



Government Gazette

of the State of
New South Wales

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Friday, 14 July 2017

The New South Wales Government Gazette is the permanent public record of official notices issued by the New South Wales Government. It also contains local council and other notices and private advertisements.

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To submit a notice for gazettal – see Gazette Information.

GOVERNMENT NOTICES

Miscellaneous Instruments



New South Wales

Notice of Determination

under the

Threatened Species Conservation Act 1995

The Scientific Committee established under the *Threatened Species Conservation Act 1995* has made a determination to amend the descriptions of the species referred to below pursuant to section 36A (1) (a) of that Act (being an amendment that is necessary or desirable to reflect changes in the name of a species, or a reclassification of any such species into further species, as a result of taxonomic revision).

(a) Part 1 of Schedule 1A to that Act is amended by omitting the following from the matter relating to Maluridae (under the heading **Animals, Vertebrates, Birds**):

* *Amytornis textilis modestus* (North, 1902) Thick-billed Grasswren
(eastern subspecies)

(b) Part 1 of Schedule 1A to that Act is amended by inserting the following in the matter relating to Maluridae (under the heading **Animals, Vertebrates, Birds**):

* *Amytornis modestus inexpectatus* (Mathews, 1912) Thick-billed Grasswren (central
NSW subspecies)

* *Amytornis modestus obscurior* (Mathews, 1923) Thick-billed Grasswren
(north-west NSW subspecies)

This Notice commences on the day on which it is published in the Gazette.

Dated, this 26th day of June 2017.

Dr Mark Eldridge
Chairperson of the Scientific Committee

Copies of determination and reasons

Copies of the final determination and the reasons for it are available to members of the public (free of charge) as follows:

(a) on the Internet at www.environment.nsw.gov.au,

Notice of Determination [NSW]

- (b) by contacting the Scientific Committee Unit, by post C/- Office of Environment and Heritage, PO Box 1967, Hurstville BC NSW 1481, by telephone (02) 9585 6940 or by facsimile (02) 9585 6606,
- (c) in person at the Office of Environment and Heritage Information Centre, Level 14, 59–61 Goulburn St, Sydney.

Planning and Environment Notices

HERITAGE ACT 1977

ORDER UNDER SECTION 57(2) TO GRANT SITE SPECIFIC EXEMPTIONS FROM APPROVAL

Prince Henry Site

SHR No. 01651

I, the Minister for Heritage, on the recommendation of the Heritage Council of New South Wales, in pursuance of section 57(2) of the *Heritage Act 1977*, do, by this my order, revoke the Schedule of Exemptions to subsection 57(1) of the *Heritage Act 1977* made under subsection 57(2) and published in the Government Gazette on 17 June 2005; and grant an exemption from section 57(1) of that Act in respect of the engaging in or carrying out of any activities described in Schedule “C” by the owner, described in Schedule “B” on the item described in Schedule “A”.

The Hon Gabrielle Upton MP

Minister for Heritage

Dated at Sydney, 29th Day of April, 2017

SCHEDULE “A”

The item known as Prince Henry Site, situated on the land described in Schedule “B”.

SCHEDULE “B”

All those pieces or parcels of land within P1, P2, P3, P4, and P5 as described in *Randwick Development Control Plan 2013 Part E4 Specific Site – Prince Henry Site, Little Bay*, shown on the plan catalogued HC 2081 in the office of the Heritage Council of New South Wales.

SCHEDULE “C”

1. *Randwick Local Environmental Plan 2012*; and
2. *Randwick Development Control Plan 2013 Part E4 Specific Site – Prince Henry Site, Little Bay*.

NATIONAL PARKS AND WILDLIFE ACT 1974

Monga State Conservation Area Draft Plan of Management
on exhibition until 16 October 2017: comments sought

The *Monga State Conservation Area Draft Plan of Management* is on exhibition until 16 October 2017.

The plan may be viewed at:

- National Parks and Wildlife Service (NPWS) Narooma Office, corner Graham and Burrawang Streets, Narooma
- Braidwood Library, Park Lane, Braidwood Library
- Office of Environment and Heritage (OEH) Customer Centre (Level 14, 59–61 Goulburn St, Sydney)
- OEH ‘Have your say’ website at <https://engage.environment.nsw.gov.au/consult>.

Submissions on the plan must be received by 16 October 2017 by:

- email to npws.parkplanning@environment.nsw.gov.au; or
- mail to The Planner, Monga SCA PoM, NPWS, PO Box 707, Nowra NSW 2541.; or
- using the online form on the OEH ‘Have your say’ website.

Your comments on the draft plan may include 'personal information'. See www.environment.nsw.gov.au/help/privacy.htm for information on how we will treat any personal information you provide, and the 'Have your say' webpage for information on how we may use and publish comments provided in your submission. For more information, contact Laura Babian 0427 864 889.

Roads and Maritime Notices

ROADS ACT 1993

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land at Arncliffe in the Bayside Council Area

Roads and Maritime Services by its delegate declares, with the approval of His Excellency the Governor, that the land described in the schedule below is acquired by compulsory process under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of the *Roads Act 1993*.

K DURIE

Manager, Compulsory Acquisition & Road Dedication
Roads and Maritime Services

Schedule

All those pieces or parcels of land situated in the Bayside Council area, Parish of St George and County of Cumberland, shown as Lots 102 and 103 Deposited Plan 1228008, being parts of the land in Certificates of Title 7303/1148740 and 6/1050923 respectively; excluding any existing easements from the compulsory acquisition of the said Lots 102 and 103.

The land is said to be in the possession of the Crown and Bayside Council (Reserve Trust Manager of Reserve 62644).

(RMS Papers: SF2017/019678)

ROADS ACT 1993

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land at Arncliffe in the Bayside Council Area

Roads and Maritime Services by its delegate declares, with the approval of His Excellency the Governor, that the interest in land described in the schedule below is acquired by compulsory process under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of the *Roads Act 1993*.

K DURIE

Manager, Compulsory Acquisition & Road Dedication
Roads and Maritime Services

Schedule

Interest in Land

A lease for a specified period of two years, as described in Memorandum AI810606 recorded at Land and Property Information, of all that piece or parcel of land situated in the Bayside Council area, Parish of St George and County of Cumberland, shown as Lot A in RMS Sketch Plan SR4566-CA, being part of the land in Certificate of Title 6/1050923.

The land is said to be in the possession of the Crown and Bayside Council (Reserve Trust Manager of Reserve 62644).

(RMS Papers: SF2017/035250)

ROADS ACT 1993

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land at Concord in the City of Canada Bay Council Area

Roads and Maritime Services by its delegate declares, with the approval of His Excellency the Governor, that the land described in the schedule below is acquired by compulsory process under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of the *Roads Act 1993*.

K DURIE

Manager, Compulsory Acquisition & Road Dedication
Roads and Maritime Services

Schedule

All that piece or parcel of Crown land situated in the City of Canada Bay Council area, Parish of Concord and County of Cumberland shown as Lot 17 Deposited Plan 1226181, being part of the land in Certificate of Title 1/1210747.

The land is said to be in the possession of the Crown and City of Canada Bay Council (manager of the St Luke's Park (R500466) Reserve Trust).

(RMS Papers: SF2017/005997; RO SF2016/035785)

ROADS ACT 1993

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land

at Burwood in the Municipality of Burwood Council Area and at Concord in the Canada Bay Council Area

Roads and Maritime Services by its delegate declares, with the approval of His Excellency the Governor, that the land described in schedule 1 and the interest in land described in schedule 2 below are acquired by compulsory process under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of the *Roads Act 1993*.

K DURIE

Manager, Compulsory Acquisition & Road Dedication
Roads and Maritime Services

Schedule 1

All those pieces or parcels of land situated in the Municipality of Burwood Council area and Canada Bay Council area, Parish of Concord and County of Cumberland, shown as:

Lot 6 Deposited Plan 1226856, being part of the land in Certificate of Title Auto Consol 8387-214 and said to be in the possession of An Huynh and Le Chuc Huynh; and

Lots 14, 15 and 16 Deposited Plan 1226181, being parts of the land in Certificates of Title 8/719520, 9/719520 and 10/719520 respectively and said to be in the possession of Canada Bay Council.

Schedule 2

All that interest in land situated in the Municipality of Burwood Council area, Parish of Concord and County of Cumberland, being:

The interest of 7-Eleven Stores Pty Limited (registered lessee vide dealing AG805263) in Lot 5 Deposited Plan 1226856, being part of the land in Certificate of Title 1/773472.

(RMS Papers: SF2017/006013)

ROADS ACT 1993

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land at Scone in the Upper Hunter Shire Council Area

Roads and Maritime Services by its delegate declares, with the approval of His Excellency the Governor, that the land described in the schedule below is acquired by compulsory process under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of the *Roads Act 1993*.

K DURIE

Manager, Compulsory Acquisition & Road Dedication
Roads and Maritime Services

Schedule

All those pieces or parcels of land situated in the Upper Hunter Shire Council area, Parish of Scone and County of Brisbane, shown as Lots 38, 36 and 37 Deposited Plan 1228077, being part of the land in Certificates of Title 103/1093507 and 1/804243; excluding from the acquisition of the said Lots 38, 36 and 37 any existing easements.

The land is said to be in the possession of A M & T L McMullin Pty Limited.

(RMS Papers: SF2017/025736; RO SF2014/099393)

ROADS ACT 1993

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land at Alexandria in the Sydney City Council Area

Roads and Maritime Services by its delegate declares, with the approval of His Excellency the Governor, that the land described in the schedule below is acquired by compulsory process under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of the *Roads Act 1993*.

K DURIE

Manager, Compulsory Acquisition & Road Dedication
Roads and Maritime Services

Schedule

All those pieces or parcels of land situated in the Sydney City Council area, Parish of Alexandria and County of Cumberland, shown as Lots 306 and 309 Deposited Plan 1231238, being parts of the land in Certificate of Title 100/864502; excluding from the acquisition of the said Lots 306 and 309 any existing easements.

The land is said to be in the possession of South Sydney Central Pty Limited (registered proprietor), Westpac Banking Corporation (mortgagee) and Bunnings Group Limited (lessee).

(RMS Papers: SF2016/146172, RO SF2015/011628)

Mining and Petroleum Notices

NOTICE is given that the following applications have been received:

EXPLORATION LICENCE APPLICATIONS

(T17-1501)

No. 5524, MOUNT THORLEY OPERATIONS PTY LIMITED (ACN 000 013 249), area of 1990 hectares, for Group 9, dated 3 July, 2017. (Singleton Mining Division).

(T17-1502)

No. 5525, COAL & ALLIED OPERATIONS PTY LTD (ACN 000 023 656) AND HVO RESOURCES PTY LTD (ACN 608 108 952), area of 932 hectares, for Group 9, dated 3 July, 2017. (Singleton Mining Division).

(T17-1503)

No. 5526, COAL & ALLIED OPERATIONS PTY LTD (ACN 000 023 656) AND HVO RESOURCES PTY LTD (ACN 608 108 952), area of 128 hectares, for Group 9, dated 3 July, 2017. (Singleton Mining Division).

(T17-1504)

No. 5527, COAL & ALLIED OPERATIONS PTY LTD (ACN 000 023 656) AND HVO RESOURCES PTY LTD (ACN 608 108 952), area of 152 hectares, for Group 9, dated 3 July, 2017. (Singleton Mining Division).

(T17-1124)

No. 5528, AUSTRALIAN CONSOLIDATED GOLD HOLDINGS PTY LTD (ACN 619 975 405), area of 48 units, for Group 1 and Group 2, dated 6 July, 2017. (Sydney Mining Division).

(T17-1125)

No. 5529, AUSTRALIAN CONSOLIDATED GOLD HOLDINGS PTY LTD (ACN 619 975 405), area of 86 units, for Group 1 and Group 2, dated 6 July, 2017. (Sydney Mining Division).

(T17-1126)

No. 5530, AUSTRALIAN CONSOLIDATED GOLD HOLDINGS PTY LTD (ACN 619 975 405), area of 35 units, for Group 1 and Group 2, dated 6 July, 2017. (Orange Mining Division).

(T17-1127)

No. 5531, AUSTRALIAN CONSOLIDATED GOLD HOLDINGS PTY LTD (ACN 619 975 405), area of 31 units, for Group 1 and Group 2, dated 6 July, 2017. (Wagga Wagga Mining Division).

(T17-1128)

No. 5532, AUSTRALIAN CONSOLIDATED GOLD HOLDINGS PTY LTD (ACN 619 975 405), area of 50 units, for Group 1 and Group 2, dated 6 July, 2017. (Orange Mining Division).

(T17-1129)

No. 5533, AUSTRALIAN CONSOLIDATED GOLD HOLDINGS PTY LTD (ACN 619 975 405), area of 81 units, for Group 1 and Group 2, dated 6 July, 2017. (Lightning Ridge Mining Division).

(T17-1130)

No. 5534, AUSTRALIAN CONSOLIDATED GOLD HOLDINGS PTY LTD (ACN 619 975 405), area of 63 units, for Group 1 and Group 2, dated 6 July, 2017. (Orange Mining Division).

(T17-1131)

No. 5535, AUSTRALIAN CONSOLIDATED GOLD HOLDINGS PTY LTD (ACN 619 975 405), area of 116 units, for Group 1 and Group 2, dated 6 July, 2017. (Lightning Ridge Mining Division).

(T17-1132)

No. 5536, AUSTRALIAN CONSOLIDATED GOLD HOLDINGS PTY LTD (ACN 619 975 405), area of 74 units, for Group 1 and Group 2, dated 6 July, 2017. (Cobar Mining Division).

(T17-1133)

No. 5537, AUSTRALIAN CONSOLIDATED GOLD HOLDINGS PTY LTD (ACN 619 975 405), area of 104 units, for Group 1 and Group 2, dated 6 July, 2017. (Orange Mining Division).

(T17-1134)

No. 5538, BACCHUS RESOURCES PTY LTD (ACN 606340872), area of 46 units, for Group 1, dated 7 July, 2017. (Cobar Mining Division).

The Honorable Don Harwin MLC
Minister for Resources

NOTICE is given that the following applications have been granted:

EXPLORATION LICENCE APPLICATIONS

(T17-1025)

No. 5440, now Exploration Licence No. 8611, LITHIUM EXPLORATION PTY LIMITED (ACN 615 541 225), County of Farnell, Map Sheet (), area of 26 units, for Group 1, dated 6 July, 2017, for a term until 6 July, 2023.

(T17-1027)

No. 5442, now Exploration Licence No. 8614, LITHIUM EXPLORATION PTY LIMITED (ACN 615 541 225), Counties of Farnell, Mootwingee and Yancowinna, Map Sheet (7234, 7235), area of 31 units, for Group 1, dated 6 July, 2017, for a term until 6 July, 2023.

(T17-1028)

No. 5443, now Exploration Licence No. 8612, LITHIUM EXPLORATION PTY LIMITED (ACN 615 541 225), Counties of Mootwingee and Yancowinna, Map Sheet (7234), area of 29 units, for Group 1, dated 6 July, 2017, for a term until 6 July, 2023.

(T17-1029)

No. 5444, now Exploration Licence No. 8613, LITHIUM EXPLORATION PTY LIMITED (ACN 615 541 225), County of Bland, Map Sheet (8329, 8429), area of 40 units, for Group 1, dated 6 July, 2017, for a term until 6 July, 2023.

(T17-1030)

No. 5445, now Exploration Licence No. 8616, LITHIUM EXPLORATION PTY LIMITED (ACN 615 541 225), County of Arrawatta, Map Sheet (9039, 9139), area of 36 units, for Group 1, dated 6 July, 2017, for a term until 6 July, 2023.

(T17-1042)

No. 5456, now Exploration Licence No. 8615, HAVERFORD HOLDINGS PTY LTD (ACN 142660553), County of Flinders, Map Sheet (8233), area of 250 units, for Group 1, dated 7 July, 2017, for a term until 7 July, 2023.

MINING LEASE APPLICATIONS

(T16-1110)

Sydney No. 26, now Mining Lease No. 6 (Act 1992), THE AUSTRAL BRICK CO PTY LTD (ACN 000 005 550), Parish of Bong Bong, County of Camden, Map Sheet (8928-1-N, 8929-2-S), area of 54.85 hectares, to mine for clay/shale, kaolin and structural clay, dated 27 June, 2017, for a term until 27 June, 2038.

(Z11-6538)

Singleton No. 416, now Mining Lease No. 1756 (Act 1992), DONALDSON COAL PTY LTD (ACN 073 088 945), Parish of Mulbring, County of Northumberland; Parish of Stockrington, County of Northumberland; and Parish of Teralba, County of Northumberland, Map Sheet (), area of 1078 hectares, to mine for coal, dated 30 June, 2017, for a term until 30 June, 2038. As a result of the grant of this title, Exploration Licence No. 5337, Exploration Licence No. 5497 and Exploration Licence No. 5498 have partly ceased to have effect.

(Z13-3950)

Armidale No. 464, now Mining Lease No. 1755 (Act 1992), BOGGABRI COAL PTY LIMITED (ACN 122 087 398), CHUGOKU ELECTRIC POWER AUSTRALIA RESOURCES PTY. LTD. (ACN 600 294 068) AND NS BOGGABRI PTY LIMITED (ACN 113 447 313), Parish of Leard, County of Nandewar, Map Sheet (), area of 202.9 hectares, to mine for coal, dated 30 June, 2017, for a term until 30 June, 2038.

(T14-1501)

Singleton No. 469, now Mining Lease No. 1754 (Act 1992), ULAN COAL MINES LTD (ACN 000 189 248), Parish of Ulan, County of Bligh, Map Sheet (), area of 182.8 hectares, to mine for coal, dated 30 June, 2017, for a term until 30 June, 2038.

The Honorable Don Harwin MLC
Minister for Resources

NOTICE is given that the following application has been withdrawn:

EXPLORATION LICENCE APPLICATION

(T17-1501)

No. 5524, MOUNT THORLEY OPERATIONS PTY LIMITED (ACN 000 013 249), County of Hunter and County of Northumberland, Map Sheet (9132). Withdrawal took effect on 10 July, 2017.

The Honorable Don Harwin MLC
Minister for Resources

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

(V17-7428)

Exploration Licence No. 7388, LACHLAN METALS PTY LTD (ACN 163 580 603), area of 65 units. Application for renewal received 5 July, 2017.

(V17-7423)

Exploration Licence No. 7799, GLENCORE NEWPAC PTY LIMITED (ACN 115 852 438), area of 2 hectares. Application for renewal received 5 July, 2017.

The Honorable Don Harwin MLC
Minister for Resources

RENEWAL OF CERTAIN AUTHORITIES

Notice is given that the following authorities have been renewed:

(Z12-2036)

Exploration Licence No. 5417, COAL & ALLIED OPERATIONS PTY LTD (ACN 000 023 656) AND HVO RESOURCES PTY LTD (ACN 608 108 952), Map Sheet (), area of 160 hectares, for a further term until 8 May, 2018. Renewal effective on and from 7 July, 2017.

(Z11-1237)

Exploration Licence No. 5842, MT BOPPY RESOURCES PTY LTD (ACN 611963216), Counties of Canbelego, Flinders, Mouramba and Robinson, Map Sheet (8134), area of 70 units, for a further term until 19 April, 2021. Renewal effective on and from 3 July, 2017.

(Z11-2164)

Exploration Licence No. 6523, GLOUCESTER RESOURCES LIMITED (ACN 114 162 597), County of Gloucester, Map Sheet (9233), area of 3559 hectares, for a further term until 8 March, 2020. Renewal effective on and from 22 June, 2017.

(Z12-1298)

Exploration Licence No. 6524, GLOUCESTER RESOURCES LIMITED (ACN 114 162 597), County of Gloucester, Map Sheet (9233), area of 2091 hectares, for a further term until 8 March, 2020. Renewal effective on and from 22 June, 2017.

(Z12-2260)

Exploration Licence No. 6563, GLOUCESTER RESOURCES LIMITED (ACN 114 162 597), County of Gloucester, Map Sheet (9233), area of 2964 hectares, for a further term until 15 May, 2020. Renewal effective on and from 22 June, 2017.

(V17-1130)

Exploration Licence No. 7448, CRISTAL MINING AUSTRALIA LIMITED (ACN 009 247 858), County of Windeyer, Map Sheet (7232), area of 15 units, for a further term until 4 February, 2019. Renewal effective on and from 26 June, 2017.

(V17-3455)

Exploration Licence No. 7519, PEEL (CSP) PTY LTD (ACN 600550141), County of Blaxland, Map Sheet (8033, 8133), area of 19 units, for a further term until 3 May, 2020. Renewal effective on and from 7 July, 2017.

(V16-7901)

Exploration Licence No. 7674, NEWNES KAOLIN PTY LTD (ACN 065 564 794), County of Cook, Map Sheet (8931), area of 3 units, for a further term until 24 December, 2018. Renewal effective on and from 3 July, 2017.

(V17-2077)

Exploration Licence No. 8248, JODAMA PTY LTD (ACN 095 440 547), County of Kennedy, Map Sheet (8333), area of 8 units, for a further term until 24 March, 2023. Renewal effective on and from 6 July, 2017.

(Z16-0755)

Mining Lease No. 1189 (Act 1973), CLIMAX AUSTRALIA PTY LIMITED (ACN 002 164 598), Parish of Hampton, County of Bathurst; and Parish of Lyndhurst, County of Bathurst, Map Sheet (8630-1-N, 8630-1-S, 8730-4-N, 8730-4-S), area of 252 hectares, for a further term until 14 May, 2022. Renewal effective on and from 7 July, 2017.

(Z14-2363)

Mining Purposes Lease No. 327 (Act 1973), CENTENNIAL NEWSTAN PTY LIMITED (ACN 101 508 865), Parish of Awaba, County of Northumberland, Map Sheet (9231-4-N), area of 1.041 hectares, for a further term until 5 August, 2036. Renewal effective on and from 30 June, 2017.

(Z14-2364)

Mining Purposes Lease No. 328 (Act 1973), CENTENNIAL NEWSTAN PTY LIMITED (ACN 101 508 865), Parish of Awaba, County of Northumberland, Map Sheet (9231-4-N), area of 3970 square metres, for a further term until 5 August, 2036. Renewal effective on and from 30 June, 2017.

The Honorable Don Harwin MLC
Minister for Resources

Notice is given that the following application has been received:

REQUEST FOR CANCELLATION OF AUTHORITY

(V17/7633)

Mining Lease No. 729, WENDY JOY DAY and RICHARD EDWARD MARTIN, County of Wynyard, area of 5.06 hectares.

Application for Cancellation was received on 7 July 2017

The Honorable Don Harwin MLC
Minister for Resources

REQUEST FOR PART CANCELLATION OF AN AUTHORITY

Notice is given that the following application has been received:

(V17/7389)

Mining Lease No. 1523 (Act 1992), CSR BUILDING PRODUCTS LIMITED (ACN 008 631 356), Parish of Maitland, County of Northumberland, Map Sheet 9232. Application received on 30 June 2017.

The Honorable Don Harwin MLC
Minister for Resources

CANCELLATION OF AUTHORITY AT REQUEST OF HOLDER

Notice is given that the following authority has been cancelled:

(V17-7312)

Exploration Licence No. 6922, GOLD MOUNTAIN LIMITED (ACN 115 845 942), County of King, Map Sheet (8728), area of 7 units. Cancellation took effect on 5 July, 2017.

The Honorable Don Harwin MLC
Minister for Resources

ERRATUM NOTICE

Government Gazette No. 57 of 2 June 2017

Page 22: ERRATUM The notice published in the New South Wales Government Gazette No 57 of 2 June 2017, under the heading of "RENEWAL OF CERTAIN AUTHORITIES" (V17-0058). Renewal effective date should read 7 July 2017.

The Honorable Don Harwin MLC
Minister for Resources

MINING ACT 1992

Order under section 369A

Constitution of Fossicking District 67

Pursuant to section 369A of the *Mining Act 1992*, I, Christopher Yeats, Executive Director Geological Survey of NSW in the Department of Planning and Environment, as delegate of the Minister for Resources, do, by this Order, constitute the following fossicking district:

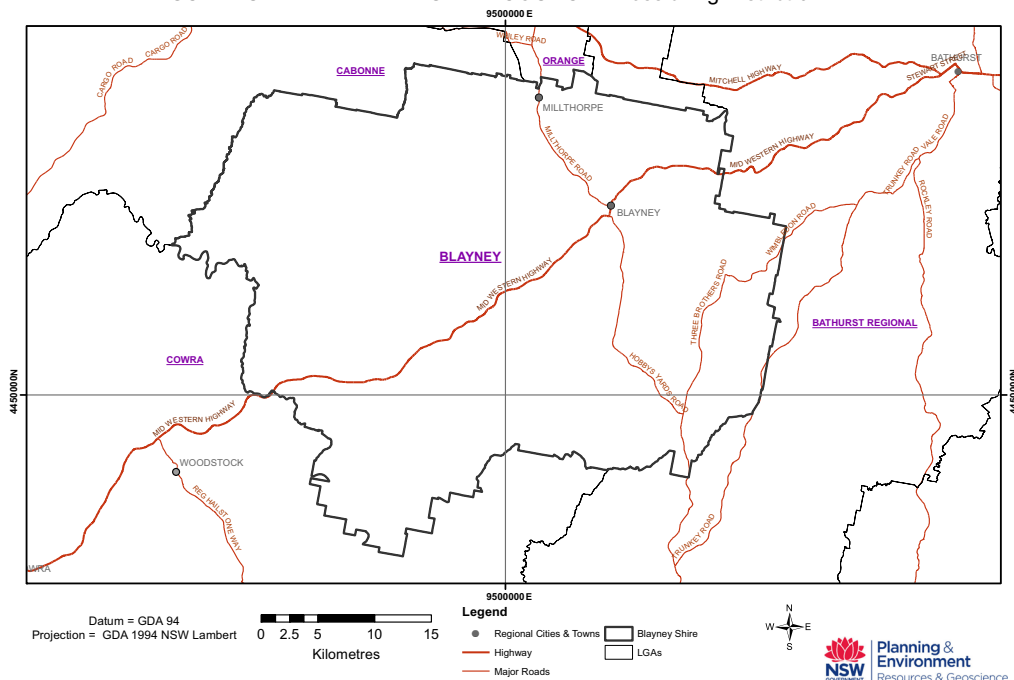
- a) all land within the Local Government Area of Blayney Shire Council and identified by bold black outline in the map in Schedule 1, to be named Fossicking District 67.

This Order commences on the date on which it is published in the NSW Government Gazette.

Dated this 11th day of July 2017.

Christopher Yeats
Executive Director Geological Survey of NSW
As delegate of the Minister for Resources

SCHEDULE 1 - BLAYNEY SHIRE COUNCIL - Fossicking District 67



Primary Industries Notices

DRUG MISUSE AND TRAFFICKING ACT 1985

Instrument of Appointment to Give Certificate Evidence

I, SCOTT HANSEN, Director General of the Department of Primary Industries, pursuant to Section 43(5) of the *Drug Misuse and Trafficking Act 1985* ('the Act'), hereby appoint the persons named in the Schedule below, each of whom I consider to be suitably qualified persons to give a certificate in relation to the identification of cannabis plant or cannabis leaf for the purposes of Section 43 of the Act.

SCHEDULE

Matthew STEFF
David James SALDERN
Michael TRANBY
Robert TAYLOR
Edward TAYLOR
Kelly PICKLES
Steven John MARSH
Brian McDARMONT
Ross Geoffrey HUNT
Antoinette HOLDEN
Bruce GREGORY
James Joseph GHATA
Adam Guy FITZGIBBON
Darren COX
Brendan BERNIE
Kenneth Mark ASTRUP
David ARCHER
David Andrew ABBOTT

Dated this 11th day of July 2017

SCOTT HANSEN
Director General
Department of Primary Industries
(an office within the Department of Industry)

FISHERIES MANAGEMENT ACT 1994

Section 76

Determination of Management Charges for Lobster Fishery

I, DAVID MCPHERSON, Group Director, Commercial Fisheries & Aquaculture, with the delegated authority in pursuance of section 227(1) and section 228(2) of the *Fisheries Management Act 1994* ("the Act"), and in pursuance of sections 76(1) and (2) of the Act, consider that the management charge of \$57.09 per share for the period 1 July 2017 to 30 June 2018 payable by holders of shares in the lobster fishery (as described in Schedule 1 to the Act), is necessary to meet the costs of management for that fishery, being costs of management that are attributed to industry by the management plan for the fishery.

Dated this 3rd day of July 2017

DAVID MCPHERSON
Group Director, Commercial Fisheries & Aquaculture
Department of Primary Industries
(an office within the Department of Industry)
(by delegation)

Crown Land Notices

1300 886 235 www.crownland.nsw.gov.au

ARMIDALE OFFICE

ROADS ACT 1993 - ORDER

TRANSFER OF A CROWN ROAD TO A COUNCIL

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

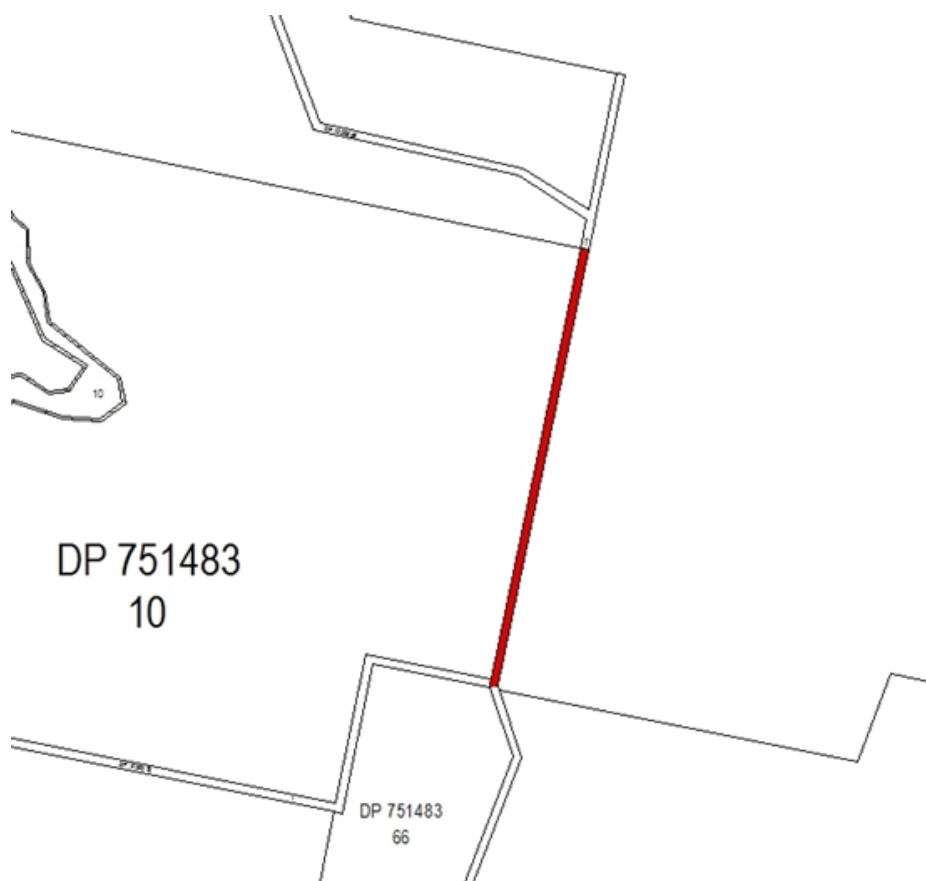
The Hon NIALL BLAIR, MLC
Minister for Lands and Water

SCHEDULE 1

Parish - Ward; County - Clarke

Land District - Armidale; LGA - Armidale Regional

Crown road shown coloured in red on diagram hereunder.



SCHEDULE 2

Roads Authority: Armidale Regional Council

Lands Reference: 17/07243

Council's Reference: GO/G14/78/2014/1043

GOULBURN OFFICE

DISSOLUTION OF RESERVE TRUST

Pursuant to section 92(3) of the *Crown Lands Act 1989*, the reserve trust specified in Column 1 of the Schedule hereunder, which was established in respect of the reserve specified opposite thereto in Column 2 of the Schedule, is dissolved.

The Hon Paul Toole, MP
Minister for Lands and Forestry

Schedule

Column 1	Column 2
Forest Cemetery Reserve Trust	Reserve No. 1038989 Public Purpose: cemetery and crematorium, heritage purposes Notified: 23 June 2017 File Reference: 14/06185

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.

The Hon Paul Toole, MP
Minister for Lands and Forestry

Schedule

Column 1	Column 2
Land District: Goulburn Local Government Area: Goulburn Mulwaree Council Locality: Middle Arm Reserve No. 1038989 Public Purpose: heritage purposes, cemetery and crematorium Notified: 23 June 2017 File Reference: 14/06185	The whole being Whole Lots: Lot 1 DP 919735 Parish Rhyana County Argyle Area: about 2023 square metres

NOTICE OF PURPOSE OTHER THAN THE DECLARED PURPOSE PURSUANT TO SECTION 34A(2)(b) OF THE CROWN LANDS ACT 1989

Pursuant to section 34A(2)(b) of the *Crown Lands Act 1989*, the Crown reserve(s) specified in Column 2 of the Schedule is to be used or occupied under a relevant interest granted for the purpose(s) specified in Column 1 of the Schedule where such use or occupation is other than the declared purpose of the reserve

The Hon Paul Toole, MP
Minister for Lands and Forestry

Schedule

Column 1	Column 2
pipeline	Reserve No. 79394 Public Purpose: public recreation Notified: 8 March 1957 File Reference: 17/00628

GRAFTON OFFICE

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

*Parish - Gooninbar; County - Rous
Land District - Murwillumbah; LGA - Tweed*

Road Closed: Lot 1 DP 1231866

File No: 17/02355

SCHEDULE

On closing, the land within Lot 1 DP 1231866 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

*Parish - Wirrigai; County - Ewenmar
Land District - Dubbo; LGA - Narromine*

Road Closed: Lots 3-4 DP 1226196

File No: 16/05119

SCHEDULE

On closing, the land within Lots 3-4 DP 1226196 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

*Parish - North Gundagai; County - Clarendon
Land District - Gundagai; LGA - Cootamundra-Gundagai Regional*

Road Closed: Lot 1 DP 1227961

File No: 16/04841

SCHEDULE

On closing, the land within Lot 1 DP 1227961 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

*Parishes - Gravesend, Monsoon; County - Burnett
Land District - Warialda; LGA - Gwydir*

Road Closed: Lots 1-2 DP 1223931, Lot 3 DP 1223932

File No: 16/03692

SCHEDULE

On closing, the land within Lots 1-2 DP 1223931, Lot 3 DP 1223932 remains vested in the State of New South Wales as Crown land.

NOTICE OF PURPOSE OTHER THAN THE DECLARED PURPOSE PURSUANT TO SECTION 34A(2)(b) OF THE CROWN LANDS ACT 1989

Pursuant to section 34A(2)(b) of the *Crown Lands Act 1989*, the Crown reserve(s) specified in Column 2 of the Schedule is to be used or occupied under a relevant interest granted for the purpose(s) specified in Column 1 of the Schedule where such use or occupation is other than the declared purpose of the reserve

The Hon Paul Toole, MP
Minister for Lands and Forestry

Schedule

Column 1	Column 2
pipeline	Reserve No. 88042
grazing	Public Purpose: access
	Notified: 4 December 1970
	File Reference: 17/00306

MAITLAND OFFICE

ROADS ACT 1993 - ORDER

TRANSFER OF A CROWN ROAD TO A COUNCIL

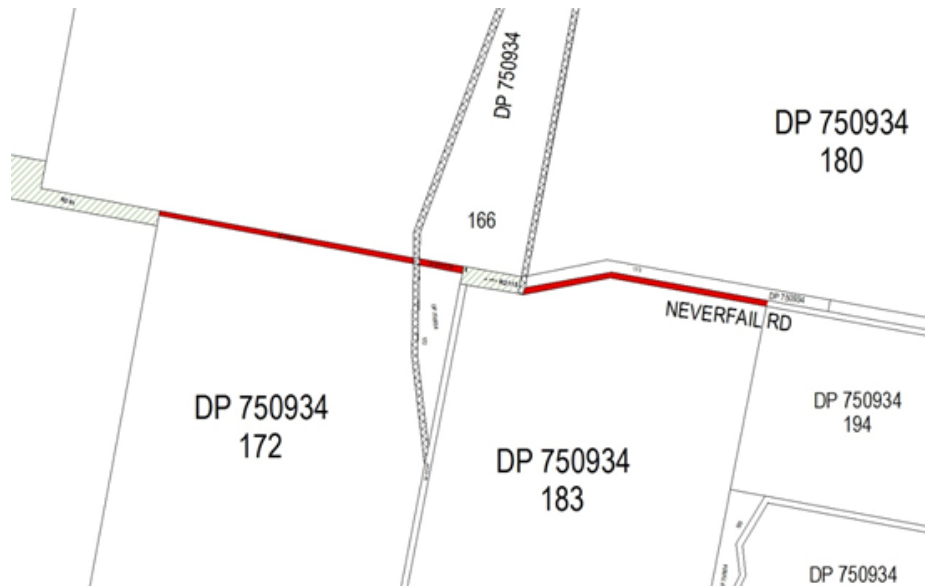
In pursuance of the provisions of section 151, *Roads Act 1993*, the Crown road specified in Schedule 1 is hereby transferred to the Roads Authority specified in Schedule 2 hereunder, and as from the date of publication of this notice, the road specified in schedule 1 ceases to be a Crown road.

The Hon NIALL BLAIR, MLC
Minister for Lands and Water

SCHEDULE 1

*Parish - Killoe; County - Brisbane
Land District - Maitland; LGA - Upper Hunter Shire*

Crown road shown coloured in red on diagram hereunder.



SCHEDULE 2

Roads Authority: Upper Hunter Shire Council

Lands Reference: 17/07119

ROADS ACT 1993

ORDER

Transfer of a Crown Road to a Council

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

The Hon. Paul Toole, MP
Minister for Lands and Forestry

SCHEDULE 1

Parish - Wareng

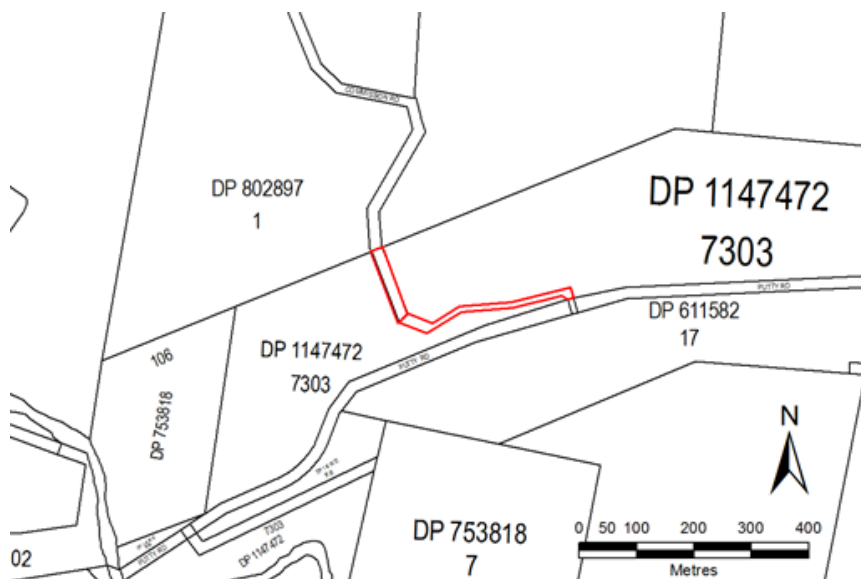
County - Hunter

Land District - Howes Valley

Local Government Area - Singleton

Crown public road being part Commission Road Howes Valley, within Lot 7303 DP 1147472, extending approx. 440 metres in length and approx. 20 metres wide (as highlighted in the diagram below).

SCHEDULE 2



Roads Authority: Singleton Council

Councils Reference:17/00018

Lands File Reference:10/19174

ROADS ACT 1993

ORDER

Transfer of a Crown Road to a Council

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

The Hon. Paul Toole, MP
Minister for Lands and Forestry

SCHEDULE 1rr

Parish - Munmorah

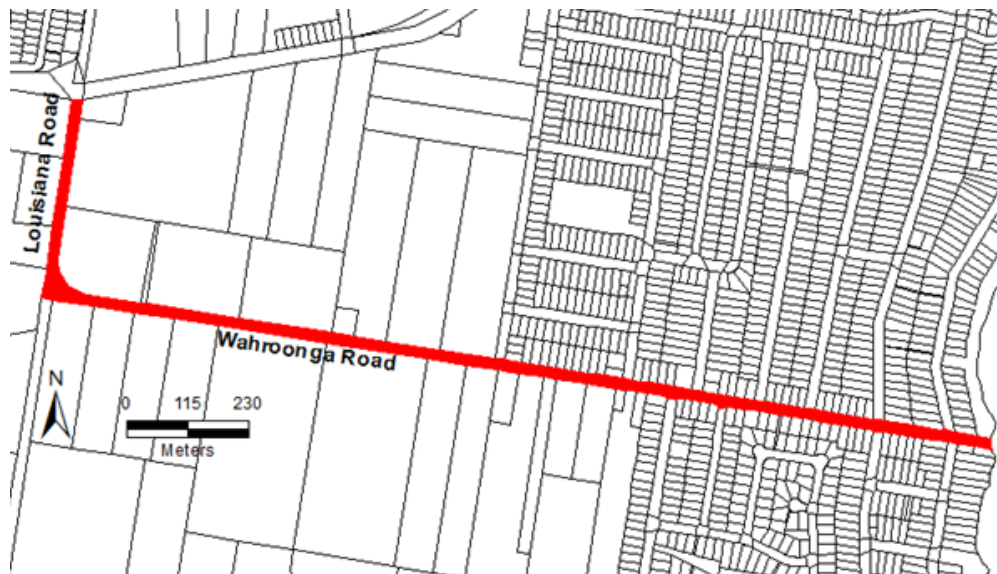
County - Northumberland

Land District - Kanwal

Local Government Area - Central Coast

Crown public road being the whole of Wahrenonga Road Kanwal and Part Louisiana Road Kanwal; adjoining Wahrenonga Road and adjacent to Lot 1 DP119285, as highlighted in the diagram below.

SCHEDULE 2



Roads Authority: Central Coast Council

Councils Reference:F2017/00857

Lands File Reference:17/07258

NEWCASTLE OFFICE

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Duckmaloi; County - Westmoreland

Land District - Lithgow; LGA - Oberon

Road Closed: Lot 1 DP 1219934

File No: 15/08501

SCHEDULE

On closing, the land within Lot 1 DP 1219934 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Tabrabucca; County - Roxburgh

Land District - Rylstone; LGA - Mid-Western Regional

Road Closed: Lot 3 DP 1224407

File No: CL/00415

SCHEDULE

On closing, the land within Lot 3 DP 1224407 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Enmore; County - Narromine
Land District - Dubbo; LGA - Narromine

Road Closed: Lot 1 DP 1227826

File No: 16/06878

SCHEDULE

On closing, the land within Lot 1 DP 1227826 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Towac; County - Wellington
Land District - Orange; LGA - Cabonne

Road Closed: Lot 1 DP 1227542 subject to easement/right of carriageway created by Deposited Plan 1227542

File No: 11/05929

SCHEDULE

On closing, the land within Lot 1 DP 1227542 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Moolarben; County - Phillip
Land District - Mudgee; LGA - Mid-Western Regional

Road Closed: Lots 1-2 DP 1216304

File No: 09/11871:JT

SCHEDULE

On closing, the land within Lots 1-2 DP 1216304 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

*Parishes - Nyangay, Palmer; County - Townsend
Land District - Hay; LGA - Edward River*

Road Closed: Lots 1-2 DP 1232478

File No: 17/01685

SCHEDULE

On closing, the land within Lots 1-2 DP 1232478 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

*Parish - Appin; County - Cumberland
Land District - Picton; LGA - Wollondilly*

Road Closed: Lot 1 DP 1229349

File No: 14/03439

SCHEDULE

On closing, the land within Lot 1 DP 1229349 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

*Parish - Neila; County - Forbes
Land District - Cowra; LGA - Cowra*

Road Closed: Lot 1 DP 1225665

File No: 08/11199

SCHEDULE

On closing, the land within Lot 1 DP 1225665 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

*Parish - Lachlan; County - Dowling
Land District - Lake Cargelligo; LGA - Lachlan*

Road Closed: Lots 1-2 DP 1213419

File No: 09/15237

SCHEDULE

On closing, the land within Lot 1 DP 1213419 remains and becomes vested in the State of New South Wales as Crown land.

On closing, the land within Lot 2 DP 1213419 becomes vested in the State of New South Wales as Crown Land.

Council's reference: D16/1107

SYDNEY METROPOLITAN OFFICE

NOTICE OF PURPOSE OTHER THAN THE DECLARED PURPOSE PURSUANT TO SECTION 34A(2)(b) OF THE CROWN LANDS ACT 1989

Pursuant to section 34A(2)(b) of the *Crown Lands Act 1989*, the Crown reserve(s) specified in Column 2 of the Schedule is to be used or occupied under a relevant interest granted for the purpose(s) specified in Column 1 of the Schedule where such use or occupation is other than the declared purpose of the reserve

The Hon Paul Toole, MP
Minister for Lands and Forestry

Schedule

Column 1	Column 2
pump site pipeline	Reserve No. 45642 Public Purpose: public recreation Notified: 24 August 1910 File Reference: 15/03923

TAREE OFFICE

NOTICE OF PURPOSE OTHER THAN THE DECLARED PURPOSE PURSUANT TO SECTION 34A(2)(b) OF THE CROWN LANDS ACT 1989

Pursuant to section 34A(2)(b) of the *Crown Lands Act 1989*, the Crown reserve(s) specified in Column 2 of the Schedule is to be used or occupied under a relevant interest granted for the purpose(s) specified in Column 1 of the Schedule where such use or occupation is other than the declared purpose of the reserve

The Hon Paul Toole, MP
Minister for Lands and Forestry

Schedule

Column 1	Column 2
environmental protection	<p>Reserve No. 24731 Public Purpose: harbour improvements Notified: 26 September 1896 File Reference: 16/08898</p> <p>Reserve No. 24734 Public Purpose: shelter Notified: 26 September 1896 File Reference: 16/08898</p> <p>Reserve No. 24736 Public Purpose: tramway Notified: 26 September 1896 File Reference: 16/08898</p> <p>Reserve No. 24738 Public Purpose: water supply Notified: 26 September 1896 File Reference: 16/08898</p> <p>Reserve No. 39606 Public Purpose: harbour improvements Notified: 9 August 1905 File Reference: 16/08898</p> <p>Reserve No. 42435 Public Purpose: village purposes Notified: 5 November 1908 File Reference: 16/08898</p> <p>Reserve No. 45183 Public Purpose: public recreation Notified: 27 April 1910 File Reference: 16/08898</p> <p>Reserve No. 54587 Public Purpose: public recreation Notified: 6 May 1921 File Reference: 16/08898</p> <p>Reserve No. 54790 Public Purpose: public recreation Notified: 19 August 1921 File Reference: 16/08898</p> <p>Reserve No. 63574 Public Purpose: public recreation Notified: 21 October 1932 File Reference: 16/08897</p> <p>Reserve No. 64011 Public Purpose: future public requirements Notified: 23 June 1933 File Reference: 16/08898</p> <p>Reserve No. 65690 Public Purpose: future public requirements Notified: 13 December 1935 File Reference: 16/08898</p> <p>Reserve No. 66076 Public Purpose: resting place Notified: 19 June 1936 File Reference: 16/08898</p>

Column 1	Column 2
	Reserve No. 66952 Public Purpose: preservation of native flora, public recreation Notified: 10 September 1937 File Reference: 16/08898
	Reserve No. 71835 Public Purpose: future public requirements Notified: 15 February 1946 File Reference: 16/08898
	Reserve No. 75096 Public Purpose: public recreation Notified: 27 June 1952 File Reference: 16/08898
	Reserve No. 77648 Public Purpose: public recreation Notified: 3 June 1955 File Reference: 16/08898
	Reserve No. 80187 Public Purpose: drainage, public recreation Notified: 29 November 1957 File Reference: 16/08898
	Reserve No. 82940 Public Purpose: public recreation Notified: 2 December 1960 File Reference: 16/08898
	Reserve No. 82941 Public Purpose: public recreation Notified: 2 December 1960 File Reference: 16/08898
	Reserve No. 85137 Public Purpose: preservation of graves Notified: 11 December 1964 File Reference: 16/08898
	Reserve No. 85139 Public Purpose: public recreation, signal station Notified: 11 December 1964 File Reference: 16/08898
	Reserve No. 85140 Public Purpose: trigonometrical purposes Notified: 11 December 1964 File Reference: 16/08898
	Reserve No. 89356 Public Purpose: public recreation Notified: 31 January 1975 File Reference: 16/08898
	Reserve No. 89406 Public Purpose: public recreation Notified: 11 April 1975 File Reference: 16/08898
	Reserve No. 210076 Public Purpose: community purposes Notified: 1 December 1989 File Reference: 16/08898

Column 1	Column 2
	<p>Reserve No. 210107 Public Purpose: port facilities and services Notified: 28 June 1996 File Reference: 16/08898</p> <p>Dedication No. 610006 Public Purpose: public recreation Notified: 25 July 1884 File Reference: 16/08898</p> <p>Dedication No. 610072 Public Purpose: public school purposes Notified: 9 November 1962 File Reference: 16/08898</p> <p>Reserve No. 754415 Public Purpose: future public requirements Notified: 29 June 2007 File Reference: 16/08898</p> <p>Reserve No. 754440 Public Purpose: future public requirements Notified: 29 June 2007 File Reference: 16/08898</p> <p>Dedication No. 1000729 Public Purpose: general cemetery Notified: 29 August 1896 File Reference: 16/08898</p>

Other Government Notices

AMENDMENT OF PRACTICE NOTE

Local Court
New South Wales

Local Court Practice Note Civ 1 – Case management of civil proceedings in the Local Court is amended as follows on and from 17 July 2017:

- Paragraph 24 is deleted and replaced with the following:

24 Appearances by telephone or audio visual link (AVL) at the trial

24.1 Any application for:

- o A party, or
- o A witness who has been ordered to attend the trial to be orally examined, to be given leave to appear by telephone or AVL at the trial should, wherever practicable, be made orally at the pre-trial review.

24.2 An application may be made at a later date in the event of unforeseen circumstances, in which case it is to be:

- o Made no later than 14 days prior to the trial date,
- o In writing, and
- o Determined by a magistrate or assessor in chambers, unless the magistrate or assessor considers there is good reason in the interests of justice for the application to be heard and determined in court.

24.3 The magistrate or assessor may refuse an application made at a later date if court facilities to enable a party or witness to appear by telephone or AVL are unavailable on the trial date.

24.4 If leave is granted for a party or a witness to appear by telephone or AVL then the party who sought leave is responsible for:

- o If relevant, booking the remote AVL facility, paying any costs associated with the use of the AVL and arranging for the attendance of the party or the witness at that facility,
- o If relevant, arranging for the party or the witness to telephone the court at the relevant time during the trial,
- o Providing the party or the witness with a copy of any witness statements or documents to which the party or the witness may be referred while giving his or her evidence.

Judge Graeme Henson AM
Chief Magistrate

ANTI-DISCRIMINATION ACT 1977

EXEMPTION ORDER

Under the provisions of section 126 of the *Anti-Discrimination Act 1977* (NSW), an exemption is given from sections 8 and 51 of the *Anti-Discrimination Act 1977* (NSW) to Local Government New South Wales (ABN 49 853 913 882) to designate and recruit the position of Senior Policy Officer - Aboriginal Policy and Programs, for Aboriginal and Torres Strait Islander people only.

This exemption will remain in force for 10 years.

Dated this 6th day of July 2017

Elizabeth Wing
Acting President
Anti-Discrimination Board of NSW

ANTI-DISCRIMINATION ACT 1977

EXEMPTION ORDER

Under the provisions of section 126 of the *Anti-Discrimination Act 1977* (NSW), an exemption is given from sections 25 and 51 of the *Anti-Discrimination Act 1977* (NSW) to the Northern Rivers Community Legal Centre to designate and recruit up to two positions for women only as solicitors specialising in family law and/or care and protection.

This exemption will remain in force for 10 years.

Dated this 6th day of July 2017

Elizabeth Wing
Acting President
Anti-Discrimination Board of NSW

ASSOCIATIONS INCORPORATION ACT 2009

Cancellation of registration pursuant to section 80

TAKE NOTICE that NURSES ON WHEELS INC Y0477027 became registered under the *Corporations Act 2001* as NURSES ON WHEELS AUSTRALIA LTD ACN 620 011 145, a company limited by guarantee, on the twenty-sixth day of June 2017, and accordingly its registration under the *Associations Incorporation Act 2009* is cancelled as of that date.

Robyne Lunney
Delegate of the Commissioner,
NSW Fair Trading

12 July 2017

ASSOCIATIONS INCORPORATION ACT 2009

Cancellation of registration pursuant to section 80

TAKE NOTICE that LIVERPOOL MIGRANT RESOURCE CENTRE INCORPORATED Y3000225 became registered under the *Corporations Act 2001* as WESTERN SYDNEY MIGRANT RESOURCE CENTRE LTD 619 937 227, a company limited by guarantee, on the twenty third day of June 2017, and accordingly its registration under the *Associations Incorporation Act 2009* is cancelled as of that date.

Robyne Lunney
Delegate of the Commissioner,
NSW Fair Trading

12 July 2017

COMPANION ANIMALS REGULATION 2008

ORDER

Organisations approved by the Chief Executive, Local Government
under clause 16(d) of the Companion Animals Regulation 2008

Pursuant to clause 16(d) of the *Companion Animals Regulation 2008*, the organisation listed in Schedule 1 is hereby approved, subject to the conditions contained in Schedule 2.

SCHEDULE 1

Name of organisation	Address of organisation
Cat Rescue Newcastle	15 Berkeley Street STROUD NSW 2425

SCHEDULE 2

1. The exemption under clause 16(d) of the *Companion Animals Regulation 2008* from the requirements of section 9 of the *Companion Animals Act 1998* only applies to an animal in the custody of an organisation listed in Schedule 1:
-

- a) if the organisation is holding that animal for the sole purpose of re-housing the animal with a new owner; and
 - b) if the organisation maintains appropriate records that show compliance with the *Companion Animals Act 1998*, *Companion Animals Regulation 2008* and the Guidelines for Approval to be an Organisation Exempt from Companion Animal Registration under clause 16(d) of the *Companion Animals Regulation 2008*; and
 - c) if the organisation maintains a register that is made available to the relevant local council and the Office of Local Government as requested. The Register must list the names of all carers involved in the rehoming of animals and the locations of all animals received under the exemption while in the custody of the organisation.
2. The exemption under clause 16(d) of the *Companion Animals Regulation 2008* from the requirements of section 9 of the *Companion Animals Act 1998* expires five years from the date of this order, unless revoked or varied at an earlier time.

Sonja Hammond
Manager, Performance
Office of Local Government

Date: 10 July 201y

DISTRICT COURT RULES 1973

APPOINTMENT

In pursuance of Part 2 Rule 2 (1) of the *District Court Rules 1973* I appoint the following vacation period:

Summer vacation for 2018/2019 shall commence on 15 December 2018 and conclude on 27 January 2018.

Dated at Sydney this 6th day of July 2017.

Justice D Price AM
Chief Judge

DISTRICT COURT ACT 1973

DISTRICT COURT OF NEW SOUTH WALES

DIRECTION

PURSUANT to section 32 of the *District Court Act 1973*, I direct that the District Court shall sit in its civil jurisdiction at all Courts and at the times that I have directed the Court sit in its criminal jurisdiction during the financial year 2018-2019 and pursuant to section 173 of the *District Court Act 1973*, I direct that the District Court shall also sit in its criminal jurisdiction at all Courts and at the times that I have directed the Court sit in its civil jurisdiction during the financial year 2018-2019.

Dated this 6th day of July 2017.

Justice D Price AM
Chief Judge

DISTRICT COURT ACT 1973

DISTRICT COURT OF NEW SOUTH WALES

DIRECTION

In pursuance of Section 32 (3) of the *District Court Act 1973* I direct that for the financial year 2018-2019 all proceedings (other than proceedings before the Registrar) in the District Court of New South Wales in relation to which the proper place is a place specified in Column 1 hereunder shall be continued by the Court sitting at the place specified opposite that place in Column 2 hereunder:

Column 1	Column 2
Bourke	Dubbo
Braidwood	Queanbeyan
Casino	Lismore

Cessnock	Newcastle
Cobar	Dubbo
Condobolin	Orange
Cooma	Queanbeyan
Coonamble	Dubbo
Cootamundra	Wagga Wagga
Corowa	Albury
Cowra	Orange
Deniliquin	Albury
East Maitland	Newcastle
Forbes	Orange
Glen Innes	Armidale
Goulburn	Queanbeyan
Grafton	Coffs Harbour
Gundagai	Wagga Wagga
Gunnedah	Tamworth
Hay	Griffith
Inverell	Armidale
Kempsey	Port Macquarie
Leeton	Griffith
Lithgow	Bathurst
Liverpool	Sydney
Maitland	Newcastle
Moree	Tamworth
Moruya	Bega
Moss Vale	Queanbeyan
Mudgee	Dubbo
Murwillumbah	Lismore
Muswellbrook	Newcastle
Narrabri	Tamworth
Narrandera	Griffith
Nyngan	Dubbo
Parkes	Orange
Quirindi	Tamworth
Scone	Newcastle
Singleton	Newcastle
Tumut	Wagga Wagga
Walgett	Dubbo
Wellington	Dubbo
Wentworth	Broken Hill
Wyalong	Griffith
Yass	Queanbeyan
Young	Wagga Wagga

Dated at Sydney this 6th day of July 2017.

Justice D Price AM
Chief Judge

DISTRICT COURT ACT 1973

DIRECTION

In pursuance of Sections 32 and 173 of the *District Court Act 1973* I direct the District Court to sit in its Civil and Criminal jurisdictions at the places and at the times as shown in the attached schedules;

Dated at Sydney this 6th day of July 2017.

Justice D Price AM
Chief Judge

DISTRICT COURT of NEW SOUTH WALES - CALENDAR OF SITTINGS - 2018-19

VENUE	TIME	25/06/18	02/07/18	09/07/18	16/07/18	23/07/18	30/07/18	06/08/18	13/08/18	20/08/18	27/08/18	03/09/18	10/09/18	17/09/18	24/09/18	01/10/18	08/10/18	15/10/18	22/10/18	29/10/18	05/11/18	12/11/18	19/11/18	26/11/18	03/12/18	10/12/18		
ALBURY	10.00am																											
ARMIDALE	10.00am																											
BATHURST	10.00am																											
BEGA	10.00am																											
BOURKE	10.00am																											
BROKEN HILL	10.00am																											
CAMPBELLTOWN	10.00am																											
COFFS HARBOUR	10.00am																											
COONAMBLE	10.00am																											
DUBBO	10.00am																											
GOSFORD	10.00am																											
GOULBURN	10.00am																											
GRAFTON	10.00am																											
GRIFFITH	10.00am																											
LISMORE	10.00am																											
MOREE	10.00am																											
NEWCASTLE	10.00am																											
NOWRA	10.00am																											
ORANGE	10.00am																											
PARKES	10.00am																											
PARRAMATTA	10.00am																											
PENRITH	10.00am																											
PORT MACQUARIE	10.00am																											
QUEANBEYAN	10.00am																											
SYDNEY	10.00am																											
TAMWORTH	10.00am																											
TAREE	10.00am																											
WAGGA WAGGA	10.00am																											
WOLLONGONG	10.00am																											

DISTRICT COURT of NEW SOUTH WALES - CALENDAR OF SITTINGS - 2018-19

VENUE	TIME	28/01/19	04/02/19	11/02/19	18/02/19	25/02/19	04/03/19	11/03/19	18/03/19	25/03/19	01/04/19	08/04/19	15/04/19	22/04/19	29/04/19	06/05/19	13/05/19	20/05/19	27/05/19	03/06/19	10/06/19	17/06/19	
ALBURY	10.00am				GR	CR	GR	CR	CR		CR	CR	GR			CR	GR	CR	CR				
ARMIDALE	10.00am				CR	CR	CR	CR	CR	C				CR	CR	CR	CR	CR				CR	CR
BATHURST	10.00am			CR	CR	CR		CR	CR														
BEGA	10.00am							CR	CR	CR									CR	CR			
BOURKE	10.00am			CR																			
BROKEN HILL	10.00am				CR	CR														CR			
CAMPBELLTOWN	10.00am	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3
COFFS HARBOUR	10.00am	CR	CR	CR	CR	CR	C	CR	CR	CR													
COONAMBLE	10.00am																						
DUBBO	10.00am	CR	CR	CR	CR	CR	CR	CR	CR+C	GR													
GOSFORD	10.00am	CRx2	CRx2	CRx2	CR+C	CR+C	CR	CR	CR	CR	CR	CR	CR	CR	CRx2	CRx2	CR+C	CR	CR	CR	CR	CR	CR
GOULBURN	10.00am	CR	CR	CR	CR	CR		CR	CR	CR	CR	CR											
GRAFTON	10.00am				GR	CR	GR	CR															
GRIFFITH	10.00am	CR	CR	CR	CR	CR	CR	CR	CR	CR													
LISMORE	10.00am	CR	CR	CR	CR+C	CR+C	CRx2	CRx2	CRx2	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR+C	CR+C	CR+C	CRx2	CRx2
MOREE	10.00am							CR	CR														
NEWCASTLE	10.00am	CRx2+C	CRx2+C	CRx2+C	CRx2	CRx2	CRx2+Ming	CRx2	CRx2+C	CRx2+C	CRx2+Ming	CRx2	CRx2	CRx2	CRx2+Ming	CRx2	CRx2	CRx2+Ming	CRx2+C	CRx2+C	CRx2+C	CRx2+Ming	CRx2+Ming
NOWRA	10.00am				CR	CR		CR	CR														
ORANGE	10.00am																						
PARKES	10.00am																						
PARRAMATTA	10.00am	CRx7+C	CRx7+C	CRx7+C	CRx8	CRx8	CRx8	CRx8	CRx8	CRx8	CRx8	CRx8	CRx8	CRx8	CRx7+C	CRx7+C	CRx8	CRx8	CRx8	CRx8	CRx8	CRx7+C	CRx7+C
PENRITH	10.00am	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2
PORT MACQUARIE	10.00am				CR	CR	CR	CR	CR	CR													
QUEANBEYAN	10.00am	CR	CR	CR	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C+Ming	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C
SYDNEY	10.00am	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
TAMWORTH	10.00am	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
TAREE	10.00am	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
WAGGA WAGGA	10.00am	CR	CR	CR	CR+C	CR+C	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
WOLLONGONG	10.00am	CRx2	CRx2	CRx2	CRx2	CRx2	CR+C	GR+C	GR+C	CR	CR	CR	CR	CR	CR	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CRx2	CR+C

6/07/2017

EMERGENCY SERVICES LEVY ACT 2017

Emergency Services Levy

Notice of 2017-18 Contribution Target

I, the Treasurer, in pursuance of section 22 (4) of the *Emergency Services Levy Act 2017*, determine the Contribution Target for the 2017-18 financial year to be \$793,754,636.00.

Dated, 6th this day July of 2017.

The Hon Dominic PERROTTET, MP
Treasurer

GEOGRAPHICAL NAMES ACT 1966

PURSUANT to the provisions of Section 10 of the *Geographical Names Act 1966*, the Geographical Names Board has this day assigned the names listed hereunder as geographical names.

Cherrybrook Railway Station for a railway station located on Castle Hill Road, between Franklin and Robert Roads, Cherrybrook.

Castle Hill Railway Station for a railway station on Old Castle Hill Road, adjacent to Castle Towers Shopping Centre, Castle Hill.

Hills Showground Railway Station for a railway station on Carrington Road adjacent to Castle Hill Showground, Castle Hill.

Norwest Railway Station for a railway station on the corner of Norwest Boulevard and Brookhollow Avenue, in Norwest Business Park, Baulkham Hills.

Bella Vista Railway Station for a railway station off Celebration Drive, east of Old Windsor Road, Bella Vista.

Kellyville Railway Station for a railway station on the corner of Samantha Riley Drive and Old Windsor Road, Kellyville.

Rouse Hill Railway Station for a railway station near the intersection of Main Street and Tempus Street, Rouse Hill.

The position and extent for these features is recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board's website at www.gnb.nsw.gov.au

NARELLE UNDERWOOD
Chair
Geographical Names Board
PO Box 143
BATHURST NSW 2795

LOCAL GOVERNMENT ACT 1993

Cancellation of Registration of Party

It is hereby notified that pursuant to section 320 of the *Local Government Act 1993* the registration of the following party is cancelled:

Eurobodalla Ratepayers Action

John Schmidt
NSW Electoral Commissioner

NSW Electoral Commission
Level 25, 201 Kent Street
Sydney NSW 2000

July 2017

MENTAL HEALTH ACT 2007

Section 109

Declaration of mental health facility

I, Elizabeth Koff, Secretary of the NSW Ministry of Health, pursuant to section 109 of the *Mental Health Act 2007*, DO HEREBY

- (a) DECLARE the **Child and Youth Mental Health Service** situated at 606 High Street, Penrith, NSW 2750, to be a declared mental health facility under the *Mental Health Act 2007*; and
- (b) DECLARE the facility to be designated in the class of facilities known as “community or health care agency class” for the purposes of section 109 (2) (a); and
- (c) RESTRICT the facility to the provision of services and performance of functions necessary for, or associated with, the administration or management of community treatment orders under the following provisions of the *Mental Health Act 2007*:
 - i. Part 3 of Chapter 3 (except for sections 61, 61A, 62 and 63);
 - ii. Chapter 4; and
 - iii. Chapter 5 (except for sections 111 and 112 and Division 2 of Part 2)

Signed, this 23rd day of June 2017

Elizabeth Koff
Secretary

MENTAL HEALTH ACT 2007

Section 109

Declaration of mental health facility

I, Elizabeth Koff, Secretary of the NSW Ministry of Health, pursuant to section 109 of the *Mental Health Act 2007*, DO HEREBY

- (a) DECLARE the **Lithgow Mental Health Service** situated at 15-17 Hassan Street, Lithgow, NSW 2790, to be a declared mental health facility under the *Mental Health Act 2007*; and
- (b) DECLARE the facility to be designated in the class of facilities known as “community or health care agency class” for the purposes of section 109 (2) (a); and
- (c) RESTRICT the facility to the provision of services and performance of functions necessary for, or associated with, the administration or management of community treatment orders under the following provisions of the *Mental Health Act 2007*:
 - i. Part 3 of Chapter 3 (except for sections 61, 61A, 62 and 63);
 - ii. Chapter 4; and
 - iii. Chapter 5 (except for sections 111 and 112 and Division 2 of Part 2)

Signed, this 23rd day of June 2017

Elizabeth Koff
Secretary

MENTAL HEALTH ACT 2007

Section 109

Declaration of mental health facility

I, ELIZABETH KOFF, Secretary of the NSW Ministry of Health, pursuant to section 109 of the *Mental Health Act 2007*, and section 43 of the *Interpretation Act 1987*, DO HEREBY:

- (a) REVOKE the Order published in the NSW Government Gazette No. 12 of 24 January 2014, declaring certain premises of Nepean Hospital to be a declared mental health facility in accordance with section 109 of the *Mental Health Act 2007*, designated as a “mental health assessment and inpatient treatment” facility; and
- (b) DECLARE the following premises of **Nepean Hospital Campus**, Derby Street Penrith NSW 2750, to be a declared mental health facility for the purposes of the *Mental Health Act 2007*:
 - **Triage and Assessment Area**, located on Level 2, Nepean Mental Health Centre

- **Acute Mental Health Unit**, located on Level 2, Nepean Mental Health Centre
 - **High Dependency Mental Health Unit**, located on Level 2, Nepean Mental Health Centre
 - **Older People's Acute Mental Health Unit**, located on Level 1, Nepean Mental Health Centre
 - **Nepean Psychiatric Emergency Care Centre**, located in West Block; and
- (c) DECLARE this facility to be designated as a “**mental health assessment and inpatient treatment**” facility.

Signed, this 23rd day of June 2017.

Elizabeth Koff
Secretary

MENTAL HEALTH ACT 2007

Section 109

Declaration of mental health facility

I, Elizabeth Koff, Secretary of the NSW Ministry of Health, pursuant to section 109 of the *Mental Health Act 2007*, DO HEREBY

- (a) DECLARE the **Springwood Mental Health Service** situated at 288-292 Macquarie Road, Springwood, NSW 2777, to be a declared mental health facility under the *Mental Health Act 2007*; and
- (b) DECLARE the facility to be designated in the class of facilities known as “community or health care agency class” for the purposes of section 109 (2) (a); and
- (c) RESTRICT the facility to the provision of services and performance of functions necessary for, or associated with, the administration or management of community treatment orders under the following provisions of the *Mental Health Act 2007*:
 - i. Part 3 of Chapter 3 (except for sections 61, 61A, 62 and 63);
 - ii. Chapter 4; and
 - iii. Chapter 5 (except for sections 111 and 112 and Division 2 of Part 2)

Signed, this 23rd day of June 2017

Elizabeth Koff
Secretary

MENTAL HEALTH ACT 2007

Section 109

Declaration of mental health facility

I, Elizabeth Koff, Secretary of the NSW Ministry of Health, pursuant to section 109 of the *Mental Health Act 2007*, DO HEREBY

- (a) DECLARE the **St Marys Mental Health Service** situated at 26 Gidley Street, St Marys, NSW 2760, to be a declared mental health facility under the *Mental Health Act 2007*; and
- (b) DECLARE the facility to be designated in the class of facilities known as “community or health care agency class” for the purposes of section 109 (2) (a); and
- (c) RESTRICT the facility to the provision of services and performance of functions necessary for, or associated with, the administration or management of community treatment orders under the following provisions of the *Mental Health Act 2007*:
 - i. Part 3 of Chapter 3 (except for sections 61, 61A, 62 and 63);
 - ii. Chapter 4; and
 - iii. Chapter 5 (except for sections 111 and 112 and Division 2 of Part 2)

Signed, this 23rd day of June 2017

Elizabeth Koff
Secretary

MENTAL HEALTH ACT 2007

Section 109

Repeal of Order Declaring Mental Health Facility

I, ELIZABETH KOFF, Secretary of the NSW Ministry of Health, pursuant to section 109 of the *Mental Health Act 2007*, and section 43 of the *Interpretation Act 1987*, DO HEREBY:

REVOKE the Order published in the NSW Government Gazette No. 147 of 14 November 2008, declaring Temora Community Mental Health and Drug and Alcohol Service to be a mental health facility in accordance with section 109 of the *Mental Health Act 2007*, designated in the “health care agencies” class.

Signed, this 23rd day of June 2017.

Elizabeth Koff
Secretary

MENTAL HEALTH ACT 2007

Section 109

Variation to the declaration of mental health facility

I, ELIZABETH KOFF, Secretary of the NSW Ministry of Health, pursuant to section 109 of the *Mental Health Act 2007*, and section 43 of the *Interpretation Act 1987*, DO HEREBY:

VARY the Order made pursuant to section 109 of the *Mental Health Act 2007*, published in the NSW Government Gazette No. 166 of 13 November 2009, page 5676, declaring certain premises to be declared mental health facilities, by amending the entry “the Emergency Department of Wagga Wagga Base Hospital, located on the Wagga Wagga Base Hospital Campus at Edwards Street, Wagga Wagga NSW 2650” to now read “**The Emergency Department of Wagga Wagga Rural Referral Hospital, located on Level 1 (Ground Floor) of the Wagga Wagga Rural Referral Hospital Campus, Corner Edwards Street & Docker Street, Wagga Wagga NSW 2650**”

Signed, this 23rd day of June 2017.

Elizabeth Koff
Secretary

PARENTS AND CITIZENS ASSOCIATIONS INCORPORATION ACT 1976

Section 13 (4)

NOTICE OF INCORPORATION OF PARENTS AND CITIZENS ASSOCIATIONS

The following associations are hereby incorporated under the *Parents and Citizens Associations Incorporation Act 1976*.

1. Canowindra Public School
2. Carool Public School

Michael Waterhouse
General Counsel
Department of Education

11 July 2017

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912

Cancellation of Registration of Party

It is hereby notified that pursuant to section 66I of the *Parliamentary Electorates and Elections Act 1912* the registration of the following party is cancelled:

No Parking Meters Party

John Schmidt
NSW Electoral Commissioner

NSW Electoral Commission
Level 25, 201 Kent Street
Sydney NSW 2000

July 2017

POISONS AND THERAPEUTIC GOODS REGULATION 2008

ORDER

Restoration of Drug Authority

In accordance with the provisions of clause 175(1) of the *Poisons and Therapeutic Goods Regulation 2008* a direction has been issued that the Order that took effect on and from 24 November 2016, on **Dr Hany Samy ABED (MED0001125561)** of St Helens Park, NSW 2560, prohibiting him as a medical practitioner from supplying or having possession of drugs of addiction as authorised by clause 101 of the Regulation, and issuing a prescription for a drug of addiction as authorised by clause 77 of the Regulation, shall cease to operate on and from 7 July 2017.

Dated at Sydney, 6 July 2017

ELIZABETH KOFF
Secretary
NSW Health

POISONS AND THERAPEUTIC GOODS REGULATION 2008

ORDER

Restoration of Drug Authority

In accordance with the provisions of clause 175(1) of the *Poisons and Therapeutic Goods Regulation 2008* a direction has been issued that the Order that took effect on and from 28 March 2012, on **Dr Kon Hwa Peter LOW (MED0001143208)** of Blacktown, NSW 2148, prohibiting him as a medical practitioner from supplying or having possession of drugs of addiction as authorised by clause 101 of the Regulation, and issuing a prescription for a drug of addiction as authorised by clause 77 of the Regulation, shall cease to operate on and from 7 July 2017.

Dated at Sydney, 6 July 2017

ELIZABETH KOFF
Secretary
NSW Health

Emergency Services Levy Insurance Monitor Act 2016

Issue of Guidelines relating to prohibited conduct under section 21

I, professor Allan Fels AO, the person appointed as the Emergency Services Levy Insurance Monitor under section 5 of the *Emergency Services Levy Insurance Monitor Act 2016* ("the Act") publish the following guidelines, for the purposes of section 21 (1) of the Act: Guidelines on the prohibition against price exploitation, and Guidelines on the prohibition on engaging in false or misleading conduct in relation to the emergency services levy reform. The Guidelines take effect immediately and replace any Guidelines previously issued.

Dated: 12 July 2017

Professor Allan Fels AO
Emergency Services Levy Insurance Monitor



Emergency Services Levy Insurance Monitor Act 2016

**Guidelines on the
prohibition against price
exploitation**

July 2017



GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

Published by

Emergency Services Levy Insurance Monitor
McKell Building, 2-24 Rawson Place, Sydney 2000
enquiries@eslinsurancemonitor.nsw.gov.au
www.eslinsurancemonitor.nsw.gov.au

Disclaimer

Every effort has been made to ensure that the information presented in this document is accurate at the time of publication. Because this document avoids the use of legal language, information about the law may have been summarised or expressed in general statements. This information should not be relied upon as a substitute for professional legal advice or reference to the actual legislation.

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GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

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GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

A. Introduction

These Guidelines relate to the prohibition against price exploitation in relation to emergency services levy reform, contrary to section 14 of the *Emergency Services Levy Insurance Monitor Act 2016* (ESLIM Act).

The Guidelines, originally published in September 2016, are revised following the commencement of the *Emergency Services Levy Act 2017* (ESL Act) which defers the introduction of the proposed Fire and Emergency Services Levy (FESL), provided for under the *Fire and Emergency Services Levy Act 2017* (FESL Act).

A1. History

1. On 10 December 2015, the New South Wales Treasurer announced that the Government intended to reform the way New South Wales emergency services organisations are funded. To give effect to this reform, the Government passed the *Fire and Emergency Services Levy Act 2017* (FESL Act), effective from 4 April 2017. This legislation provided for the replacement of existing insurance based emergency services funding scheme (scheme) with a property-based levy to be paid by all New South Wales property owners alongside their local council rates.
2. Under the FESL Act, a fire and emergency services levy (FESL) was payable from 1 July 2017 on all *leviable* land¹ in each financial year² by the owner of that land³ at the rate calculated in accordance with Part 3 of the FESL Act.
3. To oversee and monitor the transition from the scheme to the FESL, the NSW Government enacted the *Emergency Services Levy Insurance Monitor Act 2016* (ESLIM Act), on 31 May 2016, which became effective on 7 June 2016. The ESLIM Act provided for the appointments of an Emergency Services Levy Insurance Monitor and Deputy Monitor to oversight the insurance side of the reform.
4. The ESLIM Act⁴ confers the following general functions on the Emergency Services Levy Insurance Monitor (Insurance Monitor):
 - (a) to provide information, advice and guidance in relation to the emergency services levy reform and prohibited conduct,
 - (b) to monitor prohibited conduct and compliance with this Act and the regulations
 - (c) to monitor prices for the issue of regulated contracts of insurance,
 - (d) to monitor the impact of the emergency services levy reform on the insurance industry and levels of insurance coverage,
 - (e) to prepare and publish guidelines relating to the operation and enforcement of this Act and the regulations,
 - (f) to receive complaints about prohibited conduct and to deal with them in accordance with this Act,

¹ Defined in section 6 of the FESL Act.

² See section 8 of the FESL Act.

³ See section 7 of the FESL Act.

⁴ See section 9(2) of ESLIM Act.

GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

- (g) to investigate and institute proceedings in respect of prohibited conduct or any contraventions of the Act or the regulations.
5. Under the scheme, insurance companies were required to pay contributions to the funding of NSW emergency services organisations, including Fire and Rescue NSW, NSW Rural Fire Service and NSW State Emergency Service. These contributions were payable under Part 5 of the *Fire Brigades Act 1989*, Part 5 of the *Rural Fires Act 1997* and Part 5A of the *State Emergency Service Act 1989*. Insurance companies provided 73.7% of the total contributions required to fund the emergency services organisations, with the balance being provided by the NSW Treasurer (14.6%) and local councils (11.7%).
 6. Under the FESL Act the contributions to the funding of NSW emergency services organisations is borne by the Treasurer, local councils with the majority of the funding flowing from the FESL.
 7. However, on 30 May 2017, the NSW Government announced that it would defer the introduction of the FESL and re-establish an emergency services insurance contribution scheme ('contribution scheme').⁵
 8. To give effect to the deferral of the FESL and to re-establish the contribution scheme, the NSW Government enacted the Emergency Services Levy Act 2017 (ESL Act), which commenced on 1 July 2017. The ESL Act postpones the introduction of the FESL for at least two years.⁶ Any start date for the FESL must be on 1 July, in a year to be appointed under regulations made under the FESL Act⁷ and published on the NSW legislation website, not later than 12 months prior to the nominated start date⁸.
 9. The ESL Act provides that from 1 July 2017 a single emergency services contribution⁹ will be paid to the Chief Commissioner of State Revenue¹⁰ by insurers¹¹ in each financial year,¹² with respect to relevant insurance,¹³ rather than separate contributions to each of the emergency services organisations.
 10. The period between the commencement of the ESL Act, being 1 July 2017, and the commencement of the FESL, is referred to as the 'transition period'.¹⁴
 11. From the commencement of the contribution scheme 'contribution scheme', on 1 July 2017, insurance companies will continue to provide the majority of the funding of NSW emergency

⁵ See the Explanatory note to the *Emergency Services Levy Bill 2017* at page 1.

⁶ See section 151 of the FESL Act.

⁷ See section 152 of the FESL Act.

⁸ See section 152 of the FESL Act.

⁹ See section 6 of the ESL Act.

¹⁰ See Part 3 of the ESL Act.

¹¹ See section 7 of the ESL Act.

¹² See section 8 of the ESL Act.

¹³ "relevant insurance" is defined in section 9 and Schedule 1 of the ESL Act.

¹⁴ See section 43 of the ESL Act and section 31A of the Act. The transition period may be changed by regulations made under the ESL Act in accordance with section 46 of the ESL Act.

GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

services organisations,¹⁵ local councils will maintain their contribution (11.7 %)¹⁶ with the balance being provided by the NSW Treasurer.¹⁷

12. The classes of relevant insurance and the proportion of total premiums recovered that are subject to contribution by insurance companies is consistent with those under the scheme. They are specified in Schedule 1, and set out in Table 1 below:

Table 1: Classes of insurance subject to contribution and rates applied

Class of policies of insurance	Relevant proportion
1. Any insurance of property including consequential loss but not including any insurance of a class specified elsewhere in in this Schedule	80 %
2. House owners and householders, however designated (buildings or contents or both)	50 %
3. Personal combined on personal jewellery and clothing, personal effects and works of art	10 %
4. Motor vehicle and motor cycle	2.5 %
5. Marine and baggage – any insurance confined to maritime perils or confined to risks involving transportation on land or in air including storage incidental to transportation by sea, land or air, but not including static risks* (which are to be declared under Item 1) Note* static risks includes all movements of goods and/or stock and/or material associated with processing or storage operations at any situation	1 %
6. (a) Combined fire and hail on growing crops	1 %
(b) Live stock	1 %
7. Aviation hull	Nil

¹⁵ The amount of the contribution from insurance companies is calculated in accordance with Part 3 of the ESL Act.

¹⁶ See section 51(3) of the *Fire Brigades Act 1989*, section 110(3) of the *Rural Fires Act 1997* and section 241(3) of the *State Emergency Service Act 1989*.

¹⁷ See Division 3 of Part 5 of the *Fire Brigades Act 1989*, Division 4 of Part 5 of the *Rural Fires Act 1997* and section Division 3 of Part 5 A of the *State Emergency Service Act 1989*.

GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

8. Any insurance solely covering:	
a. Loss by theft	Nil
b. Plate glass	Nil
c. Machinery – confined to mechanical breakdown and/or consequential loss arising from mechanical breakdown	Nil
d. Explosion or collapse of boiler and pressure vessels – confined to damage other than by fire	Nil
e. Inherent or latent defects – confined to damage and/or consequential loss arising out of defective design, defective workmanship or defective materials but excluding any damage or consequential loss from fire	Nil

13. The total contributions required of the insurers under the final two years of the scheme, for 2015-16 and 2016-17 were \$769 million and \$785 million respectively. The NSW budget for the 2017-2018 financial year estimates that \$794 million will be recovered from insurance companies under the contribution scheme and \$793 million will be recovered from the same source in the following financial year.¹⁸

A2. Emergency services levy reform

14. The phrase ‘emergency services levy reform’¹⁹ now describes the removal of the insurance-based emergency services contributions and levy scheme, which operated until 30 June 2017, its replacement by a property-based fire and emergency services levy, to be paid by property owners alongside local council rates proposed from 1 July 2017 (now deferred), and as a consequence of that deferral, the re-establishment of an insurance contribution scheme.

A3. Prohibited conduct

15. The ESLIM Act contains prohibitions against price exploitation and engaging in false or misleading conduct in relation to the emergency services levy reform, collectively referred to as ‘prohibited conduct.’ There is provision in section 21 of the ESLIM Act for the Insurance Monitor to issue guidelines about when conduct may be considered to contravene these prohibitions.

¹⁸ NSW budget statement 2017-2018, Table 5.4-General government sector summary of taxation revenue.

¹⁹ See section 3 of the ESLIM Act.

GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

A4. Statutory basis and effect of Guidelines

16. Section 21 of the ESLIM Act provides that the Insurance Monitor may issue Guidelines about when conduct may be regarded as constituting prohibited conduct.
17. Guidelines issued under section 21, and any variations of them, must be published in the Government Gazette and on the Insurance Monitor's website. Consequentially, these Guidelines, and the date on which they are to take effect, will be published in the Government Gazette and will be available on the Insurance Monitor's website www.eslinsurancemonitor.nsw.gov.au.
18. The Insurance Monitor must have regard to any Guidelines issued under section 21 of the ESLIM Act, in deciding to give an insurance company a contravention notice²⁰, a prevention notice,²¹ to issue any person with a substantiation notice,²² or to issue a public warning statement.²³ The NSW Supreme Court may have regard to any Guidelines issued by the Insurance Monitor, under section 21 of the Act, when determining whether to make any order relating to prohibited conduct.²⁴

A5. The Monitor's role in relation to price exploitation

19. The role of the Insurance Monitor in general and in relation to price exploitation was outlined in the Second Reading Speech for the Bill establishing the Insurance Monitor.

"The NSW Government is building on the lessons learned from Victoria, the most recent State to reform the funding of their emergency services. One of the key lessons was the need to establish an insurance monitor well before the date on which the insurance levy is abolished. This bill acts upon that lesson. By establishing the consumer protection framework now, before legislation abolishing the ESL is introduced, the Government is providing a framework that will enable insurers to gradually transition insurance prices so that the ESL will be fully removed from insurance prices by 1 July 2017."

"Until the end of 2018 insurers will be prohibited from engaging in price exploitation or false and misleading conduct regarding the effects of ESL reform. Price exploitation is when an insurance company does not pass on to consumers the full reduction in cost from the abolition of the insurance-based levy or seeks to recover more in fire services levy from policyholders than the insurance company is required to remit to the Government."²⁵

20. The Insurance Monitor, therefore, has an important role in ensuring that insurance companies do not set unreasonably high premiums in response to the emergency services levy reforms. Prior to the NSW Government's announcement of the deferred introduction of the FESL, the key focus of the Insurance Monitor's activities was on ensuring that there were no increases in premiums which were in anticipation of the removal of ESL. The

²⁰ See section 16(3) of the ESLIM Act.

²¹ See section 17(3) of the ESLIM Act.

²² See section 22(6) of the ESLIM Act.

²³ See section 31(3) of the ESLIM Act.

²⁴ See section 18(4) of the ESLIM Act.

²⁵ Second Reading ESLIM Bill, Ms Gladys Berejiklian, 3 May 2016.

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Insurance Monitor has also been concerned to ensure that the tapering process adopted by insurers in moving to reduce ESL rates to zero by the end of 2016-17 was moderated. The aim originally was to ensure that the full benefits of any reductions in ESL rates (including related GST and Duty) were passed on to policyholders in lower premiums. This process was well underway prior to legislative confirmation that a property-based levy would be introduced from 1 July 2017 and the subsequent deferral of this levy.

21. From 1 July 2017 it was expected that ESL would be fully removed from insurance premiums and insurers had implemented systems changes to ensure this was the case. Pricing decisions generally need to be locked in several weeks before they can be implemented to allow time for preparing and issuing documentation and customer acceptance. By the time the Government announced the deferral of the scheme insurers had already issued documentation which indicated ESL was removed from premiums from 1 July 2017.
22. As indicated by the Treasurer, the Insurance Monitor also acts to prevent over-collection of ESL by insurers. Over-collection can arise when insurers collect more from their customers in ESL than they are required to contribute to the emergency services organisations. The Act requires the Insurance Monitor to make its assessment of over-collection for each insurance company by comparing the amount of ESL collected over both the 2015-16 and 2016-17 financial years, with the amount the company is required to contribute under the scheme for the same two financial years. This means that some over-collection in 2015-16 could be applied to off-set any under-collection in the final year of the scheme when ESL rates were being reduced.
23. When announcing the deferral of the introduction of the property-based levy scheme, the Government indicated that:

*“The Insurance Monitor will oversee a smooth continuation of the existing system and ensure companies collect only the amounts necessary to meet fire and emergency services funding requirements.”*²⁶
24. A two year transition period has been established (2017-2018 and 2018-2019) during which insurers will move to re-instate levies on their insurance policies to recover contributions. The Insurance Monitor will assess whether there is any over-collection of ESL over this extended two year period. In addition, the Insurance Monitor will have an important role in ensuring that no undue advantage is taken by insurers to increase premiums unreasonably on account of the re-introduction of levies related to the new contribution requirements. Policyholders should not have to pay more than is necessary to recover these contributions plus the associated GST and Duty over the extended two year period.

A6. Penalties for contravention of the prohibition on price exploitation

25. The level of penalties for contraventions of the prohibited conduct provisions of the ESLIM Act reflects the Government's concern to ensure that there is no price exploitation associated with emergency services levy reform by any insurance company. The Supreme Court may impose pecuniary penalties up to \$10 million on corporations, and \$500,000 on

²⁶ Gladys Berejiklian Premier and Dominic Perrottet, Treasurer, Media release, “Fire and Emergency Services Levy to be Reviewed to Ensure Fairness”, 30 May 2017.

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individuals, for contraventions of the price exploitation provisions which occur after commencement of the ESLIM Act.

26. If a contravention occurs after 10 December 2015 but before 3 May 2016, being the date when the Bill that became the ESLIM Act was introduced into Parliament, the maximum penalty the Supreme Court may impose *“is not to exceed the amount that a court is satisfied represents the amount of any monetary benefits acquired by the respondent, or accrued or accruing to the respondent, as a result of the conduct.”*²⁷ Following the ESL Act amendments to the ESLIM Act, the price exploitation and other provisions will continue to apply throughout the transition period. The ESLIM Act will now be repealed on 1 July 2020 or a later date appointed by the regulations.²⁸

A7. To whom do the Guidelines apply in relation to price exploitation

27. The Guidelines apply to an insurance company which issues, or has issued ‘at any time during the relevant period’ a ‘regulated contract of insurance’.
28. An insurance company is defined in section 3 of the ESLIM Act to mean a person, partnership, association or underwriter that:
- (a) issues or undertakes liability under policies of insurance against loss of or damage to property situated in New South Wales, or
 - (b) receives premiums in respect of such policies of insurance on behalf of, or for transmission to, a person, partnership, association or underwriter outside of New South Wales.
29. The ESLIM Act²⁹ provides that the relevant period³⁰ commences on 10 December 2015, the date the Government announced its intention to proceed with the emergency services levy reform, and ends on the date on which the section commences, i.e., 7 June 2016. This means that the prohibition on price exploitation applies retrospectively to the time of the Government’s announcement of the emergency services levy reform and continues to apply to any regulated contract of insurance issued up to 30 June 2020.
30. A regulated contract of insurance is defined, in section 3 of the ESLIM Act, as being ‘any policy of insurance issued by an insurance company (whether before, on or after the commencement of this Act) that:
- (c) belongs to a class of policies of insurance that is, on the commencement of this Act, subject to contribution under the emergency services funding scheme, or
 - (d) is relevant insurance under the Emergency Services Levy Act 2017, or
 - (e) is a combined or comprehensive policy of insurance that includes a policy of insurance referred to in paragraph (a) or (b).³¹

²⁷ See section 18(5) of the ESLIM Act.

²⁸ ESL Act, Schedule 3 Section 79.

²⁹ See section 14(3) of the ESLIM Act.

³⁰ See s14 (3) of the Act

³¹ As amended by ESL Act, Schedule 3, section 3 (1).

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31. Relevant insurance means insurance against loss or damage to property in the state under a class of policy specified in Schedule 1³² (shown above). The prohibition on price exploitation then affects any insurance policy within the class of policies listed in table 1, or any policy which incorporates a policy within any of these classes.

³² ESL Act, section 11.

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B. The prohibition on price exploitation

32. The prohibition on price exploitation is a key element of the regulatory regime established by the ESLIM Act to oversee the emergency services levy reform and ensure consumers are fully protected during the process.

B1. The legislative provisions

33. Section 14 of the ESLIM Act defines price exploitation, providing that:
- (1) For the purposes of this Act, an insurance company engages in **price exploitation** if:
 - (a) the insurance company issues (or has, at any time during the relevant period, issued) a regulated contract of insurance; and
 - (b) the price for the supply of the regulated contract of insurance is unreasonably high having regard to -
 - (i) the emergency services levy reform, and
 - (ii) the emergency services contributions required to be paid by the insurance company, and
 - (iii) the historical emergency services levy rates charged by the insurance company, and
 - (iv) the costs of supplying insurance against loss of or damage to property, and
 - (v) any other matters prescribed by the regulations.
34. Section 3 of the ESLIM Act provides that price, in relation to the issue of a regulated contract of insurance includes:
- (a) any premium paid or payable for the issue of the regulated contract of insurance (including any base premium, emergency services levy, GST or duty), and
 - (b) any brokerage or commission paid or payable on:
 - (i) the premium, or
 - (ii) bonuses or return premiums allowed in respect of the regulated contract of insurance, or
 - (iii) such part of the premium received by or payable to the insurance company issuing the regulated contract of insurance as is paid or payable by way of reinsurance by the insurance company to another insurance company.

B2. What is the appropriate level of analysis to determine price exploitation?

35. The Insurance Monitor considers that section 14 applies to the price of an individual insurance policy in the relevant classes of policy, rather than to an insurance company's prices in aggregate or its methodology for setting its premiums in general. The Insurance Monitor places emphasis on the plain or ordinary meaning of the words in the section in

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reaching this view. The key provision in this respect is the reference to a contract of insurance in the singular:

- Section 14(1)(a) refers to 'the insurance company issues "*a regulated contract of insurance*" [emphasis added]; and
 - Section 14(1)(b) refers to 'the price for the issue of "*...the regulated contract*" [emphasis added].
36. While a focus on the individual insurance policy is appropriate when determining whether prices have been unreasonably high, the Insurance Monitor considers that an insurance company's overall pricing may be a relevant consideration in relation to the matters specified in section 14(1)(b).

Guideline 1:

The prohibition on price exploitation applies at the level of the price of an individual contract of insurance within the scheduled classes issued by an insurance company and regulated under the ESLIM Act.

B3. The relevant components of a price

37. The main components of the price to be considered in connection with the price exploitation provision include the base premium, the ESL, GST and duty. In addition, any brokerage or commission paid or payable on the premium, bonuses or return premiums and reinsurance are identified as separate components of price that may be considered.
38. The Insurance Monitor may seek information from insurance companies on each of these elements of price in undertaking the role of monitoring the effect of the emergency services levy reform on insurance premiums. It may seek information on these elements of price also when considering whether insurance companies have engaged in price exploitation.
39. Under section 37 of the ESL Act³³, an insurer is 'not to issue to a person any invoice or other statement as to the premium payable in respect of the issue or renewal of a policy of insurance (of a class described in Part A in Schedule 1 and the premium for which is subject to contribution) unless the statement also indicates how much of the premium is estimated to be attributable to the contributions payable under this Act.'³⁴ This implies that most commercial property and household property and contents policies (excluding policies covered by Part B of Schedule 1) will be required to separately disclose emergency services levies.
40. The ESL Act amended the ESLIM Act to define emergency services levy as meaning 'the amount included in a premium payable for the issue of a regulated contract of insurance for the purpose of recouping emergency services contributions required to be paid by an insurance company, whether or not the amount is disclosed as a separate item'.³⁵
41. The collection by insurance companies of GST and duty is not discretionary. They are imposed by Commonwealth and New South Wales legislation, respectively. Their amounts are affected by both the base premium and the ESL as they are applied as percentages on

³³ Previously, section 80 of the Fire Brigades Act 1989 was expressed in similar terms.

³⁴ Section 80 of the Fire Brigades Act 1989 previously only made reference to policies being renewed rather than issued or renewed.

³⁵ See section 3 of the ESLIM Act.

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top of these amounts. Currently the GST is 10 per cent and duty is 9 per cent for most property insurance, but 5 per cent on motor vehicle insurance and 2.5 per cent on crop and livestock insurance.

Guideline 2:

The prohibition on price exploitation relates to the total price charged for a regulated contract of insurance and the major components of the price, including the base premium (including re-insurance costs), ESL, GST and duty, and brokerage or commission.

B4. When do the provisions apply?

42. The price exploitation provisions (section 14) came into effect on 10 December 2015. The ESL Act has extended the period of operation of the ESLIM Act until 30 June 2020. The Act will be repealed on "1 July 2020, or on a later date appointed by the regulations" (section 79). An application for an order for a civil pecuniary penalty relating to price exploitation cannot be made later than 30 June 2020.³⁶

B5. What is price exploitation?

43. Price exploitation occurs if the price for the issue of a regulated contract of insurance by an insurance company is unreasonably high having regard to the five specified criteria listed in section 14(b) of the ESLIM Act. These criteria are:
- the emergency services levy reform, and
 - the emergency services contributions required to be paid by the insurance company, and
 - the historical emergency services levy rates charged by the insurance company, and
 - the costs of supplying insurance against loss of or damage to property, and
 - any other matters prescribed by the regulations.
44. The phrase 'unreasonably high' is not defined in the Act. The Insurance Monitor will, however, have regard to the plain or ordinary meaning of the words used, their statutory context and the criteria provided by Parliament. The dictionary definition of 'unreasonably' or 'unreasonable' is relevant. The Macquarie Dictionary, 7th Edition (2017), defines 'unreasonable' as: "1. not reasonable; not endowed with reason; 2. not guided by reason or good sense; 4. not based on or in accordance with reason or sound judgment; 5. exceeding the bounds of reason; immoderate; exorbitant." Given that the phrase will need to be given meaning in the context in which Parliament has placed it, it is also instructive to note the ordinary meaning of the word 'exploitation'. The same dictionary defines 'exploitation' as: "1. utilisation for profit; 2. selfish utilisation."
45. The Insurance Monitor considers that the meaning of the phrase "unreasonably high" is to be determined in accordance with the purposes of, and having regard to the criteria listed in, the ESLIM Act.

³⁶ See section 18(6) of the ESLIM Act.

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46. Price exploitation occurs in connection with the issue of a regulated contract of insurance by an insurance company. The term 'issued' is defined, inclusively in the ESLIM Act. Section 14(2) provides, for the purposes of the section, that "issue" includes 'receive a premium in respect of a regulated contract on behalf of, or for transmission to anybody corporate, partnership, association, underwriter or person outside of New South Wales'. The Macquarie Dictionary defines the word "issued", when used as a verb, as "20. to put out, deliver for use, sale etc.; put into circulation; 23. to send out, discharge, emit; 24. to be sent or put forth authoritatively or publicly, as a writ, money etc." For the purpose of assessing potential price exploitation, the Insurance Monitor considers that the date upon which a regulated contract of insurance is issued is the date when the contract of insurance is formed.
47. The then Treasurer summarised succinctly what is meant by price exploitation in her second reading speech on the Bill:
- "Price exploitation is when an insurance company does not pass on to consumers the full reduction in cost from the abolition of the insurance-based levy or seeks to recover more in fire services levy from policyholders than the insurance company is required to remit to the Government."*³⁷
48. In the context where insurers will be seeking to re-impose emergency services levies to recover contributions under the emergency services insurance contribution scheme over the transition years 2017-18 and 2018-19, the principle that insurers should not seek to recover from their policyholders more than necessary to meet their contributions still applies.

B6. The criteria relevant to determining if an insurance price is 'unreasonably high'

49. An indication of how the Insurance Monitor will interpret each of the criteria in section 14(1) of the ESLIM Act is set out below. The Insurance Monitor will consider all the criteria in assessing whether a price is "unreasonably high" although in any particular case only one or more of the criteria may be relevant.

Criterion 1: The emergency services levy reform

50. The ESLIM Act³⁸ directs the Insurance Monitor to have regard to "the emergency services levy reform" in assessing whether a price is unreasonably high. The definition of the emergency services levy reform has been broadened by the ESL Act to include the period of transition to the property levy caused by the deferral of its introduction. The reform is now defined in section 3 to mean:
- (a) the abolition, by the FESL Act of the emergency services funding scheme, and
 - (b) the establishment of a Fire and Emergency Services Levy (FESL) by that Act and
 - (c) the transition to the levy by the re-establishment of an emergency services contribution under the Emergency services Levy Act 2017
51. This criterion directs the focus of the Insurance Monitor's oversight to the impact of changes in ESL on premiums paid for the issue of regulated contracts of insurance. In the period up to 1 July 2017, insurers have generally tapered ESL rates so that by 1 July 2017 they would be zero. Insurers will now continue to be subject to contributions after this time and are

³⁷ Second Reading, Ms Gladys Berejiklian, 3 May 2016.
³⁸ See Section 14(1)(b)(i) of the ESLIM Act.

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likely to again charge ESL with their premiums. There should in general be no increase in the base premiums to compensate for changes in ESL, or in anticipation of removal of ESL following the transition period.

52. The Insurance Monitor's concern is that the impact of valid changes in ESL, brought about by the emergency services levy reform, are appropriately reflected in changes in the prices of regulated contracts of insurance. It is not concerned with whether the existing level of prices set by insurance companies is considered to be appropriate or not.

Guideline 3:

Movements in total premiums attributable to impact the emergency services levy reform on ESL (and associated GST and Duty) charged on insurance policies, should accurately reflect the insurance company's emergency services contributions under the ESL Act. Total premiums should not increase by more than any increase in ESL (and applicable GST and Duty) and be fully reduced by any reductions in ESL (and applicable GST and Duty), taking account of ESL alone.

Guideline 4:

Insurance companies should not anticipate changes in the ESL during the transition period, or the abolition of the ESL following the transition period, by increasing base premiums on this account alone.

Criterion 2: The contributions required to be paid by the insurance company under the emergency services funding scheme.

53. In assessing whether a price or premium paid or payable for the issue or renewal of a regulated contract of insurance is unreasonably high, the Insurance Monitor will have regard to the contributions required to be paid under the emergency services funding scheme.
54. The contributions required to be paid by insurers are assessed generally on the basis of the returns provided to the Government covering particular classes of insurance as indicated in Schedule 1 of the ESL Act and the approved budgets for the emergency services organisations. The market share of an insurer as revealed by the return of premium data will determine its contribution relative to other insurers.
55. There is no legislative provision prescribing how insurers recover the cost of their assessed contributions from individual policyholders. Nevertheless, this may be an issue of concern to the Insurance Monitor under this criterion. The Insurance Monitor may have concerns if a policyholder was charged a disproportionately higher amount than another policyholder in equivalent circumstances.
56. An appropriate starting point is to assume that a policyholder should not be charged an amount of ESL that exceeds the amount necessary for the insurance company to recover its emergency services contribution. The past general practice of setting common ESL percentage rates across policyholders within specific classes seems to be in line with this as it means that higher premiums will have higher ESL amounts associated with them.
57. It is recognised that complications arise as a result of the overlapping of time periods of contribution requirements, which are determined on a financial year basis and individual

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policyholders' insurance policy coverage period, which may extend across financial years. With an ongoing contribution scheme and policy renewals this may not be a particular problem, but in the event of a contribution scheme coming to an end, there may be concerns in the final year of the scheme. There is a case for policyholders purchasing or renewing policies near the end of the last financial year of the scheme to be charged lower ESL rates compared to others purchasing or renewing policies earlier in the year.

58. The Insurance Monitor accepts that insurers should be able to recover the cost of their contributions by setting specific charges to policyholders. In the absence of prescribed ESL rates by the Government or the Insurance Monitor it is a matter for insurers to determine these rates independently. When removing or re-establishing ESL rates it is likely that different rates will be charged at different times. However, the Insurance Monitor is concerned to ensure that differences in rates are not unfair to policyholders, taking into account all relevant circumstances. This implies that excessively sharp changes in rates over time should be avoided where possible.

Guideline 5:

Changes in ESL rates over time should not be unfair to individual policyholders taking into account all relevant circumstances. Excessively sharp changes in rates over time should be avoided where possible.

B7. Cancelled policies and refunds

59. If a regulated contract of insurance is cancelled toward the end of a financial year the insurer will record a lower earned premium in that year and will accordingly be subject to a lower emergency services contribution. In these circumstances a reasonable approach to take is that a pro-rata refund of the ESL charged on that policy should be made to the policyholder, taking into account the time between the date of the cancellation and the end of the financial year. This would appear to be consistent with common law principles.

Guideline 6:

An insurance company that has collected ESL revenue on regulated insurance policies issued in a particular financial year will be expected to refund a pro-rata portion of that revenue to a policyholder who cancels the regulated contract of insurance in time to reduce the related contribution amount.

B8. Over-collection

60. There is a further concern relating to the recovery of contributions in total across all policyholders. This relates to the possible over-collection of funds purportedly for the payment of contributions. Insurers risk possible breach of the statutory prohibition on price exploitation if they collect more than is necessary to meet their contribution requirements. However, this matter is not straight forward as there are also specific provisions in the ESLIM Act, as amended by the ESL Act, which make insurance companies liable for over-collection amounts and set out procedures for dealing with these amounts.

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61. Over-collection is dealt with in Part 3A of the ESLIM Act. This Part identifies 2, two-year periods during which over-collection is to be assessed. These are the final two years of the former emergency services funding scheme (2015-16 and 2016-17) and the two year of the transition scheme (2017-18 and 2018-19).
62. Under the former scheme contributions were required to be paid to the emergency services organisations under:
- (a) Part 5 of the *Fire Brigades Act 1989*, Part 5 of the *Rural Fires Act 1997* and Part 5A of the *State Emergency Service Act 1989*.
 - (b) Under the ESL Act, a single contribution will be paid to the Chief Commissioner of State Revenue by each insurer in each year of the transition period.
63. Under the former emergency services funding scheme, there was greater uncertainty from year to year as to the contribution amounts of the insurers, due to the fact that the budgets of the emergency services organisations were not finalised until well into the financial year. Even under the new arrangements during the transition, insurers will still be required to estimate in advance how much to collect based on their expected market shares and contributions.
64. The Insurance Monitor acknowledges that there are uncertainties for insurance companies in setting ESL rates. Under and over-collections are, inevitable to some degree. Under-collection is not of concern to the Insurance Monitor as regards the statutory prohibition of price exploitation. Over-collection could be a concern, but the Insurance Monitor does not consider that over-collection in itself necessarily constitutes unreasonably high pricing. However, where over-collection has occurred and no steps have been taken to return this over-collection in accordance with arrangements approved by the Insurance Monitor, this will be regarded as indicating that prices have been unreasonably high in contravention of the price exploitation prohibition.

Guideline 7:

The Insurance Monitor does not consider that over-collection necessarily constitutes a breach of the price exploitation prohibition. However, if over-collection is not refunded in a manner agreed to by the Insurance Monitor, enforcement action under the Act is likely to be pursued.

65. The process by which the Insurance Monitor will investigate and assess over-collection is outlined in Part 3A of the ESLIM Act. Over-collection arises when the total amount of ESL collected by an insurance company exceeds the total amount of ESL contributed by the insurance company, calculated over the final two years of the former emergency services funding scheme and separately under the two years of the transition period. The calculation of over or under-collection over the two year blocks means that if an over-collection occurred in one year, it could be offset by an under-collection in the other year.
66. The Insurance Monitor will seek detailed information from insurers in forming an opinion on the amount collected each year for the stated purpose of meeting contribution liabilities. Insurers will be expected to adopt a consistent approach to the recording of income for the purpose of determining collections. In assessing total collections in the second year of a two year block, the Insurance Monitor will take into account FSL income relating to that year that has been received in the following year. For example, the collection of ESL relating to a particular year may be delayed into the following year as a result of processing delays

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particularly with intermediated business policies; customers may pay their premium after the date payment is due; and customers may pay their annual premium in monthly instalments. The Insurance Monitor will also take into account ESL refunded to policyholders on cancelled policies.

67. These adjustment amounts may or may not be included in an insurance company's Return of Premium for the particular year, but will be included in the Insurance Monitor's assessment of collection amounts relating to that year.
68. The Insurance Monitor will require audited returns from the insurance companies for this purpose. Specifically, the Insurance Monitor will require the following declarations from each insurance company:
- (a) The total ESL collected from policyholders by each class of regulated contract of insurance relating initially to the financial years 2015-16 and 2016-17 and later for the transition years 2017-18 and 2018-19 in a form specified by the Insurance Monitor.
 - (b) The accounting basis upon which premiums have been recognised in the Return of Premium form.

These declarations must be independently and externally verified as demonstrated by assurance opinions from assurance practitioners registered under the Corporations Act 2001.³⁹

Guideline 8:

To ensure that the total ESL collections declared to the Insurance Monitor reconciles in all material respects with the amounts recorded in the insurer's accounting system, the Insurance Monitor may require insurance companies to conduct an independent review of their declarations to provide "reasonable assurance" in accordance with Auditing Standard on Review Engagements, ASRE 2405, *Review of Historical Financial Information Other than a Financial Report*.

69. The Insurance Monitor will accept the contribution amounts for each insurer that are advised to it by the Department of Justice in relation to the former emergency services funding scheme and the Chief Commissioner for State Revenue under the revised scheme during the transition period. When the collection and contribution amounts are determined, the Insurance Monitor will issue an assessment for any over-collection amount that it finds and seek acceptance of this assessment as provided for in the ESLIM Act.

B9. Refunds of over-collected amounts

70. The Insurance Monitor is required to endeavour to ensure that any insurance company that is liable for an over-collection amount:
- (a) refunds the over-collection amount to relevant policyholders of the insurance company, if that is practicable; or
 - (b) if that is not practicable, pay the over-collection amount to the Chief Commissioner of State Revenue for payment into the Consolidated Fund.

³⁹ An auditor satisfying the registration requirements of Division 2 of Part 3M.4 and the auditor independence requirements of Divisions 3, 4 and 5 of Part 3M.4 of the *Corporations Act 2001*.

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71. The relevant policyholders for these purposes are policyholders who were insured under a regulated contract of insurance issued by an insurance company during the relevant two year periods. The issue of practicability of refunds to policyholders is one that will need to be determined on a case by case basis through discussions between the Insurance Monitor and each insurance company. The Insurance Monitor's preference is that refunds should be paid to relevant policyholders as a matter of course. However, it is recognised that this may not be practicable where relatively small amounts are involved and in these cases the amounts can be bundled and paid to the Consolidated Fund. For retail customers, refunds should be made to individual policyholders where average amounts owing exceed \$20.00. For non-retail or commercial customers, particularly where intermediaries have been involved, the Insurance Monitor recognises that a higher threshold may be appropriate. The Insurance Monitor's preference is that a threshold of \$200 could apply in these cases, but the Insurance Monitor will consider submissions from individual insurers wanting to apply higher threshold amounts.
72. If the Insurance Monitor reaches an agreement with an insurance company in relation to the refund of over-collection amounts, the Insurance Monitor will expect the insurance company to enter into a refund undertaking in relation to any over-collection amount. Refund undertakings accepted by the Insurance Monitor will be consistent with the provisions of Division 2 of Part 4 of the ESLIM Act relating to enforceable undertakings.
73. In the absence of an undertaking between the Insurance Monitor and an insurance company in respect of a refund undertaking, the Insurance Monitor will refer the over-collection amount to the Chief Commissioner for debt recovery action. Any debt recovery order made by the Chief Commissioner may be enforced through the courts. If an insurance company fails to pay an over-collection amount identified in a debt recovery order, upon conviction it faces a penalty of not more than 50 penalty units.
74. The Insurance Monitor will consider the failure by an insurance company to pay an over collected amount to constitute a contravention of the statutory prohibitions of the ESLIM Act relating to price exploitation and also engaging in false or misleading conduct and will act accordingly which may give rise to substantially higher penalties.
75. Over-collection means that policyholders have been required to pay more than has been necessary to meet the insurance company's legislatively determined contribution to the emergency services organisations. The relevant entity here is considered to be the one that pays contributions to the NSW Government.

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Guideline 9:

The Insurance Monitor will investigate and assess whether each insurance company is liable for an over-collection amount. This will be determined by:

1. comparing the amount that the Insurance Monitor considers was collected by the insurance company as ESL for the final two years of the former emergency services funding scheme (2015-16 and 2016-17) with the contribution independently determined for those years, and
2. comparing the amount the Insurance Monitor considers was collected by the insurance company as ESL over the transition period (2017-18 and 2018-19) with the contributions independently determined for those years.

Guideline 10:

The Insurance Monitor considers that where practicable over-collection of statutory contributions should be returned to policyholders.

Guideline 11:

Where it is agreed by the Insurance Monitor that refunds to individual policyholders are not practicable, the over-collected amount must be bundled and paid to the Chief Commissioner of State Revenue in accordance with the ESLIM Act. In considering practicability, the Insurance Monitor will presume a \$20.00 threshold for retail customers and a \$200.00 threshold for non-retail customers.

Criterion 3: Historical emergency services levy rates charged by an insurance company

76. In determining whether prices can be considered unreasonably high the Insurance Monitor can have regard for the ESL rates charged historically by the insurance company. As the size of the insurance pool has grown, a given ESL rate will have generated greater income. This has helped to accommodate increases in the budgets of the emergency services organisations.
77. Rates can vary through a year to achieve required collections. Significant variability through a year may give rise to concerns that ESL rates charged for particular policyholders are unreasonably high compared to previous years and to the ESL rates charged to other policyholders at different times. If complaints of this nature are received the Insurance Monitor will investigate the circumstances which have given rise to these differences and assess the reasonableness of the ESL rates charged.
78. Insurance companies generally adopted tapering approaches to achieve the removal of ESL under the former emergency services funding scheme by 1 July 2017. Rates were initially increased in the final month or two of 2015-16, held at these higher levels for much of the first half of the following year, and then reduced in stages to

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zero by 30 June 2017. The re-establishment of an insurance contribution scheme in the transition period means that insurers are likely to reimpose ESL on their policyholders. There may be a lag of as much as six to ten weeks from the time of the announcement of the deferral of the FESL, before new rates can practically be implemented. This will mean insurers will not be able to collect ESL during this time and will need to recover their required 2017-18 contribution from new and renewed policies issued later in the 2017-18 financial year, or in the following financial year.

Guideline 12:

The Insurance Monitor expects that each insurer will be able to justify the approach it adopts as to when and how to recover their contribution liabilities from policyholders. Where possible, insurers should consider adopting an approach to re-introducing ESL rates that offsets to some degree the tapering pattern that applied to the removal of rates under the former contribution scheme.

Criterion 4: The costs of supplying insurance against loss or damage to property

79. The Insurance Monitor may have regard to 'the costs of supplying insurance against loss or damage to property.'⁴⁰ The Insurance Monitor interprets the term 'costs' here to mean the costs of all inputs involved in a company's supply of insurance subject to ESL contribution, expenses incurred in the normal course of operating a place (or places) of business, and the company's costs incurred in any re-insurance arrangement relating to the provision of insurance subject to ESL contribution.
80. In having regard to the costs of supplying insurance against loss or damage to property, it is inevitable that some consideration will be given to the level of insurer profitability. Premiums for regulated contracts of insurance set by an insurance company will include a margin which will be influenced by the insurance company's perception of its required rate of return (opportunity cost of capital) and the actual rate of return.
81. The costs associated with particular categories of insurance will be both direct and indirect. Where indirect costs are involved the methodology applied to the allocation of costs is important. The Insurance Monitor may seek information on how indirect costs are allocated, but, consistent with the focus on the change in premiums, the Insurance Monitor's main interest will be on any changes in costs and allocation methodology implemented over the period of operation of the prohibition on price exploitation.
82. The Insurance Monitor does not have a pre-determined view on the appropriateness of any cost level or particular cost allocation or cross-subsidy involved in relation to insurance premiums subject to ESL contribution. However, where cost changes affect premiums, the Insurance Monitor may consider the reasonableness of these movements. Cost changes, including those arising from any changes in allocation methodology, should not be inflated to cause unreasonably high prices.

⁴⁰ See Section 14 (1)(b)(iv) of the ESLIM Act.

GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

83. The Insurance Monitor considers that the abolition of ESL and the subsequent re-establishment of the contribution scheme under the ESL Act should not be seen by insurance companies as an opportunity to increase profitability. The Insurance Monitor will scrutinize carefully any increases in premiums aimed at boosting profitability coincidentally with changes in ESL.
84. The Insurance Monitor is concerned to ensure that changes in contribution arrangements affecting ESL charged by insurers are not used to disguise other base premium movements not fully justified by reasonable changes in supply costs. Where base premium movements are greater than expected as a result of normal inflationary pressures and there are concerns about their coincidence with ESL changes, insurance companies can expect the Insurance Monitor to investigate these matters. Insurers can help to minimise the concerns of policyholders by explaining clearly the reasons for base premium movements and showing that they do not relate to changes in ESL.

Guideline 13:

The Insurance Monitor will examine the reasonableness of base premium increases where there are concerns about their coincidence with ESL changes, the size of the movements compared to normal inflationary pressures, and changes in cost or pricing methodologies.

Criterion 5: Any other matters prescribed by the regulations

85. There are no other matters currently prescribed by the regulations.

B10. Companies' pricing justification generally

86. The Insurance Monitor expects that each insurance company will have in place policies and procedures that will enable them, if so required, to provide an explanation to the Insurance Monitor for the price paid or payable for the issue of a regulated contract of insurance during the operation period of the Act.

Guideline 14:

Insurance companies should be able to provide sufficient information to justify their pricing decisions for contracts of insurance regulated under the ESLIM Act.

B11. Chief Executive Officer Declaration

87. The Guidelines provide advice about when the Insurance Monitor considers conduct may be regarded as constituting prohibited conduct. Adherence to the Guidelines will reduce the likelihood that the Insurance Monitor will have concerns that conduct may be in breach of the statutory prohibitions.
88. The Insurance Monitor expects that insurers will comply with the Guidelines and the statutory provisions. Insurers will demonstrate this by their conduct. However, the confidence of the Insurance Monitor in relation to compliance will be enhanced if insurers at the highest level of their organisations publicly commit to doing this. Such commitments

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could be expected to influence the Insurance Monitor's risk-based compliance and enforcement activities. Accordingly, the Insurance Monitor invites the Chief Executive Officers of each insurer to provide a signed commitment that their companies will comply with the Insurance Monitor's section 21 Guidelines.

89. **The Chief Executive Officer of each company is invited to provide the Insurance Monitor by 1 September 2017 a signed standard form declaration committing the company to have regard to and apply the Insurance Monitor's Guidelines, issued in July 2017, under section 21 of the ESLIM Act 2016. Each commitment received will be recorded on the Insurance Monitor's website.**

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C. The Guidelines

Guideline 1:

The prohibition on price exploitation applies at the level of the price of an individual contract of insurance within the scheduled classes issued by an insurance company and regulated under the ESLIM Act.

Guideline 2:

The prohibition on price exploitation relates to the total price charged for a regulated contract of insurance and the major components of the price, including the base premium (including re-insurance costs), ESL, GST and duty, and brokerage or commission.

Guideline 3:

Movements in total premiums attributable to impact the emergency services levy reform on ESL (and associated GST and Duty) charged on insurance policies, should accurately reflect the insurance company's emergency services contributions under the ESL Act. Total premiums should not increase by more than any increase in ESL (and applicable GST and Duty) and be fully reduced by any reductions in ESL (and applicable GST and Duty), taking account of ESL alone.

Guideline 4:

Insurance companies should not anticipate changes in the ESL during the transition period, or the abolition of the ESL following the transition period, by increasing base premiums on this account alone.

Guideline 5

Changes in ESL rates over time should not be unfair to individual policyholders taking into account all relevant circumstances. Excessively sharp changes in rates over time should be avoided where possible.

Guideline 6:

An insurance company that has collected ESL revenue on regulated insurance policies issued in a particular financial year will be expected to refund a pro-rata portion of that revenue to a policyholder who cancels the regulated contract of insurance in time to reduce the related contribution amount.

Guideline 7:

The Insurance Monitor does not consider that over-collection necessarily constitutes a breach of the price exploitation prohibition. However, if over-collection is not refunded in a manner agreed to by the Insurance Monitor, enforcement action under the Act is likely to be pursued.

Guideline 8:

To ensure that the total ESL collections declared to the Insurance Monitor reconciles in all material respects with the amounts recorded in the insurer's accounting system, the Insurance Monitor may require insurance companies to conduct an independent review of their declarations to provide "reasonable assurance" in accordance with Auditing Standard on Review Engagements, ASRE 2405, *Review of Historical Financial Information Other than a Financial Report*.

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Guideline 9:

The Insurance Monitor will investigate and assess whether each insurance company is liable for an over-collection amount. This will be determined by:

1. comparing the amount that the Insurance Monitor considers was collected by the insurance company as ESL for the final two years of the former emergency services funding scheme (2015-16 and 2016-17) with the contribution independently determined for those years, and
2. comparing the amount the Insurance Monitor considers was collected by the insurance company as ESL over the transition period (2017-18 and 2018-19) with the contributions independently determined for those years.

Guideline 10:

The Insurance Monitor considers that where practicable over-collection of statutory contributions should be returned to policyholders.

Guideline 11:

Where it is agreed by the Insurance Monitor that refunds to individual policyholders are not practicable, the over-collected amount must be bundled and paid to the Chief Commissioner of State Revenue in accordance with the ESLIM Act. In considering practicability, the Insurance Monitor will presume a \$20.00 threshold for retail customers and a \$200.00 threshold for non-retail customers.

Guideline 12:

The Insurance Monitor expects that each insurer will be able to justify the approach it adopts as to when and how to recover their contribution liabilities from policyholders. Where possible, insurers should consider adopting an approach to re-introducing ESL rates that offsets to some degree the tapering pattern that applied to the removal of rates under the former contribution scheme.

Guideline 13:

The Insurance Monitor will examine the reasonableness of base premium increases where there are concerns about their coincidence with ESL changes, the size of the movements compared to normal inflationary pressures, and changes in cost or pricing methodologies.

Guideline 14:

Insurance companies should be able to provide sufficient information to justify their pricing decisions for contracts of insurance regulated under the ESLIM Act.



Emergency Services Levy Insurance Monitor Act 2016

**Guidelines on the prohibition
on engaging in false or
misleading conduct in
relation to the emergency
services levy reform**

July 2017



GUIDELINES ON THE PROHIBITION ON ENGAGING IN FALSE OR MISLEADING CONDUCT

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A Introduction

These Guidelines relate to the prohibition against engaging in false or misleading conduct in relation to emergency services levy reform, contrary to section 15 of the *Emergency Services Levy Insurance Monitor Act 2016* (ESLIM Act).

These Guidelines, originally published in September 2016, are revised following the commencement of the *Emergency Services Levy Act 2017* (ESL Act) which defers the introduction of the proposed Fire and Emergency Services Levy (FESL), provided for under the *Fire and Emergency Services Levy Act 2017* (FESL Act).

A1. History

1. On 10 December 2015, the New South Wales Treasurer announced that the Government intended to reform the way New South Wales emergency services organisations are funded. To give effect to this reform, the Government passed the *Fire and Emergency Services Levy Act 2017* (FESL Act), effective from 4 April 2017. This legislation provided for the replacement of existing insurance based emergency services funding scheme (scheme) with a property-based levy to be paid by all New South Wales property owners alongside their local council rates.
2. Under the FESL Act, a fire and emergency services levy (FESL) was payable from 1 July 2017 on all *leviable* land¹ in each financial year² by the owner of that land³ at the rate calculated in accordance with Part 3 of the FESL Act.
3. To oversee and monitor the transition from the scheme to the FESL, the NSW Government enacted the *Emergency Services Levy Insurance Monitor Act 2016* (ESLIM Act), on 31 May 2016, which became effective on 7 June 2016. The ESLIM Act provided for the appointments of an Emergency Services Levy Insurance Monitor and Deputy Monitor to oversee the insurance side of the reform.
4. The ESLIM Act⁴ confers the following general functions on the Emergency Services Levy Insurance Monitor (Insurance Monitor):
 - (a) to provide information, advice and guidance in relation to the emergency services levy reform and prohibited conduct,
 - (b) to monitor prohibited conduct and compliance with this Act and the regulations
 - (c) to monitor prices for the issue of regulated contracts of insurance,
 - (d) to monitor the impact of the emergency services levy reform on the insurance industry and levels of insurance coverage,
 - (e) to prepare and publish guidelines relating to the operation and enforcement of this ESLIM Act and the regulations,
 - (f) to receive complaints about prohibited conduct and to deal with them in accordance with this Act,

¹ Defined in section 6 of the FESL Act.

² See section 8 of the FESL Act.

³ See section 7 of the FESL Act.

⁴ See section 9(2) of ESLIM Act.

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- (g) to investigate and institute proceedings in respect of prohibited conduct or any contraventions of this Act or the regulations.
5. Under the scheme, insurance companies were required to pay contributions to the funding of NSW emergency services organisations, including Fire and Rescue NSW, NSW Rural Fire Service and NSW State Emergency Service. These contributions were payable under Part 5 of the *Fire Brigades Act 1989*, Part 5 of the *Rural Fires Act 1997* and Part 5A of the *State Emergency Service Act 1989*. Insurance companies provided 73.7% of the total contributions required to fund the emergency services organisations, with the balance being provided by the NSW Treasurer (14.6%) and local councils (11.7%).
 6. Under the FESL Act the contributions to the funding of NSW emergency services organisations are borne by the Treasurer, local councils with the majority of the funding flowing from the FESL.
 7. However, on 30 May 2017, the NSW Government announced that it would defer the introduction of the FESL and re-establish an emergency services insurance contribution scheme ('contribution scheme').⁵
 8. To give effect to the deferral of the FESL and to re-establish the contribution scheme, the NSW Government enacted the *Emergency Services Levy Act 2017* (ESL Act), which commenced on 1 July 2017. The ESL Act postpones the introduction of the FESL for at least two years.⁶ Any start date for the FESL must be on 1 July, in a year to be appointed under regulations made under the FESL Act⁷ and published on the NSW legislation website, not later than 12 months prior to the nominated start date.⁸
 9. The ESL Act provides that from 1 July 2017 a single emergency services contribution⁹ will be paid to the Chief Commissioner of State Revenue¹⁰ by insurers¹¹ in each financial year,¹² with respect to relevant insurance,¹³ rather than separate contributions to each of the emergency services organisations.
 10. The period between the commencement of the ESL Act, being 1 July 2017, and the commencement of the FESL, is referred to as the 'transition period'.¹⁴
 11. From the commencement of the contribution scheme, on 1 July 2017, insurance companies will continue to provide the majority of the funding of NSW emergency services

⁵ See the Explanatory note to the *Emergency Services Levy Bill 2017* at page 1.

⁶ See section 151 of the FESL Act.

⁷ See section 152 of the FESL Act.

⁸ See section 152 of the FESL Act.

⁹ See section 6 of the ESL Act.

¹⁰ See Part 3 of the ESL Act.

¹¹ See section 7 of the ESL Act.

¹² See section 8 of the ESL Act.

¹³ "relevant insurance" is defined in section 9 and Schedule 1 of the ESL Act.

¹⁴ See section 43 of the ESL Act and section 31A of the Act. The transition period may be changed by regulations made under the ESL Act in accordance with section 46 of the ESL Act.

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organisations,¹⁵ Local Councils will maintain their contribution (11.7 %)¹⁶ with the balance being provided by the NSW Treasurer.¹⁷

12. The classes of relevant insurance and the proportion of total premiums recovered that are subject to contribution by insurance companies is consistent with those under the scheme. They are specified in Schedule 1, and set out in Table 1 below:

Table 1: Classes of insurance subject to contribution and rates applied

Class of policies of insurance	Relevant proportion
1. Any insurance of property including consequential loss but not including any insurance of a class specified elsewhere in this Schedule	80 %
2. House owners and householders, however designated (buildings or contents or both)	50 %
3. Personal combined on personal jewellery and clothing, personal effects and works of art	10 %
4. Motor vehicle and motor cycle	2.5 %
5. Marine and baggage – any insurance confined to maritime perils or confined to risks involving transportation on land or in air including storage incidental to transportation by sea, land or air, but not including* static risks (which are to be declared under Item 1) Note * static risks includes all movements of goods and/or stock and/or material associated with processing or storage operations at any situation	1 %
6. (a) Combined fire and hail on growing crops (b) Live stock	1 % 1 %
7. Aviation hull	Nil

¹⁵ The amount of the contribution from insurance companies is calculated in accordance with Part 3 of the ESL Act.

¹⁶ See section 51(3) of the *Fire Brigades Act 1989*, section 110(3) of the *Rural Fires Act 1997* and section 241(3) of the *State Emergency Service Act 1989*.

¹⁷ See Division 3 of Part 5 of the *Fire Brigades Act 1989*, Division 4 of Part 5 of the *Rural Fires Act 1997* and section Division 3 of Part 5 A of the *State Emergency Service Act 1989*.

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8. Any insurance solely covering:	
a. Loss by theft	Nil
b. Plate glass	Nil
c. Machinery – confined to mechanical breakdown and/or consequential loss arising from mechanical breakdown	Nil
d. Explosion or collapse of boiler and pressure vessels – confined to damage other than by fire	Nil
e. Inherent or latent defects – confined to damage and/or consequential loss arising out of defective design, defective workmanship or defective materials but excluding any damage or consequential loss from fire	Nil

13. The total contributions required of the insurers under the final two years of the scheme, for 2015-16 and 2016-17 were \$769 million and \$785 million respectively. The NSW budget for the 2017-2018 financial year estimates that \$794 million will be recovered from insurance companies under the contribution scheme and \$793 million will be recovered from the same source in the following financial year.¹⁸

A2. Emergency services levy reform

14. The phrase ‘emergency services levy reform’¹⁹ now describes the removal of the insurance-based emergency services contributions and levy scheme, which operated until 30 June 2017, its replacement by a property-based fire and emergency services levy under the FESL Act, to be paid by property owners alongside local council rates proposed from 1 July 2017 (now deferred), and as a consequence of that deferral, the re-establishment of an insurance contribution scheme during the transition period under the ESL Act.

A3. Prohibited conduct

15. The ESLIM Act contains prohibitions against price exploitation and engaging in false or misleading conduct in relation to the emergency services levy reform, collectively referred to as ‘prohibited conduct’. There is provision in section 21 of the ESLIM Act for the Insurance Monitor to issue guidelines about when conduct may be considered to contravene these prohibitions.

A4. Statutory basis and effect of Guidelines

16. Section 21 of the ESLIM Act provides that the Insurance Monitor may issue Guidelines about when conduct may be regarded as constituting prohibited conduct.

¹⁸ NSW budget statement 2017-2018, Table 5.4-General government sector summary of taxation revenue.

¹⁹ See section 3 of the ESLIM Act.

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17. Guidelines issued under section 21, and any variations of them, must be published in the Government Gazette and on the Insurance Monitor's website. Consequentially, these Guidelines, and the date on which they are to take effect, will be published in the Government Gazette and will be available on the insurance Monitor's website www.eslinsurancemonitor.nsw.gov.au.
18. The Insurance Monitor must have regard to any Guidelines issued under section 21 of the ESLIM Act, in deciding to give an insurance company a contravention notice²⁰, a prevention notice,²¹ to issue any person with a substantiation notice,²² or to issue a public warning statement²³. The NSW Supreme Court may have regard to any Guidelines issued by the Insurance Monitor, under section 21 of the Act, when determining whether to make any order relating to prohibited conduct.²⁴

A5. The Monitor's role in relation to false or misleading conduct

19. The Insurance Monitor has been established to oversee the insurance side of emergency services levy reform. The ESLIM Act creates statutory prohibitions against both price exploitation and engaging in false or misleading conduct in relation to the emergency services levy reform, and confers upon the Insurance Monitor extensive powers to ensure compliance with those prohibitions.
20. The ESL Act introduced amendments to the ESLIM Act extending:
- the definition of emergency services levy reform to include "... the transition to the levy by the re-establishment of an emergency services insurance contribution under the *Emergency Services Levy Act 2017*"²⁵
 - the definition of regulated contract of insurance to include "relevant insurance" under the ESL Act²⁶ and,
 - the repeal date of the ESLIM Act to 1 July 2020.

Consequently, the functions of the Insurance Monitor under the ESLIM Act extend throughout the transition period and beyond.

A6. Penalties for contravention of the prohibition on engaging in false or misleading conduct

21. The extent of the penalties, for contraventions of the prohibited conduct provisions in the ESLIM Act, reflects the Government's concern to ensure that purchasers of regulated contracts of insurance do not suffer disadvantage under emergency services levy reform. For example, the NSW Supreme Court may, in appropriate circumstances, impose pecuniary penalties of up to:
- (i) \$10 million on a corporation; and

²⁰ See section 16(3) of the ESLIM Act.

²¹ See section 17(3) of the ESLIM Act.

²² See section 22(6) of the ESLIM Act.

²³ See section 31(3) of the ESLIM Act.

²⁴ See section 18(4) of the ESLIM Act.

²⁵ See section 3 of the ESLIM Act.

²⁶ See section 3 of the ESLIM Act.

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(ii) \$500,000 on an individual

for contraventions of the prohibition against persons engaging in conduct, in trade or commerce, that is false or misleading, in relation to emergency services levy reform.

B. The prohibition on engaging in false or misleading conduct

22. The prohibition on false and misleading conduct is a key element of the regulatory regime established by the ESLIM Act to oversee the emergency services levy reform and ensure consumers are fully protected during the process.

B.1 The legislative provisions

23. Section 15 of the ESLIM Act provides:

“15 False or misleading conduct

For the purposes of this Act, a person engages in **false or misleading conduct** in relation to the emergency services levy reform if the person engages in any conduct, in trade or commerce, that:

- (a) falsely represents (whether expressly or impliedly) the effect, or likely effect, of the emergency services levy reform; or
 - (b) misleads or deceives, or is likely to mislead or deceive, any person about the effect or likely effect of the emergency services levy reform.”
24. Section 15 applies to any ‘person’,²⁷ engaging in the prohibited conduct in trade or commerce. The section is not limited in its operation to insurance companies or to conduct associated with the issuing, renewal or variation of a regulated contract of insurance.
25. The phrase ‘trade or commerce’ in section 15, has the same meaning as that provided for in the *Fair Trading Act 1987* (NSW), which provides that ‘trade or commerce includes any business or professional activity’.
26. The ESLIM Act,²⁸ extends the definition of engaging in prohibited conduct to include those who:
- aid, abet, counsel, or procure another person to engage in prohibited conduct; or
 - induce, whether by threats or promises or otherwise, another person to engage in prohibited conduct; or
 - conspire with another person to engage in prohibited conduct.
27. As a result of the extended definition of ‘engaging in conduct’, these Guidelines are relevant to any insurance company, agent or insurance broker, or any other person, in trade or commerce, acting on behalf of or representing, an insurance company issuing, or renewing or varying regulated contracts of insurance.
28. The prohibition against engaging in false or misleading conduct is expressed in broad terms. However, the Insurance Monitor expects his principal focus under that section will be upon insurance companies and their agents regarding communications, particularly with policyholders, about the effect of emergency services levy reform and changes in the prices of regulated contracts of insurance.

²⁷ See section 8 of the *Interpretation Act 1987* (NSW).

²⁸ See section 4 of the ESLIM Act.

B.2 What is the appropriate level of analysis to determine false or misleading conduct?

29. The Insurance Monitor considers that the prohibition on engaging in:

- (a) any conduct, in trade or commerce, that falsely represents (whether expressly or impliedly) the effect, or likely effect, of the emergency services levy reform; or
- (b) engaging in conduct that misleads or deceives, or is likely to mislead or deceive about the effect, or likely effect, of the emergency services levy reform—

can apply to conduct involving individual insurance policies, although it is not limited in application to conduct at that level of interaction with consumers.

Guideline 1:

The prohibition on engaging in false or misleading conduct, in trade or commerce, in relation to the emergency services levy reform applies to, but is not limited to, conduct involving an individual price, or any other aspect of the supply, of an individual regulated contract of insurance.

B.3 Interpretations of similar provisions in other legislation

30. The deliberate use of the phrases ‘false or misleading conduct’ and conduct in trade or commerce, that ‘misleads or deceives, or is likely to mislead or deceive’ by Parliament in the expression of section 15 of the ESLIM Act, evidences an intention to rely on the substantial body of case law which has developed over many years regarding similar provisions in Commonwealth, State and Territory consumer protection laws.

B.3.1 False or misleading representations

31. For example, section 29 of the Australian Consumer Law (the ACL) (and, prior to its commencement, section 53 of the *Trade Practices Act 1974*) imposes a prohibition on persons making certain false or misleading representations²⁹ in connection with the supply or possible supply of goods or services. A similar provision relating specifically to financial services exists in the *Australian Securities and Investments Commission Act 2001* (section 12DB). The Insurance Monitor considers that the decisions in cases decided under those sections will be highly influential in the interpretation and application of section 15 of the ESLIM Act.

32. A ‘representation’, for the purposes of section 15(a), is not defined in the ESLIM Act, however the Insurance Monitor considers that the interpretation of that concept under the ACL applies. There a “representation” is a statement made orally, or in writing, or by implication from words or conduct, relating to a matter of fact³⁰. The representation must be communicated in order to amount to a representation. Intent has no relevance in determining whether there has been a contravention of section 15 of the ESLIM Act.³¹

²⁹ In particular, see section 29(1)(i) of the Australian Consumer Law (ACL).

³⁰ See *Given v Pryor* (1979) 39 FLR 437.

³¹ *Given v CV Holland (Holdings) Pty Ltd* (1977) 29 FLR 212, 217.

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B.3.2 Misleading or deceptive conduct

33. The prohibition on engaging in any conduct, in trade or commerce, "...that misleads or deceives, or is likely to mislead or deceive..." provided for in sub-section 15(b) of the ESLIM Act, adopts a phrase, the meaning of which is also well-established in Australian consumer protection law. The general prohibition currently exists as section 18 of the ACL; (previously section 52 of the former *Trade Practices Act 1974*) and section 12DA of the *Australian Securities and Investments Commission Act 2001*. For the purposes of that section in the ACL, conduct will be misleading or deceptive if it induces, or is capable of inducing, error.³²
34. There are several important principles that have developed through Judicial consideration of the prohibition against engaging in misleading or deceptive conduct, in trade or commerce. These include:
- No intention to mislead or deceive is necessary; conduct, which may include the making of a statement, not intended to mislead or deceive and which was engaged in 'honestly and reasonably'³³ might nevertheless contravene the prohibition on engaging in conduct that misleads or deceives, or is likely to mislead or deceive.³⁴
 - Whether or not conduct is misleading is to be approached by asking what a reasonable person, of the class to which the conduct was directed, reasonably understands from the conduct.³⁵
 - Silence can constitute misleading or deceptive conduct.³⁶

Guideline 2:

The concepts of '*false or misleading conduct*' and engaging in conduct, in trade or commerce, that '*misleads or deceives, or is likely to mislead or deceive,*' adopted by Parliament in the expression of section 15 of the ESLIM Act, are to be interpreted consistently with the interpretation of those phrases in sections 18 and 29, respectively, of the ACL [and the equivalent sections under the former *Trade Practices Act 1974*] and sections 12DA and 12DB of the *Australian Securities and Investments Commission Act 2001*.

35. The Insurance Monitor notes that while a person found to have contravened 18 of the ACL, or section 12DA of the *Australian Securities and Investments Commission Act 2001* would not be liable to a pecuniary penalty,³⁷ persons found to have contravened section 15(b) of the ESLIM Act, will be liable to a pecuniary penalty.³⁸

³² *Parkdale Custom Built Furniture Pty Ltd v Puxu Pty Ltd* (1982) 149 CLR 191, 198; *ACCC v TPG Internet Pty Ltd* [2013] 250 CLR 640.

³³ Subject to the operation of section 18(2) of the Act.

³⁴ However, the NSW Supreme Court may not make an order against a respondent charged with a contravention of section 15 in the circumstances enunciated in section 18(2) & (3) of the ESLIM Act

³⁵ *Taco Co of Australia Inc. v Taco Bell Pty Ltd* (1982) 42 ALR 177.

³⁶ *Miller & Associates Broking Pty Ltd v BMW Australia Finance Ltd* (2010) 241 CLR 357; *Rafferty v Madgwicks* (2012) 203 FCR 1; *Demagogue v Ramensky* (1992) 39 FCR 31.

³⁷ See section 224 of the ACL and section 12GBA of the *Australian Securities and Investments Commission Act 2001*.

³⁸ See sub-section 18(1) of the Act.

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B.4 Insurance companies' communications regarding changes to the emergency services levy

36. The Insurance Monitor may cause to be published in the Gazette, under section 30 of the ESLIM Act, an order containing such information as he considers appropriate and necessary to inform the public, and in particular policyholders, of the emergency services levy reform and the Insurance Monitor's role in that reform. When such an order is published in the Gazette, the Insurance Monitor expects that insurance companies, or persons acting on their behalf, will include the information, not necessarily in exactly the same terms but ensuring that the substance of the information is included, promptly in any invoice or other statement containing details of the price payable for regulated contracts of insurance³⁹.
37. The Insurance Monitor may issue and publish specific guidance on the application and extent of any such orders.
38. The Insurance Monitor also expects that insurance companies, in their communications with policyholders, regarding the price payable for the issue or renewal of regulated contracts of insurance during the transition period, will provide timely, accurate and complete explanations of the price, and any movement in such prices, for the issue or renewal of regulated contracts of insurance.
39. In particular, the Insurance Monitor expects that insurance companies, and those acting on their behalf, will include an estimate, in dollar terms, of how much of the premium payable is attributable to the insurance companies' contribution required under the ESL Act⁴⁰ in all invoices and other statements (including quotations in written or electronic form) issued to any person on the issue or renewal of regulated contracts of insurance of the class identified in Part A of Schedule 1 to the ESL Act.
40. In the absence of accessible, accurate and clear explanations, insurance companies, agents or insurance brokers, or any other person, in trade or commerce, acting on behalf of, or representing, an insurance company issuing or renewing regulated contracts of insurance, risk misleading their customers, many of whom may, despite the recent amendments to emergency services levy reform, expect their insurance premiums in the 2017-18 financial year to be lower than in 2016-17.
41. Insurance companies should take care to explain to policyholders when issuing or renewing regulated contracts of insurance:
- (a) the reasons for any movement in the base premium payable after 30 June 2017; and
 - (b) that insurance companies are continuing to contribute to the funding of the emergency services after 1 July 2017 and are recovering that contribution through premiums payable for the issue or renewal of relevant insurance.
42. The Insurance Monitor expects that insurance companies, and those acting on their behalf, will explain clearly to their policyholders, in all documents relating to the renewal of regulated contracts of insurance, of the class described in item 2 in Part A of schedule 1 to the ESL Act, after 1 July 2017, how the ESL is being re-established as a component of policyholders' premiums and, as a matter of best practice, insurance companies and those acting on their behalf will, identify:

³⁹ Note: a regulated contract of insurance, for the purposes of section 30 of the Act, does not include the variation of an existing regulated contract of insurance (See sub-section 30(3) of the Act).

⁴⁰ See section 37 of the ESL Act.

GUIDELINES ON THE PROHIBITION ON ENGAGING IN FALSE OR MISLEADING CONDUCT

- (a) the total premium and the components of base premium, ESL, GST and duty being charged for the issue or renewal in the prior year;
 - (b) the total premium and the components of base premium, re-instated ESL, GST and duty payable by the policyholder on the renewal during the current year each of the financial years during the transition period; and
 - (c) the reasons for any change –
- and to continue to do so during each financial year during the transitional period.
43. The Insurance Monitor will be interested in the nature and extent of any explanations provided by insurance companies for any price increases applied to base insurance premiums payable for regulated contracts of insurance at, or about, the same time ESL is re-established as a component of the premiums payable for the issue or renewal of such policies.
44. The Insurance Monitor considers it is essential that insurance companies, and those acting on their behalf, have the capacity to provide timely, accurate and complete explanations to their policyholders, when so requested by policyholders, regarding increases in premiums occurring concurrently with the re-establishment of ESL. The Insurance Monitor considers that how this is done is a matter for each insurance company to determine.

Guideline 3:

To reduce the risks of making a false representation or engaging in misleading or deceptive conduct, in contravention of Section 15 of the ESLIM Act, insurance companies, and those acting on their behalf, should provide timely, accurate and complete information to customers on the re-establishment of ESL from 1 July 2017.

Guideline 4:

Policyholders requesting information on the reinstatement of ESL on a premium for the renewal of regulated contracts of insurance, and/or an explanation of any increase in premium concurrent with the re-establishment of ESL, should be provided with timely, accurate and complete information specific to their policy. The information provided should be sufficient to enable the policyholder to assess the reasonableness of the premium being charged in relation to changes in the ESL.

B.5 Assessing potential contraventions of section 15

45. In the exercise of his functions and powers under the ESLIM Act, the Insurance Monitor will focus on representations made by insurance companies, and those acting on their behalf, regarding the effect of emergency services levy reform on the amount of the premium charged for regulated contracts of insurance. The Insurance Monitor will focus particular attention to the adequacy of any statement by an insurance company representing how the total premium charged for regulated contracts of insurance is affected by the re-establishment of ESL and whether the impact of the re-established ESL component of the total premium is clearly and accurately explained.
46. Where the Insurance Monitor, in the course of exercising his powers to monitor the impact of the emergency services levy reform, discovers conduct, in trade or commerce, that he

GUIDELINES ON THE PROHIBITION ON ENGAGING IN FALSE OR MISLEADING CONDUCT

considers is false, misleading or deceptive, or is likely to be, misleading or deceptive, he may, in addition to exercising his powers under the ESLIM Act and, to the extent permitted by legislation, take appropriate action under the ACL, or refer the results of his investigation to the appropriate “regulator” under the ACL⁴¹.

Guideline 5:

From 1 July 2017, the Insurance Monitor will focus particular attention to the adequacy of any representation by an insurance company portraying how the total premiums charged for regulated contracts of insurance are affected by the re-establishment of ESL and whether the impact of the re-established ESL component of the total premium payable for such policies is clearly identified and accurately explained

B.6 Contraventions of section 15 in relation to a policy renewed after 30 June 2017

47. The Insurance Monitor, using his powers under the ESLIM Act, may investigate for contraventions of section 15 of the ESLIM Act, any instance in which an insurance company appears to be charging policyholders an ESL component for the renewal of a regulated contract of insurance which is materially more than the ESL component payable for the renewal of such policies during in the previous financial year, which does not contain an accurate and complete explanation for such increase.

B7. Chief Executive Officer Declaration

48. The Guidelines provide advice about when the Monitor considers conduct may be regarded as constituting prohibited conduct. Adherence to the Guidelines will reduce the likelihood

Guideline 6:

Insurance companies, and persons acting on their behalf, that provide policyholders with sufficient information to enable policyholders to identify the effect of the emergency services levy reform, in particular, the re-establishment of ESL, on their premiums, payable for regulated contracts of insurance after 1 July 2017, will be less likely to be subject to investigation under the ESLIM Act by the Insurance Monitor.

that the Insurance Monitor will have concerns that conduct may be in breach of the statutory prohibitions.

49. The Insurance Monitor expects that insurers, and those acting on their behalf, will comply with the Guidelines and the statutory provisions. Insurers will demonstrate this in practice by their code of conduct. However, the confidence of the Insurance Monitor in relation to compliance will be enhanced if insurers at the highest level of their organisations publicly commit to doing this. Such commitments could be expected to influence the Monitor’s risk-based compliance and enforcement activities. Accordingly, the Insurance Monitor invites the Chief Executive Officers of each insurer to provide a signed commitment that their companies will comply with the Insurance Monitor’s section 21 Guidelines.

⁴¹ See for example, the private rights available to ‘any other person’ under section 232 of the ACL.

GUIDELINES ON THE PROHIBITION ON ENGAGING IN FALSE OR MISLEADING CONDUCT

50. **The Chief Executive Officer of each company is invited to provide the Monitor by 1 September 2017 a signed standard form declaration committing the company to have regard to and apply the Insurance Monitor's Guidelines, issued in July 2017, under section 21 of the ESLIM Act 2016. Each commitment received will be recorded on the Insurance Monitor's website.**

GUIDELINES ON THE PROHIBITION ON ENGAGING IN FALSE OR MISLEADING CONDUCT

C. The Guidelines

Guideline 1:

The prohibition on engaging in false or misleading conduct, in trade or commerce, in relation to the emergency services levy reform applies to, but is not limited to, conduct involving an individual price, or any other aspect of the supply, of an individual regulated contract of insurance.

Guideline 2:

The concepts of '*false or misleading conduct*' and engaging in conduct, in trade or commerce, that '*misleads or deceives, or is likely to mislead or deceive,*' adopted by Parliament in the expression of section 15 of the ESLIM Act, are to be interpreted consistently with the interpretation of those phrases in sections 18 and 29, respectively, of the ACL [and the equivalent sections under the former *Trade Practices Act 1974*] and sections 12DA and 12DB of the *Australian Securities and Investments Commission Act 2001*.

Guideline 3:

To reduce the risks of making a false representation or engaging in misleading or deceptive conduct, in contravention of Section 15 of the ESLIM Act, insurance companies, and those acting on their behalf, should provide timely, accurate and complete information to customers on the re-establishment of ESL from 1 July 2017.

Guideline 4:

Policyholders requesting information on the reinstatement of ESL on a premium for the renewal of regulated contracts of insurance, and/or an explanation of any increase in premium concurrent with the re-establishment of ESL, should be provided with timely, accurate and complete information specific to their policy. The information provided should be sufficient to enable the policyholder to assess the reasonableness of the premium being charged in relation to changes in the ESL.

Guideline 5:

From 1 July 2017, the Insurance Monitor will focus particular attention to the adequacy of any representation by an insurance company portraying how the total premiums charged for regulated contracts of insurance are affected by the re-establishment of ESL and whether the impact of the re-established ESL component of the total premium payable for such policies is clearly identified and accurately explained.

Guideline 6:

Insurance companies, and persons acting on their behalf, that provide policyholders with sufficient information to enable policyholders to identify the effect of the emergency services levy reform, in particular, the re-establishment of ESL, on their premiums, payable for regulated contracts of insurance after 1 July 2017, will be less likely to be subject to investigation under the ESLIM Act by the Insurance Monitor.

COUNCIL NOTICES

BATHURST REGIONAL COUNCIL

Roads Act 1993

Section 10

Dedication of Land as a Public Road

NOTICE is hereby given that in accordance with section 10 of the *Roads Act 1993*, the land described in the Schedule below is dedicated as a Public Road.

David Sherley, General Manager, Bathurst Regional Council, Private Mail Bag 17, Bathurst NSW 2795

SCHEDULE

Lots 4 and 9 in DP1218703 being land situated on Freemantle Rd, Freemantle.

Lots 11 and 14 in DP1218703 being land situated on Howarths Rd, Freemantle.

[9215]

BATHURST REGIONAL COUNCIL

Roads Act 1993, Section 10

Dedication of Land as a Public Road

NOTICE is hereby given that in accordance with section 10 of the *Roads Act 1993*, the land described in the Schedule below is dedicated as a Public Road. David Sherley, General Manager, Bathurst Regional Council, Private Mail Bag 17, Bathurst NSW 2795

SCHEDULE

Lot 92 in DP1174100 being land situated on Hill End Road, Hill End.

[9216]

BATHURST REGIONAL COUNCIL

Roads Act 1993, Section 10

Dedication of Land as a Public Road

NOTICE is hereby given that in accordance with section 10 of the *Roads Act 1993*, the land described in the Schedule below is dedicated as a Public Road. David Sherley, General Manager, Bathurst Regional Council, Private Mail Bag 17, Bathurst NSW 2795

SCHEDULE

Lot 16 DP1194111

Lot 17 DP1194111

Lot 18 DP1194111

being land on Sofala Road, Wiagdon.

[9217]

BELLINGEN SHIRE COUNCIL

Roads Regulation 2008

NAMING OF ROADS

NOTICE is hereby given pursuant to Section 9 of the *Roads Regulation 2008* that Council has named those sections of road described hereunder:

- Giinagay Way

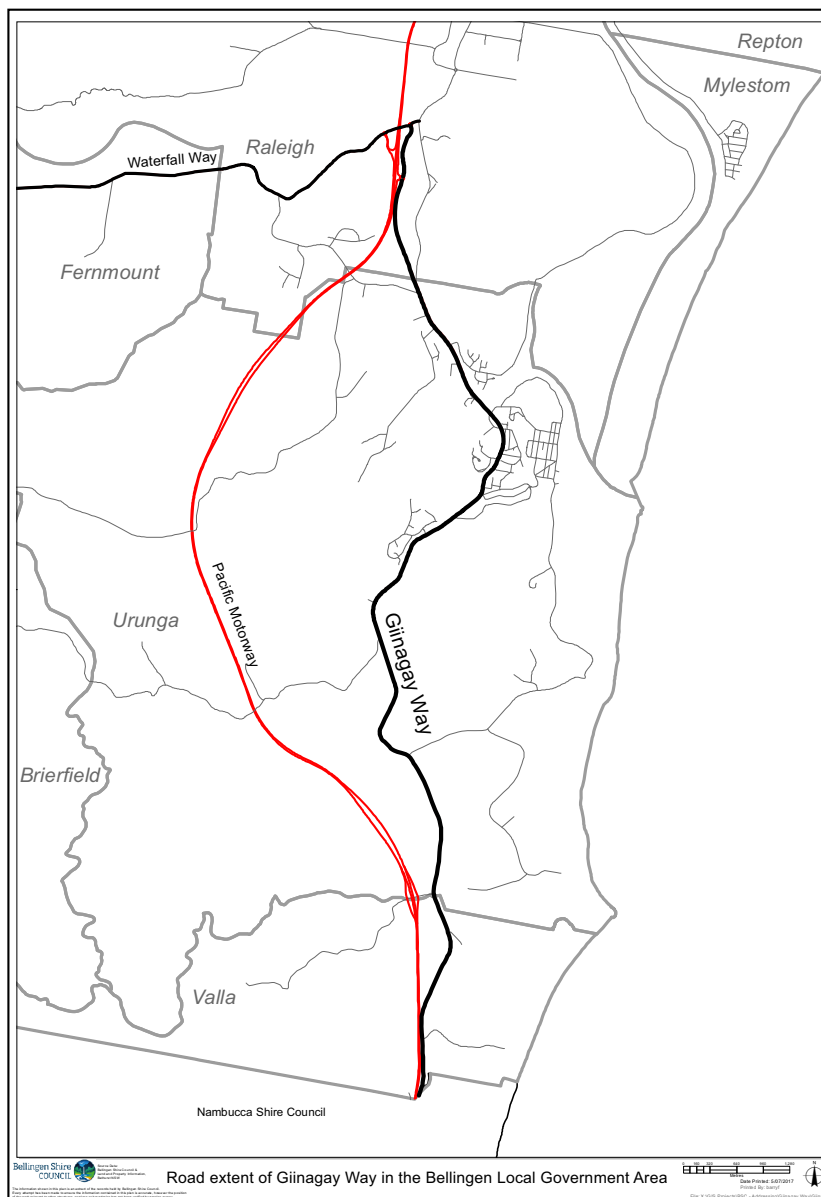
As shown in the attached plan, being from the Council boundary to Waterfall Way.

Authorised by a Council Resolution of 28 October 2015

Liz Jeremy, General Manager, Bellingen Shire Council, PO Box 117, BELLINGEN NSW 2454.

DATE 4 July 2017

Liz Jeremy
GENERAL MANAGER



[9218]

BLACKTOWN CITY COUNCIL
LOCAL GOVERNMENT ACT 1993
LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991
NOTICE OF COMPULSORY ACQUISITION OF LAND

Blacktown City Council declares with the approval of His Excellency the Governor that the lands described in the schedule below, excluding only those mines or deposits of minerals in the land expressly reserved to the Crown, are acquired by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* for Drainage, Bridge construction and future public road.

Dated at Blacktown this 14th day of July 2017.

Mr Kerry Robinson
General Manager

SCHEDULE

Lot 22 DP1223029

Lot 25 DP1223029

[9219]

BYRON SHIRE COUNCIL
ROADS ACT 1993

Naming of Roads

Notice is hereby given that Byron Shire Council, pursuant to section 162 of the *Roads Act 1993*, has officially named the road(s) as shown hereunder:

Name	Locality
BALUN LANE	Brunswick Heads
Description	
Currently known as Lane 8, Brunswick Heads - between Byron Street and The Terrace.	

KEN GAINGER, General Manager, Byron Shire Council, 70-90 Station Street, MULLUMBIMBY NSW 2482

GNB Ref: 0120

[9220]

FAIRFIELD CITY COUNCIL
ROADS ACT 1993

Naming of Roads

Notice is hereby given that Fairfield City Council, pursuant to section 162 of the *Roads Act 1993*, has officially named the road(s) as shown hereunder:

Name	Locality
SATINWOOD CRESCENT	Bonnyrigg
Description	
A crescent starting and finishing on Newleaf Parade and bisecting Bunker Parade (in fact eliminating part of Bunker Parade with anew subdivision	

ALAN YOUNG, City Manager, Fairfield City Council,

GNB Ref: 0121

[9221]

HILLTOPS COUNCIL
ROADS ACT 1993

Naming of Roads

Notice is hereby given that Hilltops Council, pursuant to section 162 of the *Roads Act 1993*, has officially named the road(s) as shown hereunder:

Name	Locality
FRANCIS PLACE	Young
Description	
Newly constructed road that runs east off Binalong Street, Young, within Lot 101 DP 1219636. The road is between Garland Place to the north and Hayden Place to the south, and is opposite Lot 2 DP 789335.	

ANTHONY MCMAHON, General Manager, Hilltops Council, Locked Bag No 5, YOUNG NSW 2594

GNB Ref: 0118

[9222]

HILLTOPS COUNCIL

ROADS ACT 1993

Naming of Roads

Notice is hereby given that Hilltops Council, pursuant to section 162 of the *Roads Act 1993*, has officially named the road(s) as shown hereunder:

Name	Locality
PATRONI CLOSE	-BOOROWA
Description	
34.26.40.91"S 148.43.07.28"E Section of "Dillon Street" located West of Ryans Creek ending at Market Street	

Name	Locality
GURNEY PLACE	-BOOROWA
Description	
34.26.44.94"S 148.42.58.35"E New cul-de-sac (Lots 1-5 DP1056072) in the newly developed subdivision just off Market Street.	

ANTHONY MCMAHON, General Manager, Hilltops Council, Locked Bag 5, YOUNG NSW 2594

GNB Ref: 0122

[9223]

INVERELL SHIRE COUNCIL

Pesticide Use Notification Plan

The *Pesticides Regulation 2009* (Repealed by *Pesticides Regulation 2017* 1 September 2017) states that NSW public authorities who use pesticides in outdoor public places must prepare a notification plan in relation to such pesticide use and give notice to the public according to the plan.

Copies of Inverell Shire Council's revised Pesticide Use Notification Plan are now available from Council or from its website www.inverell.nsw.gov.au.

P J Henry PSM, General Manager, Inverell Shire Council, 144 Otho Street, INVERELL NSW 2360

[9224]

LAKE MACQUARIE CITY COUNCIL

ROADS ACT 1993

Naming of Roads

Notice is hereby given that Lake Macquarie City Council, pursuant to section 162 of the *Roads Act 1993*, has officially named the road(s) as shown hereunder:

Name	Locality
RYHOPE STREET	Mount Hutton
Description	
Subdivision of Lot 103 DP 1076796 at 37 Wilsons Road MOUNT HUTTON	

Name	Locality
CHINCLIFFE PLACE	Mount Hutton
Description	
Subdivision of Lot 103 DP 1076796 at 37 Wilsons Road MOUNT HUTTON	

MORVEN CAMERON, Acting General Manager, Lake Macquarie City Council, Box 1906, HRMC, WARABROOK NSW 2310

GNB Ref: 0123

[9225]

PENRITH CITY COUNCIL

ERRATUM

THE following notice replaces the notice published in the New South Wales Government Gazette No.51 of 21 April 2017 in folio 1466. The gazettal date remains 21 April 2017.

LOCAL GOVERNMENT ACT 1993

Dedication of Land as Drainage Reserve

NOTICE is hereby given by the Council of the City of Penrith that in accordance with section 50 of the *Local Government Act 1993* and the statement of intention on Deposited Plan 38927, the land owned by Penrith City Council as described in the schedule below is dedicated a Drainage Reserve.

ALAN STONEHAM, General Manager. Penrith City Council, PO Box 60, Penrith NSW 2751.

SCHEDULE

Whole of Lot 10 in Deposited Plan 38927 being situated between Collins Street and Queen Street St Marys.

[9226]

PORT MACQUARIE-HASTINGS COUNCIL

ROADS ACT 1993

Naming of Roads

Notice is hereby given that Port Macquarie-Hastings Council, pursuant to section 162 of the *Roads Act 1993*, has officially named the road(s) as shown hereunder:

Name	Locality
ROCKY FALLS ROAD	Ellenborough, Kindee
Description	
Right of carriageway created on registration of DP265769	

CRAIG SWIFT-MCNAIR, General Manager, Port Macquarie-Hastings Council, PO Box 84, Port Macquarie NSW 2444

GNB Ref: 0104

[9227]

SHOALHAVEN CITY COUNCIL

ROADS ACT 1993, SECTION 10

Dedication of Land as Public Road

NOTICE is hereby given that in accordance with Section 10 of the *Roads Act 1993*, the land described in the Schedule below is dedicated as Public Road.

Dated at Nowra this 14th day of July 2017.

R D PIGG, General Manager, Shoalhaven City Council, Bridge Road, Nowra NSW 2541.

SCHEDULE

Lot 2 in Deposited Plan 1214563 Parish of Ulladulla, County of St. Vincent.

Lot 4 in Deposited Plan 1214563 Parish of Ulladulla, County of St. Vincent.

Lot 6 in Deposited Plan 1214563 Parish of Ulladulla, County of St. Vincent.

Lot 8 in Deposited Plan 1214563 Parish of Ulladulla, County of St. Vincent.

Lot 2 in Deposited Plan 1190041 Parish of Coolangatta, County of Camden

Lot 1 in Deposited Plan 1084959 Parish of Yarrowa, County of Camden

[9228]

WINGECARRIBEE SHIRE COUNCIL

Roads Act 1993, Section 16

Dedication of Land as Public Road

NOTICE is hereby given by Wingecarribee Shire Council, pursuant to section 16 of the *Roads Act 1993*, that the land described in the Schedule below is hereby dedicated as public road. Dated at Moss Vale 10 July 2017. Ann Prendergast, General Manager, Wingecarribee Shire Council, Civic Centre, 68 Elizabeth St, Moss Vale NSW 2577.

SCHEDULE

Burgess Street and unnamed Lane shown within Deposited Plan 1307.

[9229]

PRIVATE NOTICES

ELECTRICITY SUPPLY ACT 1995

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

ESSENTIAL ENERGY

NOTICE OF COMPULSORY ACQUISITION OF EASEMENT

ELECTRICITY PURPOSES AT DAIRYVILLE

Essential Energy declares, with the approval of His Excellency the Lieutenant-Governor, with the advice of the Executive Council, that the Interest in Land described in Schedule 1 to this notice the terms of which are described in Schedule 2 of this notice, is acquired by compulsory process in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*, for the purposes of the *Electricity Supply Act 1995*.

Dated at Port Macquarie this 14th day of July 2017

Shannon Dawson
Deputy General Counsel
Essential Energy
PO Box 5730
PORT MACQUARIE NSW 2444

SCHEDULE 1

No.	Interests in Land	Locality	LGA	Parish	County
1	Easement for underground powerlines 2 wide affecting Crown Road separating Lots 631 and 632 in DP831955 from Lot 64 in DP752818 shown as " <i>Proposed Easement for underground powerlines 2 wide</i> " in DP1221615	Dairyville	Coffs Harbour	Comlaroi	Fitzroy

SCHEDULE 2

The easement for underground powerlines described in Schedule 1 is on the terms set out in Part B of Memorandum No.AG189384 registered on the Register held under the *Real Property Act 1900*.

[9230]

MINE WEALTH AND WELLBEING SUPERANNUATION FUND

TRUST DEED

Determination under Rule 3.9.13

WHEREAS this Rule provides that where there is a variation in the amount of the Reference Rate the Trustees shall by a determination published by the Gazette as soon as practical after the variation to amend Appendix 3A of the Trust Deed in the manor provided by this Rule: and whereas there has been a variation in the Reference Rate the Trustee has amended Appendix 3A of the Trust Deed as follows:

- (a) by omitting the amount of "\$265.75" in Column 4 of Item 1 and by inserting the amount of "\$281.12"
- (b) by omitting the amount of "\$417.61" in Column 4 of Item 2 and by inserting the amount of "\$441.76";
- (c) by omitting the amount of "\$250.70" in Column 4 of Item 3 and by inserting the amount of "\$281.12";
- (d) by omitting the amount of "\$37.04" in Column 4 of Item 4 and by inserting the amount of "\$40.16";

The amendments made of Appendix 3A by this Determination take effect on and from 1 July 2017.

Dated: 21 June 2017

STEVE GRANT
General Manager.

[9231]