



# *Government Gazette*

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## Pesticides Act 1999

### Order granting exemption under section 115

#### Background

- A. The NSW Environment Protection Authority (**EPA**) may exempt any person or class of persons from any specified provision or provisions of the *Pesticides Act 1999* (**the Act**) or regulations in the circumstances referred to in section 115 of the Act.
- B. In December 2020, Lot 1 / DP 447543, comprising approximately 559 hectares in Shanes Park, was transferred to the National Parks and Wildlife Service (**NPWS**).
- C. The NPWS is proposing to establish a feral predator-free area in Shanes Park, for the purposes of reintroducing locally extinct native species.
- D. On 23 December 2022 an order under section 115 of the Act was published in the NSW Government Gazette granting NPWS an exemption to allow NPWS to use the restricted pesticide sodium fluoroacetate (**1080**) in baits and ejector capsules in Shanes Park within 150 meters of a habitation. This order expired on 31 October 2024.
- E. On 22 February 2023, the Governor of the State of New South Wales, by notice published in the Government Gazette (n2023-0332) reserved the land being Lot 1 DP447543 (exclusive of Lot 1 DP1070840 and exclusive of the strip of land 50m wide and variable) under s30A(1)(a) of the *National Parks and Wildlife Act 1974*, and under section 30A(2) assigned it the name Yiraaldiya National Park.
- F. The Shanes Park feral predator-free area is now known as the Yiraaldiya National Park Feral Predator-Free Area (**Yiraaldiya FPFA**). Prior to the reintroduction of native species, NPWS will seek to eradicate feral predators (foxes and feral cats) in Yiraaldiya FPFA.
- G. To eradicate foxes from Yiraaldiya FPFA, NPWS proposes to conduct a baiting program using the restricted pesticide sodium fluoroacetate (**1080**) in baits and ejector capsules.
- H. To eradicate feral cats from Yiraaldiya FPFA, NPWS proposes to use Felixer grooming devices (**Felixers**) loaded with 1080 Felixer cartridges.
- I. The possession and use of 1080 baits, ejector capsules and 1080 Felixer cartridges are regulated by the instructions on the approved label of those pesticides, the conditions of the *Pesticide Control (1080 Bait Product) Order 2020* (**1080 Bait Order**), the *Pesticide Control (1080 Ejector Capsules) Order 2015* (**1080 Capsule Order**) and the *Pesticide Control (1080 Felixer Cartridge) Order 2022* (**1080 Felixer Order**).
- J. It is a condition of the 1080 Bait Order, 1080 Capsule Order and the approved labels of those pesticides that a 1080 bait, ejector capsule and 1080 Felixer cartridge must not be laid within 150 metres of a habitation.
- K. Key baiting locations within the Yiraaldiya FPFA are within 150 metres of a habitation.
- L. It is a condition of the 1080 Felixer Order and the Felixer cartridge approved label that notification must be given to the landholder of every property that has a property boundary within 1 kilometre of a location where a Felixer cartridge is to be used.
- M. Section 15(1) of the Act requires a person to not use a registered pesticide in contravention of any instruction on an approved label for the pesticide.

NSW Environment Protection Authority  
As the environmental steward and regulator of our State we are committed to a sustainable future.  
Join us on our mission to protect tomorrow together.

**Phone:**  
131 555  
**Email:**  
info@epa.nsw.gov.au  
**Website:**  
epa.nsw.gov.au

**Visit:**  
6 Parramatta Square, 10  
Darcy Street, Parramatta  
NSW 2150  
**Mail:**  
Locked Bag 5022,  
Parramatta NSW 2124



- N. Section 39(4) of the Act provides that a person must not contravene a pesticide control order.
- O. NPWS has requested the EPA grant a further exemption for NPWS Officers from the requirements of sections 15(1) and 39(4) of the Act in relation to the use of 1080 baits and ejector capsules in the Yiraaldiya FPFA. NPWS has requested the further exemption order be granted for the maximum allowed timeframe of a further 3 years. NPWS has requested new conditions to be added to the exemption order granted on 23 December 2022 in relation to public notification Requirements, and to allow Felixers loaded with 1080 Felixer cartridges to be placed within 150 metres of a habitation.
- P. NPWS Authorised Control Officers have prepared risk assessments for the baiting program in the Yiraaldiya FPFA in accordance with the NSW DPI Vertebrate Pesticide Manual.
- Q. 1080 baiting will only take place in area/s fully enclosed by a predator proof exclusion fence within the Yiraaldiya FPFA.

## 1. Order

By this Order, the EPA, in circumstances where:

- (i) it is satisfied that it is not practicable to comply with the relevant provisions, and
- (ii) it is satisfied that non-compliance with the provisions will not have any significant adverse effect on public health, property, the environment or trade, and
- (iii) the Board of the EPA has approved the granting of the exemption,

grants the persons referred to in clause 2 of this Order an exemption under section 115 of the Act from complying with the provisions of the Act specified in Table 1 of this Order, subject to the conditions in clause 3 of this Order.

**Table 1**

Section	Provisions subject to exemption under this Order
Section 15 Using pesticide contrary to approved label	(1) A person must not use a registered pesticide in contravention of any instruction on an approved label for the pesticide unless the person— (a) is authorised to do so by a permit, and (b) complies with the permit.
Section 39 Operation of pesticide control order	(4) A person must not contravene a pesticide control order.

## 2. Classes of persons to whom this Order applies

The class of person to whom this Order applies are:

- (i) members of staff of the NPWS as defined in section 6 of the *National Parks and Wildlife Act 1974* who are currently employed as part of the Public Service under Part 4 of the *Government Sector Employment Act 2013* and who are exercising functions under national parks legislation in the (now former) Shanes Park FFA (but recently renamed to Yiraaldiya FPFA) as identified in Schedule 1 of this Order.

## 3. Conditions

The exemption under this Order is subject to the following conditions. The class of persons referred to in clause 2 of this Order must:

### *Pesticide possession and use conditions*

- (i) comply with all conditions of the 1080 Bait Order, except clause 4.4.1 of Schedule 2; with specific regard to laying 1080 baits within 150 metres from a habitation but no

closer than 20 metres;

- (ii) comply with all conditions of the 1080 Capsule Order, except clause 5.4.1 of Schedule 2;
- (iii) comply with all instructions on an approved label for a restricted pesticide containing 1080 (including 1080 Felixer cartridges), except for any conditions imposing restrictions on the placement of baits within a certain distance of dwellings or public buildings, and conditions relating to the notification of individual landowners;
- (iv) comply with all conditions of the 1080 Felixer Order, except clause 4.2 of Schedule 1;

*Management conditions*

- (v) maintain the predator proof fencing in good condition and immediately repair any damage or breaches to the fencing;
- (vi) inspect the integrity of the predator proof fencing on a daily basis;
- (vii) maintain a map of the locations of bait sites and 1080 poisoning notices/poison notices;
- (viii) display 1080 poisoning notices/poison notices at mapped locations;
- (ix) ensure the Felixer notices are displayed at all trail heads and access paths of Yiraaldiya FPFA based on a 1km perimeter of the bait sites where Felixers are being used;
- (x) display 1080 poison notices in relation to Felixers at the predator proof fence entrances to Yiraaldiya within the 1km perimeter to each baiting location where Felixers are being used;
- (xi) maintain accurate pesticide application records when monitoring and applying baits or ejector capsules containing 1080;
- (xii) replace any 1080 poisoning notice/1080 poison notice that becomes damaged or illegible or that has been removed or vandalised;
- (xiii) comply with the public notification requirements under the 1080 Bait Order and the 1080 Capsule Order for activities in the Yiraaldiya FPFA via notification and updates in the Western Weekender newspaper, the Western Weekender online newspaper, and on the NPWS government website. Notification must be given at least 3 days in advance of the date on which NPWS intend on using baits and ejector capsules containing 1080 and thereafter every 6 months for the duration of baiting program subject to this Order;
- (xiv) comply with the notification requirements under the 1080 Felixer Order for activities in the Yiraaldiya FPFA via notification and updates in the Western Weekender newspaper, the Western Weekender online newspaper, as well as on the NPWS government website. Notification must be given at least 3 days in advance of the date on which NPWS intend on using Felixers and thereafter every 6 months for the duration of the baiting program subject this Order;

*Baiting conditions – baiting sites*

- (xv) not lay any bait containing 1080 within 20 metres of a habitation;
- (xvi) not lay any ejector capsule containing 1080 within 20 metres of a habitation;
- (xvii) not place a Felixer containing 1080 Felixer cartridges within 20 metres of a habitation;
- (xviii) not place a Felixer in a location which is visible to the public from the predator proof fence to prevent vandalism and theft;
- (xix) notify the NSW EPA by sending an email to: [info@epa.nsw.gov.au](mailto:info@epa.nsw.gov.au) or by phone on: 131 555 if a Felixer unit and/or 1080 Felixer cartridges are vandalised or stolen;
- (xx) only lay baits, ejector capsules and place Felixers containing 1080 Felixer cartridges within areas that are fully enclosed by predator proof fencing that is fully intact;
- (xxi) not lay any baits, ejector capsules and place Felixers containing 1080 Felixer cartridges within 5 meters of an Aboriginal object or Aboriginal place within the meaning of the *National Parks and Wildlife Act 1974*;
- (xxii) take all reasonable steps to prevent bait stations and Felixers from being damaged or disturbed by equipment, plant, activities or vandalism. This includes moving bait stations and Felixers if activities such as track widening or maintenance are planned;

*Baiting conditions – preparing and laying baits*

- (xxiii) effectively tether surface baits that contain 1080 to prevent corvids or other scavengers from removing baits to outside of the fenced area;
- (xxiv) lay baits prepared from fresh meat so that they are buried, unless they are being used as surface baits;
- (xxv) lay manufactured baits containing 1080 so that they are buried;
- (xxvi) only lay a single bait containing 1080 at each bait station;
- (xxvii) not exceed a combined total of 80 laid baits and ejector capsules containing 1080 at any one time;
- (xxviii) ensure that before a Felixer is made operational and set with 1080 Felixer cartridges, it must be set to photo mode for a minimum of 2 weeks where only photographs are taken. This is to monitor its potential impact on domestic and native animals and the Felixer cannot be set to lethal mode and loaded with 1080 Felixer cartridges unless the threshold for non-target species is below 0.5%;
- (xxix) not exceed a combined total of 10 (ten) 1080 Felixer cartridges in a Felixer at any one time;
- (xxx) take all practicable measures to prevent native animals from consuming or disturbing baits or ejector capsules that contain 1080. This includes moving or temporarily closing bait stations where there is evidence of disturbance by native animals and

varying 1080 delivery methods such as using different meat types or ejector capsules instead of baits;

*Post-baiting conditions*

- (xxxi) bait stations and 1080 ejectors must be inspected at least weekly, subject to adverse weather conditions. Adverse weather conditions include weather conditions that prevent safe access to the bait stations and 1080 ejectors or that would render inspection of the bait sites or 1080 ejectors ineffective or impracticable. In the event that bait stations and 1080 ejectors cannot be inspected because of adverse weather conditions, the obligation to conduct at least weekly inspections is deemed to be discharged until the next calendar week;
- (xxxii) collect and dispose of all untaken baits when required having regard to the duration of the baiting program and the condition of the baits; and
- (xxxiii) transport the carcass of an animal suspected of having been poisoned by 1080 securely so that it is not accessible to people or animals and cannot be dislodged during transport.

#### 4. Duration of exemption

This Order takes effect from the date that the Order is published in the NSW Government Gazette for a period of three (3) years unless otherwise varied or revoked. The Order may be revoked, varied or renewed under section 115(7) of the Act.

#### 5. Interpretation

- (i) To the extent of any inconsistency, a condition in this Order prevails over a condition of the 1080 Bait Order, 1080 Capsule Order, 1080 Felixer Order or an instruction on an approved label for a pesticide containing 1080.
- (ii) With respect to a bait containing 1080 - the following terms have the same meaning as in the 1080 Bait Order:
  - (a) **bait site**;
  - (b) **habitation**;
  - (c) **1080 poisoning notice**.
- (iii) With respect to an ejector capsule containing 1080 – the following terms have the same meaning as in the 1080 Capsule Order:
  - (a) **habitation**;
  - (b) **1080 ejector**;
  - (c) **1080 poison notice**.
- (iv) With respect to a Felixer loaded with 1080 Felixer cartridges – the following terms have the same meaning as in the 1080 Felixer Order:
  - (a) **Felixer**;
  - (b) **1080 Felixer cartridge**;
  - (c) **1080 poison notice**.
- (v) **National parks legislation** has the same meaning as in the *National Parks and Wildlife Act 1974*.

**Note:** Under section 1115(8) of the Act, an exemption may not be granted or renewed so as to have effect for a total period exceeding 5 years. A further exemption granted within 5 years after the expiry of an earlier exemption (being a further exemption that is the same in substance as the earlier exemption) is to be treated as a renewed exemption for the purposes of section 115(8).

A handwritten signature in black ink, appearing to read 'Steve Beaman', with a long horizontal line extending from the end.

**Steve Beaman**

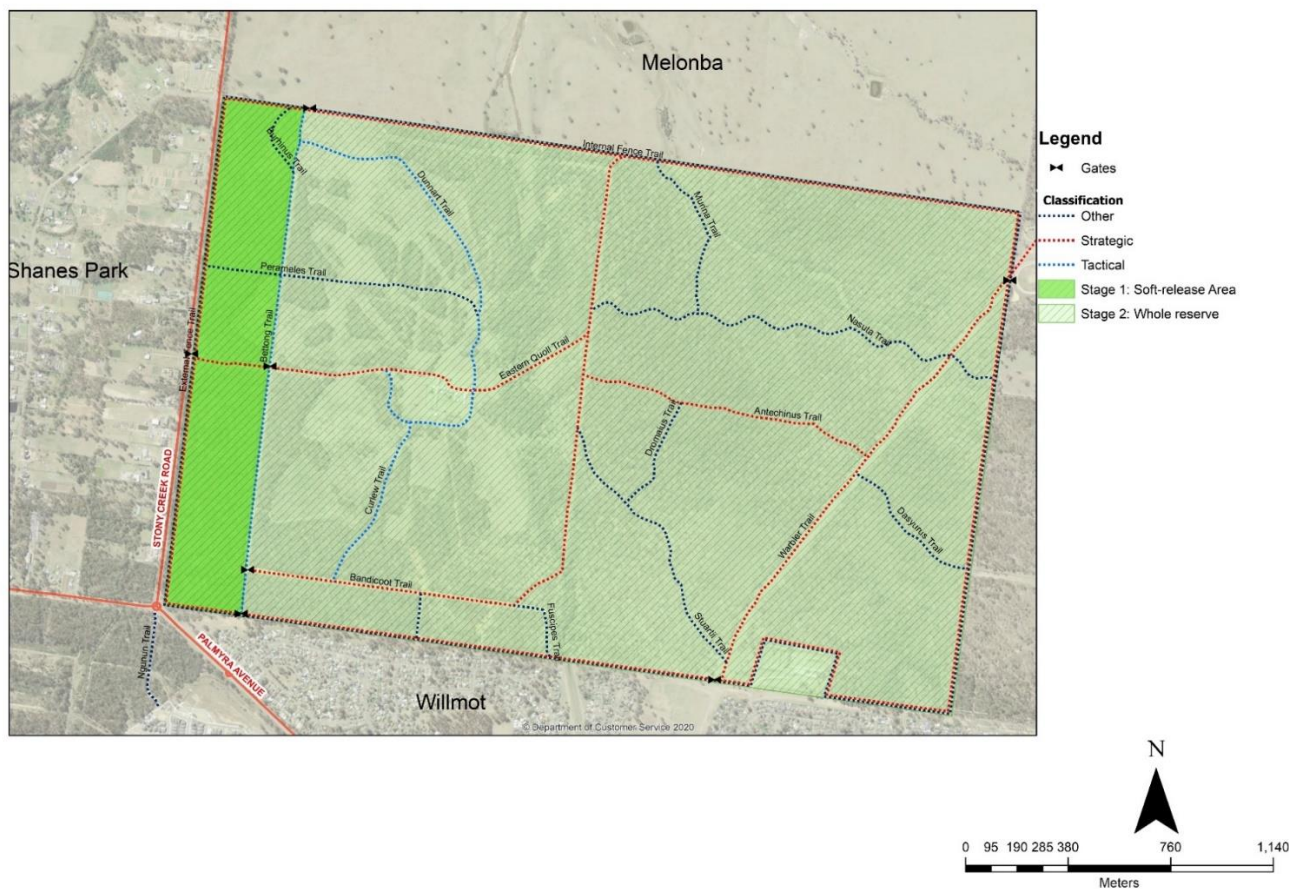
**Executive Director - Regulatory Practice & Services**

**Environment Protection Authority**

**(by delegation)**

**Date: 6 March 2025**

## Schedule 1 – Map of Yiraaldiya National Park Feral Predator Free Area



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**Phone:**  
131 555  
**Email:**  
[info@epa.nsw.gov.au](mailto:info@epa.nsw.gov.au)  
**Website:**  
[epa.nsw.gov.au](http://epa.nsw.gov.au)

**Visit:**  
6 Parramatta Square, 10  
Darcy Street, Parramatta  
NSW 2150  
**Mail:**  
Locked Bag 5022,  
Parramatta NSW 2124



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