



# Government Gazette

OF THE STATE OF  
NEW SOUTH WALES

Number 99

Friday, 6 August 2010

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## LEGISLATION

### Online notification of the making of statutory instruments

Week beginning 26 July 2010

THE following instruments were officially notified on the NSW legislation website ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)) on the dates indicated:

#### Proclamations commencing Acts

[Health Legislation Amendment Act 2010 No 52 \(2010-385\)](#) — published LW 30 July 2010

[Jury Amendment Act 2010 No 55 \(2010-386\)](#) — published LW 30 July 2010

#### Regulations and other statutory instruments

[Apprenticeship and Traineeship Regulation 2010 \(2010-387\)](#) — published LW 30 July 2010

[Births, Deaths and Marriages Registration Amendment \(Fees\) Regulation 2010 \(2010-388\)](#) — published LW 30 July 2010

[Coroners Regulation 2010 \(2010-389\)](#) — published LW 30 July 2010

[Director of Public Prosecutions Regulation 2010 \(2010-390\)](#) — published LW 30 July 2010

[Electronic Transactions Amendment \(Legal Profession\) Regulation 2010 \(2010-391\)](#) — published LW 30 July 2010

[Jury Regulation 2010 \(2010-392\)](#) — published LW 30 July 2010

[Local Government \(General\) Amendment \(Minimum Rates\) Regulation 2010 \(2010-393\)](#) — published LW 30 July 2010

[Marine Safety \(General\) Amendment \(Fees\) Regulation 2010 \(2010-394\)](#) — published LW 30 July 2010

[Public Finance and Audit Regulation 2010 \(2010-395\)](#) — published LW 30 July 2010

[Road Transport \(Driver Licensing\) Amendment \(Demerit Point Offences\) Regulation 2010 \(2010-396\)](#) — published LW 30 July 2010

[Road Transport \(Driver Licensing\) Amendment \(Over-height Vehicle Offences\) Regulation 2010 \(2010-397\)](#) — published LW 30 July 2010

[Road Transport \(General\) Amendment \(Over-height Vehicle Offences\) Regulation 2010 \(2010-398\)](#) — published LW 30 July 2010

[Young Offenders Regulation 2010 \(2010-399\)](#) — published LW 30 July 2010

## Environmental Planning Instruments

[Dungog Local Environmental Plan 2006 \(Amendment No 9\) \(2010-400\)](#) — published LW 30 July 2010

[Nambucca Local Environmental Plan 2010 \(2010-401\)](#) — published LW 30 July 2010

[Singleton Local Environmental Plan 1996 \(Amendment No 58\) \(2010-402\)](#) — published LW 30 July 2010

[Sutherland Shire Local Environmental Plan 2006 \(Amendment No 8\) \(2010-403\)](#) — published LW 30 July 2010

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**OFFICIAL NOTICES****Appointments****CONSTITUTION ACT 1902**

Ministerial Arrangements during the Absence of the Minister for Climate Change and the Environment and Minister Assisting the Minister for Health (Cancer)

PURSUANT to section 36 of the Constitution Act 1902, Her Excellency the Governor, with the advice of the Executive Council, has authorised the Hon. D. L. BORGER, M.P., Minister for Roads and Minister for Western Sydney, to act for and on behalf of the Minister for Climate Change and the Environment and Minister Assisting the Minister for Health (Cancer), as on and from 4 August 2010, with a view to her performing the duties of the Honourable F. E. SARTOR, M.P., during his absence from duty.

KRISTINA KENEALLY, M.P.,  
Premier

Department of Premier and Cabinet, Sydney.  
Dated: 4 August 2010.

**CONSTITUTION ACT 1902**

Ministerial Arrangements during the Absence from Duty of the Premier and Minister for Redfern Waterloo

PURSUANT to section 36 of the Constitution Act 1902, Her Excellency the Governor, with the advice of the Executive Council, has authorised the Honourable C. M. TEBBUTT, Deputy Premier and Minister for Health, to act for and on behalf of the Premier and Minister for Redfern Waterloo, commencing on and from 12 August 2010, with a view to her performing the duties of the offices of the Premier and Minister for Redfern Waterloo during my absence from duty.

KRISTINA KENEALLY, M.P.,  
Premier

Department of Premier and Cabinet, Sydney.  
Dated: 4 August 2010.

## Department of Industry and Investment

### MINE HEALTH AND SAFETY ACT 2004

Metalliferous Mines and Extractive Industries Competence Board

Re-appointment of Chairperson

I, PAUL MCLEAY, M.P., Minister for Mineral and Forest Resources, pursuant to section 114(1)(a) of the Mine Health and Safety Act 2004, re-appoint Peter Laurence BLACK, OAM, as Chairperson of the Metalliferous Mines and Extractive Industries Competence Board effective 1 July 2010, for a term of one year.

Dated this 30th day of June 2010.

PAUL McLEAY, M.P.,  
Minister for Mineral and Forest Resources

### MINERAL RESOURCES

NOTICE is given that the following applications have been received:

#### EXPLORATION LICENCE APPLICATIONS

(T10-0170)

No. 4040, MALACHITE RESOURCES LIMITED (ACN 075 613 268), area of 48 units, for Group 1, dated 28 July 2010. (Inverell Mining Division).

(T10-0172)

No. 4041, DEFIANCE RESOURCES LTD (ACN 119 700 220), area of 200 units, for Group 1, dated 30 July 2010. (Cobar Mining Division).

(T10-0173)

No. 4042, WEST CAPE RESOURCES PTY LTD (ACN 134 113 170), area of 98 units, for Group 1, dated 2 August 2010. (Broken Hill Mining Division).

PAUL McLEAY, M.P.,  
Minister for Mineral and Forest Resources

NOTICE is given that the following applications have been granted:

#### EXPLORATION LICENCE APPLICATIONS

(T08-0225)

No. 3599, now Exploration Licence No. 7568, INDUSTRIAL WRECKERS PTY LTD (ACN 005 721 371) and Charles James CRESSWELL, Counties of Fitzgerald, Mootwingee, Yantara and Yungnulgra, Map Sheet (7235, 7335), area of 97 units, for Group 1, dated 28 June 2010, for a term until 28 June 2012.

(T08-0225)

No. 3599, now Exploration Licence No. 7569, INDUSTRIAL WRECKERS PTY LTD (ACN 005 721 371) and Charles James CRESSWELL, Counties of Fitzgerald, Mootwingee, Yantara and Yungnulgra, Map Sheet (7336, 7436), area of 33 units, for Group 1, dated 28 June 2010, for a term until 28 June 2012.

(T08-0225)

No. 3599, now Exploration Licence No. 7570, INDUSTRIAL WRECKERS PTY LTD (ACN 005 721 371) and Charles James CRESSWELL, Counties of Fitzgerald,

Mootwingee, Yantara and Yungnulgra, Map Sheet (7337, 7437), area of 154 units, for Group 1, dated 28 June 2010, for a term until 28 June 2012.

(T08-0225)

No. 3599, now Exploration Licence No. 7571, INDUSTRIAL WRECKERS PTY LTD (ACN 005 721 371) and Charles James CRESSWELL, Counties of Fitzgerald, Mootwingee, Yantara and Yungnulgra, Map Sheet (7436, 7437, 7536, 7537), area of 114 units, for Group 1, dated 28 June 2010, for a term until 28 June 2012.

(T09-0290)

No. 3884, now Exploration Licence No. 7577, HIGHLAKE RESOURCES PTY LTD (ACN 062 487 585), County of Tandora, Map Sheet (7333, 7334, 7433, 7434), area of 98 units, for Group 1, dated 12 July 2010, for a term until 12 July 2012.

(T09-0291)

No. 3885, now Exploration Licence No. 7578, HIGHLAKE RESOURCES PTY LTD (ACN 062 487 585), County of Tandora, Map Sheet (7333), area of 99 units, for Group 1, dated 12 July 2010, for a term until 12 July 2012.

(T10-0028)

No. 3899, now Exploration Licence No. 7572, ABIGROUP MINERALS PTY LTD (ACN 112 261 720), County of Goulburn, Map Sheet (8326), area of 24 units, for Group 1, dated 1 July 2010, for a term until 1 July 2012.

(T10-0046)

No. 3916, now Exploration Licence No. 7576, NBH RESOURCES PTY LTD (ACN 141 901 939), Counties of Farnell and Yancowinna, Map Sheet (7134), area of 54 units, for Group 1, dated 9 July 2010, for a term until 9 July 2012.

(T10-0048)

No. 3918, now Exploration Licence No. 7575, NBH RESOURCES PTY LTD (ACN 141 901 939), County of Yancowinna, Map Sheet (7134), area of 30 units, for Group 1, dated 9 July 2010, for a term until 9 July 2012.

(T10-0062)

No. 3932, now Exploration Licence No. 7573, PLATSEARCH NL (ACN 003 254 395), County of Evelyn, Map Sheet (7137), area of 100 units, for Group 1, dated 1 July 2010, for a term until 1 July 2012.

PAUL McLEAY, M.P.,  
Minister for Mineral and Forest Resources

NOTICE is given that the following application has been withdrawn:

#### EXPLORATION LICENCE APPLICATION

(T10-0169)

No. 4039, WHITE ROCK (MTC) PTY LTD, County of Buller and County of Clive, Map Sheet (9340). Withdrawal took effect on 27 July 2010.

PAUL McLEAY, M.P.,  
Minister for Mineral and Forest Resources

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

(Z05-0764)

Authorisation No. 102, DIRECTOR GENERAL NSW DEPT OF INDUSTRY AND INVESTMENT ON BEHALF OF THE CROWN, area of 6044 hectares. Application for renewal received 29 July 2010.

(T98-1093)

Exploration Licence No. 5514, GATEWAY MINING LIMITED (ACN 008 402 391), area of 92 units. Application for renewal received 30 July 2010.

(T98-1075)

Exploration Licence No. 5524, NEWCREST OPERATIONS LIMITED (ACN 009 221 505), area of 53 units. Application for renewal received 3 August 2010.

(T01-0236)

Exploration Licence No. 5982, ZINTOBA PTY LTD (ACN 001 318 341) and PEAK GOLD MINES PTY LIMITED (ACN 001 533 777), area of 18 units. Application for renewal received 27 July 2010.

(T02-0021)

Exploration Licence No. 5983, ISOKIND PTY LIMITED (ACN 081 732 498), area of 11 units. Application for renewal received 28 July 2010.

(T04-0057)

Exploration Licence No. 6290, SILVER STANDARD AUSTRALIA PTY LIMITED (ACN 009 250 051), area of 50 units. Application for renewal received 30 July 2010.

(T09-0107)

Exploration Licence No. 6623, COBAR CONSOLIDATED RESOURCES LIMITED (ACN 118 684 576), area of 40 units. Application for renewal received 29 July 2010.

(T07-0531)

Exploration Licence No. 7195, ICARUS MINES PTY LTD (ACN 140 149 515), area of 121 units. Application for renewal received 27 July 2010.

(T08-0067)

Exploration Licence No. 7208, CARPENTARIA EXPLORATION LIMITED (ACN 095 117 981), area of 100 units. Application for renewal received 30 July 2010.

(T08-0090)

Exploration Licence No. 7210, ALLIANCE (NSW) PTY LTD (ACN 096 947 223), area of 4 units. Application for renewal received 2 August 2010.

PAUL McLEAY, M.P.,  
Minister for Mineral and Forest Resources

#### RENEWAL OF CERTAIN AUTHORITIES

NOTICE is given that the following authority has been renewed:

(Z06-4163)

Exploration Licence No. 6702, NORVALE PTY LTD (ACN 009 333 742) and PATHFINDER EXPLORATION PTY LTD (ACN 009 214 859), County of Raleigh, Map Sheet (9436, 9536), area of 41 units, for a further term until 15 January 2011. Renewal effective on and from 21 July 2010.

PAUL McLEAY, M.P.,  
Minister for Mineral and Forest Resources

#### WITHDRAWAL OF APPLICATION FOR RENEWAL

NOTICE is given that the application for renewal in respect of the following authority has been withdrawn:

(T08-0033)

Exploration Licence No. 7181, PLATSEARCH NL (ACN 003 254 395) and EAGLEHAWK GEOLOGICAL CONSULTING PTY LTD (ACN 061 324 454), Counties of Farnell and Yancowinna, Map Sheet (7234), area of 14 units. The authority ceased to have effect on 27 July 2010.

PAUL McLEAY, M.P.,  
Minister for Mineral and Forest Resources

#### PLANT DISEASES ACT 1924

##### Appointment of Inspector

I, ANDREW COLIN SANGER, Director, Agricultural Compliance, pursuant to section 11 of the Plant Diseases Act 1924 ("the Act") and with the delegated authority of the Director-General of the Department of Industry and Investment pursuant to section 28C of the Act hereby appoint Gary Miller DAVIDSON, as an inspector for the purposes of the Act.

Dated this 29th day of July 2010.

A. C. SANGER,  
Director,  
Agricultural Compliance,  
Department of Industry and Investment

#### PLANT DISEASES ACT 1924

##### PROCLAMATION P217

Proclamation to make the Disease Myrtle Rust a notifiable disease for the purposes of the Plant Diseases Act 1924

Her Excellency Professor MARIE BASHIR, AC, CVO,  
Governor

I, Professor MARIE BASHIR, AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council and pursuant to section 10 of the Plant Diseases Act 1924 ("the Act"), proclaim that section 10 of the Act applies in respect of the disease Myrtle Rust, being the disease caused by the fungal pathogen *Uredo rangelii*.

Notes: 1. Section 10(1) of the Act requires the occupier of any land or premises in which any disease or pest (in respect of which section 10 of the Act applies) appears to give written notice, within 24 hours after first discovering or becoming aware of the appearance of the disease or pest, to an inspector or the Director-General of the Department of Industry and Investment.

2. The Department of Industry and Investment reference is P217. For further information contact the Department on (02) 6391 3575.

Signed and sealed at Sydney, this 28<sup>th</sup> day of July 2010.

By Her Excellency's Command,

STEVE WHAN, M.P.,  
Minister for Primary Industries

GOD SAVE THE QUEEN!

# Land and Property Management Authority

## ARMIDALE OFFICE

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

Phone: (02) 6770 3100 Fax (02) 6772 8782

### ROADS ACT 1993

#### ORDER

Transfer of Crown Roads to a Council

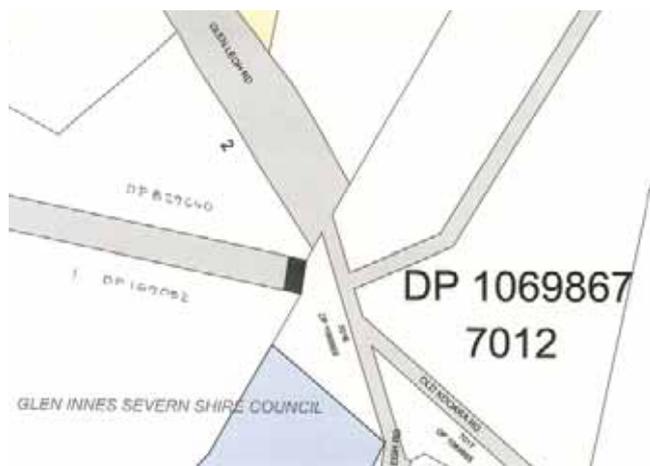
IN pursuance of the provisions of section 151, Roads Act 1993, the Crown public roads specified in each Schedule 1 are transferred to the Roads Authority specified in the corresponding Schedule 2 hereunder, as from the date of publication of this notice and as from that date, the roads specified in each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

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

#### SCHEDULE 1

*Parish – Stonehenge; County – Gough;  
Land District – Glen Innes; L.G.A. – Glen Innes Severn*

The Crown road, 40.23m wide and var., extending about 21m west from TSR 22252, as shown by solid black shading on the diagram hereunder.



#### SCHEDULE 2

Roads Authority: Glen Innes Severn Council.

File No.: 09/02207. W.471303.

Councils Reference: DA 018/09-10.

#### SCHEDULE 1

*Parish – Falconer; County – Sandon; Village – Guyra;  
Land District – Armidale; L.G.A. – Guyra Shire*

The Crown road, 20.115m wide at Guyra known as the extension of Park Avenue, as shown by solid black shading on the diagram hereunder.



#### SCHEDULE 2

Roads Authority: Guyra Shire Council.

File No.: 09/02207. W.471925.

Councils Reference: Ben Harris.

**BOARD OF SURVEYING AND SPATIAL INFORMATION**  
**Panorama Avenue (PO Box 143), Bathurst NSW 2795**  
**Phone: (02) 6332 8238 Fax: (02) 6332 8240**

**SURVEYING AND SPATIAL INFORMATION ACT 2002**

Restoration of Name to the Register of Surveyors

PURSUANT to the provisions of the Surveying and Spatial Information Act 2002, section 10A (3), the undermentioned Land Surveyor has been restored to the Register of Surveyors.

| <i>Name</i>            | <i>Date of Original<br/>Registration</i> | <i>Removal<br/>Date</i> | <i>Restoration<br/>Date</i> |
|------------------------|--|-------------------------|-----------------------------|
| HARVEY, Anthony Thomas | 10 April 1967                            | 1 September 2008        | 16 July 2010                |

W. A. WATKINS, A.M.,  
President

S. G. GLENCORSE,  
Registrar

**SURVEYING AND SPATIAL INFORMATION ACT 2002**

Restoration of Name to the Register of Surveyors

PURSUANT to the provisions of the Surveying and Spatial Information Act 2002, section 10A (3), the undermentioned Mining Surveyor (Unrestricted) has been restored to the Register of Surveyors.

| <i>Name</i>                | <i>Date of Original<br/>Registration</i> | <i>Removal<br/>Date</i> | <i>Restoration<br/>Date</i> |
|----------------------------|--|-------------------------|-----------------------------|
| EASON, Peter Henry Leonard | 30 October 2003                          | 1 November 2005         | 19 July 2010                |

W. A. WATKINS, A.M.,  
President

S. G. GLENCORSE,  
Registrar

## GOULBURN OFFICE

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

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

### 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: Bombala.                     | The part being Lot 1,             |
| Local Government Area: Bombala.             | DP 1153125 (closed road           |
| Locality: Bombala.                          | vide <i>New South Wales</i>       |
| Reserve No.: 756819.                        | <i>Government Gazette</i> , dated |
| Public Purpose: Future public requirements. | 29 August 1980, Folio 4611),      |
| Notified: 29 June 2007.                     | Parish Bombala, County            |
| File No.: 08/8326.                          | Wellesley, of an area of 201      |
|   | square metres.                    |

Note: It is intended to sell the revoked part being closed road to the adjoining land owner.

### APPOINTMENT OF TRUST BOARD MEMBERS

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

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

#### SCHEDULE 1

| <i>Column 1</i>                        | <i>Column 2</i>                                | <i>Column 3</i>   |
|--|--|---|
| Barry Francis<br>FORD<br>(new member). | Rugby Hall and<br>Recreation<br>Reserve Trust. | Reserve No.: 72269.<br>Public Purpose: Public<br>recreation.<br>Notified: 9 May 1947.<br>Dedication No.: 530018.<br>Public Purpose: Public hall.<br>Notified: 7 September 1934.<br>File No.: GB82 R 27. |

#### Term of Office

For a term commencing the date of this notice and expiring 2 October 2013.

#### SCHEDULE 2

| <i>Column 1</i>             | <i>Column 2</i>                             | <i>Column 3</i>   |
|-----------------------------|---|---|
| Joan EVANS<br>(new member). | Towrang<br>Community Hall<br>Reserve Trust. | Reserve No.: 130073.<br>Public Purpose: Community<br>purposes.<br>Notified: 16 February 1996.<br>File No.: GB93 R 50. |

#### Term of Office

For a term commencing the date of this notice and expiring 30 January 2013.

**GRAFTON OFFICE**  
**76 Victoria Street (PO Box 272), 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 – Casino; L.G.A. – Kyogle*  
 Roads Closed: Lot 1, DP 1153929 at Upper Horseshoe Creek, Parish Fairy Mount, County Rous.

File No.: GF05 H 771.

Schedule

On closing, the land within Lot 1, DP 1153929 remains vested in Kyogle Council as operational land for the purposes of the Local Government Act 1993.

Councils Reference: Sub Cert.2134.

Description

*Land District – Murwillumbah; L.G.A. – Byron*  
 Road Closed: Lots 1 and 2, DP 1150639 at Myocum, Parish Brunswick, County Rous.

File Nos: GF05 H 649 and 08/10174.

Schedule

On closing, the land within Lots 1 and 2, DP 1150639 remains vested in the State of New South Wales as Crown Land.

Description

*Land District – Grafton; L.G.A. – Clarence Valley*  
 Road Closed: Lot 1, DP 1150849 at Kremnos, Parish Kremnos, County Fitzroy.

File No.: 08/1997.

Schedule

On closing, the land within Lot 1, DP 1150849 remains vested in the State of New South Wales as Crown Land.

**HAY OFFICE**

**126 Lachlan Street (PO Box 182), Hay NSW 2711**  
**Phone: (02) 6993 1800 Fax: (02) 6993 1135**

**ERRATUM**

IN the notice appearing in the *New South Wales Government Gazette* of the 2nd July 2010, Folio 3225, under the heading of "NOTIFICATION OF CLOSING OF PUBLIC ROAD" under the headings "Description" and "Schedule" Lots 1 and 2 in DP 1149271 should be replaced with Lots 1, 2 and 3 in DP 1149271.

File Nos: HY98 H 319 and HY86 H 355.

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

**MAITLAND OFFICE**

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

**Phone: (02) 4937 9306 Fax: (02) 4934 8417**

**NOTIFICATION OF CLOSING OF PUBLIC 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

*Parish – Mandalong; County – Northumberland;  
Land District – Gosford; L.G.A. – Lake Macquarie*

Road Closed: Lots 1, 2, 3 and 4, DP 1154049 (subject to easement for Transmission Line and not being land under the Real Property Act).

File No.: MD05 H 439.

Schedule

On closing, the land within Lots 1, 2, 3 and 4 remains vested in the State of New South Wales as Crown Land.

Description

*Parish – Wyong; County – Northumberland;  
Land District – Gosford; L.G.A. – Wyong*

Road Closed: Lots 1 and 2, DP 1153971 (not being land under the Real Property Act).

File No.: MD06 H 76.

Schedule

On closing, the land within Lots 1 and 2, DP 1153971 remains vested in the State of New South Wales as Crown Land.

Description

*Parish – Oldcastle; County – Durham;  
Land District – Scone; L.G.A. – Upper Hunter*

Road Closed: Lot 1, DP 1152778 subject to Right of Carriageway created by Deposited Plan 1152778 (not being land under the Real Property Act).

File No.: 08/8274.

Schedule

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

Description

*Parish – Sedgefield; County – Durham;  
Land District – Singleton; L.G.A. – Singleton*

Road Closed: Lots 1-4, DP 1153970 (not being land under the Real Property Act).

File No.: MD05 H 230.

Schedule

On closing, the land within Lots 1-4 remain vested in the State of New South Wales as Crown Land.

Description

*Parish – Campbell; County – Brisbane;  
Land District – Muswellbrook; L.G.A. – Upper Hunter*

Road Closed: Lot 1, DP 1152782 (not being land under the Real Property Act).

File No.: MD06 H 418.

Schedule

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

Description

*Parish – Tillegra; County – Gloucester;  
Land District – Dungog; L.G.A. – Dungog*

Road Closed: Lot 1, DP 1152194 (not being land under the Real Property Act).

File No.: 09/06335.

Schedule

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

Description

*Parish – Althorpe; County – Durham;  
Land District – Muswellbrook; L.G.A. – Muswellbrook*

Road Closed: Lots 1 and 2, DP 1152436 (not being land under the Real Property Act).

File No.: 07/5297.

Schedule

On closing, the land within Lots 1 and 2 remains vested in the State of New South Wales as Crown Land.

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

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

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

SCHEDULE

| <i>Column 1</i>    | <i>Column 2</i>         | <i>Column 3</i>  |
|--------------------|-------------------------|--|
| Terence John BONE. | Moree Showground Trust. | Reserve No.: 160035.<br>Public Purpose: Showground.<br>Notified: 6 April 1990.<br>Dedication No.: 560029.<br>Public Purpose: Showground.<br>Notified: 14 January 1891.<br>File No.: ME79 R 10. |

Term of Office

For a term commencing 5th August 2010 and expiring 4th February 2011.

**NOTIFICATION OF CLOSING OF ROADS**

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

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

Description

*Land District – Wialalda; Council – Gwydir;  
Parishes – Coolatai and Wallangra;  
Counties – Burnett and Arrawatta*

Roads Closed: Lot 1 in DP 1155061.

File No.: ME06 H 45.

Schedule

On closing, title to the land within Lot 1 in DP 1155061 remains vested in the State of New South Wales as Crown Land.

Description

*Land District – Moree; Council – Moree Plains Shire;  
Parish – Noona; County – Courallie*

Road Closed: Lot 1 in DP 1153965.

File No.: ME05 H 322.

Schedule

On closing, title to the land within Lot 1 in DP 1153965 remains vested in the State of New South Wales as Crown Land.

**APPOINTMENT OF TRUST BOARD MEMBERS**

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

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

SCHEDULE

| <i>Column 1</i>   | <i>Column 2</i>            | <i>Column 3</i>   |
|---|----------------------------|---|
| Charles William SHUTES (new member), Howard Geoffrey RILEY (re-appointment), Peter John GLASSON (re-appointment). | Warialda Racecourse Trust. | Dedication No.: 560036.<br>Public Purpose: Racecourse.<br>Notified: 14 June 1895.                             |
|   |                            | Dedication No.: 1000331.<br>Public Purpose: Racecourse.<br>Notified: 29 December 1933.<br>File No.: ME83 R 2. |

Term of Office

For a term commencing 1 October 2009 and expiring 30 September 2014.

**NOWRA OFFICE**  
**5 O’Keefe Avenue (PO Box 309), Nowra NSW 2541**  
**Phone: (02) 4428 9100      Fax: (02) 4421 2172**

**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 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

*Parish – Cootamundra; County – Harden;*  
*Land District – Cootamundra;*  
*Local Government Area – Cootamundra*

Road Closed: Lots 3-4, DP 1151656 at Cootamundra.

File Nos: 09/15218 and 09/15215.

Schedule

On closing, the land within Lots 3-4, DP 1151656 remains vested in the State of New South Wales as Crown Land.

---

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

**ERRATUM**

IN the notification appearing in the New South Wales Government Gazette of 30 July 2010, Folio 3670, under the heading “Appointment of Trust Board Member” delete the words “Term of Lease” where appearing in the Schedule and insert the words “Term of Office” in lieu thereof.

File No.: MN84 R 188.

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

**TAMWORTH OFFICE****25-27 Fitzroy Street (PO Box 535), Tamworth NSW 2340****Phone: (02) 6764 5100 Fax: (02) 6766 3805****NOTIFICATION OF CLOSING OF 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 – Moonbi; Land District – Tamworth;  
L.G.A. – Tamworth Regional*

Road Closed: Lots 1 in Deposited Plan 1153272, Parish Gill, County Inglis.

File No.: 07/1746.

Note: On closing, title to the land comprised in Lot 1 will remain vested in the State of New South Wales as Crown Land.

## Description

*Locality – Rocky Glen; Land District – Gunnedah;  
L.G.A. – Warrumbungle Shire*

Road Closed: Lot 1 in Deposited Plan 1154346, Parish Garrawilla, County Pottinger.

File No.: 07/1420.

Note: On closing, title to the land comprised in Lot 1 will remain vested in the State of New South Wales as Crown Land.

## Description

*Locality – Werris Creek and Breeza;  
Land District – Gunnedah;  
L.G.A. – Liverpool Plains Shire and Gunnedah Shire*

Road Closed: Lots 1 and 2 in Deposited Plan 1153657, Parish Clift, Ferrier and Mooki, County Buckland.

File No.: 07/4327.

Note: On closing, title to the land comprised in Lots 1 and 2 will remain vested in the State of New South Wales as Crown Land.

## Description

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

Road Closed: Lot 1 in Deposited Plan 1152812, Parishes Bullimball and Mulla, County Parry.

File No.: TH06 H 169.

Note: On closing, title to the land comprised in Lot 1 will remain vested in the State of New South Wales as Crown Land.

**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 – Tamworth; L.G.A. – Tamworth Regional*

Road Closed: Lot 1, DP 1151469 at Barraba and Woodsreef, Parishes North Barraba and Tiabundie, County Darling.

File No.: TH06 H 181.

## Schedule

On closing, the land within Lot 1, DP 1151469 remains 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**

**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 – Kempsey; L.G.A. – Kempsey*

Roads Closed: Lot 1, DP 1153306 at South West Rocks, Parish Arakoon, County Macquarie.

File No.: TE06 H 187.

Schedule

On closing, the land within Lot 1, DP 1153306 remains vested in Kempsey Shire Council as operational land for the purposes of the Local Government Act 1993.

Councils Reference: LA 14151.

Description

*Land District – Kempsey; L.G.A. – Armidale Dumaresq*

Road Closed: Lot 1, DP 1152381 at Carrai, Parish Kunderang, County Vernon.

File No.: TE05 H 38.

Schedule

On closing, the land within Lot 1, DP 1152381 remains vested in the State of New South Wales as Crown Land.

**APPOINTMENT OF RESERVE TRUST AS TRUSTEE OF A RESERVE**

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

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

SCHEDULE

*Column 1*

Tuncurry Wharf Reserve  
(R52463) Trust.

*Column 2*

Reserve No.: 52463.  
Public Purpose: Wharf site.  
Notified: 23 September 1917.  
File No.: 10/13923.

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

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

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

\_\_\_\_\_  
Description

*Parish – Killimicat; County – Buccleuch;  
Land District and Shire – Tumut*

Road Closed: Lot 1 in DP 1150967 at Bombowlee Creek and Wyangle.

File No.: WA06 H 125.

Note: On closing, the land within Lot 1 in DP 1150967 remains vested in the State of New South Wales as Crown Land.

**PROPOSED REVOCATION OF DEDICATION OF CROWN LAND FOR A PUBLIC PURPOSE**

IT is intended, following the laying of a copy of this notification before each House of Parliament in the State of New South Wales in accordance with section 84 of the Crown Lands Act 1989, to revoke the dedication of Crown Land specified in Schedule 1 hereunder, to the extent specified in Schedule 2 with a view to dealing with the land as specified in Schedule 3.

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

\_\_\_\_\_  
SCHEDULE 1

Land District: Wagga Wagga.

Local Government Area: Wagga Wagga City Council.

Dedication No.: 620161.

Public Purpose: Public school.

Notified: 28 October 1955.

Area: 8094 square metres.

File No.: 08/6560.

\_\_\_\_\_  
SCHEDULE 2

The whole being Lot 62, DP No. 757255, Parish Umutbee, County Wynyard, of an area of 8094 square metres.

\_\_\_\_\_  
SCHEDULE 3

Land is surplus to the requirements of the NSW Department of Education and Training and is to be sold.

**WESTERN REGION OFFICE**  
**45 Wingewarra Street (PO Box 1840), Dubbo NSW 2830**  
**Phone: (02) 6883 5400 Fax: (02) 6884 2067**

**GRANTING OF A WESTERN LANDS LEASE**

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

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

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

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

The Conditions and Reservations annexed to such leases are those Conditions published in the *New South Wales Government Gazette* of 20 March 2009, Folios 1416-1418.

All amounts due and payable to the Crown *must* be paid to the Land and Property Management Authority by the due date.

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

SCHEDULE

*Administrative District – Walgett North; Shire – Walgett; Parish – Wallangulla/Mebea; County – Finch*

| WLL No.   | Name of Lessee      | File No. | Folio Identifier | Area (m2) | Term of Lease |             |
|-----------|---------------------|----------|------------------|-----------|---------------|-------------|
|           |                     |          |                  |           | From          | To          |
| WLL 15122 | Nelson Brian OTTREY | 10/08387 | 37/1057617       | 3222      | 8 July 2010   | 7 July 2030 |

**RESERVATION OF CROWN LAND**

PURSUANT to section 87 of the Crown Lands Act 1989, the Crown Land shown hatched in the diagram hereunder, including the land specified in Column 1 of the Schedule hereunder and surrounding unsurveyed Crown Land 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: Brewarrina.                                       | Reserve No.: 1029048.   |
| Local Government Area:<br>Brewarrina Shire Council.              | Public Purpose: Public recreation and preservation of aboriginal cultural heritage. |
| Locality: Brewarrina.  |   |
| Lot 7040, DP No. 1126189,<br>Parish Brewarrina,<br>County Clyde. |   |
| Lot 172, DP No. 722943,<br>Parish Brewarrina, County Clyde.      |   |
| Lot 175, DP No. 820460,<br>Parish Brewarrina, County Clyde.      |   |
| Area: Approximately 16.51 hectares.                              |   |
| File No.: 10/13944.  |   |

Note: This reservation does not revoke any existing reserves.



**ERRATUM**

IN the *New South Wales Government Gazette* of 18 June 2010, Folio 2443, under the heading "WITHDRAWAL OF LANDS FROM WESTERN LANDS LEASES", the reference in Column 3 to 5164/720979 should have read 1/1115389.

File No.: 09/11326.

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

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# Department of Planning

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## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

### Declaration of Critical Infrastructure Project

I, the Minister for Planning, do by this order, amend the order made under section 75C(1) of the Environmental Planning and Assessment Act 1979 (the Act), on 24 February 2009 (GG No 44 of 27.2.09, p1262) by replacing the development described in the Schedule to that order with the development described in the Schedule to this order.

Dated at Sydney, this 7th day of July 2010.

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

---

### SCHEDULE

Development for the purposes of the M2 Upgrade (the 'Project'), extending along the M2 Motorway approximately from Windsor Road, Baulkham Hills to Delhi Road, North Ryde and generally involving:

- Widening of sections of the eastbound and westbound carriageways.
- Provision of west facing on and off ramps at Windsor Road.
- Provision of an on-ramp at Christie Road and an off-ramp at Herring Road.
- Widening of the Norfolk road tunnel.
- Provision of a permanent cycle facility.

The Development includes associated or ancillary works, activities, uses, structures or facilities for the purposes of the Project, including (but not limited to) any of the following:

- (a) Construction and associated demolition works.
- (b) Access for construction of the Project.
- (c) Environmental management and pollution control for the Project.
- (d) Upgrades to the Motorway's operational management and control systems.

The Development does not include preliminary works (such as surveys, test drilling, test excavations, preliminary geotechnical investigations, contamination investigations, utility identification and location and pavement investigations) associated with the design and/or environmental assessment of the Project occurring prior to the commencement of construction.

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

Order Declaring Development to be a Project under Part 3A of the Environmental Planning and Assessment Act 1979  
Amendment

I, the Minister for Planning, do by this order, amend the order made under section 75B(1) of the Environmental Planning and Assessment Act 1979 (the Act), on 24 February 2009 (GG No 44 of 27.2.09, p1262) by replacing the development described in Schedule 1 to that order with the development described in Schedule 1 to this order.

In my opinion, the development described in Schedule 1 is of State and regional environmental planning significance.

Dated at Sydney, this 7th day of July 2010.

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

Sydney.

---

**SCHEDULE 1**

Development for the purposes of the M2 Upgrade (the 'Project'), extending along the M2 Motorway approximately from Windsor Road, Baulkham Hills to Delhi Road, North Ryde and generally involving:

- Widening of sections of the eastbound and westbound carriageways.
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- (a) Construction and associated demolition works.
- (b) Access for construction of the Project.
- (c) Environmental management and pollution control for the Project.
- (d) Upgrades to the Motorway's operational management and control systems.

The Development does not include preliminary works (such as surveys, test drilling, test excavations, preliminary geotechnical investigations, contamination investigations, utility identification and location and pavement investigations) associated with the design and/or environmental assessment of the Project occurring prior to the commencement of construction.



# Affordable Housing

## Revised City West Affordable Housing Program (June 2010)

Crown copyright 2010  
Department of Planning  
23-33 Bridge Street  
Sydney, NSW, Australia 2000

[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

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## INTRODUCTION

The provision of affordable housing in City West is a fundamental component of planning for the area. The need to satisfy housing related social and equity objectives was identified in the City West Urban Strategy (Department of Planning, 1990) and Regional Environmental Study (Department of Planning, 1991) and confirmed by the City West Urban Strategy: Social Impact Assessment, prepared for NSW Department of Planning (B.Elton & Associates, September 1991).

The City West Affordable Housing Program aims to ensure that households with low to moderate income continue to live and work in Ultimo-Pyrmont. The innovative program was the first step towards a partnership between the community, development industry and Government for the delivery of housing which is affordable to a cross section of socioeconomic groups.

Sydney Regional Environmental Plan No. 26 City West ('REP No. 26'), which was gazetted in October 1992, sets out planning principles relating to affordable housing. However, specific clauses for enabling affordable housing contributions from the private sector were deferred from REP No. 26. Following further consideration of appropriate mechanisms an amendment was made to REP No. 26 (Amendment No. 4 - Affordable Housing) in March 1995. This amendment detailed the specific planning clauses to enable contributions to be obtained from the private sector towards affordable housing.

In June 2000 the scheme was validated as part of amendments to the *Environmental Planning and Assessment Act 1979* which enable environmental planning instruments to make provision for providing, maintaining and regulating matters relating to affordable housing. The schemes were validated for a two-year period. State Environmental Planning Policy No. 70 - Affordable Housing (Revised Schemes) commenced on June 1 2002 and inserts revised affordable housing provisions into a number of environmental planning instruments including REP No. 26.

In 2005, the Sydney Local Environmental Plan (LEP) 2005 ('LEP 2005') superseded REP No. 26, and the provisions for Ultimo-Pyrmont were incorporated into LEP 2005, leaving LEP 2005 as the sole planning instrument governing Ultimo-Pyrmont.

**USING THIS PROGRAM****HOW TO USE THIS PROGRAM**

The Affordable Housing Program should be read in conjunction with State Environmental Planning Policy No. 70 - Affordable Housing (Revised Schemes) and the LEP 2005. Together, the relevant provisions of the Environmental Planning and Assessment Act 1979, SEPP No. 70, LEP 2005 and the Affordable Housing Program are referred to as the 'scheme' within this document.

## 1. PRINCIPLES

### 1.1 PRINCIPLES OF AFFORDABLE HOUSING

An important planning principle established by REP No. 26 (and now contained in LEP 2005) is to provide for an integrated living and working environment containing a wide range of housing and employment opportunities. The scheme encourages and promotes the provision of a full range of housing in terms of form, tenure and social mix. A particular aim of the scheme is the development of housing which is affordable to low and moderate income households. The principles in relation to the mixed living and working environment are:

*Development in City West is to house an increased population and to provide an increased quantity and range of employment opportunities which are compatible with the achievement of a high quality mixed living and working environment.*

*Development in City West is to promote and retain close to the city centre, a socially diverse residential population, representative of all income groups.*

*Development in City West is to provide different kinds of housing, including affordable housing, to ensure that low to moderate income households may continue to be able to live in City West.*

*Development in City West is to provide opportunities for people to live and work at places in close proximity.*

The above principles reflected the objectives of the *Environmental Planning and Assessment Act 1979* (EP&A Act) in relation to proper management and development of resources for the social and economic welfare of the community and a better environment and the provision and maintenance of affordable housing.

### 1.2 THE AFFORDABLE HOUSING PROGRAM

In order to achieve these principles, the City West Affordable Housing Program aims to provide, as development occurs over a 20-30 year timeframe, a rental stock of up to 600 units of affordable housing for very low, low to moderate and moderate income households. This is to encourage the provision of a balanced community with a wide range of housing for a cross section of socio-economic groups. In addition to the 600 units of housing provided under the Affordable Housing Program, Housing NSW (formerly Department of Housing) will construct another 100 units of public housing throughout the precinct. It is anticipated that the total number of dwellings (private market, affordable and public housing) within the precinct will be in the order of 7 500 to 9 000. The 600 units of affordable housing represent approximately 6-7% of total stock. In summary, over the life of the plan approximately 8-10% of housing will be in the category of affordable or public rental housing.

### 1.3 WHAT IS AFFORDABLE HOUSING?

The term affordable housing conveys the notion of reasonable housing costs in relation to income (National Housing Strategy, 1992). The National Housing Strategy advocates that housing costs for low income households, totalling approximately 25-30% of gross household income should be adopted as a reasonable measure of affordability. Within the context of the City West Affordable Housing Program, the aim is to provide dwellings which are affordable to very low, low and moderate income households. (Appendix A details the basis of the income thresholds and indexing principles). Table 1 outlines target household income.

**Table 1. Target Household Income**

| <b>Target Group</b> | <b>Gross household income p.a. 2008-2009</b> |
|---------------------|--|
| Very low income     | \$28 393                                     |
| Low income          | \$28 394 - \$45 472                          |
| Moderate income     | \$45 473 - \$76 949                          |

Source: Australian Bureau of Statistics figures as annually indexed at 2009

The above income thresholds will be considered together with a number of affordability indicators such as number of persons per household. Further, affordability is closely linked with both the appropriateness and quality of the dwelling for its residents. In this regard, the City West Affordable Housing Program aims to provide dwellings which respond to housing needs. In physical terms, the standard of dwellings are to be consistent with the average standard of contemporary development in the area.

## 2. POLICY

### 2.1 WHY AFFORDABLE HOUSING?

Ultimo-Pyrmont is undergoing major changes. A substantial number of public and private industrial facilities have reached or are nearing the end of their commercial life. The permanent residential population level declined significantly over several decades. REP No. 26 provided a basis for new land uses and forms of development to revitalise the area, and for improvement of infrastructure facilities including development of open space areas in order to promote a high quality living and working environment.

REP No. 26 introduced new planning provisions which substantially affected and increased the development potential and the land value of the area. The development potential of the area has been further enhanced by the substantial redevelopment investment by the New South Wales and Commonwealth Governments to revitalise the area through the early provision of infrastructure and facilities under the Better Cities Program. Current landowners have and will continue to benefit from this increase in land value. The increased land value will have an impact on the affordability of housing, particularly for traditional low and moderate income residents of the inner city as higher value uses are found for the land.

As part of the diversity of land uses and the future population being promoted in Ultimo-Pyrmont, the need for and the desirability of the mix of socio-economic and ethnic groups was recognised by the Government and community. The commitment to social and economic diversity of the area was established via REP No. 26 and its planning principles.

To protect and encourage residential development of the area, REP No. 26 contained a Residential zone and a Residential-Business zone. The aim is to protect the existing residential areas and maximise the efficient use of infrastructure and services which have been under-utilised close to the city centre, and to reduce the need for costly infrastructure development on the city's outskirts. This not only provides for a co-ordinated approach for the orderly use of the land and development of the area, but also provides for an improved access to facilities close to the city centre.

Ultimo-Pyrmont traditionally contained a significant portion of low cost private rental stock, together with employment opportunities for low income groups. Table 2 shows the proportion of population by various occupations and indicates that there has been a significant increase in the proportion of the workforce in professional and para-professional categories, rising from 5.4% in 1976 to 28.8% in 1991. At the same time, those engaged in the blue collar occupations fell from 42.3% in 1976 to 24.5% in 1991.

**TABLE 2. OCCUPATION BY PROPORTION OF POPULATION (PERCENTAGE)**

| <b>Occupation</b>                  | <b>1976</b> | <b>1981</b> | <b>1986</b> | <b>1991</b> |
|------------------------------------|-------------|-------------|-------------|-------------|
| Management and Administration      | 3.4         | 3.8         | 8.3         | 10.5        |
| Professional and Para-professional | 5.4         | 12.3        | 25.5        | 28.8        |
| Clerical                           | 14.5        | 17.6        | 20.4        | 16.0        |
| Blue collar                        | 42.3        | 34.2        | 29.8        | 24.5        |
| Sales and Personal services        | 19.5        | 10.7        | 13.4        | 16.0        |

*Source: City West Urban Strategy: Social Impact Assessment 1991*

The proportion of households in higher income brackets has increased substantially. Although it is not possible to accurately compare the income at each Census, the data from 1991 indicates that 49% of households within the precinct have an income of over \$40 000 per annum

Under REP No. 26 it was expected that a range of commercial development in Ultimo-Pyrmont would provide a variety of employment opportunities including employment for lower paid occupations. An important principle of REP No. 26 was to provide opportunities for people to live and work within the area.

Census data indicates that since the early 1980s Ultimo-Pyrmont experienced a change in the age and socio-economic structure of its population. The population of Ultimo-Pyrmont had risen from 1 547 in 1981 to 3 132 in 1991. Based on construction activity since 1991 it was estimated that the resident population had grown to approximately 7,000 people (1996). Further, working class families, children, and renters declined and the number of young adults in well paid jobs increased. At the same time the stock of inexpensive rental accommodation decreased significantly as the majority of the new residential developments in the area were medium to high cost accommodation. The substantial injections of infrastructure investment and upgrading of the area produced upward pressures on property values placing further pressure on purchase and private rental accommodation costs beyond the means of low to moderate income groups. Further analysis of the rental housing market in Ultimo-Pyrmont indicated that the majority of newly built dwellings (built during the mid to late 1980s) were medium to high cost accommodation. Table 3 shows the rent levels for various property types, with updated figures for 2009.

Given the increasing land values in the area as development has occurred, the housing market has served an increasingly smaller proportion of the existing population, narrowing the socio-economic diversity which the Regional Environmental Plan sought to retain. These impacts would be further exacerbated as increased property values place pressure on the stock of rental housing as the attractiveness of the area for owner occupation increases. It should be noted that the stock of private rental housing decreased from 68% in 1976 to 45% in 1991. Despite this decline, private rental housing remains a significant component of the housing stock and the area currently retains a mix of socio-economic groups.

**TABLE 3. RENT LEVELS ULTIMO-PYRMONT**

| Dwelling Type  | Weekly Rent 1990 | Weekly Rent 1994 (Old Dev) | Weekly Rent 1994 (New Dev) | Weekly Rent 2000-2001 | Weekly Rent 2009 |
|----------------|------------------|----------------------------|----------------------------|-----------------------|------------------|
| 1 Bedroom unit | \$120 - \$180    | \$170 - \$180              | \$200 - \$220              | \$320 - \$340         | \$450 - \$480    |
| 2 Bedroom unit | \$135 - \$250    | \$220 - \$230              | \$270 - \$300              | \$420 - \$430         | \$600 - \$640    |
| 3 Bedroom unit | \$250 +          | \$260 +                    | \$300 +                    | \$550 - \$555         | \$750 - \$815    |

*Source: Survey of real estate agents in Ultimo-Pyrmont (1990 and 1994). Weekly median rent 2000-2001 based on Rental Bond Board data. Weekly median rent 2009; Rent & Sales Report produced by Housing NSW.*

An important objective is to promote a mixed living and working environment through a variety of housing types and tenures. As the market alone will not generate affordable housing, a specific program including specific planning clauses in the LEP 2005 (formerly contained in REP No. 26) is required to ensure that the principles in relation to retention of a diverse socio-economic profile representative of all income groups are met. This will help promote equality in access to employment opportunities, community services, recreational/cultural facilities and housing which are or will be available within or close to the area.

## 2.2 PLANNING MECHANISM

The EP&A Act considers the promotion of social and economic welfare of the community as one of its objectives. Section 5(a)(l) of the Act 'encourages the proper management, development and conservation of natural and artificial resources... for the purpose of promoting the social and economic welfare of the community and a better environment.'

In 1999 the Environmental Planning and Assessment Act 1979 ('the Act') was amended to specifically include the provision and maintenance of affordable housing as an object of the Act. It also provided for environmental planning instruments to make provision for providing, maintaining and regulating matters relating to affordable housing.

A further amendment in June 2000 expressly authorises the imposition of conditions in accordance with an environmental planning instrument relating to the retention of affordable housing.

The Act also validated a number of existing affordable housing schemes, including REP No. 26, the provisions of which are now contained in LEP 2005

The term 'affordable housing' is defined in the Act as meaning housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations under that Act or as are provided for in an environmental planning instrument.

Under Section 94F of the Act a consent authority may impose conditions requiring land or contributions for affordable housing within an area if a state environmental planning policy identifies that there is a need for affordable housing within the area.

SEPP No. 70 - Affordable Housing (Revised Schemes) also identifies that there is a need for affordable housing in certain local government areas including City of

Sydney, and describes the kinds of households for which affordable housing may be provided, and makes a requirement with respect to the imposition of conditions relating to the provision of affordable housing.

The intention is that the affordable housing should be provided within each proposed development. However, smaller residential developments or commercial developments with no residential component may not be able to provide affordable dwellings within the site. As an alternative these developments are required to pay in lieu a monetary contribution towards the provision of affordable housing in the area in accordance with any relevant conditions of the development consent.

Historically, REP No. 26 specified that prior to granting consent, the consent authority must be satisfied that a component of the development will be used for affordable housing, or that the equivalent monetary contribution be made towards providing affordable housing elsewhere within the area.

Due to growing constraints and limitations on the expenditure of funds strictly within Ultimo-Pyrmont, it is now agreed that monetary contributions from Ultimo-Pyrmont can be spent elsewhere in the City of Sydney LGA towards the provision of affordable housing. City West Housing will nonetheless endeavour to continue to develop units in or close to Ultimo-Pyrmont to ensure that the desired socio-economic mix of the area is achieved.

### 3. FUNDING

#### 3.1 HOW THE AFFORDABLE HOUSING PROGRAM WILL BE FUNDED

The City West Affordable Housing Program is achieved through developer contributions required initially by REP No. 26 and now by LEP 2005.

#### 3.2 HOW ARE CONTRIBUTIONS DETERMINED?

Affordable housing may be provided within each proposed development. However, alternative arrangements may be made, where an in lieu monetary contribution may be provided so that affordable housing can be provided elsewhere within the City of Sydney. The amount of the in lieu contribution is calculated as equivalent to the total floor area that would otherwise be required to be dedicated for use for affordable housing. The following formulae were used in 1994 to determine the initial rates of on site and in lieu contributions (the details of calculations are at Appendix B).

##### a. On site contribution

$m^2$  total floor area required for 200 units of affordable housing:

% on site contribution =  $m^2$  total floor area of Residential and  
Residential- Business zones in Ultimo-Pymont

% on site contribution =  $20\,000 = 1.1\%$  total floor area of  $1\,800\,000\ m^2$

##### b. In lieu contribution

total cost for 200 units of affordable housing:

in lieu contribution =  $m^2$  total floor area of Residential and  
Residential-Business zones in Ultimo-Pymont

in lieu contribution = \$40 000 000  
= approx. \$23<sup>1</sup> per  $m^2$  total floor area of  $1\,800\,000\ m^2$

1

Based on the above formulae, 1.1% of residential or business floor space within the Ultimo-Pymont area should be made of affordable housing.

With regard to the in lieu monetary contribution, the contribution amount by residential or business development towards affordable housing equates to approximately \$23 per square metre of floor area (1994).

To further encourage residential development within the area, the contribution towards affordable housing from residential development is discounted by 30%. This provides that 0.8% of every residential development should be made of affordable housing. The in lieu contribution by the residential development for the provision of affordable housing was approximately \$16 per square metre of floor area (1994).

---

<sup>1</sup> As at 1994. Contributions have been annually indexed by the implicit Price Deflator.

The requirement to dedicate either on site, or provide an in lieu contribution is a condition of development consent. Applicants may also provide a combination of on site and in lieu contributions. Sections 4.2 and 4.3 of this document and figure 1 (page 18) describe in greater detail how and when contributions are to be made.

### 3.3 EXEMPTIONS

The following development (or so much of any mixed development that consists of the following development) is exempt from providing on site or in lieu contributions:

- development for the purpose of public housing; or
- development for the purpose of affordable housing; or
- development for the purpose of community facilities; or
- development for residential purposes that will result in the creation of less than 200 square metres of total floor area; or
- development for non-residential purposes that will result in the creation of less than 60 square metres of total floor area; or
- Development for the purpose of a public road, a light rail or railway undertaking or a public utility undertaking or facility; or
- refurbishment of non-residential or residential development when no change of use or increase in floor space areas occurs and the required percentage of that floor space has already been dedicated for use for affordable housing, or a contribution for the purpose of provision of affordable housing has been paid;

### 3.4 HOW ARE CONTRIBUTIONS INDEXED?

In lieu monetary contributions are indexed to ensure that the contributions reflect the costs associated with the provision of affordable housing. The contributions will be indexed annually on 1 July on the basis of the Implicit Price Deflator (New and used dwellings) for the preceding year (December to December) as published by the Australian Bureau of Statistics (Cat No. 5206.0).

#### 3.4.1 Indexed contribution rates for 2009/2010

The indexed contribution rates for 2009/2010 introduced on 1 July 2009 are:

|                         |                            |
|-------------------------|----------------------------|
| Business development    | \$37.95 per m <sup>2</sup> |
| Residential development | \$26.40 per m <sup>2</sup> |

## 4. ADMINISTRATION

### 4.1 WHO WILL ADMINISTER AND MANAGE THE AFFORDABLE HOUSING PROGRAM?

A non-profit housing organisation known as City West Housing Pty Limited has been established to manage and deliver the City West Affordable Housing Program. The Company is incorporated under the Corporation Law and is independent from, but accountable to, the State Government. The Company has an expertise-based Board, with social housing, finance, asset management and housing production skills.

City West Housing Pty Limited has two classes of shares:

- i. Ordinary shares
- ii. Preferential class shares

The Government will retain the ownership of the assets through the Treasurer and Minister for Housing as ordinary shareholders with the power to intervene or recall the assets in the event of failure by the entity to meet its objectives and performance requirements.

The preferential class shareholders are drawn from the community and industry and are responsible for the appointment, selection and removal of the directors of the City West Housing Pty Limited. The Company currently has eight preferential shareholders and the Board has seven directors.

City West Housing Pty Limited has the following features:

- independence from the Government in the day-to-day management of assets and development of policies;
- responsibility for prudent and cost-effective use of the funds for construction, delivery and management of the Affordable Housing Program; and
- accountability to Government to ensure that the funds are expended and used in accordance with the Program objectives.

The Memorandum and Articles of Association of the City West Housing Pty Limited sets out the statement of organisational principles and defines the following issues:

- profile of preferential class shareholders
- profile of board of directors
- reporting requirements
- accountability to the Government, ordinary shareholders and preferential class shareholders
- mechanisms for Government intervention
- mechanisms for protection of asset base
- performance requirements
- winding up mechanisms

#### 4.1.1 City West Housing Pty Limited

The aim of the City West Housing Pty Limited is to provide affordable and appropriate rental housing to very low, low and moderate income households. The main objectives are:

- to provide equitable, non-discriminatory access to rental housing related to identified target groups under this Program;
- to offer long term secure rental tenure to clients who meet their tenancy obligations;
- to provide an alternative housing option to public and private sector housing and so develop, within a total asset management environment, a range of housing models and services to meet the varying and changing needs of clients and the community;
- to provide cost effective and efficient housing management that minimises vacancy periods, rent arrears and under occupancy while providing well maintained accommodation as part of the delivery of a timely, quality client service;
- to promote and seek to provide quality living environments and adequate housing forms that reflect cultural and community values balancing design/development objectives of health, safety, energy efficiency and ecologically sound sustainable development, cost effectiveness and access to community and retail services, transport and employment opportunities;
- to develop and support a variety of consumer participation choices that offer meaningful involvement to the community and tenants in the management of the Company's rental housing;
- to work with existing local communities, other service providers and all spheres of government to develop an integrated, co-ordinated and co-operative approach to housing issues.

#### 4.1.2 Accountability

Accountability will be exercised through the following mechanisms:

- obligations under Corporations Law;
- Articles of Association which specify the operational and performance requirements of the Company;
- statement of organisational principles which specify the profile of the preferential class of shareholders and the means by which the Government could intervene and redeem shares in the event of default by the City West Housing Pty Limited;
- statement of social and financial objectives which specify the broad policies on targeting of housing resources, allocation and rental policies, expenditure of income, financial reporting, sale of assets. This also addresses the issue of private developers' contribution in order to ensure that the monies collected from the contributions are spent for the provision, improvement or management of affordable housing within a realistic timeframe;
- The Company's accounts will be audited by the Auditor General.

#### **4.1.4 Management of affordable housing provided under the Program**

Rents will be fixed at 25-30% of gross household income. Rental income will be used to meet management and maintenance costs (including the investment of monies, to meet cyclical maintenance costs), and all rates and taxes payable in connection with the dwelling. All rent received after deduction of these expenses will be used only for the purpose of improving, replacing or providing additional affordable housing stock.

#### **4.2 WHO WILL COLLECT AND ADMINISTER THE PRIVATE SECTOR CONTRIBUTION AND WHEN WILL IT BE COLLECTED?**

The requirement to provide a certain proportion of development as affordable housing will be a condition of development consent.

Figure 1 (page 18) illustrates the process for the collection and payment of affordable housing contributions.

In all instances evidence will be required that the condition of development consent relating to affordable housing will be satisfied prior to the issue of a construction certificate. The option exists however to defer payment of in lieu contributions until occupation of the development. To secure a construction certificate the applicant must provide:

- evidence that the applicant has reached agreement with City West Housing Pty Ltd over the dedication of units to the satisfaction of the consent authority;
- evidence that payment of an in lieu contribution has been made; or
- lodgement of a satisfactory bank guarantee with the Department of Planning to the value of the required contribution.

Any condition of development consent relating to affordable housing must be fully satisfied prior to occupation of the development. Full compliance with the condition will require:

- evidence that title to contributed units has transferred to City West Housing Pty Ltd; or
- receipt of payment of an in lieu contribution.

When provided to Council/private certifier this evidence will allow approval of the first certificate of occupancy for the subject development.

Where an applicant chooses to provide affordable housing on site those unit(s) must be identified on development application drawings. To determine whether nominated units and their subsequent dedication are appropriate and fulfil affordable housing principles the consent authority will seek comments from City West Housing Pty Ltd.

In circumstances where no construction certificate is required, evidence that the condition of development consent relating to affordable housing will or has been met will be required by the consent authority before the commencement of construction and subsequently prior to occupation of the development.

#### **4.2.1 On site contributions (affordable housing on site as part of a development)**

Where affordable housing is to be provided on site the applicant must transfer title of the affordable housing unit(s) to City West Housing Pty Ltd. When this option is chosen an agreement to transfer title to City West Housing Pty Ltd must be finalised to the satisfaction of the consent authority and evidence provided to Council/private certifier prior to the issue of a construction certificate. The consent authority must be satisfied that the nominated units will fulfil the affordable housing principles set out in LEP 2005 and will have sought comment from City West Housing Pty Ltd on the appropriateness of the units.

The affordable housing contribution will be satisfied when the title to the unit(s) is transferred to City West Housing Pty Ltd. Evidence that the transfer of title has occurred will be required by Council/private certifier before issue of any certificate of occupancy.

#### **4.2.2 Monetary or in lieu contributions**

Where an applicant chooses to pay a monetary contribution toward affordable housing the amount of the contribution will be nominated in the condition of development consent. Before the issue of a construction certificate the applicant must provide evidence to Council/private certifier of payment of the contribution. Payment will be by unendorsed bank cheque. As an alternative the applicant may provide evidence that a satisfactory bank guarantee, to the value of the required contribution, has been lodged with the Department of Planning.

In lieu contributions will be indexed annually in accordance with the Implicit Price Deflator for dwelling construction.

The affordable housing condition of consent will be satisfied when payment of the required monetary contribution has been made. Evidence that this has occurred will be required by Council/private certifier before the issue of any Certificate of Occupancy.

Subject to an annual Business Plan being approved by City West Housing Pty Ltd shareholders, including the ordinary shareholders, and the Company continuing to meet its performance objectives, the contribution will be transferred to City West Housing Pty Ltd for management and construction of affordable dwellings in accordance with the objectives and principles of the Affordable Housing Program.

### 4.2.3 Bank guarantees

Any bank guarantee taken out to provide evidence to the Council that an affordable housing contribution will be paid (and thereby allow approval of a building application) must:

- be issued by an Australian bank;
- require the bank to pay the guaranteed amount unconditionally to the Department of Planning where it so demands in writing but not before receipt of advice from Sydney City Council that it is able to approve the first certificate of occupancy for the subject development, or where no certificate of occupancy is required, occupation of the development;
- prohibit the bank from having recourse to the applicant or other person entitled to act upon the consent before paying the guaranteed amount;
- provide that the bank's obligations will be discharged only when payment is made according to the terms of the bank guarantee, if the related consent lapses, or if the Department notifies the bank in writing that the bank guarantee is no longer required. The bank guarantee will otherwise have no date of termination;
- require the bank to pay the guaranteed amount notwithstanding any notice to the contrary by the applicant or other person entitled to act upon the consent; and
- provide that the maximum amount payable, if not paid in the same financial year as the development consent to which it relates, shall be indexed in accordance with the City West Affordable Housing Program.

All costs for the preparation and administration of any bank guarantee shall be borne by the applicant.

Payments shall be made to:

City West Housing Operating Account

Account No. 06273428000160 at the Commonwealth Bank.

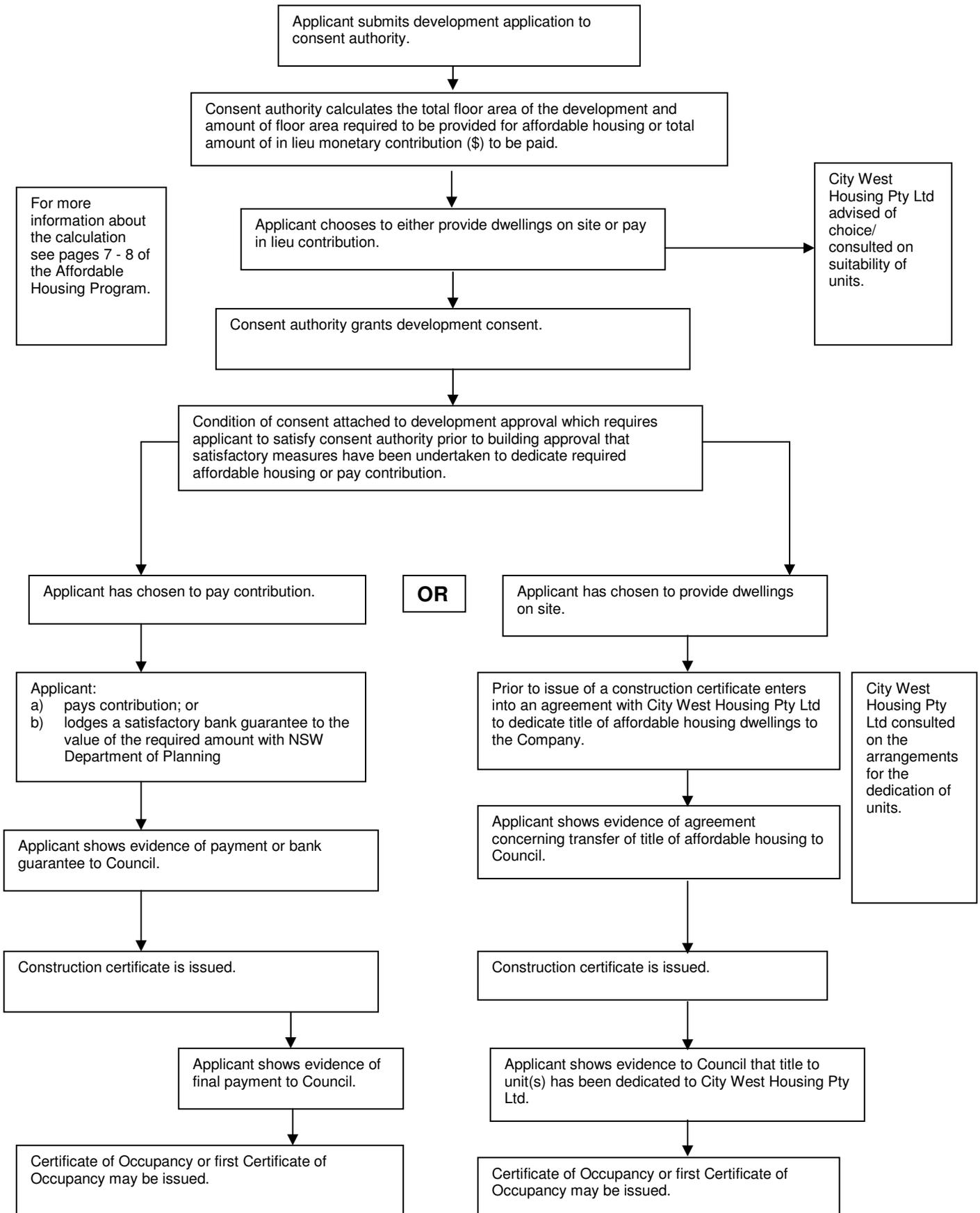
Receipt of payment for affordable housing contributions should be obtained by the applicant and a copy shall be sent to:

Metropolitan and Regional Strategies  
NSW Department of Planning  
GPO Box 39 Sydney NSW 2001

#### **4.3 HOW OFTEN WILL THE PROGRAM BE REVIEWED AND UPDATED?**

The Affordable Housing Program will be reviewed and updated as required and any changes adopted by the Minister for Planning. Any significant changes to the Program, including changes to the proportion of on site or in lieu monetary contribution (with the exception of indexing), will be exhibited for comment prior to any amendments to the Program being adopted by the Minister.

**FIGURE 1. PROCESS FOR COLLECTION AND PAYMENT OF AFFORDABLE HOUSING CONTRIBUTIONS**



## APPENDICES

### APPENDIX A

The income bands for the target groups are defined with reference to median household incomes within Sydney (ABS Region).

- Very low income households are defined as households whose gross annual household income is less than 50% of the area median income.
- Low income households are defined as households whose gross annual household income is 50-80% of the area median income.
- Moderate income households are defined as households whose gross earnings are 80-120% of the area income.

**TABLE 4. AFFORDABLE HOUSING TARGET INCOME GROUPS**

| <b>Target Income</b> | <b>Sydney (ABS) Group Region Proportion of Median Income</b> | <b>Gross Annual Household Income p/a 2008/2009</b> |
|----------------------|--|--|
| Very Low             | <50%   | \$28 393   |
| Low                  | 50 – 80%   | \$28 394 - \$45 472                                |
| Moderate             | 80 – 120%  | \$24 473 - \$76 949                                |

Under the terms of this Program, the annual household income of target groups will be updated annually based on the most accurate available source of information eg Census or Australian Household Survey, Consumer Price Index or indexed based on changes to average weekly earnings in NSW (ABS Cat No. 6302.0). Gross annual households median income has been indexed by average weekly earnings.

**APPENDIX B****A. Total m<sup>2</sup> redevelopment floor area Ultimo-Pyrmont**

|   |                                  |
|---|----------------------------------|
| Estimated total floor area residential (existing & future): | approx. 1 000 000m <sup>2</sup>  |
| Estimated total floor area business (existing & future):    | approx. 1 341 000 m <sup>2</sup> |
| 20% adjustments as result of exemption                      |                                  |
| Residential   | 800 000 m <sup>2</sup>           |
| Business  | 1 000 000 m <sup>2</sup>         |

**B. Total m<sup>2</sup> floor area and cost for affordable housing through developers' contribution:**

|   |  |
|---|--|
| No. of units to be provided by developers' contribution | 200  |
| Average size of one unit of affordable housing          | 100 m <sup>2</sup> total floor area              |
| Average cost of providing 1 unit of affordable housing  | \$200 000  |
| Total floor area m <sup>2</sup>                         | 200 x 100 m <sup>2</sup> = 20 000 m <sup>2</sup> |
| Total cost of 200 units                                 | 200 x \$200 000 = \$40 000 000                   |

**C. On site contribution**

m<sup>2</sup> total floor area required for 200 units of affordable housing:

% on site contribution = m<sup>2</sup> total floor area of Residential and Residential-Business zones in Ultimo-Pyrmont

% on site contribution = 20 000 = 1.1% total floor area of 1 800 000 m<sup>2</sup>

**D. In lieu contribution**

total cost for 200 units of affordable housing:

in lieu contribution = m<sup>2</sup> total floor area of Residential and Residential-Business zones in Ultimo-Pyrmont

in lieu contribution = \$40 000 000  
= approx. \$23<sup>1</sup> m<sup>2</sup> total floor area of 1 800 000 m<sup>2</sup>

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<sup>1</sup> As at 1994. Contributions have been annually indexed by the Implicit Price Deflator

**BIBLIOGRAPHY**

Berkhout Planning and Development, Glazebrook and Associates, Hill PDA, Laurie Chiarella, 1992, City West Affordable Housing Study, prepared for the Department of Housing, (unpublished).

Brian Elton & Associates, 1991, Social Impact Assessment - City West Urban Strategy, prepared for the Department of Planning, (unpub.)

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National Housing Strategy, Issues Paper, 1992, Affordability of Australian Housing.

## Roads and Traffic Authority

### ROADS ACT 1993

Notice of Dedication of Land as Public Road  
at Sans Souci, Bexley North and Arncliffe in the Rockdale City 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 Rockdale City Council area, Parish of St George and County of Cumberland, shown as

| <u>Description</u>   | <u>Title Particulars</u>  |
|--|---|
| The area of 1¼ perches shown on Deposited Plan 375651  | Certificate of Title Volume 4446 Folio 68   |
| Lot 1 Deposited Plan 377938  | Certificate of Title: Volume 4446 Folio 67  |
| That part of Lot 23 Deposited Plan 9366 shown in Deposited Plan 106837 exclusive of the area of 2¼ perches shown on Deposited Plan 432540, the area of 9¼ perches shown on RTA Plan 2014.036.SS.0040 and that part of Lot B Deposited Plan 354953 within the said Lot 23 | Certificate of Title Volume 3815 Folio 134  |
| That part of Lot 22 Deposited Plan 9366 shown in Deposited Plan 106837 exclusive of that part Lot B Deposited Plan 354953 which is within the said Lot 22  | Certificate of Title Volume 4293 Folio 152  |
| That part of Lot 21 Deposited Plan 9366 shown in Deposited Plan 106837 exclusive of those parts of Lots A and B Deposited Plan 354953 that are within the said Lot 21  | Certificate of Title Volume 4343 Folio 234  |
| The area of 4/10 perch shown on Deposited Plan 106837, being part of Lot 1 Deposited Plan 15549  | Certificate of Title Volume 4141 Folio 248  |
| That part of Lot 2 Deposited Plan 106837 exclusive of Lot 1 Deposited Plan 431781 and Lot 1 Deposited Plan 431743  | Certificate of Title Volume 5477 Folio 241  |
| Lot 19 Deposited Plan 260755   | Folio Identifier 5 / 29502 and<br>Certificates of Title:<br>Volume 11044 Folio 247;<br>Volume 11044 Folio 248;<br>Volume 11044 Folio 249; and<br>Volume 7694 Folio 80 |
| Lot 18 Deposited Plan 260755   | Certificate of Title Volume 15297 Folio 214   |
| Lot 17 Deposited Plan 260755   | Certificate of Title Volume 15297 Folio 215   |
| Lot 16 Deposited Plan 260755   | Certificate of Title Volume 15297 Folio 216   |
| Lot 15 Deposited Plan 260755   | Certificate of Title Volume 7296 Folio 180  |
| Lot 8 Deposited Plan 217780  | Certificate of Title Volume 2780 Folio 75   |
| Lot 7 Deposited Plan 217780  | Certificate of Title Volume 3284 Folio 250  |
| Lot 6 Deposited Plan 217780  | Certificate of Title Volume 9963 Folio 134  |
| Lot 5 Deposited Plan 217780  | Certificate of Title Volume 2589 Folio 107  |
| Lot 2 Deposited Plan 217780  | Certificate of Title Volume 5184 Folio 229  |

(continued over page)

(continued from previous page)

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

| <u>Description</u>   | <u>Title Particulars</u>  |
|--|---|
| That part of the area of 1 rood 35 perches or thereabouts appropriated by the Commissioner for Main Roads by notification in Government Gazette No. 146 dated 16 December 1960, page 4005 (which is delineated on Crown Plan 17866-3000) exclusive of Lot 3 Deposited Plan 548398                                      | Part of the land in Government Gazette No. 146 of 16 December 1960 page 4005    |
| The area of 3 roods 13 perches or thereabouts appropriated by the Commissioner for Main Roads vide notification in Government Gazette No. 146 dated 16 December 1960 page 4005 (which is described on Crown Plan 17865-3000 as part of the land resumed for the Kogarah to Sans Souci and Sandringham Tramway in 1887) | Part of the land in Government Gazette No. 146 dated 16 December 1960 page 4005 |

(RTA Papers: 9M3335 Vol 2; RO 386.12074)

## ROADS ACT 1993

Notice of Dedication of Land as Public Road at Hornsby in the Hornsby Shire Council area

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

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

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 SCHEDULE

ALL those pieces or parcels of land situated in the Hornsby Shire Council area, Parish of South Colah and County of Cumberland, shown as:

| <u>Description</u>  | <u>Title Particulars</u>                   |
|---|--|
| The area of ¼ perch shown on Deposited Plan 354754  | Certificate of Title Volume 4358 Folio 98  |
| The area of 30 ½ perches shown on plan marked "A" annexed to Memorandum of Transfer G122156, being part of Portion 277 in the said Parish   | Certificate of Title Volume 1317 Folio 167 |
| The area of 10 ¼ perches shown on Deposited Plan 432679   | Certificate of Title Volume 1302 Folio 46  |
| The area of ½ perch shown on Deposited Plan 355214  | Certificate of Title Volume 1167 Folio 226 |
| Lot 2 Deposited Plan 364041   | Certificate of Title Volume 1514 Folio 59  |
| Lot 1 Deposited Plan 364041   | Certificate of Title Volume 984 Folio 233  |
| The area of 1 ¾ perches shown on plan marked "A" annexed to Memorandum of Transfer D757011, being part of Lot 7, Sec A, Deposited Plan 2053 | Certificate of Title Volume 1511 Folio 153 |
| Lot 1 Deposited Plan 327608   | Folio Identifier 1 / 327608                |
| Lot A Deposited Plan 327408   | Auto-Consol 4497-115                       |
| Lot B Deposited Plan 327408   |  |
| Lot 1 Deposited Plan 326923   | Folio Identifier 1 / 326923                |
| Lot 1 Deposited Plan 327291   | Folio Identifier 1 / 327291                |
| Lot 1 Deposited Plan 326968   | Folio Identifier 1 / 326968                |

*Please Note: The Deposited Plans, Memorandum of Transfers and Title Particulars referred to above are available at Land and Property Management Authority of New South Wales.*

(RTA Papers: 10M1501(Vol 4); RO 201.12079)

## Office of Water

### WATER ACT 1912

THE Water Administration Ministerial Corporation, pursuant to section 117J of the Water Act 1912, has determined that the alluvial groundwater sources of the areas shown in the Schedule 1 be subject to this section for the purposes of transfer of groundwater allocations.

Signed for the Water Administration Ministerial Corporation.

Dated this 5th day of May 2010.

BRIAN GARDOLL,  
Director Licensing,  
NSW Office of Water

### SCHEDULE 1

#### Water Source

- Bega Alluvium (GWMA39)
- Blue Mountains Sandstone (GWMA606)
- Botany Sandbeds (GWMA18)
- Coastal Floodplain Alluvials
- Hawkesbury Alluvials
- Nepean Sandstone (GWMA 607) (Parishes of Bangadilly, Bullio, Burrawang, Nundialla, Uringalla, Weromba and Yarrawa)
- NSW Southern Highlands (Parishes of Berrima, Bong Bong, Mittagong, Sutton Forest and Yarrunga)
- NSW Southern Highlands (Parishes of Belanglo, Bundanoon, Bourke, Kangaloon, Murrimba, Wingello and Wongawilli)
- Towamba Alluvium (GWMA61)

A list of the groundwater sources determined to be subject to section 117J of the Water Act 1912.

Note 1: The above groundwater sources align with groundwater sources subject to existing embargoes along the NSW southern coastal area.

Note 2: The Botany Sandbeds water source includes the area identified in the embargo order dated 23 May 2007 and does not include the Botany Basin (Northern area) as identified in the embargo order dated 22 August 2003.

### WATER ACT 1912

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

PEAK ALONE ESTATE PTY LTD for a proposed earthen bywash dam (capacity 4.0 megalitres) and pump on a 2nd order unnamed watercourse being Lot 171, DP 1126045, Parish of Yowrie, County of Dampier, for the conservation of water and the irrigation of 3.0 hectares (lucerne) (new licence – dam in excess of harvestable right – dam to be filled under entitlement from 10SL056653 – not subject to the 2007 south coast rivers embargo) (Reference: 10SL056919).

Any inquiries should be directed to (02) 4429 4442.

Written objections, from any local occupier or statutory authority, specifying grounds and how their interests are affected, must be lodged with the NSW Office of Water, PO Box 309, Nowra NSW 2541, within 28 days of the date of this publication.

WAYNE RYAN,  
Licensing Officer

### WATER ACT 1912

AN application for a licence under Part 2, section 10 of the Water Act 1912, within a proclaimed (declared) local area under section 5(4) has been received as follows:

#### *Macquarie River Valley*

William Howard BOOTLE for a diversion channel on the Bogan River on Lot 10 and Lot 15, DP 75289120 and Lot 50, DP 46110, Parish Miandette, County Flinders, for irrigation of 162 hectares (permanent transfer) (Reference: 80SL96336).

Written objections to the application specifying the grounds thereof, may be made by any statutory authority or local occupier within the proclaimed local area whose interests may be affected and must be lodged with the NSW Office of Water, PO Box 717, Dubbo NSW 2830, within 28 days of the date of publication.

RICHARD WHEATLEY,  
A/Licensing Manager  
(Macquarie-Western)

## Other Notices

### ASSOCIATIONS INCORPORATION ACT 2009

Cancellation of Registration Pursuant to Section 80

TAKE notice that AUSTRALASIAN PACIFIC AERONAUTICAL COLLEGE INC became registered under the Corporations Act 2001 as a company limited by guarantee on 13 July 2010 and accordingly its registration under the Associations Incorporation Act 2009 is cancelled as of that date.

Dated 2 August 2010.

EMMA-JANE DAY,  
NSW Fair Trading

### ASSOCIATIONS INCORPORATION ACT 2009

Reinstatement of Cancelled Association Pursuant to Section 84

THE incorporation of NORTH SYDNEY OCCASIONAL CHILD CARE CENTRE INC (Y0684022) cancelled on 3 October 2008 is reinstated pursuant to section 84 of the Associations Incorporation Act 2009.

Dated 2nd day of August 2010.

ANTHONY DONOVAN,  
A/Manager, Financial Analysis,  
Registry of Co-operatives and Associations,  
NSW Fair Trading

### ASSOCIATIONS INCORPORATION ACT 2009

Reinstatement of Cancelled Association Pursuant to Section 84

THE incorporation of NARROMINE BASKETBALL ASSOCIATION INC (Y1032121) cancelled on 20 March 2009 is reinstated pursuant to section 84 of the Associations Incorporation Act 2009.

Dated 2nd day of August 2010.

ANTHONY DONOVAN,  
A/Manager, Financial Analysis,  
Registry of Co-operatives and Associations,  
NSW Fair Trading

### ASSOCIATIONS INCORPORATION ACT 2009

Reinstatement of Cancelled Association Pursuant to Section 84

THE incorporation of EASTWOOD TAMIL STUDY CENTRE INCORPORATED (Y2398842) cancelled on 29 May 2009, is reinstated pursuant to section 84 of the Associations Incorporation Act 2009.

Dated 2nd day of August 2010.

ANTHONY DONOVAN,  
A/Manager, Financial Analysis,  
Registry of Co-operatives and Associations,  
NSW Fair Trading

### ASSOCIATIONS INCORPORATION ACT 2009

Reinstatement of Cancelled Association Pursuant to Section 84

THE incorporation of QUIRINDI POLO CARNIVAL CLUB INC (Y1097621) cancelled on 19 September 2008, is reinstated pursuant to section 84 of the Associations Incorporation Act 2009.

Dated 2nd day of August 2010.

ANTHONY DONOVAN,  
A/Manager, Financial Analysis,  
Registry of Co-operatives and Associations,  
NSW Fair Trading

### ASSOCIATIONS INCORPORATION ACT 2009

Reinstatement of Cancelled Association pursuant to Section 84

THE incorporation of LOCHINVAR CRICKET CLUB INCORPORATED (INC9880425) cancelled on 7 August 2009, is reinstated pursuant to section 84 of the Associations Incorporation Act 2009.

Dated 3<sup>rd</sup> day of August 2010.

ANTHONY DONOVAN,  
A/Manager, Financial Analysis,  
Registry of Co-operatives and Associations,  
NSW Fair Trading

### ASSOCIATIONS INCORPORATION ACT 2009

Reinstatement of Cancelled Association pursuant to Section 84

THE incorporation of IMPREZA WRX CLUB INCORPORATED (Y2796338) cancelled on 25 June 2010, is reinstated pursuant to section 84 of the Associations Incorporation Act 2009.

DATED 4th day of August 2010.

ANTHONY DONOVAN,  
A/Manager, Financial Analysis,  
Registry of Co-operatives and Associations,  
NSW Fair Trading

### CO-OPERATIVES ACT 1992

Notice under Section 601AA of the Corporations Act 2001 as Applied by Section 325 of the Co-operatives Act 1992

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

Woodberry Co-operative: Creations Out of the Blue Limited.

Dated this 3rd day of August 2010.

A. DONOVAN,  
Delegate of the Registrar of Co-operatives

**CO-OPERATIVES ACT 1992**

Notice under Section 601AB of the Corporations Act 2001 as Applied by Section 325 of the Co-operatives Act 1992

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

COW Co-operative Limited.

Dated this 29th day of July 2010.

A. DONOVAN,  
Delegate of the Registrar of Co-operatives

**EDUCATION ACT 1990****LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land for  
Public School

THE Minister for Education and Training, with the approval of Her Excellency the Governor, declares by delegate 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 Education Act 1990.

Dated at Sydney, this 4th day of August 2010.

VERITY FIRTH, M.P.,  
Minister for Education and Training

**SCHEDULE**

All that piece or parcel of land situated at Cowra in the Local Government Area of Cowra, Parish of Cowra, County of Bathurst and State of New South Wales, being Lots 281 and 283 in Deposited Plan 750377.

**EDUCATION ACT 1990****LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land for  
Public School

THE Minister for Education and Training, with the approval of Her Excellency the Governor, declares by delegate 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 Education Act, 1990.

Dated at Sydney, this 4th day of August 2010.

R. MILLOTT,  
Delegate of the Minister for Education and Training

**SCHEDULE**

All that piece or parcel of land situated at Urana in the Local Government Area of Urana, Parish of Urana, County of Urana and State of New South Wales, having a frontage of 6.64 metres to Church Street and an area of 801.5 square metres, being Lot 11 in Deposited Plan 1117306.

**GEOGRAPHICAL NAMES ACT 1966**

Notice to Determine Address Locality Boundaries for Dareton Within the Wentworth Local Government Area

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day determined boundaries for the address locality of Dareton in the Wentworth Local Government Area as shown on map GNB3819-2.

The position and extent of these features are shown in the Geographical Names Register of New South Wales which can be viewed on the Geographical Names Board's internet site at [www.gnb@nsw.gov.au](http://www.gnb@nsw.gov.au).

WARWICK WATKINS, A.M.,  
Chairperson

Geographical Names Board,  
PO Box 143, Bathurst NSW 2795.

**INDUSTRIAL RELATIONS ACT 1996****PRACTICE NOTE No. 22**

Industrial Relations Commission of New South Wales

Issue Date: 1 July 2010

PURSUANT to section 185A of the Industrial Relations Act 1996, section 11 of the Transport Appeal Boards Act 1980 and section 15 of the Civil Procedure Act 2005.

**PROCEDURES BEFORE THE TRANSPORT APPEAL BOARDS**

1. The Practice Note applies to proceedings before the Transport Appeal Boards.
2. This Practice Note shall come into force on 1 July 2010.
3. The purpose of this Practice Note is to facilitate the resolution of matters before the Transport Appeal Boards of New South Wales (the Board) by ensuring that such proceedings are conducted in an efficient and expeditious manner and that all those who appear before the Board do all they can to facilitate the just, quick and cost effective disposal of proceedings before the Board.

**PROMOTIONAL APPEALS**

4. Procedure generally
  - 4.1 Unless the Board otherwise orders, on good and sufficient reason, the hearing of a promotional appeal is to be informal.
  - 4.2 Informal proceedings before the Board shall not be conducted in an adversarial manner.
  - 4.3 The persons entitled to be present at an informal proceeding are:
    - (a) the appellant whose appeal is being heard,
    - (b) a person appointed by the employer against whose decision the promotional appeal is brought, being a person appointed generally or in respect of a particular appeal or class of appeal,
    - (c) the employee in whose favour the decision referred to in paragraph (b) has been made, and
    - (d) where, in the opinion of the Board, the appeal requires the attendance of a person having specialised knowledge of matters relevant to

- the appeal, a person nominated or directed by the Board to appear.
- 4.4 A person entitled to be present at an informal proceeding before the Board is not entitled to be represented by any person.
- 4.5 A person who is entitled to be present at an informal proceeding:
- a) under clause 4.3(a) or (c) – may adduce, orally and in writing, to the Board such matters, and address the Board on such matters, as are relevant to the appeal, and
  - b) under clause 4.3(b) or (d) – may adduce in writing to the Board such matters as are relevant to the appeal and may, at the request of the Board, address the Board, otherwise than in writing, on any matter, and
  - c) may produce documents to the Board.
- 4.6 A person who is entitled to be present at an informal proceeding cannot:
- a) call or examine any witness, or
  - b) cross-examine any other such person.
- 4.7 Informal proceedings of the Board are not to be recorded.
- 4.8 Despite the provisions of clause 4.1, where a jurisdictional issue is raised in relation to a promotional appeal, the hearing of such an issue shall be determined by way of a formal hearing (as provided for in clause 7) and the following standard directions will apply:
- a) the employer to prepare and lodge a written case outlining the jurisdictional argument and their reasons why they believe the Board cannot proceed to hear and determine the promotional appeal,
  - b) such written case is to be filed with the Registrar and served on the employees who are parties to the case on a specified date, such date not being less than 7 days prior to the date fixed for the hearing,
  - c) the appellant to file submissions in response with the Board, such additional material must be filed with the Registrar and served on the employer and the other parties to the case on a specified date, such date not being less than 3 days prior to the hearing.
5. Listing
- 5.1 Upon filing of a promotional appeal the Secretary shall cause, within a period of not more than seven days from the date when the time for lodging appeals appears to have expired, a date to be fixed for the matter to be called over before the Secretary.
- 5.2 At the call-over the Secretary is to:
- a) ascertain that the employer, having made a decision to appoint or recommend the appointment of a person or persons to fill a vacant office or position in the establishment of the employer has:
    - i. notified all affected employees of the employers decision to appoint or recommend the appointment of a person or persons to fill a vacant office or position within the establishment of the employer, and
    - ii. that the time for filing an appeal under section 13 of the Transport Appeal Boards Act 1980 for all affected employees has, in fact, expired.  
(for the purpose of this sub-clause an ‘affected employee’ is an employee who has a right of appeal under the Transport Administration Staff (Regulation) 2005)
  - b) list the matter for informal hearing before the Board, and
  - c) make the following directions:
    - i. the employer to prepare and lodge a written case outlining the selection process and the reasons for the decision the subject of the appeal. The case must include a copy of the applications for appointment to the position submitted by the appellant and the appointee. All documents are to be numbered, tabulated and indexed.
    - ii. the written case is to be filed with the Secretary and served on the employees who are parties to the case on a specified date, such date not being less than 7 days prior to the date fixed for the hearing,
    - iii. if the appellant or appointee propose to file additional material with the Board, that such additional material must be filed with the Secretary and served on the employer and the other parties to the case on a specified date, such date not being less than 3 days prior to the hearing.
6. Informal Hearing
- 6.1 The procedure for the hearing of a promotional appeal is a matter for the Board to determine as the presiding member thinks fit, however, as a general rule the following procedure will be followed:
- a) The presiding member will briefly outline the procedure to be followed and will formally admit into evidence the Employer's Case and any other additional material filed by the appellant or appointee.
  - b) The person representing the employer (generally, the Convenor or a member of the section Committee) is a resource to the Board and is not an advocate for any party to the appeal. The Board will look to that person to clarify any matter of fact that may be subject to dispute that arises during the hearing.
  - c) The appellant will be called to address the Board as to his/her grounds of appeal and substantiate their claim for having greater merit for appointment to the position. On completion the Board may ask questions of the appellant.
  - d) The appointee will then be given the opportunity to respond to the appellant's ground of appeal and present his/her case. On completion the Board may ask questions of the appointee.
  - e) The appellant will then be given the right of reply. On completion the Commission may ask further questions of the appellant.
  - f) The presiding member may then ask questions of or seek clarification from the person representing the employer.

- g) Where, pursuant to clause 4.3(d) the Board has nominated or directed that a person with specialised knowledge appear, the Board may ask questions or seek clarification of that person.
- h) The appellant or the appointee may be given the opportunity to respond to any new matter raised by the appointee or appellant respectively and will be given an opportunity to respond to any matter put to the Board by the person representing the employer or, where applicable, of a person with specialised knowledge who has been nominated or directed to appear by the Board.

6.2 At the conclusion of the hearing the Board will make an order that the parties to the appeal are to return any documents received from another party to that other party, including the documents prepared by the employer.

#### DISCIPLINARY APPEALS

##### 7. Procedure generally

- 7.1 The hearing of a disciplinary appeal is to be formal.
- 7.2 A person who is entitled to be present at a formal hearing of the Board is:
  - a) the appellant whose appeal is being heard
  - b) the employer, either in person or by their nominee,
 and is entitled to representation in accordance with section 166 of the Industrial Relations Act 1996.
- 7.3 In relation to the production of documents or the attendance of witnesses before the Board the provisions of section 165 of the Industrial Relations Act 1996 and Part 33 of the Uniform Civil Procedure Rules 2005 apply.
- 7.4 A formal hearing of the Board is to be recorded.
- 7.5 In accordance with section 16 of the Transport Appeal Boards Act 1980 the employer's case is to be presented first.
- 7.6 Except as may be otherwise determined by the presiding member, the documentary material provided by the parties will be examined by the Board prior to the hearing and admitted into evidence at the commencement of the hearing.

##### 8. Allocation of Listing Date

- 8.1 Upon filing of a disciplinary appeal the Secretary shall cause, within a period of not more than seven days from the date when the time for lodging an appeal has expired, a date to be fixed for the matter to be conciliated by the Board and notify the parties accordingly. The standard or usual time to the first listing for Conciliation and Directions shall be a period of 21 days from the final date available for the filing of an appeal.
- 8.2 The employer will cause, not later than 7 days before the first listing, to be lodged with the Board and a copy served on the appellant, if this has not already occurred, a copy of their written case and relevant documents.

##### 9. Conciliation

- 9.1 Parties who appear before the Board should do all they can to facilitate the fair and prompt disposal

of matters before the Board. Ways in which this should occur include:

- a) ready identification of the issues in dispute,
- b) ensuring readiness for the conciliation hearing,
- c) using their best endeavours to resolve the issues in dispute.

9.2 Ordinarily there should be only one conciliation; however, the Board may permit a further conciliation.

9.3 If the appellant fails to appear at a conciliation conference, and has not provided a clear and compelling reason for non-attendance, this may result in the appeal being dismissed.

9.4 If the conciliation is not successful any objection by a party to the member who conducted the conciliation sitting as the Board for the purpose of hearing the appeal must be lodged within 7 days of the date of such conciliation.

9.5 For the purposes of this clause, a member sitting as the Board is not taken to have attempted conciliation merely because:

- a) the member attempted conciliation after commencing the hearing; or
- b) the member arranged or gave directions for a conference of the parties involved in the matter or their representatives, to be presided over by the member, but the conference did not take place or was not presided over by the member; or
- c) the member arranged or gave directions for those parties or their representative to confer among themselves at a conference at which the member was not present.

##### 10. Preliminary issues

10.1 If a preliminary issue for example, a jurisdictional challenge is raised at the conciliation conference, the Board shall determine whether the matter shall be heard as a threshold issue or be dealt with after conciliation.

10.2 If the Board determines that the issue should be heard before conciliation then the Board shall make appropriate directions and list the matter for determination.

10.3 In cases where the Member conducts conciliation and the conciliation fails, the Member shall then forward the matter to the Secretary for allocation to another member of the Board for hearing of the threshold issue.

10.4 Directions will be made by the Board which may be a modified form of the usual directions if the matter is to be set down to hear a threshold issue.

10.5 The Secretary will subsequently advise the parties of a date or dates for hearing and the court location for the hearing of the matter.

##### 11. Listed for Hearing

11.1 When conciliation before the Board is unsuccessful, the usual directions in Paragraph 12 of this Practice Note shall operate unless, after application by a party to the appeal, the Board considers that the "usual directions" should be modified or alternative directions made.

- 11.2 The Board shall also ascertain a reasonable estimate of the time required for the hearing of the appeal, specify in the Board's opinion the time required for hearing and make any other appropriate directions having regard to paragraphs 12 and 13 of this Practice Note.
- 11.3 The Board shall, forthwith, refer the parties to the List Office of the Industrial Registry for the purpose of obtaining a hearing date(s) in accordance with the Board's opinion of the amount of time required for hearing and directions which are made.
12. Usual Directions
- For the purpose of this Practice Note "usual directions" shall mean directions in the following terms or to the following effect:
- 12.1 All evidence shall be in the form of signed written statements.
- 12.2 The respondent shall file and serve any material relevant to the employer's case (in addition to that previously served on the appellant pursuant to clause 8.2) upon which they will seek to rely within 21 days. Where the employer has not previously filed the Investigation Report that should comprise part of the additional documentation filed by the employer. The respondent's case shall include all signed written statements (typed with numbered paragraphs and pages) of the intended evidence of each witness upon which they rely.
- 12.3 The appellant shall file and serve signed written statements (typed with numbered paragraphs and pages) of the intended evidence of each witness together with any other relevant documentation within 21 days of the date fixed for the filing and service of the respondent's additional documents.
- 12.4 The respondent may file and serve any reply to the appellant's documents within 7 days of the date fixed for the filing and service of the appellant's documents.
- 12.5 The parties shall include in or with their written witness statements all matters and documents upon which they rely or they allege are relevant to the proceedings.
- 12.6 Parties shall file and serve at the same time as they file their written statements and any other relevant documentation – a short summary of their case.
- 12.7 Without leave of the Board, written statements and other documentation filed and served later than the time specified by the Board in its directions may not be relied upon by the party.
- 12.8 At the conclusion of any failed conciliation, the Board shall determine any issues of leave having regard to the provisions of Part 7.3 of the Uniform Civil Procedure Rules 2005 (Issue of summons in certain circumstances requires leave) and make such directions as are necessary in that regard.
- 12.9 Summonses for production of documents may be made returnable before the Secretary upon any date that the Secretary conducts a list. Where orders are sought other than for photocopy access for both parties or if a claim for privilege or the like is made, those matters will be referred by the Secretary to the Board to be dealt with on an interlocutory basis. Under these arrangements summonses will be returnable before the Secretary, not the Board.
- 12.10 If, in the opinion of the Commission, the appeal is a matter that requires attendance by a person with specialised knowledge of issues relevant to the disciplinary appeal, make such directions as are necessary in that respect or, alternatively, apply such provisions of Practice Note 21 as may be appropriate to the proceedings.
13. Other Directions
- 13.1 The Board may make such other directions as it considers appropriate for the just resolution of the issues between the parties.
- 13.2 Such other directions may include directions that:
- Without leave of the Board, a party cannot rely on any matter that is not contained within the documentation filed and served by that party.
  - Proceedings shall be conducted on the written statements and other relevant documentation filed and served by a party except where reasonable notice is given to the other party that a witness is required for cross-examination
  - In the absence of any period of reasonable notice being fixed by the Board, cross-examination of a witness shall not be allowed unless at least 7 days prior to the hearing notice has been given to the opposing party that a witness is required for cross-examination.
14. Compliance with Directions
- 14.1 Any directions made under paragraphs 5,8,12 and 13 of this Practice Note must be complied with and will apply unless:
- an application is made after the completion of conciliation;
  - where applicable, the direction is varied during the course of the hearing of the matter;
  - any application to vary directions after the conciliation conference must be made in writing and contain full supporting grounds (unless made during the course of the hearing of the matter).
15. Adjournment Policy – Promotional and Disciplinary proceedings
- 15.1 In accordance with the Board's function to provide a forum for the resolution of Appeal matters in a fair and prompt manner, as a general rule, an adjournment of the date that is allocated for Conciliation or Hearing, whether informal or formal, will not be granted unless there are clear and compelling reasons for the adjournment to occur.
- 15.2 The time fixed for the hearing of the appeal is definite. Any applications for adjournment of must be made in a timely way, be in writing and contain full grounds. Such applications will be considered and determined by the Board. It should be understood that adjournment applications will be granted only on clear and compelling grounds.
- 15.3 An application for an adjournment during the course of an Appeal is a matter for the Board hearing the matter in the proper exercise of his/her discretion. It should be clearly understood that such applications will be granted only on clear and compelling grounds.

15.4 In the event that a party fails to attend at an appeal hearing, the appeal may, in appropriate circumstances, be heard and determined in the absence of that party.

#### 16. Lodgement of Appeal – Promotional or Disciplinary

16.1 A Notice of Appeal may be lodged personally or by post or by facsimile.

R. P. BOLAND J, President  
30 June 2010

### INDUSTRIAL RELATIONS ACT 1996

#### PRACTICE NOTE No. 23

Industrial Relations Commission of New South Wales

Issue Date: 1 July 2010

PURSUANT to section 185A of the Industrial Relations Act 1996 and section 15 of the Civil Procedure Act 2005.

#### PROCEDURES – PUBLIC SECTOR PROMOTION AND DISCIPLINARY APPEALS

1. The Practice Note applies to proceedings before the Commission under Part 7, Chapter 2 of the Industrial Relations Act 1996.
2. This Practice Note shall come into force on 1 July 2010.
3. The purpose of this Practice Note is to facilitate the resolution of public sector promotion and disciplinary appeal matters before the Commission by ensuring that such proceedings are conducted in an efficient and expeditious manner and that all those who appear before the Commission do all they can to facilitate the just, quick and cost effective disposal of proceedings before the Commission.

#### PROMOTIONAL APPEALS

4. Procedure generally
  - 4.1 Unless the Commission otherwise orders, on good and sufficient reason, the hearing of a promotional appeal is to be informal.
  - 4.2 Informal proceedings before the Commission shall not be conducted in an adversarial manner.
  - 4.3 The persons entitled to be present at an informal proceeding are:
    - (a) the appellant whose appeal is being heard,
    - (b) a person appointed by the employer against whose decision the promotional appeal is brought, being a person appointed generally or in respect of a particular appeal or class of appeal,
    - (c) where the appeal is an appeal under section 94, the employee in whose favour the decision referred to in paragraph (b) has been made, and
    - (d) where, in the opinion of the Commission, the appeal requires the attendance of a person having specialised knowledge of matters relevant to the appeal, a person nominated or directed by the Commission to appear.
  - 4.4 A person entitled to be present at an informal proceeding before the Commission is not entitled to be represented by any person.
  - 4.5 A person who is entitled to be present at an informal proceeding:
    - a) under clause 4.3(a) or (c) – may adduce, orally and in writing, to the Commission such matters, and address the Commission on such matters, as are relevant to the appeal, and
    - b) under clause 4.3(b) or (d) – may adduce in writing to the Commission such matters as are relevant to the appeal and may, at the request of the Commission, address the Commission, otherwise than in writing, on any matter, and
    - c) may produce documents to the Commission.

- 4.6 A person who is entitled to be present at an informal proceeding cannot:
  - a) call or examine any witness, or
  - b) cross-examine any other such person.
- 4.7 Informal proceedings of the Commission are not to be recorded.
- 4.8 Despite the provisions of clause 4.1, where a jurisdictional issue is raised in relation to a promotional appeal, the hearing of such an issue shall be determined by way of a formal hearing (as provided for in clause 7) and the following standard directions will apply:
  - a) the employer to prepare and lodge a written case outlining the jurisdictional argument and their reasons why they believe the Commission cannot proceed to hear and determine the promotional appeal,
  - b) such written case is to be filed with the Registrar and served on the employees who are parties to the case on a specified date, such date not being less than 7 days prior to the date fixed for the hearing,
  - c) the appellant to file submissions in response with the Commission, such additional material must be filed with the Registrar and served on the employer and the other parties to the case on a specified date, such date not being less than 3 days prior to the hearing .
5. Listing
  - 5.1 Upon filing of a promotional appeal the Registrar shall cause, within a period of not more than seven days from when the time limited for lodging appeals expires, a date to be fixed for the informal hearing of the matter.
  - 5.2 At the time of fixing the matter for hearing the Registrar will make the following directions:
    - a) the employer to prepare and lodge a written case outlining the selection process and the reasons for the decision the subject of the appeal (the 'Employer's Case'). The case must include a copy of the applications for appointment to the position submitted by the appellant and the appointee.
    - b) the Employer's Case is to be filed with the Registrar and served on the employees who are parties to the case on a specified date, such date not being less than 7 days prior to the date fixed for the hearing,
    - c) if the appellant or appointee propose to file additional material with the Commission, that such additional material must be filed with the Registrar and served on the employer and the other parties to the case on a specified date,

such date not being less than 3 days prior to the hearing.

## 6. Informal Hearing

6.1 The procedure for the hearing of a promotional appeal is a matter for the Commission to determine as the presiding officer thinks fit, however, as a general rule the following procedure will be followed:

- a) The presiding member will briefly outline the procedure to be followed and will formally admit into evidence the Employer's Case and any other additional material filed by the appellant or appointee.
- b) The person representing the employer (generally, the Convenor or a member of the section Committee) is a resource to the Commission and is not an advocate for any party to the appeal. The Commission will look to that person to clarify any matter of fact that may be subject to dispute that arises during the hearing.
- c) The appellant will be called to address the Commission as to his/her grounds of appeal and substantiate their claim for having greater merit for appointment to the position. On completion the Commission may ask questions of the appellant.
- d) The appointee will then be given the opportunity to respond to the appellant's ground of appeal and present his/her case. On completion the Commission may ask questions of the appointee.
- e) The appellant will then be given the right of reply. On completion the Commission may ask further questions of the appellant.
- f) The presiding member may then ask questions of or seek clarification from the person representing the employer.
- g) Where, pursuant to clause 4.3(d) the Commission has nominated or directed that a person with specialised knowledge appear, the Commission may ask questions or seek clarification of that person.
- h) The appellant or the appointee may be given the opportunity to respond to any new matter raised by the appointee or appellant respectively and will be given an opportunity to respond to any matter put to the Commission by the person representing the employer or, where applicable, of a person with specialised knowledge who has been nominated or directed to appear by the Commission.

6.2 At the conclusion of the hearing the Commission will make an order that the parties to the appeal are to return any documents received from another party to that other party, including the documents prepared by the employer.

## DISCIPLINARY APPEALS

### 7. Procedure generally

- 7.1 The hearing of a disciplinary appeal is to be formal.
- 7.2 A person who is entitled to be present at a formal hearing of the Commission is:
  - a) the appellant whose appeal is being heard,

b) the employer, either in person or by their nominee

and is entitled to representation in accordance with section 166 of the Industrial Relations Act 1996.

7.3 In relation to the production of documents or the attendance of witnesses before the Commission the provisions of section 165 of the Industrial Relations Act 1996 and Part 33 of the Uniform Civil Procedure Rules 2005 apply.

7.4 A formal hearing of the Commission is to be recorded.

7.5 In accordance with section 100G(2) of the Industrial Relations Act 1996 the employer's case is to be presented first.

7.6 Except as may be otherwise determined by the presiding member, the documentary material provided by the parties will be examined by the Commission prior to the hearing and admitted into evidence at the commencement of the hearing.

### 8. Allocation of Listing Date

8.1 Upon filing of a disciplinary appeal the Registrar shall cause, within a period of not more than seven days from when the time limited for lodging an appeal expires, a date to be fixed for the matter to be conciliated by the Commission and notify the parties accordingly. The standard or usual time from filing to the first listing for Conciliation and Directions shall be a period of 21 days.

8.2 At the time of fixing the date for Conciliation the Registrar shall also require the parties to lodge and serve a written case setting out the arguments on which the person relies in relation to the Conciliation hearing on a date being not less than one week prior to the date fixed for the Conciliation. All documents are to be numbered, tabulated and indexed.

### 9. Conciliation

9.1 Parties who appear before the Commission should do all they can to facilitate the fair and prompt disposal of matters before the Commission. Ways in which this should occur include:

- a) ready identification of the issues in dispute,
- b) ensuring readiness for the conciliation hearing,
- c) using their best endeavours to resolve the issues in dispute.

9.2 Ordinarily, there should be only one conciliation; however, the Commission may permit a further conciliation.

9.3 If the appellant fails to appear at a conciliation conference, and has not provided a clear and compelling reason for non-attendance, this may result in the appeal being dismissed.

9.4 For the purposes of section 100E(2) of the Industrial Relations Act 1996 any objection to the member who conducted a conciliation pursuant to section 100E(1) sitting as a member to hear the appeal must be lodged within 7 days of the date of such conciliation.

9.5 For the purposes of section 100E(2) of the Industrial Relations Act 1996 a member of the Commission is not taken to have attempted conciliation merely because:

- a) the member attempted conciliation after commencing the hearing; or
- b) the member arranged or gave directions for a conference of the parties involved in the matter or their representatives, to be presided over by the member, but the conference did not take place or was not presided over by the member; or
- c) the member arranged or gave directions for those parties or their representative to confer among themselves at a conference at which the member was not present.

#### 10. Preliminary issues

- 10.1 If a preliminary issue for example, a jurisdictional challenge is raised at the conciliation conference, the Member shall determine whether the matter shall be heard as a threshold issue or be dealt with after conciliation.
- 10.2 If the Member determines that the issue should be heard before conciliation then the matter shall be referred to the Registrar for allocation to a Member for hearing after appropriate directions are made and the Member has established the time required to hear the issue.
- 10.3 In cases where the Member conducts conciliation and the conciliation fails, the Member shall then forward the matter to the Industrial Registrar for allocation to a Member for hearing.
- 10.4 Directions will be made by the Member which may be a modified form of the usual directions if the matter is to be set down to hear a threshold issue.
- 10.5 The Registrar will subsequently advise the parties of a date or dates for hearing and the court location for the hearing of the matter.

#### 11. Listed for Hearing

- 11.1 When conciliation before the Commission is unsuccessful, the usual directions in Paragraph 12 of this Practice Note shall operate unless, after application by a party to the appeal, the Commission considers that the "usual directions" should be modified or alternative directions made.
- 11.2 The Commission shall also ascertain a reasonable estimate of the time required for the hearing of the appeal, specify in the Commission's opinion the time required for hearing and make any other appropriate directions having regard to paragraphs 12 and 13 of this Practice Note.
- 11.3 The Commission shall, forthwith, refer the parties to the List Office of the Industrial Registry for the purpose of obtaining a hearing date(s) in accordance with the Commission's opinion of the time required for hearing and directions which are made.

#### 12. Usual Directions

For the purpose of this Practice Note "usual directions" shall mean directions in the following terms or to the following effect:

- 12.1 All evidence shall be in the form of signed written statements.
- 12.2 The respondent shall file and serve any material relevant to the employer's case (in addition to that previously served on the appellant pursuant to

clause 8.2) upon which they will seek to rely within 21 days. Where the employer has not previously filed the Investigation Report that should comprise part of the additional documentation filed by the employer. The respondent's case shall include all signed written statements (typed with numbered paragraphs and pages) of the intended evidence of each witness upon which they rely.

- 12.3 The appellant shall file and serve signed written statements (typed with numbered paragraphs and pages) of the intended evidence of each witness together with any other relevant documentation within 21 days of the date fixed for the filing and service of the respondent's documents.
  - 12.4 The respondent shall file and serve any reply to the appellant's documents within 7 days of the date fixed for the filing and service of the appellant's documents.
  - 12.5 The parties shall include in or with their written witness statements all matters and documents upon which they rely or they allege are relevant to the proceedings.
  - 12.6 Parties shall file and serve at the same time as they file their written statements and any other relevant documentation – a short summary of their case.
  - 12.7 Without leave of the Commission, written statements and other documentation filed and served later than the time specified by the Commission in its directions may not be relied upon by the party.
  - 12.8 At the conclusion of any failed conciliation, the Commission shall determine any issues of leave having regard to the provisions of Part 7.3 of the Uniform Civil Procedure Rules 2005 (Issue of summons in certain circumstances requires leave) and make such directions as are necessary in that regard.
  - 12.9 Summonses for production of documents may be made returnable before the Registrar upon any date that the Registrar conducts a list. Where orders are sought other than for photocopy access for both parties or if a claim for privilege or the like is made, those matters will be referred by the Registrar to the Commission to be dealt with on an interlocutory basis. Under these arrangements summonses will be returnable before the Registrar, not the Commission.
  - 12.10 If, in the opinion of the Commission, the appeal is a matter that requires attendance by a person with specialised knowledge of issues relevant to the disciplinary appeal, make such directions as are necessary in that respect or, alternatively, apply such provisions of Practice Note 21 as may be appropriate to the proceedings.
- #### 13. Other Directions
- 13.1 The Commission may make such other directions as it considers appropriate for the just resolution of the issues between the parties.
  - 13.2 Such other directions may include directions that:
    - a) without leave of the Commission, a party cannot rely on any matter that is not contained within the documentation filed and served by that party.

- b) proceedings shall be conducted on the written statements and other relevant documentation filed and served by a party except where reasonable notice is given to the other party that a witness is required for cross-examination
- c) in the absence of any period of reasonable notice being fixed by the Commission, cross-examination of a witness shall not be allowed unless at least 7 days prior to the hearing notice has been given to the opposing party that a witness is required for cross-examination.
14. Compliance with Directions
- 14.1 Any directions made under paragraphs 5,8,12 and 13 of this Practice Note must be complied with and will apply unless:
- (a) an application is made after the completion of conciliation and prior to the hearing
- (b) where applicable, the direction is varied during the course of the hearing of the matter;
- (c) any application to vary directions after the conciliation conference must be made as soon as possible, in writing and contain full supporting grounds (unless made during the course of the hearing of the matter).
15. Adjournment Policy – Promotional or Disciplinary Proceedings
- 15.1 In accordance with the Commission's function to provide a forum for the resolution of Appeal matters in a fair and prompt manner, as a general rule, an adjournment of the date that is allocated for an Conciliation or Hearing, whether informal or formal, will not be granted unless there are clear and compelling reasons for the adjournment to occur.
- 15.2 The time fixed for the hearing of an appeal is definite. Any applications for adjournment must be made in a timely way, be in writing and contain full grounds. Such applications will be considered and determined by the Commission. It should be understood that adjournment applications will be granted only on clear and compelling grounds.
- 15.3 An application for an adjournment during the course of an Appeal is a matter for the member hearing the matter in the proper exercise of his/her discretion. It should be clearly understood that such applications will be granted only on clear and compelling grounds.
- 15.4 In the event that a party fails to attend at an appeal hearing, the appeal may, in appropriate circumstances, be heard and determined in the absence of that party.
16. Lodgement of Appeals – Promotional or Disciplinary Proceedings
- 16.1 A Notice of Appeal may be lodged personally or by post or by facsimile.
17. Lapsing of Appeal and Dismissal – Promotional and Disciplinary Proceedings
- 17.1 An appeal lapses if:
- (a) the appellant withdraws the appeal by notifying the Registrar in writing or, if the Commission has commence to consider the appeal, by informing the Commission, or
- (b) in the case of a promotional appeal:
- the position no longer exists, or
  - the appointment against which the appeal is made lapses for any reason.
- 17.2 Proceedings in relation to a promotional appeal may be dismissed at any time by the Commission if:
- the Commission considers the appeal to be frivolous or vexatious, or
  - the appellant is, in the opinion of the Commission, not able to put forward an arguable case in favour of his or her appointment to the position concerned.
- 17.3 The Commission is to give the appellant an opportunity to respond to the proposed dismissal of proceedings.
- R. P. BOLAND J, President  
30 June 2010
- 
- INDUSTRIAL RELATIONS ACT 1996**  
PRACTICE NOTE No. 24  
Industrial Relations Commission of New South Wales  
Issue Date: 1 July 2010
- PURSUANT to section 185A of the Industrial Relations Act 1996 and section 15 of the Civil Procedure Act 2005.
- PROCEDURES – POLICE HURT ON DUTY APPEALS
- The Practice Note applies to proceedings before the Commission under section 186 of the Police Act 1990.
  - This Practice Note shall come into force on 1 July 2010
  - The purpose of this Practice Note is to facilitate the resolution of appeal matters brought before the Commission pursuant to section 186 of the Police Act 1990 (known as Hurt on Duty appeals) by ensuring that such proceedings are conducted in an efficient and expeditious manner and that all those who appear before the Commission do all they can to facilitate the just, quick and cost effective disposal of proceedings before the Commission.
- HURT ON DUTY APPEALS
- Procedure generally
    - The hearing of an appeal is to be formal.
    - A person who is entitled to be present at a formal hearing of the Commission is:
      - the appellant whose appeal is being heard,
      - the Commissioner of Police or delegate and is entitled to representation in accordance with section 166 of the Industrial Relations Act 1996.
    - In relation to the production of documents or the attendance of witnesses before the Commission the provisions of section 165 of the Industrial Relations Act 1996 and Part 33 of the Uniform Civil Procedure Rules 2005 apply.
    - A formal hearing of the Commission is to be recorded.
  - Allocation of Listing Date
    - Upon filing of a Hurt on Duty appeal the Registrar shall cause, within a period of not more than seven days from when the time limited for lodging an

appeal expires, a date to be fixed for the matter to be conciliated by the Commission and notify the parties accordingly. The standard or usual time from filing to the first listing for Conciliation and Directions shall be a period of 21 days.

- 5.2 At the time of fixing the date for Conciliation the Registrar shall also require the parties to lodge and serve a written case setting out the arguments on which the person relies in relation to the Conciliation hearing on a date being not less than one week prior to the date fixed for the Conciliation. All documents are to be numbered, tabulated and indexed.

## 6. Conciliation

- 6.1 Parties who appear before the Commission should do all they can to facilitate the fair and prompt disposal of matters before the Commission. Ways in which this should occur include:

- a) ready identification of the issues in dispute,
- b) ensuring readiness for the conciliation hearing,
- c) using their best endeavours to resolve the issues in dispute.

- 6.2 Ordinarily there should be only one conciliation; however, the Commission may permit a further conciliation.

- 6.3 If the appellant fails to appear at a conciliation conference, and has not provided a clear and compelling reason for non-attendance, this may result in the appeal being dismissed.

- 6.4 For the purposes of section 100E(2) of the Industrial Relations Act 1996 any objection to the member who conducted a conciliation pursuant to section 100E(1) sitting as a member to hear the appeal must be lodged within 7 days of the date of such conciliation.

- 6.5 For the purposes of section 100E(2) of the Industrial Relations Act 1996 a member of the commission is not taken to have commenced conciliation merely because:

- a) the member attempted conciliation after commencing the hearing; or
- b) the member arranged or gave directions for a conference of the parties involved in the industrial dispute or other matter or their representatives, to be presided over by the member, but the conference did not take place or was not presided over by the member; or
- c) the member arranged or gave directions for those parties or their representative to confer among themselves at a conference at which the member was not present.

## 7. Preliminary issues

- 7.1 If a preliminary issue for example, a jurisdictional challenge is raised at the conciliation conference, the Member shall determine whether the matter shall be heard as a threshold issue or be dealt with after conciliation.

- 7.2 If the Member determines that the issue should be heard before conciliation then the matter shall be referred to the Registrar for allocation to a Member for hearing after appropriate directions are made and the Member has established the time required to hear the issue.

- 7.3 If the Member determines that the issue should be heard before conciliation then the matter shall be referred to the Registrar for allocation to a Member for hearing after appropriate directions are made and the Member has established the time required to hear the issue.

- 7.4 In cases where the Member conducts conciliation and the conciliation fails the Member shall then forward the matter to the Industrial Registrar for allocation to a Member for hearing.

- 7.5 Directions will be made by the Member which may be a modified form of the usual directions if the matter is to be set down to hear a threshold issue.

- 7.6 The Registrar will subsequently advise the parties of a date or dates for hearing and the court location for the hearing of the matter.

## 8. Listed for Hearing

- 8.1 When conciliation before the Commission is unsuccessful, the usual directions in Paragraph 9 of this Practice Note shall operate unless, after application by a party to the appeal, the Commission considers that the "usual directions" should be modified or alternative directions made.

- 8.2 The Commission shall also ascertain a reasonable estimate of the time required for the hearing of the appeal, specify in the Commission's opinion the time required for hearing and make any other appropriate directions having regard to paragraphs 9 and 10 of this Practice Note.

- 8.3 The Commission shall, forthwith, refer the parties to the List Office of the Industrial Registry for the purpose of obtaining a hearing date(s) in accordance with the Commission's opinion of the time required for hearing and directions which are made.

## 9. Usual Directions

For the purpose of this Practice Note "usual directions" shall mean directions in the following terms or to the following effect:

- 9.1 All evidence shall be in the form of signed written statements.

- 9.2 The respondent shall file and serve any material relevant to the employer's case (in addition to that previously served on the appellant pursuant to clause 5.2) upon which they will seek to rely within 21 days. The respondent's case shall include all signed written statements (typed with numbered paragraphs and pages) of the intended evidence of each witness upon which they rely

- 9.3 The appellant shall file and serve signed written statements (typed with numbered paragraphs and pages) of the intended evidence of each witness together with any other relevant documentation within 21 days of the date fixed for the filing and service of the respondent's documents.

- 9.4 The respondent shall file and serve any reply to the appellant's documents within 7 days of the date fixed for the filing and service of the appellant's documents.

- 9.5 The parties shall include in or with their written witness statements all matters and documents upon which they rely or they allege are relevant to the proceedings.

- 9.6 Parties shall file and serve at the same time as they file their written statements and any other relevant documentation – a short summary of their case.
- 9.7 Without leave of the Commission, written statements and other documentation filed and served later than the time specified by the Commission in its directions may not be relied upon by the party.
- 9.8 At the conclusion of any failed conciliation, the Commission shall determine any issues of leave having regard to the provisions of Part 7.3 of the Uniform Civil Procedure Rules 2005 (issue of summons in certain circumstances requires leave) and make such directions as are necessary in that regard.
- 9.9 Summonses for production of documents may be made returnable before the Registrar upon any date that the Registrar conducts a list. Where orders are sought other than for photocopy access for both parties or if a claim for privilege or the like is made, those matters will be referred by the Registrar to the Commission to be dealt with on an interlocutory basis. Under these arrangements summonses will be returnable before the Registrar, not the Commission.
- 9.10 If, in the opinion of the Commission, the appeal is a matter that requires attendance by a person with specialised knowledge of issues relevant to the Hurt on Duty appeal, make such directions as are necessary in that respect or, alternatively, apply such provisions of Practice Note 21 as may be appropriate to the proceedings
10. Other Directions
- 10.1 The Commission may make such other directions as it considers appropriate for the just resolution of the issues between the parties.
- 10.2 Such other directions may include directions that:
- without leave of the Commission, a party cannot rely on any matter that is not contained within the documentation filed and served by that party.
  - proceedings shall be conducted on the written statements and other relevant documentation filed and served by a party except where reasonable notice is given to the other party that a witness is required for cross-examination.
  - in the absence of any period of reasonable notice being fixed by the Commission, cross-examination of a witness shall not be allowed unless at least 7 days prior to the hearing notice has been given to the opposing party that a witness is required for cross-examination.
11. Compliance with Directions
- 11.1 Any directions made under paragraphs 5,7,9,10 of this Practice Note must be complied with and will apply unless:
- an application is made after the completion of conciliation and prior to the hearing;
  - where applicable, the direction is varied during the course of the hearing of the matter;
  - any application to vary directions after the conciliation conference must be made as soon as possible, in writing and contain full supporting grounds (unless made during the course of the hearing of the matter).
12. Adjournment Policy
- 12.1 In accordance with the Commission's function to provide a forum for the resolution of Appeal matters in a fair and prompt manner, as a general rule, an adjournment of the date that is allocated for an Conciliation or Hearing will not be granted unless there are clear and compelling reasons for the adjournment to occur.
- 12.2 The time fixed for the hearing of an appeal is definite. Any applications for adjournment must be made in a timely way, be in writing and contain full grounds. Such applications will be considered and determined by the Commission. It should be understood that adjournment applications will be granted only on clear and compelling grounds.
- 12.3 An application for an adjournment during the course of an Appeal is a matter for the member hearing the matter in the proper exercise of his/her discretion. It should be clearly understood that such applications will be granted only on clear and compelling grounds.
- 12.4 In the event that a party fails to attend at an appeal hearing, the appeal may, in appropriate circumstances, be heard and determined in the absence of that party.
13. Lodgement of Appeals
- 13.1 A Notice of Appeal may be lodged personally or by post or by facsimile.

R. P. BOLAND J, President  
30 June 2010

## INDUSTRIAL RELATIONS ACT 1996

### PRACTICE NOTE No. 25

Industrial Relations Commission of New South Wales

Issue Date: 1 July 2010

PURSUANT to section 185A of the Industrial Relations Act 1996 and section 15 of the Civil Procedure Act 2005.

#### PRE-JUDGMENT INTEREST RATES

##### Commencement

- This Practice Note commences on 1 July 2010.

##### Application

- This Practice note applies to new and existing civil proceedings in the Court.

##### Introduction

- The purpose of this Practice Note is to set the rate of pre-judgment interest that may be awarded under s.100(1) and (2) of the Civil Procedure Act 2005.

##### Calculating pre-judgment interest

- Section 100 of the Civil Procedure Act 2005 provides for the making of orders for the inclusion of interest in judgments.
- Practitioners and litigants should expect that where, pursuant to s 100 (1) and (2) of the Civil Procedure Act 2005, interest in respect of a pre-judgment period is to be included in a judgment, the Court will have regard

to the following rates, being rates agreed upon by the Discount and Interest Rate Harmonisation Committee established following a referral by the Council of Chief Justices:

- (a) in respect of the period from 1 January to 30 June in any year – the rate that is 4% above the cash rate last published by the Reserve Bank of Australia before that period commenced, and
- (b) in respect of the period from 1 July to 31 December in any year – the rate that is 4% above the cash rate last published by the Reserve Bank of Australia before that period commenced.

R. P. BOLAND J, President  
30 June 2010

- 2. This Practice Direction will become effective on the date of issue.

Manner of bringing a s146B Dispute Settlement Procedure before the Commission.

- 3. Parties who wish to bring a Dispute Settlement Procedure before the Commission under s146B shall do so by means of a dispute notification as provided by Form 2x – Application to have a Dispute Settlement Procedure Conducted. A copy of Form 2x is annexed.

Standard Directions

- 4. The following standard directions apply in respect of matters listed pursuant to a s146B Dispute Settlement Procedure:

- a. The notifier will ensure that a copy of the Dispute Settlement Procedure is provided when the matter comes before the Commission, if a copy has not already been annexed to the dispute settlement procedure notification.
- b. Each party will have a representative attending the Commission who is fully conversant with the matter and who has full authority in relation to the settlement of the matter.
- c. If the parties have agreed that the Commission is to exercise functions in respect of which standard directions or procedures have been established by the Commission (by Practice Direction or otherwise) those directions or procedures will apply to the proceedings.

R. P. BOLAND J, President  
30 June 2010

**INDUSTRIAL RELATIONS ACT 1996**

**PRACTICE NOTE No. 26**

Industrial Relations Commission of New South Wales

Issue Date: 30 July 2010

PURSUANT to section 185A of the Industrial Relations Act 1996 and section 15 of the Civil Procedure Act 2005.

- 1. The purpose of this Practice Direction is to facilitate the resolution of section 146B matters brought before the Industrial Relations Commission of New South Wales by ensuring that such proceedings are conducted before the Commission in an efficient and expeditious manner and that practitioners and others who appear before the Commission do all they can to facilitate the just, quick and cost effective disposal of such proceedings.

Form 2x—Application to have a Dispute Settlement Procedure conducted

BEFORE THE INDUSTRIAL RELATIONS  
COMMISSION OF NEW SOUTH WALES

|                          |
|--------------------------|
| IRC MATTER No.:<br>2010/ |
|--------------------------|

APPLICATION FOR IRC OF NSW TO DEAL WITH A DISPUTE IN  
ACCORDANCE WITH A DISPUTE SETTLEMENT PROCEDURE

Industrial Relations Act 1996, section 146B

Applicant

|  |  |           |
|--|--|-----------|
| Name:  |  |           |
| Address:   |  |           |
| Suburb:  | State:                                   | Postcode: |
| Contact person:  | ABN:                                     |           |
| Title:   | Mr [ ] Mrs [ ] Ms [ ] Other [ ] specify: |           |
| Contact details for the Applicant or contact person (if one is specified): |  |           |
| Telephone:   | Mobile:                                  |           |
| Facsimile:   | Email:                                   |           |

## Applicant's representative (if any)

|                 |                      |           |
|-----------------|----------------------|-----------|
| Name:           | ABN: [If applicable] |           |
| Address:        |                      |           |
| Suburb:         | State:               | Postcode: |
| Contact person: |                      |           |
| Telephone:      | Mobile:              |           |
| Facsimile:      | Email:               |           |

## Respondent(s) (Party/Parties with whom the Applicant is in dispute)

|                            |                 |           |
|----------------------------|-----------------|-----------|
| Name:                      | ABN: [If known] |           |
| Address:                   |                 |           |
| Suburb:                    | State:          | Postcode: |
| Contact person: [If known] |                 |           |
| Telephone:                 | Mobile:         |           |
| Facsimile:                 | Email:          |           |

1. What is the industry of the employer?  
[Specify industry.]
2. Relevant instrument:  
The dispute is referred to IRC of NSW pursuant to a dispute settlement procedure in:
  - Name of instrument:
  - Type of instrument:  
[Tick the appropriate box.]
    - enterprise agreement (made under the Fair Work Act 2009 after 1 July 2009);
    - workplace agreement (made under the Workplace Relations Act 1996 after 26 March 2006);
    - certified agreement (made under the Workplace Relations Act 1996 on or before 26 March 2006);
    - AWA, ITEA or an individual preserved state agreement;
    - contract of employment or other written agreement with a procedure for dealing with disputes in relation to the NES or a safety net contractual entitlement;
    - other (please specify):

Please attach a copy of the dispute settlement procedure.
3. Clauses to which the dispute relates:  
[List the clause(s) in the relevant instrument (and, if also relevant, the NES) to which the dispute relates.]

4. What is the dispute about?  
[Using numbered paragraphs, set out a description of what the dispute is about, including by reference to the clauses set out above.]
  
5. Relief sought:  
[If IRC of NSW has a power of arbitration, specify the determination(s) sought.]
  
6. Steps already taken under dispute settlement procedure:  
[Set out, in chronological order, the steps already taken (if any) under the dispute settlement procedure.]

Date:

Signature:

Name:

Capacity/Position:

#### Service requirements

This application must be served on the named Respondent(s) to the dispute as soon as practicable after the document is lodged with the NSW IRC.

Note: Part 10 of the Uniform Civil Procedure Rules 2005 (NSW) outlines the requirements of service.

#### **NATIONAL PARKS AND WILDLIFE ACT 1974**

##### Notice of Reservation of a Nature Reserve

I, Professor MARIE BASHIR, AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, reserve the lands described in the Schedule below and assign to that land the name Barwon Nature Reserve, under the provisions of section 30A (1) and (2) of the National Parks and Wildlife Act 1974.

Signed and sealed at Sydney, this 24th day of February 2010.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

FRANK SARTOR, M.P.,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

##### SCHEDULE

##### *Land District and L.G.A. – Walgett*

County Denham, Parishes Barwon, Cabul and Roberts, 4048 hectares, being Lots 13, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31, DP 752231; Lots 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 64, 65, 66, 72 and 73, DP 752265 and Lots 3, 13 and 15, DP 752238.

NPWS/07/10754.

#### **NATIONAL PARKS AND WILDLIFE ACT 1974**

##### Notice of Reservation of a State Conservation Area

I, Professor MARIE BASHIR, AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, reserve the lands described in the Schedule below, as Barwon State Conservation Area, under the provisions of section 30A (1) and 30A (2) of the National Parks and Wildlife Act 1974.

Signed and sealed at Sydney, this 16th day of June 2010.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

FRANK SARTOR, M.P.,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

##### SCHEDULE

##### *Land District and L.G.A. – Walgett*

County Denham, Parishes Manilla, Pagan and Terribie, 3009 hectares, being Lots 39, 40 and 41, DP 39778; Lot 36, DP 752260; Lot 27, DP 704110; Lot 22, DP 752267 and Lot 26, DP 42128; excluding the Crown public road within Lot 36, DP 752260.

NPWS/08/10207.

**NATIONAL PARKS AND WILDLIFE ACT 1974**

## Notice of Reservation of a Nature Reserve

I, Professor MARIE BASHIR, AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, reserve the lands described in the Schedule below, as part of Goorooyaroo Nature Reserve, under the provisions of section 30A (1) of the National Parks and Wildlife Act 1974.

Signed and sealed at Sydney, this 28th day of July 2010.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

FRANK SARTOR, M.P.,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

## SCHEDULE

*Land District – Queanbeyan; L.G.A. – Yass Valley*

County Murray, Parish Goorooyaroo, 24.07 hectares, being Lot 174, DP 1085478.

NPWS/07/10267.

**NATIONAL PARKS AND WILDLIFE ACT 1974**

## Notice of Reservation of a Historic Site

I, Professor MARIE BASHIR, AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, reserve the lands described in the Schedule below, as South Solitary Island Historic Site, under the provisions of section 30A (1) and 30A (2) of the National Parks and Wildlife Act 1974.

Signed and sealed at Sydney, this 2nd day of June 2010.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

FRANK SARTOR, M.P.,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

## SCHEDULE

*Land District – Bellingen*

County Fitzroy, Parishes Moonee, 11.07 hectares, being Lots 1 and 2, DP 775304.

NPWS/F/1198.

**NATIONAL PARKS AND WILDLIFE ACT 1974**

## PROCLAMATION

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 the powers vested in me under section 68 of the National Parks and Wildlife Act 1974, with the consent of every owner and occupier do, on the recommendation of the Director-General of National Parks and Wildlife, by this my Proclamation revoke the lands described as "Kooreh Park Wildlife Refuge" that notified in *New South Wales Government Gazette* No. 23 of 12th February 1982.

Signed and sealed at Sydney, this 28th day of July 2010.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

FRANK SARTOR, M.P.,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

## Description

*Land District – Grafton; Council – Clarence Valley*

County of Clarence, Parish of Maryvale, about 10.55 hectares, being Lot 1 in DP 591575.

DECCW/02/02052.

**NATIONAL PARKS AND WILDLIFE ACT 1974**

## PROCLAMATION

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 the powers vested in me under section 68 of the National Parks and Wildlife Act 1974, with the consent of every owner and occupier do, on the recommendation of the Director-General of the Department of Environment and Climate Change, by this my Proclamation declare the lands described hereunder to be a wildlife refuge for the purposes of the abovementioned Act.

To be known as "White Leeds Station Wildlife Refuge".

Signed and sealed at Sydney, this 28th day of July 2010.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

FRANK SARTOR, M.P.,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

## Description

*Land District – Willyama; Council – Unincorporated*

County of Yancowinna, Parish of Soudan, 7917 hectares, being Lots 3, DP 1083729 (hectares 1602); Lot 5511, DP 768420 and Lot 5524, DP 768434 (hectares 4141); Lot 6489, DP 769318 and Lot 1, DP 512924 (hectares 2174).

DECCW FIL10/2225.

**NATIONAL PARKS AND WILDLIFE ACT 1974**

## PROCLAMATION

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 the powers vested in me under section 68 of the National Parks and Wildlife Act 1974, with the consent of every owner and occupier do, on the recommendation of the Director-General of the Department of Environment and Climate Change, by this my Proclamation declare the lands described hereunder to be a wildlife refuge for the purposes of the abovementioned Act.

To be known as "Stokers Sanctum Wildlife Refuge".

Signed and sealed at Sydney, this 28th day of July 2010.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

FRANK SARTOR, M.P.,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

Description

*Land District – Murwillumbah;  
Council – Tweed Shire Council*

County of Rous, Parish of Nullum, 11.98 hectares, being Lot 1, DP 849553.

DECCW FIL10/5316.

#### NATIONAL PARKS AND WILDLIFE ACT 1974

##### PROCLAMATION

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 the powers vested in me under section 68 of the National Parks and Wildlife Act 1974, with the consent of every owner and occupier do, on the recommendation of the Director-General of the Department of Environment and Climate Change, by this my Proclamation declare the lands described hereunder to be a wildlife refuge for the purposes of the abovementioned Act.

To be known as "Burraburro Wildlife Refuge".

Signed and sealed at Sydney, this 28th day of July 2010.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

FRANK SARTOR, M.P.,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

Description

*Land District – Taree; Council – Port Macquarie-Hastings*

County of Macquarie, Parish of Ralfé, 21.19 hectares, being Lot 13, DP 1018936.

DECCW FIL10/4747.

#### NATIONAL PARKS AND WILDLIFE ACT 1974

##### Notice of Reservation of a Nature Reserve

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, and assign to that land the name Ginghet Nature Reserve under the provisions of section 30A (1) and section 30A (2) of the National Parks and Wildlife Act 1974.

Signed and sealed at Sydney this 28th day of July 2010.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

FRANK SARTOR,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN

Description

*Land District – Nyngan; LGA – Walgett*

County Clyde, Parishes Blowan and Yanda, 6239 hectares, being Lot 4 in DP751550 and Lots 6, 8, 9, 10, 13, 14, 15, 17 and 19 in DP751621: DECCW/07/9954

#### 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 Curracabundi National Park, under the provisions of section 30A (1) of the National Parks and Wildlife Act 1974.

Signed and sealed at Sydney this 28th day of July 2010.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

FRANK SARTOR,  
Minister for Climate Change and the Environment

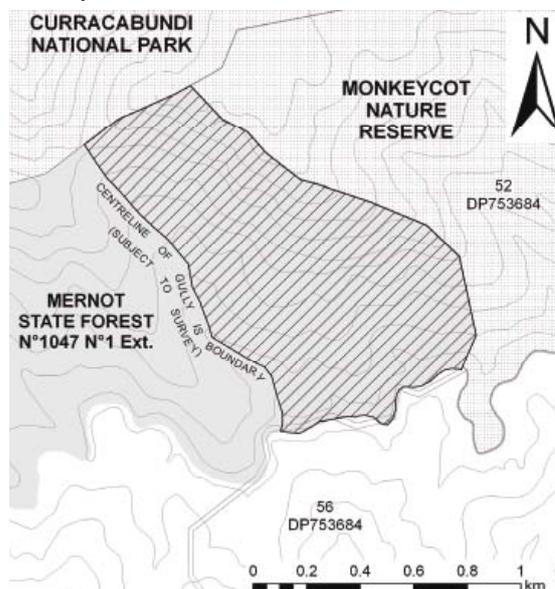
GOD SAVE THE QUEEN

SCHEDULE

*Land District – Gloucester; LGA – Gloucester*

County Hawes, Parish Barnard, about 872 hectares, being that part of Lot 56 in DP753684 not contained within Mernot State Forest N° 1047 N° 1 Extension notified in the NSW Government Gazette No. 78 of 8 May 1987 and that part of Mernot State Forest as described in the diagram below; inclusive of Crown Public road within aforesaid part of Lot 56: DECCW/07/6805

Note: That part of Mernot State Forest N° 1047 N° 1 Extension dedicated 8 May 1987, within the area described above, is hereby revoked by virtue of section 21A (1C) of the Forestry Act 1916.



**PESTICIDES ACT 1999**

## Pesticide Control Order Under Section 38

## Name

1. This Order is to be known as the Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010.

## Commencement

2. This Order commences on publication in the *NSW Government Gazette*.

## Authority for Order

3. This Order is made by the Environment Protection Authority with the approval of the Minister for Climate Change and the Environment under Part 4 of the Pesticides Act 1999.

## Revocation of Previous Order

4. Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2008 is revoked.

## Objects

5. The objects of this Order are to:
  - (a) Authorise those persons described in clause 9 to use 1080 liquid concentrate and bait products that are approved by the APVMA for use in NSW.
  - (b) Specify the manner in which 1080 liquid concentrate and bait products may be used in NSW.
  - (c) Revoke and replace Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2008.

## Background

6. A chemical product that contains sodium fluoroacetate (1080) has been declared to be a “restricted chemical product” as set out in Regulation 45 of the Agricultural and Veterinary Chemicals Code Regulations 1995 of the Commonwealth.

Section 94 of the Agvet Code provides that “A person must not, without reasonable excuse, supply a restricted chemical product or cause or permit a restricted chemical product to be supplied, to a person who is not authorised to use the product under another law of this jurisdiction”.

In NSW section 4 of the Pesticides Act 1999 provides that a “restricted pesticide” means a pesticide that is a restricted chemical product within the meaning of the Agvet Code. section 17 of the Pesticides Act 1999 provides that a person must not use or possess a restricted pesticide unless authorised to do so by a certificate of competency or a pesticide control order.

## Application

7. This Order authorises the use of 1080 liquid concentrate and bait products that are approved for use in NSW by the APVMA, subject to the conditions specified in this Order.

## Definitions

8. In this Order (including the Schedules to this Order) –
 

*1080 bait material* means any material that has been injected or treated with 1080 in accordance with the NSW directions on an approved label of the products “ACTA 1080 Concentrate” and “PAKS 1080 Concentrate” or any other 1080 liquid concentrate product that has been registered by the APVMA and approved for use in NSW and that can be used to control wild dogs, foxes, rabbits or feral pigs. It must be placed by an Authorised Control Officer in a 100

micron thick durable plastic bag with a lithographed label that is identical to attachment 1 of the relevant Schedule to this Order.

*1080 bait product* means any non liquid formulation product that contains 1080 as its only active constituent and that has been registered by the APVMA and approved for use in NSW. It also includes 1080 bait material. It does not include the 1080 liquid concentrate products “ACTA 1080 Concentrate” or “PAKS 1080 Concentrate” or any other 1080 liquid concentrate product.

*1080 liquid concentrate product* means any liquid concentrate product that contains 1080 as its only active constituent, has been registered by the APVMA and approved, by way of label instruction, for use in NSW. It specifically includes the “ACTA 1080 Concentrate” and “PAKS 1080 Concentrate” products.

*ACTA 1080 Concentrate* means the registered agricultural chemical product ACTA 1080 Concentrate (APVMA Product Registration Number 57956) that has an active constituent comprising 30 grams of 1080 per litre of product.

*Agvet Code* means the Code applying because of section 5 of the Agricultural and Veterinary Chemicals (New South Wales) Act 1994.

*Apply a pesticide* means apply or disperse the pesticide.

*APVMA* means the Agricultural Pesticides and Veterinary Medicines Authority established by the Agricultural and Veterinary Chemicals (Administration) Act 1992 of the Commonwealth.

*Attacked* means mauled, killed or harassed.

*Australian Qualifications Framework* has the same meaning as in section 7 of the Higher Education Act 2001.

*Authorised Control Officer* means a person who:

- (a) holds a current certificate of completion or statement of attainment issued by DII or another Registered Training Organisation on completion of the training and assessment components of the Vertebrate Pest Management course<sup>1</sup> delivered by DII or a Registered Training Organisation; and
- (b) holds a current certificate of completion or statement of attainment issued, in the previous 5 years, by DII or another Registered Training Organisation approved by DII, on completion of the Vertebrate Pesticide Induction course delivered by DII or a Registered Training Organisation; and
- (c) holds a current certificate of completion or statement of attainment on completion of the training and assessment components of a Chemical Accreditation training program assessed at Australian Qualifications Framework levels 3 and 4 and that has been issued by a Registered Training Organisation in the previous 5 years in recognition of the person’s satisfactory achievement of the level 4 training competencies covered by the program; and
- (d) is a person who:
  - (i) is a member of staff of an LHPA, a Wild Dog Destruction Board, DII, DECCW or other

<sup>1</sup> This includes completion of the NSW Agriculture / NSW Department of Primary Industries Vertebrate Pest Management course prior to the establishment of nationally recognised competencies.

NSW public authority and is currently employed under Chapter 1A of the Public Sector Employment and Management Act 2002 by the Government Service to enable that NSW public authority to exercise its functions; or

- (ii) has obtained approval to operate as an Authorised Control Officer from the Director-General of DECCW and the Director-General of DII or their delegates, prior to completing the training requirements in (a) to (c) above.

*Baiting location* means:

- (a) in the case of private land or private holdings, where the property area is less than 100 ha – the whole of the property where 1080 bait products are being applied;
- (b) in the case of:
- (i) private land or private holdings, where the property area is 100 ha or more; or
- (ii) State Forests; or
- (iii) land reserved under Part 4 of the National Parks and Wildlife Act 1974;
- the area of the private land or private holding, State Forest or reserved land where 1080 bait products are being applied;
- (c) in the case of council reserves and other public areas – the whole of the property where 1080 bait products are being applied.

*DECCW* means the Department of Environment, Climate Change and Water (NSW).

*DII* means the Department of Industry and Investment (NSW).

*Domestic Water Supply* or *Water Draw Point* means the point where farm water supply originates and includes tanks, bores, dams and waterholes with structures and infrastructure such as pumps that supply domestic water. It only includes the water draw point and does not include the entire length of active streams.

*EPA* means the Environment Protection Authority (NSW).

*Group* means 2 or more.

*Habitation* means a dwelling house or some other accommodation that is occupied by people and is located on private, crown or public land. It includes but is not limited to domestic dwelling houses, hospitals, shops, schools, pre-schools, kindergartens, childcare and community health care centres, factories, nursing homes, public halls, caravan parks and designated camping areas on private, crown or public land. It does not include any caravan, mobile home, vehicle, tent or other structure that is used for the purpose of camping outside a designated camping area. A designated camping area means any council regulated or privately operated camping and/or caravan area or any area that is signposted as a camping area on land reserved under Part 4 of the National Parks and Wildlife Act 1974.

*Landholder* means an owner, occupier or manager of land.

*LHPA* means a Livestock Health and Pest Authority constituted under the Rural Lands Protection Act 1998.

*Ongoing baiting* means a baiting program that is planned to continue indefinitely and as part of which:

- (a) 1080 bait product is available continuously to wild dogs, foxes or feral pigs; and
- (b) bait stations are checked at intervals of no more than 3 months; and
- (c) taken and degraded 1080 bait product is replaced (if necessary) each time bait stations are checked.

Notes:

- The interval between checking and replacing 1080 bait product may vary according to the anticipated rate of wild dog, fox or pig immigration into the target area (e.g. daily, weekly, monthly) provided that it is no longer than 3 months.
- 1080 bait product may be removed during periods of high risk (e.g. school holidays) or periods of high non-target interference (e.g. from goannas), provided the baits are not removed for longer than 3 months.

*PAKS 1080 Concentrate* means the registered agricultural chemical product PAKS 1080 Concentrate (APVMA Product Registration Number 61299) that has an active constituent comprising 30 grams of 1080 per litre of product.

*Property* means the area within any lot in a deposited plan (whether on private land, a private holding, State Forest, land reserved under Part 4 of the National Parks and Wildlife Act 1974, council reserve or any other public area).

*Public authority* has the same meaning as under the Pesticides Act 1999.

*Registered Training Organisation* has the same meaning as under the Vocational Education and Training Act 2005.

*Statement of attainment* has the same meaning as in the Vocational Education and Training Act 2005.

*Threatened species* means “threatened species, populations and ecological communities” as defined under the Threatened Species Conservation Act 1995 and “listed threatened species” and “listed threatened ecological communities” as defined under the Environment Protection and Biodiversity Conservation Act 1999 (Cth).

*Thoroughfare* means a road or track maintained for lawful public use for travel to or transportation through private, crown or public land. It excludes formed tracks, trails and similar access routes on public lands (e.g. national parks, State Forests) which are not intended for lawful use by the general public e.g. formed fire trails used for fighting fires.

*Use of a pesticide* means “use” and “possession” as each of those terms is defined in the Pesticides Act 1999.

*Western Division* is the area of western NSW that has an eastern boundary defined as follows (north to south): Barwon River from the Queensland border to the Darling Livestock Health and Pest District (LHPD) boundary; south along Darling and Western LHPD eastern boundaries to the Victorian Border (Murray River).

## Persons authorised

9. (1) Only the following persons are authorised to use, subject to clause 10, 1080 liquid concentrate products:

(a) Authorised Control Officers.

(2) Only the following persons are authorised to use, subject to clause 10, 1080 bait products:

(a) Authorised Control Officers;

(b) A person applying the 1080 bait products in connection with agricultural or forestry operations where that person applies the 1080 products:

(i) by means of hand-held or hand-powered equipment;

(ii) on no more than 12 days in the previous 12 months and on no more than 4 days in the previous month; and

(iii) under the direct supervision of an Authorised Control Officer or a person who holds as a minimum the qualification specified under clause 9 (2) (c) (iii) (A) of this Order; or

(c) Any person who:

(i) has obtained 1080 bait product from an Authorised Control Officer; and

(ii) is a landholder of the land on which the 1080 bait product is to be used or their authorised agent; and

(iii) holds as a minimum either:

(A) a current certificate of completion or statement of attainment on completion of the training and assessment components of a Chemical Accreditation training program assessed at Australian Qualifications Framework level 3 and that has been issued by a Registered Training Organisation in the previous 5 years in recognition of the person's satisfactory achievement of the level 3 training competencies covered by the program; or

(B) a current certificate of completion issued by an LHPA, public authority or Registered Training Organisation in the previous 5 years on completion of the 1080 and pindone training course developed for DECCW and delivered by the LHPA, public authority or Registered Training Organisation.

## Conditions on the use of 1080 Liquid Concentrate and 1080 Bait Products

10. A person authorised to use 1080 liquid concentrate products or 1080 bait products under clause 9 above, must only use 1080 liquid concentrate products and 1080 bait products for the control of wild dogs, foxes, feral pigs or rabbits. That use must be in accordance with the relevant Schedule to this Order. The Schedules are as follows:

(a) for control of wild dogs persons must comply with Schedule 1;

(b) for control of foxes persons must comply with Schedule 2;

(c) for control of feral pigs persons must comply with Schedule 3;

(d) for control of rabbits persons must comply with Schedule 4.

## Notes

Words used in this Order have the same meaning as in the Pesticides Act 1999, unless otherwise defined in this Order.

A person must not contravene this Order – maximum penalty \$120 000 in the case of a corporation and \$60 000 in the case of an individual.

Note for users of 1080 liquid concentrate and 1080 bait products – Approved labels of these products do not contain all of the conditions that exist for use of 1080 products in NSW. All persons using 1080 liquid concentrate and 1080 bait products must also follow the instructions in the relevant Schedule to this Order, in order to comply with section 39 of the Pesticides Act 1999. Where a Schedule to this Order gives no instruction on information that is required under the Agvet Code to be placed on the label of a 1080 product, then the instructions on the label must be complied with. This is specifically in relation to label instructions in sections that deal with Safety Directions, First Aid, Storage and Disposal and Protection statements. However, where any instructions on the label are inconsistent with instructions in the relevant Schedule to this Order, the conditions in the Schedule to this Order prevail.

LISA CORBYN,  
Director-General of the Department of Environment,  
Climate Change and Water  
(on behalf of the Environment Protection Authority)

FRANK SARTOR, M.P.,  
Minister for Climate Change and the Environment

## SCHEDULE 1

USE OF 1080 LIQUID CONCENTRATE AND  
1080 BAIT PRODUCT FOR CONTROL OF  
WILD DOGS

## 1. PRODUCTION OF 1080 WILD DOG BAIT

An Authorised Control Officer may produce 1080 bait material for the purpose of controlling wild dogs, but only in accordance with the following conditions:

1.1 An Authorised Control Officer may use 1080 liquid concentrate products to produce 1080 bait material. Where an Authorised Control Officer uses material to produce 1080 bait material, the Authorised Control Officer must only use boneless red meat, offal (tongue, kidney and liver) and manufactured sausage. Each red meat bait produced must weigh approximately two hundred and fifty (250) grams prior to any drying process. Persons preparing 1080 bait material must follow wild dog bait preparation instructions on the approved label of the 1080 liquid concentrate product. When using the ACTA 1080 Concentrate product or PAKS 1080 Concentrate product all bait material, as indicated above, must be injected with 0.2ml of the product per bait.

1.2 An Authorised Control Officer must not freeze any 1080 bait material produced as per condition 1.1.

## 2. USE OF CERTAIN 1080 WILD DOG BAIT PRODUCTS

2.1 A person authorised to use 1080 bait products under clause 9 of this Order must, when using 1080 bait

products for the purpose of controlling wild dogs, only use the 1080 bait products referred to in conditions 2.2 and 2.3.

- 2.2 A person authorised to use 1080 bait products under clause 9 of this Order may use any 1080 bait products produced by an Authorised Control Officer under condition 1.1 above for the purpose of controlling wild dogs.
- 2.3 A person authorised to use 1080 bait products under clause 9 of this Order may use 1080 products that have been specifically manufactured for the control of wild dogs, are registered by the APVMA and approved for the use of controlling wild dogs in NSW, such as Doggone Wild Dog Bait (APVMA Product Registration Number 49384) and Paks DE-K9 1080 Wild Dog Bait (APVMA Product Registration Number 60308) (and any other similar 1080 product that is produced after the commencement of this Order for the purpose of controlling wild dogs).
- 2.4 A person must not freeze any 1080 wild dog bait produced as per condition 1.1.
- 2.5 1080 bait material prepared under condition 1.1 above and 1080 bait products referred to in condition 2.3 will henceforth be referred to as "1080 wild dog bait".

### 3. POSSESSION OF 1080 WILD DOG BAIT

A person authorised to possess 1080 wild dog bait under clause 9 of this Order must only do so in accordance with the following conditions:

- 3.1 An Authorised Control Officer may supply 1080 wild dog bait to a person authorised to possess 1080 wild dog bait. An Authorised Control Officer may conduct a risk assessment to determine if it is appropriate to supply 1080 wild dog baits to a person. Risk assessment guidelines can be found in the DII publication "Vertebrate Pest Control Manual". If the Authorised Control Officer makes a determination that it is not appropriate to supply a person with 1080 wild dog baits then the Authorised Control Officer must not give any 1080 wild dog bait to that person. The Authorised Control Officer may withhold 1080 wild dog baits, if, in the opinion of the Authorised Control Officer, they are not satisfied that the 1080 wild dog baits will be used safely or effectively by a person.
- 3.2 If an Authorised Control Officer withholds 1080 wild dog baits from a person, the officer must record in a logbook or diary, the date, time and specific reasons for refusing to supply 1080 wild dog baits to a particular person.
- 3.3 An Authorised Control Officer must only supply 1080 wild dog baits in either a plastic bag labeled in accordance with attachment 1 or in a container supplied by the manufacturer of an APVMA registered 1080 wild dog bait product.
- 3.4 A person taking possession of 1080 wild dog baits must first complete and sign an indemnity or consent/indemnity form for each property on which 1080 wild dog bait is intended to be used. An Authorised Control Officer or an employee of an LHPA must give a copy of the indemnity or consent/indemnity form to any person taking possession of 1080 wild dog baits.
- 3.5 An Authorised Control Officer must issue 1080 wild dog baits only to the landholder of the land on which the 1080 wild dog baits are to be used, their authorised

agent or a person under the direct supervision of the Authorised Control Officer.

- 3.6 An Authorised Control Officer or an employee of an LHPA issuing 1080 wild dog baits must give a copy of this pesticide control order with this Schedule to any person receiving 1080 wild dog baits from them.
- 3.7 An Authorised Control Officer issuing 1080 wild dog baits must establish that the intended end-user for the 1080 wild dog baits holds a qualification that meets the requirements of this Order before handing over 1080 wild dog baits. Where this cannot be established then 1080 wild dog baits must not be supplied.
- 3.8 All persons receiving 1080 wild dog baits from an Authorised Control Officer must only temporarily possess and store 1080 wild dog baits. 1080 wild dog baits must be stored in a lockable storage area away from children, animal food, foodstuffs, seed and fertiliser. Where 1080 wild dog bait is required to be placed in a refrigerator, the refrigerator must not be concurrently used to store food and must be located in a lockable storage area. All 1080 bait material for wild dog control must be used within seven (7) days. All unopened manufactured and registered 1080 bait product (such as Doggone and DE-K9 product) must be returned to the issuing Authorised Control Officer within one (1) month of completion of the baiting program. All opened manufactured and registered 1080 bait product (such as Doggone and DE-K9 product) must be destroyed within one (1) month after completion of the baiting program, by burial in accordance with condition 4.8 below.
- 3.9 All persons receiving 1080 wild dog baits from an Authorised Control Officer must store 1080 wild dog baits in either the labelled plastic bag supplied by the Authorised Control Officer (labelled in accordance with attachment 1) or in a container supplied by the manufacturer of an APVMA registered 1080 wild dog bait product.

### 4. DIRECTIONS FOR USE – GENERAL RESTRICTIONS

A person authorised to use 1080 wild dog bait under clause 9 of this Order must only do so in accordance with the following general conditions:

- 4.1 A person in possession of 1080 wild dog baits must transport and store the 1080 wild dog baits in such a way that other persons cannot access the 1080 wild dog baits. A person transporting 1080 wild dog baits must store the 1080 wild dog baits in a secure location of their vehicle when transporting 1080 wild dog baits.
- 4.2 A person must not place the 1080 wild dog baits in a position accessible to children, livestock, domestic animals or pets.
- 4.3 A person must not feed 1080 wild dog baits to non-target species.
- 4.4 A person must not apply 1080 wild dog baits to or in, crops which are in mid to late developmental stages. A person must not apply 1080 wild dog baits to or in, crops if application of 1080 wild dog baits is likely to lead to contamination of the crops.
- 4.5 A person must ensure that 1080 wild dog baits do not contaminate foodstuffs or feed, for human or non-target animal consumption.
- 4.6 A person must not use containers (including plastic bags) which have been used to contain 1080 wild dog

baits for any other purpose and must dispose of such containers by burial or burning as follows:

#### 4.6.1 Burial

Containers (including plastic bags) must be buried as follows:

- (a) Containers must be triple rinsed or pressure rinsed;
- (b) Empty rinsed containers must be broken, crushed or punctured and disposed of either at the property where the 1080 wild dog baits were used or at a site approved by the Authorised Control Officer or in local authority landfill;
- (c) Containers and rinsate must be buried in a pit and covered with at least five hundred (500) mm of soil;
- (d) The disposal pit must be specifically marked and set up for this purpose and clear of waterways (permanent or ephemeral).

#### 4.6.2 Burning

Empty plastic bags must be burnt by open fire in accordance with an approval issued under the Protection of the Environment Operations (Clean Air) Regulation 2002. A person that disposes of plastic bags by way of burning must also comply with the following conditions:

- (a) The amount of plastic bags burnt at any premises on any single day must not exceed one hundred (100) bags without the prior written approval of the EPA.
- (b) The burning of plastic bags must be carried out at least five hundred (500) metres from any habitation.
- (c) The burning of plastic bags must be carried out in accordance with any requirement of the Rural Fires Act 1997 and the Fire Brigades Act 1989, as administered by the relevant local authority and the NSW Fire Brigades.
- (d) The open fire burning must not be carried out on a day subject to a no-burn notice declared by the EPA under provisions of the Protection of the Environment Operations Act 1997.
- (e) The burning of plastic bags must only be carried out in dry weather using such practicable means as may be necessary to minimise visible smoke emissions causing air pollution.

4.7 A person must not pollute dams, rivers, streams, waterways or drains with 1080 wild dog baits or used containers (including plastic bags). Pollution of waters is an offence under s 120 of the Protection of the Environment Operations Act 1997.

4.8 At the end of any ground baiting program conducted in accordance with this Schedule, a person using 1080 wild dog baits must make a reasonable effort to ensure that all untaken baits are collected and removed from baiting locations. All collected and unused 1080 wild dog baits must be disposed of as soon as possible at the property where the 1080 wild dog baits were used or in the case of a coordinated baiting program, on a property or location identified and agreed to by the Authorised Control Officer coordinating the program.

All collected and unused 1080 wild dog baits must be buried in a disposal pit and must be buried under at least five hundred (500) mm of soil. The disposal pit must be clear of waterways (permanent or ephemeral) so as to not cause pollution of water in accordance with Part 5.3 of the Protection of the Environment Operations Act 1997.

4.9 At the end of any baiting program coordinated by an Authorised Control Officer, an Authorised Control Officer or a person under their supervision may dispose of 1080 wild dog baits on a property or location identified for disposal by burying the 1080 wild dog baits at a depth of less than 500mm of soil but only if the Authorised Control Officer has done a risk assessment and implements control measures that are appropriate to minimise the risk to non-target animals and the environment.

4.10 Ongoing baiting may be necessary in some instances to reduce the impacts of wild dogs on native fauna. Such programs may be undertaken only if the risk to non-target species is low (see also 11.0 Risk to Domestic Animals and 12.0 Risk to Environment and Wildlife).

## 5. DIRECTIONS FOR USE – DISTANCE RESTRICTIONS

A person authorised to use 1080 wild dog bait under clause 9 of this Order must only do so in accordance with the following distance restrictions:

5.1. The minimum distances for the laying of 1080 wild dog baits have been set to minimise the risk to people and to non-target animals. A person authorised to use 1080 wild dog baits must not place 1080 wild dog baits where they can be washed into or contaminate surface or ground waters. 1080 wild dog baits must not be laid in areas where distance restrictions cannot be met. Other wild dog control methods must be used in those areas.

5.2 1080 wild dog baits must not be laid within close proximity to urban areas unless the baiting program is planned in conjunction with, and has been approved by, an Authorised Control Officer. A program approved under this condition must include strategies for minimising risk to non-target animals. This condition applies to proposals for baiting in closely settled farming areas or areas within four (4) kilometres of a village or any street.

### 5.3 Property Boundary:

5.3.1 Ground Baiting: 1080 wild dog baits must not be laid within five (5) metres from any property boundary.

5.3.2 Aerial Baiting: 1080 wild dog baits must not be laid:

- (a) within ten (10) metres from any property boundary by helicopter or
- (b) within one hundred (100) metres from any property boundary when using a fixed winged aircraft. Use of fixed winged aircraft is restricted to Western Division only.

5.3.3 Exemption for Group Baiting: Conditions 5.3.1 and 5.3.2 do not apply to the laying of 1080 wild dog baits as part of a group baiting program that has been planned by an Authorised Control Officer and where that Officer has obtained written consent from the landholders involved in the baiting program for the laying of the

1080 wild dog baits. This exemption does not apply to property boundaries of landholders not involved in the baiting program.

5.4 Habitation:

5.4.1 Ground Baiting: 1080 wild dog baits must not be laid within five hundred (500) metres of a habitation except:

- (a) where a landholder uses 1080 wild dog baits on their own property, in which case the landholder may lay the 1080 wild dog baits at a distance of less than five hundred (500) metres from their own habitation. If a landholder lays 1080 wild dog baits less than one hundred and fifty (150) metres from their own habitation then the landholder must dig a shallow hole and bury the 1080 wild dog baits.
- (b) where an Authorised Control Officer plans a baiting program, in which case the 1080 wild dog baits may be laid at less than 500 metres but no closer than 150 metres from a habitation, subject to the following conditions:
  - (i) The Authorised Control Officer must undertake a risk assessment in accordance with the provisions of the DII Vertebrate Pest Control Manual (as in force from time to time) and determine that 1080 wild dog baits can be laid at distances of less than 500 metres but no closer than 150 metres from a habitation;
  - (ii) Any baiting program planned by an Authorised Control Officer must include strategies for minimising risk to non-target animals;
  - (iii) Any adjoining landholders must agree in writing to use or allow the use of 1080 wild dog baits as part of a coordinated wild dog control program at distances of less than 500 metres but no closer than 150 metres from a habitation on the landholder's property;
  - (iv) Where an Authorised Control Officer implements a coordinated wild dog control program, they must not implement the program UNLESS:
    - (1) ALL the landholders in the group are made aware of the hazardous nature of 1080 wild dog baits in closely settled areas; AND
    - (2) EVERY landholder in the group signs an agreement that they:
      - (A) understand the hazards associated with the use of 1080 wild dog baits in closely settled areas; AND
      - (B) agree to allow 1080 wild dog baits to be laid on adjoining properties at distances of less than 500 metres but no closer than 150 metres from any habitation on their property in writing; AND

(C) agree to allow implementation of a 1080 wild dog poisoning program and accept all responsibility for any problems arising from the program; AND

(3) ALL the landholders of the outermost properties of the group abide by all the distance requirements in relation to adjoining properties not covered by the group activity.

5.4.2 Aerial Baiting: 1080 wild dog baits must not be laid:

- (a) within five hundred (500) metres of a habitation by helicopter or
- (b) within one thousand (1000) metres of a habitation by a fixed wing aircraft. Use of fixed winged aircraft is restricted to the Western Division only.

5.5 Domestic Water Supply or Water Draw Point:

5.5.1 Ground Baiting: 1080 wild dog baits must not be laid within ten (10) metres of a domestic water supply.

5.5.2 Aerial Baiting: 1080 wild dog baits must not be laid:

- (a) within twenty (20) metres of a domestic water supply by helicopter, or
- (b) within one hundred (100) metres of a domestic water supply by a fixed winged aircraft. Use of fixed winged aircraft is restricted to the Western Division only.

6. PUBLIC NOTIFICATION

A person authorised to use 1080 wild dog bait under clause 9 of this Order must notify certain persons of the use of 1080 wild dog baits in accordance with the following conditions:

- 6.1 A person must not lay any 1080 wild dog baits on any land unless the person has first given a minimum of three (3) days notice of the date on which they will lay 1080 wild dog baits. This notice must be given to the occupier, manager or authorised agent of every property which has a property boundary within one (1) kilometre of a baiting location ("notification").
- 6.2. The notification may be given by telephone, email or in person, or, where this is not possible, by mail (including letter box drop). If notification cannot be made by telephone, email, personal contact or mail or the number of persons to be notified is more than twenty five (25), then notification may be made by advertisement in a local newspaper. Likewise for large group baiting programs (more than 25 participants) organised or approved by an Authorised Control Officer, notification may be via advertisement in a local newspaper.
- 6.3 The use of 1080 wild dog baits may be conducted for longer than seven (7) days but must commence within ten (10) days of notification otherwise further notification of intended baiting is required.
- 6.4 Where baiting programs are ongoing notification must be given every six (6) months.

## 7. EMERGENCY BAITING (Ground application only)

A person authorised to use 1080 wild dog bait under clause 9 of this Order may undertake emergency baiting, but only in accordance with the following conditions:

- 7.1 A person whose livestock are being attacked may lay 1080 wild dog baits (by way of ground baiting only) without the need to comply with condition 6.1 (3-day prior neighbour notification). A person who undertakes emergency baiting must, however, notify each landholder whose property boundary lies within one (1) kilometre of a baiting location before laying any 1080 wild dog baits. A person who undertakes emergency baiting may lay up to fifty (50) 1080 wild dog baits but only with the prior approval of an Authorised Control Officer.
- 7.2 A person who undertakes emergency baiting must comply with all requirements in relation to the use of 1080 wild dog baits, except as provided for in condition 7.1.

## 8. 1080 POISONING NOTICES

A person authorised to use 1080 wild dog bait under clause 9 of this Order must erect notices in accordance with the following conditions:

- 8.1 A person who uses 1080 wild dog baits must erect notices before laying 1080 wild dog baits on any land. These notices must remain up for a minimum of four (4) weeks after the last day of baiting. Notices must be placed:
- at every entry to the baiting location; and
  - at the main entrance to a private property or holding where baiting is undertaken; and
  - at up to five (5) kilometre intervals along all public thoroughfares which border or pass through the baiting location.
- 8.2 The notices must specify the following:
- that 1080 wild dog baits are being laid on this property; and
  - the dates on which 1080 wild dog baits are first laid or the dates between which baits will be laid; and
  - contact details of the person who will lay the 1080 wild dog baits; and
  - a warning that non-target animals may be affected.
- 8.3 Under the Pesticides Regulation 2009 (clauses 19 to 23) public authorities have additional public notification obligations that must be complied with. There are also other notification requirements in the Regulation.
- 8.4 1080 Poison Notices may be obtained from Authorised Control Officers.

## 9. GROUND BAITING WITH 1080 WILD DOG BAIT

A person authorised to use 1080 wild dog bait under clause 9 of this Order must only undertake ground baiting in accordance with the following conditions:

- 9.1 A person who lays 1080 wild dog baits must:
- not lay more than four (4) 1080 wild dog baits per kilometre of trail or sixteen (16) baits per hundred (100) hectares; and
  - not lay more than fifty (50) 1080 wild dog baits on any one (1) property or holding unless the baiting

program is approved by an Authorised Control Officer; and

- lay the 1080 wild dog baits in such a way that any untaken 1080 wild dog baits can be found readily and destroyed in accordance with condition 4.8.
- 9.2 1080 wild dog baits should be buried in a shallow hole and covered with soil. If practical, tether the 1080 wild dog baits to a fence and mark the burial spot.
- 9.3 A person who lays 1080 wild dog baits on a property of less than one hundred (100) ha must check the 1080 wild dog baits within five (5) days of laying the 1080 wild dog baits and must collect any untaken 1080 wild dog baits within seven (7) days of laying the 1080 wild dog bait. All untaken 1080 wild dog baits must be disposed of in accordance with condition 4.8. This condition does not prevent a person from replacing 1080 wild dog baits that are taken for a period of longer than seven (7) days where 1080 wild dog baits continue to be taken.

## 10. AERIAL BAITING WITH 1080 WILD DOG BAIT

A person authorised to use 1080 wild dog bait under clause 9 of this Order must only undertake aerial baiting in accordance with the following conditions:

- 10.1 Aerial baiting should be restricted to areas where ground control is impractical and:
- where livestock losses are continuing; or
  - where records indicate there is a high likelihood of stock losses; or
  - where the impacts of wild dogs on any threatened species are likely to be significant.
- Approval for every aerial baiting program must be obtained from the Director-General of DII or his or her delegate. Aerial baiting must be organised through either Wild Dog Control Associations, the Wild Dog Destruction Board, LHPAs, DECCW or other NSW public authorities. All programs involving aerial application of 1080 wild dog baits must comply with the guidelines contained in the DII humane pest animal control codes of practice and standard operating procedures and DII Vertebrate Pest Control Manual and require careful planning and consultation. Your local LHPA has full details.
- 10.2 Notwithstanding any other condition contained in this Schedule, a person who undertakes aerial baiting must only use red meat, manufactured sausage baits, Doggone Wild Dog Bait (APVMA Product Registration Number 49384) or Paks DE-K9 1080 Wild Dog Bait (APVMA Product Registration Number 60308) for aerial baiting.
- 10.3 A pilot who operates an aircraft which is used to aerially apply 1080 wild dog baits must use onboard GPS navigation equipment mounted in the pilot's line of sight to navigate along agreed flight paths. The GPS navigation equipment must be of the type that has a moving map display with topographic features which provide accurate guidance to the pilot. The GPS equipment must have full data logging capabilities and all flight paths must be pre-programmed into the GPS navigation equipment before commencement of 1080 wild dog aerial baiting.
- 10.4 A pilot who operates an aircraft which is used to aerially apply 1080 wild dog baits must make a record of the GPS flight path which includes the start and finish drop point data, for 1080 wild dog bait, for each

aerial run. The record must be kept for a period of at least three (3) years after the date on which the 1080 wild dog bait was aerially applied. A pilot must make any records available to the EPA on request.

- 10.5 The employer or contractor of a pilot must ensure that a pilot of any aircraft used to aerially apply 1080 wild dog baits complies with conditions 10.3 and 10.4.
- 10.6 A person coordinating or organising aerial baiting programs must ensure that pilots are given digitised flight paths for all areas where 1080 wild dog baits are to be dropped from an aircraft which is used to aerially apply 1080 wild dog baits.
- 10.7 A person on the aircraft that is responsible for dropping 1080 wild dog baits must not be given the task of navigating the aircraft. A pilot is responsible for navigation and must ensure that 1080 wild dog baits are dropped along the agreed flight path.
- 10.8 A person who drops 1080 wild dog baits from an aircraft which is used to aerially apply 1080 wild dog baits must hold as a minimum the qualification specified in clause 9(2)(c)(iii)(A) of this Order.
- 10.9 A person who drops 1080 wild dog baits from an aircraft which is used to aerially apply 1080 wild dog baits must not drop more than ten (10) 1080 wild dog baits per kilometre of agreed flight path on any land in NSW unless the person is permitted to do otherwise under an APVMA permit.

#### 11. RISK TO DOMESTIC ANIMALS

- 11.1 A person who uses 1080 wild dog baits should avoid poisoning of domestic pets. As 1080 is particularly lethal to domestic dogs, the person using the baits should advise neighbours to tie up dogs and ensure they do not enter the baiting location during poisoning operations or to muzzle dogs if paddocks have to be mustered after poisoning. In the event of accidental poisoning seek immediate veterinary assistance.

#### 12. RISK TO ENVIRONMENT AND WILDLIFE

- 12.1 A person who uses 1080 wild dog baits must not pollute streams, rivers or waterways with 1080 wild dog baits or plastic bags and containers that have held 1080 wild dog baits.
- 12.2 1080 wild dog baits may be toxic to some native wildlife. To the extent possible, the person using the 1080 wild dog baits should time baiting programs for when non-target species are least active or least susceptible.
- 12.3 To the extent possible, a person who uses 1080 wild dog baits should recover carcasses of animals poisoned by 1080 wild dog baits and bury them in accordance with the disposal instructions for 1080 wild dog baits in condition 4.8. Any incidents where there are reasonable grounds to suspect that non-target animals may have been poisoned by 1080 wild dog baits should be reported to the EPA.

#### ATTACHMENT 1

#### DANGEROUS POISON

KEEP OUT OF REACH OF CHILDREN

READ SAFETY DIRECTIONS BEFORE  
OPENING OR USING

#### 1080 POISONED BAIT

ACTIVE CONSTITUENT: mg\* of SODIUM  
FLUOROACETATE (1080) per bait

#### FOR THE CONTROL OF WILD DOGS OR FOXES

RESTRICTED CHEMICAL PRODUCT – ONLY TO  
BE SUPPLIED TO OR USED BY AN AUTHORISED  
PERSON

NOT TO BE USED FOR ANY PURPOSE OR IN ANY  
MANNER CONTRARY TO THIS LABEL UNLESS  
AUTHORISED UNDER APPROPRIATE LEGISLATION.

#### DIRECTIONS FOR USE:

When using this product to control wild dogs you must follow the conditions for use in Schedule 1 to Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010. When using this product to control foxes you must follow the conditions for use in Schedule 2 to Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010.

#### SAFETY DIRECTIONS:

Very dangerous. Poisonous if swallowed. When opening the bag and handling the bait wear elbow-length PVC or nitrile gloves. If product on skin immediately wash area with soap and water. After use and before eating, drinking or smoking, wash hands, arms and face thoroughly with soap and water. After each day's use wash PVC gloves and contaminated clothing.

#### FIRST AID:

If poisoning occurs, contact a doctor or Poisons Information Centre on 131126. Urgent hospital treatment is likely to be needed. If skin contact occurs, remove contaminated clothing and wash skin thoroughly. Remove person from contaminated area. Apply artificial respiration if not breathing. If in eyes, hold eyes open, flood with water for at least 15 minutes and see a doctor.

#### PROTECTION OF LIVESTOCK, DOMESTIC AND FARM DOGS:

Dogs are highly susceptible to the bait. Ensure all domestic and farm dogs are restrained during the baiting program.

#### PROTECTION OF WILDLIFE, FISH, CRUSTACEANS AND ENVIRONMENT:

Do not contaminate dams, streams, rivers or waterways with bait or this plastic bag.

#### TRANSPORT, STORAGE AND DISPOSAL:

This bait must be kept inside a secure location, away from food, children and domestic animals after procuring bait from an Authorised Control Officer. Store bait only in this approved plastic bag. Bait may only be placed in a refrigerator that is not used to store food. This bait should be used immediately but where this is not possible baits must be used within 7 days of acquiring it from an Authorised Control Officer. Do not allow bait to contaminate foodstuff or feed intended for human or animal consumption. Plastic bags which have held bait must not be used for any other

purpose. Triple or pressure rinse, break, crush or puncture this plastic bag before disposal. Dispose of rinsate and this plastic bag along with any unused baits in a disposal pit and cover with at least 500 mm of soil. The disposal pit must be specifically marked and set up for this purpose and be clear of waterways (permanent or ephemeral). This plastic bag may be disposed of in a disposal pit on the property where the baits were used or at a site approved by the Authorised Control Officer or in a local authority landfill. Burning of this plastic bag is permitted but only in accordance with provisions stated in the Schedules to Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010.

#### MANUFACTURER'S WARRANTY; EXCLUSION OF LIABILITY:

No responsibility is accepted in respect of this product save those not excludable conditions implied by any Federal and State Legislation.

- \* Wild dog baits contain 6mg of 1080 per bait. Fox baits contain 3mg of 1080 per bait

#### LIVESTOCK HEALTH AND PEST AUTHORITY

KG NET

### SCHEDULE 2

#### USE OF 1080 LIQUID CONCENTRATE AND 1080 BAIT PRODUCT FOR CONTROL OF FOXES

##### 1. PRODUCTION OF 1080 FOX BAIT

An Authorised Control Officer may produce 1080 bait material for the purpose of controlling foxes, but only in accordance with the following conditions:

- 1.1 An Authorised Control Officer may use 1080 liquid concentrate products to produce 1080 bait material. Where an Authorised Control Officer uses material to produce 1080 bait material, the Authorised Control Officer must only use fowl heads, chicken or turkey wingettes, boneless red meat, offal (tongue, kidney and liver), bird eggs, and manufactured sausage baits. Each red meat bait must weigh approximately one hundred (100) grams prior to any drying process. Persons preparing 1080 bait material must follow fox bait preparation instructions on the approved label of the 1080 liquid concentrate product. When using the ACTA 1080 Concentrate product or PAKS 1080 Concentrate product all bait material, as indicated above, must be injected with 0.1ml of the product per bait.
- 1.2 An Authorised Control Officer must not freeze any 1080 bait material produced as per condition 1.1.

##### 2. USE OF CERTAIN 1080 FOX BAIT PRODUCTS

- 2.1 A person authorised to use 1080 bait products under clause 9 of this Order must, when using 1080 bait products for the purpose of controlling foxes, only use the 1080 bait products referred to in conditions 2.2 and 2.3.
- 2.2 A person authorised to use 1080 bait products under clause 9 of this Order may use any 1080 bait products produced by an Authorised Control Officer under condition 1.1 above for the purpose of controlling foxes.
- 2.3 A person authorised to use 1080 bait products under clause 9 of this Order may use 1080 products that have been specifically manufactured for the control of foxes, are registered by the APVMA and approved for use of controlling foxes in NSW, such as Foxoff Fox

Bait (APVMA Product Registration Number 40573); Foxoff Econobait (APVMA Product Registration Number 46434) and Paks DE-FOX 1080 Fox Bait (APVMA Product Registration Number 58999) (and any other similar 1080 product that is produced after the commencement of this Order) for the purpose of controlling foxes.

- 2.4 A person must not freeze any 1080 fox bait produced as per condition 1.1.
- 2.5 1080 bait material prepared under condition 1.1 above and 1080 bait products referred to in condition 2.3 will henceforth be referred to as "1080 fox bait".

##### 3. POSSESSION OF 1080 FOX BAIT

A person authorised to possess 1080 fox bait under clause 9 of this Order must only do so in accordance with the following conditions:

- 3.1 An Authorised Control Officer may supply 1080 fox bait to a person authorised to possess 1080 fox bait. An Authorised Control Officer may conduct a risk assessment to determine if it is appropriate to supply 1080 fox baits to a person. Risk assessment guidelines can be found in the DII publication "Vertebrate Pest Control Manual". If the Authorised Control Officer makes a determination that it is not appropriate to supply a person with 1080 fox baits then the Authorised Control Officer must not give any 1080 fox bait to that person. The Authorised Control Officer may withhold 1080 fox baits, if, in the opinion of the Authorised Control Officer, they are not satisfied that the 1080 fox baits will be used safely or effectively by a person.
- 3.2 If an Authorised Control Officer withholds 1080 fox baits from a person, the officer must record in a logbook or diary the date, time and specific reasons for refusing to supply 1080 fox baits to a particular person.
- 3.3 An Authorised Control Officer must only supply 1080 fox baits in either a plastic bag labelled in accordance with attachment 1 or in a container supplied by the manufacturer of an APVMA registered 1080 fox bait product.
- 3.4 A person taking possession of 1080 fox baits must first complete and sign an indemnity or consent/indemnity form for each property on which 1080 fox bait is intended to be used. An Authorised Control Officer or an employee of an LHPA must give a copy of the indemnity or consent/indemnity form to any person taking possession of 1080 fox baits.
- 3.5 An Authorised Control Officer must issue 1080 fox baits only to the landholder of the land on which the 1080 fox baits are to be used, their authorised agent or a person under the direct supervision of the Authorised Control Officer.
- 3.6 An Authorised Control Officer or an employee of an LHPA issuing 1080 fox baits must give a copy of this pesticide control order with this Schedule to any person receiving 1080 fox baits from them.
- 3.7 An Authorised Control Officer issuing 1080 fox baits must establish that the intended end-user for the 1080 fox baits holds a qualification that meets the requirements of this Order before handing over 1080 fox baits. Where this cannot be established then 1080 fox baits must not be supplied.

- 3.8 All persons receiving 1080 fox baits from an Authorised Control Officer must only temporarily possess and store 1080 fox baits. 1080 fox baits must be stored in a lockable storage area away from children, animal food, foodstuffs, seed and fertiliser. Where 1080 fox bait is required to be placed in a refrigerator, the refrigerator must not be concurrently used to store food and must be located in a lockable storage area. All 1080 bait material for fox control must be used within seven (7) days. All unopened manufactured and registered 1080 bait product (such as Foxoff (both products) and DE-FOX product) must be returned to the issuing Authorised Control Officer within one (1) month of completion of the baiting program. All opened manufactured and registered 1080 bait product (such as Foxoff (both products) and DE-FOX product) must be destroyed within one (1) month of completion of the baiting program, by burial in accordance with condition 4.8 below.
- 3.9 Where NSW public authorities are coordinating baiting programs they must ensure that all persons involved in the baiting program return all unopened manufactured and registered 1080 bait products, such as Foxoff (both products) and DE-FOX product to an Authorised Control Officer within two (2) months of completion of the baiting program.
- 3.10 All persons receiving 1080 fox baits from an Authorised Control Officer must store 1080 fox baits in either the labelled plastic bag supplied by the Authorised Control Officer (labelled in accordance with attachment 1) or in a container supplied by the manufacturer of an APVMA registered 1080 fox bait product.
4. DIRECTIONS FOR USE – GENERAL RESTRICTIONS
- A person authorised to use 1080 fox bait under clause 9 of this Order must only do so in accordance with the following general conditions:
- 4.1 A person in possession of 1080 fox baits must transport and store the 1080 fox baits in such a way that other persons cannot access the 1080 fox baits. A person transporting 1080 fox baits must store the 1080 fox baits in a secure location of their vehicle when transporting 1080 fox baits.
- 4.2 A person must not place the 1080 fox baits in a position accessible to children, livestock or domestic animals or pets.
- 4.3 A person must not feed 1080 fox baits to non-target species.
- 4.4 A person must not apply 1080 fox baits to or in, crops which are in mid to late developmental stages. A person must not apply 1080 fox baits to or in, crops if application of 1080 fox baits is likely to lead to contamination of the crops.
- 4.5 A person must ensure that 1080 fox baits do not contaminate foodstuffs or feed, for human or non-target animal consumption.
- 4.6 A person must not use containers (including plastic bags) which have been used to contain 1080 fox baits for any other purpose and must dispose of such containers by burial or burning as follows:
- 4.6.1 Burial
- Containers (including plastic bags) must be buried as follows:
- (a) Containers must be triple rinsed or pressure rinsed;
- (b) Empty rinsed containers must be broken, crushed or punctured and disposed of either at the property where the 1080 fox baits were used or at a site approved by the Authorised Control Officer or in local authority landfill;
- (c) Containers and rinsate must be buried in a pit and covered with at least five hundred (500) mm of soil;
- (d) The disposal pit must be specifically marked and set up for this purpose and clear of waterways (permanent or ephemeral).
- 4.6.2 Burning
- Empty plastic bags must be burnt by open fire in accordance with an approval issued under the Protection of the Environment Operations (Clean Air) Regulation 2002. A person that disposes of plastic bags by way of burning must also comply with the following conditions:
- (a) The amount of plastic bags burnt at any premises on any single day must not exceed one hundred (100) bags without the prior written approval of the EPA.
- (b) The burning of plastic bags must be carried out at least five hundred (500) metres from any habitation.
- (c) The burning of plastic bags must be carried out in accordance with any requirement of the Rural Fires Act 1997 and the Fire Brigades Act 1989, as administered by the relevant local authority and the NSW Fire Brigades.
- (d) The open fire burning must not be carried out on a day subject to a no-burn notice declared by the EPA under provisions of the Protection of the Environment Operations Act 1997.
- (e) The burning of plastic bags must only be carried out in dry weather using such practicable means as may be necessary to minimise visible smoke emissions causing air pollution.
- 4.7 A person must not pollute dams, rivers, streams, waterways or drains with 1080 fox baits or used containers (including plastic bags). Pollution of waters is an offence under s 120 of the Protection of the Environment Operations Act 1997.
- 4.8 At the end of any ground baiting program conducted in accordance with this Schedule, a person using 1080 fox baits must make a reasonable effort to ensure that all untaken baits are collected and removed from baiting locations. All collected and unused 1080 fox baits must be disposed of as soon as possible at the property where the 1080 fox baits were used or in the case of a coordinated baiting program, on a property or location identified and agreed to by the Authorised Control Officer coordinating the program. All collected and unused 1080 fox baits must be buried in a disposal pit and must be buried under at least five hundred (500) mm of soil. The disposal pit must be clear of waterways (permanent or ephemeral) so as to not cause pollution of water in accordance with Part 5.3 of the Protection of the Environment Operations Act 1997.
- 4.9 At the end of any baiting program coordinated by an Authorised Control Officer, an Authorised Control

Officer or a person under their supervision may dispose of 1080 fox baits on a property or location identified for disposal by burying the 1080 fox baits at a depth of less than five hundred (500) mm of soil but only if the Authorised Control Officer has done a risk assessment and implements control measures that are appropriate to minimise the risk to non-target animals and the environment.

- 4.10 Ongoing baiting may be necessary in some instances to reduce the impacts of fox predation on native fauna. Such programs may be undertaken only if the risk to non-target species is low (see also 11.0 Risk to Domestic Animals and 12.0 Risk to Environment and Wildlife).

#### 5. DIRECTIONS FOR USE – DISTANCE RESTRICTIONS

A person authorised to use 1080 fox bait under clause 9 of this Order must only do so in accordance with the following distance restrictions:

- 5.1 The minimum distances for the laying of 1080 fox baits have been set to minimise the risk to people and to non-target animals. A person authorised to use 1080 fox baits must not place 1080 fox baits where they can be washed into or contaminate surface or groundwater. 1080 fox baits must not be laid in areas where distance restrictions cannot be met. Other fox control methods must be used in those areas.
- 5.2 1080 fox baits must not be laid within close proximity to urban areas unless the baiting program is planned in conjunction with, and has been approved by, an Authorised Control Officer. A program approved under this condition must include strategies for minimising risk to non-target animals. This condition applies to proposals for baiting in closely settled farming areas or areas within four (4) kilometres of a village or any street.
- 5.3 Property Boundary:
- 5.3.1 Ground Baiting: 1080 fox baits must not be laid within five (5) metres from any property boundary.
- 5.3.2 Aerial Baiting: 1080 fox baits must not be laid:
- within ten (10) metres from any property boundary by helicopter, or
  - within one hundred (100) metres from any property boundary when using a fixed winged aircraft. Use of fixed winged aircraft is restricted to Western Division only.
- 5.3.3 Exemption for Group Baiting: Conditions 5.3.1 and 5.3.2 do not apply to the laying of 1080 fox baits as part of a group baiting program that has been planned by an Authorised Control Officer and where that Officer has obtained written consent from the landholders involved in the baiting program for the laying of the 1080 fox baits. This exemption does not apply to property boundaries of landholders not involved in the baiting program.
- 5.4 Habitation:
- 5.4.1 Ground Baiting: 1080 fox baits must not be laid within one hundred and fifty (150) metres of a habitation except:
- where a landholder uses 1080 fox baits on their own property, in which case the

landholder may lay the 1080 fox baits at a distance of less than 150 metres from their own habitation provided they dig a shallow hole and bury the 1080 fox baits.

- where an Authorised Control Officer plans a baiting program, in which case the 1080 fox baits may be laid at less than 150 metres from a habitation, subject to the following conditions:
  - The Authorised Control Officer must undertake a risk assessment in accordance with the provisions of the DII Vertebrate Pest Control Manual (as in force from time to time) and determine that 1080 fox baits can be laid at distances of less than 150 metres from a habitation;
  - Any baiting program planned by an Authorised Control Officer must include strategies for minimising risk to non-target animals;
  - Any adjoining landholders must agree in writing to use or allow the use of 1080 fox baits as part of a coordinated fox control program at distances of less than 150 metres from a habitation on the landholder's property;
  - Where an Authorised Control Officer implements a coordinated fox control program, they must not implement the program UNLESS:
    - ALL the landholders in the group are made aware of the hazardous nature of 1080 fox baits in closely settled areas; AND
    - EVERY landholder in the group signs an agreement that they:
      - understand the hazards associated with the use of 1080 fox baits in closely settled areas; AND
      - agree to allow 1080 fox baits to be laid on adjoining properties at distances of less than 150 metres from any habitation on their property in writing; AND
      - agree to dig a shallow hole and bury any 1080 fox baits laid on their property at a distance of less than 150 metres from a habitation; AND
      - agree to allow implementation of a 1080 fox poisoning program and accept all responsibility for any problems arising from the program; AND
    - ALL the landholders of the outermost properties of the group abide by all the distance requirements in relation to adjoining properties not covered by the group activity.

- 5.4.2 Aerial Baiting: 1080 fox baits must not be laid:
- within five hundred (500) metres of a habitation by helicopter or
  - within one thousand (1000) metres of a habitation by a fixed wing aircraft. Use of fixed winged aircraft is restricted to the Western Division only.

5.5 Domestic Water Supply or Water Draw Point:

- 5.5.1 Ground Baiting: 1080 fox baits must not be laid within ten (10) metres of a domestic water supply.
- 5.5.2 Aerial Baiting: 1080 fox baits must not be laid:
- within twenty (20) metres of a domestic water supply by helicopter, or
  - within one hundred (100) metres of a domestic water supply by a fixed winged aircraft. Use of fixed winged aircraft is restricted to the Western Division only.

6. PUBLIC NOTIFICATION

A person authorised to use 1080 fox bait under clause 9 of this Order must notify certain persons of the use of 1080 fox baits in accordance with the following conditions:

- 6.1 A person must not lay any 1080 fox baits on any land unless the person has first given a minimum of three (3) days notice of the date on which they will lay 1080 fox baits. This notice must be given to the occupier, manager or authorised agent of every property which has a property boundary within one (1) kilometre of a baiting location ("notification").
- 6.2. The notification may be given by telephone, email or in person, or, where this is not possible, by mail (including letter box drop). If notification cannot be made by telephone, email, personal contact or mail or the number of persons to be notified is more than twenty five (25), then notification may be made by advertisement in a local newspaper. Likewise for large group baiting programs (more than 25 participants) organised or approved by an Authorised Control Officer, notification may be via advertisement in a local newspaper.
- 6.3 The use of 1080 fox baits may be conducted for longer than seven (7) days but must commence within ten (10) days of this notification otherwise further notification of intended baiting is required.
- 6.4 Where baiting programs are ongoing notification must be given every six (6) months.

7. EMERGENCY BAITING (Ground application only)

A person authorised to use 1080 fox bait under clause 9 of this Order may undertake emergency baiting, but only in accordance with the following conditions:

- 7.1 A person whose livestock are being attacked may lay 1080 fox baits (by way of ground baiting only) without the need to comply with condition 6.1 (3-day prior neighbour notification). A person who undertakes emergency baiting must, however, notify each landholder whose property boundary lies within one (1) kilometre of a baiting location before laying any 1080 fox baits. A person who undertakes emergency baiting may lay up to fifty (50) 1080 fox baits but only with the prior approval of an Authorised Control Officer.
- 7.2 A person who undertakes emergency baiting must comply with all requirements in relation to the use of 1080 fox baits, except as provided for in condition 7.1.

8. 1080 POISONING NOTICES

A person authorised to use 1080 fox bait under clause 9 of this Order must erect notices in accordance with the following conditions:

- 8.1 A person who uses 1080 fox baits must erect notices before laying 1080 fox baits on any land. These notices must remain up for a minimum of four (4) weeks after the last day of baiting. Notices must be placed:
- at every entry to the baiting location; and
  - at the main entrance to a private property or holding where baiting is undertaken; and
  - at up to five (5) kilometre intervals along all public thoroughfares which border or pass through the baiting location.
- 8.2 The notices must specify the following:
- that 1080 fox baits are being laid on this property; and
  - the dates on which 1080 fox baits are first laid or the dates between which baits will be laid; and
  - contact details of the person who will lay the 1080 fox baits; and
  - a warning that non-target animals may be affected.
- 8.3 Under the Pesticides Regulation 2009 (clauses 19 to 23) public authorities have additional public notification obligations that must be complied with. There are also other notification requirements in the Regulation.
- 8.4 1080 Poison Notices may be obtained from Authorised Control Officers.

9. GROUND BAITING WITH 1080 FOX BAIT

A person authorised to use 1080 fox bait under clause 9 of this Order must only undertake ground baiting in accordance with the following conditions:

- 9.1 A person who lays 1080 fox baits must:
- not lay more than four (4) 1080 fox baits per kilometre of trail or one (1) bait per five (5) hectares; and
  - not lay more than fifty (50) 1080 fox baits on any one (1) property or holding unless the baiting program is approved by an Authorised Control Officer; and
  - lay the 1080 fox baits in such a way that any untaken 1080 fox baits can be found readily and destroyed in accordance with condition 4.8.
- 9.2 1080 fox baits should be buried in a shallow hole and covered with soil. If practical, tether the 1080 fox baits to a fence and mark the burial spot. In National Parks and Reserves (includes council reserves) it is not necessary to mark the burial spot for 1080 fox baits.
- 9.3 A person who lays 1080 fox baits on a property of less than one hundred (100) ha must check the 1080 fox baits within five (5) days of laying the 1080 fox baits and must collect any untaken 1080 fox baits within seven (7) days of laying the 1080 fox bait. All untaken 1080 fox baits must be disposed of in accordance with condition 4.8. This condition does not prevent a person from replacing 1080 fox baits that are taken for a period of longer than seven (7) days where 1080 fox baits continue to be taken. Baiting undertaken as part of an approved site plan of the NSW Fox Threat Abatement Plan is exempt from this condition.

## 10. AERIAL BAITING WITH 1080 FOX BAIT

A person authorised to use 1080 fox bait under clause 9 of this Order must only undertake aerial baiting in accordance with the following conditions:

- 10.1 Aerial baiting for fox control should be restricted to areas where ground control is impractical or where it is necessary for the protection of threatened species. Approval for every aerial baiting program must be obtained from the Director-General of DII or his or her delegate. Aerial baiting must be organised through either LHPAs, DECCW or other NSW public authorities. All programs involving aerial application of 1080 fox baits must comply with the guidelines contained in the DII humane pest control codes of practice and standard operating procedures and DII Vertebrate Pest Control Manual and require careful planning and consultation. Your local LHPA has full details.
- 10.2 Notwithstanding any other condition contained in this Schedule, a person who undertakes aerial baiting must only use red meat or manufactured sausage baits for aerial baiting.
- 10.3 A pilot who operates an aircraft which is used to aerially apply 1080 fox baits must use onboard GPS navigation equipment mounted in the pilot's line of sight to navigate along agreed flight paths. The GPS navigation equipment must be of the type that has a moving map display with topographic features which provide accurate guidance to the pilot. The GPS equipment must have full data logging capabilities and all flight paths must be pre-programmed into the GPS navigation equipment before commencement of 1080 fox aerial baiting.
- 10.4 A pilot who operates an aircraft which is used to aerially apply 1080 fox baits must make a record of the GPS flight path which includes the start and finish drop point data, for 1080 fox bait, for each aerial run. The record must be kept for a period of at least three (3) years after the date on which the 1080 fox bait was aerially applied. A pilot must make any records available to the EPA on request.
- 10.5 The employer or contractor of a pilot must ensure that a pilot of any aircraft used to aerially apply 1080 fox baits complies with conditions 10.3 and 10.4.
- 10.6 A person coordinating or organising aerial baiting programs must ensure that pilots are given digitised flight paths for all areas where 1080 fox baits are to be dropped from an aircraft which is used to aerially apply 1080 fox baits.
- 10.7 A person on the aircraft that is responsible for dropping 1080 fox baits must not be given the task of navigating the aircraft. A pilot is responsible for navigation and must ensure that 1080 fox baits are dropped along the agreed flight path.
- 10.8 A person who drops 1080 fox baits from an aircraft which is used to aerially apply 1080 fox baits must hold as a minimum the qualification specified in clause 9 (2) (c) (iii) (A) of this Order.
- 10.9 A person who drops 1080 fox baits from an aircraft which is used to aerially apply 1080 fox baits must not drop more than ten (10) 1080 fox baits per kilometre of agreed flight path on any land in NSW.

## 11. RISK TO DOMESTIC ANIMALS

- 11.1 A person who uses 1080 fox baits should avoid poisoning of domestic pets. As 1080 is particularly lethal to domestic dogs, the person using the baits should advise neighbours to tie up dogs and ensure they do not enter the baiting location during poisoning operations or to muzzle dogs if paddocks have to be mustered after poisoning. In the event of accidental poisoning seek immediate veterinary assistance.

## 12. RISK TO ENVIRONMENT AND WILDLIFE

- 12.1 A person who uses 1080 fox baits must not pollute streams, rivers or waterways with 1080 fox baits or plastic bags and containers that have held 1080 fox baits.
- 12.2 1080 fox baits may be toxic to some native wildlife. To the extent possible, the person using the 1080 fox baits should time baiting programs for when non-target species are least active or least susceptible.
- 12.3 To the extent possible, a person who uses 1080 fox baits should recover carcasses of animals poisoned by 1080 fox baits and bury them in accordance with the disposal instructions for 1080 fox baits in condition 4.8. Any incidents where there are reasonable grounds to suspect that non-target animals may have been poisoned by 1080 fox baits should be reported to the EPA.

## ATTACHMENT 1

**DANGEROUS POISON**

KEEP OUT OF REACH OF CHILDREN

READ SAFETY DIRECTIONS BEFORE  
OPENING OR USING**1080 POISONED BAIT**ACTIVE CONSTITUENT: mg\* of SODIUM  
FLUOROACETATE (1080) per bait**FOR THE CONTROL OF WILD DOGS OR FOXES**RESTRICTED CHEMICAL PRODUCT – ONLY TO  
BE SUPPLIED TO OR USED BY AN AUTHORISED  
PERSONNOT TO BE USED FOR ANY PURPOSE OR IN ANY  
MANNER CONTRARY TO THIS LABEL UNLESS  
AUTHORISED UNDER APPROPRIATE LEGISLATION.

## DIRECTIONS FOR USE:

When using this product to control wild dogs you must follow the conditions for use in Schedule 1 to Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010. When using this product to control foxes you must follow the conditions for use in Schedule 2 to Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010.

## SAFETY DIRECTIONS:

Very dangerous. Poisonous if swallowed. When opening the bag and handling the bait wear elbow-length PVC or nitrile gloves. If product on skin immediately wash area with soap and water. After use and before eating, drinking or smoking, wash hands, arms and face thoroughly with soap and water. After each day's use wash PVC gloves and contaminated clothing.

**FIRST AID:**

If poisoning occurs, contact a doctor or Poisons Information Centre on 131126. Urgent hospital treatment is likely to be needed. If skin contact occurs, remove contaminated clothing and wash skin thoroughly. Remove person from contaminated area. Apply artificial respiration if not breathing. If in eyes, hold eyes open, flood with water for at least 15 minutes and see a doctor.

**PROTECTION OF LIVESTOCK, DOMESTIC AND FARM DOGS:**

Dogs are highly susceptible to the bait. Ensure all domestic and farm dogs are restrained during the baiting program.

**PROTECTION OF WILDLIFE, FISH, CRUSTACEANS AND ENVIRONMENT:**

Do not contaminate dams, streams, rivers or waterways with bait or this plastic bag.

**TRANSPORT, STORAGE AND DISPOSAL:**

This bait must be kept inside a secure location, away from food, children and domestic animals after procuring bait from an Authorised Control Officer. Store bait only in this approved plastic bag. Bait may only be placed in a refrigerator that is not used to store food. This bait should be used immediately but where this is not possible baits must be used within 7 days of acquiring it from an Authorised Control Officer. Do not allow bait to contaminate foodstuff or feed intended for human or animal consumption. Plastic bags which have held bait must not be used for any other purpose. Triple or pressure rinse, break, crush or puncture this plastic bag before disposal. Dispose of rinsate and this plastic bag along with any unused baits in a disposal pit and cover with at least 500 mm of soil. The disposal pit must be specifically marked and set up for this purpose and be clear of waterways (permanent or ephemeral). This plastic bag may be disposed of in a disposal pit on the property where the baits were used or at a site approved by the Authorised Control Officer or in a local authority landfill. Burning of this plastic bag is permitted but only in accordance with provisions stated in the Schedules to Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010.

**MANUFACTURER'S WARRANTY; EXCLUSION OF LIABILITY:**

No responsibility is accepted in respect of this product save those not excludable conditions implied by any Federal and State Legislation.

- \* Wild dog baits contain 6mg of 1080 per bait. Fox baits contain 3mg of 1080 per bait

**LIVESTOCK HEALTH AND PEST AUTHORITY**

KG NET

**SCHEDULE 3****USE OF 1080 LIQUID CONCENTRATE AND 1080 BAIT PRODUCT FOR CONTROL OF FERAL PIGS****1. PRODUCTION OF 1080 FERAL PIG BAIT**

An Authorised Control Officer may produce 1080 bait material for the purpose of controlling feral pigs, but only in accordance with the following conditions:

- 1.1 An Authorised Control Officers may use 1080 liquid concentrate products to produce 1080 bait material. Where an Authorised Control Officer uses material to produce 1080 bait material, the Authorised Control Officer must only use grain and manufactured pellets.

Persons preparing 1080 bait material must follow feral pig bait preparation instructions on the approved label of the 1080 liquid concentrate product. When using the ACTA 1080 Concentrate product or PAKS 1080 Concentrate product, grain bait material must be mixed at the rate of 15ml of product per kilogram of grain and manufactured pellets must be mixed at the rate of 16ml of product per kilogram of pellets.

- 1.2 An Authorised Control Officer must use a blue coloured 1080 liquid concentrate in the preparation of 1080 bait material except in habitats occupied by the Satin Bower Bird. In these situations 1080 bait material must be produced using a green coloured 1080 liquid concentrate.

**2. USE OF CERTAIN 1080 FERAL PIG BAIT PRODUCTS**

- 2.1 A person authorised to use 1080 bait products under clause 9 of this Order must, when using 1080 bait products for the purpose of controlling feral pigs, only use the 1080 bait products referred to in conditions 2.2 and 2.3.
- 2.2 A person authorised to use 1080 bait products under clause 9 of this Order may use any 1080 bait products produced by an Authorised Control Officer under condition 1.1 above for the purpose of controlling feral pigs.
- 2.3 A person authorised to use 1080 bait products under clause 9 of this Order may use 1080 products that have been specifically manufactured for the control of feral pigs, are registered by the APVMA and approved for the use of controlling feral pigs in NSW, such as Pigout Feral Pig Bait (APVMA Product Registration Number 61293) (and any other similar 1080 product that is produced after the commencement of this Order) for the purpose of controlling feral pigs.
- 2.4 1080 bait material prepared under condition 1.1 above and 1080 bait products referred to in condition 2.3 will henceforth be referred to as "1080 feral pig bait".

**3. POSSESSION OF 1080 FERAL PIG BAIT**

A person authorised to possess 1080 feral pig bait under clause 9 of this Order must only do so in accordance with the following conditions:

- 3.1 An Authorised Control Officer may supply 1080 feral pig bait to a person authorised to possess 1080 feral pig bait. An Authorised Control Officer may conduct a risk assessment to determine if it is appropriate to supply 1080 feral pig baits to a person. Risk assessment guidelines can be found in the DII publication "Vertebrate Pest Control Manual". If the Authorised Control Officer makes a determination that it is not appropriate to supply a person with 1080 feral pig baits then the Authorised Control Officer must not give any 1080 feral pig bait to that person. The Authorised Control Officer may withhold 1080 feral pig baits, if, in the opinion of the Authorised Control Officer, they are not satisfied that the 1080 feral pig baits will be used safely or effectively by a person.
- 3.2 If an Authorised Control Officer withholds 1080 feral pig baits from a person, the officer must record in a logbook or diary, the date, time and specific reasons for refusing to supply 1080 feral pig baits to a particular person.
- 3.3 An Authorised Control Officer must only supply 1080 feral pig baits in either a plastic bag labeled in

- accordance with attachment 1 or in a container supplied by the manufacturer of an APVMA registered 1080 feral pig bait product.
- 3.4 A person taking possession of 1080 feral pig baits must first complete and sign an indemnity or consent/indemnity form for each property on which 1080 feral pig bait is intended to be used. An Authorised Control Officer or an employee of an LHPA must give a copy of the indemnity or consent/indemnity form to any person taking possession of 1080 feral pig baits.
- 3.5 An Authorised Control Officer must issue 1080 feral pig baits only to the landholder of the land on which the 1080 feral pig baits are to be used, their authorised agent or a person under the direct supervision of the Authorised Control Officer.
- 3.6 An Authorised Control Officer or an employee of an LHPA issuing 1080 feral pig baits must give a copy of this pesticide control order with this Schedule to any person receiving 1080 feral pig baits from them.
- 3.7 An Authorised Control Officer issuing 1080 feral pig baits must establish that the intended end-user for the 1080 feral pig baits holds a qualification that meets the requirements of this Order before handing over 1080 feral pig baits. Where this cannot be established then 1080 feral pig baits must not be supplied.
- 3.8 All persons receiving 1080 feral pig baits from an Authorised Control Officer must only temporarily possess and store 1080 feral pig baits. 1080 feral pig baits must be stored in a lockable storage area away from children, animal food, foodstuffs, seed and fertiliser. Where 1080 feral pig bait is required to be placed in a refrigerator, the refrigerator must not be concurrently used to store food and must be located in a lockable storage area. All 1080 bait material for feral pig control must be used within seven (7) days. All unopened manufactured and registered 1080 bait product (such as Pigout Feral Pig Bait product) must be returned to the issuing Authorised Control Officer within two (2) months (three (3) months in the Western Division) of completion of the baiting program. All opened manufactured and registered 1080 bait product (such as Pigout Feral Pig Bait product) must be destroyed within two (2) months (three (3) months in Western Division) after completion of the baiting program, by burial in accordance with condition 4.9 below.
- 3.9 All persons receiving 1080 feral pig baits from an Authorised Control Officer must store 1080 feral pig baits in either the labelled plastic bag supplied by the Authorised Control Officer (labelled in accordance with attachment 1) or in a container supplied by the manufacturer of an APVMA registered 1080 feral pig bait product.
4. DIRECTIONS FOR USE – GENERAL RESTRICTIONS
- A person authorised to use 1080 feral pig bait under clause 9 of this Order must only do so in accordance with the following general conditions:
- 4.1 A person in possession of 1080 feral pig baits must transport and store the 1080 feral pig baits in such a way that other persons cannot access the 1080 feral pig baits. A person transporting 1080 feral pig baits must store the 1080 feral pig baits in a secure location of their vehicle when transporting 1080 feral pig baits.
- 4.2 A person must not place the 1080 feral pig baits in a position accessible to children, livestock, domestic animals or pets.
- 4.3 A person must not feed 1080 feral pig baits to non-target species.
- 4.4 A person must not apply 1080 feral pig baits to or in, crops which are in mid to late developmental stages. A person must not apply 1080 feral pig baits to or in, crops if application of 1080 feral pig baits is likely to lead to contamination of the crops.
- 4.5 A person must not lay 1080 feral pig baits on more than three (3) consecutive days. Adequate free feeding will minimise the number of pigs that remain after this 3-day baiting period. Further free feeding in accordance with condition 8.2 can be undertaken to determine the amount of bait material required to control any remaining pigs. This amount of 1080 feral pig baits may then be laid for no more than three (3) consecutive days. The total number of days on which 1080 feral pig baits are laid must not exceed six (6) days during any 14-day notification period.
- 4.6 A person must ensure that 1080 feral pig baits do not contaminate foodstuffs or feed, for human or non-target animal consumption.
- 4.7 A person must not use containers (including plastic bags) which have been used to contain 1080 feral pig baits for any other purpose and must dispose of such containers by burial or burning as follows:
- 4.7.1 Burial
- Containers (including plastic bags) must be buried as follows:
- Containers must be triple rinsed or pressure rinsed;
  - Empty rinsed containers must be broken, crushed or punctured and disposed of either at the property where the 1080 feral pig baits were used or at a site approved by the Authorised Control Officer or in local authority landfill;
  - Containers and rinsate must be buried in a pit and covered with at least five hundred (500) mm of soil;
  - The disposal pit must be specifically marked and set up for this purpose and clear of waterways (permanent or ephemeral).
- 4.7.2 Burning
- Empty plastic bags must be burnt by open fire in accordance with an approval issued under the Protection of the Environment Operations (Clean Air) Regulation 2002. A person that disposes of plastic bags by way of burning must also comply with the following conditions:
- The amount of plastic bags burnt at any premises on any single day must not exceed one hundred (100) bags without the prior written approval of the EPA.
  - The burning of plastic bags must be carried out at least five hundred (500) metres from any habitation.
  - The burning of plastic bags must be carried out in accordance with any requirement of the Rural Fires Act 1997 and the Fire Brigades Act 1989, as administered by the

- relevant local authority and the NSW Fire Brigades.
- (d) The open fire burning must not be carried out on a day subject to a no-burn notice declared by the EPA under provisions of the Protection of the Environment Operations Act 1997.
- (e) The burning of plastic bags must only be carried out in dry weather using such practicable means as may be necessary to minimise visible smoke emissions causing air pollution.
- 4.8 A person must not pollute dams, rivers, streams, waterways or drains with 1080 feral pig baits or used containers (including plastic bags). Pollution of waters is an offence under s 120 of the Protection of the Environment Operations Act 1997.
- 4.9 At the end of any ground baiting program conducted in accordance with this Schedule, a person using 1080 feral pig baits must make a reasonable effort to ensure that all untaken baits are collected and removed from baiting locations. All collected and unused 1080 feral pig baits must be disposed of as soon as possible at the property where the 1080 feral pig baits were used or in the case of a coordinated baiting program, on a property or location identified and agreed to by the Authorised Control Officer coordinating the program. All collected and unused 1080 feral pig baits must be buried in a disposal pit and must be buried under at least five hundred (500) mm of soil. The disposal pit must be clear of waterways (permanent or ephemeral) so as to not cause pollution of water in accordance with Part 5.3 of the Protection of the Environment Operations Act 1997.
- 4.10 Ongoing baiting may be necessary in some instances to reduce the impact of feral pigs in environmentally sensitive areas. Such programs may be undertaken only if the risk to non-target species is low (see also 11.0 Risk to Domestic Animals and 12.0 Risk to Environment and Wildlife).
5. DIRECTIONS FOR USE – DISTANCE RESTRICTIONS
- A person authorised to use 1080 feral pig bait under clause 9 of this Order must only do so in accordance with the following distance restrictions:
- 5.1. The minimum distances for the laying of 1080 feral pig baits have been set to minimise the risk to people and to non-target animals. A person authorised to use 1080 feral pig baits must not place 1080 feral pig baits where they can be washed into or contaminate surface or ground waters. 1080 feral pig baits must not be laid in areas where distance restrictions cannot be met. Other feral pig control methods must be used in those areas.
- 5.2 1080 feral pig baits must not be laid within close proximity to urban areas unless the baiting program is planned in conjunction with, and has been approved by, an Authorised Control Officer. A program approved under this condition must include strategies for minimising risk to non-target animals. This condition applies to proposals for baiting in closely settled farming areas or areas within four (4) kilometres of a village or any street.
- 5.3 Property Boundary:
- 5.3.1 Ground Baiting: 1080 feral pig baits must not be laid within five (5) metres from any property boundary.
- 5.3.2 Aerial Baiting: 1080 feral pig baits must not be laid within one hundred (100) metres from any property boundary by helicopter. A fixed winged aircraft cannot be used to aurally apply 1080 feral pig baits.
- 5.3.3 Exemption for Group Baiting: Conditions 5.3.1 and 5.3.2 do not apply to the laying of 1080 feral pig baits as part of a group baiting program that has been planned by an Authorised Control Officer and where that Officer has obtained written consent from the landholders involved in the baiting program for the laying of the 1080 feral pig baits. This exemption does not apply to property boundaries of landholders not involved in the baiting program.
- 5.4 Habitation:
- 5.4.1 Ground Baiting: 1080 feral pig baits must not be laid within five hundred (500) metres of a habitation except:
- (a) where a landholder uses 1080 feral pig baits on their own property, in which case the landholder may lay the 1080 feral pig baits at a distance of less than five hundred (500) metres but no closer than one hundred and fifty (150) metres from their own habitation.
- (b) where an Authorised Control Officer plans a baiting program, in which case the 1080 feral pig baits may be laid at less than 500 metres but no closer than 150 metres from a habitation, subject to the following conditions:
- (i) The Authorised Control Officer must undertake a risk assessment in accordance with the provisions of the DII Vertebrate Pest Control Manual (as in force from time to time) and determine that 1080 feral pig baits can be laid at distances of less than 500 metres but no closer than 150 metres from a habitation;
- (ii) Any baiting program planned by an Authorised Control Officer must include strategies for minimising risk to non-target animals;
- (iii) Any adjoining landholders must agree in writing to use or allow the use of 1080 feral pig baits as part of a coordinated feral pig control program at distances of less than 500 metres but no closer than 150 metres from a habitation on the landholder's property;
- (iv) Where an Authorised Control Officer implements a coordinated feral pig control program, they must not implement the program UNLESS:
- (1) ALL the landholders in the group are made aware of the hazardous nature of 1080 feral pig baits in closely settled areas; AND

- (2) EVERY landholder in the group signs an agreement that they:
- (A) understand the hazards associated with the use of 1080 feral pig baits in closely settled areas; AND
  - (B) agree to allow 1080 feral pig baits to be laid on adjoining properties at distances of less than 500 metres but no closer than 150 metres from any habitation on their property in writing; AND
  - (C) agree to allow implementation of a 1080 feral pig poisoning program and accept all responsibility for any problems arising from the program; AND
- (3) ALL the landholders of the outermost properties of the group abide by all the distance requirements in relation to adjoining properties not covered by the group activity.
- 5.4.2 Aerial Baiting: 1080 feral pig baits must not be laid within five hundred (500) metres from any habitation by helicopter except:
- (a) where a landholder uses 1080 feral pig baits on their own property, in which case the landholder may lay the 1080 feral pig baits at a distance of less than five hundred (500) metres but no closer than one hundred and fifty (150) metres from their own habitation.
  - (b) where an Authorised Control Officer plans a baiting program, in which case the 1080 feral pig baits may be laid at less than 500 metres but no closer than 150 metres from a habitation, subject to the following conditions:
    - (i) The Authorised Control Officer must undertake a risk assessment in accordance with the provisions of the DII Vertebrate Pest Control Manual (as in force from time to time) and determine that 1080 feral pig baits can be laid at distances of less than 500 metres but no closer than 150 metres from a habitation;
    - (ii) Any baiting program planned by an Authorised Control Officer must include strategies for minimising risk to non-target animals;
    - (iii) Any adjoining landholders must agree in writing to use or allow the use of 1080 feral pig baits as part of a coordinated feral pig control program at distances of less than 500 metres but no closer than 150 metres from a habitation on the landholder's property;
    - (iv) Where an Authorised Control Officer implements a coordinated feral pig control program, they must not implement the program UNLESS:
      - (1) ALL the landholders in the group are made aware of the hazardous nature of 1080 feral pig baits in closely settled areas; AND
      - (2) EVERY landholder in the group signs an agreement that they:
        - (A) understand the hazards associated with the use of 1080 feral pig baits in closely settled areas; AND
        - (B) agree to allow 1080 feral pig baits to be laid on adjoining properties at distances of less than 500 metres but no closer than 150 metres from any habitation on their property in writing; AND
        - (C) agree to allow implementation of a 1080 feral pig poisoning program and accept all responsibility for any problems arising from the program; AND
      - (3) ALL the landholders of the outermost properties of the group abide by all the distance requirements in relation to adjoining properties not covered by the group activity.
- A fixed winged aircraft cannot be used to aerially apply 1080 feral pig baits.
- 5.5 Domestic Water Supply or Water Draw Point:
- 5.5.1 Ground Baiting: 1080 feral pig baits must not be laid within twenty (20) metres of a domestic water supply. Large water storage facilities such as Eucumbene, Wyangala and Chaffey dams must not be ground baited with 1080 feral pig baits to a distance of less than ten (10) metres of the waterline.
- 5.5.2 Aerial Baiting: 1080 feral pig baits must not be laid within two hundred (200) metres of a domestic water supply or water draw point by helicopter. A fixed winged aircraft cannot be used to aerially apply 1080 feral pig baits.
- 5.6 Public Roads:
- 5.6.1 Ground Baiting: 1080 feral pig baits must not be laid within twenty (20) metres of a public road.
- 5.6.2 Aerial Baiting: 1080 feral pig baits must not be laid within two hundred (200) metres of a public road by helicopter. A fixed winged aircraft cannot be used to aerially apply 1080 feral pig baits.
6. PUBLIC NOTIFICATION
- A person authorised to use 1080 feral pig bait under clause 9 of this Order must notify certain persons of the use of 1080 feral pig baits in accordance with the following conditions:
- 6.1 A person must not lay any 1080 feral pig baits on any land unless the person has first given a minimum of three (3) days notice of the date on which they will lay 1080 feral pig baits. This notice must be given to the occupier, manager or authorised agent of every property which has a property boundary within one (1) kilometre of the baiting location ("notification").

- 6.2. The notification may be given by telephone, email or in person, or, where this is not possible, by mail (including letter box drop). If notification cannot be made by telephone, email, personal contact or mail or the number of persons to be notified is more than twenty five (25), then notification may be made by advertisement in a local newspaper.
- 6.3. A person must begin using 1080 feral pig bait within ten (10) days of notification and must complete use within fourteen (14) days of notification. Further notification is required for use of 1080 feral pig baits beyond this 14-day period.
- 6.4. Where baiting programs are ongoing notification must be given every six (6) months.
- 7. 1080 POISONING NOTICES**
- A person authorised to use 1080 feral pig bait under clause 9 of this Order must erect notices in accordance with the following conditions:
- 7.1. A person who uses 1080 feral pig baits must erect notices before laying 1080 feral pig baits on any land. These notices must remain up for a minimum of four (4) weeks after the last day of baiting. Notices must be placed:
- at every entry to the baiting location; and
  - at the main entrance to a private property or holding where baiting is undertaken; and
  - at up to five (5) kilometre intervals along all public thoroughfares which border or pass through the baiting location.
- 7.2. The notices must specify the following:
- that 1080 feral pig baits are being laid on this property; and
  - the dates on which 1080 feral pig baits are first laid or the dates between which baits will be laid; and
  - contact details of the person who will lay the 1080 feral pig baits; and
  - a warning that non-target animals may be affected.
- 7.3. Under the Pesticides Regulation 2009 (clauses 19 to 23) public authorities have additional public notification obligations that must be complied with. There are also other notification requirements in the Regulation.
- 7.4. 1080 Poison Notices may be obtained from Authorised Control Officers.
- 8. GROUND BAITING WITH 1080 FERAL PIG BAIT**
- A person authorised to use 1080 feral pig bait under clause 9 of this Order must only undertake ground baiting in accordance with the following conditions:
- 8.1. Free feeding: Free feeding is compulsory. A person must free feed to determine the appropriate amount of 1080 feral pig bait to use before undertaking any ground baiting using 1080 feral pig baits. A person may use any feedstuff except meat, offal and swill as a free feed. A person must free feed by laying unpoisoned bait for at least three (3) nights before undertaking any ground baiting using 1080 feral pig baits. This period may need to be extended to ensure all feral pigs in the area are feeding on the bait. A person must adjust the amount of free feed on each occasion so that only a small amount is left on the final free feed (“final consumption”) before undertaking ground baiting using 1080 feral pig baits under condition 8.2 and 8.3.
- 8.2. A person who lays 1080 feral pig baits must:
- only apply an amount of 1080 feral pig bait as determined by the final consumption of free feed (see DII humane pest animal control codes of practice and standard operating procedures and the NSW Vertebrate Pest Control Manual as in force from time to time); and
  - lay the 1080 feral pig baits in such a way that any uneaten 1080 feral pig baits can be readily found and destroyed in accordance with condition 4.9.
- 8.3. Bait selection and placement: All 1080 feral pig bait must be placed in bait stations and must not be used in trails, except where a property does not have any livestock or has removed the livestock from the baiting location, in which case a person may place 1080 feral pig bait in a bait station that is not fenced. In such cases, a person must mark the location of the bait station so that any untaken baits can be easily located and disposed of in accordance with condition 4.9. In this condition, a bait station means a fenced enclosure or exclosure that excludes livestock and contains a shallow hole to hold bait material.
- 8.4. 1080 feral pig baits must not be used for more than three (3) consecutive days. Any bait still left on the ground after three (3) days must be collected and buried in a disposal pit in accordance with condition 4.9. If necessary, free feeding may be started again to determine if any pigs remain.
- 9. AERIAL BAITING WITH 1080 FERAL PIG BAIT**
- A person authorised to use 1080 feral pig bait under clause 9 of this Order must only undertake aerial baiting in accordance with the following conditions:
- 9.1. Aerial baiting should be restricted to areas where ground control is impractical and where impacts are likely to be significant. Approval for every aerial baiting program must be obtained from the Director-General of DII or his or her delegate. Aerial baiting must be organised through either LHPAs, DECCW or other NSW public authorities. All programs involving aerial application of 1080 feral pig baits must comply with the guidelines contained in the DII humane pest animal control codes of practice and standard operating procedures and NSW Vertebrate Pest Control Manual and require careful planning and consultation. Your local LHPA has full details.
- 9.2. Notwithstanding any other condition contained in this Schedule, a person who undertakes aerial baiting must only use Pigout Feral Pig Bait for aerial baiting and only by helicopter.
- 9.3. A pilot who operates an aircraft which is used to aerially apply 1080 feral pig baits must use onboard GPS navigation equipment mounted in the pilot’s line of sight to navigate along agreed flight paths. The GPS navigation equipment must be of the type that has a moving map display with topographic features which provide accurate guidance to the pilot. The GPS equipment must have full data logging capabilities and all flight paths must be pre-programmed into the GPS navigation equipment before commencement of 1080 feral pig aerial baiting.

- 9.4 A pilot who operates an aircraft which is used to aerially apply 1080 feral pig baits must make a record of the GPS flight path which includes the start and finish drop point data, for 1080 feral pig bait, for each aerial run. The record must be kept for a period of at least three (3) years after the date on which the 1080 feral pig bait was aerially applied. A pilot must make any records available to the EPA on request.
- 9.5 The employer or contractor of a pilot must ensure that a pilot of any aircraft used to aerially apply 1080 feral pig baits complies with conditions 9.3 and 9.4.
- 9.6 A person coordinating or organising aerial baiting programs must ensure that pilots are given digitised flight paths for all areas where 1080 feral pig baits are to be dropped from an aircraft which is used to aerially apply 1080 feral pig baits.
- 9.7 A person on the aircraft that is responsible for dropping 1080 feral pig baits must not be given the task of navigating the aircraft. A pilot is responsible for navigation and must ensure that 1080 feral pig baits are dropped along the agreed flight path.
- 9.8 A person who drops 1080 feral pig baits from an aircraft which is used to aerially apply 1080 feral pig baits must hold as a minimum the qualification specified in clause 9 (2) (c) (iii) (A) of this Order.
10. RISK TO DOMESTIC ANIMALS
- 10.1 A person who uses 1080 feral pig baits should avoid poisoning of domestic pets. As 1080 is particularly lethal to domestic dogs, the person using the baits should advise neighbours to tie up dogs and ensure they do not enter the baiting location during poisoning operations or to muzzle dogs if paddocks have to be mustered after poisoning. In the event of accidental poisoning seek immediate veterinary assistance. Where practicable, remove feral pig carcasses from the control area and dispose of carcasses by burial as specified in condition 4.9.
11. RISK TO ENVIRONMENT AND WILDLIFE
- 11.1 A person who uses 1080 feral pig baits must not pollute streams, rivers or waterways with 1080 feral pig baits or plastic bags and containers that have held 1080 feral pig baits.
- 11.2 1080 feral pig baits may be toxic to some birds and other native wildlife. Bait placement and/or bait station design should be such that non-target access is minimised. To the extent possible, the person using the 1080 feral pig baits should time baiting programs for when non-target species are least active or least susceptible.
- 11.3 To the extent possible, a person who uses 1080 feral pig baits should recover carcasses of animals poisoned by 1080 feral pig baits and bury them in accordance with the disposal instructions for 1080 feral pig baits in condition 4.9. Any incidents where there are reasonable grounds to suspect that non-target animals may have been poisoned by 1080 feral pig baits should be reported to the EPA.

## ATTACHMENT 1

**DANGEROUS POISON**

KEEP OUT OF REACH OF CHILDREN

READ SAFETY DIRECTIONS BEFORE OPENING OR USING

**1080 POISONED BAIT**

ACTIVE CONSTITUENT: grams\* of SODIUM FLUOROACETATE (1080) per kg of bait material

**FOR THE CONTROL OF RABBITS OR FERAL PIGS**

RESTRICTED CHEMICAL PRODUCT – ONLY TO BE SUPPLIED TO OR USED BY AN AUTHORISED PERSON

NOT TO BE USED FOR ANY PURPOSE OR IN ANY MANNER CONTRARY TO THIS LABEL UNLESS AUTHORISED UNDER APPROPRIATE LEGISLATION.

## DIRECTIONS FOR USE:

When using this product to control feral pigs you must follow the conditions for use in Schedule 3 to Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010. When using this product to control rabbits you must follow the conditions for use in Schedule 4 to Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010.

## SAFETY DIRECTIONS:

Very dangerous. Poisonous if swallowed. When opening the bag and handling the bait wear elbow-length PVC or nitrile gloves. If product on skin immediately wash area with soap and water. After use and before eating, drinking or smoking, wash hands, arms and face thoroughly with soap and water. After each day's use wash PVC gloves and contaminated clothing.

## FIRST AID:

If poisoning occurs, contact a doctor or Poisons Information Centre on 131126. Urgent hospital treatment is likely to be needed. If skin contact occurs, remove contaminated clothing and wash skin thoroughly. Remove person from contaminated area. Apply artificial respiration if not breathing. If in eyes, hold eyes open, flood with water for at least 15 minutes and see a doctor.

## PROTECTION OF LIVESTOCK, DOMESTIC AND FARM DOGS:

Remove all livestock from baited area except where baits have been placed in a fenced bait station that excludes livestock. Dogs are highly susceptible to the bait or possibly from secondary poisoning (consuming carcasses of animals poisoned by 1080). Ensure all domestic and farm dogs are restrained during the baiting program.

## PROTECTION OF WILDLIFE, FISH, CRUSTACEANS AND ENVIRONMENT:

Do not contaminate dams, streams, rivers or waterways with bait or this plastic bag.

## TRANSPORT, STORAGE AND DISPOSAL:

This bait must be kept inside a secure location, away from food, children and domestic animals after procuring bait from an Authorised Control Officer. Store bait only in this approved plastic bag. Bait may only be placed in a refrigerator that is not used to store food. This bait should be used immediately but where this is not possible baits must

be used within 7 days of acquiring it from an Authorised Control Officer. Do not allow bait to contaminate foodstuff or feed intended for human or animal consumption. Plastic bags which have held bait must not be used for any other purpose. Triple or pressure rinse, break, crush or puncture this plastic bag before disposal. Dispose of rinsate and this plastic bag along with any unused baits in a disposal pit and cover with at least 500 mm of soil. The disposal pit must be specifically marked and set up for this purpose and be clear of waterways (permanent or ephemeral). This plastic bag may be disposed of in a disposal pit on the property where the baits were used or at a site approved by the Authorised Control Officer or in a local authority landfill. Burning of this plastic bag is permitted but only in accordance with provisions stated in the Schedules to Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010.

#### MANUFACTURER'S WARRANTY; EXCLUSION OF LIABILITY:

No responsibility is accepted in respect of this product save those not excludable conditions implied by any Federal and State Legislation.

#### \* Rabbits:

One kilogram of carrots contains 0.18g of 1080; one kilogram of oats contains 0.36g of 1080; one kilogram of pellets contains 0.45g of 1080

#### Feral Pigs:

One kilogram of grain contains 0.3- 0.45g of 1080; one kilogram of pellets contains 0.48g of 1080

#### LIVESTOCK HEALTH AND PEST AUTHORITY

KG NET

#### SCHEDULE 4

#### USE OF 1080 LIQUID CONCENTRATE AND 1080 BAIT PRODUCT FOR CONTROL OF RABBITS

##### 1. PRODUCTION OF 1080 RABBIT BAIT

An Authorised Control Officer may produce 1080 bait material for the purpose of controlling rabbits, but only in accordance with the following conditions:

- 1.1 An Authorised Control Officers may use 1080 liquid concentrate products to produce 1080 bait material. Where an Authorised Control Officer uses material to produce 1080 bait material, the Authorised Control Officer must only use oats, manufactured pellets and carrots. An Authorised Control Officer must dice carrots into pieces approximately two (2) centimetres by two (2) centimetres in size or five (5) grams in weight. Persons preparing 1080 bait material must follow rabbit bait preparation instructions on the approved label of the 1080 liquid concentrate. When using the ACTA 1080 Concentrate product or PAKS 1080 Concentrate product, oat bait material must be mixed at the rate of 12ml of product per kilogram of oats, manufactured pellets must be mixed at the rate of 15ml of product per kilogram of pellets, and carrot bait material must be mixed at the rate of 6ml of product per kilogram of carrots.
- 1.2 An Authorised Control Officer must use a blue coloured 1080 liquid concentrate in the preparation of 1080 bait material except in habitats occupied by the Satin Bower Bird. In these situations 1080 bait material must be produced using a green coloured 1080 liquid concentrate.

##### 2. USE OF CERTAIN 1080 RABBIT BAIT PRODUCTS

- 2.1 A person authorised to use 1080 bait products under clause 9 of this Order must, when using 1080 bait products for the purpose of controlling rabbits, only use the 1080 bait products referred to in conditions 2.2 and 2.3.
- 2.2 A person authorised to use 1080 bait products under clause 9 of this Order may use any 1080 bait products produced by an Authorised Control Officer under condition 1.1 above for the purpose of controlling rabbits.
- 2.3 A person authorised to use 1080 bait products under clause 9 of this Order may use 1080 products that have been specifically manufactured for the control of rabbits, are registered by the APVMA and approved for the use of controlling rabbits in NSW, such as Rabbait 1080 Oat Bait (APVMA Product Registration Number 50304) and 1080 Ready-to-lay Rabbit Oat Bait (APVMA Product Registration Number 52954) (and any other similar 1080 product that is produced after the commencement of this Order) for the purpose of controlling rabbits.
- 2.4 1080 bait material prepared under condition 1.1 above and 1080 bait products referred to in condition 2.3 will henceforth be referred to as "1080 rabbit bait".

##### 3. POSSESSION OF 1080 RABBIT BAIT

A person authorised to possess 1080 rabbit bait under clause 9 of this Order must only do so in accordance with the following conditions:

- 3.1 An Authorised Control Officer may supply 1080 rabbit bait to a person authorised to possess 1080 rabbit bait. An Authorised Control Officer may conduct a risk assessment to determine if it is appropriate to supply 1080 rabbit baits to a person. Risk assessment guidelines can be found in the DII publication "Vertebrate Pest Control Manual". If the Authorised Control Officer makes a determination that it is not appropriate to supply a person with 1080 rabbit baits then the Authorised Control Officer must not give any 1080 rabbit baits to that person. The Authorised Control Officer may withhold 1080 rabbit baits, if, in the opinion of the Authorised Control Officer, they are not satisfied that the 1080 rabbit baits will be used safely or effectively by a person.
- 3.2 If an Authorised Control Officer withholds 1080 rabbit baits from a person, the officer must record in a logbook or diary, the date, time and specific reasons for refusing to supply 1080 rabbit baits to a particular person.
- 3.3 An Authorised Control Officer must only supply 1080 rabbit baits in either a plastic bag labeled in accordance with attachment 1 or in a container supplied by the manufacturer of an APVMA registered 1080 rabbit bait product.
- 3.4 A person taking possession of 1080 rabbit baits must first complete and sign an indemnity or consent/indemnity form for each property on which 1080 rabbit bait is intended to be used. An Authorised Control Officer or an employee of an LHPA must give a copy of the indemnity or consent/indemnity form to any person taking possession of 1080 rabbit baits.
- 3.5 An Authorised Control Officer must issue 1080 rabbit baits only to the landholder of the land on which the 1080 rabbit baits are to be used, their authorised

- agent or a person under the direct supervision of the Authorised Control Officer.
- 3.6 An Authorised Control Officer or an employee of an LHPA issuing 1080 rabbit baits must give a copy of this pesticide control order with this Schedule to any person receiving 1080 rabbit baits from them.
- 3.7 An Authorised Control Officer issuing 1080 rabbit baits must establish that the intended end-user for the 1080 rabbit baits holds a qualification that meets the requirements of this Order before handing over 1080 rabbit baits. Where this cannot be established then 1080 rabbit baits must not be supplied.
- 3.8 All persons receiving 1080 rabbit baits from an Authorised Control Officer must only temporarily possess and store 1080 rabbit baits. 1080 rabbit baits must be stored in a lockable storage area away from children, animal food, foodstuffs, seed and fertiliser. Where 1080 rabbit bait is required to be placed in a refrigerator, the refrigerator must not be concurrently used to store food and must be located in a lockable storage area. All 1080 bait material for rabbit control must be used within two (2) days. All unopened manufactured and registered 1080 bait product (such as Rabbait 1080 Oat Bait product and 1080 Ready-to-lay Rabbit Oat Bait product) must be returned to the issuing Authorised Control Officer within one (1) month of completion of the baiting program. All opened manufactured and registered 1080 bait product (such as Rabbait 1080 Oat Bait product and 1080 Ready-to-lay Rabbit Oat Bait product) must be destroyed within one (1) month after completion of the baiting program, by burial in accordance with condition 4.8 below.
- 3.9 All persons receiving 1080 rabbit baits from an Authorised Control Officer must store 1080 rabbit baits in either the labelled plastic bag supplied by the Authorised Control Officer (labelled in accordance with attachment 1) or in a container supplied by the manufacturer of an APVMA registered 1080 rabbit bait product.
4. DIRECTIONS FOR USE – GENERAL RESTRICTIONS
- A person authorised to use 1080 rabbit bait under clause 9 of this Order must only do so in accordance with the following general conditions:
- 4.1 A person in possession of 1080 rabbit baits must transport and store the 1080 rabbit baits in such a way that other persons cannot access the 1080 rabbit baits. A person transporting 1080 rabbit baits must store the 1080 rabbit baits in a secure location of their vehicle when transporting 1080 rabbit baits.
- 4.2 A person must not place the 1080 rabbit baits in a position accessible to children, livestock, domestic animals or pets.
- 4.3 A person must not feed 1080 rabbit baits to non-target species.
- 4.4 A person must not apply 1080 rabbit baits to or in, crops which are in mid to late developmental stages. A person must not apply 1080 rabbit baits to or in, crops if application of 1080 rabbit baits is likely to lead to contamination of the crops.
- 4.5 A person must ensure that 1080 rabbit baits do not contaminate foodstuffs or feed, for human or non-target animal consumption.
- 4.6 A person must not use containers (including plastic bags) which have been used to contain 1080 rabbit baits for any other purpose and must dispose of such containers by burial or burning as follows:
- 4.6.1 Burial
- Containers (including plastic bags) must be buried as follows:
- Containers must be triple rinsed or pressure rinsed;
  - Empty rinsed containers must be broken, crushed or punctured and disposed of either at the property where the 1080 rabbit baits were used or at a site approved by the Authorised Control Officer or in local authority landfill;
  - Containers and rinsate must be buried in a pit and covered with at least five hundred (500) mm of soil;
  - The disposal pit must be specifically marked and set up for this purpose and clear of waterways (permanent or ephemeral).
- 4.6.2 Burning
- Empty plastic bags must be burnt by open fire in accordance with an approval issued under the Protection of the Environment Operations (Clean Air) Regulation 2002. A person that disposes of plastic bags by way of burning must also comply with the following conditions:
- The amount of plastic bags burnt at any premises on any single day must not exceed one hundred (100) bags without the prior written approval of the EPA.
  - The burning of plastic bags must be carried out at least five hundred (500) metres from any habitation.
  - The burning of plastic bags must be carried out in accordance with any requirement of the Rural Fires Act 1997 and the Fire Brigades Act 1989, as administered by the relevant local authority and the NSW Fire Brigades.
  - The open fire burning must not be carried out on a day subject to a no-burn notice declared by the EPA under provisions of the Protection of the Environment Operations Act 1997.
  - The burning of plastic bags must only be carried out in dry weather using such practicable means as may be necessary to minimise visible smoke emissions causing air pollution.
- 4.7 A person must not pollute dams, rivers, streams, waterways or drains with 1080 rabbit baits or used containers (including plastic bags). Pollution of waters is an offence under s 120 of the Protection of the Environment Operations Act 1997.
- 4.8 At the end of any ground baiting program conducted in accordance with this Schedule, a person using 1080 rabbit baits should ensure that, to the extent which is practical, that all untaken baits are collected and removed from baiting locations. All collected and unused 1080 rabbit baits must be disposed of as soon as possible at the property where the 1080 rabbit baits were used or in the case of a coordinated

baiting program, on a property or location identified and agreed to by the Authorised Control Officer coordinating the program. All collected and unused 1080 rabbit baits must be buried in a disposal pit and must be buried under at least five hundred (500) mm of soil. The disposal pit must be clear of waterways (permanent or ephemeral) so as to not cause pollution of water in accordance with Part 5.3 of the Protection of the Environment Operations Act 1997. This condition does not apply in the case of 1080 rabbit baits being applied by aircraft or broad scale broadcasting.

#### 5. DIRECTIONS FOR USE – DISTANCE RESTRICTIONS

A person authorised to use 1080 rabbit bait under clause 9 of this Order must only do so in accordance with the following distance restrictions:

- 5.1. The minimum distances for the laying of 1080 rabbit baits have been set to minimise the risk to people and to non-target animals. A person authorised to use 1080 rabbit baits must not place 1080 rabbit baits where they can be washed into or contaminate surface or ground waters. 1080 rabbit baits must not be laid in areas where distance restrictions cannot be met. Other rabbit control methods must be used in those areas.
- 5.2. 1080 rabbit baits must not be laid within close proximity to urban areas unless the baiting program is planned in conjunction with, and has been approved by, an Authorised Control Officer. A program approved under this condition must include strategies for minimising risk to non-target animals. This condition applies to proposals for baiting in closely settled farming areas or areas within four (4) kilometres of a village or any street.
- 5.3. Property Boundary:
  - 5.3.1 Ground Baiting: 1080 rabbit baits must not be laid within five (5) metres from any property boundary.
  - 5.3.2 Aerial Baiting: 1080 rabbit baits must not be laid within one hundred (100) metres from any property boundary by helicopter or fixed winged aircraft.
  - 5.3.3 Exemption for Group Baiting: Conditions 5.3.1 and 5.3.2 do not apply to the laying of 1080 rabbit baits as part of a group baiting program that has been planned by an Authorised Control Officer and where that Officer has obtained written consent from the landholders involved in the baiting program for the laying of the 1080 rabbit baits. This exemption does not apply to property boundaries of landholders not involved in the baiting program.
- 5.4. Habitation:
  - 5.4.1 Ground Baiting: 1080 rabbit baits must not be laid within five hundred (500) metres of a habitation except:
    - (a) where a landholder uses 1080 rabbit baits on their own property, in which case the landholder may lay the 1080 rabbit baits at a distance of less than five hundred (500) metres but no closer than one hundred and fifty (150) metres from their own habitation.
    - (b) where an Authorised Control Officer plans a baiting program, in which case the 1080 rabbit baits may be laid at less than

500 metres but no closer than 150 metres from a habitation, subject to the following conditions:

- (i) The Authorised Control Officer must undertake a risk assessment in accordance with the provisions of the DII Vertebrate Pest Control Manual (as in force from time to time) and determine that 1080 rabbit baits can be laid at distances of less than 500 metres but no closer than 150 metres from a habitation;
  - (ii) Any baiting program planned by an Authorised Control Officer must include strategies for minimising risk to non-target animals;
  - (iii) Any adjoining landholders must agree in writing to use or allow the use of 1080 rabbit baits as part of a coordinated rabbit control program at distances of less than 500 metres but no closer than 150 metres from a habitation on the landholder's property;
  - (iv) Where an Authorised Control Officer implements a coordinated rabbit control program, they must not implement the program UNLESS:
    - (1) ALL the landholders in the group are made aware of the hazardous nature of 1080 rabbit baits in closely settled areas; AND
    - (2) EVERY landholder in the group signs an agreement that they:
      - (A) understand the hazards associated with the use of 1080 rabbit baits in closely settled areas; AND
      - (B) agree to allow 1080 rabbit baits to be laid on adjoining properties at distances of less than 500 metres but no closer than 150 metres from any habitation on their property in writing; AND
      - (C) agree to allow implementation of a 1080 rabbit poisoning program and accept all responsibility for any problems arising from the program; AND
    - (3) ALL the landholders of the outermost properties of the group abide by all the distance requirements in relation to adjoining properties not covered by the group activity.
- 5.4.2 Aerial Baiting: 1080 rabbit baits must not be laid within five hundred (500) metres from any habitation by helicopter or a fixed winged aircraft except:
    - (a) where a landholder uses 1080 rabbit baits on their own property, in which case the landholder may lay the 1080 rabbit baits at a distance of less than five hundred (500)

metres but no closer than one hundred and fifty (150) metres from their own habitation.

- (b) where an Authorised Control Officer plans a baiting program, in which case the 1080 rabbit baits may be laid at less than 500 metres but no closer than 150 metres from a habitation, subject to the following conditions:

(i) The Authorised Control Officer must undertake a risk assessment in accordance with the provisions of the DII Vertebrate Pest Control Manual (as in force from time to time) and determine that 1080 rabbit baits can be laid at distances of less than 500 metres but no closer than 150 metres from a habitation;

(ii) Any baiting program planned by an Authorised Control Officer must include strategies for minimising risk to non-target animals;

(iii) Any adjoining landholders must agree in writing to use or allow the use of 1080 rabbit baits as part of a coordinated rabbit control program at distances of less than 500 metres but no closer than 150 metres from a habitation on the landholder's property;

(iv) Where an Authorised Control Officer implements a coordinated rabbit control program, they must not implement the program UNLESS:

(1) ALL the landholders in the group are made aware of the hazardous nature of 1080 rabbit baits in closely settled areas; AND

(2) EVERY landholder in the group signs an agreement that they:

(A) understand the hazards associated with the use of 1080 rabbit baits in closely settled areas; AND

(B) agree to allow 1080 rabbit baits to be laid on adjoining properties at distances of less than 500 metres but no closer than 150 metres from any habitation on their property in writing; AND

(C) agree to allow implementation of a 1080 rabbit poisoning program and accept all responsibility for any problems arising from the program; AND

(3) ALL the landholders of the outermost properties of the group abide by all the distance requirements in relation to adjoining properties not covered by the group activity.

A fixed winged aircraft may only be used in the Western Division to aeri ally apply 1080 rabbit baits.

#### 5.5 Domestic Water Supply or Water Draw Point:

5.5.1 Ground Baiting: 1080 rabbit baits must not be laid within twenty (20) metres of a domestic water supply. Large water storage facilities such as Eucumbene, Wyangala and Chaffey dams must not be ground baited with 1080 rabbit baits to a distance of less than ten (10) metres of the waterline.

5.5.2 Aerial Baiting: 1080 rabbit baits must not be laid within two hundred (200) metres of a domestic water supply or water draw point by helicopter or a fixed winged aircraft.

#### 5.6 Public Roads:

5.6.1 Ground Baiting: 1080 rabbit baits must not be laid within five (5) metres of a public road.

5.6.2 Aerial Baiting: 1080 rabbit baits must not be laid within two hundred (200) metres of a public road by helicopter or a fixed winged aircraft.

### 6. PUBLIC NOTIFICATION

A person authorised to use 1080 rabbit bait under clause 9 of this Order must notify certain persons of the use of 1080 rabbit baits in accordance with the following conditions:

6.1 A person must not lay any 1080 rabbit baits on any land unless the person has first given a minimum of three (3) days notice of the date on which they will lay 1080 rabbit baits. This notice must be given to the occupier, manager or authorised agent of every property which has a property boundary within one (1) kilometre of a baiting location ("notification").

6.2 The notification may be given by telephone, email or in person, or, where this is not possible, by mail (including letter box drop). If notification cannot be made by telephone, email, personal contact or mail or the number of persons to be notified is more than twenty five (25), then notification may be made by advertisement in a local newspaper.

6.3 The use of 1080 rabbit baits may be conducted for longer than seven (7) days but must commence within ten (10) days of notification otherwise further notification of intended baiting is required.

### 7. 1080 POISONING NOTICES

A person authorised to use 1080 rabbit bait under clause 9 of this Order must erect notices in accordance with the following conditions:

7.1 A person who uses 1080 rabbit baits must erect notices before laying 1080 rabbit baits on any land. These notices must remain up for a minimum of four (4) weeks after the last day of baiting. Notices must be placed:

- (a) at every entry to the baiting location; and
- (b) at the main entrance to a private property or holding where baiting is undertaken; and
- (c) at up to five (5) kilometre intervals along all public thoroughfares which border or pass through the baiting location.

7.2 The notices must specify the following:

- (a) that 1080 rabbit baits are being laid on this property; and

- (b) the dates on which 1080 rabbit baits are first laid or the dates between which baits will be laid; and
  - (c) contact details of the person who will lay the 1080 rabbit baits; and
  - (d) a warning that non-target animals may be affected.
- 7.3 Under the Pesticides Regulation 2009 (clauses 19 to 23) public authorities have additional public notification obligations that must be complied with. There are also other notification requirements in the Regulation.
- 7.4 1080 Poison Notices may be obtained from Authorised Control Officers.

#### 8. GROUND BAITING WITH 1080 RABBIT BAIT

A person authorised to use 1080 rabbit bait under clause 9 of this Order must only undertake ground baiting in accordance with the following conditions:

- 8.1 Free feeding: Free feeding is compulsory. A person must free feed to determine the appropriate amount of 1080 rabbit bait to use before undertaking any ground baiting using 1080 rabbit baits. For maximum control and to reduce the risk to non-target species avoid using an excessive amount of 1080 rabbit bait. It is essential to attract rabbits with a number of free feeds of unpoisoned bait. A person must free feed by laying unpoisoned bait on three (3) occasions, except where an Authorised Control Officer recommends that a person free feeds by laying unpoisoned bait on two (2) occasions. Each free feed must be laid at intervals of not less than two (2) days. A person must adjust the amount of free feed on each occasion so that so that only a small amount of feed is left on the final free feed ("final consumption") before undertaking ground baiting using 1080 rabbit bait under conditions 8.2 and 8.3.
- 8.2 A person who lays 1080 rabbit baits must:
- (a) Not use disproportionate amounts of 1080 rabbit baits. The amount of bait applied must be consistent with two thirds of the final consumption of free feed (see DII humane pest animal control codes of practice and standard operating procedures and the DII Vertebrate Pest Control Manual as in force from time to time); and
  - (b) Lay the baits in such a way, where practical, that any uneaten 1080 rabbit baits can be readily found and destroyed in accordance with condition 4.8. This does not apply in the case of 1080 rabbit baits being applied by aircraft or broad scale broadcasting.
- 8.3 Bait selection and placement: Poisoned oats and poisoned pellets (1080 rabbit bait) must only be placed in trails. Poisoned carrot (1080 rabbit bait) may be broadcast or used in trails.
- 8.4 1080 rabbit baits must be laid at an interval of three (3) to five (5) days after the last free feed.

#### 9. AERIAL BAITING WITH 1080 RABBIT BAIT

A person authorised to use 1080 rabbit bait under clause 9 of this Order must only undertake aerial baiting in accordance with the following conditions:

- 9.1 Aerial baiting should be restricted to areas where ground control is impractical and where impacts are likely to be significant. Approval for every aerial baiting program must be obtained from the Director-General of DII or his or her delegate. Aerial baiting

must be organised through either LHPAs, DECCW or other NSW public authorities. All programs involving aerial application of 1080 rabbit baits must comply with the guidelines contained in the DII humane pest animal control codes of practice and standard operating procedures and NSW Vertebrate Pest Control Manual and require careful planning and consultation. Your local LHPA has full details.

- 9.2 Notwithstanding any other condition contained in this Schedule, a person who undertakes aerial baiting must only use carrot for aerial baiting.
- 9.3 A pilot who operates an aircraft which is used to aerially apply 1080 rabbit baits must use onboard GPS navigation equipment mounted in the pilot's line of sight to navigate along agreed flight paths. The GPS navigation equipment must be of the type that has a moving map display with topographic features which provide accurate guidance to the pilot. The GPS equipment must have full data logging capabilities and all flight paths must be pre-programmed into the GPS navigation equipment before commencement of 1080 rabbit aerial baiting.
- 9.4 A pilot who operates an aircraft which is used to aerially apply 1080 rabbit baits must make a record of the GPS flight path which includes the start and finish drop point data, for 1080 rabbit bait, for each aerial run. The record must be kept for a period of at least three (3) years after the date on which the 1080 rabbit bait was aerially applied. A pilot must make any records available to the EPA on request.
- 9.5 The employer or contractor of a pilot must ensure that a pilot of any aircraft used to aerially apply 1080 rabbit baits complies with conditions 9.3 and 9.4.
- 9.6 A person coordinating or organising aerial baiting programs must ensure that pilots are given digitised flight paths for all areas where 1080 rabbit baits are to be dropped from an aircraft which is used to aerially apply 1080 rabbit baits.
- 9.7 A person on the aircraft that is responsible for dropping 1080 rabbit baits must not be given the task of navigating the aircraft. A pilot is responsible for navigation and must ensure that 1080 rabbit baits are dropped along the agreed flight path.
- 9.8 A person who drops 1080 rabbit baits from an aircraft which is used to aerially apply 1080 rabbit baits must hold as a minimum the qualification specified in clause 9 (2) (c) (iii) (A) of this Order.

#### 10. RISK TO DOMESTIC ANIMALS

- 10.1 A person who uses 1080 rabbit baits should avoid poisoning of domestic pets. As 1080 is particularly lethal to domestic dogs, the person using the baits should advise neighbours to tie up dogs and ensure they do not enter the baiting location during poisoning operations or to muzzle dogs if paddocks have to be mustered after poisoning. In the event of accidental poisoning seek immediate veterinary assistance. Carcasses of poisoned rabbits can constitute a serious risk to dogs and where practicable, remove carcasses from the control area and dispose of carcasses by burial as specified in condition 4.8.
- 10.2 A person should remove all livestock from baited areas until 1080 rabbit baits are collected, inactivated by rainfall or destroyed.

## 11. RISK TO ENVIRONMENT AND WILDLIFE

- 11.1 A person who uses 1080 rabbit baits must not pollute streams, rivers or waterways with 1080 rabbit baits or plastic bags and containers that have held 1080 rabbit baits.
- 11.2 1080 rabbit baits may be toxic to some birds and other native wildlife. To the extent possible, the person using the 1080 rabbit baits should time baiting programs for when non-target species are least active or least susceptible.
- 11.3 To the extent possible, a person who uses 1080 rabbit baits should recover carcasses of animals poisoned by 1080 rabbit baits and bury them in accordance with the disposal instructions for 1080 rabbit baits in condition 4.8. Any incidents where there are reasonable grounds to suspect that non-target animals may have been poisoned by 1080 rabbit baits should be reported to the EPA.

## ATTACHMENT 1

**DANGEROUS POISON**

KEEP OUT OF REACH OF CHILDREN

READ SAFETY DIRECTIONS BEFORE OPENING OR USING

**1080 POISONED BAIT**

ACTIVE CONSTITUENT: grams\* of SODIUM FLUOROACETATE (1080) per kg of bait material

**FOR THE CONTROL OF RABBITS OR FERAL PIGS**

RESTRICTED CHEMICAL PRODUCT – ONLY TO BE SUPPLIED TO OR USED BY AN AUTHORISED PERSON

NOT TO BE USED FOR ANY PURPOSE OR IN ANY MANNER CONTRARY TO THIS LABEL UNLESS AUTHORISED UNDER APPROPRIATE LEGISLATION.

## DIRECTIONS FOR USE:

When using this product to control feral pigs you must follow the conditions for use in Schedule 3 to Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010. When using this product to control rabbits you must follow the conditions for use in Schedule 4 to Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010.

## SAFETY DIRECTIONS:

Very dangerous. Poisonous if swallowed. When opening the bag and handling the bait wear elbow-length PVC or nitrile gloves. If product on skin immediately wash area with soap and water. After use and before eating, drinking or smoking, wash hands, arms and face thoroughly with soap and water. After each day's use wash PVC gloves and contaminated clothing.

## FIRST AID:

If poisoning occurs, contact a doctor or Poisons Information Centre on 131126. Urgent hospital treatment is likely to be needed. If skin contact occurs, remove contaminated clothing and wash skin thoroughly. Remove person from contaminated area. Apply artificial respiration if not breathing. If in eyes, hold eyes open, flood with water for at least 15 minutes and see a doctor.

## PROTECTION OF LIVESTOCK, DOMESTIC AND FARM DOGS:

Remove all livestock from baited area except where baits have been placed in a fenced bait station that excludes livestock. Dogs are highly susceptible to the bait or possibly from secondary poisoning (consuming carcasses of animals poisoned by 1080). Ensure all domestic and farm dogs are restrained during the baiting program.

## PROTECTION OF WILDLIFE, FISH, CRUSTACEANS AND ENVIRONMENT:

Do not contaminate dams, streams, rivers or waterways with bait or this plastic bag.

## TRANSPORT, STORAGE AND DISPOSAL:

This bait must be kept inside a secure location, away from food, children and domestic animals after procuring bait from an Authorised Control Officer. Store bait only in this approved plastic bag. Bait may only be placed in a refrigerator that is not used to store food. This bait should be used immediately but where this is not possible baits must be used within 7 days of acquiring it from an Authorised Control Officer. Do not allow bait to contaminate foodstuff or feed intended for human or animal consumption. Plastic bags which have held bait must not be used for any other purpose. Triple or pressure rinse, break, crush or puncture this plastic bag before disposal. Dispose of rinsate and this plastic bag along with any unused baits in a disposal pit and cover with at least 500 mm of soil. The disposal pit must be specifically marked and set up for this purpose and be clear of waterways (permanent or ephemeral). This plastic bag may be disposed of in a disposal pit on the property where the baits were used or at a site approved by the Authorised Control Officer or in a local authority landfill. Burning of this plastic bag is permitted but only in accordance with provisions stated in the Schedules to Pesticide Control (1080 Liquid Concentrate and Bait Products) Order 2010.

## MANUFACTURER'S WARRANTY; EXCLUSION OF LIABILITY:

No responsibility is accepted in respect of this product save those not excludable conditions implied by any Federal and State Legislation.

## \* Rabbits:

One kilogram of carrots contains 0.18g of 1080; one kilogram of oats contains 0.36g of 1080; one kilogram of pellets contains 0.45g of 1080

## Feral Pigs:

One kilogram of grain contains 0.3- 0.45g of 1080; one kilogram of pellets contains 0.48g of 1080

## LIVESTOCK HEALTH AND PEST AUTHORITY

KG NET

**POISONS AND THERAPEUTIC GOODS ACT 1966**

Order under Clause 175 (1),  
Poisons and Therapeutic Goods Regulation 2008.

Withdrawal of Drug Authority

IN accordance with the provisions of clause 175 (1) of the Poisons and Therapeutic Goods Regulation 2008 an order has been made on Karin Irmgard MORRICE (NMW0001272400), 56 Hampstead Way, Rathmines NSW 2283, prohibiting her until further notice, as a nurse from

having possession of and supplying drugs of addiction as authorised by clauses 101 and 103 of the Regulation.

This Order is to take effect on and from 29 July 2010.

Professor DEBORA PICONE, A.M.,  
Director-General

Department of Health, New South Wales  
Sydney, 23 July 2010.

### PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

Variation of Exemption Order under section 284 (7)

#### Background

- I. On 15 April 2008, the EPA published an Order granting an exemption to Orica Australia Pty Ltd (“Orica”) from an in-stack regulatory air emission limit for mercury to facilitate the clean up of a contamination legacy at its premises in Matraville, Sydney (“the Order”).
- II. The Order specified that the exemption operated from 1 January 2009 to 31 December 2010.
- III. On 12 April 2010, Orica applied to extend the time of operation of the exemption.
- IV. The extension was requested due to delays in availability of the direct thermal desorption plant to be used for the Carpark Waste project.
- V. The delay in desorption plant availability has been outside of Orica’s control and has necessitated a revised schedule for commencing and completing the remediation of the Carpark Waste. The duration of remediation activities will not change as a result of the delay in commencing the Carpark Waste remediation project.
- VI. Orica’s application of 12 April 2010 requested no other changes to the exemption.
- VII. On 15 June 2010, the Board of the EPA approved the granting of an extension of the exemption until 31 December 2011.

#### Variation of the Order

- VIII. By publication of this variation order, the EPA varies the Order under section 284(7) of the Protection of the Environment Operations Act 1997 as set out by the changes to the Order below.
- IX. The variations to the Order are shown in the following way:
  - (i) If a strike through mark appears through text, this indicates that the text is deleted from the Order;
  - (ii) If an underline appears under any text, this indicates that the text is added to the Order.

Dated: 24 July 2010.

LISA CORBYN  
Director General  
Environment Protection Authority

### PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

Order Granting Exemption Under section 284

#### Preamble

This Order grants an exemption to an in-stack regulatory air emission limit for mercury to facilitate a project by Orica to permanently clean up a contamination legacy at its premises at Matraville, Sydney, adjacent to Botany Bay.

The contamination is referred to as the Carpark Waste and comprises medium-level chlorinated hydrocarbon contamination encapsulated within a synthetic liner.

Remediation of the Carpark Waste will deliver lasting community and environmental benefits by destroying the contaminated material using a technology – direct thermal desorption – that has been successfully applied worldwide to the remediation of chlorinated hydrocarbons. Remediation is a priority as the synthetic encapsulation liner is deteriorating and contaminants are migrating to the surrounding soil.

The soil at the Carpark Waste site has a high concentration of mercury relative to other sites that have been remediated using this technology. As a result, in-stack mercury emissions from Orica’s proposed direct thermal desorption plant might not comply with the technology-based regulatory limit, notwithstanding the application of best practice emission controls.

Comprehensive studies have demonstrated that in-stack mercury emissions from the direct thermal desorption plant at the upper level allowed for in this exemption present a negligible health risk and will readily achieve the applicable environmental goals for mercury.

Stringent conditions attached to the exemption require the application of best-practice mercury emission controls throughout the remediation project while enabling Orica to clean up the chlorinated hydrocarbons in the Carpark Waste.

#### Background

- I. Orica Australia Pty Ltd is proposing to construct and operate a direct thermal desorption plant to remediate contaminated soil at its premises at Matraville. The direct thermal desorption plant includes a main gas stack.
- II. Emissions to atmosphere from the main gas stack must comply with the limits prescribed in the Protection of the Environment Operations (Clean Air) Regulation 2002 (“the Regulation”).
- III. The Regulation prescribes an emission limit for mercury of 0.2 milligrams per cubic metre and for Type 1 and Type 2 substances (in aggregate) of 1.0 milligram per cubic metre. Mercury is a Type 1 substance.
- IV. Orica submitted a letter to the Environment Protection Authority (EPA) on 21 December 2007 seeking an exemption from Regulation limits for mercury and Type 1 and Type 2 substances on the basis that emissions from the main gas stack plant might not comply, notwithstanding the application of best practice emission controls.
- V. The exemption sought is for emissions from the main gas stack of up to 1.0 milligram per cubic metre for mercury and 1.8 milligrams per cubic metre for Type 1 and Type 2 substances.

- VI. The exemption request was supported by a comprehensive assessment of the health and environmental impacts of the exemption and of best-practice mercury controls for direct thermal desorption plants.
- VII. This assessment demonstrated that exemption will result in mercury concentrations in the receiving environment that are below the applicable health based impact assessment criteria and will have negligible human health risk.
- VIII. NSW Health and other independent advice indicates that the health impacts of an exemption will be negligible. Independent advice also confirms that Orica is adopting a best-practice approach to mercury emissions control.
- IX. Sections 284 (1) and (2) (b) of the Protection of the Environment Operations Act 1997 (“the Act”) provide that the EPA may exempt a person or class of persons from any specified provision of the Act or the regulations under the Act in circumstances where:
- (i) the EPA is satisfied that it is not practicable to comply with the relevant provision or provisions, by implementing operational changes to plant or practices, and
  - (ii) the EPA is satisfied that non-compliance with the provision or provisions will not have any significant adverse effect on public health, property or the environment, and
  - (iii) the Board of the EPA approves the granting of the exemption.
- X. The EPA concluded from its review of all relevant information that:
- (i) the technology-based emission limit prescribed by the Regulation may not be achievable because the soil at this site has a high concentration of mercury relative to other sites worldwide that have been remediated using direct thermal desorption technology;
  - (ii) no mercury technologies have been identified that will conclusively enable Orica to achieve compliance with the in-stack emission limits prescribed for mercury and Type 1 and Type 2 substances (in aggregate);
  - (iii) in-stack mercury emissions of 1.0 milligram per cubic metre for mercury and 1.8 milligram per cubic metre for Type 1 and Type 2 substances (in aggregate) will result in environmental impacts that are within the applicable environmental criteria and will have negligible human health risk;
  - (iv) the exemption will not have any significant adverse effect on public health, property or the environment; and
  - (v) it is appropriate for the direct thermal desorption plant to commence commissioning with interim in-stack emissions limits for the main gas stack of 1.0 milligram per cubic metre for mercury and 1.8 milligrams per cubic metre for Type 1 and Type 2 substances (in aggregate) to enable available mercury control technologies to be assessed, with final limits to be established through the commissioning process.
- XI. On 11 March 2008, the Board of the EPA approved the granting of the exemption, subject to the conditions outlined in the Exemption Order.
- Order
- By this order, the Environment Protection Authority (EPA), with the approval of the Board of the EPA, grants to Orica Australia Pty Ltd (ACN 004 117 828) (“Orica”) an exemption from s 128 of the Protection of the Environment Operations Act 1997 (“the Act”) in relation to:
- (a) the emission of mercury individually; or
  - (b) the emission of Type 1 substances and Type 2 substances (in aggregate) where mercury forms part of the aggregate of those substances,
- from the main gas stack of the thermal desorption plant located on Lot 4 in DP 1016112 (“the main gas stack”).
- The exemption operates from 1 January 2009 to 31 December 20112010 (inclusive).
- The EPA is satisfied that:
- (a) it is not practicable for Orica to implement operational changes to its plant or practices to comply with s 128 of the Act in relation to:
    - (i) the emission of mercury individually or
    - (ii) the emission of Type 1 substances and Type 2 substances (in aggregate) where mercury forms part of the aggregate of those substances,
 from the main gas stack because extensive reviews of international best practice have not identified any mercury technologies that will conclusively enable Orica to achieve compliance with the emission limits prescribed for these substances.
  - (b) non-compliance with s 128 of the Act will not have any significant impact on public health, property or the environment because rigorous assessments have demonstrated that there are no significant adverse effects on public health, property or the environment if mercury emissions from the main gas stack are at 1.0 milligram per cubic metre.
- The exemption is granted under s 284 of the Act subject to the following conditions:
1. The emission of mercury individually must not exceed 1.0 milligram per cubic metre.
  2. The emission of Type 1 substances and Type 2 substances (in aggregate), where mercury forms part of the aggregate of those substances, must not exceed 1.8 milligrams per cubic metre.
  3. This exemption only applies to emissions from the main gas stack arising from the treatment of:
    - (a) soil that has been removed from the synthetic liner on Lot 11 in DP 1039919, referred to as the “Carpark Waste”; or
    - (b) soil that has been removed from the immediate vicinity of the Carpark Waste that requires treatment for the remediation project as specified in the Remedial Action Plan prepared for the project as required by the Contaminated Land Management Act 1997 or as otherwise required by a condition of licence or approval applicable to the project.

4. Orica must submit a Best Practice Mercury Control Report (“the Report”) to the EPA.
5. Orica must provide the Report to the EPA at the same time that it submits its Technology Application to the EPA in accordance with Condition 13.2.2 of its Licence (Number 26) under the Environmentally Hazardous Chemicals Act 1985.
6. The Report must:
  - (a) include a review of developments in mercury control technology since 21 December 2007 that might be relevant to the thermal desorption plant.
  - (b) include a detailed specification of trials of mercury control technologies (“mercury control trials”) to be undertaken during commissioning of the thermal desorption plant to reduce mercury emissions to the maximum extent practically achievable.
7. The mercury control trials must be structured with the objective of identifying:
  - (a) the mercury control technologies that can be used to achieve compliance with the Regulation emission limits for mercury individually and Type 1 and Type 2 substances (in aggregate); or
  - (b) if this compliance is not achievable, the mercury control technologies that can be employed to give a best-practice result for the reduction of mercury emissions from the main gas stack.
8. The mercury control trials must include trials of the following technologies:
  - (a) low pH scrubbing; and
  - (b) the injection of powdered activated carbon (both with and without special sorbents); and
  - (c) the injection of powdered activated carbon in combination with low pH scrubbing; and
  - (d) the injection of powdered activated carbon in combination with oxidative scrubbing; and
  - (e) any relevant additional mercury control technologies identified in the review required by Condition 6 (a);

except if the review required by Condition 6 (a) compellingly demonstrates that a technology as listed in (a) to (d) above will not be reasonable and effective for the control or reduction of mercury emissions from the main gas stack and the EPA has given written approval to Orica that the particular technology can be excluded from the mercury control trials.
9. The detailed specification of the mercury control trials required by condition 6(b) must include, but is not limited to:
  - (a) the number of trials to be conducted on each mercury control technology (or combination of technologies) to ensure that repeatable results are obtained; and
  - (b) the full methodology to be used for each trial, including the duration, operational parameters, monitoring frequencies and test methods; and
  - (c) the criteria to be applied in assessing the success or otherwise of each trial and for moving on to the next trial, as appropriate; and
  - (d) the principles to be used for determining that mercury emissions have been reduced to the maximum extent achievable through the application of best practice.
10. Once Orica has submitted the Report, the EPA may approve the carrying out of the mercury control trials as detailed in the Report or subject to any conditions imposed by the EPA. Orica shall not carry out the mercury control trials without this approval from the EPA. This condition does not exempt Orica from obtaining any other necessary approvals or licences for the carrying out of the mercury control trials.
11. Orica must make the results of any mercury control trials that are undertaken by it or at its request, available in writing to the EPA as soon as practicable after the completion of each trial.
12. Notwithstanding Conditions 1 and 2, on completion of the mercury control trials, Orica must comply with any emission limits determined and imposed by the EPA for:
  - (a) the emission of mercury individually or
  - (b) the emission of Type 1 substances and Type 2 substances (in aggregate) where mercury forms part of the aggregate of those substances,

from the main gas stack.

Dated: 24 July 2010.

LISA CORBYN  
Director General  
Environment Protection Authority

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**TREES (DISPUTES BETWEEN NEIGHBOURS)  
ACT 2006**

PRACTICE NOTE

Land and Environment Court of New South Wales

CLASS 2 TREE APPLICATIONS

Commencement

1. This practice note commences on 23 July 2010.

Application of Practice Note

2. This practice note applies to all applications under the Trees (Disputes Between Neighbours) Act 2006 (the Trees Act) in Class 2 of the Court’s jurisdiction.
3. Applications subject to this practice note are referred to as “tree applications”. This practice note is to be known as Practice Note – Class 2 Tree Applications.

Note: Additional explanatory material about applications under the Trees Act; links to cases which may provide guidance about the Court’s processes under the Trees Act; and a range of additional material about the Trees Act can be found in the Tree Dispute Practice Collection on the Court’s website ([www.lawlink.nsw.gov.au/lec](http://www.lawlink.nsw.gov.au/lec) accessed through the link to “Tree Disputes”).

#### Purpose of Practice Note

4. The purpose of this practice note is to set out the process leading up to a final hearing of a tree application to ensure the just, quick and cheap resolution of tree applications.

#### Responsibility of parties, legal practitioners and agents to facilitate just, quick and cheap resolution

5. It is the responsibility of each party and their legal practitioners and agents (as applicable) to consider the orders and directions appropriate to be made in the particular case to facilitate the just, quick and cheap resolution of the tree application.

Note: The parties will be the applicant and the owner of the land where the tree is situated. In addition, the local council and the Heritage Council are entitled to be a party and, if the land where the tree is located is tenanted, the tenant is also entitled to be a party if they wish. The Court may also direct that other people can be made parties if special circumstances exist making this appropriate.

6. If any party reasonably considers that compliance with this practice note will not be possible or will not be conducive to the just, quick and cheap resolution of the tree application, the party should apply to be relieved from compliance on the basis that an alternative process will be more conducive to such resolution.
7. If an application is made pursuant to paragraph 6, that party is to notify all other parties of the proposed alternative process as soon as practicable and is to make available to the Court a short document reflecting that alternative process.
8. Parties are to ensure that all directions which they seek with respect to tree applications will assist in enabling such applications to be dealt with at the final hearing with as little formality and technicality, and as quickly as the requirements of the Trees Act and of every other relevant enactment and as the proper consideration of the matters before the Court permits (see s 38 of the Land and Environment Court Act 1979).

#### Legal practitioners and agents of parties to be prepared at any hearing

9. Each party not appearing in person shall be represented at any hearing before the Court by a legal practitioner or duly authorised agent familiar with the subject matter of the proceedings and with instructions sufficient to enable all appropriate orders and directions to be made.

#### Making a tree application concerning damage to property or injury to a person

10. Application under s 7 of the Trees Act concerning damage to property or likelihood of injury to a person is to be made on the Tree Dispute Application form [Form C (version 2)] and accompanied by a completed Tree Dispute Claim Details (damage to property or injury to a person) form [Form H (version 1)].

#### Making a tree application concerning high hedges

11. Application under s 14B of the Trees Act concerning severe obstruction of sunlight and/or views by hedges is to be made on the Tree Dispute Application form [Form C (version 2)] and accompanied by a completed Tree Dispute Claim Details (high hedges) form [Form G (version 1)].

Note: The application form and claim details forms for

applications under the Trees Act can be found in the Court Forms section on the Court's website [www.lawlink.nsw.gov.au/lec](http://www.lawlink.nsw.gov.au/lec) accessed through the link "Forms and Fees".

#### Before the preliminary hearing

12. Tree applications will be given a date, time and place for a preliminary hearing which corresponds with the next available preliminary hearing after the expiry of the statutory period of 21 days for service of the tree application. This will usually be 4 to 6 weeks after filing of the tree application. The preliminary hearing will usually be before a Registrar of the Court.
13. Tree applications are to be served on the owner of the land on which the tree is situated (and any other person or organisation specified by the Court at the time of lodgment) at least 21 days before the date of the preliminary hearing.

#### Notes:

- (a) Parties may apply to the Court for an early preliminary or final hearing of the proceedings if appropriate – see paragraph 25 below.
- (b) An applicant may also apply for a later date for the preliminary hearing if the applicant demonstrates that service cannot be achieved within the time required. The Court may also extend the period if circumstances, such as public holidays, make it appropriate that a longer period be allowed for parties to take the action required by this practice note before or by the return of the proceedings.

#### At the preliminary hearing of tree applications

14. At the preliminary hearing of all tree applications, the parties should expect that the usual directions set out in Schedule A will be made to prepare for the final hearing of the tree application including setting a timetable for exchange of relevant information prior to the final hearing date.
15. When a tree application is made seeking an order to prevent injury to any person and the "injury" is an illness, allergy or similar medical condition, the supplementary directions set out in Schedule B will be made concerning evidence in such cases.
16. A final hearing date will also be set for the tree application and this final hearing date will usually be not more than 6 weeks after the preliminary hearing.
17. Parties may also propose alternative directions if they have a reasonable basis for considering that alternative directions will better facilitate the just, quick and cheap resolution of the tree application. If alternative directions are proposed, the party seeking those directions is to notify all other parties before the preliminary hearing and ensure that a document setting out the proposed alternative directions has been provided to the other parties and is available to be handed to the Court at the preliminary hearing.
18. The parties are to inform the Court whether there is any reason for not holding the final hearing for tree applications concerning damage to property or likelihood of injury to persons at the site where the tree is located.
19. If any party seeks to raise an issue of fact or law that it contends precludes or demands the determination of the tree application in a particular way or otherwise seeks

to have any issue dealt with separately before the final hearing, then the party raising that issue is to identify it and provide a document setting out the issue and the reasons why it should be dealt with separately to the other parties and to the Court not less than 2 days prior to the preliminary hearing.

20. A Judge will deal with any application for separate determination of such an issue on the day of the preliminary hearing or at a separate hearing shortly after the preliminary hearing. However, the presiding Registrar at the preliminary hearing may still fix a date for the final hearing of the tree application.
21. The parties are to be sufficiently prepared at the preliminary hearing to assist the Court in making, and to be able to accept, a timetable up to and including the final hearing.
22. Legal practitioners and other representatives of the parties are to advise the parties of their obligation to be ready to agree to a timetable up to and including the final hearing and are to obtain full and timely instructions to ensure the parties comply with this obligation.

Final hearings of tree applications concerning damage to property or injury to a person

23. The Court will usually allocate a maximum of three hours for the final hearing of tree applications for damage to property or likelihood of injury to any person on the day set for that hearing. These hearings will commence (and usually be finalised) on site on that day.

Final hearings of tree applications concerning high hedges

24. The final hearing of tree applications concerning severe obstruction of sunlight and/or views by hedges will usually be finalised on the day set for that hearing. These hearings will commence on site and will continue as a court hearing at the Land and Environment Court at 225 Macquarie Street, Sydney or at an available, nearby Local Court courthouse.

Applications for an early preliminary hearing or final hearing

25. Any party may make an application for an early hearing of a tree application. Early hearings can be sought for either the preliminary hearing or the final hearing or both. Any such application must be in writing and supported with a short statement setting out the reasons in support of having an early hearing. Any such application must be given to the other parties as well as to the Court. Applications for an early hearing may be dealt with by the Court "on the papers" after telephone consultation with all parties or by a quick hearing on the application [such a hearing may be conducted by telephone to avoid the need for the parties attending at the Court].

Notification if breach of the Court's directions

26. If there is any significant breach of the Court's directions, including a breach sufficient to cause slippage in a timetable, the parties must promptly, by e-mail communication or fax to the Registrar, notify the Registrar of the breach. The Registrar may require the parties to attend before the Court if it is considered that the reasons for the breach are not adequately explained in that e-mail communication or facsimile or if the breach might materially affect the timetable. Parties are reminded that where the conduct of either party unnecessarily or unreasonably increases the number of

appearances in Court, that party may be at risk of the making of a costs order against them.

Applications to vary the Court's directions

27. Any party to a tree application may apply to the Court to vary the Court's directions, including the timetable leading to the final hearing or the date fixed for the final hearing. Any application to vary the Court's directions must be in writing setting out the changes proposed and the reasons for them. The person making such an application must provide a copy of the application to the other party, the relevant local council and to the Court.
28. Applications to vary an existing timetable may be dealt with by the Court "on the papers" after telephone consultation with all parties or by a quick hearing on the application [such a hearing may be conducted by telephone to avoid the need for the parties attending at the Court].

Liberty to approach the Court

29. Parties have liberty to approach the Court without a notice of motion on two working days' notice or earlier if urgency requires. A party seeking to make urgent application should, if possible, make prior arrangement with or give appropriate notice to, any other party, and should send an e-mail communication or fax to the Registrar.

Amendments to tree applications

30. An applicant requires permission from the Court to amend a tree application.
31. Any application to amend is to be in writing and accompanied by a short statement in support explaining the reasons for seeking permission to amend. Applications to amend may be dealt with by the Court "on the papers" after telephone consultation with all parties or by a quick hearing on the application [such a hearing may be conducted by telephone to avoid the need for the parties attending at the Court] or during either the preliminary hearing or the final hearing of the tree application.

Applications to change hearing dates and for adjournments

32. Tree applications will not be adjourned generally. If a tree application is to be adjourned, it will be adjourned to a specific date, time and place that will be notified to the parties by the Court.
33. Tree applications usually will not be adjourned because of failure to comply with this practice note or Court directions or because of lack of preparedness for any attendance before the Court. If failure to comply or lack of preparedness nevertheless does cause the adjournment of the proceedings, the defaulting parties or legal practitioners may be ordered to pay costs.

34. Applications to change hearing dates fixed by the Court are to be in writing, with a statement in support explaining the circumstances of the application and the reasons the hearing date should be changed. Applications to change a hearing may be dealt with by the Court "on the papers" after telephone consultation with all parties or by a quick hearing on the application [such a hearing may be conducted by telephone to avoid the need for the parties attending at the Court].

Applications for final orders by consent of parties

35. If the parties settle the dispute and its resolution does not require the Court to make any orders under the Trees

Act the applicant is to file a notice of discontinuance of the tree application signed by all parties.

36. If the parties settle the dispute and its resolution does require the Court to make orders under the Trees Act it will be necessary for the Court to determine the tree application rather than filing terms of agreement with the Court registry. The parties are to exercise the liberty to approach the Court (under paragraph 29 above) and request that the application for final orders by consent be listed for determination by the Court. The parties are to file the proposed consent orders signed by all parties before the date fixed by the Court for hearing and determining the application for final orders by consent.
37. At the hearing of the application for final orders by consent the parties will be required to present such evidence as is necessary to allow the Court to determine whether it is lawful and appropriate to make the consent final orders.
38. For a tree application concerning damage to property or likelihood of injury to a person, the Court will need to be satisfied that at least one of the jurisdictional tests in section 10(2) of the Trees Act is met. In addition, the Court will have regard to the matters in sections 9, 10 and 12 of the Trees Act.
39. For a tree application concerning severe obstruction of sunlight and/or to a view, the Court will need to be satisfied that sections 14A(1) and 14E(1) and at least one of the jurisdictional tests in section 14E(2) of the Trees Act are met. In addition, the Court will have regard to the matters in sections 14D and 14F of the Trees Act.
40. It is also likely that no final order by consent for interference with or removal of a tree will be made without an inspection of the tree.
45. An expert and the expert's report are to comply with the requirements of Division 2 of Pt 31 of the Uniform Civil Procedure Rules 2005 and the Expert Witness Code of Conduct in Schedule 7 of the Uniform Civil Procedure Rules.
46. An expert witness should identify any pre-existing relationship between the expert witness or their firm or company, and a party to the application.
47. If experts are directed by the Court to confer, experts are to ensure that their joint conference is a genuine dialogue between experts in a common effort to reach agreement with the other expert witness about the relevant facts and issues. Any joint report is to be a product of this genuine dialogue and is not to be a mere summary or compilation of the pre-existing positions of the experts.
48. Legal representatives and parties to the application are not to attend joint conferences of experts or be involved in the preparation of joint reports without permission being given by the Court.
49. Where expert evidence from more than one expert in the same discipline is to be given at the final hearing, the experts will give such evidence concurrently (subject to any order to the contrary by the presiding Court member hearing the tree application).
50. The Court expects legal practitioners and experts to work together to implement this practice note in a practical and sensible way which ensures that it achieves its intended purpose.

#### Expert evidence

41. Parties are encouraged to consider whether expert evidence is genuinely necessary to resolve the issues in dispute in tree applications. Unnecessary expert evidence substantially increases the time and cost of hearings.
42. In this context, parties are to pay regard to the Court's usual practice that tree applications are fixed, whenever possible, for final hearing before at least one Commissioner who is an arborist. If the Court is not able to list a Commissioner who is an arborist for the final hearing of such applications, if time and circumstances permit, the Court will notify the parties of this fact. A Commissioner who is an arborist may not be required to be listed for tree applications seeking compensation for damage only.
43. Where expert evidence is proposed to be considered at a final hearing, the Court usually accepts that evidence in written form and does not require attendance of the expert, unless attendance is required by another party (see paragraph 51 below).
44. It is not the role of any expert to express an opinion whether a tree application should be granted or dismissed. Expert opinions in reports and joint reports are to deal with the relevant issues raised by the parties. Any other matter relevant to the expert's expertise, which the expert feels obliged to draw to the attention of the parties and the Court, may also be noted.

#### Witnesses required for cross-examination

51. If a party requires any expert or other witness for cross-examination, notice is to be given at least 5 working days before the final hearing.

#### Non compliance and costs

52. If a breach of the Court's directions or of this practice note causes costs to be thrown away, a party, legal practitioner or agent responsible for the breach may be ordered to pay those costs.
53. The cost of unnecessary photocopying and assembly of documents is unacceptable. Legal practitioners and agents for the parties are to consider carefully the documents necessary to be provided to the Court during any hearing of a tree application. Unnecessary documents may attract adverse costs orders.
54. Any failure by one party to comply with the Court's directions will not be considered an adequate excuse for any failure to comply by the other party. Both parties are responsible for ensuring that they comply with directions.

#### Applications for a cost order

55. Where a Commissioner has heard and determined a tree application, any party seeking an order for costs of the proceedings must apply for costs by notice of motion filed within 28 days of the final orders in the proceedings.

Note: Pt 3 r 3.7 of the Land and Environment Court Rules 2007 provides that for proceedings in Class 2 of the Court's jurisdiction, including tree applications, the Court "is not to make an order for the payment of costs unless the Court considers that the making of an order as to the whole or any part of the costs is fair and reasonable in the circumstances": Pt 3 r 3.7(2).

Some of the circumstances in which the Court might consider the making of a costs order to be fair and reasonable are listed in Pt 3 r 3.7(3).

56. The notice of motion for costs will be heard and determined by either the Registrar or a Judge of the Court.

The Honourable Justice Brian J Preston  
Chief Judge  
23 July 2010.

#### SCHEDULE A

Usual directions on the preliminary hearing for tree applications [blanks will be completed at the preliminary hearing, relevant directions ticked and directions not needed will be crossed out].

- 1 Time and place of final hearing
- (a) The matter is fixed for an on-site hearing/a court hearing commencing on site on [date] .....at ..... am/pm.
- (b) The hearing will continue in Court at [location] ..... at ..... am/pm;
- 2 Notice of appearance
- The applicant's legal representative/respondent's legal representative/respondent is to lodge a Notice of Appearance with the Court and give a copy to the respondent/applicant, by 4.30pm on .....
- 3 Service of directions
- (a) The applicant is to serve a copy of these directions on the respondent and on the local council by 4.30 pm on .....
- (b) The applicant is to serve a copy of these directions on the Heritage Council of NSW by 4.30 pm on .....
- 4 Proof of service
- The applicant is to file with the Court a statutory declaration or an affidavit of service demonstrating service of the tree application and/or compliance with direction 3 for service of directions by 4.30 pm on .....
- 5 Issue of subpoenas to produce documents
- Leave is granted to all parties to issue subpoenas to produce documents by not later than .....with such subpoenas to be returnable before the Court not later than .....
- 6 Applicant's evidence
- The applicant is to file with the Court and serve a copy on the respondent, the local council and the Heritage Council of NSW, by 4.30pm on ....., any further statements, reports, affidavits, photographs or any other documents upon which the applicant intends to rely at the hearing;
- Note: When an application is made for an order to prevent injury to any person and the "injury" is an illness, allergy or similar medical condition, specific supplementary directions [see Schedule B] will be made concerning evidence in such cases.
- 7 For all Part 2 claims seeking orders for compensation for damage to property or orders to rectify damage to property, the applicant's documents provided pursuant to direction 6 are to provide details of:
- when and how the damage was brought to the attention of the respondent including copies of any correspondence (if this information has not been provided as part of the application); and
  - the basis of any amount claimed for past damage (including all relevant receipts and/or invoices) and any quotations for proposed works which the applicant requests the Court to require to be undertaken (whether such proposed works are to the applicant's property or to the property where the tree is located);
- 8 In addition to the deadline in direction 6 for the applicant to provide further material, the applicant may file with the Court and serve a copy on the respondent, the local council and the Heritage Council of NSW, by 4.30pm on ....., any documents produced in response to a subpoena, on which the applicant intends to rely at the hearing;
- 9 Respondent's evidence and alternative orders
- The respondent is to file with the Court and serve a copy on the applicant, the local council and the Heritage Council of NSW, by 4.30pm on ....., any statements, reports, affidavits, photographs or any other documents (including subpoenaed documents) upon which the respondent intends to rely at the hearing;
- 10 The respondent is to file with the Court and serve a copy on the applicant, the local council and the Heritage Council of NSW, by 4.30pm on ....., any order pursuant to s 9 and/or s 14D of the Trees (Disputes Between Neighbours) Act 2006 or pursuant to s 13A of the Dividing Fences Act 1991 which the respondent proposes as an alternative to or in addition to the orders sought by the applicant;
- 11 Local council's evidence
- The local council is to file with the Court and to serve on the applicant, the respondent and the Heritage Council of NSW, by 4.30 pm on ....., any statements, reports, affidavits, photographs or any other documents upon which the local council intends to rely at the hearing;
- 12 Heritage Council's evidence
- The Heritage Council of NSW is to file with the Court and serve on the applicant, the respondent and the local council, by 4.30 pm on ....., any statements, reports, affidavits, photographs or any other documents upon which the Heritage Council intends to rely at the hearing;
- 13 Access for inspections
- The parties are to permit access to their property by the other party and the legal representatives and expert advisors of the other party, the local council or the Heritage Council of NSW, provided that access is on reasonable notice (given to the party's legal

- representative or, if the party does not have a legal representative, direct to the party) and at a reasonable time. The parties are permitted to supervise any such access;
- 14 Expert evidence
- (a) Any expert giving written or oral evidence on behalf of a party, the local council or the Heritage Council of NSW is to be advised that:
1. Any expert engaged to give opinion evidence in these proceedings has an overriding duty to assist the Court impartially on matters relevant to the expert's area of expertise;
  2. Such expert witness's paramount duty is to the Court and not to the person retaining the expert; and
  3. Such expert witness is not an advocate for the party who has engaged that expert;
- (b) Any written expert evidence is to include acknowledgement that the expert has read and agrees to be bound by the Expert Witness Code of Conduct in Schedule 7 of the Uniform Civil Procedure Rules 2005.
- 15 Witnesses required for cross-examination
- If a party, the local council or the Heritage Council of NSW requires any expert or any other witness for cross-examination, notice is to be given at least 5 working days before the final hearing.
- 16 Liberty to re-list
- Each party has liberty to re-list the matter before the Court on two days notice to the other party, the Court, the local council and the Heritage Council of NSW.

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SCHEDULE B

Supplementary directions for an order to prevent injury to any person and the "injury" is an illness, allergy or similar medical condition.

- 1. Further to direction 6 of the principal directions in this matter, the applicant is to provide, by the close of business on ....., any statement of medical or arboricultural evidence and any supporting medical or arboricultural peer reviewed literature relied upon in support of a claim that a tree which is the subject of the application is a "likely cause of injury to any person";
- 2. Any expert evidence concerning matters contained in 1 above is to include acknowledgement that the expert has read and agrees to be bound by the Expert Witness Code of Conduct in Schedule 7 of the Uniform Civil Procedure Rules 2005.

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**WORKERS COMPENSATION (PRIVATE HOSPITAL RATES) ORDER 2010**

under the

Workers Compensation Act 1987

I, LISA HUNT, Chief Executive Officer of the WorkCover Authority of New South Wales, pursuant to section 62 (1) of the Workers Compensation Act 1987, and with the concurrence of the Minister for Health under section 62(8), make the following Order.

Dated this 28th day of July 2010.

LISA HUNT,  
Chief Executive Officer,  
WorkCover Authority of New South Wales

**1. Name of Order**

This Order is the Workers Compensation (Private Hospitals Rates) Order 2010.

**2. Commencement**

This Order commences on the date that it is published in the *New South Wales Government Gazette*.

**3. Application of Order**

- (1) This Order applies to the hospital treatment of a worker at a private hospital, being treatment of a type referred to in clause 5 and provided on or after the date of commencement of this Order, whether the treatment relates to an injury that is received before, on or after that date.
- (2) Any previous Order of WorkCover in force under section 62 of the Act continues to apply except to the extent that it is inconsistent with this Order.

**4. Definitions**

- (1) In this Order:

**the Act** means the Workers Compensation Act 1987.

**GST** means the goods and services tax payable under the GST Law.

**GST Law** has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**private hospital** means a hospital or licensed private health facility (as defined in the Private Health Facilities Act 2007) but excludes a public hospital (as defined in s 59 of the Act).

**WorkCover** means the WorkCover Authority of New South Wales.

- (2) A reference to treatment or services in this Order is (consistent with the definition of “hospital treatment” in section 59 of the Act) a reference to treatment or services provided at a private hospital or at any rehabilitation centre conducted by such a hospital.

#### 5. Fees for hospital patient services generally

- (1) The amount for which an employer is liable under the Act for hospital treatment provided to a worker in a private hospital, is the amount specified in the second column of the attached Table adjacent to the nature of the service specified in the first column of that Table.
- (2) An employer is not liable under the Act to pay any amount for hospital treatment provided to a worker at a facility that is not a public hospital or a private hospital as defined.
- (3) Where the service is a taxable supply for the purposes of the GST Law, the amount in the last column of the attached Table should be increased by the amount of GST payable.
- (4) The theatre fees include the costs of routine consumable and disposable items

#### 6. Invoices for private hospital patients

Invoices for private hospital patients are to be submitted to scheme agents and insurers in the following form:

- worker’s first name and last name and claim number
- payee details
- ABN
- name of service provider who provided the service
- date of service
- WorkCover NSW payment classification code
- Medicare Benefits Schedule (MBS) item
- service cost for each WorkCover NSW classification code
- theatre duration (if applicable).

#### 7. Additional Information

The scheme agent, insurer or WorkCover may request additional information as evidence of the service provided and billed.

#### PRIVATE HOSPITALS FEE SCHEDULE

Under section 62(1) of the Workers Compensation Act 1987.

|   | Maximum Fees<br>for services |
|---|------------------------------|
| <b>OVERNIGHT FACILITY FEES (Daily)</b>  |                              |
| <b>Advanced surgical</b> 1 to 14 days   | \$675.41                     |
| >14 days  | \$457.58                     |
| <b>Surgical</b> 1 to 14 days  | \$635.68                     |
| >14 days  | \$457.58                     |
| <b>Psychiatric</b> 1 to 21 days   | \$604.17                     |
| 22 to 65 days   | \$467.17                     |
| Over 65 days  | \$428.81                     |
| <b>Rehabilitation</b> 1 to 49 days  | \$656.23                     |
| >49 days  | \$482.24                     |
| <b>Other (Medical)</b> 1 to 14 days   | \$564.44                     |
| >14 days  | \$457.58                     |
| <b>Intensive Care</b> < 5 days, lvl 1   | \$2626.29                    |
| < 5 days, lvl 2   | \$1817.99                    |
| <b>DAY FACILITY FEES (including Accident and Emergency attendance) (Daily)</b>                  |                              |
| Band 1 - absence of anaesthetic or theatre times  | \$290.44                     |
| Band 2 - local anaesthetic, no sedation   | \$341.13                     |
| Band 3 - general or regional anaesthetic or intravenous sedation, less than 1 hour theatre time | \$384.97                     |
| Band 4 - general or regional anaesthetic or intravenous sedation, 1 hour or more theatre time   | \$430.18                     |

**THEATRE FEES – as per national procedure banding schedule**

Multiple procedure rule:

100% of fee for first procedure,

50% for second procedure undertaken at the same time as the first,

20% for the third and subsequent procedures undertaken at the same time as the first.

|         |           |
|---------|-----------|
| Band 1A | \$163.03  |
| Band 1  | \$290.44  |
| Band 2  | \$497.31  |
| Band 3  | \$608.28  |
| Band 4  | \$823.37  |
| Band 5  | \$1209.71 |
| Band 6  | \$1387.81 |
| Band 7  | \$1854.98 |
| Band 8  | \$2582.45 |
| Band 9A | \$2670.13 |
| Band 9  | \$3412.67 |
| Band 10 | \$4036.02 |
| Band 11 | \$4778.56 |
| Band 12 | \$5163.53 |
| Band 13 | \$6262.27 |

# PRIVATE ADVERTISEMENTS

## ESTATE NOTICES

NOTICE of intended distribution of estate. – Any person having any claim upon the estate of IAN SYDNEY SCOTT, late of Neutral Bay, in the State of New South Wales, who died on 6 September 2009, must send particulars of their claim to the executor of the estate Helen Robertson, 1 Barooka Road, Northbridge NSW 2963 not more than 30 days after publication of this notice. After that time the executor intends to distribute the property in the estate unless an application or notice of intended application for a family provision order is received by the executor. Probate was granted in New South Wales on 24 May 2010. [5393]

## COMPANY NOTICES

NOTICE of application relating to ARUBACO PTY LTD (ACN 129 654 360).—Davide Bini will apply to the Supreme Court of NSW at 9:00 a.m., on 11 August 2010, at 184 Phillip Street, Sydney NSW 2000, for an order that Arubaco Pty Ltd be wound up in insolvency under section 459A. Any person intending to appear at the hearing must file a notice of appearance in the prescribed form and serve that notice on the applicant at its address for service shown below not later than 9 August 2010. DAVIDE BINI, 3/4 Penkivil Street, Bondi NSW 2026. [5394]

## OTHER NOTICES

### ELECTRICITY SUPPLY ACT 1995 LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land at Awaba  
in the Lake Macquarie area

ENERGYAUSTRALIA declares, with the approval of Her Excellency the Governor, that the land described in Schedule 1, except the interests set out in Schedule 2, is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Electricity Supply Act 1995.

Dated at Sydney: 30 July 2010.

EnergyAustralia

Signed for and on behalf of EnergyAustralia of 570 George Street, Sydney by KATHERINE MARGARET GUNTON its duly constituted attorney pursuant to registered power of attorney registered Book 4528 No. 401.

#### SCHEDULE 1

All those pieces or parcels of land situated in the Lake Macquarie area, Parish of Awaba, County of Northumberland, being the land known as Lot 474 in Deposited Plan 1138964, said to be in the ownership of the State of New South Wales.

#### SCHEDULE 2

Easement for transmission line 45.72 wide (MS7711MD) affecting the part shown so burdened in the title diagram notification in the *New South Wales Government Gazette* dated 18 March 1966, Folio 1179.

Easement for transmission line 30.48 wide affecting the part(s) shown so burdened in the title diagram notification in the *New South Wales Government Gazette* dated 18 December 1959, Folio 3892. [5395]

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Dated at Sydney: 30 July 2010.

EnergyAustralia

Signed for and on behalf of EnergyAustralia of 570 George Street, Sydney by KATHERINE MARGARET GUNTON its duly constituted attorney pursuant to registered power of attorney registered Book 4528 No. 401.

#### SCHEDULE 1

All those pieces or parcels of land situated in the Lake Macquarie area, Parish of Awaba, County of Northumberland, being the land known as Lot 1 in Deposited Plan 1147459, said to be in the ownership of the State of New South Wales.

#### SCHEDULE 2

Easement for transmission line 45.72 wide (MS7711MD) affecting the part shown so burdened in the title diagram notification in the *New South Wales Government Gazette* dated 18 March 1966, Folio 1179.

Easement for transmission line 30.48 wide affecting the part(s) shown so burdened in the title diagram notification in the *New South Wales Government Gazette* dated 18 December 1959, Folio 3892. [5396]

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