altering the outcome of a dispute about:
- 14.6.1 reasonable and necessary treatment, from 'not reasonable and necessary' to 'reasonable and necessary' or vice versa;
 - 14.6.2 related treatment, from 'not related' to 'related' or vice-versa; or
 - 14.6.3 permanent impairment, from 'not greater than 10% whole person impairment' to 'greater than 10% whole person impairment' or vice-versa.
- 14.7 If the Proper Officer is not satisfied that the deterioration of the injury or the additional relevant information about the injury would have a material effect on the outcome of the application, the Proper Officer may dismiss the application.
- 14.8 The Proper Officer is to provide the parties with brief written reasons for the decision at the same time as, or as part of the notification to the parties, of the outcome of the Allocation Review as required by clause 9.2.

Assessment of further applications

- 14.9 When the Proper Officer decides to refer a matter for further assessment, the Proper Officer shall determine how the application is to proceed in accordance with the provisions of Chapter 9 and, in particular, determine an appropriate Medical Assessor or Assessors to conduct the further medical assessment, also having regard to:
- 14.9.1 the application and any reply;
 - 14.9.2 all injuries assessed by the original Assessor and any additional injuries listed in the application and reply;
 - 14.9.3 the nature of the deterioration of the injury or the additional relevant information submitted by the parties;
 - 14.9.4 the requirement that in permanent impairment disputes, impairment resulting from a physical injury is to be assessed separately from any impairment resulting from psychiatric or psychological injury; and
 - 14.9.5 any other applications and replies and/or MAS certificates on this medical dispute or any other medical disputes at MAS in relation to the same claimant, not limited to the same matter, after the parties have been provided with a copy of these documents.

- 14.10 When the Proper Officer decides to refer a dispute for further assessment, the dispute may be referred to the original Assessor if available within a reasonable period and if, in the Proper Officer's view, it is appropriate in the circumstances, otherwise the dispute may be referred to a different Assessor.
- 14.11 An officer of MAS will provide the Assessor or Assessors with the information referred to in clause 9.11.5 as well as:
- 14.11.1 the written reasons for accepting the further assessment application under clause 14.8; and
 - 14.11.2 any other applications and replies and/or MAS certificates on this medical dispute or any other medical disputes at MAS in relation to the same claimant, not limited to the same matter, after the parties have been advised of the details of these documents.
- 14.12 The further assessment will involve consideration of all aspects of the assessment afresh subject to this clause and clause 14.13, and may include:
- 14.12.1 assessment of all the injuries assessed by the original Assessor in any previous assessment of this dispute; and
 - 14.12.2 any additional injuries listed on the application for further assessment and any reply.
- 14.13 In permanent impairment disputes, where the deterioration of the injury or the additional relevant information:
- 14.13.1 relates to physical injury, the further assessment will be limited to consideration of the physical injury; and
 - 14.13.2 relates to psychiatric or psychological injury, the further assessment will be limited to consideration of the psychiatric or psychological injury.

Chapter 15 - Referral by a CARS Assessor or a Court (sections 60(1), 62(1)(b), 61(5))

Applications (MAS forms 6A and 6R)

- 15.1 A CARS Assessor or a Court may refer a medical dispute for assessment under section 60(1).
- 15.2 A CARS Assessor or a Court may refer a medical dispute that has previously been assessed for further medical assessment under section 62(1)(b).
- 15.3 If the Court has rejected a certificate under section 61(4), it may refer a medical dispute that has previously been assessed for assessment again under section 61(5).
- 15.4 An application in relation to a referral under clauses 15.1, 15.2 or 15.3:
- 15.4.1 may be made directly by the CARS Assessor or Court, or by a party directed or requested to do so by the CARS Assessor or the Court; and
 - 15.4.2 must attach either:
 - 15.4.2.1 a copy of a signed request or direction by a CARS Assessor if available;
 - 15.4.2.2 a copy of a sealed order of the Court referring the medical dispute to MAS if available; or
 - 15.4.2.3 written confirmation from both parties attesting to the existence of, and terms of, the Court or CARS Assessor referral to MAS.
- 15.5 An application in relation to a referral under clauses 15.1, 15.2 or 15.3, or a reply to an application by either party, must:
- 15.5.1 be in the form approved by the Authority; or
 - 15.5.2 be in a form as directed by the Registrar or Proper Officer; and
 - 15.5.3 set out or be accompanied by the particulars and information required by that form or as otherwise directed by the Registrar or Proper Officer.
- 15.6 The provisions of Chapter 3 also apply to an application made under this chapter. If the application is made directly by the CARS Assessor or Court, then both parties are to be treated as being respondents to the application and both parties are to be given the opportunity to lodge a reply under clause 3.15.

Chapter 16 - Reviews of medical assessments (section 63)

Applications (MAS forms 5A and 5R)

- 16.1 Either party to a dispute may apply under section 63(1) for review of the assessment of a single Medical Assessor once the Assessor has issued a certificate:
- 16.1.1 under section 58(1)(a) or 58(1)(b) and in accordance with clause 13.3 regarding a treatment dispute, certifying whether or not treatments are reasonable and necessary, and/or certifying whether or not treatments relate to the injury caused by the accident;
 - 16.1.2 under section 58(1)(d) and in accordance with clause 13.5 regarding a permanent impairment dispute, certifying whether or not the degree of whole person permanent impairment is greater than 10%; and/or
 - 16.1.3 under section 58(1)(d) and in accordance with clause 13.7, regarding a permanent impairment dispute, certifying the degree of permanent impairment of the injured person as a result of the injuries assessed by that Assessor.
- 16.2 A combined certificate issued under section 61(10)(b) and clause 13.9 regarding a permanent impairment dispute, which combines the results of more than one assessment by a single Medical Assessor, cannot be the subject of a review application. A separate application is required to be made in respect of each separate assessment by a single Medical Assessor on which a review is sought.
- 16.3 An application for review of an assessment by a single Medical Assessor must be lodged:
- 16.3.1 in a treatment dispute, within 30 days after the date on which the certificate of the single Medical Assessor under clause 13.3 (or a replacement certificate under clause 17.11) was sent by MAS to the parties;
 - 16.3.2 in a permanent impairment dispute assessed by a single Medical Assessor without a combined certificate required, within 30 days after the date on which the certificate of the single Medical Assessor under clause 13.5 (or a replacement certificate under clause 17.11) was sent by MAS to the parties; or
 - 16.3.3 in a permanent impairment dispute assessed by more than one Medical Assessor with a combined certificate required, which will be based in part on the decision of the single Medical Assessor sought to be reviewed:
 - 16.3.3.1 not before the combined certificate under clause 13.9 is sent by MAS to the parties (or a replacement combined certificate under clause 17.11);
 - 16.3.3.2 within 30 days after the date on which that combined certificate (or replacement combined certificate) was sent by MAS to the parties.

Clauses 16.3.3.1 and 16.3.3.2 do not refer to a new combined certificate issued under clause 16.21.6 combining the result of a review of an assessment of a single Medical Assessor with the results of any other assessments included in that original combined certificate. If subsequent to a Review Panel determination a Review Panel or Assessor issues a new combined certificate, the issuing of that combined certificate does not start an additional period of time for lodging a review on any of the other original assessments by single Medical Assessors that were incorporated in that combined certificate.

- 16.4 An application for review lodged after the dates set out in clause 16.3 will not be considered, except as provided for in clause 16.5.
- 16.5 The Proper Officer may extend the time to lodge an application for review only if:
- 16.5.1 an application for review of that certificate has previously been made and dismissed by the Proper Officer and the Proper Officer has specified conditions under which the application may be lodged again in respect of the same assessment;
 - 16.5.2 a respondent indicates in a reply to an application for review that in addition to the assessment under review it now seeks to have another assessment of the same claimant also reviewed; or
 - 16.5.3 the Proper Officer is satisfied that exceptional circumstances exist that justify the lodgement of a late application, having regard to the submissions of the parties.
- 16.6 An application by either party for review of a medical assessment under section 63, or reply to an application by either party, must:
- 16.6.1 be in the form approved by the Authority; or
 - 16.6.2 be in a form as directed by the Registrar or Proper Officer; and
 - 16.6.3 set out or be accompanied by the particulars and information required by that form or as otherwise directed by the Registrar or Proper Officer.
- 16.7 If no reply is received within the time provided, the Proper Officer may consider the application in the absence of a reply.
- 16.8 In this chapter a reference to the 'original Assessor' is a reference to the single Medical Assessor whose assessment, referred to as the 'original assessment', is the subject of an application for review.
- 16.9 Chapter 3 'Referrals to the MAS registry' applies to applications for review, modified as necessary by the operation of clauses 16.1 to 16.8.
- 16.10 Chapter 12 'Documentation and other supporting material' applies to any documentation and material in support of an application for review or reply to such an application.

Proper Officer determination

- 16.11 The Proper Officer is to consider the application for review within 10 days of the due date for compliance with the requirements of clause 3.15.
- 16.12 The Proper Officer may only refer a matter to a Review Panel if satisfied of the factors set out in section 63(3), that there is reasonable cause to suspect the assessment of the single Medical Assessor is incorrect in a material respect, having regard to any relevant information submitted including:
- 16.12.1 the review application, any reply to it, and the particulars and any supporting information set out in those documents;
 - 16.12.2 any other applications and replies and/or MAS certificates in relation to the same claimant, not limited to the same matter, after the parties have been provided with copies of these documents; and
 - 16.12.3 the objects of the Act and the objects of MAS.
- 16.13 For the purposes of section 63 the word 'material' includes that it is relevant and capable of altering the outcome of a dispute about:
- 16.13.1 reasonable and necessary treatment, from 'not reasonable and necessary' to 'reasonable and necessary' or vice versa;
 - 16.13.2 related treatment, from 'not related' to 'related' or vice-versa; or
 - 16.13.3 permanent impairment, from 'not greater than 10% whole person impairment' to 'greater than 10% whole person impairment' or vice-versa.
- 16.14 If the Proper Officer is not satisfied that there is reasonable cause to suspect the assessment of the single Medical Assessor is incorrect in a material respect, the Proper Officer may dismiss the application.
- 16.15 The Proper Officer shall advise the parties as to whether the application is accepted and will be referred to a Review Panel or is dismissed, supported by a brief statement of reasons, within 5 days of considering the application.

Further information or documentation required

- 16.16 If the Proper Officer is satisfied that further information or documentation is required or is likely to assist in the review, the Proper Officer may:
- 16.16.1 request that additional information or documentation be provided by a party within a period of up to 20 days and notify the other party;
 - 16.16.2 proceed with processing the application in the absence of the requested further information but only after the passing of any period of time specified for the submission of that additional documentation or information; and/or
 - 16.16.3 admit into evidence any document despite non-compliance with any time limit in relation to that document or service of it.

Referral to a Review Panel

- 16.17 The Proper Officer will, within 5 days of advising the parties that the matter is to be referred to a Review Panel:
- 16.17.1 convene a Review Panel consisting of at least 3 Medical Assessors to undertake the review from the Authority's list of Medical Assessors, having regard to the nature of the injury and any continuing disabilities, the nature of the dispute, the location of the claimant, the location of the Assessors, and any other relevant information; and
 - 16.17.2 arrange for a Chairperson of the Review Panel to be appointed.
- 16.18 The Proper Officer or an officer of MAS is to advise the parties of the arrangements for the review within 5 days of the convening of the panel.
- 16.19 The Proper Officer or an officer of MAS shall act as secretary to the Review Panel and provide administrative support to the Review Panel, and shall arrange for copies to be sent to each member of the Review Panel of:
- 16.19.1 all the material that was before the original Assessor;
 - 16.19.2 all certificates issued by the original Assessor;
 - 16.19.3 the review application and reply, and any supporting submissions or documents;
 - 16.19.4 any other applications and replies and/or MAS certificates in relation to the same claimant, not limited to the same matter, after the parties have been provided with copies of these documents;
 - 16.19.5 the determination of the Proper Officer under clause 16.15; and
 - 16.19.6 any additional information or documentation under clause 16.16.
- 16.20 Neither the Review Panel, nor individual Review Panel members, may delegate their functions to the Proper Officer.

Review Panel assessment

- 16.21 The Review Panel is to hold an initial meeting or teleconference within 30 days of the date the panel was convened and, at that meeting or in subsequent meetings, is to:
- 16.21.1 consider afresh all aspects of the assessment under review;
 - 16.21.2 determine whether re-examination of the claimant is required, and if so set a timetable for that to occur;
 - 16.21.3 determine whether additional information is required in order to make a decision;
 - 16.21.4 determine whether each of the certificates issued by the original Assessor is to be confirmed or revoked;
 - 16.21.5 if revoked, determine what new certificates are to be issued;
 - 16.21.6 where the original assessment certificate was issued under clause 13.7 and included in a combined certificate under clause 13.9, determine whether the panel is to issue a new combined certificate, combining the result of the review with the results of the other assessments included in that combined certificate;
 - 16.21.7 determine which member of the panel will sign any certificates on behalf of the panel;
 - 16.21.8 determine whether a further meeting of the panel is required; and
 - 16.21.9 advise the Proper Officer of any determinations under this clause.
- 16.22 In the case of clause 16.21.2 where there is to be a re-examination, clause 9.11.4 and clause 9.11.5, and Chapters 10, 11, 12 and 18 apply to the re-examination.
- 16.23 In the case of clause 16.21.9 the Proper Officer will advise the parties of any determinations made in a panel conference within 5 days of being advised of those determinations.
- 16.24 Within 20 days of the final meeting of the panel, and in any case within 60 days of the initial meeting, the panel shall issue its determination and any certificates, accompanied by written reasons for the determination, in the form approved by the Authority, to the secretary who shall within 5 days of the issuing of any certificates, forward them to the parties and the original Assessor.
- 16.25 If the Review Panel members are unable to agree on an aspect of the assessment, the determination of the majority of the Review Panel will be the determination of the Review Panel, or in the case of an evenly divided panel, the view supported by the Chairperson will be the determination of the Review Panel, and that determination will include a statement as to the opposing view.
- 16.26 The Review Panel is to act as expeditiously as practicable in the circumstances.

Division 5 - Corrections and costs

Chapter 17 - Corrections by Assessor

17.1 If a party to an assessment considers that an Assessor or Review Panel has made an obvious error in a certificate, that party may make an application to the Proper Officer to have the error corrected within 30 days after the date on which the certificate under either clause 13.3, 13.5, 13.9 or 16.24 was sent by MAS to the parties.

(Note: This period is different to the obvious error correction period at CARS, which is set at 21 calendar days after the CARS certificate of assessment was issued, which is timed to be consistent with the period for accepting a CARS assessment. Instead this MAS obvious error correction period is timed to be generally consistent with the period of time for lodging a MAS review as set out in Chapter 16 of these Guidelines.)

17.2 Any such application is to be made in writing, setting out details of the obvious error and the terms of the suggested correction.

17.3 The party making the application is to send a copy of the application to the other party.

17.4 Examples of obvious errors in the certificate include, but are not limited to:

17.4.1 a clerical or typographical error in the certificate;

17.4.2 an error arising from an accidental slip or omission;

17.4.3 a defect of form; or

17.4.4 an obvious inconsistency between the certificate and the reasons explaining the certificate.

17.5 Within 5 days of receiving the application the Proper Officer shall acknowledge the application by writing to both parties, and the Proper Officer may seek any further submissions from the parties.

Proper Officer referral to Assessor

17.6 The Proper Officer shall consider the application within 10 days of acknowledging receipt of the application under clause 17.5 and, if satisfied that there may be an obvious error in a certificate, refer the matter back to the Assessor or Review Panel concerned. In considering whether or not there may be an obvious error in the certificate the Proper Officer shall consider any submissions from the parties.

17.7 The Proper Officer shall within 5 days of making such a decision under clause 17.6:

17.7.1 write to the Assessor or Review Panel concerned referring the matter back to them for consideration; and

17.7.2 write to the parties advising them of the Proper Officer's decision, providing brief reasons.

Assessor's determination

- 17.8 In deciding whether or not there is an obvious error in the certificate the Assessor or Review Panel may seek submissions from the parties to the assessment.
- 17.9 In accordance with section 61(11), if the Assessor or Review Panel is satisfied that there is an obvious error in a certificate, the Assessor or Review Panel may issue a replacement certificate that corrects the obvious error that was sought to be corrected and that will replace the previous certificate.
- 17.10 If a replacement certificate is issued, the replacement certificate is to:
- 17.10.1 be titled as a 'replacement' certificate;
 - 17.10.2 be dated the same day as the original certificate, and also identify the date the replacement certificate was issued; and
 - 17.10.3 be taken to be the decision of the Assessor or Review Panel.
- 17.11 If the certificate is replaced, the Assessor or Review Panel must provide the Proper Officer with a copy of the replacement certificate within 10 days of the sending to the parties of the Proper Officer's decision to refer the application to the Assessor in clause 17.7.
- 17.12 If a replacement certificate is received, the Proper Officer must provide the parties with a copy of the replacement certificate within 5 days of receiving it.

Chapter 18 - Costs of assessment

- 18.1 The insurer must pay the reasonable expenses of the claimant and an accompanying person attending any medical or other examination arranged by MAS.

Threatened Species Conservation (BioBanking Assessment Methodology) Order 2008

under the
Threatened Species Conservation Act 1995

I, Verity Firth, Minister for Climate Change and the Environment, in pursuance of section 127B(1) of the *Threatened Species Conservation Act 1995*, make the following Order.

Signed this 4th day of July 2008

VERITY FIRTH, M.P.,
Minister for Climate Change and the Environment

Explanatory note

The object of this Order is to provide for the establishment of the *BioBanking Assessment Methodology*. The BioBanking Assessment Methodology establishes rules with respect to the following:

- (a) the actions or proposed actions in respect of which biodiversity credits may be created (management actions), being actions that will improve biodiversity values
- (b) the creation of biodiversity credits and different classes of biodiversity credits in respect of management actions carried out, being carried out or proposed to be carried out on or in respect of biobank sites
- (c) the circumstances in which development is to be regarded as improving or maintaining biodiversity values, including where the impact of that development is offset against the impact of management actions for which biodiversity credits are created
- (d) any impact on biodiversity values that cannot be offset by the retirement of biodiversity credits.

This methodology will be used as both the basis for calculating the number of biodiversity credits that may be created in respect of management actions and the number of biodiversity credits that must be retired in respect of development.

This Order is made under section 127B (1) of the *Threatened Species Conservation Act 1995*.

Threatened Species Conservation (BioBanking Assessment Methodology) Order 2008

under the

Threatened Species Conservation Act 1995.

1 Name of Order

This Order is the *Threatened Species Conservation (BioBanking Assessment Methodology) Order 2008*.

2 BioBanking Assessment Methodology

- (1) Pursuant to section 127B(1) of the *Threatened Species Conservation Act 1995*, the rules establishing the matters specified in section 127B of that Act are set out in Schedule 1 to this Order.
- (2) The rules referred to in subclause (1) are to be known as the *BioBanking Assessment Methodology*.

SCHEDULE 1 BIOBANKING ASSESSMENT METHODOLOGY

1 Introduction

The BioBanking Scheme is established under Part 7A of the *Threatened Species Conservation Act 1995* (TSC Act).

A key element of the BioBanking Scheme is the establishment of the BioBanking Assessment Methodology (the methodology) under section 127B of the TSC Act. The methodology is made by order of the Minister for Climate Change and the Environment and published in the *NSW Government Gazette*.

The methodology assesses all biodiversity values as defined by the TSC Act, including the composition, structure and function of ecosystems. For the purposes of the TSC Act, biodiversity values include (but are not limited to) threatened species, threatened populations and threatened ecological communities, and their habitats. This definition does not include fish species or marine vegetation within the meaning of Part 7A of the *Fisheries Management Act 1994*, unless the fish species or marine vegetation have been the subject of an order under section 5A of the TSC Act.

The methodology complies with the requirements of the TSC Act and clauses 4 and 5 of the Threatened Species Conservation (Biodiversity Banking) Regulation 2008 (the Regulation).

The methodology assesses the biodiversity values currently at development sites and biobank sites, and describes the process for measuring the loss of biodiversity values that results from removing native vegetation, threatened species habitat and threatened species on a development site, and the gain in biodiversity values from management actions on a biobank site.

In section 2, the methodology establishes the circumstances in which development is to be regarded as improving or maintaining biodiversity values, including where the impact of that development is offset against the impact of management actions for which biodiversity credits are created. The methodology also establishes the circumstances in which impacts on biodiversity values cannot be offset by the retirement of biodiversity credits. Section 2 also identifies the management actions for which biodiversity credits may be created.

In section 3, the methodology establishes two classes of biodiversity credits that may be created in respect of management actions at a biobank site. The two classes of biodiversity credits are:

- 1 Ecosystem credits – these are created or required for all impacts on biodiversity values (including threatened species that can be reliably predicted by habitat surrogates), except the threatened species or populations that require species credits.
- 2 Species credits – these are created or required for impacts on threatened species that cannot be reliably predicted to use an area of land based on habitat surrogates. Threatened species that require species credits are identified in the Threatened Species Profile Database.

In section 3, the methodology sets out how to assess and measure biodiversity values on a development site and a biobank site. It also describes how to measure the loss of biodiversity values at a development site and the gain in biodiversity values at a biobank site.

In section 4, the methodology sets out how to assess and measure biodiversity values for threatened species on a development site and a biobank site. This section determines the species that require further assessment, and whether they will require ecosystem credits or species credits. This includes threatened species that are listed under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Section 5 of the methodology establishes the rules for calculating the number and type of ecosystem credits and species credits that are required in relation to loss of biodiversity values at a development site, or created in relation to improving biodiversity values at a biobank site.

Section 6 contains the rules (the offset rules) for the use of credits to offset the impacts of development on threatened species at a development site by management actions at a biobank site.

Section 7 contains information on additional matters as required under the TSC Act..

The glossary provides an explanation of the terms used in the methodology.

The methodology has been prepared by the Department of Environment and Climate Change NSW (DECC), drawing on:

- Briggs, J. (2005). Threatened Species Assessment Tool. Version 1-7. An Assessment Tool for Use in the NSW Property Vegetation Plan Developer Operational Manual. NSW Department of Environment and Conservation, Environmental Protection and Regulation Division, Queanbeyan.
- Gibbons, P., Ayers, D., Seddon, J., Doyle, S. and Briggs, S. (2005). BioMetric Operational Manual. Version 1.8: A Terrestrial Biodiversity Assessment Tool for the NSW Property Vegetation Plan Developer. NSW Department of Environment and Conservation, CSIRO Sustainable Ecosystems, Canberra.
- Gibbons, P., Briggs, S.V., Ayers, D., Seddon, J., Doyle, S., Cosier, P., McElhinny, C., Pelly, V. and Roberts, K. (2008). An operational method to rapidly assess impacts of land clearing on terrestrial biodiversity. *Ecological Indicators*, in press.

2 Improve or maintain biodiversity values

2.1 Development that improves or maintains biodiversity values

Under the TSC Act, a biobanking statement can only be issued for a proposed development where the Director General of DECC makes a determination in accordance with the methodology that the development will improve or maintain biodiversity values. The methodology establishes the circumstances where the development is to be regarded as improving or maintaining biodiversity values. This includes circumstances where the impacts of clearing on biodiversity values at the development site are offset against the beneficial impacts of management actions which create biodiversity credits at the biobank site.

A development is to be regarded as improving or maintaining biodiversity values if:

1a The development does not directly impact on biodiversity values in a red flag area on the development site.

or

1b The development does directly impact on biodiversity values in a red flag area on the development site but the Director General makes a determination that the development may be regarded as improving or maintaining biodiversity values according to section 2.3.

and

2 The direct impacts of the development on biodiversity values on the development site are offset by the retirement of biodiversity credits determined in accordance with the offset rules in the methodology.

and

3 The Director General determines that any indirect impacts of the development on on-site and off-site biodiversity values that cannot be mitigated through on-site measures are offset by the retirement of biodiversity credits determined in accordance with the offset rules in the methodology.

If a development impacts on all or part of a red flag area on the development site but the Director General makes a determination that the development may be regarded as improving or maintaining biodiversity values according to section 2.3, the Director General must publish the reasons for that determination on the register of biobanking statements.

2.2 Definition of red flag areas

A red flag area is an area of land that has high biodiversity conservation values. An area of land is regarded as having high biodiversity conservation values if it contains one of more of the following:

- a vegetation type that has greater than 70% cleared as listed in the Vegetation Types Database (that is, has less than 30% of its estimated distribution remaining in the catchment management authority (CMA) area before the year 1750) and the vegetation is not in low condition as defined below
- a critically endangered or endangered ecological community listed under the TSC Act or EPBC Act, and the vegetation is not in low condition as defined below
- one or more threatened species identified in the Threatened Species Profile Database that cannot withstand further loss in the CMA area because of one or more of the following:
 - the species is naturally very rare, is critically endangered, has few populations or a restricted distribution
 - the species or its habitat needs are poorly known
 - the species is an identified population, as defined in section 4.6 of this methodology and listed in the Identified Population Database (when published).

Vegetation in low condition means:

- 1 woody native vegetation with native over-storey percent foliage cover less than 25% of the lower value of the over-storey percent foliage cover benchmark for that vegetation type, and:
 - less than 50% of ground cover vegetation is indigenous species, or
 - greater than 90% of ground cover vegetation is cleared.
- 2 native grassland, wetland or herbfield where:
 - less than 50% of ground cover vegetation is indigenous species, or
 - more than 90% of ground cover vegetation is cleared.

If native vegetation is not in low condition, it is in moderate to good condition.

The percentages for the ground cover calculations must be made in a season when the proportion of native ground cover vegetation compared to non-native ground cover vegetation in the area is likely to be at its maximum.

Note: Clearing the habitat of threatened species, populations or communities for the purposes of reducing its condition prior to assessment under the methodology may be a breach of environmental legislation, including sections 118A and 118D of the *National Parks and Wildlife Act 1974* (NP&W Act), *Native Vegetation Act 2003* (NV Act) and *Environmental Planning and Assessment Act 1979* (EP&A Act).

2.3 Determining that impact of development on red flag areas can be regarded as improving or maintaining biodiversity values

Where a proposed development, or any part of it, is on land that is, or forms part of, a red flag area, the Director General may make a determination that it is possible for the development to be regarded as improving or maintaining biodiversity values. The Director General can only make that determination if satisfied that the following criteria are met.

1 Options to avoid impacts on red flag area(s) on the development site must be considered

The Director General must be satisfied that all reasonable measures have been considered to:

- (a) avoid adverse impacts on the red flag area. This includes consideration of different configurations of the development footprint to avoid or minimise impacts on red flag areas, and
- (b) improve or retain the viability of any red flag areas with low viability through ongoing management. This includes consideration of mechanisms to provide secure long term management of the area (whether by private or public means).

Note: This includes options for designating small patches (being red flag areas) as urban bushland parks within an urban precinct, or by conservation through other planning (zoning and other) controls.

2 Highly cleared vegetation types

Where a red flag area on the development site comprises a highly cleared vegetation type with an area greater than four hectares, the Director General cannot determine that the development will improve or maintain biodiversity values.

A highly cleared vegetation type is a vegetation type whose distribution in the CMA area is 10% or less than its estimated distribution in the CMA area before 1750 (that is, 90% or more cleared in the CMA area as defined by the Vegetation Types Database), and the vegetation is not in low condition as defined in section 2.2 of the methodology.

3 Contribution to regional biodiversity values must be low

The contribution of the native vegetation and threatened species habitat to be cleared in a red flag area to regional biodiversity values is low. Specifically, the following factors must be considered:

- Relative abundance: whether the vegetation type or critically endangered or endangered ecological community at the development site is relatively abundant (e.g. tens of thousands of hectares or greater) in the region.
- Percent remaining is high: whether the percent remaining of the vegetation type or critically endangered or endangered ecological community at the development site is relatively high (greater than 50% remaining) in the region.
- Percent native vegetation (by area) remaining is high: whether the percent remaining of native vegetation cover in the region is relatively high (greater than 50% remaining).
- Whether the vegetation type or critically endangered or endangered ecological community or native vegetation is generally in moderate to good condition in the region.
- Relative abundance of individual threatened species or threatened species habitat on the site: whether habitat and/or numbers of threatened species in the region would allow the species to bear temporary loss at the development site while gains are being achieved at biobank site(s) within the same region.

Region is defined as the CMA subregion in which the red flag area is located and the adjoining CMA subregions.

4 Viability must be low or not viable

The viability of biodiversity values on the red flag area must be low or not viable. Viability is defined as the ability of biodiversity values at a site to persist for many generations or long time periods. The ecological viability of a site and its biodiversity values depend on its condition, the area of the patch and its isolation, its current or proposed tenure, the surrounding land use, and whether mechanisms are available to manage low viability sites such that their viability is improved over time.

In making an assessment that the biodiversity values in the red flag area are low or not viable, the Director General must be satisfied that options under criterion 1(b) have been considered and one or more of the following factors apply:

- (a) The current or known future land uses surrounding the vegetation to be cleared (other than the land use proposed in the biobanking statement application) reduce its viability or make it unviable. Relatively small areas of native vegetation (e.g. patches of a few hectares or less) surrounded or largely surrounded by intense land uses, such as urban development, can be unviable or have low viability because of disturbances from urbanisation, including edge effects.
- (b) The size and connectedness (with other native vegetation) of the vegetation to be cleared is insufficient to maintain its viability. Relatively small areas of isolated native vegetation (e.g. patches of a few hectares or less that are more than several hundred metres from another patch of native vegetation) can be unviable or have low viability.
- (c) The condition of native vegetation to be cleared is substantially degraded resulting in loss of or reduced viability. Native vegetation in degraded condition can be unviable or have low viability. Degraded condition means substantially outside benchmark in the majority of vegetation condition variables as listed in the methodology, but does not meet the definition of low condition in section 2.2. Vegetation that is substantially outside benchmark due to a recent disturbance such as a fire, flood or prolonged drought is not considered degraded.

5 Credits to offset the full impacts of the development must be retired

If the development impacts on a red flag area and the Director General determines that it is possible for the development to be regarded as improving or maintaining biodiversity values in accordance with the criteria above, credits to offset the impacts of the development, including on red flag areas, must be retired in accordance with section 2.1 of the methodology.

6 Other matters that may be considered

An application to the Director General to determine whether the impacts on a red flag area can improve or maintain biodiversity values may also include information regarding:

- (a) Regional plans: whether the proposed development on the red flag area is in accordance with an approved regional plan. For the purpose of these assessment protocols, an approved regional plan can be a regional strategy, regional conservation plan, environmental planning instrument or another regional plan that has been approved by the relevant Minister.

The application to the Director General should clearly define how the development on the red flag area is consistent with the plan and how the approved regional plan provides support for the determination that strict avoidance of the red flag area is, in the particular case, unreasonable and unnecessary.

- (b) Environmental contributions: whether an extra environmental contribution has been made or extra credits are proposed to be retired, in addition to the retirement of the required number of biodiversity credits in accordance with criterion 2 (section 2.1) of the improve or maintain test to offset the impacts of the development on the red flag area (or the overall development). This may include an environmental contribution where relevant.

The impact assessment that accompanies an application for a biobanking statement must address the above six criteria.

2.4 Assessment of indirect impacts on biodiversity values

The impact assessment that accompanies a biobanking statement application must identify and assess any relevant negative indirect impacts that the development is likely to have on biodiversity values off-site. The area that is assessed for indirect impacts should extend as far as is necessary off-site to assess any likely adverse impacts on biodiversity values from the development.

Indirect impacts on biodiversity values could include, for example:

- changes in water quality or quantity that affect downstream biodiversity values
- increased light or noise that may affect threatened species habitat
- roads or other linear developments that may restrict movement of threatened species or populations in areas surrounding the development.

The process to assess indirect impacts on biodiversity values is outlined in the two steps below.

Step 1: Minimise negative impacts

The impact assessment must demonstrate that all cost-effective measures to minimise negative impacts of the development on biodiversity values are being or will be carried out. Examples include:

- implementing sediment and erosion controls at the development site
- use of noise and light barriers
- use of structures that allow movement of threatened species or populations.

The applicant for a biobanking statement is required to demonstrate that all cost-effective on-site measures to minimise any negative impacts of the development on biodiversity values are being or will be carried out (section 127ZL(4)(d) of the TSC Act). This includes both on-site and off-site (indirect) impacts.

Before issuing a biobanking statement, the Director General must be satisfied that the applicant has demonstrated that all cost-effective on-site measures to minimise any negative impacts of the development on on-site or off-site (indirect) biodiversity values are being or will be carried out.

These measures may be included as conditions on a biobanking statement issued in respect of the development.

Step 2: Determine biodiversity credits to offset any remaining impact

In some circumstances, using cost effective on-site measures will not be sufficient to avoid indirect impacts on biodiversity values. If a negative indirect impact cannot be fully mitigated, then the applicant must identify any threatened species or population, or critically endangered or endangered ecological community that will continue to be impacted by the development. The negative impact on

these species, populations or communities is then assessed for biodiversity credits using an expert report in accordance with the following:

- If the affected threatened species or population are species to which species credits apply, the expert report must indicate the remaining indirect impact (taking into account mitigation measures) and the area of habitat or number of individuals affected. The expert report must include an estimate of the number and class of additional credits required to offset the impact using Equation 13.
- If the threatened species affected are species to which ecosystem credits apply, the expert report must include the change in Site Value score for a threatened species (using Equation 9) that will result from the remaining indirect impact, taking into account the mitigation measures. The expert report must also include an estimate of the number and class of additional ecosystem credits required to offset the impact using Equation 10.
- The expert report can also determine that the remaining indirect impact is not capable of being assessed under sections 3, 4 or 5 of the methodology. Where the remaining indirect impact cannot be mitigated or offset, the development cannot improve or maintain biodiversity values, and therefore a biobanking statement cannot be issued.

The Director General will consider the expert report and make a determination in relation to whether the indirect impacts can be offset by the retirement of credits and, if so, the number and class of credits to be retired in accordance with the offset rules in the methodology.

The Director General may develop information that provides guidance regarding the assessment of indirect impacts.

2.5 Application of the methodology to Part 3A projects

Where an applicant for a Part 3A project approval under the EP&A Act has not obtained a biobanking statement, the methodology can still be applied to assess the impacts of the project on biodiversity values. For example, the methodology may be used in the environmental assessment for the project. The application of the methodology to Part 3A projects would involve:

- at the preliminary assessment stage, considering options to avoid impacts on native vegetation and other areas likely to contain threatened species habitat
- for the environmental assessment, using the methodology, Operational Manual and Credit Calculator to assess the project, and
- providing the results of the assessment to the Department of Planning, along with the statement of commitments. The statement of commitments should indicate cost-effective measures to minimise negative impacts and the proposed mechanism by which offsets are proposed to be provided (through retirement of biodiversity credits, reservation of land, or other mechanisms).

2.6 Management actions that improve biodiversity values

Improvement in biodiversity values through management actions at a biobank site is the basis for the creation of biodiversity credits. The following classes of credits can be created for management actions that are, or are proposed to be, carried out at a biobank site:

- 1 ecosystem credits
- 2 species credits.

2.6.1 Management actions for creating ecosystem credits

Standard management actions

Ecosystem credits are created in respect of the management actions listed below:

- management of grazing for conservation
- weed control
- management of fire for conservation
- management of human disturbance
- retention of regrowth and remnant native vegetation
- replanting or supplementary planting where natural regeneration will not be sufficient
- retention of dead timber
- erosion control
- retention of rocks.

Biobanking agreements require all of the above management actions to be carried out.

Additional management actions which may be required for creating ecosystem credits

Additional management actions may be required at a biobank site to improve populations or habitats of particular threatened species that require ecosystem credits. These management actions are additional to the management actions required to create ecosystem credits.

Examples of additional actions that may be required for relevant species as identified in the Threatened Species Profile Database are:

- control of feral and/or overabundant native herbivores
- vertebrate pest management – pigs
- vertebrate pest management – foxes and/or miscellaneous species
- nutrient control
- control of exotic fish species
- maintenance or reintroduction of natural flow regimes (where possible).

These additional management actions will be identified in the biobanking agreement where the relevant threatened species are likely to use the biobank site. The additional management actions will only be required where they are identified by the Threatened Species Profile Database for the species.

The biobanking agreement for a site will set out the area of land to which a management action applies, the details of the management action required and the time frames for carrying out the management actions.

2.6.2 Management actions for creating species credits

Species credits may be created in respect of specific management actions to improve populations or habitats of particular threatened species.

These management actions for creating species credits will be identified in the biobanking agreement where threatened species that produce species credits are likely to use land at the biobank site. The management actions for creating species credits will only be required where they are identified by the Threatened Species Profile Database as being relevant for the species.

A biobanking agreement will set out the area of land to which an additional management action applies, the details of the management action required and the time frames for carrying out the management action.

For species credits, examples of the additional actions that are required by the methodology and identified for relevant species in the Threatened Species Profile Database are:

- control of feral and/or overabundant native herbivores
- vertebrate pest management – pigs
- vertebrate pest management – foxes and/or miscellaneous species
- nutrient control
- control of exotic fish species
- maintenance or reintroduction of natural flow regimes (where possible).

2.7 Creation of credits in respect of lands with existing conservation obligations

Ecosystem and species credits may be created in respect of management actions carried out or proposed to be carried out on a biobank site only if the management actions are additional to any biodiversity conservation measures or actions that are already being carried out on the land or are required to be carried out under:

- a restriction on use or public positive covenant under Part 4A of the *Crown Lands Act 1989*
- a conservation agreement entered into under the NP&W Act
- a trust agreement entered into under the *Nature Conservation Trust Act 2001* (NCT Act)
- any agreement entered into with a public authority under which the owner of the land receives funding for biodiversity conservation purposes (other than a biobanking agreement), or
- in the case of publicly owned land, any Act.

This rule does not apply to:

- a restriction on use or public positive covenant under Part 4A of the *Crown Lands Act 1989* that is imposed in connection with an application to purchase land that is duly made by a leaseholder in respect of that land before 1 January 2009
- a conservation agreement entered into under the NP&W Act as a result of a proposal made by the landholder to the Minister administering that Act before 1 January 2009, or
- a trust agreement entered into under the NCT Act as a result of a proposal made by the landholder to the Nature Conservation Trust before 1 January 2009.

Section 7.2 of the methodology provides the method for reducing the number of credits created under a biobanking agreement to take account of the existing conservation obligation.

3 Assessment and measurement of biodiversity values

Biodiversity values are assessed and measured according to the type of biodiversity credits that may be created. There are two classes of biodiversity credits that may be created: ecosystem credits or species credits.

- 1 Ecosystem credits are created or required for all impacts on biodiversity values (including threatened species that can be reliably predicted by habitat surrogates), except the threatened species or populations that require species credits.
- 2 Species credits are created or required for impacts on threatened species that cannot be reliably predicted to use an area of land based on habitat surrogates. Threatened species that require species credits are identified in the Threatened Species Profile Database.

3.1 Assessment and measurement of general biodiversity values

Section 3 sets out how to assess and measure biodiversity values, other than certain threatened species or populations, to determine the number of ecosystem credits that can be created at a biobank site or required at a development site. These are referred to as general biodiversity values.

The assessment and measurement of threatened species that require ecosystem credits and species credits is described in section 4.

3.2 Vegetation type and condition

Vegetation types are used as surrogates for general biodiversity values. A vegetation type is classified within a vegetation class, which in turn is classified within a vegetation formation. There are approximately 1600 vegetation types, 99 vegetation classes, and 12 vegetation formations in NSW.

The information on each vegetation type is contained within the Vegetation Types Database. This database is held by DECC and is publicly available. The Vegetation Types Database contains:

- a description of each vegetation type, its class and formation
- the CMA area within which the vegetation type occurs
- the percent cleared value of the vegetation type within each CMA area in which it occurs.

Any threatened ecological communities associated with a vegetation type are identified in the Threatened Species Profile Database.

Some of the vegetation types contained in the Vegetation Types Database are derived or secondary vegetation communities (that is, the vegetation types have been modified substantially since 1750). Derived vegetation types must only be selected where the original vegetation type cannot be determined. Where the original vegetation type cannot be determined, the derived vegetation must be assessed against the most likely original vegetation type(s), or a benchmark for the class of the vegetation type(s).

The Vegetation Benchmarks Database identifies the range of quantitative measures that represent the benchmark condition for the vegetation type. This database is held by DECC and is publicly available.

Benchmarks are quantitative measures that describe the range of variability in condition in vegetation with relatively little evidence of alteration, disturbance or modification by humans since European settlement (post 1750). Benchmarks are described for specified attributes by vegetation community. Vegetation with relatively little evidence of modification generally has minimal timber harvesting (few stumps, coppicing, cut logs), minimal firewood collection, minimal exotic weed cover, minimal grazing and trampling by introduced or overabundant native herbivores, minimal soil disturbance, minimal canopy dieback, no evidence of recent fire or flood, is not subject to high frequency burning, and shows evidence of recruitment of native species.

Vegetation that is substantially outside benchmark due to a recent disturbance, such as fire, flood or prolonged drought, is not considered degraded. Vegetation that has been recently disturbed, or is

regenerating after an event such as fire or flood, must be assessed on an equivalent site that is not disturbed in these ways. The equivalent, undisturbed site must be approved by the Director General prior to issuing a biobanking statement. Sites that are deliberately degraded prior to an assessment may be subject to investigation by DECC.

Benchmark data that more accurately reflects the local environmental conditions for a vegetation type may be collected from local reference sites, or obtained from relevant published sources using the procedures set out in Appendix 1.

3.2.1 Delineating vegetation zones

Prior to assessment of impact, the development site or biobank site must be divided into vegetation zones, using a satellite or orthorectified aerial image of the site. Vegetation zones are delineated by vegetation type and broad condition for the purpose of assessing the average site condition of the vegetation and to survey for threatened species. Vegetation that is in low condition must always form a separate zone to vegetation that is not in low condition, including within the same vegetation type.

Areas of non-contiguous vegetation in the same CMA subregion and 1000 ha assessment circle, which are affected the same way by management or development on biodiversity values, may be combined into a single vegetation zone, where they are the same vegetation type and broad condition at a development or biobank site. Areas of the same vegetation type but with different condition above low condition may be delineated as separate zones in order to stratify the site for field survey.

A separate zone must be created where a site extends across the border of a CMA subregion or a 1000 ha assessment circle. A separate zone may also be created where there is a variation in the effect of management or development on biodiversity values (e.g. such as for an asset protection zone).

Where the extent of native vegetation at a development or biobank site has changed since the satellite or orthorectified aerial image was made, and the clearing was legally approved or permitted, vegetation zones are amended or deleted to reflect the current situation, based on current field survey. Prior to issuing a biobanking statement or before the Minister enters a biobanking agreement, the Director General must approve that the amended areas of vegetation mapped by the current field survey are correct, rather than the areas of native vegetation shown on an aerial image.

3.3 Use of certified local data

The Director General may certify that more appropriate local data can be used instead of the data in the Vegetation Types Database, Vegetation Benchmarks Database and the Threatened Species Profile Database. Local data may be used if the Director General is of the opinion that it more accurately reflects local environmental conditions. In certifying this data, the Director General must provide reasons for this opinion and publish these reasons on the DECC website.

The certified local data can then be used in applying the methodology in accordance with any procedures outlined in the Operational Manual.

3.4 Updates of the databases

The databases used in the methodology are periodically updated in response to increased knowledge about biodiversity values and relevant biodiversity data. Changes to the databases may require issuing an updated version of the Credit Calculator.

DECC will notify persons accredited to use the assessment methodology and Credit Calculator that an updated version of the Credit Calculator is available. Applications for a biobanking statement and a biobanking agreement must be made using the most recent version of the Credit Calculator available.

Changes to the databases and the reasons for the changes must be published on the DECC website prior to incorporation of the data into the Credit Calculator.

3.5 Assessment of site value

Site Value is the quantitative measure of the condition of native vegetation assessed for each vegetation zone. The site value assessment is also used to determine the condition of certain habitat attributes used by threatened species on the site.

3.5.1 Plot and transect surveys

Plot and transect surveys of the development and biobank sites are used to provide quantitative measures of 10 site attributes in each vegetation zone. The 10 site attributes, listed in Table 1, are assessed to calculate the number of ecosystem credits that can be created at a biobank site or are required at a development site.

Line transects must be used to assess the site attributes that are measured by percent foliage cover. Other site attributes are assessed by plots. The plot and transect surveys are conducted in the vegetation zone to sample vegetation condition across the zone. Regeneration is assessed for the entire zone.

The minimum number of plots and transects required for each vegetation zone on a development or biobank site must be in accordance with Appendix 2. Plot and transect surveys required for each vegetation zone must be conducted in accordance with the procedures provided in the Operational Manual.

3.5.2 Calculating the current Site Value score

The current Site Value score is determined from the plot/transect surveys in each vegetation zone. Ten site (condition) attributes are assessed against benchmark values to determine vegetation condition and the Site Value score.

The benchmark range is the range of numeric values identified in the Vegetation Benchmarks Database for each site attribute for vegetation types or classes, or collected from local reference sites or obtained from published sources.

The benchmark range is the quantitative measure of the range of variability in site attributes under local conditions for the vegetation type where there is relatively little evidence of modification by humans since 1750. Benchmark ranges should reflect the range of variability of the vegetation type with little modification since European settlement.

The current site attribute score is either 0, 1, 2 or 3 as shown in Table 1. As shown in Equation 1, the site attribute scores are weighted and summed, then converted to a current Site Value score out of 100. The same equation is used to determine the current Site Value score at both the development and biobank sites.

Equation 1: Ecosystem credits – determining the current Site Value score for a vegetation zone at the development and biobank site

$$S_c = \frac{\left(\sum_{v=a}^j (a_v w_v) \right) + 5((a_a a_g) + (a_b a_i) + (a_h a_j) + (a_c a_k))}{c} \times 100$$

where S_c is the current Site Value score of the vegetation zone
 a_v is the attribute score for the v th site attribute (a–j) as defined in Table 1
 a_k is equal to $(a_d + a_e + a_f)/3$, the average score for attributes d, e and f
 w_v is the weighting for the v th site attribute (a–j) as defined in Table 1
 c is the maximum score that can be obtained given the attributes a–j that occur in the vegetation type (the maximum score varies depending on which attributes occur in the vegetation type under assessment).

If the lower benchmark value for any site attribute is zero, and the measure of that attribute on the site is zero, then the site attribute score of that attribute against the benchmark is 3. If the *only* benchmark value for any site attribute is zero, then the attribute is not included in Equation 1 and c is scaled

accordingly.

The multipliers for ‘native over-storey cover × proportion of over-storey species occurring as regeneration’ and ‘number of trees with hollows × total length of fallen logs’ may be omitted from Equation 1 (and *c* recalculated accordingly) for determining Site Value at a development or biobank site if the vegetation type is from one of the following vegetation formations: Grasslands, Heathlands, Alpine Complex, Freshwater Wetlands, Saline Wetlands or Arid Shrublands.

Table 1: Scoring and weighting of the site attributes

Site attribute		Site attribute score (see notes below)				Weighting for site attribute score
		0	1	2	3	
a)	Native plant species richness	0	>0 – <50% of benchmark	50 – <100% of benchmark	≥ benchmark	25
b)	Native over-storey cover	0 – 10% or >200% of benchmark	>10 – <50% or >150 – 200% of benchmark	50 – <100% or >100 – 150% of benchmark	within benchmark	10
c)	Native mid-storey cover	0 – 10% or >200% of benchmark	>10 – <50% or >150 – 200% of benchmark	50 – <100% or >100 – 150% of benchmark	within benchmark	10
d)	Native ground cover (grasses)	0 – 10% or >200% of benchmark	>10 – <50% or >150 – 200% of benchmark	50 – <100% or >100 – 150% of benchmark	within benchmark	2.5
e)	Native ground cover (shrubs)	0 – 10% or >200% of benchmark	>10 – <50% or >150 – 200% of benchmark	50 – <100% or >100 – 150% of benchmark	within benchmark	2.5
f)	Native ground cover (other)	0 – 10% or >200% of benchmark	>10 – <50% or >150 – 200% of benchmark	50 – <100% or >100 – 150% of benchmark	within benchmark	2.5
g)	Exotic plant cover (calculated as percentage of total ground and mid-storey cover)	>66%	>33 – 66%	>5 – 33%	0–5%	5
h)	Number of trees with hollows	0 (unless benchmark includes 0)	>0 – <50% of benchmark	50 – <100% of benchmark	≥ benchmark	20
i)	Proportion of over-storey species occurring as regeneration	0	>0 – <50%	50 – <100%	100%	12.5
j)	Total length of fallen logs	0–10% of benchmark	>10 – <50% of benchmark	50 – <100% of benchmark	≥ benchmark	10

Notes: The term ‘within benchmark’ means a measurement that is within (and including) the range of measurement identified as the benchmark for that vegetation type. The term ‘< benchmark’ means a measurement that is less than the minimum measurement in the benchmark range. The term ‘> benchmark’ means a measurement that is greater than the maximum measurement in the benchmark range.

3.5.3 Calculating change in Site Value at the development site

The change in Site Value at the development site is determined as the difference between the current Site Value score and the Site Value score following development using Equation 2.

Equation 2: Ecosystem credits – change in Site Value score at the development site

$$\Delta S_{\text{Loss}} = S_{\text{current}} - S_{\text{future}}$$

where ΔS_{Loss} is the change (loss) in the Site Value score of a vegetation zone at the development site
 S_{current} is the current Site Value score, as determined by Equation 1
 S_{future} is the future (after development) Site Value score, as determined by Equation 1.

The future Site Value is determined by decreasing the current site attribute scores by the loss in site attributes after development, according to Equation 1.

3.5.4 Calculating change in Site Value score at the biobank site

The change in Site Value score at the biobank site is calculated as the difference between the current Site Value score and the predicted future Site Value score following management actions at the biobank site, using Equation 3.

Equation 3: Ecosystem credits – change in Site Value score at the biobank site

$$\Delta S_{\text{Gain}} = S_{\text{future}} - S_{\text{current}}$$

where ΔS_{Gain} is the change (gain) in the Site Value score of a vegetation zone at the biobank site
 S_{future} is the future Site Value score (with management actions as described below), as determined by Equation 1
 S_{current} is the current Site Value score, as determined by Equation 1.

The future Site Value score is determined by increasing the current site attribute scores by the predicted gains shown in Table 2. The assessor may increase or decrease the predicted incremental improvement where the improvement may be higher or lower than the increase shown in Table 2. Any variation to the extent of improvement shown in Table 2 is limited to guidelines in Appendix 3 and must be approved by the Director General.

The management actions are undertaken by the landholder to improve site attributes at the biobank site. The landholder must undertake all management actions identified in section 2.6.1 as part of the assessment process.

The assessment of the current Site Value score (S_{current}) may allow for permitted clearing activities when assessing the condition of site attributes for land to which the NV Act applies.

The current Site Value score (S_{current}) may allow for some permitted clearing activities under the NV Act on land to which the NV Act applies and is included in the final calculation of ecosystem credits for biobank sites in Equation 12. This allowance is limited to scoring fallen logs as zero (because they can be collected for non-commercial firewood), and native ground cover that comprises less than 50% indigenous species is scored as zero because it can be cleared.

Table 2: Predicted improvement in the site attribute score for each site attribute with management at the biobank site

Site attribute		Increase in current site attribute score			
		0	1	2	3
a)	Native plant species richness	+0.5	+0.5	+ 1	No change
b)	Native over storey cover	+1	+1	+1	No change
c)	Native mid-storey cover	+1	+1	+1	No change
d)	Native ground cover (grasses)	+1	+1	+1	No change
e)	Native ground cover (shrubs)	+1	+1	+1	No change
f)	Native ground cover (other)	+1	+1	+1	No change
g)	Exotic plant cover ¹	+0.5	+0.5	+1	No change
h)	Number of trees with hollows	0	+0.5	+0.5	No change
i)	Proportion of over-storey species occurring as regeneration	+0.5	+1	+1	No change
j)	Total length of fallen logs	0	+ 0.5	+1	No change

¹ Calculated as a percentage of total ground-storey and mid-storey cover

3.6 Assessment of Landscape Value

Landscape Value assesses the change in native vegetation cover and connectivity as a result of development on a development site or management actions on a biobank site, as well as the size of the adjacent remnant areas, based on the following attributes:

- Percent native vegetation cover in the landscape assesses the change in the overall percentage of native vegetation within 100 ha and 1000 ha assessment circles in which the development and biobank sites are located. Current and future native vegetation cover (extent and condition) in the circles are visually estimated in increments of 10% as shown in Table 6 and Table 7.
- Connectivity value assesses the impact of development on the development site and management actions on the biobank site on connectivity of the site with surrounding vegetation using the criteria for determining the connectivity value score.
- Adjacent remnant area is the area of moderate to good condition native vegetation of which the biobank site or development site is a part, which is less than 100 m from the next area of moderate to good native vegetation. An adjacent remnant area may extend onto adjoining land. The score for adjacent remnant area is determined according to the Mitchell landscape in which most of the proposal occurs.

A development or biobank site may require one or more assessment circles.

A development or biobank site may require more than one 1000 ha assessment circle. A new 1000 ha assessment circle must be used whenever the development or biobank site:

- 1 exceeds a single 1000 ha assessment circle, or
- 2 the configuration of the development or biobank site does not fit into a single 1000 ha assessment circle, or
- 3 the development or biobank site extends from one CMA subregion into another CMA subregion.

If all the native vegetation to be impacted on the development site or improved by management actions on the biobank site is within a single assessment circle, then the circle is centred on the areas to be impacted. If the area of native vegetation to be impacted on the development site or improved on the biobank site is greater than 1000 ha, or the sites or zones do not fit within a 1000 ha assessment circle, then more than one assessment circle is required. Assessment circles can overlap, however the

associated values and scores for threatened species, vegetation zones, connectivity score and 100 ha assessment circle within each 1000 ha assessment circle are assigned to only one 1000 ha assessment circle. The assessment circles are arranged to ensure that the minimum number are used.

3.6.1 Determining the Landscape Value score

The Landscape Value score is calculated using Equation 4 below.

Equation 4: Ecosystem credits – determine Landscape Value score

The landscape attributes are combined to provide a Landscape Value score out of 50. Percent native vegetation cover in the 100 ha assessment circle is scored out of 10, and percent native vegetation cover in the 1000 ha assessment circle is scored out of 16. Connectivity value and adjacent remnant area are each scored out of 12.

$$LV = (a + b + c + d)$$

where LV is the Landscape Value score of the development site or biobank sites
 a is the connectivity value score (section 3.6.2)
 b is percent native vegetation cover in the 100 ha assessment circle score (see Table 6)
 c is percent native vegetation cover in the 1000 ha assessment circle score (see Table 7)
 d is adjacent remnant area value (see Table 8).

3.6.2 Determining the connectivity value score

Connectivity value is determined according to the three step process set out below.

The same process is used to determine the loss in connectivity at a development site as for the gain in connectivity at a biobank site. The three step process is applied to each primary connecting linkage to determine its connectivity value. Where there is more than one primary link, the link with the highest connectivity value is used to calculate the number of credits.

Step 1: Determine the number of linkage width classes that are crossed – lost or gained

The site is linked to adjoining vegetation where the site:

- is in moderate to good condition, and
- has a patch size >1 ha, and
- is separated by a distance of < 100 m (or <30 m for grassy ecosystems), or
- is not separated by a dual carriageway or wider highway.

The linkage width classes are:

0 – 5 m: >5 m – 30 m; >30 m – 100 m; >100 m – 500 m: >500 m.

The number of linkage width classes that are crossed by reducing or improving connectivity in the primary connecting linkage to the site are scored as:

- 0 = no change or change is within the class, i.e. does not cross a threshold between the classes
- 1 = crosses one linkage width threshold, i.e. changes from one linkage width class to the next one across one threshold
- 2 = crosses two linkage width thresholds, i.e. changes from one class to another class across two thresholds
- 3 = crosses three linkage width thresholds, i.e. changes from one class to another class across three thresholds
- 4 = crosses four linkage width thresholds, i.e. changes from one class to another class across four thresholds.

Step 2: Determine the linkage condition class

The condition of the vegetation that forms the connecting linkage, including vegetation on and off the development and biobank sites, is assessed for its average condition class across the entire link. The linkage condition classes for woody vegetation types are determined by assessing over-storey cover and mid-storey cover or ground cover according to Table 3. Mid-storey or ground cover is used according to which strata is the most appropriate for assessing connectivity for the vegetation types that form the link. Linkage condition classes for non-woody vegetation types are determined according to Table 4.

At the development site, the linkage condition class is determined by assessing average condition of the vegetation across the entire link before and after development. The number of linkage condition class thresholds that are crossed as a result of the loss of vegetation is used in step 3.

At the biobank site the linkage condition class is measured by assessing average condition of the vegetation across the entire link before and after the biobank proposal. The number of condition class thresholds that are crossed as a result of improving vegetation at the biobank site is used in step 3.

The number of linkage condition class thresholds that are crossed as a result of the proposal are scored as:

- 0 = no change or change is within the same linkage condition class
- 1 = crosses one linkage condition threshold, i.e. changes from one connectivity condition class to the next one across one threshold
- 2 = crosses two linkage condition thresholds, i.e. changes from one class to another class across two thresholds
- 3 = crosses three linkage condition thresholds, i.e. changes from one class to another class across three thresholds

The number of linkage condition thresholds can include half points where the connectivity condition class crosses to another threshold for only one stratum, as shown in Table 3.

Table 3: Linkage condition classes (woody vegetation)

		Over-storey condition				
		No native over-storey or exotic vegetation with similar structure to the proposal	<25% lower end benchmark or exotic vegetation with similar structure to the proposal	% foliage cover >25% of lower benchmark to lower benchmark	% foliage cover within benchmark	
Mid-storey or ground cover condition	No mid-storey or ground cover or exotic vegetation with similar structure to the proposal	0	0.5	1	1.5	Linkage condition class
	% foliage cover of mid-storey or ground cover <25% lower end benchmark or exotic vegetation with similar structure to the proposal	0.5	1	1.5	2	
	% foliage cover of mid-storey or ground cover >25% of lower benchmark	1	1.5	2	2.5	
	% foliage cover of mid-storey or ground cover within benchmark	1.5	2	2.5	3	
		Linkage condition class				

Table 4: Linkage condition classes (non-woody vegetation)

Linkage condition class	Vegetation condition
3	% foliage cover is within benchmark in native grassland, herbfield or wetland (herbaceous vegetation)
2	% foliage cover >25% of lower benchmark to lower benchmark in native grassland, herbfield or wetland (herbaceous vegetation)
1	% foliage cover <25% lower benchmark in native grassland, herbfield or wetland (herbaceous vegetation), or exotic vegetation with similar structure to the proposal
0	Meets none of the above definitions

Step 3: Determine connectivity value score

The final connectivity value score is calculated in Table 5 by considering both the number of linkage width classes and the number of linkage condition values that are crossed. The scores shown in Table 5 show the number of linkage width and condition *thresholds* that are crossed, *not* the actual linkage width or condition class.

Where there is more than one linkage to the development or biobank site, the linkage with the highest combination of current width and condition classes is used to determine the connectivity value score.

Table 5: Scores for loss/gain of linkage condition/width based on number of thresholds crossed

		Number of linkage width thresholds crossed			
		0	1	2	3 or 4
Number of linkage condition thresholds crossed	0	0	2	4	6
	0.5	1	3	5	7
	1	2	4	6	8
	1.5	3	5	7	9
	2	4	6	8	10
	2.5	5	7	9	11
	3	6	8	10	12

3.6.3 Determining percent native vegetation cover score

The score for the percent native vegetation cover in a 100 ha assessment circle is given in Table 6. The score for the percent native vegetation cover in a 1000 ha assessment circle is given in Table 7.

Table 6: Determining percent native vegetation cover in the landscape for development and biobank sites (100 ha)

Percent native vegetation cover in 100 ha assessment circle (%)	Score for percent native vegetation cover in 100 ha assessment circle
0	0
≤10	1.5
11–20	3.0
21–30	4.5
31–40	5.5
41–50	6.5
51–60	7.5
61–70	8.5
71–80	9.0
81–90	9.5
91–100	10.0

Table 7: Determining percent native vegetation cover in the landscape for development and biobank sites (1000 ha)

Percent native vegetation cover in 1000 ha assessment circle (%)	Score for percent native vegetation cover in 1000 ha assessment circle
0	0
≤10	2.4
11–20	4.8
21–30	7.2
31–40	8.8
41–50	10.4
51–60	12.0
61–70	13.6
71–80	14.4
81–90	15.2
91–100	16

3.6.4 Determining the adjacent remnant area score

The score for the adjacent remnant area is determined according to the criteria in Table 8.

Table 8: Criteria for assessing adjacent remnant area*

Adjacent remnant area	Percent native vegetation cleared in the Mitchell landscape in which most of the proposal occurs			
	<30%	30 – 70%	70 – 90%	>90%
Very large (value = 12 pts)	>500 ha	>100 ha	>50 ha	>20 ha
Large (value = 9 pts)	>200 ha and ≤ 500 ha	>50 ha and ≤ 100 ha	>20 ha and ≤ 50 ha	>10 ha and ≤ 20 ha
Medium (value = 6 pts)	>100 ha and ≤ 200 ha	>20 ha and ≤ 50 ha	>10 ha and ≤ 20 ha	>1 ha and ≤ 10 ha
Small (value = 3 pts)	> 0 ha and ≤ 100 ha	> 0 ha and ≤ 20 ha	> 0 ha and ≤ 10 ha	> 0 ha and ≤ 1 ha

* Native vegetation not in low condition and linked to the development or biobank sites.

3.6.5 Determining change in Landscape Value score

Change in Landscape Value score at a development site

The change in Landscape Value score at the development site is calculated as the difference between the current Landscape Value score and the predicted Landscape Value score after development using Equation 5.

Equation 5: Ecosystem credits – change (loss) in Landscape Value score at a development site

$$\Delta LV_{\text{Loss}} = LV_{\text{current}} - LV_{\text{with development}}$$

where ΔLV_{Loss} is the change in the Landscape Value score of the development site
 LV_{current} is the Landscape Value score of the development site before development
 $LV_{\text{with development}}$ is the Landscape Value score of the development site after development.

Landscape Value score LV is determined in Equation 4.

Change in Landscape Value score at a biobank site

The change in Landscape Value score at a biobank site is calculated as the difference between current Landscape Value score and predicted Landscape Value score with management actions using Equation 6.

Equation 6: Ecosystem credits – change (gain) in Landscape Value score at a biobank site

$$\Delta LV_{\text{gain}} = LV_{\text{with mgmt}} - LV_{\text{current}}$$

where ΔLV_{gain} is the change in Landscape Value score of the biobank site
 LV_{current} is the current Landscape Value score of the biobank site
 $LV_{\text{with mgmt}}$ is the Landscape Value score of the biobank site with management actions

Landscape Value score LV is determined in Equation 4.

4 Assessment and measurement of threatened species

This section outlines the process for assessing impacts on threatened species for which ecosystem credits are created or required, and the assessment process for impacts on threatened species for which species credits are created or required.

4.1 Threatened Species Profile Database

Threatened species are assessed in the methodology using data in the Threatened Species Profile Database. This database is held by DECC, is publicly available and is routinely amended to include new listings of critically endangered, endangered and vulnerable threatened species under the TSC Act and the EPBC Act, and to revise the data as required.

The components of the Threatened Species Profile Database that are used for all threatened species are:

- description of each threatened species, its habitat, ecology and threats
- CMA subregions within which the distribution of each species is associated (the distribution of a species is not associated with a CMA subregion if the species is identified by the database as being vagrant in that subregion)
- vegetation types with which each species is associated
- minimum surrounding vegetation cover class with which the species is associated (used as an initial filter to identify species for assessment)
- minimum adjacent remnant area or patch size, including low condition (hectares), with which the species is associated (used as an initial filter to identify species for assessment)
- the minimum vegetation condition with which the species is associated (being low condition vegetation or moderate to good condition vegetation) (used as an initial filter to identify species for assessment)
- the management actions relevant for each species
- the ability of a species to respond to improvement in Site Value or other habitat improvement at a biobank site due to the management actions (the T_G value)
- the class of credit (ecosystem or species) required for the species.

The additional components of the Threatened Species Profile Database that are used in the methodology for threatened species to which ecosystem credits apply are:

- the site attributes with which the habitat for the species is associated.

The additional components of the Threatened Species Profile Database that are used in the methodology for threatened species to which species credits apply are:

- any geographic characteristics associated with the occurrence of the species
- any specific habitat features associated with the occurrence of the species
- threatened species which cannot withstand further loss
- the unit of measurement of impact to be applied for the species (either the number of individuals or area of habitat)
- the months of the year that the species is identifiable through survey.

In exceptional cases, the database may apply two different sets of habitat characteristics for a species. In these instances, the methodology is capable of applying different assessment approaches to different components of the habitat for the same species. For example, the database may identify that the breeding habitat for a cave roosting bat is a red flag area. However, the foraging habitat for the same species is not a red flag area and can be offset with ecosystem credits.

The Director General may certify that more appropriate local data can be used instead of data in the Threatened Species Profile Database if the local data more accurately reflects local environmental conditions. The Director General must provide reasons for this opinion and publish these reasons on the DECC website.

4.2 Identifying the threatened species that require assessment

The threatened species to be assessed at a site are identified through the primary filtering of all threatened species using five criteria. A threatened species is identified as requiring further assessment in the methodology if all five of the following criteria in the Threatened Species Profile Database are met:

- 1 The distribution of the species includes the CMA subregion in which the development or biobank site is located.
- 2 The species is associated with any one or more of the vegetation types occurring within the development or biobank site.
- 3 The surrounding vegetation cover class within the 1000 ha assessment circle is equal to or greater than the minimum class specified as being required for that species. The minimum surrounding vegetation cover class required for a species is <10%, 11–30%, 31–70% or >70% cover.
- 4 The condition of any vegetation within the development or biobank site is equal to or greater than the minimum condition required for that species. The minimum condition required for a species is either low condition or moderate to good condition vegetation.
- 5 The minimum adjacent remnant area or patch size including low condition (for species that can use low condition vegetation) at the development or biobank site is equal to or greater than the minimum specified for that species. The minimum adjacent remnant area or patch size including low condition required for a species is <5 ha, >5–25 ha, >25–100 ha or >100 ha.

The filters are applied to one or more threatened species subzones at both the development and biobank sites. A threatened species subzone must be created in accordance with section 4.2.1 where the proposal or part of the proposal is in a different CMA subregion, is in a different vegetation type or condition class, crosses a 1000 ha assessment circle, or has a different patch size including low condition class.

Threatened species that meet the above five criteria require further assessment and these species are then sorted into species that require either ecosystem credits or species credits.

Species that are identified in the Threatened Species Profile Database as being predictable by habitat surrogates are assessed according to the methodology for ecosystem credits.

Species that are identified in the Threatened Species Profile Database as not being predictable by habitat surrogates are assessed according to the methodology for species credits.

4.2.1 Attributing a threatened species subzone for a credit profile

A threatened species subzone has attributes that are used to create the credit profile for each vegetation zone at a development site or biobank site. Threatened species subzones are attributed as follows:

- 1 CMA subregion in which the vegetation subzone is located
- 2 vegetation type
- 3 vegetation formation
- 4 surrounding vegetation cover. This classes the percentage of native vegetation cover within the 1000 ha assessment circle in which the vegetation zone is located. The percentage of native vegetation cover within the assessment circle is visually estimated and classed as either <10%, 11–30%, 31–70% or >70% cover, taking into account both cover and condition of vegetation (see Appendix 2) for credit profiles (Landscape Value is also assessed this way).
- 5 patch size, including low condition. This is the area of native vegetation that includes the development site or the biobank site, plus any adjoining native vegetation (where any separation

between the native vegetation is not greater than 100 m in woody vegetation, or 30 m in non-woody vegetation). Patch size, including low condition may comprise both moderate to good condition and low condition vegetation. It is not restricted to the development or biobank site and may extend onto adjoining land for determining credit profiles. Patch sizes are in classes of ≤ 5 ha, 5–25 ha (including 25 ha), 25–100 ha (including 100 ha), or >100 ha.

4.3 Assessment of threatened species for ecosystem credits

Threatened species that require ecosystem credits are assessed in conjunction with general biodiversity values, based on the vegetation type present on the site. The likely impacts on these species from development at the development site and from management actions undertaken at the biobank site are measured by the predicted change in site attributes that result from these actions and by the area of land that is impacted.

Because species requiring ecosystem credits have a high likelihood of occurrence based on the attributes assigned to a threatened species subzone, a threatened species survey is not required.

4.4 Assessment of threatened species for species credits

Threatened species for which species credits are created or required are identified in the Threatened Species Profile Database. Species credits apply to threatened species that cannot be reliably predicted to occur in a vegetation type. Species credits can also apply to species that require protection of particular habitat elements, such as breeding habitat for a cave roosting bat.

Species that require species credits are assessed within a species polygon. A species polygon is a contiguous area of land comprising habitat for a threatened species (being a species to which species credits apply). A species polygon may be for a whole vegetation zone, or for a subsection of a vegetation zone, or for one or more vegetation zones, depending on the site configuration of specific habitat attributes used by the species that are identified in the Threatened Species Profile Database.

The filtering process to identify the species that require species credits is according to the three steps below.

Step 1: Secondary filtering of threatened species

Threatened species require assessment within a vegetation zone at a development or biobank site if they meet the secondary filtering criteria:

- 1 whether the development or biobank site contains any specified geographic attributes that are associated with the species that requires species credits in the Threatened Species Profile Database (for some species the database identifies additional information that describes in more detail the geographical location of a species within the CMA subregion)
- 2 whether the vegetation zone contains habitat features associated with the species, as identified in the Threatened Species Profile Database.

A species that does not meet the secondary filtering criteria (if one or both geographic or habitat characteristics associated with the species are not present on the site) is regarded as not present at the site and does not require further assessment.

A species that is determined as likely to occur at a development or biobank site because of the secondary filtering (the relevant geographic and habitat requirements are present) is further assessed in step 3.

Step 2: Assessing for any identified population

An assessment of any identified population is required when:

- the initial filtering of threatened species indicates that the species is likely to occur in the CMA subregion and vegetation type(s) present at the development or biobank site.

If an identified population is listed in the Identified Population Database for the CMA subregion, further assessment in accordance with step 3 is required to determine if any part of the biobank or development site is within any area identified as containing an identified population.

If an identified population is not listed in the Identified Population Database, or if the development or biobank site is *not* within an identified population for a species, then the species is assessed against the secondary filters in accordance with step 1 for species credits.

Step 3: Undertaking a threatened species survey

A threatened species survey is a targeted survey for a species that is undertaken in accordance with any threatened species survey guidelines provided in the Operational Manual or by DECC. The purpose of the survey is to determine if the species is present at the development or biobank site and if so, either:

- the area of habitat likely to be impacted by development or management actions (for fauna species),
or
- the number of individuals likely to be impacted by development or management actions (for flora species).

The survey must be undertaken during the time of the year that is suitable for identifying the species, as identified in the Threatened Species Profile Database.

At a development site, a threatened species survey is to be undertaken for a threatened species if the secondary filtering of species undertaken in step 1 indicates that the species is likely to occur. However, a threatened species survey is not required if:

- the entire development site is within any identified population for the species, being a species for which the unit of measurement of impact is the area of habitat (no surveying is required in this instance), or
- an expert report prepared in accordance with section 4.5 has been obtained identifying that the species is unlikely to be present, or
- an expert report prepared in accordance with section 4.5 has been obtained identifying that the species is likely to be present and the number of credits required has been calculated based on the estimated number of individuals or area impacted, or
- the species, being a species for which the unit of measurement of impact is area of habitat, is assumed to be present and the area of habitat impacted is determined in accordance with section 4.7.

The calculation of the number of credits required is based on the area of habitat or number or individuals likely to be impacted by the development. Similarly, the number of credits that can be created on a biobank site is based on the area of habitat or individuals on the biobank site.

Survey for threatened species is not required on a biobank site unless species credits are proposed to be created.

The number of species credits created at the biobank site is calculated based on the area of habitat or number of individuals likely to be improved by management actions, as determined by:

- a threatened species survey that has been undertaken for a threatened species (being a species to which species credits apply) for which the initial and secondary filtering of species has confirmed the presence of the species at the site, or
- the area of habitat within an identified population for a species for which the unit of measurement of impact is the area of habitat (no survey is required), or
- an expert report prepared in accordance with section 4.5 identifying that the species is likely to be present and the number of credits required has been calculated based on the estimated number of individuals or area of habitat impacted at the biobank site.

4.4.1 Mapping and attributing a species polygon

A species polygon is used to identify any area of land where development impacts on the species at the development site and where specified management actions are required at a biobank site, to calculate the number of credits at the development site and the biobank site.

The boundary of the species polygon is the boundary of the area of land subject to the impact of development or management actions, which surrounds the location(s) of the species and contains the geographic characteristics and/or specific habitat features associated with that species on the development and biobank sites.

At the development site, a species polygon must be mapped if a threatened species is determined to be present by either:

- assuming that the species is present (in accordance with section 4.7)
- an assessment of any identified population
- a threatened species survey
- an expert report in accordance with section 4.5.

At a biobank site, a species polygon must be mapped if a threatened species is determined to be present by either:

- an assessment of any identified population
- an expert report in accordance with section 4.5
- a threatened species survey.

A species polygon is attributed with a unit of measurement for the impacts resulting from the development or the management actions. The unit of measurement is either the number of individuals of the species within the species polygon, or the area of habitat for the species (being the area of the species polygon). The Threatened Species Profile Database identifies which unit of measurement of impact is applicable to a species. The unit of measurement for threatened flora species is the number of individuals. The unit of measurement for fauna species is the area of habitat impacted. The assessment process differs depending on which unit of measurement applies.

A species polygon is mapped using a satellite (SPOT5) or orthorectified aerial image.

4.5 The use of expert reports instead of undertaking survey

An expert report may be obtained instead of undertaking a threatened species survey at a development site. Note that this is a different type of expert report from that referred to in section 2.4.

An expert report instead of survey can only be used for species to which species credits apply and not for any species to which ecosystem credits apply.

The purpose of an expert report instead of survey is to determine that:

- the species is unlikely to be present at the development site – in this case no further assessment of the species is required. An expert report cannot determine that a species is unlikely to be present if the land is within an identified population for that species unless approved by the Director General.
- the species is likely to be present at the development site – in this case the expert report must provide an estimate of the number of individuals or area of habitat to be impacted by the development (according to the unit of measurement identified for the species in the Threatened Species Profile Database). The area of the species polygon is to be determined in accordance with section 4.4.1. If an estimate of the number of individuals is required, then the estimate is based on the density of individuals in nearby populations. The number of species credits required for the species at the development site is calculated based on this estimate.
- the species is likely to be present at the biobank site – in this case the expert report must provide an estimate of the number of individuals or area of habitat on the biobank site (according to the unit of

measurement identified for the species in the Threatened Species Profile Database). The area of the species polygon is to be determined in accordance with section 4.4.1. If an estimate of the number of individuals is required, then the estimate is based on the density of individuals in nearby populations. The number of species credits that can be created for the species at the biobank site is calculated based on this estimate.

An expert report prepared for the purposes of this section must be prepared in accordance with any guidance provided in the Operational Manual. The Director General may decide not to accept an expert report instead of survey if it is not prepared in accordance with the guidance provided in the Operational Manual.

4.6 Identified populations

The Director General may develop an Identified Population Database which identifies population(s) of threatened species which are known to be present in an area of land. Any population that is identified is referred to as an identified population.

An identified population is relevant for requiring or creating species credits and for identifying red flag areas. Only species that require species credits can be listed as identified populations.

If an identified population is listed for the CMA subregion, further assessment is required in accordance with section 4.4 to determine if any part of the biobank or development site is within any area identified as containing an identified population.

If an area of land contains an identified population, the land will only be considered a red flag area if it is a species that cannot withstand further loss as identified in the Threatened Species Profile Database.

The mapped location or criteria for any threatened species listed in the Identified Population Database will be publicly available on the DECC website.

4.7 Assumed presence of fauna species

Where the development site contains any of the specified geographic attributes and habitat features associated with a fauna species (under the secondary filtering criterion of step 1 in section 4.4), the species may be assumed to be present, instead of undertaking a threatened species survey or obtaining an expert report, as indicated in section 4.4.

Where a species is assumed to be present, the location and area of the species polygon is determined in accordance with section 4.4. The calculation of the number of species credits required at the development site is based on this area of habitat (being the area of the species polygon).

4.8 Inclusion of additional species for species credits

Where a threatened species that requires species credits was not predicted to occur through the filtering process but is found on a development site or a biobank site, that species must be included in the calculation of biodiversity credits for the site.

Where an additional species has been included in the calculation of biodiversity credits for the site and it is not predicted to occur within the CMA area, the T_G value used in the calculation of biodiversity credits in Equation 13 is to be taken from the CMA area with the lowest T_G value for that species.

This does not apply for species that require ecosystem credits, as a site survey is not required for these species.

5 Calculating ecosystem credits and species credits

This section provides the rules for calculating the number and type of ecosystem credits and species credits that are required in relation to impacts at a development site or created in relation to improving a biobank site.

5.1 Calculating ecosystem credits

The number of ecosystem credits for general biodiversity values required at a development site or created at a biobank site is determined by summing the credits from each vegetation zone in the site. Credit profiles are created for individual zones, except where there is more than one zone of the same vegetation type in vegetation in moderate to good condition. Where this occurs, the zones for a vegetation type in moderate to good condition are combined for the credit profile.

Ecosystem credits for calculating change in general biodiversity values are determined by Equation 7 at a development site and Equation 8 at a biobank site.

Equation 7: Ecosystem credits required at a development site for general biodiversity values

Number of ecosystem credits (Part 1) required for a vegetation zone at a development site

$$= (\Delta S_{\text{loss}} \times A) + (\% \Delta LV_{\text{loss}} \times A)$$

where ΔS_{loss} is the change (loss) in the Site Value score of a vegetation zone at the development site, as defined by Equation 2.

A is the area in hectares of the vegetation zone at the development site.

$\% \Delta LV_{\text{loss}}$ is the proportion of the total Landscape Value change (loss) score for the development site as determined by Equation 5, apportioned to the vegetation zone.

Equation 8: Ecosystem credits created at a biobank site for general biodiversity values

Number of ecosystem credits (Part 1) created for a vegetation zone at a biobank site
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$$= [\{ (S_{\text{current}}/10) + \Delta S_{\text{gain}} \} \times A] + (\% \Delta LV_{\text{gain}} \times A)$$

where S_{current} is the current Site Value score of the vegetation zone as defined by Equation 1.

ΔS_{gain} is the change (gain) in the Site Value score of the vegetation zone at the biobank site, as defined by Equation 3.

A is the area in hectares of the vegetation zone at the biobank site.

$\% \Delta LV_{\text{gain}}$ is the proportion of the total Landscape Value gain score for the biobank site, as determined by Equation 6, apportioned to the vegetation zone.

5.2 Calculating ecosystem credits for threatened species

A calculation of ecosystem credits for threatened species must be undertaken if a threatened species that requires ecosystem credits is likely to use land within a vegetation zone at the development site. A threatened species is determined to be likely to use land within a vegetation zone if it meets the five criteria used in filtering for the species in section 4.2.

Ecosystem credits for threatened species calculations are based on the site attributes associated with the habitat of the species, as identified in the Threatened Species Profile Database. Losses in site attributes are averaged across all attributes reduced by the development as shown in Equation 9.

Equation 9: Ecosystem credits – determining the change (loss) in Site Value score for a threatened species

$$\Delta S_{L\text{ spp1}} = \left(\frac{a_{vc} - a_{vf}}{3} \right) \times 100$$

where $\Delta S_{L\text{ spp1}}$ is the change (loss) in the score for site attributes that are relevant to Species 1, which is the species that is predicted to use land within the vegetation zone and which requires the greatest number of credits.

a_{vc} is the average of all current attribute scores (maximum value for each attribute is 3) for the v th site attributes (a–j) as defined in Table 1, where the v th attributes are identified in the Threatened Species Profile Database as being attributes that are associated with the habitat of Species 1.

a_{vf} is the average of the future attribute scores (maximum value for each attribute is 3) for the v th site attributes (a–j) as defined in Table 1, where the v th attributes are identified in the Threatened Species Profile Database as being attributes that are associated with the habitat of Species 1.

Note: The maximum site loss score is 100, which is proportionally reduced if the relevant site attributes do not start in the highest condition, or are not reduced to zero following the impacts of the development.

The number of ecosystem credits for a threatened species is then calculated separately for each threatened species that is likely to use land within the vegetation zone using Equation 10 below.

Once the credit requirements for each threatened species that is likely to use land within a vegetation zone have been calculated, the number of ecosystem credits for threatened species required at a development site is based on the species with the highest credit requirements.

The number of credits required for the threatened species is weighted by the ability of the species to respond to improvement in Site Value with management actions on the biobank site (T_G).

Equation 10: Ecosystem credits at the development site by zone

$$\boxed{\text{Ecosystem credits required for a vegetation zone at the development site}} = \left\{ \left(\frac{\Delta S_{\text{loss spp1}} \times A}{T_{G\text{ spp1}}} \right) + (\% \Delta LV_{\text{loss}} \times A) \right\}$$

where $\Delta S_{\text{loss spp1}}$ is the change (loss) in the score of the particular site attributes that are relevant to the habitat requirements of Species 1, as determined by Equation 9. Species 1 is the species that is predicted to use land within the vegetation zone and which requires the greatest number of credits.

$\% \Delta LV_{\text{loss}}$ is the proportion of the Landscape Value change (loss) score for the development site as determined by Equation 5, apportioned to the vegetation zone.

$T_{G\text{ spp1}}$ is the ability of a species to respond to improvement in Site Value with management actions at a biobank site. $T_{G\text{ spp1}}$ is identified for each species in the Threatened Species Profile Database and has values between 0.1 and 1.

A is the area in hectares of the vegetation zone.

5.3 Final calculation of ecosystem credits at a development site

The final calculation of ecosystem credits for a vegetation zone required at a development site or created at a biobank site is undertaken by comparing the number of ecosystem credits required for general biodiversity values with the number required for threatened species. The final number of ecosystem credits is the highest number of credits required for that zone using Equation 11.

The number of ecosystem credits at both the development and biobank sites is scaled by a factor of 0.25. The number of credits is then rounded to the nearest whole number using conventional rounding rules, except if the number is less than one, in which case the number of credits is one.

The total number of ecosystem credits required for the entire site is determined by the summing the number required for all vegetation zones on the site as shown in Equation 11.

Equation 11: Ecosystem credits – final credit calculations at the development site

$$\boxed{\text{Total ecosystem credits required at the development site}} = \sum_{i=1}^n \left(\text{Ecosystem credits required for vegetation zone } i \text{ at the development site} \right)$$

a) If $(\Delta S_{\text{loss}} + \% \Delta LV_{\text{loss}}) \geq \left(\frac{(\Delta S_{\text{loss spp1}})}{T_{G \text{ spp1}}} \right) + \% \Delta LV_{\text{loss}}$ for vegetation zone i , then

$$\left(\text{Ecosystem credits required for vegetation zone } i \text{ at the development site} \right) = \left\{ \left[(\Delta S_{\text{loss}} \times A) + (\% \Delta LV_{\text{loss}} \times A) \right] \times 0.25 \right\}$$

b) If $(\Delta S_{\text{loss}} + \% \Delta LV_{\text{loss}}) < \left(\frac{(\Delta S_{\text{loss spp1}})}{T_{G \text{ spp1}}} \right) + \% \Delta LV_{\text{loss}}$ for vegetation zone i , then

$$\left(\text{Ecosystem credits required for vegetation zone } i \text{ at the development site} \right) = \left\{ \left[\frac{\Delta S_{\text{loss spp1}} \times A}{T_{G \text{ spp1}}} \right] + (\% \Delta LV_{\text{loss}} \times A) \times 0.25 \right\}$$

where i is the i th vegetation zone to be impacted at the development site.

ΔS_{loss} is the change (loss) in the Site Value score of a vegetation zone at the development site.

$\% \Delta LV_{\text{loss}}$ is the proportion of the change (loss) in the overall Landscape Value score for the development site as determined by Equation 5 apportioned to the vegetation zone.

$\Delta S_{\text{loss spp1}}$ is the change (loss) in Site Value score that is relevant for Species 1, as determined by Equation 10. Species 1 is the species that is predicted to use land within the

vegetation zone and which requires the greatest number of credits.

$T_{G\ spp1}$ is the ability of a species to respond to improvement in Site Value with management actions at a biobank site. $T_{G\ spp1}$ is identified for each species in the Threatened Species Profile Database and has values between 0.1 and 1.

A is the area in hectares of the i th vegetation zone.

5.4 Final calculation of ecosystem credits at a biobank site

At the biobank site, the total number of ecosystem credits required is determined by summing the credits created for each vegetation zone from the predicted improvement in biodiversity values from the management actions on the biobank site using Equation 12.

The number of ecosystem credits at the development and biobank sites is scaled by a factor of 0.25. The number of credits is rounded to the nearest whole number using conventional rounding rules, except if the number is less than one, in which case the number of credits is one.

Equation 12: Ecosystem credits – final credit calculations at a biobank site

Number of ecosystem credits created at a biobank site

$$= \sum_{i=1}^n [\{ (S_{\text{current}}/10) + \Delta S_{\text{gain}} \} \times A] + (\% \Delta LV_{\text{gain}} \times A) \times 0.25$$

where i is the i th vegetation zone to be managed at the biobank site.

$\Delta S_{\text{current}}$ is the current Site Value score of a vegetation zone at the biobank site, as defined by Equation 1.

ΔS_{gain} is the change (gain) in the Site Value score of a vegetation zone at the biobank site, as defined by Equation 3.

$\% \Delta LV_{\text{gain}}$ is the proportion of the total Landscape Value gain score for the biobank site, as determined by Equation 6, apportioned to the vegetation zone.

A is the area in hectares of the i th vegetation zone.

5.5 Number of species credits required at a development site

The species to which the calculation of species credits applies are identified through the assessment process in section 4.4.

The number of species credits required at the development site is calculated for individual species based on the area of habitat or number of individuals likely to be impacted by development in a species polygon using Equation 13.

The number of species credits at both the development and biobank site are scaled by a factor of 10. The number of credits is rounded to the nearest whole number using conventional rounding rules, except if the number being rounded is less than one, in which case the number of credits is rounded to one.

Equation 13: Species credits – number of credits required at the development site

Number of species credits required for a threatened species at the development site	=	$\frac{H_{\text{loss}}}{T_{G \text{ spp1}}} \times 10$
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Where the Threatened Species Profile Database indicates that the unit of measurement of impact for a species is the area of habitat (mostly fauna), then:

- H_{loss} is the area of habitat in hectares to be lost at the development site, as determined in accordance with section 4.4.
- $T_{G \text{ spp1}}$ is the ability of the species to respond to improvement in Site Value with management actions at the biobank site. $T_{G \text{ spp1}}$ is a value identified for each species in the Threatened Species Profile Database and has values between 0.1 and 1.

The scaling factor of 10 applies on both development and biobank sites.

Where the Threatened Species Profile Database indicates that the unit of measurement of impact for a species is the number of individuals (mostly flora), then:

- H_{loss} is the number of individuals to be lost at the development site, as determined in accordance with section 4.4.
- $T_{G \text{ spp1}}$ is the ability of the species to respond to improvement in Site Value with management actions at the biobank site. $T_{G \text{ spp1}}$ is a value identified for each species in the Threatened Species Profile Database and has values between 0.1 and 1.

The scaling factor of 10 applies on both development and biobank sites.

5.6 Number of species credits created at a biobank site

The number of species credits created at the biobank site is calculated for individual species based on the area of habitat or number or individuals of a threatened species predicted to be impacted positively by management actions within a species polygon using Equation 14.

Equation 14: Species credits – number of credits created at the biobank site

Number of species credits created for a species at the biobank site	=	$H_{\text{current}} \times \% \Delta S_{\text{gain}} \times 10$
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Where the Threatened Species Profile Database indicates that the unit of measurement of impact for a species is the area of habitat (mostly fauna), then:

- H_{current} is the current area of habitat in hectares for the species that will be improved by the management actions at the biobank site, as determined in accordance with section 4.4.
- $\% \Delta S_{\text{gain}}$ is the proportional gain in habitat for the species from the management actions, usually measured as proportional gain in Site Value score (as defined by Equation 3) for the vegetation zone that contains the species polygon. A value of 0.60 (60%) is used as the default value for $\% \Delta S_{\text{gain}}$ where improvement in Site Value cannot be measured directly.
- $H_{\text{current}} \times \% \Delta S_{\text{gain}}$ measures the gain in habitat in hectares at the biobank site from the management actions.

Where the Threatened Species Profile Database indicates that the unit of measurement of impact for a species is the number of individuals (mostly flora), then:

- H_{current} is the current number of individuals of the species that will be increased by the management actions at the biobank site, as determined in accordance with section 4.4.
- $\% \Delta S_{\text{gain}}$ is the proportional gain in number of the species from the management actions, usually measured as proportional gain in Site Value score (as defined by Equation 3) for the vegetation zone that contains the species polygon. A value of 0.60 (60%) is used as the default value for $\% \Delta S_{\text{gain}}$ where improvement in Site Value cannot be measured directly.
- $H_{\text{current}} \times \% \Delta S_{\text{gain}}$ measures the gain in number of individuals of the species at the biobank site from the management actions.

The scaling factor of 10 applies on both the development and biobank sites.

5.7 Calculation of credits for environmental contributions

If an environmental contribution is required in respect of a development, the number of biodiversity credits required to offset the development is to be reduced (including to nil) to take account of that environmental contribution.

An environmental contribution is a contribution that is required under subdivision 2 (Planning Agreements), subdivision 3 (Local Infrastructure Contributions) or subdivision 4 (Special Infrastructure Contributions) of Division 6 of Part 4 of the EP&A Act and is to be used or applied for the conservation or enhancement of the natural environment. A contribution may be in the form of the dedication of land, levy or other material benefit.

In issuing a biobanking statement, the Director General may take into account an environmental contribution for the contribution or enhancement of the natural environment. The biobanking statement will set out the credits required to be retired without the contribution, and also the reduced number of credits required to be retired if the environmental contribution is made. In applying for a biobanking statement, applicants should provide information about the environmental contribution, including:

- the type of environmental contribution, and
- how the contribution will be used or applied for the conservation or enhancement of the natural environment.

If there is a change to the environmental contribution after the biobanking statement is issued, a revised biobanking statement will need to be obtained.

The number of credits required for a development to which an environmental contribution applies is to be reduced in accordance with the following four steps.

Step 1: Identifying parts of the contribution that are relevant

A contribution required under the EP&A Act may be used for or applied to many different purposes. Only those parts of a contribution that are used for or applied to the conservation or enhancement of the natural environment can reduce the number of credits required at a development site.

Step 2: Calculating the number of biodiversity credits that are equivalent to the environmental contribution

The biodiversity credits attributable to the environmental contribution that involves the dedication of lands managed for the conservation or enhancement of the natural environment or provision of funding for managing specific land for improved biodiversity values are assessed as follows:

Sections 3, 4 and 5 of the methodology are used to determine the number and type of credits that could be created on the land if the land were to be established and managed as a biobank site.

Where any management actions required by the methodology are not undertaken on the land, the number of credits is reduced according to Tables 11 and 12.

Step 3: Calculating the total number of credits that are required as a result of development impacts

The methodology is applied to the development site to determine the number and type of credits required as a result of the development impacts and as if the environmental contribution was not required.

Step 4: Calculating the revised number of credits required to offset development taking the environmental contribution into account

The revised number of credits required to offset the development (if any) is calculated by subtracting the number of credits that are equivalent to the relevant actions in step 2 from the number of credits required as a result of the development impacts in step 3. A credit or credits described in step 2 can only be subtracted from the credits required in step 3 if the credits are of a type and profile that are compatible with the credits required in step 3.

6 Credit profiles and offset rules for using credits

A credit profile is the set of attributes that are used to characterise a group of credits for ecosystem credits or species credits. The credit profile forms part of the offset rules for using credits to offset development. The offset rules ensure that vegetation is offset by vegetation that is equally or more cleared and within the same vegetation formation, and that threatened species impacted at the development site are offset at biobank sites that provide suitable habitat for the species within the geographic distribution of impacted species. There are different offset rules for ecosystem credits depending on whether the credit relates to a threatened species that can be reliably predicted by habitat.

6.1 Credit profile for ecosystem credits

The credit profile for a group of ecosystem credits that includes threatened species is made up of the five attributes which are used as primary filters to predict the presence of the threatened species. These attributes are assigned to each threatened species subzone created at a development site or biobank site.

6.1.1 Credit profile at a development site

A credit profile for an ecosystem credit (that includes threatened species) required at the development site is assigned to each threatened species subzone following the calculation of credits for that zone. The credit profile attributes of an ecosystem credit (that includes threatened species) at the development site are identified in Table 9. Credits from one or more vegetation zones can be combined to form groups of credits (section 6.1.3).

Table 9: Attributes of the credit profile of an ecosystem credit (that includes threatened species) at the development site

Credit profile attribute	Description
1 CMA subregion	Specifies the CMA subregion(s) within which the required credit must be obtained and retired.
2 Vegetation type	Specifies the vegetation type(s) in which the required credit must be obtained and retired.
3 Vegetation formation	Identifies the vegetation formation in which the credit must be obtained and retired.
4 Surrounding vegetation cover	Specifies the surrounding vegetation cover class in a 1000 ha assessment circle which the required credit must be obtained and retired. The classes are either 0–10%, 11–30%, 31–70% or >70%.
5 Patch size, including low condition	Specifies the patch size, including low condition vegetation, attribute which is the minimum class in which the required credit must be obtained and retired. The classes are either <5 ha, 5–25 ha, >25–100 ha or >100 ha.

These credit profile attributes are determined in accordance with the following subsections.

Credit profile attribute 1: CMA subregion

This attribute is used to specify the CMA subregions that have the same the geographic distribution of the threatened species impacted by the development to which the credit profile applies.

For example, if all the threatened species that are predicted to be impacted by a development only occur within a single CMA subregion, then the ecosystem credits must be obtained from biobank sites within this single CMA subregion. Alternatively, if the threatened species (or threatened ecological communities) predicted to be impacted upon by a development occur in a number of CMA subregions (including in different CMA areas), then the group of credits can be obtained from biobank sites in any of these subregions.

If the ecosystem credits do not relate to any threatened species, then the ecosystem credits can be obtained in any vegetation type in the same formation that is equally or more cleared than the vegetation type(s) being cleared within the CMA area where the development occurs.

Credit profile attribute 2: Vegetation type

This attribute is used to specify the vegetation types which:

- 1 are identified in the Threatened Species Profile Database as providing habitat for all the threatened species impacted by the development to which the credit profile applies, and
- 2 have a percent cleared value of the vegetation type in the CMA area equal to or greater than the percent cleared of the vegetation type in the CMA area to which the group of credits applies.

For example, if all the threatened species predicted to be impacted by the development occur in a single vegetation type, then the group of credits must be obtained and retired within this single vegetation type. Alternatively, if the threatened species occur in a number of vegetation types, then the group of credits can be obtained and retired in one or more of these vegetation types (if the percent cleared of the vegetation type in the CMA area is equal to or greater than the percent cleared of the vegetation type in the CMA area to which the group of credits applies).

If the ecosystem credits do not relate to any threatened species, then the ecosystem credits can be obtained in any vegetation type in the same formation that is equally or more cleared than the vegetation types being cleared within the CMA area where the development occurs.

Credit profile attribute 3: Vegetation formation

Vegetation formation is the vegetation formation under which the vegetation type is classified.

Credit profile attribute 4: Surrounding vegetation cover

Surrounding vegetation cover is the minimum surrounding vegetation cover class which all threatened species to which the group of credits applies can occupy as determined by the Threatened Species Profile Database. The surrounding vegetation cover classes are 0–10%, 11–30%, 31–70%, and >70% cover.

Credit profile attribute 5: Patch size, including low condition

Patch size, including low condition, is the minimum patch size which all threatened species to be impacted to which the group of credits applies can occupy as determined by the Threatened Species Profile Database. The minimum patch size, including low condition, classes are <5 ha, 5–25 ha, >25–100 ha, or >100 ha.

6.1.2 Credit profile at a biobank site

The credit profile for an ecosystem credit created at a biobank site is determined for each threatened species subzone that is to be positively impacted by management actions. Credits with the same profile are grouped after the credit profile has been assigned.

The attributes in the credit profile of an ecosystem credit at the biobank site are identified in Table 10.

Table 10: Attributes of the credit profile of an ecosystem credit at the biobank site

Credit profile attribute	Description
1 CMA subregion	Specifies the CMA subregion in which the credit is created.
2 Vegetation type	Specifies the vegetation type in which the credit is created.
3 Vegetation formation	Identifies the vegetation formation in which the credit is created.
4 Surrounding vegetation cover	Specifies the surrounding vegetation cover in which the credit is created, with classes 0–10%, 11–30%, 31–70% or >70%.
5 Patch size, including low condition	Specifies the minimum patch size, including low condition, class in which the credit is created, with classes <5 ha, 5–25 ha, >25–100 ha or >100 ha.

The number of credits created at a biobank site with their credit profile is listed in a public register held by DECC for use by anyone seeking to obtain and retire ecosystem credits.

6.1.3 Groups of credits

A group of credits is where credits from one or more vegetation zones that have an identical credit profile are combined. The credit profile for a credit or a group of credits at a development site can only be retired against a credit or group of credits created at a biobank site with a matching credit profile.

At the development site and biobank site, ecosystem credits are grouped for all vegetation zones that share an identical credit profile. For two zones with the same vegetation type but in different condition within the moderate to good range are combined into a group of credits with the same credit profile. If the development impacts on two different vegetation types, then the methodology calculates two groups of ecosystem credits.

6.2 Credit profile for species credits

The credit profile of a species credit relates only to the threatened species or population for which the credit is required or created.

6.3 Offset rules for using credits

6.3.1 Offset rules for ecosystem credits

A biobanking statement can only be issued for a proposed development at a development site if the Director General determines that the proposed development will improve or maintain biodiversity values. The biobanking statement will specify the number and class of credits that must be retired in order to meet the improve or maintain test. The number and class of credits obtained from a biobank site must be compatible with those required at a development site as specified by the biobanking statement.

The ecosystem credits obtained from a biobank site are determined to be compatible with those required at the development site if all of the following conditions are met:

- 1 The number of ecosystem credits obtained and retired from the biobank site is equal to or greater than the number required at the development site, calculated by Equation 11.
- 2 The CMA subregion identified in attribute 1 of the credit profile at the biobank site is the same as the subregion(s) identified in attribute 1 of the credit required at the development site.
- 3 The vegetation type identified in attribute 2 of the credit profile at the biobank site is the same as the vegetation type(s) identified in attribute 2 of the credit required at the development site.
- 4 The vegetation formation identified in attribute 3 of the credit profile at the biobank site is the same as the vegetation formation identified in attribute 3 of the credit required at the development site.

- 5 The surrounding vegetation cover class identified in attribute 4 of the credit profile at the biobank site is equal to or greater than the surrounding vegetation cover class in the landscape identified in attribute 4 of the credit required at the development site.
- 6 The patch size, including low condition, class identified in attribute 5 of the credit profile at the biobank site is equal to or greater than the patch size, including low condition, class identified in attribute 5 of the credit required at the development site.

If no threatened species that require ecosystem credits are predicted to be impacted by the development, then the ecosystem credits retired from a biobank site are determined to be compatible with those required at the development site if the following conditions are met:

- 1 The number of ecosystem credits obtained and retired from the biobank site(s) is equal to or greater than the number required at the development site, calculated by Equation 11.
- 2 The CMA subregion identified in attribute 1 of the credit profile at the biobank site is the same as the subregion(s) identified in attribute 1 of the credit required at the development site.
- 3 The vegetation type identified in attribute 2 of the credit profile at the biobank site is the same as the vegetation type(s) identified in attribute 2 of the credit required at the development site.
- 4 The vegetation formation identified in attribute 3 of the credit profile at the biobank site is the same as the vegetation formation identified in attribute 3 of the credit required at the development site

6.3.2 Offset rules for species credits

The credit profile of a species credit obtained from a biobank site(s) is determined to be compatible with a credit profile required at a development site if the credit profile at the development and biobank sites refers to the same threatened species.

7 Additional matters

7.1 Deferred retirement arrangements

When issuing a biobanking statement, the Director General may approve a deferred retirement arrangement if satisfied that restorative actions will be taken to partially or fully restore or improve the biodiversity values affected by the development.

A deferred retirement arrangement allows the retirement of some or all of the credits required for the development to be deferred pending completion of the restorative actions within a specified time frame. The deferred credits are to be transferred to the Minister and will be held by the Minister pending completion of the relevant restorative actions at the development site.

The types of restorative actions that may be the subject of a deferred retirement arrangement includes, but is not restricted to, the management actions listed in section 2.6 of the methodology.

When the restorative actions are completed, the former holder (or person who acquired the former holder's rights to apply for the credits) may apply to the Director General for the return of the credits.

When determining the deferred retirement arrangements, the Director General will consider the terms of any lease and/or development consent to assess what restorative actions are required to be carried out on the development site. The Director General will then make an assessment as to whether the terms are suitable to be included in a deferred retirement arrangement. This assessment may also consider any rehabilitation or site restoration plan, such as a Mining, Rehabilitation and Environmental Management Plan, that has been prepared by the applicant and includes the future land use objectives for the site.

The Director General will determine the application in accordance with the requirement of this methodology:

- 1 The number and class of biodiversity credits that may be returned is determined in accordance with sections 3, 4 and 5 of this methodology as if the restorative actions at the development site were management actions at a biobank site, taking into account the future land use objectives stated in the restoration or rehabilitation plan.
- 2 The current Site Value in Equation 3 is taken to be the value immediately prior to commencing restorative works. The gain in Site Value score (as determined by Equation 3) is assessed against the benchmark for the vegetation type that was used to determine the number of credits for the original development of the site.
- 3 The Landscape Value assessment may include newly planted native vegetation where the primary land use objective following the rehabilitation is management for nature conservation.
- 4 Where the restoration or rehabilitation actions outlined in the restoration or rehabilitation plan do not include or meet the management actions listed in section 2.6 of the methodology, the future site value will be reduced in line with the guidelines in Appendix 3.
- 5 The Director General must be satisfied that the restorative actions outlined in the plan have been completed to a satisfactory standard.

If the restorative actions are not completed within the time frame specified in the deferred retirement arrangement, the credits may be retired.

The maximum number and class of credits that can be returned is the number and class of credits that are held by the Minister under the deferred retirement arrangement.

Any differences between the number and class of credits returned by the Minister and the number and class of credits required for a biobanking statement requires retirement of the relevant number and class of credits such that the difference is zero.

7.2 Additionality in credit allocations

Additionality refers to the extent to which biodiversity credits can be created for management actions that are already required to be carried out pursuant to existing conservation obligations.

Clause 4 of the Regulation requires that biodiversity credits can only be created on land where the management actions are additional to any biodiversity conservation measures, or other actions that are already being carried out on the land or are required to be carried out under the following kinds of existing obligations:

- 1 a restriction on use or public positive covenant under Part 4A of the *Crown Lands Act 1989* (CL Act)
- 2 a conservation agreement entered into under the NP&W Act
- 3 a trust agreement entered into under the NCT Act
- 4 any agreement entered into with a public authority under which the owner of the land receives funding for biodiversity conservation purposes (other than biobanking agreements)
- 5 in the case of publicly owned land, any legislative requirements to manage the land for biodiversity conservation purposes.

Where a biobank agreement is entered into on land that is subject to one of these existing obligations, the allocation of credits for the biobank site is discounted according to the number and type of conservation measures or actions required to be carried out in relation to the existing obligation. The discount for each management action required is shown in Tables 11 and 12 below.

The current and predicted values of the Site Value score with management are calculated to determine the credit allocation for the site. Additionality is then included by scaling back the number of credits allocated according to which management actions the landholder is already obliged to perform under the existing obligation. For example, if the existing obligation specifies that weed control must be undertaken and that native vegetation regrowth and remnant native vegetation must be retained, then the credit allocation for the biobank site is discounted by 15% for those management actions, that is, 7.5% plus 7.5%.

Where an existing obligation only partially aligns with a biobanking management action (e.g. 'exclusion of domestic stock' rather than 'management of grazing for biodiversity enhancement'), the credit allocation is discounted by 5% rather than by 7.5%.

Table 11: Percentage discount for biodiversity credits

Conservation measures or actions	Percentage discount in ecosystem credit allocation
Manage grazing for conservation	7.5% (5% if obligation is only for domestic stock exclusion)
Weed control	7.5%
Manage fire for conservation	7.5% (5% if obligation is only fire exclusion)
Manage human disturbance	7.5%
Retain regrowth and remnant native vegetation	7.5%
Replant/supplementary planting	7.5%
Retain dead timber	7.5% (0% if obligation only excludes commercial use as this is required under the <i>Native Vegetation Act 2003</i>)
Nutrient control	5%
Erosion control	5%
Retention of rocks	5%
Control feral herbivores (plus overabundant natives)	7.5%
Vertebrate pest control (pigs)	7.5%
Vertebrate pest control (foxes and/or miscellaneous spp.)	7.5%
Control exotic fish species	5%
Maintain natural flow regimes	5%

Table 12: Percentage discount for species credits

Conservation measures or actions	Percentage discount in species credit allocation
Control feral herbivores (plus overabundant natives)	7.5%
Vertebrate pest control (pigs)	7.5%
Vertebrate pest control (foxes and/or miscellaneous spp.)	7.5%
Control exotic fish species	5%
Maintain natural flow regimes	5%
Nutrient control	5%
Any other management action for species credits	7.5% (for each additional action)

This rule does not apply to:

- a restriction on use or public positive covenant under Part 4A of the CL Act that is imposed in connection with an application to purchase land that is duly made by a leaseholder in respect of that land before 1 January 2009
- a conservation agreement entered into under the NP&W Act as a result of a proposal made by the landholder to the Minister administering that Act before 1 January 2009
- a trust agreement entered into under the NCT Act as a result of a proposal made by the landholder to the Nature Conservation Trust before 1 January 2009.

7.3 Application of the assessment methodology

In relation to an application for a biobanking statement or biobanking agreement, the application of the methodology to determine the number of biodiversity credits required at a development site or to be created at a biobank site must be made by a person accredited in accordance with section 142B of the TSC Act to use the methodology and the Credit Calculator.

Glossary

adjacent remnant area The area of moderate to good condition native vegetation of which the biobank site or development site is a part, which is less than 100 m from the next area of native vegetation. Adjacent remnant area provides landscape context to the biobank or development site, and may extend onto adjoining land.

assessment circle Circles of 100 ha and 1000 ha in which percent native vegetation cover in the landscape is assessed, taking into account both cover and condition of vegetation, for credit profiles and for Landscape Value score.

benchmarks (vegetation benchmarks) Quantitative measures of the range of variability in vegetation condition where there is relatively little evidence of modification by humans since European (post 1750) settlement. Benchmarks are defined for specified variables for vegetation communities. Vegetation with relatively little evidence of modification generally has minimal timber harvesting (few stumps, coppicing, cut logs), minimal firewood collection, minimal exotic weed cover, minimal grazing and trampling by introduced or overabundant native herbivores, minimal soil disturbance, minimal canopy dieback, no evidence of recent fire or flood, not subject to high frequency burning, and evidence of recruitment of native species. Benchmarks are available by vegetation class (*sensu* Keith 2004) at <http://www.environment.nsw.gov.au/projects/BiometricTool.htm>, and can also be obtained from reference sites or published sources.

biobanking agreement An agreement between the landowner and the Minister for Climate Change and the Environment (under Part 7A of the TSC Act) for the purpose of establishing a biobank site. The agreement states the management actions to be carried out to improve biodiversity values on the site and thereby create biodiversity credits under the scheme (section 127D of the TSC Act).

biobank site Land designated by a biobanking agreement to be a biobank site.

biobanking statement A statement issued under section 127ZL of the TSC Act specifying the number and class of credits to be retired for a particular development in accordance with the methodology. The statement may include other conditions to minimise the impact of the development on biodiversity values. If provided to a consent or determining authority under the EP&A Act, the statement must be included as a condition of development consent or approval.

biodiversity credits Ecosystem or species credits required to offset the loss of biodiversity values on development sites or created on biobank sites from management actions that improve biodiversity values.

biodiversity values Include composition, structure and function of ecosystems, and include (but are not limited to) threatened species, populations and ecological communities and their habitats, as defined by the TSC Act, and exclude fish or marine vegetation, unless that fish or marine vegetation has been the subject of an order under section 5A of the TSC Act.

certified local data *see* more appropriate local data

CMA area The area of operation of a catchment management authority, as described in Schedule 2 of the *Catchment Management Authorities Act 2003*.

CMA subregion Subregions of catchment management authority areas as set out in the Environmental Outcomes Assessment Methodology, Native Vegetation Regulation 2005.

connectivity A measure of the degree to which an area(s) of native vegetation is linked with other areas of vegetation.

Credit Calculator A computer program that applies the methodology and calculates the number and classes of credits required at a development site or created at a biobank site.

credit profile A description of the credit created or required in a vegetation zone or group of zones, according to the attributes of CMA subregion, vegetation type, vegetation formation, surrounding vegetation cover, and patch size, including low condition.

critically endangered ecological community *see* threatened ecological community

deferred retirement arrangement An arrangement under section 127ZT of the TSC Act which enables the Minister for Climate Change and the Environment to hold biodiversity credits until restorative actions have been completed at a development site.

development Includes development within the meaning of the *Environmental Planning and Assessment Act 1979* and includes an activity within the meaning of Part 5 of that Act, and may also include projects under Part 3A of that Act.

development site An area of land that is subject to a proposed development for which a biobanking statement is sought or obtained.

ecosystem credits The class of biodiversity credits created or required for the impact on general biodiversity values and some threatened species, i.e. for biodiversity values except threatened species or populations that require species credits. Species that require ecosystem credits are listed in the Threatened Species Profile Database.

endangered ecological community *see* threatened ecological community

environmental contribution A contribution for the conservation or enhancement of the natural environment, as defined in section 127B(10) of the TSC Act.

expert An expert is a person who is accredited by the Director General under section 142B(1)(b) of the TSC Act, or if arrangements for accreditation under section 142B(1)(b) are not in place, a person who has the relevant experience and/or qualifications to provide expert opinion in relation to the biodiversity values to which an expert report relates.

general biodiversity values Biodiversity values assessed in the methodology excluding assessment of threatened species and populations.

grassland Native vegetation classified in the vegetation formation Grasslands in Keith, D. (2004), *Ocean shores to desert dunes: the native vegetation of New South Wales and the ACT*, Department of Environment and Conservation (NSW), Hurstville, NSW. Grasslands are generally dominated by large perennial tussock grasses, a lack of woody plants, the presence of broad-leaved herbs in inter-tussock spaces, and their ecological association with fertile, heavy clay soils on flat topography in regions with low to moderate rainfall.

group of credits Credits from a development or biobank site that have an identical credit profile.

habitat An area or areas occupied, or periodically or occasionally occupied, by a species, population or ecological community, including any biotic or abiotic component.

habitat surrogates Measures of habitat for threatened species, populations and communities; in the methodology they are CMA subregion, vegetation type, percent vegetation cover, vegetation condition and patch area, including low condition vegetation.

herbfield Native vegetation which predominantly does not contain an over-storey or mid-storey and where the ground cover is dominated by non-grass species.

highly cleared vegetation type A vegetation type which has 10% or less of its estimated pre-1750 distribution in the CMA remaining (as shown by the Vegetation Types Database).

identified population A population present within an area of land if identified as habitat for a particular species and listed in the Identified Population Database.

Identified Population Database A database that may be published by DECC and made publicly available on the web which contains information such as a map or criteria that describe the location of an identified population.

impact assessment The impact assessment referred to in section 127ZK(3)(c) of the TSC Act which must be prepared in accordance with this methodology. The methodology requires the impact assessment to address the criteria used to justify an impact on a red flag area under section 2.3, the assessment of indirect impacts of the development under section 2.4, and the assessment of the direct impacts of the development under sections 3 and 4 of the methodology.

impacts on biodiversity values Refers to loss in biodiversity values on or off the development site and gain in biodiversity values at the biobank site.

individual A single, mature organism.

Landscape Value A measure of fragmentation, connectivity and adjacency of native vegetation at a site. Landscape Value comprises: 1) percent native vegetation cover in the 100 ha and 1000 ha assessment circles in which the development or biobank sites are located; 2) connectivity with surrounding vegetation; and 3) total adjacent remnant area.

low condition vegetation Woody native vegetation with native over-storey percent foliage cover less than 25% of the lower value of the over-storey percent foliage cover benchmark for that vegetation type, and

- less than 50% of ground cover vegetation is indigenous species, or
- greater than 90% of ground cover vegetation is cleared.

Native grassland, wetland or herbfield where:

- less than 50% of ground cover vegetation is indigenous species, or
- more than 90% of ground cover vegetation is cleared.

If native vegetation is not in low condition, it is in moderate to good condition.

methodology means the BioBanking Assessment Methodology.

Minister means the Minister for Climate Change and the Environment.

Mitchell landscape Landscapes with relatively homogeneous geomorphology, soils and broad vegetation types, mapped at a scale of 1:250,000.

moderate to good condition vegetation Native vegetation that is not in low condition, as defined in section 2.1.1.

more appropriate local data Data that more accurately reflects local environmental conditions as certified by the Director General in relation to the Vegetation Benchmarks Database, the Vegetation Types Database and the Threatened Species Profile Database.

native vegetation Vegetation described in section 6 of the NV Act. Native vegetation is used as a surrogate for general biodiversity values in the methodology.

offset rules Circumstances in which credits can be used (retired) for a development to improve or maintain biodiversity values.

Operational Manual Means the BioBanking Operational Manual which provides guidance on how to use the Credit Calculator and undertake surveys.

patch size, including low condition vegetation The area of moderate to good and low condition native vegetation of which the biobank site or development site is a part, which is less than 100 m from the next area of native vegetation. Patch size, including low condition vegetation, provides landscape context to the biobank or development site, and may extend onto adjoining land.

percent cleared The percentage of a vegetation type that has been cleared within a CMA area as a proportion of its pre-1750 extent, as identified in the Vegetation Types Database.

percent foliage cover The percentage of ground that would be covered by a vertical projection of the foliage and branches and trunk of a plant or plants.

percent vegetation cover (percent native vegetation cover in the landscape, surrounding vegetation cover) The percentage of native vegetation cover in the 100 ha and 1000 ha assessment circles in which the vegetation zone is located. The percent native vegetation cover within the assessment circles is visually estimated from aerial or satellite imagery, taking into account both cover and condition of vegetation

plot An area in which some of the 10 site attributes that make up the Site Value score are assessed in a vegetation zone.

red flag area An area of land at the development site with high biodiversity conservation values where the impact of the development on biodiversity values cannot be offset by the retirement of biodiversity

credits in order to improve or maintain biodiversity values, unless the Director General determines that strict avoidance of the red flag area is unnecessary in the circumstances. .

reference sites Relatively unmodified sites used to obtain local benchmark information when benchmarks in the Vegetation Benchmark Database are too broad or otherwise incorrect for the vegetation type and/or local situation. Benchmarks can also be obtained from published sources.

retirement of biodiversity credits A change in the status of a credit such that the credit can no longer be bought or sold. Retirement of credits may be required to comply with a biobanking statement or a direction issued by the Minister for Climate Change and the Environment, or they may be retired voluntarily.

site attributes Attributes used to assess Site Value and threatened species habitat. The 10 site attributes are native plant species richness, native over-storey cover, native mid-storey cover, native ground cover (grasses), native ground cover (shrubs), native ground cover (other), exotic plant cover (as a percentage of total ground and mid-storey cover), number of trees with hollows, proportion of over-storey species occurring as regeneration, and total length of fallen logs.

Site Value A quantitative measure of structural, compositional and functional condition of native vegetation, measured by site attributes.

species that cannot withstand any loss In general, a species is identified as not being able to withstand any loss within a CMA if the species is known to occur in less than three populations within that CMA area (also see section 2.3 of the methodology).

species credits The class of biodiversity credits created or required for the impact on threatened species that cannot be reliably predicted to use an area of land based on habitat surrogates. Species that require species credits are listed in the Threatened Species Profile Database.

species polygon The actual area of habitat, or number of individuals of a threatened species, impacted by development at the development site or by management actions at the biobank site.

surrounding percent vegetation cover *see* percent vegetation cover

surrounding vegetation cover *see* percent vegetation cover

T_G value The ability of a species to respond to improvement in Site Value or other habitat improvement at a biobank site with management actions. T_G is based on the lowest value of the following: effectiveness of management actions, life history characteristics, naturally very rare species, and very poorly known species.

threatened ecological community Defined in section 4(1) TSC Act or any additional threatened ecological communities listed under Part 13 of the EPBC Act.

threatened population An endangered population as defined in section 4(1) of the TSC Act.

threatened species Critically endangered, endangered or vulnerable threatened species and populations as defined in section 4(1) of the TSC Act, or any additional threatened species listed under Part 13 of the EPBC Act as critically endangered, endangered or vulnerable.

TSC Act means *t*The *Threatened Species Conservation Act 1995*.

Threatened Species Profile Database The database containing information on habitat characteristics, range, response to management actions, survey requirements, and the class of biodiversity credit required for the species. It is used for calculation of ecosystem or species credits, filtering to determine the likely presence of threatened species, information on threatened species ability to withstand loss, and threatened species response to management.

threatened species subzone The area of vegetation that is assessed initially to determine which threatened species are assessed for biodiversity credits at a development site and a biobank site.

threatened species survey A targeted survey for a threatened species undertaken in accordance with DECC guidelines to determine if the species is present.

transect A line or narrow belt along which environmental data is collected.

Vegetation Benchmarks Database A database of benchmarks for vegetation classes and some vegetation types. Vegetation benchmarks can also be collected from reference sites.

vegetation class Level of classification of vegetation communities defined in Keith, D. (2004), *Ocean shores to desert dunes: the native vegetation of New South Wales and the ACT*, Department of Environment and Conservation (NSW), Hurstville, NSW. There are 99 vegetation classes in NSW.

vegetation formation A broad level of vegetation classification as defined in Keith, D. (2004), *Ocean shores to desert dunes: the native vegetation of New South Wales and the ACT*, Department of Environment and Conservation (NSW), Hurstville, NSW. There are 12 vegetation formations in NSW.

vegetation type The finest level of classification of native vegetation used in the methodology. Vegetation types are assigned to vegetation classes, which in turn are assigned to vegetation formations. There are approximately 1600 vegetation types within NSW.

Vegetation Types Database A database which contains the information on each vegetation type used in the methodology and comprises a description of each vegetation type, its class and formation, the CMA area within which the vegetation type occurs, the percent cleared value of the vegetation type, and the source of the information.

vegetation zone (zone) A relatively homogenous area in a proposal area (development or biobank site) that is the same vegetation type and broad condition. A single zone must not contain a mix of vegetation in low condition and not in low condition. Zones with the same vegetation type and in moderate to good condition (i.e. not in low condition) can be combined within one ecosystem credit profile (as a subzone). A zone may comprise one or more discontinuous areas.

viability The ability of biodiversity values in an area to persist for many generations or long time periods.

wetland Native vegetation classified in the vegetation formation defined as Freshwater Wetland in Keith, D. (2004), *Ocean shores to desert dunes: the native vegetation of New South Wales and the ACT*, Department of Environment and Conservation (NSW), Hurstville, NSW.

woody native vegetation Native vegetation that contains an over-storey and/or mid-storey that predominantly consists of trees and/or shrubs.

zone *see* vegetation zone

Appendix 1: Guidelines for the use of benchmark data from local reference sites or published sources

Benchmark data from local reference sites may be used where that data more accurately reflects the local environmental conditions and condition attributes for a vegetation type. Where local benchmark data is developed, it must be derived from measurements taken on reference sites that measure the same vegetation type in a relatively unmodified condition or from published sources. The Director General must approve the use of benchmark data from local reference sites or published sources.

Locating reference sites

Reference sites are required to have little modification relative to other vegetation in the region as indicated by minimal timber harvesting (few stumps, coppicing, cut logs), minimal firewood collection, minimal exotic weed cover, minimal grazing and trampling by introduced or overabundant native herbivores, minimal soil disturbance, dieback not in excess of normal senescence, no evidence of very recent major perturbation such as fire or flood, not subject to high frequency burning, and evidence of recruitment of native plant species.

It may be difficult to find totally unmodified sites in a landscape, particularly in highly cleared regions. Vegetation in relatively unmodified condition can be found in some travelling stock routes and reserves, national parks and nature reserves, state forests (especially flora reserves), cemeteries, roadsides and commons. Appropriate reference sites may also exist on the development site. Reference sites can occur in small remnants, such as narrow roadsides and cemeteries.

Number of reference plots

To obtain a reasonable composite picture that encompasses the variation in condition variables, a minimum of three reference plots for each variable should be measured for each vegetation type, with more plots being desirable.

Published sources

Benchmarks may also be obtained from published sources.

Appendix 2: Minimum numbers of transects and plots

Transects and plots are established in each vegetation zone. Vegetation zones are relatively homogeneous units within the subject site. Given there is always variation in native vegetation, transects and plots should be established in each zone in approximate proportion to any different habitat types that occur in that zone to achieve a representative sample.

Table 13 sets out the minimum number of plots/transects that are required in each vegetation zone. If the condition of the vegetation is more variable across the zone, more transects and plots may be needed than the number in Table 13, particularly where the area of the vegetation zone is large.

Table 13: Minimum number of transects/plots required per zone area

Vegetation zone area (ha)	Minimum number of transects/plots
0 – 4	1 transect/plot per 2 ha (or part thereof) or 1 transect/plot if vegetation is in low condition
> 4 – 20	3 transects/plots or 2 transects/plots if vegetation is in low condition
> 20 – 50	4 transects/plots or 3 transects/plots if vegetation is in low condition
> 50 – 100	5 transects/plots or 3 transects/plots if vegetation is in low condition
> 100 – 250	6 transects/plots or 4 transects/plots if vegetation is in low condition
> 250 – 1000	7 transects/plots or 5 transects/plots if vegetation is in low condition More transects/plots may be needed if the condition of the vegetation is variable across the zone.
> 1000	8 transects/plots or 5 transects/plots if vegetation is in low condition or in a homogenous landscape in the Western Division. More transects/plots may be needed if the condition of the vegetation is variable across the zone.

Appendix 3: Guidelines for varying the increase in Site Value with additional management actions

The increase in the site attribute score from the current condition shown in Table 1 may be used either where additional and/or more tailored actions are being undertaken at a biobank site, which would increase site attribute scores (and biodiversity values) more than the default scores (in Table 2 of the methodology), or where the extent and/or degree to which the management actions are being undertaken is likely to provide a greater increase in Site Value than that predicted in Table 2 of the methodology.

Any increase in Site Value greater than that predicted in Table 2 of the methodology must be approved by the Director-General.

A Site Value increase lower than predicted in Table 2 of the methodology can be selected where the restorative or rehabilitation actions taken at a development site as part of a deferred credit retirement arrangement do not include the management actions that contribute to the predicted improvement in condition for that site attribute.

Table 1: Allowable increases in predicted improvement in site attribute scores under certain circumstances

Site attribute	Increase in site attribute score from current condition			Example of required management actions
	0	1	2	
Species richness	Increase by 1 rather than 0.5	Increase by 1 rather than 0.5	No extra increase (i.e. increase by 1)	Where strategic replanting is undertaken using seed sourced from vegetation on or adjacent to the site, a diverse range of species from different strata is used. A value lower than the default increase may be used where replanting includes exotic species or non-indigenous local species.
Over-storey cover	Increase by 1.5 rather than by 1	Increase by 1.5 rather than by 1	No extra increase (i.e. increase by 1)	Appropriate site preparation is undertaken prior to planting/seeding. Planting is restricted to indigenous local species relevant to vegetation type, landscape position and over-storey structural class. Seeds and seedlings sourced from local provenance. Planting configuration reflects natural density and patchiness. Grazing exclusion applies until seedlings are established. Follow-up management must include watering, grazing management, and control of weeds and other competing species. A value lower than the default increase may be used where replanting does re-establish over-storey cover, or does not use indigenous local species.
Mid-storey cover	Increase by 1.5 rather than by 1	Increase by 1.5 rather than by 1	No extra increase (i.e. increase by 1)	Appropriate site preparation is undertaken prior to planting/seeding. Planting is restricted to indigenous local species relevant to vegetation type, landscape position and mid-storey structural class. Seeds and seedlings sourced from local provenance. Planting configuration reflects natural density and patchiness. Grazing exclusion until seedlings are established. Follow-up management must include watering, grazing management, and control of weeds and other competing species. A value lower than the default increase may be used where replanting does re-establish mid-storey cover, or does not use indigenous local native species.

Site attribute	Increase in site attribute score from current condition			Example of required management actions
	0	1	2	
Native ground cover (grasses)	Increase by 1.5 rather than by 1	Increase by 2 rather than by 1	No extra increase (i.e. increase by 1)	<p>Appropriate site preparation is undertaken prior to planting/seeding. Planting is restricted to indigenous local species relevant to vegetation type, landscape position and ground cover structural class. Seeds and seedlings sourced from local provenance. Planting configuration reflects natural density and patchiness. Grazing exclusion until seedlings are established. Follow-up management must include grazing management, and control of weeds and other competing species</p> <p>A value lower than the default increase may be used where replanting does re-establish ground cover using indigenous local native grasses.</p>
Native ground cover (shrubs)	No extra increase	Increase by 1.5 rather than by 1	No extra increase (i.e. increase by 1)	<p>Appropriate site preparation is undertaken prior to planting/seeding. Planting is restricted to indigenous local species relevant to vegetation type, landscape position and ground cover structural class. Seeds and seedlings sourced from local provenance. Planting configuration reflects natural density and patchiness. Grazing exclusion until seedlings are established. Follow-up management must include grazing management, control of weeds and other competing species.</p> <p>A value lower than the default increase may be used where replanting does re-establish native shrubs as part of the ground cover, or does not use indigenous local species.</p>
Native ground cover (other)	No extra increase (i.e. increase by 1)	No extra increase (i.e. increase by 1)	No extra increase (i.e. increase by 1)	No change from the default is permitted.
Exotic plant cover	No extra increase (i.e. increase by 0.5)	Increase by 1 rather than 0.5	No extra increase (i.e. increase by 1)	Where an integrated weed management plan is implemented. Plan includes monitoring of exotic species and action if cover increases.
Number of trees with hollows	No extra increase (i.e. 0 increase)	No extra increase (i.e. increase by 0.5)	No extra increase (i.e. increase by 0.5)	No change from the default is permitted.
Over-storey regeneration	Increase by 1 rather than 0.5	No extra increase (i.e. increase by 1)	No extra increase (i.e. increase by 1)	<p>Appropriate site preparation is undertaken prior to planting/seeding. Planting is restricted to indigenous local species relevant to vegetation type, landscape position and ground cover structural class. Seeds and seedlings sourced from local provenance. Planting configuration reflects natural density and patchiness and should augment any natural regeneration occurring on the site. Grazing exclusion applies until seedlings are established. Follow-up management must include grazing management, and control of weeds and other competing species.</p> <p>A value lower than the default increase may be used where replanting with the original over-storey species is not carried out.</p>
Total length of fallen logs	Increase by 0.5 rather than 0 increase	Increase by 1 rather than by 0.5	No extra increase (i.e. increase by 1)	<p>Where hollow logs are brought onto the site from an adjoining development area and are placed in a configuration that reflects natural systems.</p> <p>An increase may also apply where the site contains some scattered mature or senescent trees.</p>

PRIVATE ADVERTISEMENTS

COUNCIL NOTICES

BATHURST REGIONAL COUNCIL

Erratum

THE Bathurst Regional Council notice published in the *Government Gazette* of the 4 July 2008 No. 83 folio 6841 contained an error. The notice is now republished in full and the gazettal date remains the 4 July 2008.

BATHURST REGIONAL COUNCIL

Roads Act, 1993

Naming of Roads

NOTICE is hereby given that Bathurst Regional Council, in pursuance of section 162 of the Roads Act 1993, has named the roads as follows:

The advertisement in the Government Gazette of 4 July 2008 contained an error. The corrected details follow:

<i>New Street Name</i>	<i>Location</i>
Lockyer Place	subdivision of Lot 551 DP 1092658, Lot 201 DP 1120662, Lots 59 & 60 DP 1071015, off Blaxland Drive, Llanarth

Authorised by resolution of the Council on 21 May 2008. [4015]

COBAR SHIRE COUNCIL

Roads Act 1993, Roads (General) Regulation 2000

Part 2 – Roads, Division 2 – Naming of Roads

NOTICE is hereby given that Cobar Shire Council, pursuant to the abovementioned Act, has named the previously unnamed public roads located in the Rural Living Zone south of Cobar as shown in the table below:

<i>Description of Road</i>	<i>Adopted Road Name</i>
First left-hand turn along Lerida Road, provides access to Highland Park Estate.	Francisco Drive.
The cul-de-sac road within Highland Park Estate.	Annie's Lane
Second left hand turn along Lerida Road, directly opposite the road that leads to the Cobar Airport.	Sutherland Drive.
Left-hand turn at the end of Sutherland Drive.	O'Neill Road.
Access road for the Cobar Airport.	Airport Road.

R. SMITH, General Manager, Cobar Shire Council, PO Box 223, Cobar NSW 2835. [4016]

COOMA-MONARO SHIRE COUNCIL

Local Government Act 1993, Section 50(1), (4)

Notification of Vesting of Land

NOTICE is hereby given pursuant to sections 50(1) and (4) of the Local Government Act 1993, that the land in the Schedule below is vested in the Cooma-Monaro Shire Council. JOHN VUCIC, General Manager, Cooma-Monaro Shire Council, PO Box 714, Cooma NSW 2630.

SCHEDULE

Lot 2, DP 222016. [4017]

FORBES SHIRE COUNCIL

Naming of Roads

NOTICE is hereby given that Forbes Shire Council, in pursuance of section 162 of the Roads Act 1993, has named the road described hereunder:

<i>Location</i>	<i>Name</i>
Un-named road running in a southerly direction from Allens Road between Lots 1 and 6 of the proposed subdivision.	Gunning Ridge Road.

Authorised by resolution of Council on 17 April 2008. C. BYWATER, General Manager, Forbes Shire Council, PO Box 333, Forbes NSW 2871. [4018]

LAKE MACQUARIE CITY COUNCIL

Roads Act 1993, Section 10

Dedication of Land as Public Road

IN accordance with section 10 of the Roads Act 1993, Lake Macquarie City Council dedicates the land held by it and described in the Schedule below as public road. BRIAN BELL, General Manager, Lake Macquarie City Council, Administration Building, Main Road, Speers Point NSW 2284.

SCHEDULE

Lot 431 in Deposited Plan 1092482. [4019]

LAKE MACQUARIE CITY COUNCIL

Roads Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

THE City of Lake Macquarie 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 purpose of public road. Dated at Speers Point this 2nd day of April 2008. BRIAN BELL, General Manager, Lake Macquarie City Council, Administration Building, Main Road, Speers Point NSW 2284.

SCHEDULE

Lot 431, DP 1092482. [4020]

LITHGOW CITY COUNCIL

Roads Act 1993, Section 162

Naming of Public Roads

NOTICE is hereby given that in accordance with section 162 (1) and (2) of the Roads Act 1993, Council has named the named the following roads as described below:

<i>Location</i>	<i>Names</i>
Lot 2 DP 1050206, Ridges Subdivision Off Forest Ridge Drive, Wallerawang 2845	'West Ridge Road'
Lot 252 DP 1045308, Sweetbriar Estate, off Three Tree Drive, Great Western Highway, Bowenfels 2790	'Jack Baxter Drive'

S. GREENSILL, Acting General Manager, Lithgow City Council, PO Box 19, Lithgow, NSW 2790. [4021]

TAMWORTH REGIONAL COUNCIL

The Roads Act 1993 – Section 162

The Roads (General) Regulation 2000, Part 2, Division 2

Re-naming of Road

NOTICE is hereby given in accordance with the above that:

The road formerly known as Halls Creek Attunga Road, located in the Halls Creek Locality, has been renamed to "Settlers Road". The road extends from Yarramanbully Road, from Lot 130, DP 752186 and continues for approximately 10 kilometres where it intersects the Halls Creek Road at Lot 35 to DP 883761.

G. INGLIS, General Manager, Tamworth Regional Council, PO Box 555, Tamworth NSW 2340. [4022]

TWEED SHIRE COUNCIL

Roads Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

TWEED SHIRE COUNCIL declares with the approval of Her Excellency the Governor, that the land described in Schedule A below, excluding the interests described in Schedule B below and excluding any mines or deposits of minerals in the lands, are 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 and giving land as compensation. Dated at Murwillumbah, this 9th day of July 2008. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

SCHEDULE A

Lot 1, DP 1110644; Lot 2, DP 1110644; Lot 3, DP 1110644; Lot 4, DP 1110644; Lot 5, DP 1110644; Lot 6, DP 1110644; Lot 7, DP 1110644; Lot 8, DP 1110644 and Lot 9, DP 1110644.

SCHEDULE B

Right of Carriageway over track in use created by DP 1086745. [4023]

TWEED SHIRE COUNCIL

Roads Act 1993, Section 10

Dedication of Land as Public Road

NOTICE is hereby given that the Tweed Shire Council, by resolution of Council dated 11 September 2007, has resolved to dedicate the land described hereunder as public road pursuant to section 10 of the Roads Act 1993. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

SCHEDULE

Lots 1 to 6, DP 1110644. [4024]

ESTATE NOTICES

NOTICE of intended distribution of estate. – Any person having any claim upon the estate of MARGARET BURSILL BUESNEL, late of Villa 3, Woodlands Retirement Village 2 Kitchener Road, Cherrybrook in the State of New South Wales, who died on 14 March 2008, must send particulars of his claim to the executors, c.o. John S. Fordham, Solicitor, 12 Station Street, West Ryde NSW 2114, within one (1) calendar month from publication of this notice. After that time the executor may distribute the assets of the estate having regard only to the claims of which at the time of distribution he has notice. Probate was granted in New South Wales on 23 June 2008. JOHN S. FORDHAM, Solicitor, 12 Station Street, West Ryde NSW 2114 (PO Box 107, West Ryde NSW 1685) (DX 27551, West Ryde), tel.: (02) 9858 1533. Reference: JSF.CT.08071. [4025]

COMPANY NOTICES

NOTICE of Members' Voluntary Winding Up.– WARRINGTON PARK PTY LIMITED, ACN 000 721 228 (in liquidation).–At an Extraordinary General Meeting pursuant to the Corporations Act 2001, of Warrington Park Pty limited (in liquidation), held on 3 March 2008, the Company's Members resolved to wind up the Company voluntarily and to appoint Colin Wilson, Chartered Accountant, of Wilson Porter Services Pty, Chartered Accountants, 154 Elizabeth Street, Sydney NSW 2000, as liquidator of the Company. After 21 days from today I will begin distributing the Company's Assets. All creditors who have 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, Level 2, 154 Elizabeth Street, Sydney NSW 2000, tel.: (02) 9283 4333. [4026]

NOTICE of Members' Voluntary Winding Up.–ELONFOLD PTY LIMITED, ACN 002-944-989 (in liquidation).–At an Extraordinary General Meeting pursuant to the Corporations Act 2001, of Elonfold Pty Ltd (in liquidation), held on 21 June, 2008, the Company's Members resolved to wind up the Company voluntarily and to appoint Colin Wilson, Chartered Accountant, of Wilson Porter, Chartered Accountants, 154 Elizabeth Street, Sydney NSW 2000, as Liquidator of the

Company. After 21 days from today I will begin distributing the Company's Assets. All creditors who have 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, Level 2, 143 Elizabeth Street, Sydney NSW 2000, tel.: (02) 9283 4333. [4027]

NOTICE of members' voluntary liquidation.—KIBBLERS PTY LIMITED, ACN 000 540 349 (in liquidation).—At a general meeting of the abovenamed company, duly convened and held at the office of Steel Walsh & Murphy, Calare Buildings, 103 Kendal Street, Cowra NSW 2794, on 10 July 2008, the following Special Resolution was passed: "That the company be wound up as a Members' Voluntary Liquidation and that the assets of the company be distributed in whole or in part to the members in specie should the liquidator so desire". Dated 10 July 2008. KENDALL McMASTER, Chartered Accountant, c.o. Steel Walsh & Murphy, Calare Buildings, 103 Kendal Street (PO Box 363), Cowra NSW 2794, tel.: (02) 6342 1311. [4028]

NOTICE of final general meeting.—P.H. (ELECTRICAL) PTY LIMITED, ACN 003 395 266.—Notice is hereby given that in terms of the Corporations Act a final general meeting of the company will be held at the office of the Liquidator, Suite 3/11 West Street, North Sydney, at 9:00 a.m., on 8 August 2008, for the purpose of having laid before it by the Liquidator an account showing how the winding up has been conducted and the property of the company disposed of. Dated this 27th day of June 2008. E. M. COWLEY, Liquidator, Suite 3/11 West Street, North Sydney NSW 2060. [4029]

OTHER NOTICES

NOTICE of election of Trustee – ANGLICAN DIOCESE OF NEWCASTLE – In pursuance of the provisions of the Anglican Church of Australia Trust Property Act 1917, it is hereby notified that a vacancy of a Trustee occurred by reason of Mr J. E. Colvin attaining the age of seventy two (72) years. In accordance with clause 3 of the Term of Office of Trustees of Church Property for the Diocese of Newcastle Ordinance 1978, it is hereby notified that Mr John Edward Colvin was, on 26 June 2008, re-elected a member of the Trustees of Church Property for the Diocese of Newcastle for a further term of 12 months. BRIAN, NEWCASTLE, Bishop of Newcastle. John Cleary, Diocesan Business Manager, Anglican Diocese of Newcastle, Diocesan Office, 51 Newcomen Street, Newcastle NSW 2300. [4030]

COUNTRY ENERGY

Electricity Supply Act 1995

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Easements for Electricity Purposes at Griffith

COUNTRY ENERGY declares, with the approval of Her Excellency the Governor, with the advice of the Executive Council, that the interests in Land described in Schedule 1 of this notice, the terms of which are described in Schedule 2 of this notice, are acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of the Electricity Supply Act 1995.

Dated at Sydney, this 11th day of July 2008.

CRAIG MURRAY,
Managing Director

Country Energy
PO Box 718, Queanbeyan NSW 2620.

SCHEDULE 1

Locality: Griffith.

L.G.A.: Griffith.

Interests in Land:

Easement for electricity purposes 2.5 metres wide affecting Lot 1 in DP 851962 shown as "Proposed Easement for electricity purposes 2.5 wide" in DP 1121453.

Easement for electricity purposes 1 metre wide affecting Lot 1 in DP 851962 shown as "Proposed Easement for electricity purposes 1 wide" in DP 1121453.

Easement for electricity purposes 4 metres wide affecting Crown land shown as "Proposed Easement for electricity purposes 4 wide" in DP 1121453.

Parish: Jondaryan.

County: Cooper.

SCHEDULE 2

Terms of Easements:

Easement for electricity purposes 2.5 metres wide shown as "Proposed Easement for electricity purposes 2.5 wide" in Deposited Plan No. DP 121453 on the terms set out in Part B of Memorandum No. AA26009 registered at Land and Property Information.

Easement for electricity purposes 1 metre wide shown as "Proposed Easement for electricity purposes 1 wide" in Deposited Plan No. DP 1121453 on the terms set out in Part B of Memorandum No. AA26009 registered at Land and Property Information.

Easement for electricity purposes 4 metres wide shown as "Proposed Easement for electricity purposes 4 wide" in Deposited Plan No. DP 1121453 on the terms set out in Part B of Memorandum No. AA26009 registered at Land and Property Information. [4031]

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