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Pesticides Act 1999

Pesticide Control Order issued under section 38

1. Name

This Order is to be known as the **Pesticide Control (1080 Bait Products) Order 2019**

2. Authority for Order

This Order is made by Carolyn Walsh, Acting Chairperson of the EPA for and on behalf of the Minister for Energy and Environment under Part 4 of the *Pesticides Act 1999*.

3. Commencement

This Order commences on publication in the NSW Government Gazette.

4. Revocation of Previous Order

Pesticide Control (1080 Bait Products) Order 2017 is revoked.

5. Objects

The objects of this Order are to: –

- (a) Authorise those persons described in clause 9 to use 1080 bait products that are approved by the APVMA for use in NSW.
- (b) Specify the manner in which 1080 bait products must be used in NSW.
- (c) Revoke and replace Pesticide Control (1080 Bait Products) Order 2017.
- (d) Authorise those persons described in clause 9 to use 1080 liquid concentrate products and require them to do certain things in regards use of 1080 liquid concentrate products and 1080 bait products.

6. Background

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

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

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

7. Application

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

8. Definitions and interpretation

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

1080 bait material means any material that has been approved for use as a 1080 bait material in the NSW DPI Vertebrate Pesticide Manual (VPM) to control wild dogs, foxes, rabbits or feral pigs and which has been injected or treated with 1080 by an Authorised Control Officer, in accordance with the NSW directions on an approved label of a 1080 liquid concentrate product such as “ACTA 1080 Concentrate” and “PAKS 1080 Concentrate” or where there are no instructions on the approved label of a 1080 liquid concentrate product then in accordance with 1080 bait preparation instructions in the VPM.

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

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

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

Agvet Code has the same meaning as in the *Pesticides Act 1999*.

Air Observer means a person trained by the NPWS and approved as qualified by the NSW Rural Fire Service as a specialist able to plan, navigate and gather intelligence from an aircraft including mapping images and data on incident specific information or aerial operations, as an Air Observer.

apply a pesticide means apply or disperse the pesticide.

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

attacked means mauled, killed or harassed.

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

authorised agent is a person taking possession of 1080 bait products on behalf of a landholder and who will be using 1080 bait products on the property of that landholder.

Authorised Control Officer means a person who: –

- (a) holds a current certificate of completion or VET statement of attainment issued by NSW DPI's Registered Training Organisation or another Registered Training Organisation on completion of the training and assessment components of the Vertebrate Pest Management course¹ delivered by NSW DPI or a Registered Training Organisation; or
- (b) is employed by a public authority that has an EPA approved system for evaluating and establishing recognised prior learning that would, at least, be equivalent to obtaining accreditation for the successful completion of the training and assessment components of the Vertebrate Pest Management course; and
- (c) holds a current certificate of completion or VET statement of attainment for completion of the Vertebrate Pesticide accreditation course; and

¹ This includes completion of the NSW Agriculture/ NSW DPI Vertebrate Pest Management course prior to the establishment of nationally recognised competencies.

- (d) holds a current certificate of completion or VET statement of attainment on completion of the training and assessment components of a Chemical Accreditation training program assessed at Australian Qualifications Framework levels 3 and 4 and that has been issued by a Registered Training Organisation. To maintain currency of level 3 Chemical Accreditation a person must complete refresher training every 5 years but for level 4 Chemical Accreditation only initial accreditation is required for the duration of their employment, functioning as an Authorised Control Officer; and
- (e) is a person who:
 - (i) is a member of staff of an LLS, a Wild Dog Destruction Board, NSW DPI, NPWS, or other NSW public authority and is currently employed as part of the Public Service under Part 4 of the *Government Sector Employment Act 2013* to enable that NSW public authority to exercise its functions; or
 - (ii) has obtained approval to operate as an Authorised Control Officer from the Chair and CEO of the EPA prior to completing the training requirements in (c) above.

baiting location means:

- (a) in the case of private land, or private holdings, where the property area is less than 100 ha – the whole of the property where 1080 bait products are being applied; or
- (b) in the case of:
 - (i) private land, or private holdings where the property area is 100 ha or more; or
 - (ii) State Forests; or
 - (iii) LLS managed Travelling Stock Reserves
– the area, delimited by peripheral roads, formed tracks and/or property boundaries, rivers, internal fences of the private land or private holding, State Forest, Travelling Stock Reserve, where 1080 bait products are being applied; or
- (c) in the case of land reserved or acquired under the National Parks and Wildlife Act 1974
- the area defined by a map in the Authorised Control Officer risk assessment for the program; or
- (d) in the case of public places within the meaning of the Local Government Act 1993 – the whole of the property where 1080 bait products are being applied.

bait site means the actual position of the bait within the baiting location.

Current trained Air Observer means an Air Observer who has maintained their qualification as an Air Observer and has:

- performed the role of Air Observer in operations or simulated operations within a 14-month period (recorded in a log book and signed off by a pilot); and
- completed an annual light task based assessment.

direct supervision means the supervisor must instruct a person in how to use the 1080 bait product and be in attendance to supervise use of the 1080 bait product.

domestic water supply means the point where farm water supply originates and includes tanks, bores, dams and waterholes with structures and infrastructure such as pumps that supply domestic water. It only includes the point at which water is drawn and does not include the entire length of active streams.

EPA means the Environment Protection Authority (NSW).

group means 2 or more.

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

HDPE means high-density polyethylene or polypropylene category 5.

landholder means an owner, occupier or manager of land.

LLS means the Local Land Services as constituted under the *Local Land Services Act 2013*.

nominated person is a person, greater than 18 years of age that has approval to pick up baits on behalf of a person authorised to use 1080 products.

NPWS means the National Parks and Wildlife Service as defined under the *National Parks and Wildlife Act 1974*.

NPWS RPMS program means a program listed in a Regional Pest Management Strategy of the NPWS.

NSW DPI means the NSW Department of Primary Industries.

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

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

Notes:

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

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

possession of a pesticide has the same meaning as under the *Pesticides Act 1999*

property means an area of land whether privately owned land, a holding (as defined in the *Local Land Services Act 2013* and as identified in the LLS database), a Travelling Stock Reserve, State Forest, land reserved or acquired under the *National Parks and Wildlife Act 1974*, or a council reserve or public place within the meaning of the *Local Government Act 1993*.

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

Public land manager means a public authority or any other person that owns or manages public land.

Registered Training Organisation has the same meaning as under the *National Vocational Education and Training Act 2011* of the Commonwealth.

thoroughfare means a road or track maintained for lawful public use for travel to or transportation through private, crown or public land. It excludes formed tracks, trails and similar access routes on public lands (e.g. national parks, State Forests) which are not intended for lawful use by the general public e.g. formed fire trails used for fighting fires that have no legal public vehicle access but which the public may legally walk along.

threatened species means "threatened species, populations and ecological communities" as defined under the *Threatened Species Conservation Act 1995* and "listed threatened species" and "listed

threatened ecological communities" as defined under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth.

use of a pesticide has the same meaning as under the *Pesticides Act 1999*.

VET statement of attainment has the same meaning as in the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth.

VPM means the current version of the NSW DPI Vertebrate Pesticide Manual.

Western Division is the area limited by the boundaries defined by borders with Queensland, South Australia and Victoria in the north, west and south respectively. The eastern boundary follows the Barwon River, Marra Creek, a line south to Euabalong and then the Lachlan and Murrumbidgee Rivers.

9. Persons authorised

- (1) Only the following persons are authorised to use or possess, subject to clause 10 of this Order, 1080 bait products:
 - (a) Authorised Control Officers;
 - (b) Any person who:
 - (i) has obtained 1080 bait product from an Authorised Control Officer; and
 - (ii) is a landholder of the land on which the 1080 bait product is to be used, or their authorised agent; and
 - (iii) holds as a minimum either:
 - (A) a current certificate of completion or statement of attainment on completion of the training and assessment components of a Chemical Accreditation training program assessed at Australian Qualifications Framework level 3 and that has been issued by a Registered Training Organisation in the previous 5 years in recognition of the person's satisfactory achievement of level 3 training competencies covered by the program; or
 - (B) a current certificate of completion issued by the LLS for the Vertebrate Pesticide training course developed for the EPA, delivered by the LLS and that requires reaccreditation every 5 years.
- (2) Only Authorised Control Officers are authorised to use or possess, subject to clause 10 of this Order, 1080 liquid concentrate products.
- (3) A person appointed as an authorised officer by the Environment Protection Authority is authorised to use or possess, subject to clause 10(2) of this Order, 1080 bait products and 1080 liquid concentrate products.

10. Conditions on the use of 1080 Bait Products and 1080 Liquid Concentrate Products

- (1) A person authorised to use or possess 1080 bait products or 1080 liquid concentrate products under clause 9 above, must only use or possess 1080 bait products and 1080 liquid concentrate products for the control of wild dogs, foxes, feral pigs or rabbits. That use or possession must be in accordance with the relevant Schedule to this Order. The Schedules are as follows:
 - (a) for control of wild dogs persons must comply with Schedule 1;
 - (b) for control of foxes persons must comply with Schedule 2;
 - (c) for control of feral pigs persons must comply with Schedule 3;
 - (d) for control of rabbits persons must comply with Schedule 4;
 - (e) for use of 1080 Liquid Concentrate Products and 1080 Bait products Authorised Control Officers must comply with Schedule 5
- (2) A person authorised to use or possess 1080 bait products or 1080 liquid concentrate products under clause 9(3) must only use or possess 1080 bait products and 1080 liquid concentrate products for the purposes of storing or possessing a sample of the 1080 bait products and 1080

liquid concentrate products collected in the exercise of powers under section 198 of the *Protection of the Environment Operations Act 1997*.

Notes

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

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

This Order will remain in force until it is revoked

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

Carolyn Walsh
A/Chairperson
Environment Protection Authority
(by delegation)

Schedule 1

USE OF 1080 BAIT PRODUCT FOR CONTROL OF WILD DOGS

1. WHAT 1080 BAIT PRODUCTS CAN BE USED ON WILD DOGS

A person authorised to use 1080 bait products under clause 9 of this Order must, when using 1080 bait products for the purpose of controlling wild dogs, only do so in accordance with the following conditions:

- 1.1 A person must only use 1080 bait material which has been produced and supplied by an Authorised Control Officer for the purpose of controlling wild dogs; or
- 1.2 A person must only use 1080 bait products that are specifically manufactured for the control of wild dogs, registered by the APVMA and approved for the use in controlling wild dogs in NSW. These products are Doggone Wild Dog Bait (APVMA Product Registration Number 49384) and Paks DE-K9 1080 Wild Dog Bait (APVMA Product Registration Number 60308) and any other similar 1080 bait product that is registered by the APVMA after the commencement of this Order and approved for the control of wild dogs in NSW.
- 1.3 A person must not freeze 1080 bait material.

1080 bait material and 1080 bait products referred to in conditions 1.1 and 1.2 will henceforth be referred to as "1080 wild dog bait".

2. POSSESSION OF 1080 WILD DOG BAIT

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

- 2.1 A person must only possess 1080 wild dog bait if it has been supplied to them or their authorised agent or nominated person, by an Authorised Control Officer or by a trained staff member of the LLS or NPWS (i.e. met the training requirements of clause 9(c) (iii) of this order) under the direction of the Authorised Control Officer.
- 2.2 A person taking possession of 1080 wild dog baits must first complete and sign an indemnity form for each property or NPWS RPMS program on which 1080 wild dog bait is intended to be used. An Authorised Control Officer or an employee of an LLS must give them a copy of each indemnity form that they complete and sign.
- 2.3 A person taking possession of 1080 wild dog baits and laying 1080 wild dog baits on behalf of another landholder as their authorised agent, must provide evidence to the Authorised Control Officer of the consent given by the landholder whose property will use 1080 wild dog baits. The consent must not cover a period of time greater than 12 months.
- 2.4 All persons receiving 1080 wild dog baits from an Authorised Control Officer must only temporarily possess and store 1080 wild dog baits. All 1080 wild dog baits must be stored in a lockable storage area away from children, animal food, foodstuffs, seed and fertiliser. Where 1080 wild dog bait is required to be placed in a refrigerator, the refrigerator must not be concurrently used to store food and must be located in a lockable storage area. All 1080 bait material for wild dog control must be used within seven (7) days. All opened and unopened manufactured and registered 1080 bait product (such as Doggone and DE-K9 product) must be destroyed within one (1) month after completion of the baiting program, by burial in accordance with condition 3.11 or where possible, returned to an Authorised Control Officer.
- 2.5 All persons receiving 1080 wild dog baits from an Authorised Control Officer must store 1080 wild dog baits in either the labelled plastic bag supplied by the Authorised Control Officer (labelled in accordance with **attachment 1**) or in a container supplied by the manufacturer of an APVMA registered 1080 wild dog bait product or in a structurally sound, impervious HDPE plastic bucket with sealing lid and labelled in accordance with **attachment 1**.

3. DIRECTIONS FOR USE – GENERAL RESTRICTIONS

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

- 3.1 A person in possession of 1080 wild dog baits must transport and store the 1080 wild dog baits in such a way that other persons cannot access the 1080 wild dog baits. A person transporting 1080 wild dog baits must store the 1080 wild dog baits in a secure location of their vehicle.

- 3.2 A person must not place the 1080 wild dog baits in a position accessible to children, domestic animals or pets.
- 3.3 A person who uses 1080 wild dog baits should avoid poisoning of domestic pets. As 1080 is particularly lethal to domestic dogs, the person using the baits should recommend to neighbours requiring notification (see condition 5.1) to restrain their pets and working dogs and ensure they do not enter the baiting location during poisoning operations or to muzzle dogs if they are required to work the baiting location during and after poisoning. In the event of accidental poisoning seek immediate veterinary assistance.
- 3.4 A person must not feed 1080 wild dog baits to non-target species.
- 3.5 1080 wild dog baits may be toxic to some native wildlife. To the extent possible, the person using the 1080 wild dog baits should time baiting programs for when non-target species are least active or least susceptible.
- 3.6 A person must not apply 1080 wild dog baits to, or in, crops which are in mid to late developmental stages. A person must not apply 1080 wild dog baits to, or in, crops if application of 1080 wild dog baits is likely to lead to contamination of the crops.
- 3.7 A person must ensure that 1080 wild dog baits do not contaminate foodstuffs, or feed, for human or non-target animal consumption.
- 3.8 (a) A person must not use plastic bags which have been used to contain 1080 wild dog baits for any other purpose.
- (b) HDPE containers may be reused for issuing 1080 wild dog baits if:
- (i) they are labelled in accordance with **attachment 1**
 - (ii) are structurally sound
 - (iii) are triple rinsed after 1080 wild dog bait use and the rinsate disposed of as per condition 3.8.1(e), or triple rinsed in the 1080 preparation facility through the 1080 waste water holding tank.
- (c) Disposal of plastic bags or HDPE containers must be by burial or burning as follows:

3.8.1 Burial

Plastic bags or containers must be buried as follows:

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

3.8.2 Burning

Empty plastic bags that have contained 1080 must be burnt by open fire in accordance with an approval issued under the *Protection of the Environment Operations (Clean Air) Regulation 2010*. A person that disposes of plastic bags by way of burning must also comply with the following conditions:

- (a) The amount of plastic bags burnt at any premises on any single day must not exceed one hundred (100) bags without the prior written approval of the EPA.
- (b) The burning of plastic bags must be carried out at least five hundred (500) metres from any habitation.
- (c) The burning of plastic bags must be carried out in accordance with any requirement of the *Rural Fires Act 1997* and the *Fire Brigades Act 1989*, as administered by the relevant local authority and Fire and Rescue NSW.
- (d) The open fire burning must not be carried out on a day subject to an order prohibiting the burning of fires in the open published by the EPA pursuant to section 133(2) of the *Protection of the Environment Operations Act 1997*.
- (e) The open fire burning must only be carried out in dry weather using such practicable means as may be necessary to minimise visible smoke emissions causing air pollution.

- 3.9 A person who uses 1080 wild dog baits must not pollute dams, drains, streams, rivers or waterways with 1080 wild dog baits or plastic bags and containers that have held 1080 wild dog baits. Pollution of waters is an offence under section 120 of the *Protection of the Environment Operations Act 1997*.
- 3.10 A person must not place 1080 wild dog baits on a property without the written consent of the occupier, manager or authorised agent of the land unless the baiting has been determined necessary under the provisions of the *Biosecurity Act 2015*.
- 3.11 At the end of any ground baiting program conducted in accordance with this Schedule, a person using 1080 wild dog baits must make a reasonable effort to ensure that all untaken baits are collected and removed from a baiting location unless the risk assessment for their baiting location determines otherwise. All collected and unused 1080 wild dog baits must be disposed of as soon as possible at the property where the 1080 wild dog baits were used, or in the case of a coordinated baiting program, on a property or location identified and agreed to by the Authorised Control Officer coordinating the program. All collected and unused 1080 wild dog baits must be buried in a disposal pit and must be buried under at least five hundred (500) mm of soil. The disposal pit must be clear of waterways (permanent or ephemeral) so as to not cause pollution of water in accordance with Part 5.3 of the *Protection of the Environment Operations Act 1997*.
- 3.12 To the extent possible, a person who uses 1080 wild dog baits should recover carcasses of animals poisoned by 1080 wild dog baits and bury them in accordance with the disposal instructions for 1080 wild dog baits in condition 3.11. Any incidents where there are reasonable grounds to suspect that non-target animals (excluding other pest animals) may have been poisoned by 1080 wild dog baits should be reported to the EPA.
- 3.13 Ongoing baiting may be necessary in some instances to reduce the impacts of wild dogs on native fauna and domestic livestock. Such programs may be undertaken only if the risk to non-target species is low (see also conditions 3.3, 3.5, 3.9 and 3.12).

4. DIRECTIONS FOR USE – DISTANCE RESTRICTIONS

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

- 4.1. The minimum distances for the laying of 1080 wild dog baits have been set to minimise the risk to people and to non-target animals. A person authorised to use 1080 wild dog baits must not place 1080 wild dog baits where they can be washed into or contaminate surface or ground waters. 1080 wild dog baits must not be laid in areas where distance restrictions cannot be met. Other wild dog control methods must be used in those areas.
- 4.2 1080 wild dog baits must not be laid within close proximity to urban areas unless the baiting program is planned in conjunction with, and has been approved by, an Authorised Control Officer. A program approved under this condition must include strategies for minimising risk to non-target animals.
- 4.3 **Property Boundary:**
- 4.3.1 **Ground Baiting:** 1080 wild dog baits must not be laid within five (5) metres from any property boundary.
- 4.3.2 **Aerial Baiting:** 1080 wild dog baits must not be laid:
- (a) within ten (10) metres from any property boundary by helicopter, or
 - (b) within one hundred (100) metres from any property boundary when using a fixed winged aircraft. The use of fixed wing aircraft in the Eastern Division is permitted subject to the following conditions:
 - (i) the navigating must be done by a current trained Air Observer; AND
 - (ii) two separate systems of navigating must be used, one system for the pilot and one system for the current trained Air Observer; AND
 - (iii) all navigating will be done with the aid of aerial bait lines that have been digitised on to a tablet/laptop that is GPS enabled (or an actual GPS) and has a topographic map background. The devices being used must not have any lag-time in relation to their position; AND
 - (iv) predetermined and approved aerial bait lines must be uploaded onto both the pilot's and current trained Air Observer's navigating equipment prior to the program to enable effective and efficient navigation.

- (c) Conditions in 4.3.2(b)(i)-(iv) above do not apply to the use of fixed wing aircraft in the Western Division.

4.3.3 **Exemption for Group Baiting:** Conditions 4.3.1 and 4.3.2 do not apply to the laying of 1080 wild dog baits as part of a group baiting program that has been planned by an Authorised Control Officer and where that Officer has obtained written consent from the landholders involved in the baiting program for the laying of the 1080 wild dog baits. This exemption does not apply to property boundaries of landholders not involved in the baiting program.

4.4 **Habitation:**

4.4.1 **Ground Baiting:** 1080 wild dog baits must not be laid within one hundred and fifty (150) metres of a habitation except:

- (a) where a landholder or their authorised agent uses 1080 wild dog baits on their own property, in which case the landholder or their authorised agent may lay the 1080 wild dog baits at a distance of no less than fifty (50) metres from their own habitation.
- (b) where an Authorised Control Officer plans a baiting program, in which case the 1080 wild dog baits may be laid at less than 150 metres but no closer than 50 metres from a habitation, subject to the following conditions:
 - (i) The Authorised Control Officer has undertaken a risk assessment in accordance with the provisions of the VPM (as in force at the time) and determined that 1080 wild dog baits can be laid at distances of less than 150 metres but no closer than 50 metres from a habitation;
 - (ii) Any baiting program planned by an Authorised Control Officer must include strategies for minimising risk to non-target animals;
 - (iii) Any adjoining landholders must agree in writing to use or allow the use of 1080 wild dog baits as part of a coordinated wild dog control program at distances of less than 150 metres but no closer than 50 metres from a habitation on the landholder's property;
 - (iv) Where an Authorised Control Officer implements a coordinated wild dog control program, they must not implement the program **UNLESS**:
 - (1) **ALL** the landholders in the group are made aware of the hazardous nature of 1080 wild dog baits in closely settled areas; AND
 - (2) **EVERY** landholder in the group signs an agreement that they:
 - (A) understand the hazards associated with the use of 1080 wild dog baits in closely settled areas; AND
 - (B) agree to allow 1080 wild dog baits to be laid on adjoining properties at distances of less than 150 metres but no closer than 50 metres from any habitation on their property in writing; AND
 - (C) agree to accept all responsibility for any problems arising from 1080 wild dog baits used on their land within the program; AND
 - (3) **ALL** the landholders of the outermost properties of the group abide by all the distance requirements in relation to adjoining properties not covered by the group activity.

4.4.2 **Aerial Baiting:** 1080 wild dog baits must not be laid:

- (a) within five hundred (500) metres of a habitation by helicopter, or
- (b) within one thousand (1000) metres of a habitation when using a fixed wing aircraft. The use of fixed wing aircraft in the Eastern Division is permitted subject to following all the requirements of condition 4.3.2(b)(i)-(iv). In the Western Division conditions 4.3.2(b) (i) to (iv) do not apply to fixed wing aircraft use.

4.5 **Domestic Water Supply or Water Draw Point:**

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

4.5.2 **Aerial Baiting:** 1080 wild dog baits must not be laid:

- (a) within twenty (20) metres of a domestic water supply by helicopter, or
- (b) within one hundred (100) metres of a domestic water supply when using a fixed wing aircraft. The use of fixed wing aircraft in the Eastern Division is permitted subject to following all the

requirements of conditions 4.3.2(b)(i)-(iv). In the Western Division conditions 4.3.2(b) (i) to (iv) do not apply to fixed wing aircraft use.

5. PUBLIC NOTIFICATION

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

- 5.1 A person must not lay any 1080 wild dog baits on any land unless the person has first given a minimum of three (3) days' notice of the date on which they will lay 1080 wild dog baits – henceforth referred to as 'notification'. The notification must be given to the landholder or authorised agent of every property which has a property boundary within one (1) kilometre of a **baiting location**. The notification must contain the following information:
- (a) pest being controlled with 1080 baits;
 - (b) dates when 1080 baits will be used;
 - (c) property on which 1080 baits will be used;
 - (d) contact details of the person who will lay the 1080 baits or in the case of a public authority a person or office that can be contacted for information about 1080 baits being used on the property; and
 - (e) a warning that pets and working dogs may be affected and recommend actions to be taken as specified in condition 3.3.
- 5.2. The notification may be given by telephone, text message, email, in person, or by mail (including letter box drop).
If notification cannot be made by telephone, text message, email, personal contact or mail, or the number of persons to be notified is more than twenty-five (25), then:
- (i) notification may be made by advertisement in a local newspaper; or
 - (ii) where baiting is done under a NPWS RPMS program or equivalent Forestry Corporation program notification may be made by advertisement in a local newspaper or on a government website.
- In the case of large group baiting programs comprising more than 25 participants, and organised or approved by an Authorised Control Officer, then:
- (i) notification may be made by advertisement in a local newspaper; or
 - (ii) where baiting is done under a NPWS RPMS program or equivalent Forestry Corporation program notification may be made by advertisement in a local newspaper or on a government website
- 5.3 The use of 1080 wild dog baits for ground baiting may be conducted for longer than seven (7) days but must commence within 21 days of notification otherwise further notification of intended baiting is required. In the case of aerial baiting, a date range of up to 14 days can be given but must commence within 21 days of notification, otherwise further notification is required.
- 5.4 Where replacement baiting is planned the notification must include the time period baiting is planned to be maintained.
- 5.5 Where baiting programs are ongoing notification must be given every six (6) months and condition 5.3 does not apply.

6. EMERGENCY BAITING (Ground application only)

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

- 6.1(a) A person whose livestock are being attacked or can provide evidence that their livestock are under imminent threat of attack may lay 1080 wild dog baits (by way of ground baiting only) without the need to comply with condition 5.1 (3-day prior neighbour notification). A person who undertakes emergency baiting must, however, notify each landholder whose property boundary lies within one (1) kilometre of a baiting location before laying any 1080 wild dog baits.
- 6.1(b) A person who undertakes emergency baiting must comply with all requirements in relation to the use of 1080 wild dog baits, except as provided for in condition 6.1(a).
- 6.2 A person whose land is adjoining (or nearby) to land where livestock are being attacked (or under the imminent threat of attack) and whose land is part of a coordinated baiting program may also lay 1080 wild dog baits. The laying of baits in these circumstances must be done in accordance with conditions 6.1(a) and 6.1(b).

- 6.3 Emergency baiting may be undertaken by public land managers who do not have control of stock but where stock on adjoining (or nearby land) are being attacked. The laying of baits in these circumstances must be done in accordance with conditions 6.1(a) and 6.1(b).

7. 1080 POISONING NOTICES

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

- 7.1 A person who uses 1080 wild dog baits must erect notices before laying 1080 wild dog baits on any land. These notices must remain up for a minimum of four (4) weeks after the last day of baiting and must remain intact and legible for the duration. Notices must be placed at:
- (a) every formed and/or used entry point into the baiting location that is authorised by the landholder and provides access to the bait site. For example, a gateway, road, or trail, including designated walking tracks. This does not include unformed or permanently closed access points, formed or used entry points that are not authorised (including but not limited to an access point created by falling trees or unauthorised alterations to fencing or vegetation) or gates or intersections within the baiting location for which someone would have already passed a notice; and
 - (b) the main entrance to a private property where baiting is undertaken or in the case of a National Park the main entrance to the area being baited; and
 - (c) at the extremities of and up to five (5) kilometre intervals along all public thoroughfares which border or pass through the baiting location.
- 7.2 The notices must specify the following:
- (a) 1080 baits for wild dogs are being laid on this property; and
 - (b) the dates on which 1080 wild dog baits are first laid or the dates between which baits will be laid; and
 - (c) contact details of the person who will lay the 1080 wild dog baits or in the case of a public authority a person or office that can be contacted for information about 1080 wild dog baits being used on the property; and
 - (d) warning that domestic animals may be affected.
- 7.3 Under the *Pesticides Regulation 2009* (clauses 19 to 23) public authorities have additional public notification obligations that must be complied with. There are also other notification requirements in the Regulation.
- 7.4 1080 Poison Notices may be obtained from Authorised Control Officers.

8. GROUND BAITING WITH 1080 WILD DOG BAIT

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

- 8.1 A person who lays 1080 wild dog baits must:
- (a) not lay more than ten (10) 1080 wild dog baits per kilometre of trail or more than twenty (20) 1080 wild dog baits per hundred (100) hectares and be done in accordance with bait station placement requirements stated in the VPM. 1080 wild dog baits may be concentrated to a localised area of wild dog activity but not at rates above the maximum limit in respect to the size of the baiting location within the property being baited; and
 - (b) not lay more 1080 wild dog baits on any one (1) property than approved by an Authorised Control Officer; and
 - (c) lay 1080 wild dog baits in such a way that any untaken 1080 wild dog baits can be found readily and destroyed in accordance with condition 3.11.
- 8.2 1080 wild dog baits should be buried in a shallow hole and covered with soil or organic material. If practical, tether the 1080 wild dog baits. The Authorised Control Officer risk assessment will determine if such techniques are not required. All bait station must be identifiable to the user.
- 8.3 In land reserved or acquired under the *National Parks and Wildlife Act 1974* and public reserves within the meaning of the *Local Government Act 1993* it is not necessary to mark the location for 1080 wild dog baits but GPS coordinates must be recorded.
- 8.4 A person who lays 1080 wild dog baits on a property of less than one hundred (100) ha must check the 1080 wild dog baits within five (5) days of laying the 1080 wild dog baits and must collect any untaken 1080 wild dog baits within seven (7) days of laying the 1080 wild dog bait. All untaken 1080 wild dog baits must be disposed of in accordance with condition 3.11. This condition does not prevent a person from replacing 1080 wild dog baits that are taken for a period of longer than seven (7) days where 1080 wild dog baits continue to be taken.

8.5 Condition 8.4 does not apply if the baiting is part of a critical NPWS Regional Pest Management Strategy and wild dogs are known to occur in the area. Use of 1080 wild dog baits in this instance must be subject to an Authorised Control Officer doing a risk assessment in relation to the use of the 1080 wild dog baits and following documented evidence of wild dog activity in the area.

9. AERIAL BAITING WITH 1080 WILD DOG BAIT

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

- 9.1 Aerial baiting is restricted to areas and situations that meet the restrictions stated in LLS and NPWS approved guidelines/procedures for Wild Dog Aerial Baiting. Approval for every aerial baiting program on land reserved under Part 4 of the *National Parks and Wildlife Act 1974* must be obtained from the relevant NPWS Branch Director. For all other land, approval for every aerial baiting program must be obtained from the LLS Chief Executive or their delegate. Aerial baiting must be organised through either LLS or NPWS or another NSW public authority that the EPA has given approval to undertake such an activity.
- 9.2 Notwithstanding any other condition contained in this Schedule, a person who undertakes aerial baiting must only use 1080 wild dog baits that are specified in the VPM and approved for aerial baiting.
- 9.3 A pilot who operates an aircraft which is used to aerially apply 1080 wild dog baits must use onboard GPS navigation equipment mounted in the pilot's line of sight to navigate along agreed flight paths. The GPS navigation equipment must be of the type that has a moving map display with topographic features which provide accurate guidance to the pilot. The GPS equipment must have full data logging capabilities and all flight paths must be pre-programmed into the GPS navigation equipment before commencement of 1080 wild dog aerial baiting.
- 9.4 A pilot who operates an aircraft which is used to aerially apply 1080 wild dog baits must make a record of the GPS flight path which includes the start and finish drop point data, for 1080 wild dog bait, for each aerial run. The record must be kept for a period of at least three (3) years after the date on which the 1080 wild dog bait was aerially applied. A pilot must make any records available to the EPA on request.
- 9.5 The employer or contractor of a pilot must ensure that a pilot of any aircraft used to aerially apply 1080 wild dog baits complies with conditions 9.3 and 9.4.
- 9.6 A person coordinating or organising aerial baiting programs must ensure that pilots are given digitised flight paths for all areas where 1080 wild dog baits are to be dropped from an aircraft which is used to aerially apply 1080 wild dog baits.
- 9.7 A person on the aircraft that is responsible for dropping 1080 wild dog baits must not be given the task of navigating the aircraft. A pilot is responsible for navigation and must ensure that 1080 wild dog baits are dropped along the agreed flight path.
- 9.8 A person who drops 1080 wild dog baits from an aircraft which is used to aerially apply 1080 wild dog baits must hold as a minimum the qualification specified in clause 9(1)(b)(iii) of this Order.
- 9.9 A person who drops 1080 wild dog baits from an aircraft which is used to aerially apply 1080 wild dog baits must not drop more than ten (10) 1080 wild dog baits per kilometre of agreed flight path on any land in NSW unless the person is permitted to do otherwise under an APVMA permit, and then must be compliant with the conditions on use in the APVMA permit.

DANGEROUS POISON
KEEP OUT OF REACH OF CHILDREN
READ SAFETY DIRECTIONS BEFORE OPENING OR USING

1080 POISONED BAIT

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

FOR THE CONTROL OF WILD DOGS OR FOXES

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

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

DIRECTIONS FOR USE: When using this product to control wild dogs you must follow the conditions for use in Schedule 1 of the current NSW 1080 Baits Pesticide Control Order. When using this product to control foxes you must follow the conditions for use in Schedule 2 of the current NSW 1080 Baits Pesticide Control Order

SAFETY DIRECTIONS:

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

FIRST AID:

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

PROTECTION OF LIVESTOCK, DOMESTIC AND FARM DOGS:

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

PROTECTION OF WILDLIFE, FISH, CRUSTACEANS AND ENVIRONMENT:

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

TRANSPORT, STORAGE AND DISPOSAL:

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

MANUFACTURER'S WARRANTY; EXCLUSION OF LIABILITY:

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

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

LOCAL LAND SERVICES

KG NET

or

NAME OF PUBLIC AUTHORITY

Schedule 2

USE OF 1080 BAIT PRODUCT FOR CONTROL OF FOXES

1. WHAT 1080 BAIT PRODUCTS CAN BE USED ON FOXES

A person authorised to use 1080 bait products under clause 9 of this Order must, when using 1080 bait products for the purpose of controlling foxes, only do so in accordance with the following conditions:

- 1.1 A person must only use 1080 bait material which has been produced and supplied by an Authorised Control Officer for the purpose of controlling foxes; or
- 1.2 A person must only use 1080 bait products that are specifically manufactured for the control of foxes, registered by the APVMA and approved for use in controlling foxes in NSW. These products are Foxoff Fox Bait (APVMA Product Registration Number 40573); Foxoff Econobait (APVMA Product Registration Number 46434) Paks DE-FOX 1080 Fox Bait (APVMA Product Registration Number 58999) and Foxshield Fox Bait (APVMA Product Registration Number 64962) and any other similar 1080 bait product that is registered by the APVMA after the commencement of this Order and approved for the control of foxes in NSW.
- 1.3 A person must not freeze 1080 bait material.

1080 bait material and 1080 bait products referred to in conditions 1.1 and 1.2 will henceforth be referred to as “1080 fox bait”.

2. POSSESSION OF 1080 FOX BAIT

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

- 2.1 A person must only possess 1080 fox bait if it has been supplied to them or their authorised agent or nominated person, by an Authorised Control Officer or by a trained staff member of the LLS or NPWS (i.e. met the training requirements of clause 9(c) (iii) of this order) under the direction of the Authorised Control Officer.
- 2.2 A person taking possession of 1080 fox baits must first complete and sign an indemnity form for each property or NPWS RPMS program on which 1080 fox bait is intended to be used. An Authorised Control Officer or an employee of an LLS must give them a copy of each indemnity form that they complete and sign.
- 2.3 A person taking possession of 1080 fox baits and laying 1080 fox baits on behalf of another landholder as their authorised agent, must provide evidence to the Authorised Control Officer of the consent given by the landholder whose property will use 1080 fox baits. The consent must not cover a period of time greater than 12 months.
- 2.4 All persons receiving 1080 fox baits from an Authorised Control Officer must only temporarily possess and store 1080 fox baits. All 1080 fox baits must be stored in a lockable storage area away from children, animal food, foodstuffs, seed and fertiliser. Where 1080 fox bait is required to be placed in a refrigerator, the refrigerator must not be concurrently used to store food and must be located in a lockable storage area. All 1080 bait material for fox control must be used within seven (7) days. All opened and unopened manufactured and registered 1080 bait product (such as Foxoff (both products) and DE-FOX product) must be destroyed within one (1) month of completion of the baiting program, by burial in accordance with condition 3.11 or where possible, returned to an Authorised Control Officer.
- 2.5 All persons receiving 1080 fox baits from an Authorised Control Officer must store 1080 fox baits in either the labelled plastic bag supplied by the Authorised Control Officer (labelled in accordance with **attachment 1**) or in the container supplied by the manufacturer of an APVMA registered 1080 fox bait product or in a structurally sound, impervious HDPE plastic bucket with sealing lid and labelled in accordance with **attachment 1**.

3. DIRECTIONS FOR USE – GENERAL RESTRICTIONS

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

- 3.1 A person in possession of 1080 fox baits must transport and store the 1080 fox baits in such a way that other persons cannot access the 1080 fox baits. A person transporting 1080 fox baits must store the 1080 fox baits in a secure location of their vehicle.
- 3.2 A person must not place the 1080 fox baits in a position accessible to children, domestic animals or pets.
- 3.3 A person who uses 1080 fox baits should avoid poisoning of domestic pets. As 1080 is particularly lethal to domestic dogs, the person using the baits should recommend to neighbours requiring notification (see condition 5.1) to restrain their pets and working dogs and ensure they do not enter the baiting location during poisoning operations or to muzzle dogs if they are required to work the baiting location during and after poisoning. In the event of accidental poisoning seek immediate veterinary assistance.
- 3.4 A person must not feed 1080 fox baits to non-target species.
- 3.5 1080 fox baits may be toxic to some native wildlife. To the extent possible, the person using the 1080 fox baits should time baiting programs for when non-target species are least active or least susceptible.
- 3.6 A person must not apply 1080 fox baits to, or in, crops which are in mid to late developmental stages. A person must not apply 1080 fox baits to, or in, crops if application of 1080 fox baits is likely to lead to contamination of the crops.
- 3.7 A person must ensure that 1080 fox baits do not contaminate foodstuffs, or feed, for human or non-target animal consumption.
- 3.8 (a) A person must not use plastic bags which have been used to contain 1080 fox baits for any other purpose.
- (b) HDPE containers may be reused for issuing 1080 fox baits if:
 - (i) they are labelled in accordance with **attachment 1**
 - (ii) are structurally sound
 - (iii) are triple rinsed after 1080 fox bait use and the rinsate disposed of as per condition 3.8.1(e), or triple rinsed in the 1080 preparation facility through the 1080 waste water holding tank.
- (c) Disposal of plastic bags or HDPE containers must be by burial or burning as follows:

3.8.1 Burial

Plastic bags or containers must be buried as follows:

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

3.8.2 Burning

Empty plastic bags that have contained 1080 must be burnt by open fire in accordance with an approval issued under the *Protection of the Environment Operations (Clean Air) Regulation 2010*. A person that disposes of plastic bags by way of burning must also comply with the following conditions:

- (a) The amount of plastic bags burnt at any premises on any single day must not exceed one hundred (100) bags without the prior written approval of the EPA.
- (b) The burning of plastic bags must be carried out at least five hundred (500) metres from any habitation.
- (c) The burning of plastic bags must be carried out in accordance with any requirement of the *Rural Fires Act 1997* and the *Fire Brigades Act 1989*, as administered by the relevant local authority and Fire and Rescue NSW.
- (d) The open fire burning must not be carried out on a day subject to an order prohibiting the burning of fires in the open published by the EPA pursuant to section 133(2) of the *Protection of the Environment Operations Act 1997*.
- (e) The open fire burning of plastic bags must only be carried out in dry weather using such practicable means as may be necessary to minimise visible smoke emissions causing air pollution.

- 3.9 A person who uses 1080 fox baits must not pollute dams, drains, streams, rivers or waterways with 1080 fox baits or plastic bags and containers that have held 1080 fox baits. Pollution of waters is an offence under section 120 of the *Protection of the Environment Operations Act 1997*.
- 3.10 A person must not place 1080 fox baits on a property without the written consent of the occupier, manager or authorised agent of the land unless the baiting has been determined necessary under the provisions of the *Biosecurity Act 2015*.
- 3.11 At the end of any ground baiting program conducted in accordance with this Schedule, a person using 1080 fox baits must make a reasonable effort to ensure that all untaken baits are collected and removed from a baiting location unless the risk assessment for their baiting location determines otherwise. All collected and unused 1080 fox baits must be disposed of as soon as possible at the property where the 1080 fox baits were used, or in the case of a coordinated baiting program, on a property or location identified and agreed to by the Authorised Control Officer coordinating the program. All collected and unused 1080 fox baits must be buried in a disposal pit and must be buried under at least five hundred (500) mm of soil. The disposal pit must be clear of waterways (permanent or ephemeral) so as to not cause pollution of water in accordance with Part 5.3 of the *Protection of the Environment Operations Act 1997*.
- 3.12 To the extent possible, a person who uses 1080 fox baits should recover carcasses of animals poisoned by 1080 fox baits and bury them in accordance with the disposal instructions for 1080 fox baits in condition 3.11. Any incidents where there are reasonable grounds to suspect that non-target animals (excluding other pest animals) may have been poisoned by 1080 fox baits should be reported to the EPA.
- 3.13 Ongoing baiting may be necessary in some instances to reduce the impacts of fox predation on native fauna. Such programs may be undertaken only if the risk to non-target species is low (see also conditions 3.3, 3.5, 3.9 and 3.12).

4. DIRECTIONS FOR USE – DISTANCE RESTRICTIONS

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

- 4.1 The minimum distances for the laying of 1080 fox baits have been set to minimise the risk to people and to non-target animals. A person authorised to use 1080 fox baits must not place 1080 fox baits where they can be washed into or contaminate surface or groundwater. 1080 fox baits must not be laid in areas where distance restrictions cannot be met. Other fox control methods must be used in those areas.
- 4.2 1080 fox baits must not be laid within close proximity to urban areas unless the baiting program is planned in conjunction with, and has been approved by, an Authorised Control Officer. A program approved under this condition must include strategies for minimising risk to non-target animals.

4.3 **Property Boundary:**

- 4.3.1 **Ground Baiting:** 1080 fox baits must not be laid within five (5) metres from any property boundary.
- 4.3.2 **Aerial Baiting:** 1080 fox baits must not be laid:
- (a) within ten (10) metres from any property boundary by helicopter, or
 - (b) within one hundred (100) metres from any property boundary when using a fixed winged aircraft. The use of fixed wing aircraft in the Eastern Division is permitted subject to the following conditions:
 - (i) the navigating must be done by a current trained Air Observer; AND
 - (ii) two separate systems of navigating must be used, one system for the pilot and one system for the current trained Air Observer; AND
 - (iii) all navigating will be done with the aid of aerial bait lines that have been digitised on to a tablet/laptop that is GPS enabled (or an actual GPS) and has a topographic map background. The devices being used must not have any lag-time in relation to their position; AND
 - (iv) predetermined and approved aerial bait lines must be uploaded onto both the pilot's and current trained Air Observer's navigating equipment prior to the program to enable effective and efficient navigation.
 - (c) Conditions in 4.3.2(b)(i)-(iv) above do not apply to the use of fixed wing aircraft in the Western Division.

4.3.3 **Exemption for Group Baiting:** Conditions 4.3.1 and 4.3.2 do not apply to the laying of 1080 fox baits as part of a group baiting program that has been planned by an Authorised Control Officer and where that Officer has obtained written consent from the landholders involved in the baiting program for the laying of the 1080 fox baits. This exemption does not apply to property boundaries of landholders not involved in the baiting program.

4.4 **Habitation:**

4.4.1 **Ground Baiting:** 1080 fox baits must not be laid within one hundred and fifty (150) metres of a habitation except:

- (a) where a landholder or their authorised agent uses 1080 fox baits on their own property, in which case the landholder or their authorised agent may lay the 1080 fox baits at a distance of no less than 20 metres from their own habitation.
- (b) where an Authorised Control Officer plans a baiting program, in which case the 1080 fox baits may be laid at less than 150 metres but no closer than 20 metres from a habitation, subject to the following conditions:
 - (i) The Authorised Control Officer has undertaken a risk assessment in accordance with the provisions of the VPM (as in force at the time) and determined that 1080 fox baits can be laid at distances of less than 150 metres but no closer than 20 metres from a habitation;
 - (ii) Any baiting program planned by an Authorised Control Officer must include strategies for minimising risk to non-target animals;
 - (iii) Any adjoining landholders must agree in writing to use or allow the use of 1080 fox baits as part of a coordinated fox control program at distances of less than 150 metres but no closer than 20 metres from a habitation on the landholder's property;
 - (iv) Where an Authorised Control Officer implements a coordinated fox control program, they must not implement the program **UNLESS**:
 - (1) **ALL** the landholders in the group are made aware of the hazardous nature of 1080 fox baits in closely settled areas; AND
 - (2) **EVERY** landholder in the group signs an agreement that they:
 - (A) understand the hazards associated with the use of 1080 fox baits in closely settled areas; AND
 - (B) agree to allow 1080 fox baits to be laid on adjoining properties at distances of less than 150 metres but no closer than 20 metres from any habitation on their property in writing; AND
 - (C) agree to accept all responsibility for any problems arising from 1080 fox baits used on their land within the program; AND
 - (3) **ALL** the landholders of the outermost properties of the group abide by all the distance requirements in relation to adjoining properties not covered by the group activity.

4.4.2 **Aerial Baiting:** 1080 fox baits must not be laid:

- (a) within five hundred (500) metres of a habitation by helicopter, or
- (b) within one thousand (1000) metres of a habitation when using a fixed wing aircraft. The use of fixed wing aircraft in the Eastern Division is permitted subject to following all the requirements of condition 4.3.2(b)(i)-(iv). In the Western Division conditions 4.3.2(b) (i) to (iv) do not apply to fixed wing aircraft use.

4.5 **Domestic Water Supply or Water Draw Point:**

4.5.1 **Ground Baiting:** 1080 fox baits must not be laid within ten (10) metres of a domestic water supply.

4.5.2 **Aerial Baiting:** 1080 fox baits must not be laid:

- (a) within twenty (20) metres of a domestic water supply by helicopter, or
- (b) within one hundred (100) metres of a domestic water supply when using a fixed wing aircraft. The use of fixed wing aircraft in the Eastern Division is permitted subject to following all the requirements of conditions 4.3.2(b)(i)-(iv). In the Western Division conditions 4.3.2(b) (i) to (iv) do not apply to fixed wing aircraft use.

5. **PUBLIC NOTIFICATION**

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

- 5.1 A person must not lay any 1080 fox baits on any land unless the person has first given a minimum of three (3) days' notice of the date on which they will lay 1080 fox baits – henceforth referred to as 'notification'. The notification must be given to the landholder or authorised agent of every property which has a property boundary within one (1) kilometre of a **baiting location**. The notification must contain the following information:
- (a) pest being controlled with 1080 baits;
 - (b) dates when 1080 baits will be used;
 - (c) property on which 1080 baits will be used;
 - (d) contact details of the person who will lay the 1080 baits or in the case of a public authority a person or office that can be contacted for information about 1080 baits being used on the property; and
 - (e) a warning that pets and working dogs may be affected and recommend actions to be taken as specified in condition 3.3.
- 5.2. The notification may be given by telephone, text message, email, in person, or by mail (including letter box drop).
If notification cannot be made by telephone, text message, email, personal contact or mail, or the number of persons to be notified is more than twenty-five (25), then:
- (i) notification may be made by advertisement in a local newspaper; or
 - (ii) where baiting is done under a NPWS RPMS program or equivalent Forestry Corporation program notification may be made by advertisement in a local newspaper or on a government website.
- In the case of large group baiting programs comprising more than 25 participants, and organised or approved by an Authorised Control Officer, then:
- (i) notification may be made by advertisement in a local newspaper; or
 - (ii) where baiting is done under a NPWS RPMS program or equivalent Forestry Corporation program notification may be made by advertisement in a local newspaper or on a government website
- 5.3 The use of 1080 fox baits for ground baiting may be conducted for longer than seven (7) days but must commence within 21 days of notification otherwise further notification of intended baiting is required. In the case of aerial baiting, a date range of up to 14 days can be given but must commence within 21 days of notification, otherwise further notification is required.
- 5.4 Where replacement baiting is planned the notification must include the time period baiting is planned to be maintained.
- 5.5 Where baiting programs are ongoing notification must be given every six (6) months and condition 5.3 does not apply.

6. EMERGENCY BAITING (Ground application only)

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

- 6.1(a) A person whose livestock are being attacked or can provide evidence that their livestock are under imminent threat of attack may lay 1080 fox baits (by way of ground baiting only) without the need to comply with condition 5.1 (3-day prior neighbour notification). A person who undertakes emergency baiting must, however, notify each landholder whose property boundary lies within one (1) kilometre of a baiting location before laying any 1080 fox baits.
- 6.1(b) A person who undertakes emergency baiting must comply with all requirements in relation to the use of 1080 fox baits, except as provided for in condition 6.1(a).
- 6.2 A person whose land is adjoining (or nearby) to land where livestock are being attacked (or under the imminent threat of attack) and whose land is part of a coordinated baiting program may also lay 1080 fox baits. The laying of baits in these circumstances must be done in accordance with conditions 6.1(a) and 6.1(b).
- 6.3 Emergency baiting may be undertaken by public land managers who do not have control of stock but where stock on adjoining (or nearby land) are being attacked. The laying of baits in these circumstances must be done in accordance with conditions 6.1(a) and 6.1(b).

7. 1080 POISONING NOTICES

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

- 7.1 A person who uses 1080 fox baits must erect notices before laying 1080 fox baits on any land. These notices must remain up for a minimum of four (4) weeks after the last day of baiting and must remain intact and legible for the duration. Notices must be placed at:
- (a) every formed and/or used entry point into the baiting location that is authorised by the landholder and provides access to the bait site. For example, a gateway, road, or trail, including designated walking tracks. This does not include unformed or permanently closed access points, formed or used entry points that are not authorised (including but not limited to an access point created by falling trees or unauthorised alterations to fencing or vegetation) or gates or intersections within the baiting location for which someone would have already passed a notice; and
 - (b) the main entrance to a private property where baiting is undertaken or in the case of a National Park the main entrance to the area being baited; and
 - (c) at the extremities of and up to five (5) kilometre intervals along all public thoroughfares which border or pass through the baiting location.
- 7.2 The notices must specify the following:
- (a) 1080 baits for foxes are being laid on this property; and
 - (b) the dates on which 1080 fox baits are first laid or the dates between which baits will be laid; and
 - (c) contact details of the person who will lay the 1080 fox baits or in the case of a public authority a person or office that can be contacted for information about 1080 fox baits being used on the property; and
 - (d) warning that domestic animals may be affected.
- 7.3 Under the *Pesticides Regulation 2009* (clauses 19 to 23) public authorities have additional public notification obligations that must be complied with. There are also other notification requirements in the Regulation.
- 7.4 1080 Poison Notices may be obtained from Authorised Control Officers.

8. GROUND BAITING WITH 1080 FOX BAIT

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

- 8.1 A person who lays 1080 fox baits must:
- (a) not lay more than ten (10) 1080 fox baits per kilometre of trail or more than twenty (20) 1080 fox baits per 100 hectares and be done in accordance with bait station placement requirements stated in the VPM; and
 - (b) not lay more 1080 fox baits on any one (1) property than approved by an Authorised Control Officer; and
 - (c) lay 1080 fox baits in such a way that any untaken 1080 fox baits can be found readily and destroyed in accordance with condition 3.11.
- 8.2 1080 fox baits should be buried in a shallow hole and covered with soil or organic material. If practical, tether the 1080 fox baits. The Authorised Control Officer risk assessment will determine if such techniques are not required. All bait stations must be identifiable to the user.
- 8.3 In land reserved or acquired under the *National Parks and Wildlife Act 1974* and public reserves within the meaning of the *Local Government Act 1993* it is not necessary to mark the location for 1080 fox baits but GPS coordinates must be recorded.
- 8.4 A person who lays 1080 fox baits on a property of less than one hundred (100) ha must check the 1080 fox baits within five (5) days of laying the 1080 fox baits and must collect any untaken 1080 fox baits within seven (7) days of laying the 1080 fox bait. All untaken 1080 fox baits must be disposed of in accordance with condition 3.11. This condition does not prevent a person from replacing 1080 fox baits that are taken for a period of longer than seven (7) days where 1080 fox baits continue to be taken. Baiting undertaken as part of a NPWS RPMS Program is exempt from this condition.

9. AERIAL BAITING WITH 1080 FOX BAIT

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

- 9.1 Aerial baiting is restricted to areas and situations that meet the restrictions stated in LLS and NPWS approved guidelines/procedures for Fox Aerial Baiting. Approval for every aerial baiting program on land reserved under Part 4 of the *National Parks and Wildlife Act 1974* must be obtained from the relevant NPWS Branch Director. For all other land, approval for every aerial baiting program must be obtained from the LLS Chief Executive or their delegate. Aerial baiting must be organised through either LLS or NPWS or another NSW public authority that the EPA has given approval to undertake aerial baiting.
- 9.2 Notwithstanding any other condition contained in this Schedule, a person who undertakes aerial baiting must only use 1080 fox baits that are specified in the VPM and approved for aerial baiting.
- 9.3 A pilot who operates an aircraft which is used to aerially apply 1080 fox baits must use onboard GPS navigation equipment mounted in the pilot's line of sight to navigate along agreed flight paths. The GPS navigation equipment must be of the type that has a moving map display with topographic features which provide accurate guidance to the pilot. The GPS equipment must have full data logging capabilities and all flight paths must be pre-programmed into the GPS navigation equipment before commencement of 1080 fox aerial baiting.
- 9.4 A pilot who operates an aircraft which is used to aerially apply 1080 fox baits must make a record of the GPS flight path which includes the start and finish drop point data, for 1080 fox bait, for each aerial run. The record must be kept for a period of at least three (3) years after the date on which the 1080 fox bait was aerially applied. A pilot must make any records available to the EPA on request.
- 9.5 The employer or contractor of a pilot must ensure that a pilot of any aircraft used to aerially apply 1080 fox baits complies with conditions 9.3 and 9.4.
- 9.6 A person coordinating or organising aerial baiting programs must ensure that pilots are given digitised flight paths for all areas where 1080 fox baits are to be dropped from an aircraft which is used to aerially apply 1080 fox baits.
- 9.7 A person on the aircraft that is responsible for dropping 1080 fox baits must not be given the task of navigating the aircraft. A pilot is responsible for navigation and must ensure that 1080 fox baits are dropped along the agreed flight path.
- 9.8 A person who drops 1080 fox baits from an aircraft which is used to aerially apply 1080 fox baits must hold as a minimum the qualification specified in clause 9(1)(b)(iii) of this Order.
- 9.9 A person who drops 1080 fox baits from an aircraft which is used to aerially apply 1080 fox baits must not drop more than ten (10) 1080 fox baits per kilometre of agreed flight path on any land in NSW.

DANGEROUS POISON
KEEP OUT OF REACH OF CHILDREN
READ SAFETY DIRECTIONS BEFORE OPENING OR USING

1080 POISONED BAIT

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

FOR THE CONTROL OF WILD DOGS OR FOXES

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

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

DIRECTIONS FOR USE: When using this product to control wild dogs you must follow the conditions for use in Schedule 1 of the current NSW 1080 Baits Pesticide Control Order. When using this product to control foxes you must follow the conditions for use in Schedule 2 of the current NSW 1080 Baits Pesticide Control Order

SAFETY DIRECTIONS:

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

FIRST AID:

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

PROTECTION OF LIVESTOCK, DOMESTIC AND FARM DOGS:

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

PROTECTION OF WILDLIFE, FISH, CRUSTACEANS AND ENVIRONMENT:

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

TRANSPORT, STORAGE AND DISPOSAL:

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

MANUFACTURER'S WARRANTY; EXCLUSION OF LIABILITY:

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

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

LOCAL LAND SERVICES

KG NET

or

NAME OF PUBLIC AUTHORITY

Schedule 3

USE OF 1080 BAIT PRODUCT FOR CONTROL OF FERAL PIGS

1. WHAT 1080 BAIT PRODUCTS CAN BE USED ON FERAL PIGS

A person authorised to use 1080 bait products under clause 9 of this Order must, when using 1080 bait products for the purpose of controlling feral pigs, only do so in accordance with the following conditions:

- 1.1 A person must only use 1080 bait material which has been produced and supplied by an Authorised Control Officer for the purpose of controlling feral pigs; or
- 1.2 A person must only use 1080 bait products that are specifically manufactured for the control of feral pigs, are registered by the APVMA and approved for the use in controlling feral pigs in NSW. These products are Pigout Feral Pig Bait (APVMA Product Registration Number 61293) and any other similar 1080 bait product that is registered by the APVMA, after the commencement of this Order, and approved for the control of feral pigs.

1080 bait material and 1080 bait products referred to under conditions 1.1 and 1.2 will henceforth be referred to as "1080 feral pig bait".

2. POSSESSION OF 1080 FERAL PIG BAIT

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

- 2.1 A person must only possess 1080 feral pig bait if it has been supplied to them or their authorised agent or nominated person, by an Authorised Control Officer or by a trained staff member of the LLS or NPWS (i.e. met the training requirements of clause 9(c) (iii) of this order) under the direction of the Authorised Control Officer.
- 2.2 A person taking possession of 1080 feral pig baits must first complete and sign an indemnity form for each property or NPWS RPMS program on which 1080 feral pig bait is intended to be used. An Authorised Control Officer or an employee of an LLS must give them a copy of each indemnity form that they complete and sign.
- 2.3 A person taking possession of 1080 feral pig baits and laying 1080 feral pig baits on behalf of another landholder as their authorised agent, must provide evidence to the Authorised Control Officer of the consent given by the landholder whose property will use 1080 feral pig baits. The consent must not cover a period of time greater than 12 months.
- 2.4 All persons receiving 1080 feral pig baits from an Authorised Control Officer must only temporarily possess and store 1080 feral pig baits. All 1080 feral pig baits must be stored in a lockable storage area away from children, animal food, foodstuffs, seed and fertiliser. Where 1080 feral pig bait is required to be placed in a refrigerator, the refrigerator must not be concurrently used to store food and must be located in a lockable storage area. All 1080 bait material for feral pig control must be used within fourteen (14) days. All opened and unopened manufactured and registered 1080 bait product (such as Pigout Feral Pig Bait product) must be destroyed within two (2) months (three (3) months in Western Division) after completion of the baiting program, by burial in accordance with condition 3.12 or where possible, returned to an Authorised Control Officer.
- 2.5 All persons receiving 1080 feral pig baits from an Authorised Control Officer must store 1080 feral pig baits in either the labelled plastic bag supplied by the Authorised Control Officer (labelled in accordance with **attachment 1**) or in a container supplied by the manufacturer of an APVMA registered 1080 feral pig bait product or in a structurally sound, impervious HDPE plastic bucket with sealing lid and labelled in accordance with **attachment 1**.

3. DIRECTIONS FOR USE – GENERAL RESTRICTIONS

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

- 3.1 A person in possession of 1080 feral pig baits must transport and store the 1080 feral pig baits in such a way that other persons cannot access the 1080 feral pig baits. A person transporting 1080 feral pig baits must store the 1080 feral pig baits in a secure location of their vehicle.

- 3.2 A person must not place the 1080 feral pig baits in a position accessible to children, livestock, domestic animals or pets.
- 3.3 A person who uses 1080 feral pig baits should avoid poisoning of domestic pets. As 1080 is particularly lethal to domestic dogs, the person using the baits should recommend to neighbours requiring notification (see condition 5.1) to restrain their pets and working dogs and ensure they do not enter the baiting location during poisoning operations or to muzzle dogs if they are required to work the baiting location during and after poisoning. In the event of accidental poisoning seek immediate veterinary assistance. Where practicable, remove feral pig carcasses from the control area and dispose of carcasses by burial as specified in condition 3.12.
- 3.4 A person must not feed 1080 feral pig baits to non-target species.
- 3.5 1080 feral pig baits may be toxic to some birds and other native wildlife. Bait placement and/or bait station design should be such that non-target access is minimised. To the extent possible, the person using the 1080 feral pig baits should time baiting programs for when non-target species are least active or least susceptible
- 3.6 A person must not apply 1080 feral pig baits to, or in, crops which are in mid to late developmental stages. A person must not apply 1080 feral pig baits to, or in, crops if application of 1080 feral pig baits is likely to lead to contamination of the crops.
- 3.7 A person must not lay 1080 feral pig baits on more than three (3) consecutive days at one bait site except when using a HogHopper or a feral pig bait delivery device. Adequate free feeding will minimise the number of pigs that remain after this 3-day baiting period. Further free feeding in accordance with condition 7.2 can be undertaken to determine the amount of bait material required to control any remaining pigs. This amount of 1080 feral pig baits may then be laid for no more than three (3) consecutive days. The total number of days on which 1080 feral pig baits are laid must not exceed nine (9) days during any 14-day notification period.
- 3.8 A person must ensure that 1080 feral pig baits do not contaminate food stuffs, or feed, for human or non-target animal consumption.
- 3.9 (a) A person must not use plastic bags which have been used to contain 1080 feral pig baits for any other purpose.
- (b) HDPE containers may be reused for issuing 1080 feral pig baits if:
- (i) they are labelled in accordance with **attachment 1**
 - (ii) are structurally sound
 - (iii) are triple rinsed after 1080 feral pig bait use and the rinsate disposed of as per condition 3.8.1(e), or triple rinsed in the 1080 preparation facility through the 1080 waste water holding tank.
- (c) Disposal of plastic bags or HDPE containers must be by burial or burning as follows:

3.9.1 Burial

Plastic bags or containers must be buried as follows:

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

3.9.2 Burning

Empty plastic bags that have contained 1080 must be burnt by open fire in accordance with an approval issued under the *Protection of the Environment Operations (Clean Air) Regulation 2010*. A person that disposes of plastic bags by way of burning must also comply with the following conditions:

- (a) The amount of plastic bags burnt at any premises on any single day must not exceed one hundred (100) bags without the prior written approval of the EPA.
- (b) The burning of plastic bags must be carried out at least five hundred (500) metres from any habitation.

- (c) The burning of plastic bags must be carried out in accordance with any requirement of the *Rural Fires Act 1997* and the *Fire Brigades Act 1989*, as administered by the relevant local authority and the Fire and Rescue NSW.
 - (d) The open fire burning must not be carried out on a day subject to an order prohibiting the burning of fires in the open published by the EPA pursuant to section 133(2) of the *Protection of the Environment Operations Act 1997*.
 - (e) The open fire burning of plastic bags must only be carried out in dry weather using such practicable means as may be necessary to minimise visible smoke emissions causing air pollution.
- 3.10 A person who uses 1080 feral pig baits must not pollute dams, drains, streams, rivers or waterways with 1080 feral pig baits or plastic bags and containers that have held 1080 feral pig baits. Pollution of waters is an offence under section 120 of the *Protection of the Environment Operations Act 1997*.
- 3.11 A person must not place 1080 feral pig baits on a property without the written consent of the occupier, manager or authorised agent of the land unless the baiting has been determined necessary under the provisions of the *Biosecurity Act 2015*.
- 3.12 At the end of any ground baiting program conducted in accordance with this Schedule, a person using 1080 feral pig baits must make a reasonable effort to ensure that all untaken baits are collected and removed from a baiting location unless the risk assessment for their baiting location determines otherwise. All collected and unused 1080 feral pig baits must be disposed of as soon as possible at the property where the 1080 feral pig baits were used, or in the case of a coordinated baiting program, on a property or location identified and agreed to by the Authorised Control Officer coordinating the program. All collected and unused 1080 feral pig baits must be buried in a disposal pit and must be buried under at least five hundred (500) mm of soil. The disposal pit must be clear of waterways (permanent or ephemeral) so as to not cause pollution of water in accordance with Part 5.3 of the *Protection of the Environment Operations Act 1997*.
- 3.13 To the extent possible, a person who uses 1080 feral pig baits should recover carcasses of animals poisoned by 1080 feral pig baits and bury them in accordance with the disposal instructions for 1080 feral pig baits in condition 3.12. Any incidents where there are reasonable grounds to suspect that non-target animals (excluding other pest animals) may have been poisoned by 1080 feral pig baits should be reported to the EPA.
- 3.14 Ongoing baiting may be necessary in some instances to reduce the impact of feral pigs in environmentally sensitive areas. Such programs may be undertaken only if the risk to non-target species is low (see also conditions 3.3, 3.5, 3.10 and 3.13).

4. DIRECTIONS FOR USE – DISTANCE RESTRICTIONS

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

- 4.1. The minimum distances for the laying of 1080 feral pig baits have been set to minimise the risk to people and to non-target animals. A person authorised to use 1080 feral pig baits must not place 1080 feral pig baits where they can be washed into or contaminate surface or ground waters. 1080 feral pig baits must not be laid in areas where distance restrictions cannot be met. Other feral pig control methods must be used in those areas.
- 4.2 1080 feral pig baits must not be laid within close proximity to urban areas unless the baiting program is planned in conjunction with, and has been approved by, an Authorised Control Officer. A program approved under this condition must include strategies for minimising risk to non-target animals.
- 4.3 **Property Boundary:**
- 4.3.1 **Ground Baiting:** 1080 feral pig baits must not be laid within five (5) metres from any property boundary.
 - 4.3.2 **Aerial Baiting:** 1080 feral pig baits must not be laid within one hundred (100) metres from any property boundary by helicopter. A fixed winged aircraft cannot be used to aurally apply 1080 feral pig baits unless a person is permitted to do so under an APVMA permit and then aerial application must be done in accordance with the conditions in the APVMA permit.
 - 4.3.3 **Exemption for Group Baiting:** Conditions 4.3.1 and 4.3.2 do not apply to the laying of 1080 feral pig baits as part of a group baiting program that has been planned by an Authorised Control Officer and where that Officer has obtained written consent from the landholders involved in the baiting

program for the laying of the 1080 feral pig baits. This exemption does not apply to property boundaries of landholders not involved in the baiting program.

4.4 **Habitation:**

4.4.1 **Ground Baiting:** 1080 feral pig baits must not be laid within five hundred (500) metres of a habitation except:

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

4.4.2 **Aerial Baiting:** 1080 feral pig baits must not be laid within five hundred (500) metres from any habitation by helicopter except:

- (a) where an Authorised Control Officer plans a baiting program, in which case the 1080 feral pig baits may be laid at less than 500 metres but no closer than 150 metres from a habitation, subject to the following conditions:
 - (i) The Authorised Control Officer has undertaken a risk assessment in accordance with the provisions of the VPM (as in force from time to time) and determined that 1080 feral pig baits can be laid at distances of less than 500 metres but no closer than 150 metres from a habitation;
 - (ii) Any baiting program planned by an Authorised Control Officer must include strategies for minimising risk to non-target animals including all domestic animals;
 - (iii) Any adjoining landholders must agree in writing to use or allow the use of 1080 feral pig baits as part of a coordinated feral pig control program at distances of less than 500 metres but no closer than 150 metres from a habitation on the landholder's property;
 - (iv) Where an Authorised Control Officer implements a coordinated feral pig control program, they must not implement the program **UNLESS**:
 - (1) **ALL** the landholders in the group are made aware of the hazardous nature of 1080 feral pig baits in closely settled areas; AND
 - (2) **EVERY** landholder in the group signs an agreement that they:
 - (A) understand the hazards associated with the use of 1080 feral pig baits in closely settled areas; AND

- (B) agree to allow 1080 feral pig baits to be laid on adjoining properties at distances of less than 500 metres but no closer than 150 metres from any habitation on their property in writing; AND
- (C) agree to accept all responsibility for any problems arising from 1080 feral pig baits used on their land within the program; AND
- (3) **ALL** the landholders of the outermost properties of the group abide by all the distance requirements in relation to adjoining properties not covered by the group activity.

A fixed winged aircraft cannot be used to aerially apply 1080 feral pig baits unless a person is permitted to do so under an APVMA permit and then aerial application must be done in accordance with the conditions in the APVMA permit.

4.5 **Domestic Water Supply or Water Draw Point:**

4.5.1 **Ground Baiting:** 1080 feral pig baits must not be laid within twenty (20) metres of a domestic water supply. Large water storage facilities such as Eucumbene, Wyangala and Chaffey dams must not be ground baited with 1080 feral pig baits to a distance of less than ten (10) metres of the waterline.

4.5.2 **Aerial Baiting:** 1080 feral pig baits must not be laid within two hundred (200) metres of a domestic water supply or water draw point by helicopter. A fixed winged aircraft cannot be used to aerially apply 1080 feral pig baits unless a person is permitted to do so under an APVMA permit and then aerial application must be done in accordance with the conditions in the APVMA permit.

4.6 **Public Roads:**

4.6.1 **Ground Baiting:** 1080 feral pig baits must not be laid within twenty (20) metres of a public road.

4.6.2 **Aerial Baiting:** 1080 feral pig baits must not be laid within two hundred (200) metres of a public road by helicopter. A fixed winged aircraft cannot be used to aerially apply 1080 feral pig baits unless a person is permitted to do so under an APVMA permit and then aerial application must be done in accordance with the conditions in the APVMA permit.

5. **PUBLIC NOTIFICATION**

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

5.1 A person must not lay any 1080 feral pig baits on any land unless the person has first given a minimum of three (3) days' notice of the date on which they will lay 1080 feral pig baits – henceforth referred to as 'notification'. The notification must be given to the landholder or authorised agent of every property which has a property boundary within one (1) kilometre of a **baiting location**. The notification must contain the following information:

- (a) pest being controlled with 1080 baits;
- (b) dates when 1080 baits will be used;
- (c) property on which 1080 baits will be used;
- (d) contact details of the person who will lay the 1080 baits or in the case of a public authority a person or office that can be contacted for information about 1080 baits being used on the property; and
- (e) a warning that pets and working dogs may be affected and recommend actions to be taken as specified in condition 3.3.

5.2. The notification may be given by telephone, text message, email, in person, or by mail (including letter box drop).

If notification cannot be made by telephone, text message, email, personal contact or mail, or the number of persons to be notified is more than twenty-five (25), then:

- (i) notification may be made by advertisement in a local newspaper; or
- (ii) where baiting is done under a NPWS RPMS program or equivalent Forestry Corporation program notification may be made by advertisement in a local newspaper or on a government website.

In the case of large group baiting programs comprising more than 25 participants, and organised or approved by an Authorised Control Officer, then:

- (i) notification may be made by advertisement in a local newspaper; or
- (ii) where baiting is done under a NPWS RPMS program or equivalent Forestry Corporation program notification may be made by advertisement in a local newspaper or on a government website

- 5.3 A person must begin using 1080 feral pig bait within ten (10) days of notification and must complete use within fourteen (14) days of notification. Further notification is required for use of 1080 feral pig baits beyond this 14-day period.
- 5.4 Where baiting programs are ongoing (manufactured baits only) notification must be given every six (6) months and condition 5.3 does not apply.

6. 1080 POISONING NOTICES

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

- 6.1 A person who uses 1080 feral pig baits must erect notices before laying 1080 feral pig baits on any land. These notices must remain up for a minimum of four (4) weeks after the last day of baiting. Notices must be placed at:
- (a) every formed and/or used entry point into the baiting location that is authorised by the landholder and provides access to the bait site. For example, a gateway, road, or trail, including designated walking tracks. This does not include unformed or permanently closed access points, formed or used entry points that are not authorised (including but not limited to an access point created by falling trees or unauthorised alterations to fencing or vegetation) or gates or intersections within the baiting location for which someone would have already passed a notice; and
 - (b) the main entrance to a private property where baiting is undertaken or in the case of a National Park the main entrance to the area being baited; and
 - (c) at the extremities of and up to five (5) kilometre intervals along all public thoroughfares which border or pass through the baiting location.
- 6.2 The notices must specify the following:
- (a) 1080 bait for feral pigs is being laid on this property; and
 - (b) the dates on which 1080 feral pig baits are first laid or the dates between which baits will be laid; and
 - (c) contact details of the person who will lay the 1080 feral pig baits or in the case of a public authority a person or office that can be contacted for information about 1080 feral pig baits being used on the property; and
 - (d) warning that domestic animals may be affected.
- 6.3 Under the *Pesticides Regulation 2009* (clauses 19 to 23) public authorities have additional public notification obligations that must be complied with. There are also other notification requirements in the Regulation.
- 6.4 1080 Poison Notices may be obtained from Authorised Control Officers.

7. GROUND BAITING WITH 1080 FERAL PIG BAIT

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

- 7.1 Free feeding: **Free feeding is compulsory.** A person must free feed (unless an APVMA permit allows them to do otherwise) to determine the appropriate amount of 1080 feral pig bait to use before undertaking any ground baiting using 1080 feral pig baits. A person may use any feedstuff except meat, offal and swill as a free feed unless a permit has been granted for the use of meat, offal or swill under section 333 and 336 of the *Biosecurity Act 2015*, and clause 37 of the *Biosecurity Regulation 2017*. A person must free feed by laying unpoisoned bait for at least three (3) nights before undertaking any ground baiting using 1080 feral pig baits. This period may need to be extended to ensure all feral pigs in the area are feeding on the bait. A person must adjust the amount of free feed on each occasion so that only a small amount is left on the final free feed ("final consumption") before undertaking ground baiting using 1080 feral pig baits under conditions 7.2 and 7.3.
- 7.2 A person who lays 1080 feral pig baits must:
- (a) only apply an amount of 1080 feral pig bait as determined by the final consumption of free feed (see VPM for more information); and
 - (b) lay the 1080 feral pig baits in such a way that any uneaten 1080 feral pig baits can be readily found and destroyed in accordance with condition 3.12.
- 7.3 **Bait selection and placement:** All 1080 feral pig bait must be placed in bait stations except where a property does not have any livestock or has removed the livestock from the baiting location, in which case a person may place 1080 feral pig bait in a bait station that is not fenced. In such cases, a person must mark the location

of the bait station so that any untaken baits can be easily located and disposed of in accordance with condition 3.12.

A bait station means a fenced enclosure or enclosure that excludes livestock. It also includes use of a commercial device such as a HogHopper or other bait delivery device.

- 7.4 1080 feral pig baits must not be used for more than three (3) consecutive days. Any bait still left on the ground after three (3) days must be collected and buried in a disposal pit in accordance with condition 3.12. If necessary, free feeding may be started again to determine if any pigs remain.
- 7.5 When using HogHoppers or another approved delivery device 1080 feral pig baits can be used for a period of up to 14 days after notifying the occupier, manager or authorised agent of every property which has a property boundary within one (1) kilometre of the baiting location. Free feeding when using such devices is compulsory (see condition 7.1). The amount of 1080 feral pig bait that can be used in such devices is not constrained by the final consumption of free feed but rather by what can be contained in the device.

8 AERIAL BAITING WITH 1080 FERAL PIG BAIT

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

- 8.1 Aerial baiting should be restricted to areas where ground control is impractical and where impacts by feral pigs are likely to be significant. Approval for every aerial baiting program on land reserved under Part 4 of the *National Parks and Wildlife Act 1974* must be obtained from the relevant NPWS Branch Director. For all other land, approval for every aerial baiting program must be obtained from the LLS Chief Executive or their delegate. Aerial baiting must be organised through either LLS or NPWS or another NSW public authority that the EPA has given approval to undertake such an activity. All programs involving aerial application of 1080 feral pig baits must follow the guidelines contained in the VPM. Your local LLS has full details.
- 8.2 Notwithstanding any other condition contained in this Schedule, a person who undertakes aerial baiting must only use 1080 Feral Pig Baits that are specified in the VPM and approved for aerial baiting and only by helicopter.
- 8.3 A pilot who operates an aircraft which is used to aerially apply 1080 feral pig baits must use onboard GPS navigation equipment mounted in the pilot's line of sight to navigate along agreed flight paths. The GPS navigation equipment must be of the type that has a moving map display with topographic features which provide accurate guidance to the pilot. The GPS equipment must have full data logging capabilities and all flight paths must be pre-programmed into the GPS navigation equipment before commencement of 1080 feral pig aerial baiting.
- 8.4 A pilot who operates an aircraft which is used to aerially apply 1080 feral pig baits must make a record of the GPS flight path which includes the start and finish drop point data, for 1080 feral pig bait, for each aerial run. The record must be kept for a period of at least three (3) years after the date on which the 1080 feral pig bait was aerially applied. A pilot must make any records available to the EPA on request.
- 8.5 The employer or contractor of a pilot must ensure that a pilot of any aircraft used to aerially apply 1080 feral pig baits complies with conditions 8.3 and 8.4.
- 8.6 A person coordinating or organising aerial baiting programs must ensure that pilots are given digitised flight paths for all areas where 1080 feral pig baits are to be dropped from an aircraft which is used to aerially apply 1080 feral pig baits.
- 8.7 A person on the aircraft that is responsible for dropping 1080 feral pig baits must not be given the task of navigating the aircraft. A pilot is responsible for navigation and must ensure that 1080 feral pig baits are dropped along the agreed flight path.
- 8.8 A person who drops 1080 feral pig baits from an aircraft which is used to aerially apply 1080 feral pig baits must hold as a minimum the qualification specified in clause 9(1)(b)(iii) of this Order.

Schedule 4

USE OF 1080 BAIT PRODUCT FOR CONTROL OF RABBITS

1. WHAT 1080 BAIT PRODUCTS CAN BE USED ON RABBITS

A person authorised to use 1080 bait products under clause 9 of this Order must, when using 1080 bait products for the purpose of controlling rabbits, only do so in accordance with the following conditions:

- 1.1 A person must only use 1080 bait material which has been produced and supplied by an Authorised Control Officer for the purpose of controlling rabbits; or
- 1.2 A person must only use 1080 bait products that are specifically manufactured for the control of rabbits, are registered by the APVMA and approved for the use in controlling rabbits in NSW. These products are Rabbait 1080 Oat Bait (APVMA Product Registration Number 50304) and 1080 Ready-to-lay Rabbit Oat Bait (APVMA Product Registration Number 52954) and any other similar 1080 bait product that is registered by the APVMA after the commencement of this Order and approved for control of rabbits in NSW.

1080 bait material and 1080 bait products referred to under conditions 1.1 and 1.2 will henceforth be referred to as "1080 rabbit bait".

2. POSSESSION OF 1080 RABBIT BAIT

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

- 2.1 A person must only possess 1080 rabbit bait if it has been supplied to them or their authorised agent or nominated person, by an Authorised Control Officer or by a trained staff member of the LLS or NPWS (i.e. met the training requirements of clause 9(c) (iii) of this order) under the direction of the Authorised Control Officer.
- 2.2 A person taking possession of 1080 rabbit baits must first complete and sign an indemnity form for each property or NPWS RPMS program on which 1080 rabbit bait is intended to be used. An Authorised Control Officer or an employee of an LLS must give them a copy of each indemnity form that they complete and sign.
- 2.3 A person taking possession of 1080 rabbit baits and laying 1080 rabbit baits on behalf of another landholder as their authorised agent, must provide evidence to the Authorised Control Officer of the consent given by the landholder whose property will use 1080 rabbit baits. The consent must not cover a period of time greater than 12 months.
- 2.4 All persons receiving 1080 rabbit baits from an Authorised Control Officer must only temporarily possess and store 1080 rabbit baits. All 1080 rabbit baits must be stored in a lockable storage area away from children, animal food, foodstuffs, seed and fertiliser. Where 1080 rabbit bait is required to be placed in a refrigerator, the refrigerator must not be concurrently used to store food and must be located in a lockable storage area. All 1080 bait material for rabbit control must be used within two (2) days. All opened and unopened manufactured and registered 1080 bait product (such as Rabbait 1080 Oat Bait product and 1080 Ready-to-lay Rabbit Oat Bait product) must be destroyed within one (1) month after completion of the baiting program, by burial in accordance with condition 3.11 or where possible, returned to an Authorised Control Officer.
- 2.5 All persons receiving 1080 rabbit baits from an Authorised Control Officer must store 1080 rabbit baits in either the labelled plastic bag supplied by the Authorised Control Officer (labelled in accordance with **attachment 1**) or in a container supplied by the manufacturer of an APVMA registered 1080 rabbit bait product or in a structurally sound, impervious HDPE plastic bucket with sealing lid and labelled in accordance with **attachment 1**.

3. DIRECTIONS FOR USE – GENERAL RESTRICTIONS

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

- 3.1 A person in possession of 1080 rabbit baits must transport and store the 1080 rabbit baits in such a way that other persons cannot access the 1080 rabbit baits. A person transporting 1080 rabbit baits must store the 1080 rabbit baits in a secure location of their vehicle.

- 3.2 A person must not place the 1080 rabbit baits in a position accessible to children, livestock, domestic animals or pets.
- 3.3 A person who uses 1080 rabbit baits should avoid poisoning of domestic pets. As 1080 is particularly lethal to domestic dogs, the person using the baits should recommend to neighbours requiring notification (see condition 5.1) to restrain their pets and working dogs and ensure they do not enter the baiting location during poisoning operations or to muzzle dogs if they are required to work the baiting location during and after poisoning. In the event of accidental poisoning seek immediate veterinary assistance. Carcasses of poisoned rabbits can constitute a serious risk to dogs and where practicable, remove carcasses from the control area and dispose of carcasses by burial as specified in condition 3.11.
- 3.4 A person must not feed 1080 rabbit baits to non-target species.
- 3.5 1080 rabbit baits may be toxic to some birds and other native wildlife. To the extent possible, the person using the 1080 rabbit baits should time baiting programs for when non-target species are least active or least susceptible.
- 3.6 A person must not apply 1080 rabbit baits to, or in, crops which are in mid to late developmental stages. A person must not apply 1080 rabbit baits to, or in, crops if application of 1080 rabbit baits is likely to lead to contamination of the crops.
- 3.7 A person must ensure that 1080 rabbit baits do not contaminate foodstuffs, or feed, for human or non-target animal consumption.
- 3.8 (a) A person must not use plastic bags which have been used to contain 1080 rabbit baits for any other purpose.
- (b) HDPE containers may be reused for issuing 1080 rabbit baits if:
- (i) they are labelled in accordance with **attachment 1**
 - (ii) are structurally sound
 - (iii) are triple rinsed after 1080 rabbit bait use and the rinsate disposed of as per condition 3.8.1(e), or triple rinsed in the 1080 preparation facility through the 1080 waste water holding tank.
- (c) Disposal of plastic bags or HDPE containers must be by burial or burning as follows:

3.8.1 Burial

Plastic bags or containers must be buried as follows:

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

3.8.2 Burning

Empty plastic bags that have contained 1080 must be burnt by open fire in accordance with an approval issued under the *Protection of the Environment Operations (Clean Air) Regulation 2010*. A person that disposes of plastic bags by way of burning must also comply with the following conditions:

- (a) The amount of plastic bags burnt at any premises on any single day must not exceed one hundred (100) bags without the prior written approval of the EPA.
- (b) The burning of plastic bags must be carried out at least five hundred (500) metres from any habitation.
- (c) The burning of plastic bags must be carried out in accordance with any requirement of the *Rural Fires Act 1997* and the *Fire Brigades Act 1989*, as administered by the relevant local authority and the Fire and Rescue NSW.
- (d) The open fire burning must not be carried out on a day subject to an order prohibiting the burning of fires in the open published by the EPA pursuant to section 133(2) of the *Protection of the Environment Operations Act 1997*.
- (e) The open fire burning must only be carried out in dry weather using such practicable means as may be necessary to minimise visible smoke emissions causing air pollution.

- 3.9 A person who uses 1080 rabbit bait must not pollute dams, drains, streams, rivers or waterways with 1080 rabbit baits or plastic bags and containers that have held 1080 rabbit baits. Pollution of waters is an offence under section 120 of the *Protection of the Environment Operations Act 1997*.
- 3.10 A person must not place 1080 rabbit baits on a property without the written consent of the occupier, manager or authorised agent of the land unless the baiting has been determined necessary under the provisions of the *Biosecurity Act 2015*.
- 3.11 At the end of any ground baiting program conducted in accordance with this Schedule, a person using 1080 rabbit baits should ensure that, to the extent which is practical, that all untaken baits are collected and removed from a baiting location unless the risk assessment for their baiting location determines otherwise. All collected and unused 1080 rabbit baits must be disposed of as soon as possible at the property where the 1080 rabbit baits were used, or in the case of a coordinated baiting program, on a property or location identified and agreed to by the Authorised Control Officer coordinating the program. All collected and unused 1080 rabbit baits must be buried in a disposal pit and must be buried under at least five hundred (500) mm of soil. The disposal pit must be clear of waterways (permanent or ephemeral) so as to not cause pollution of water in accordance with Part 5.3 of the *Protection of the Environment Operations Act 1997*. This condition does not apply in the case of 1080 rabbit baits being applied by aircraft or broad scale broadcasting.
- 3.12 To the extent possible, a person who uses 1080 rabbit baits should recover carcasses of animals poisoned by 1080 rabbit baits and bury them in accordance with the disposal instructions for 1080 rabbit baits in condition 3.11. Any incidents where there are reasonable grounds to suspect that non-target animals (excluding other pest animals) may have been poisoned by 1080 rabbit baits should be reported to the EPA.
- 3.13 A person should remove all livestock and ensure fences prevent livestock access to baited areas until 1080 rabbit baits are collected, inactivated by rainfall or destroyed.

4. DIRECTIONS FOR USE – DISTANCE RESTRICTIONS

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

- 4.1. The minimum distances for the laying of 1080 rabbit baits have been set to minimise the risk to people and to non-target animals. A person authorised to use 1080 rabbit baits must not place 1080 rabbit baits where they can be washed into or contaminate surface or ground waters. 1080 rabbit baits must not be laid in areas where distance restrictions cannot be met. Other rabbit control methods must be used in those areas.
- 4.2 1080 rabbit baits must not be laid within close proximity to urban areas unless the baiting program is planned in conjunction with, and has been approved by, an Authorised Control Officer. A program approved under this condition must include strategies for minimising risk to non-target animals.
- 4.3 **Property Boundary:**
- 4.3.1 **Ground Baiting:** 1080 rabbit baits must not be laid within five (5) metres from any property boundary.
- 4.3.2 **Aerial Baiting:** 1080 rabbit baits must not be laid within one hundred (100) metres from any property boundary by helicopter or fixed winged aircraft.
- 4.3.3 **Exemption for Group Baiting:** Conditions 4.3.1 and 4.3.2 do not apply to the laying of 1080 rabbit baits as part of a group baiting program that has been planned by an Authorised Control Officer and where that Officer has obtained written consent from the landholders involved in the baiting program for the laying of the 1080 rabbit baits. This exemption does not apply to property boundaries of landholders not involved in the baiting program.
- 4.4 **Habitation:**
- 4.4.1 **Ground Baiting:** 1080 rabbit baits must not be laid within five hundred (500) metres of a habitation except:
- (a) where a landholder uses 1080 rabbit baits on their own property, in which case the landholder may lay the 1080 rabbit baits at a distance of less than five hundred (500) metres from their own habitation.

- (b) where an Authorised Control Officer plans a baiting program, in which case the 1080 rabbit baits may be laid at less than 500 metres from a habitation, subject to the following conditions:
 - (i) The Authorised Control Officer must have undertaken a risk assessment in accordance with the provisions of the VPM (as in force at the time) and determined that 1080 rabbit baits can be laid at distances of less than 500 metres but no closer than 150 metres from a habitation;
 - (ii) Any baiting program planned by an Authorised Control Officer must include strategies for minimising risk to non-target animals;
 - (iii) Any adjoining landholders must agree in writing to use or allow the use of 1080 rabbit baits at distances of less than 500 metres but no closer than 150 metres from a habitation on the landholder's property;
 - (iv) Where an Authorised Control Officer implements a coordinated rabbit control program, they must not implement the program **UNLESS**:
 - (1) **ALL** the landholders in the group are made aware of the hazardous nature of 1080 rabbit baits in closely settled areas; AND
 - (2) **EVERY** landholder in the group signs an agreement that they:
 - (A) understand the hazards associated with the use of 1080 rabbit baits in closely settled areas; AND
 - (B) agree to allow 1080 rabbit baits to be laid on adjoining properties at distances of less than 500 metres but no closer than 150 metres from any habitation on their property in writing; AND
 - (C) agree to accept all responsibility for any problems arising from 1080 rabbit baits used on their land within the program; AND
 - (3) **ALL** the landholders of the outermost properties of the group abide by all the distance requirements in relation to adjoining properties not covered by the group activity.

4.4.2 **Aerial Baiting:** 1080 rabbit baits must not be laid within five hundred (500) metres from any habitation by helicopter or a fixed winged aircraft except:

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

A fixed winged aircraft may only be used in the Western Division to aerially apply 1080 rabbit baits.

4.5 **Domestic Water Supply or Water Draw Point:**

- 4.5.1 **Ground Baiting:** 1080 rabbit baits must not be laid within twenty (20) metres of a domestic water supply. Large water storage facilities such as Eucumbene, Wyangala and Chaffey dams must not be ground baited with 1080 rabbit baits to a distance of less than ten (10) metres of the waterline.
- 4.5.2 **Aerial Baiting:** 1080 rabbit baits must not be laid within two hundred (200) metres of a domestic water supply or water draw point by helicopter or a fixed winged aircraft.

4.6 **Public Roads:**

- 4.6.1 **Ground Baiting:** 1080 rabbit baits must not be laid within five (5) metres of a public road.
- 4.6.2 **Aerial Baiting:** 1080 rabbit baits must not be laid within two hundred (200) metres of a public road by helicopter or a fixed winged aircraft.

5. **PUBLIC NOTIFICATION**

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

- 5.1 A person must not lay any 1080 rabbit baits on any land unless the person has first given a minimum of three (3) days' notice of the date on which they will lay 1080 rabbit baits – henceforth referred to as 'notification'. The notification must be given to the landholder or authorised agent of every property which has a property boundary within one (1) kilometre of a **baiting location**. The notification must contain the following information:
- (a) pest being controlled with 1080 baits;
 - (b) dates when 1080 baits will be used;
 - (c) property on which 1080 baits will be used;
 - (d) contact details of the person who will lay the 1080 baits or in the case of a public authority a person or office that can be contacted for information about 1080 baits being used on the property; and
 - (e) a warning that pets and working dogs may be affected and recommend actions to be taken as specified in condition 3.3.
- 5.2 The notification may be given by telephone, text message, email, in person, or by mail (including letter box drop). If notification cannot be made by telephone, text message, email, personal contact or mail, or the number of persons to be notified is more than twenty-five (25), then:
- (i) notification may be made by advertisement in a local newspaper; or
 - (ii) where baiting is done under a NPWS RPMS program or equivalent Forestry Corporation program notification may be made by advertisement in a local newspaper or on a government website.
- In the case of large group baiting programs comprising more than 25 participants, and organised or approved by an Authorised Control Officer, then:
- (i) notification may be made by advertisement in a local newspaper; or
 - (ii) where baiting is done under a NPWS RPMS program or equivalent Forestry Corporation program notification may be made by advertisement in a local newspaper or on a government website
- 5.3 The use of 1080 rabbit baits may be conducted for longer than seven (7) days but must commence within ten (10) days of notification otherwise further notification of intended baiting is required.

6. **1080 POISONING NOTICES**

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

- 6.1 A person who uses 1080 rabbit baits must erect notices before laying 1080 rabbit baits on any land. These notices must remain up for a minimum of four (4) weeks after the last day of baiting. Notices must be placed at:
- (a) every formed and/or used entry point into the baiting location that is authorised by the landholder and provides access to the bait site. For example, a gateway, road, or trail, including designated walking tracks. This does not include unformed or permanently closed access points, formed or used entry points that are not authorised (including but not limited to an access point created by falling trees or

- unauthorised alterations to fencing or vegetation) or gates or intersections within the baiting location for which someone would have already passed a notice; and
- (b) the main entrance to a private property where baiting is undertaken or in the case of a National Park the main entrance to the area being baited; and
- (c) at the extremities of and up to five (5) kilometre intervals along all public thoroughfares which border or pass through the baiting location.

6.2 The notices must specify the following:

- (a) 1080 bait for rabbits is being laid on this property; and
- (b) the dates on which 1080 rabbit baits are first laid or the dates between which baits will be laid; and
- (c) contact details of the person who will lay the 1080 rabbit baits or in the case of a public authority a person or office that can be contacted for information about 1080 rabbit baits being used on the property; and
- (d) warning that domestic animals may be affected.

6.3 Under the *Pesticides Regulation 2009* (clauses 19 to 23) public authorities have additional public notification obligations that must be complied with. There are also other notification requirements in the Regulation.

6.4 1080 Poison Notices may be obtained from Authorised Control Officers.

7. GROUND BAITING WITH 1080 RABBIT BAIT

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

7.1 **Free feeding: Free feeding is compulsory.** A person must free feed to determine the appropriate amount of 1080 rabbit bait to use before undertaking any ground baiting using 1080 rabbit baits. For maximum control and to reduce the risk to non-target species avoid using an excessive amount of 1080 rabbit bait. It is essential to attract rabbits with a number of free feeds of unpoisoned bait. A person must free feed by laying unpoisoned bait on three (3) occasions, except where an Authorised Control Officer recommends that a person free feeds by laying unpoisoned bait on two (2) occasions. Each free feed must be laid at intervals of not less than two (2) days. A person must adjust the amount of free feed on each occasion so that so that only a small amount of feed is left on the final free feed ("final consumption") before undertaking ground baiting using 1080 rabbit bait under conditions 7.2 and 7.3.

7.2 A person who lays 1080 rabbit baits must:

- (a) Not use disproportionate amounts of 1080 rabbit baits. The amount of bait applied must be consistent with two thirds of the final consumption of free feed (see VPM for more information); and
- (b) Lay the baits in such a way, where practical, that any uneaten 1080 rabbit baits can be readily found and destroyed in accordance with condition 3.11. This does not apply in the case of 1080 rabbit baits being applied by aircraft or broad scale broadcasting.

7.3 **Bait selection and placement:** Poisoned oats and poisoned pellets (1080 rabbit bait) must only be placed in trails. Poisoned carrot (1080 rabbit bait) may be broadcast or used in trails.

7.4 1080 rabbit baits must be laid at an interval of three (3) to five (5) days after the last free feed.

8. AERIAL BAITING WITH 1080 RABBIT BAIT

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

8.1 Aerial baiting should be restricted to areas where ground control is impractical and where impacts by rabbits are likely to be significant. Approval for every aerial baiting program on land reserved under Part 4 of the *National Parks and Wildlife Act 1974* must be obtained from the relevant NPWS Branch Director. For all other land, approval for every aerial baiting program must be obtained from the LLS Chief Executive or their delegate. Aerial baiting must be organised through either LLS or NPWS or another NSW public authority that the EPA has given approval to undertake such an activity. All programs involving aerial application of 1080 rabbit baits must follow the guidelines contained in the VPM. Your local LLS has full details.

8.2 Notwithstanding any other condition contained in this Schedule, a person who undertakes aerial baiting must only use 1080 rabbit baits that are specified in the VPM and approved for aerial baiting.

8.3 A pilot who operates an aircraft which is used to aurally apply 1080 rabbit baits must use onboard GPS navigation equipment mounted in the pilot's line of sight to navigate along agreed flight paths. The GPS navigation equipment must be of the type that has a moving map display with topographic features which

provide accurate guidance to the pilot. The GPS equipment must have full data logging capabilities and all flight paths must be pre-programmed into the GPS navigation equipment before commencement of 1080 rabbit aerial baiting.

- 8.4 A pilot who operates an aircraft which is used to aerially apply 1080 rabbit baits must make a record of the GPS flight path which includes the start and finish drop point data, for 1080 rabbit bait, for each aerial run. The record must be kept for a period of at least three (3) years after the date on which the 1080 rabbit bait was aerially applied. A pilot must make any records available to the EPA on request.
- 8.5 The employer or contractor of a pilot must ensure that a pilot of any aircraft used to aerially apply 1080 rabbit baits complies with conditions 8.3 and 8.4.
- 8.6 A person coordinating or organising aerial baiting programs must ensure that pilots are given digitised flight paths for all areas where 1080 rabbit baits are to be dropped from an aircraft which is used to aerially apply 1080 rabbit baits.
- 8.7 A person on the aircraft that is responsible for dropping 1080 rabbit baits must not be given the task of navigating the aircraft. A pilot is responsible for navigation and must ensure that 1080 rabbit baits are dropped along the agreed flight path.
- 8.8 A person who drops 1080 rabbit baits from an aircraft which is used to aerially apply 1080 rabbit baits must hold as a minimum the qualification specified in clause 9(1)(b)(iii) of this Order.

Schedule 5

REQUIREMENTS FOR AUTHORISED CONTROL OFFICERS

Authorised Control Officers must comply with the following conditions in Schedule 5 and any additional conditions that are relevant in schedules 1 to 4.

1. PRODUCTION OF 1080 BAIT MATERIAL

- 1.1 Only a person who is an Authorised Control Officer can use a registered 1080 liquid concentrate product to produce 1080 bait material for control of wild dogs, foxes, feral pigs and rabbits and any other species that an APVMA permit allows 1080 to be used on.
- 1.2 An Authorised Control Officer can only use bait material that is specified in the current VPM for each pest species and must comply with all constraints that apply in regards to bait selection and preparation e.g. type of meat, offal or other bait material, size, weight, drying or mixing requirements.
- 1.3 An Authorised Control Officer must only use the amount of 1080 specified on the approved label of the 1080 liquid concentrate product for the production of bait material for each pest species. Where the 1080 liquid concentrate product label does not include instructions for preparation of a bait type mentioned in the current VPM, then the Authorised Control Officer must comply with the bait preparation instructions in the VPM.
- 1.4 An Authorised Control Officer must comply with 1080 use, possession and disposal instructions in the current VPM and their agency operational guidelines/policy/procedures for the use of 1080.
- 1.5 All 1080 bait material must be placed by an Authorised Control Officer in a 100 micron (minimum) thick durable plastic bag or HDPE plastic bucket with a lithographed label that is identical to attachment 1 of the relevant Schedule to this Order or in the same labelled plastic bag within an approved container of a registered 1080 bait product.

In the remaining part of this schedule “1080 bait material” will be considered as a “1080 bait product” which is consistent with the definitions in clause 7 of this Order.

2. POSSESSION, SUPPLY AND DISPOSAL OF 1080 BAIT PRODUCTS

- 2.1 An Authorised Control Officer may supply 1080 bait products to a person authorised to possess 1080 bait products. Before doing so an Authorised Control Officer must conduct a risk assessment to determine if it is appropriate to supply 1080 bait products to a person. The risk assessment policy and procedures can be found in the VPM and in internal LLS guidelines/policies/procedures and NPWS standard operating procedures and must be followed. If the Authorised Control Officer makes a determination that it is not appropriate to supply a person with 1080 bait products then the Authorised Control Officer must not give any 1080 bait product to that person. The Authorised Control Officer may withhold 1080 bait products, if, in the opinion of the Authorised Control Officer, they are not satisfied that the 1080 bait products will be used safely or effectively by a person.
- 2.2 If an Authorised Control Officer withholds 1080 bait products from a person, the officer must retain a copy of the risk assessment and record in a logbook or diary, the date, time and specific reasons for refusing to supply 1080 bait products to a particular person and notify the 1080 supervisor in writing.
- 2.3 An Authorised Control Officer must only supply 1080 bait products in a plastic bag or container that complies with the requirements of section 18(1) of the Agricultural and Veterinary Chemicals Code Regulations and has a label which is identical in content and format to the label in **Attachment 1** of the relevant Schedule to this Order or an APVMA approved label of a registered 1080 bait product for the pest animal they are controlling.
- 2.4 An Authorised Control Officer must issue 1080 bait products only to the landholder of the land on which the 1080 bait products are to be used, their authorised agent or a member of staff of NPWS, NSW DPI or the LLS or any other person whose services NPWS, NSW DPI or the LLS makes use of.
- 2.6 An Authorised Control Officer or an employee of an LLS issuing 1080 bait products must give a copy of this pesticide control order with the relevant Schedule to any person receiving 1080 bait products from them unless a current copy of this pesticide control order with the relevant Schedule has been provided to them electronically – in the current calendar year.

- 2.7 An Authorised Control Officer issuing 1080 bait product must establish that the intended end-user for the 1080 bait products holds a qualification that meets the requirements of this Order before handing over any 1080 bait product. Where this cannot be established then 1080 bait product must not be supplied to that person.
- 2.8 Where an Authorised Control Officer produces 1080 bait product for their own use, an indemnity form is not required.
- 2.9 An Authorised Control Officer is required to determine the appropriate quantity of 1080 bait product that can be supplied for use on a property, considering relevant organisational policies and procedures.
- 2.10 At the end of any NPWS RPMS baiting program coordinated by an Authorised Control Officer, an Authorised Control Officer or a person under their supervision may dispose of 1080 bait products on a property or location identified for disposal by burying the 1080 bait products at a depth of less than 500mm of soil but only if the Authorised Control Officer has done a risk assessment and implements control measures that are appropriate to minimise the risk to non-target animals and the environment.

3. INTERSTATE BORDER SUPPLY OF 1080 BAIT PRODUCTS

- 3.1 An Authorised Control Officer may provide 1080 bait products to a landholder in another state but only if there is a current memorandum of understanding (MOU) between the NSW public authority whose staff are supplying 1080 bait products to non NSW landholders and the public authority that regulates the use of 1080 in the state in which the 1080 bait products will be used.
- 3.2 An Authorised Control Officer must comply with all the requirements of the MOU before issuing 1080 bait products to a person where the use of the 1080 bait products will not be in NSW.
- 3.3 Where an MOU for cross border supply of 1080 bait products is being proposed, public authorities involved in such an agreement must liaise with the EPA to determine compliance requirements under NSW pesticide legislation.

Workers compensation guidelines

Requirements for insurers, workers,
employers, and other stakeholders

State Insurance
Regulatory
Authority

October 2019

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About these Guidelines

The State Insurance Regulatory Authority (SIRA) is the government organisation responsible for regulating and administering workers compensation, motor accidents compulsory third party (CTP) insurance and home building compensation insurance in New South Wales (NSW).

Context

Under section 23 of the State Insurance and Care Governance Act 2015, a principal objective of SIRA in exercising its functions is to provide for the effective supervision of claims handling and disputes arising under NSW workers compensation legislation.

SIRA has undertaken a comprehensive review of the current claims handling framework for workers compensation in NSW. From this review, SIRA has revised the Guidelines. The new Guidelines are supported by Standards of practice (Standards) which outline claims administration and conduct expectations for insurers.

SIRA's objective in developing the revised Guidelines and Standards is to improve outcomes in the workers compensation system by ensuring that clear, consistent, easy to access expectations are set for all insurers, to guide insurer conduct and claims management.

It is important that injured workers are protected and that they receive appropriate, timely, respectful services and support. Similarly, it is important that employers are actively engaged in the claims process to support workers with their recovery and return to work.

SIRA intends to use the improved Guidelines and the Standards to hold insurers accountable for delivering high standards of service to workers and their families, carers, employers and other stakeholders.

Legislative framework

The *Workers Compensation Act 1987* (1987 Act) and the *Workplace Injury Management and Workers Compensation Act 1998* (1998 Act) establish a workplace injury management and workers compensation system in New South Wales.

The system objectives as described in section 3 of the 1998 Act are:

- to assist in securing the health, safety and welfare of workers and, in particular, preventing work-related injury,
- to provide:
 - prompt treatment of injuries, and
 - effective and proactive management of injuries, and
 - necessary medical and vocational rehabilitation following injuries,

in order to assist injured workers and to promote their return to work as soon as possible,

- to provide injured workers and their dependants with income support during incapacity, payment for permanent impairment or death, and payment for reasonable treatment and other related expenses,
- to be fair, affordable, and financially viable,
- to ensure contributions by employers are commensurate with the risks faced, taking into account strategies and performance in injury prevention, injury management, and return to work,
- to deliver the above objectives efficiently and effectively.

The Workers Compensation Regulation 2016 contains provisions that supplement the implementation and operation of the Acts in a number of key areas.

Purpose

The *Workers Compensation Guidelines* (Guidelines) support delivery of the objectives of the Acts and Regulation by informing and guiding insurers, workers, employers, injury management consultants, independent medical examiners and other stakeholders in the process of claiming workers compensation in NSW.

Guideline-making powers

These Guidelines are made under [section 376\(1\)\(c\)](#) of the 1998 Act, which empowers SIRA to issue guidelines in accordance with specific guideline-making powers throughout the Workers Compensation Acts. Each Part of these Guidelines identifies the section or sections of the Acts that authorise or require Guidelines to be issued by SIRA.

SIRA requires stakeholders to comply with the parts of the Guidelines that apply to them.

Interpretation

These Guidelines are to be read in conjunction with relevant provisions of the Acts and the Regulation and in a manner that supports the system objectives as described in section 3 of the 1998 Act.

Commencement

These Guidelines will take effect and apply to all claims from 21 October 2019 (irrespective of when the claim is made). Part 10 of these Guidelines, pre-injury average weekly earnings, applies only to workers injured on or after 21 October 2019.

The Guidelines will apply until SIRA amends, revokes or replaces them in whole or in part.

These Guidelines replace the *Workers Compensation Guidelines* dated December 2018.

The Guidelines apply to insurers, workers, employers and other stakeholders as defined in the 1987 Act and the 1998 Act.

The Guidelines do not apply to:

- coal miner matters, as defined in the 1998 Act
- dust disease matters, as defined in the Workers Compensation (Dust Diseases) Act 1942
- claims made under the Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987.

Exempt categories of workers

Changes made by the Workers Compensation Legislation Amendment Act 2012 do not apply to police officers, paramedics or firefighters.

These workers were exempt from changes because of clause 25 of Part 19H of Schedule 6 to the 1987 Act. They are known as 'exempt categories of workers'.

Most requirements in these Guidelines apply to exempt categories of workers. Requirements that do not apply are clearly marked.

Scope

The Guidelines contain the following parts:

- Part 1: Initial notification of an injury
- Part 2: Provisional liability
- Part 3: Making a claim
- Part 4: Compensation for medical, hospital, and rehabilitation expenses
- Part 5: Work capacity
- Part 6: Injury management consultants
- Part 7: Independent medical examinations and reports
- Part 8: Lump sum compensation
- Part 9: Commutation of compensation
- Part 10: Pre-injury average weekly earnings

Words defined in the NSW workers compensation legislation have the same meaning in these Guidelines.

Part 1: Initial notification of an injury

1.1 Initial notification of injury

Section 266 of the 1998 Act provides that initial notification to an insurer of an injury to a worker means the first notification of the injury that is given to the insurer, in the manner and form required by the Workers Compensation Guidelines, by the worker or the employer or by some other person (for example, a medical practitioner) acting for or on behalf of the worker or the employer.

Notifications can be written (including online or by email) or verbal (including by phone).

Table 1.1 Required information for the initial notification of injury

The following information is required to be provided to the insurer in order for there to be an initial notification:

Category	Required information
Worker	<ul style="list-style-type: none"> • Name • Contact details (including a phone number and postal address)
Employer	<ul style="list-style-type: none"> • Business name • Business contact details
Treating doctor (where known)	<ul style="list-style-type: none"> • Name • Name of medical centre or hospital (if known)
Injury	<ul style="list-style-type: none"> • Date of the injury or the period over which the injury emerged • Time of the injury • Description of how the injury happened • Description of the injury • Whether any medical treatment is required • Whether the injury has caused any partial or total incapacity for work and loss of income
Notifier	<ul style="list-style-type: none"> • Name • Relationship to the worker or employer • Contact details (including phone number and postal address)

If the insurer receives an incomplete initial notification of injury, it must inform the notifier (and the worker, where possible) within three business days and specify what additional information is needed.

Part 2: Provisional liability

2.1 Delaying provisional weekly payments

Once the insurer has received an initial notification of injury it must:

- start provisional payments within seven calendar days unless there is a reasonable excuse not to or
- delay starting provisional weekly payments by issuing a *reasonable excuse* within seven days or
- determine liability

Section 267(2) of the 1998 Act allows the Guidelines to define what a ‘reasonable excuse’ may be.

Table 2.1 Reasonable excuses for not starting provisional weekly payments

The insurer has a reasonable excuse for not starting provisional weekly payments if any of the following apply:

Excuse	Reason
There is insufficient medical information	<p>The insurer does not have enough medical information to establish that there is an injury, as a workers compensation certificate of capacity (or other medical information certifying that a work-related injury has occurred) has not been provided.</p> <p>If a certificate of capacity or other medical information is provided and includes a clear diagnosis, the claim cannot be reasonably excused using this reason.</p> <p>Note: Insurers are to use discretion for workers in remote areas if access to medical treatment is not readily available.</p>
The injured person is unlikely to be a worker	<p>The person cannot verify they are a worker.</p> <p><i>or</i></p> <p>The employer can verify that they are not a worker.</p> <p>If there is any doubt that someone is a worker under NSW workers compensation law, the insurer must verify that person’s status.</p> <p>Information that confirms this may include, but is not limited to:</p> <ul style="list-style-type: none"> • the employer agreeing to the worker’s status • the worker’s payroll number • a current payslip or a bank statement with regular employer payments • a contract of employment or services.

Excuse	Reason
The insurer is unable to contact the worker	<p>The insurer has not been able to contact the worker after at least:</p> <ul style="list-style-type: none"> two attempts by phone (made at least a day apart) <p>and</p> <ul style="list-style-type: none"> one attempt in writing (which may include an attempt by email).
The worker refuses access to information	The worker will not agree to the release or collection of personal or health information relevant to the injury sufficient to determine provisional liability.
The injury is not work related	<p>The insurer has information that:</p> <ul style="list-style-type: none"> the worker did not receive an injury which is compensable under the NSW workers compensation law, or strongly indicates that compensation for an injury may not be payable under NSW workers compensation law. <p>If the employer believes the injury is not work-related, they are to provide the insurer with any supporting evidence they have, such as:</p> <ul style="list-style-type: none"> medical information that the condition already existed and has not been aggravated by work factual information that the injury did not arise from or during employment <p>Note: Suspicion, innuendo, anecdotes or unsupported information from any source, including the employer, is not acceptable.</p>
There is no requirement for weekly payments	Based on the information received as part of the notification of injury or otherwise obtained by the insurer, the insurer is reasonably satisfied there is no requirement for weekly payments, for example because the injury has not resulted in any incapacity or loss of earnings.
The injury is notified after two months	<p>The notice of injury is not given to the employer within two months of the date of injury.</p> <p>Note: This reason cannot be used if the acceptance of liability is likely and provisional payments will be an effective way to manage the injury.</p>

A reasonable excuse may apply to provisional weekly payments but not to provisional medical payments.

Where applicable, prior to deciding not to commence provisional weekly payments on the basis of a reasonable excuse, the insurer is to attempt to resolve the reasonable excuse.

2.2 Provisional liability for medical expenses

Section 280 of the 1998 Act allows the Guidelines to specify the amount up to which an insurer can provisionally accept liability for medical expenses relating to a work-related injury.

An insurer can accept liability for medical expenses on a provisional basis and pay up to \$10,000 before being required to make a formal determination of liability.

Part 3 Making a claim

In making a claim, workers are asserting a right to receive workers compensation benefits because they believe they meet the necessary legal requirements.

Section 260(2) of the 1998 Act allows the Guidelines to make provision for or with respect to certain matters in connection with the making of a claim, including:

- the form and manner in which a claim is to be made
- the means by which a claim may be made
- the information that a claim is to contain
- requiring specified documents and other material to be included with a claim.

3.1 Minimum requirements for a claim

As a minimum, a claim for compensation must provide the insurer with the following information:

- name and contact details of the worker
- name and contact details of the employer (individual or organisation)
- name and contact details of the worker's medical practitioner
- if applicable, the name and contact details of any witnesses or witness statements, including details to identify any witnesses known to the worker if the incident was witnessed.
- description of the injury and how it happened
- information to support the medical expenses and other losses the worker is claiming.

3.2 Requirement for a claim form

Workers are able to complete and submit a claim form to an insurer at any time, subject to the time limits outlined in the 1998 Act. Claim forms are available from the [SIRA website or insurers may have their own claim form](#).

An insurer must require a worker to complete a claim form when:

- a reasonable excuse notice has been issued, the worker is seeking weekly payments of compensation and the reasonable excuse is still relevant, or
- compensation is likely to be claimed beyond the provisional liability limits and the insurer determines that there is insufficient information to determine ongoing liability.

The insurer can waive the requirement for a worker to submit a claim form if they determine they have enough information to make a liability determination.

3.3 Signed authority

Section 260(3) allows the Guidelines to require that a claim be accompanied by a form of authority signed by the worker. This signed authority authorises the sharing of information between service providers and the insurer.

The worker may be required to supply the insurer with a signed authority so providers of medical and hospital treatment or workplace rehabilitation services can give the insurer relevant information relating to the compensable injury.

Information relevant to the worker's injury includes:

- the treatment or service provided, or
- the worker's medical condition, or
- treatment relevant to the claim.

This authority forms part of the claim form available on the SIRA website. Alternatively, the insurer can use its own form.

Part 4: Compensation for medical, hospital, and rehabilitation expenses

4.1 Accessing treatment without pre-approval

****Does not apply to exempt workers****

There is no requirement for exempt workers to seek pre-approval for treatment. However, exempt workers are to be made aware that treatment and services may not be payable without insurer approval.

Payment of treatment and services for exempt workers must be assessed based on whether the treatment or service is required as a result of the injury and is considered reasonably necessary and on the provision of properly verified costs.

Workers can claim expenses relating to medical treatments and services, including hospital and rehabilitation.

Medical, hospital and rehabilitation expenses will be paid where the treatment or service:

- meets the definitions described in [section 59](#) of the 1987 Act
- takes place while the worker is entitled to receive compensation (the compensation period) for medical, hospital and rehabilitation expenses
- is reasonably necessary because of the injury
- is pre-approved by the insurer (unless the treatment or service is exempt from pre-approval – see below).

[Section 60\(2A\)](#) of the 1987 Act allows the Guidelines to specify the types or classes of treatment or services that are exempt from the requirement for prior insurer approval.

See Table 4.1 for the reasonably necessary treatments and services the worker can receive (including reasonably necessary worker travel), without pre-approval from the insurer.

Table 4.1 Reasonably necessary treatments and services available without pre-approval from the insurer

Treatment	Expense	Timeframe from date of injury
Initial treatment	Initial treatment	Within 48 hours
Nominated treating doctor	Consultation or case-conferencing for the injury, apart from telehealth and home visits	Ongoing
	Treatment during consultation	Within one month
Public hospital	Services provided in the emergency department for the injury	Ongoing
	Further services after receiving treatment at the emergency department for the injury.	Within one month
Medical specialists	<p>If referred by the nominated treating doctor, any consultation and treatment during consultations for the injury (apart from telehealth). Referrals for diagnostic tests must meet the Medicare Benefits Schedule criteria.</p> <p>Note: Medical specialist means a medical practitioner recognised as a specialist by the Australian Health Practitioner Regulation Agency and remunerated at specialist rates under Medicare.</p>	Within three months
Diagnostic investigations	If referred by the nominated treating doctor for the injury: any plain x-rays.	Within two weeks
	<p>If referred by the nominated treating doctor, and the worker has been referred to a medical specialist for further injury management:</p> <ul style="list-style-type: none"> ultrasounds and CT scans MRIs. <p>Note: General Practitioners must satisfy the Medicare Benefits Schedule criteria when making a referral for an MRI.</p>	Within three months
	If referred by the treating medical specialist for the injury, any diagnostic investigations.	Within three months

Treatment	Expense	Timeframe from date of injury
Pharmacy	Dispensed prescription drugs and over-the-counter pharmacy items prescribed for the injury by the nominated treating doctor or medical specialist.	Within one month
	Prescription drugs and over-the-counter pharmacy items prescribed for the injury and dispensed through the Pharmaceutical Benefits Scheme (PBS)	Ongoing

Table 4.2 Other treatments and services available without pre-approval from the insurer

Treatment	Expense
SIRA-approved allied health practitioners ¹ : 1. Physical practitioners (physiotherapists, osteopaths, chiropractors, accredited exercise physiologists) 2. Psychological practitioners (psychologists and counsellors)	Up to eight consultations if the injury was not previously treated by a provider from the same allied health practitioner group (either 1. Physical or 2. Psychological) and the treatment begins within three months of the injury
	Up to eight consultations per <i>Allied health recovery request</i> (AHRR) if the same practitioner is continuing treatment within three months of the injury and: <ul style="list-style-type: none"> the practitioner sent an AHRR to the insurer, and the insurer did not respond within five working days of receiving the AHRR.
	Up to three consultations if the injury was not previously treated by a provider from the same allied health practitioner group (either 1. Physical or 2. Psychological) and the treatment begins more than three months after the injury.
	One consultation with the same practitioner if the practitioner previously treated the injury more than three months ago. This is considered a new episode of care.
	One consultation with a different practitioner if the injury was previously treated by a provider from the same allied health practitioner group (either 1. Physical or 2. Psychological).
	Up to two hours per practitioner for case conferencing that complies with the applicable Fees Order.
	Up to \$110 per claim for reasonable incidental expenses for items the worker uses independently at their home or workplace (such as strapping tape, theraband, exercise putty, disposable electrodes and walking sticks).

¹ AHPs which meet the requirements of SIRA's Approval Framework under s60(2C)

Interim payment direction	Any treatment or service under an interim payment direction from the Registrar (or delegate) of the <u>Workers Compensation Commission</u> as outlined in <u>section 297</u> of the 1998 Act.
Commission determination	Any disputed treatment or service the <u>Workers Compensation Commission</u> has determined must be paid.
Permanent impairment medical certificate	Permanent impairment medical certificate or report, and any associated examination, taken to be a medical-related treatment under <u>section 73(1)</u> of the 1987 Act.
Hearing needs assessment	<p>The initial hearing needs assessment where the:</p> <ul style="list-style-type: none"> • hearing service provider is approved by SIRA, and • nominated treating doctor has referred the worker to an ear, nose and throat medical specialist, to assess if the hearing loss is work-related and, if applicable, the percentage of binaural hearing loss. <p>Note: Hearing needs assessment includes:</p> <ul style="list-style-type: none"> • obtaining a clinical history • hearing assessment as per Australian/New Zealand Standard 1269.4:2014 • determination of communication goals • recommendation of hearing aid, and • clinical rationale for hearing aid.

4.2 Determining reasonably necessary treatment

Before approving or paying for a medical, hospital or rehabilitation treatment or service, an insurer will determine, based on the facts of each case, whether the treatment or service is, as a result of an injury, reasonably necessary.

Section 60(2C)(a) of the 1987 Act allows for the Guidelines to set rules for determining whether medical or related treatment, as defined by section 59 of the 1987 Act, is reasonably necessary.

When considering the facts of the case, the insurer is to understand that:

- what is determined as reasonably necessary for one worker may not be reasonably necessary for another worker with a similar injury
- reasonably necessary does not mean absolutely necessary
- although evidence may show that a similar outcome could be achieved by an alternative treatment, it does not mean that the treatment recommended is not reasonably necessary.

In most cases, the points above should be enough for an insurer to determine what is reasonably necessary treatment.

If the insurer remains unclear on whether a treatment is reasonably necessary, then the following factors may be considered:

- the appropriateness of the particular treatment
- the availability of alternative treatment
- the cost of the treatment
- the actual or potential effectiveness of the treatment
- the acceptance of the treatment by medical experts.

4.3 Qualifications and requirements for treatment or service providers

****Does not apply to exempt workers****

Exempt workers are not required to use SIRA-approved physiotherapists, chiropractors, osteopaths, exercise physiologists, psychologists and counsellors.

Section 60(2C)(e) of the 1987 Act states that the Guidelines may specify the qualifications or experience required in order to be appropriately qualified to provide treatment or service to a worker. This includes mandating SIRA approval or accreditation for providers operating in the NSW workers compensation system.

Services provided by a physiotherapist, chiropractor, osteopath, exercise physiologist, psychologist and counsellor can only be provided by an allied health provider that is approved by SIRA in accordance with the *Guidelines for approval of treating allied health practitioners* and who provides an Allied Health Recovery Request (AHRR) in accordance with those guidelines. Note: an AHRR is optional for practitioners treating workers with a severe injury.

Assessment, diagnosis and treatment of hearing impairment loss injury are to be conducted by an ear nose and throat (ENT) specialist.

Subsequent services in relation to the provision of hearing aids can only be delivered by a SIRA-approved hearing service provider in accordance with the Hearing Services Provider Approval Framework.

4.4 Domestic assistance care plan

Section 60AA(1)(d) of the 1987 Act allows the Guidelines to provide for the making of a domestic assistance care plan.

The insurer must establish a care plan with the worker and medical practitioner, based on what it accepts as reasonably necessary for the worker. The insurer is to do this and pay compensation within 21 days of receiving a claim.

As a minimum, the domestic assistance care plan must clearly state the:

- task(s) it covers
- service provider's name

- number of hours and frequency of assistance
- start and end dates for which the assistance is approved
- cost or rate payable for the assistance
- total cost for the duration of service
- need for the domestic assistance recommended and how this relates to the worker's injury.

4.5 Verifying gratuitous domestic assistance

Gratuitous domestic assistance is domestic assistance provided to a worker for which the worker has not paid and is not liable to pay.

Payment for gratuitous domestic assistance is only to be made if those costs and the provision of the assistance is properly verified.

Section 60AA(5)(b) allows the Guidelines to specify how the performance of domestic assistance services is to be verified.

People providing gratuitous domestic assistance can claim compensation directly from the insurer. To do this, they must provide information to demonstrate that they have lost income or foregone employment because of their assistance.

Information might include:

- pay slips showing fewer hours of overtime or of casual work, with a supporting letter from their employer
- evidence that they have moved from full-time to part-time work
- a certified copy of a letter of resignation or termination, giving reasons.

The amount of lost income or foregone employment is not relevant to the amount of compensation that may be provided to the person.

The provider of gratuitous domestic assistance is to be paid a proper and reasonable amount for the services provided.

4.5.1 Verifying and approving gratuitous domestic assistance

The person providing the assistance may make a claim and the insurer may make a payment for eligible services as they are provided.

Once approved, the insurer must pay the person providing the assistance, not the worker.

Providers of gratuitous domestic assistance must submit a diary of what they have done before the insurer approves and pays compensation. The diary must be signed by both the provider and the worker (if the worker is able to do so).

As a minimum, the diary must include the date, services performed and hours worked.

Part 5: Work capacity Assessment

****This Part does not apply to exempt workers****

Part 5: Work capacity assessments do not apply to exempt workers.

A work capacity assessment is an assessment of an injured worker's current work capacity.

5.1 Work capacity assessment

Section 44(A)(2) of the 1987 Act states that a 'work capacity assessment' is to be conducted in accordance with the Guidelines.

A work capacity assessment can be based on available information (such as a certificate of capacity), or it can require the insurer to gather more information, for example when the worker has some capacity but cannot return to their pre-injury employment.

The insurer must keep a record of any work capacity assessment in the worker's file.

5.2 When to conduct a work capacity assessment

Work capacity assessments are to be conducted throughout the life of the claim whenever new information **about the worker's claim**, such as a certificate of capacity, is received. This is a part of the normal claims management process.

These assessments may be based on available information or may require the gathering of additional information.

5.3 Requirement to attend appointments

Section 44A(5) of the 1987 Act states that an insurer may require a worker to attend and participate in any appointment in accordance with the Guidelines that is reasonably necessary for the purpose of conducting a work capacity assessment.

An insurer may use available information to assess work capacity, or it may require the worker to attend an appointment to obtain further information.

These Guidelines require the insurer to advise the worker of the date and time of each appointment at least 10 working days before the appointment, unless otherwise agreed by the worker. The advice must include:

- the location of the appointment
- the purpose of the appointment and how it may inform the work capacity assessment
- the information that refusing to attend, or failing to properly participate (so that the assessment cannot take place), may result in the insurer suspending weekly payments until the assessment appointment is completed.

A worker cannot be required by the insurer to attend more than four appointments per work capacity assessment. Of these, there cannot be more than:

- one appointment with the same type of medical specialist (for example, orthopaedic surgeon, psychiatrist)
- one appointment with the same type of healthcare professional (for example, physiotherapist, psychologist).

If the worker is required to attend an appointment with an independent medical examiner, this must be in accordance with these Guidelines.

Part 6: Injury management consultants

Section 45A(4) of the 1998 Act allows the Guidelines to provide for the functions of approved injury management consultants (IMCs).

An IMC is a registered medical practitioner experienced in occupational injury and workplace-based rehabilitation.

An IMC is a facilitator who helps the nominated treating doctor, worker, insurer, employer and other service providers to progress a worker's recovery at/return to work and optimise health and work outcomes. An IMC assesses the situation, examines the worker (if necessary) and discusses possible solutions with the relevant parties. The IMC mediates with parties to seek agreement on actions and outcomes. IMCs are not responsible for directing treatment of a worker, though they may comment on treatment in respect to overcoming barriers to recovery at/return to work.

An IMC may conduct a file review where a referrer identifies the need for an injury management consultation but does not consider it necessary for the IMC to examine the worker.

An IMCs functions do not include:

- an opinion on causation or liability
- undertaking a functional capacity evaluation, or work capacity assessment (as defined in section 44A of the 1987 Act) for the insurer.

6.1 IMC functions relating to the nominated treating doctor

The IMC must verbally discuss the worker's fitness for work with the nominated treating doctor. The IMC may also discuss the following with the worker's nominated treating doctor:

- diagnosis and treatment (if the IMC agrees this is required) to overcome barriers to recovery at/return to work
- suitability of potential work options
- how the NSW workers compensation system operates
- the importance of timely, safe and durable recovery at/return to work
- obtaining agreement on fitness for work, prognosis for recovery and timeframes for the recover at work plan.

6.2 IMC functions relating to the worker

The IMC may discuss recovery at/return to work with the worker, including:

- their recovery from the injury
- their expectations regarding recovery at/return to work
- the importance of timely, safe and durable return to work, and the potential impact resulting from long-term absence from work on the worker's health

- relevant aspects of the workers compensation system
- ways to overcome problems at work which may be delaying the worker's recovery/return to work
- options for their return to work (including a possible teleconference with the nominated treating doctor).

The IMC may talk to the worker as part of a file review, and/or examine the worker to aid their evaluation of the worker's ability to undertake specific tasks or functions, if this will contribute to achieving recovery and return to work outcomes.

Where a worker has a union-representative involved in their return to work, the IMC will include that representative in discussions with the worker, at the worker's request.

6.3 IMC functions relating to the employer

The IMC may communicate with the employer to confirm the suitability and availability of identified work. Where appropriate, they may also review the workplace to help facilitate appropriate return to work solutions.

6.4 IMC functions relating to other service providers

The IMC may liaise with other service providers to discuss aspects of the worker's recovery at/return to work.

6.5 IMC functions relating to the Workers Compensation Commission

A worker or employer can request the Workers Compensation Commission (the Commission) to resolve a dispute about a failure to comply with obligations imposed by Chapter 3 of the 1998 Act, such as return to work obligations of insurers, employers and workers.

If there is an application to resolve a dispute, the Commission may request an injury management consultant to conduct a workplace assessment.

The Commission appoints an IMC to assist the Commission to deal with the dispute. For further information please refer to the Commission website at wcc.nsw.gov.au.

6.6 The IMC report

The IMC is required to complete a report following a consultation or file review. The report should be provided to the referrer within 10 working days of the appointment or file review, or a different timeframe if agreed between the parties.

A copy of the report must be forwarded to the:

- nominated treating doctor
- insurer

- the worker (unless release of the report would pose a serious threat to the life or health of the worker or any other person).

A copy of the report may also be provided to the employer and any other party, if involved in the injury management consultation.

As a minimum, the report is to include:

- worker details (name, date of birth, claim number)
- referrer and reason for referral
- documents reviewed
- date of consultation/review, including who attended the consultation (for example, interpreter, support person) and whether the consultation was face-to-face or a file review
- consultation with the nominated treating doctor, including:
 - discussion regarding return to work/fitness for work
 - any other discussions to progress the workers recovery at/return to work and optimise health outcomes
- consultation with the employer, including the availability of suitable work and any other relevant issues
- consultation with any other parties (for example, workplace rehabilitation provider or treatment providers)
- the outcome of discussions
- consultation with and examination of the worker (where required)
- an action plan:
 - summarising the action taken and the agreed outcomes with the parties involved, including timeframes and milestones to reach the outcome
 - if agreement is not reached, suggest alternative actions to the referrer (for example, referral for an independent medical examination or referral to an approved workplace rehabilitation provider).

Part 7: Independent medical examinations and reports

An independent medical examination (IME) is an assessment conducted by an appropriately qualified and experienced medical practitioner to help resolve an issue in injury or claims management.

An insurer may direct a worker who has given notice of an injury or is receiving weekly payments of compensation to attend an IME.

Section 119(4) of the 1998 Act allows the Guidelines to specify the requirements for arranging independent medical examinations.

The mandatory obligations for insurers when they require a worker to attend an IME are outlined below.

7.1 Reason for referral

Referral for an IME is appropriate when information from the treating medical practitioner(s) is inadequate, unavailable or inconsistent, and the referrer is unable to resolve the problem directly with the practitioners.

Evidence of contact (or multiple attempts to contact) to try to resolve these issues with the nominated treating practitioner must be documented on the claim file.

An IME is appropriate where the information required relates to:

- diagnosis of an injury reported by the worker
- determining the contribution of work incidents, duties and/or practices to the injury
- whether the need for treatment results from the worker's injury and is reasonably necessary
- recommendations and/or need for treatment
- capacity for pre-injury duties and hours
- the likelihood of and timeframe for recovery
- capacity for other work/duties (descriptions of such duties are to be provided to the independent medical examiner)
- what past and/or ongoing incapacity results from the injury
- physical capabilities and any activities that must be avoided

The reason for the referral must be documented on the claim file.

An insurer may also refer a worker for an independent medical examination for the purpose of obtaining an assessment of permanent injury (injuries before 01/01/2002) or permanent impairment (injuries on and after 01/01/2002) resulting from the injury.

7.2 Qualified and appropriate independent medical examiners

All independent medical examiners must be appropriately qualified medical practitioners with the expertise to adequately respond to the question(s) outlined in the referral. They must have qualifications relevant to the treatment of the worker's injury.

If the referral includes a question of causation or treatment, the independent medical examiner is to be in current clinical practice or have recently been in clinical practice, or undertake professional activities such that they are well abreast of current clinical practice.

7.2.1 Permanent impairment assessors

If the referral is for an assessment of permanent impairment, the referral must be to a specialist medical practitioner with qualifications, training and experience relevant to the body system being assessed.

The assessor must have successfully completed training and be listed on the SIRA website as a trained assessor of permanent impairment with SIRA workers compensation.

If there is more than one impairment that requires assessment by different medical specialists, one specialist must be nominated as the lead assessor and determine the final amount of whole person impairment.

7.3 Conflict of interest

The independent medical examiner must not be in a treating relationship with the worker, nor must there be any conflict of interest between the medical practitioner and worker or medical practitioner and insurer.

The exception to this is an assessment of permanent impairment, where a worker may be assessed by their treating specialist medical practitioner if they are listed for the relevant body system on the SIRA website.

7.4 Special requirements

The location of the independent medical examiner's rooms is to be accessible within the worker's travel restrictions as certified by their nominated treating doctor.

In limited circumstances, examination by video consultation may be appropriate and effective and is to be considered by the insurer on a case-by-case basis.

If the worker has special requirements relating to gender, culture or language, these are to be identified and accommodated.

The rooms must contain appropriate facilities, including access for people with ambulatory difficulties, and accommodate the worker's specific physical needs.

Where it is the assessor's routine practice to record the consultation on audio or video, the worker must be informed of this and agree before the appointment is scheduled. If

the worker does not consent and the independent medical examiner will not proceed without recording the consultation, then an alternative independent medical examiner who does not record the examination is to be arranged.

The worker may be accompanied by a person other than their legal representative, however, the accompanying person must not participate in the examination and may be required to withdraw from the examination if requested.

7.5 Notification to the worker

All referrals for IMEs are to be arranged at reasonable times and dates, and with adequate notification given to the worker.

The worker must be advised in writing at least 10 working days before the examination takes place. Additional notice should be considered for rural/regional workers.

If a shorter time is required because of exceptional and unavoidable circumstances (for example a need to consider an urgent request for treatment), the reduced timeframe must be agreed to by all parties.

The written advice to the worker must include:

- the specific reason for the examination
- an explanation of why information from the treating medical practitioner(s) or author of the assessment report to the insurer's enquiry was inadequate, inconsistent or unavailable
- date, time and location of the appointment
- name, specialty and qualifications of the independent medical examiner
- contact details of the independent medical examiner's offices and appropriate travel directions
- the likely duration of the examination
- what to take (for example, x-rays, reports of investigations/tests, comfortable clothing to enable an appropriate examination to be conducted)
- information that the worker may be accompanied by a person other than their legal representative, however, the accompanying person must not participate in the examination and may be required to withdraw from the examination if requested
- advice when it is the independent medical examiner's routine practice to record the examination on audio or video; and that the worker must either consent to or decline this before the examination. The recording is only to proceed if the worker consents.
- advice that the insurer will meet any reasonable costs incurred by the worker, including wages, travel and accommodation. This may include pre-payment of travel and accommodation expenses. If the worker is not reasonably able to travel unescorted, this may include expenses for the worker's escort.
- advice that a failure to attend the examination or an obstruction of the examination may lead to a suspension of:

- weekly compensation, and/or
- the right to recover compensation under the 1987 Act.
- advice that the worker can request a copy of the report as well as documents that were provided to the IME
- advice that their nominated treating doctor will be provided with a copy of the examination report
- advice that the workers compensation legislation gives the worker or a nominee a right to a copy of any report relevant to a decision made by a referrer to dispute liability for or reduce compensation benefits
- what to do if the worker does not believe the examination is reasonable
- what to do if the worker has a complaint about the conduct of the independent medical examiner
- the [SIRA brochure](#) about independent medical examinations.

7.6 Further independent medical examinations

Subsequent IMEs must meet the reasons for referral for an independent medical examination and can only be conducted in the following situations:

- the employer/insurer has evidence that the worker's injury has significantly changed or resolved, or
- the employer/insurer has a request for, or evidence of, a material change or need for material change in the manner or type of treatment, or
- the worker makes a claim for permanent impairment or work injury damages, or
- the worker requests a review after receiving a notice (issued under section 78 of the *Workplace Injury Management and Workers Compensation Act 1998*) and includes additional medical information that the employer/insurer is asked to consider, or
- the last IME was unable to be completed, or
- it has been at least six months since the last IME required by the employer/insurer, or
- the referrer can provide significant reasoning for the need for a referral in a shorter timeframe. This reasoning must be documented in the claim file and provided in the written advice to the worker regarding the referral.

Subsequent IMEs must be with the same independent medical examiner unless:

- that examiner has ceased to practise (permanently or temporarily)
- the specialty required to assess the injury has changed
- they no longer practise in a location convenient to the worker, or
- both parties agree that a different medical practitioner is required.

7.7 Unreasonable request

If the worker considers the requirement to attend an IME unreasonable, they are to advise the insurer of the reasons for their objection.

The insurer must consider this objection and advise the worker of their decision following this consideration. This advice must include contact information for the Workers Compensation Independent Review Office (WIRO). Benefits are not to be affected prior to adequate written notice being received by the worker.

Any decision to suspend payment of weekly compensation can only be made after the worker has had an opportunity to comply with a reasonable request. This decision must be made on the basis of sound evidence, and the worker must be advised in writing of the reasons for the suspension and what they must do for weekly payments to be reinstated.

Part 8: Lump sum compensation

8.1 Relevant particulars about a claim

Section 282(1) of the 1998 Act states that ‘the relevant particulars about a claim’ are full details that enable the insurer (as far as practicable) to make a proper assessment of the claimant’s entitlement. Section 282(1)(g) allows these Guidelines to specify any further relevant particulars about a claim.

8.1.1 For injuries received on or after 1 January 2002

A claim for lump sum compensation must be accompanied by a report from a permanent impairment assessor listed on the SIRA website, for the body system(s) being assessed.

The assessor’s report must include:

- a statement about whether the condition has reached maximum medical improvement
- an assessment of the part or system of the body being assessed including the percentage of permanent impairment in line with the NSW Workers Compensation Guidelines for the Evaluation of Permanent Impairment (version current at the time of the assessment)
- where the claim relates to hearing loss, a copy of the audiogram used for the medical report.

8.1.2 For injuries received before 1 January 2002

A claim for lump sum compensation must include:

- the percentage of loss or impairment of an injury described in the *Table of disabilities*
- a medical report from a medical practitioner supporting the amount of loss or impairment claimed
- if the claim relates to hearing loss, a copy of the audiogram used for the medical report.

8.2 Complying agreements

Section 66A(4) of the 1987 Act requires complying agreements (regarding the worker’s degree of permanent impairment and the lump sum compensation) between the worker and employer, to be recorded by the insurer in accordance with the Guidelines.

If the worker accepts the insurer’s offer of settlement, the insurer and worker must enter into a complying agreement.

The complying agreement must include:

- the date of injury or deemed date of injury from which the impairment is agreed to result

- the percentage of permanent impairment or permanent injury, including the injuries described in the *Table of Disabilities* for permanent injuries, for which compensation is being paid
- the percentage allowed for any pre-existing condition or abnormality
- the medical report(s) used to assess/agree this percentage
- the compensation payable (percentage and monetary value)
- the date of agreement
- certification that the insurer is satisfied the worker has obtained independent legal advice or has waived the right to do so.

In addition, for exempt workers, compensation may cover both permanent impairment and pain and suffering. Each type of compensation can be agreed at different times, and may require two complying agreements and separate payments.

Part 9: Commutation of compensation

9.1 Compensation not to be commuted for catastrophic injuries

The effect of section 87EAA of the 1987 Act is that a liability for medical, hospital and rehabilitation expenses compensation cannot be commuted to a lump sum for workers with a catastrophic injury.

An injury is a catastrophic injury if it meets the criteria for one or more kinds of injury specified below.

9.1.1 Spinal cord injury

A spinal cord injury is an acute traumatic lesion of the neural elements in the spinal canal (spinal cord and cauda equina) resulting in permanent sensory deficit, motor deficit and/or bladder/bowel dysfunction. There must be permanent neurological deficit resulting from the spinal cord injury.

9.1.2 Brain injury

A traumatic brain injury is an injury to the brain, usually with an associated diminished or altered state of consciousness that results in permanent impairments of cognitive, physical and/or psychosocial functions.

Criteria for brain injury

- a. The duration of Post Traumatic Amnesia (PTA) is greater than one week. If PTA assessment is not available or applicable, there must be evidence of a very significant impact to the head causing coma for longer than one hour, or a significant brain imaging abnormality, and
- b. a score of five or less on any of the items on the FIM™ or WeeFIM® due to the brain injury.

9.1.3 Amputations

There are multiple amputations of the upper and/or lower extremities, meaning that there is more than one of the following types of amputation at or above the level of:

- a. a 'short' transtibial or standard transtibial amputation, as defined by the loss of 50 per cent or more of the length of the tibia. This includes all other amputations of the lower extremity (such as knee disarticulation or transfemoral amputation) above this level
- b. a thumb and index finger of the same hand, at or above the first metacarpophalangeal joint. This includes all other amputations of the upper extremity (such as below-elbow or above-elbow amputation) above this level.

The worker has had one of the following types of amputation:

- c. forequarter amputation (complete amputation of the humerus, scapula and clavicle) or shoulder disarticulation;

- d. hindquarter amputation (hemipelvectomy by trans-section at sacroiliac joint, or partial pelvectomy);
- e. hip disarticulation (complete amputation of the femur);
- f. 'short' transfemoral amputation as defined by the loss of 65 per cent or more of the length of the femur;
- g. brachial plexus avulsion or rupture resulting in partial or total paralysis; or
- h. an equivalent impairment to any of the injuries described in (c) to (g) above

Equivalent impairment means the functional equivalent to an amputation, resulting from an injury such as (but not limited to) brachial plexus avulsion or rupture, where paralysis exists and movement in the paralysed limb, or relevant part therefore, is minimal or non-existent due to the injury.

Measurement of the percentage loss of length of the amputated tibia or femur is to be calculated using x-ray imaging pre- and post-amputation. Where x-ray imaging is not available, measurement of the contralateral length of the femur is to be compared with the length of the amputated femur to measure percentage loss.

There may be rare circumstances, such as traumatic bilateral transtibial amputation, where contralateral tibial length and tibial length prior to amputation is unknown and therefore percentage measurement is not applicable. In this case, percentage loss is defined as 50 per cent of tibial length calculated from estimated knee height. Estimated knee height is to be calculated from the worker's **documented total height prior to the injury**.

9.1.4 Burns

There are full thickness burns greater than 40 per cent of total body surface area, or

- a. inhalation burns causing long term respiratory impairment, or
- b. full thickness burns to the hand, face or genital area, and
- c. one of the following criteria is met:
- d. a score of five or less on any of the items on the FIM™ or WeeFIM® due to the burns.

9.1.5 Permanent blindness

The worker is legally blind, when:

- a. visual acuity on the Snellen Scale after correction by suitable lenses is less than 6/60 in both eyes, or
- b. field of vision is constricted to 10 degrees or less of arc around central fixation in the better eye irrespective of corrected visual acuity (equivalent to 1/100 white test object), or
- c. a combination of visual defects resulting in the same degree of visual loss as that occurring in (a) or (b) above.

Part 10: Pre-injury average weekly earnings

****This Part does not apply to exempt workers****

Part 10: Pre-injury average weekly earnings do not apply to exempt workers.

This part applies to workers injured on or after 21 October 2019.

10.1 Pre-injury average weekly earnings of apprentices, trainees and young people

Clause 5(4) of Schedule 3 to the 1987 Act states that the Guidelines may make provision for the matters to be taken into account to determine the weekly earnings a worker is likely to have been entitled to in a week had the injury not occurred and they had continued in the employment.

Apprentices, trainees and young people who are entitled to weekly payments must have their PIAWE adjusted at each age or stage after their injury when such an increment is due.

When adjusting the PIAWE the insurer is to assess against the considerations included in table 10.1.

Table 10.1 Considerations, in order of priority:

Consideration	Detail
The relevant Award or Enterprise Bargaining Agreement (EBA)	If the worker is paid in accordance with an Award or EBA then the hourly base rate of pay and any applicable penalty rates and allowances are to be used.
A comparable relevant Award or EBA	If the worker is not paid in accordance with an Award or EBA, however there is a similar relevant Award or EBA that could apply to the worker, this may be used.
Comparable average earnings (where no Award or EBA applies to the worker)	A rate can be determined by reference to the average weekly amount earned by other persons who have attained the age or stage in employment for the performance of similar work as the worker. The rate determined is to be based on the date the amount is to be applied.

When deciding on the most appropriate rate for an apprentice, trainee or young person, an insurer must give regard to relevant allowances (if any) that would have been payable to the worker had they not been injured.

Overtime hours and shift work performed prior to the injury should be included at the rate applicable at the time any increase in PIAWE is determined. This is to reflect the pattern of overtime and shift work prior to injury, as identified when PIAWE is first determined for the worker.

The new PIAWE is calculated to take effect from:

- with respect to apprentices and trainees, the anniversary from commencement of the workers apprenticeship or training, or
- with respect to young people, each birthday after the workers injury until they reach the age of 21 years (where an increment is applicable).

10.2 Determining whether a benefit has been provided and whether the worker is entitled to use of the benefit

Clause 6(4) of Schedule 3 to the 1987 Act states that the Guidelines may make provision for the matters to be taken into account to determine whether a non-monetary benefit has been provided to a worker and whether the worker is entitled to the use of that benefit.

An insurer is to determine if a benefit has been provided to a worker by requiring the employer to provide the tax reporting records kept by the employer about that worker.

An employer is obliged to record the value of fringe benefits provided to their workers for Australian Tax Office reporting purposes. They may also have to report the notional value of some benefits which are exempt from fringe benefits tax.

A worker is considered to have been provided with a non-monetary benefit if they have use of the benefit at the date of the injury.

Where a non-monetary benefit has been provided to a worker for the performance of work by the worker, which expressly provides a personal benefit to the worker, it should be included in the worker's PIAWE from the date that the benefit has been relinquished by the worker or withdrawn by the employer post-injury.

The insurer is to consider the following to ascertain whether a worker is entitled to the use of a non-monetary benefit:

- if a worker continues to have access to the non-monetary benefit for personal use
- whether the provision of the non-monetary benefit/s are specified in the worker's contract of employment
- other evidence in writing from the worker and/or the employer

If a non-monetary benefit was provided or removed during the relevant earning period, written evidence is to be requested from the employer about the change. This is to include the date of effect of the change.

If a worker has relinquished, or an employer has withdrawn, a non-monetary benefit post injury, the insurer is to request written evidence from the worker and/or the employer including the date which this took effect, to enable the insurer to promptly re-calculate PIAWE.

10.3 Monetary value of non-monetary benefits

Schedule 3, clause 7(1)(b) of the 1987 Act states that the Guidelines may determine an amount which is reasonably payable for a non-monetary benefit that is not a fringe benefit or not otherwise subject to fringe benefits tax.

When fringe benefits tax does not apply to a non-monetary benefit (for example, benefits provided to employees of most not-for-profit organisations) the insurer must determine a reasonable value for that non-monetary benefit. The reasonable value is to be determined as a pre-tax value expressed as a weekly amount.

Insurers are to refer to the following when determining the monetary value of a non-monetary benefit:

- Pay As You Go (PAYG) summaries provided to the worker, or accounting / tax return information for working directors
- the worker's contract of employment
- records kept by the employer as to the value of the non-monetary benefit
- any records kept by the worker

Insurers may consider other available information where appropriate to do so.

10.3.1 Residential accommodation not subject to fringe benefits tax

If a worker is provided with residential accommodation which is not subject to fringe benefits tax, the monetary value is the amount that would reasonably be payable for that accommodation or equivalent accommodation in the same area, if it were let on commercial terms, as a weekly rate.

To establish the value as a weekly rate the insurer is to have regard to relevant and current real estate guide information for rental properties in a similar location and size to that provided to the worker by the employer.

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident third party (CTP) insurance and home building compensation in NSW. It may include details of some of your obligations under the various schemes that the State Insurance Regulatory Authority (SIRA) administers.

However, to ensure you comply with your legal obligations you must refer to the appropriate legislation as currently in force. Up to date legislation can be found at the NSW Legislation website legislation.nsw.gov.au

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