



# *Government Gazette*

OF THE STATE OF

NEW SOUTH WALES

**Week No. 49/2012**

**Friday, 7 December 2012**

*Published under authority by  
Department of Premier and Cabinet  
Level 11, Bligh House  
4-6 Bligh Street, SYDNEY NSW 2000  
Phone: 9228 3120 Fax: 9372 7422  
Email: [nswgazette@dpc.nsw.gov.au](mailto:nswgazette@dpc.nsw.gov.au)*

*Containing number 126  
Pages 4915 – 5040*

# CONTENTS

## Number 126

### LEGISLATION

Online notification of the making of Statutory Instruments.....	4915
---	------

### OFFICIAL NOTICES

Appointments .....	4916
Roads and Maritime Services .....	4918
Department of Trade and Investment, Regional Infrastructure and Services .....	4921
Primary Industries .....	4924
Lands.....	4949
Water.....	4961
Other Notices .....	4962

### PRIVATE ADVERTISEMENTS

(Council, Probate, Company Notices, etc).....	5038
---	------

## DEADLINES

### Attention Advertisers . . .

*Government Gazette inquiry times are:*

*Monday to Friday: 8.30 am to 4.30 pm*

**Phone: (02) 9228 3120 Fax: (02) 9372 7422**

**Email: [nswgazette@dpc.nsw.gov.au](mailto:nswgazette@dpc.nsw.gov.au)**

### GOVERNMENT GAZETTE DEADLINES

#### Close of business every Wednesday

Except when a holiday falls on a Friday, deadlines will be altered as per advice given on this page.

#### Christmas deadlines

Due to the Public Holidays over the Christmas and New Year period the deadlines for inclusion in the *Government Gazette* are:

*Christmas* – Gazette will be published on 28 December 2012 the deadline will be close of business on 27 December 2012.

*New Year* – Gazette will be published on 4 January 2013 the deadline will be close of business on 2 January 2013.

#### Special Supplements

A Special Supplement or Extraordinary Supplement is a document which has a legal requirement to commence on a certain date and time. Release of Publication is required on the same day. The request for a Supplement is received from the department to the *Government Gazette* by telephone. The copy must be accompanied by a letter or email requesting the Supplement and signed by a Minister or Head of a Department.

**NOTE:** Advance notice of a Special Supplement is essential as early as possible on the day required. On Thursdays early notice is a priority and when possible notice should be given a day prior being the Wednesday.

#### Please Note:

- *Only electronic lodgement of Gazette contributions will be accepted. If you have not received a reply confirming acceptance of your email by the close of business on that day please phone 9228 3120.*

## Department of Finance and Services Tenders

### SUPPLIES AND SERVICES FOR THE PUBLIC SERVICE

Information in relation to the Department of Finance and Services proposed, current and awarded tenders is available on:

<http://www.tenders.nsw.gov.au>

*SEE the Government Gazette website at:*  
<http://nsw.gov.au/gazette>



# *Government Gazette*

OF THE STATE OF  
NEW SOUTH WALES

**Number 126**  
**Friday, 7 December 2012**

Published under authority by the Department of Premier and Cabinet

## LEGISLATION

### Online notification of the making of statutory instruments

Week beginning 26 November 2012

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

#### Proclamations commencing Acts

[Liquor Amendment \(Kings Cross Plan of Management\) Act 2012 No 91](#) (2012-593) — published LW 30 November 2012

#### Regulations and other statutory instruments

[Liquor Amendment \(Kings Cross\) Regulation 2012](#) (2012-594) — published LW 30 November 2012

[Liquor Amendment \(Special Licence Conditions\) Regulation \(No 2\) 2012](#) (2012-583) — published LW 30 November 2012

[Marine Safety \(General\) Amendment \(Miscellaneous\) Regulation 2012](#) (2012-584) — published LW 30 November 2012

[Mining Amendment \(Coal Royalty\) Regulation 2012](#) (2012-585) — published LW 30 November 2012

[National Parks and Wildlife Amendment \(Registration Labels\) Regulation 2012](#) (2012-586) — published LW 30 November 2012

[Passenger Transport Amendment \(Registration Labels\) Regulation 2012](#) (2012-587) — published LW 30 November 2012

[Security Industry Amendment \(Correctional Centres Exemption\) Regulation 2012](#) (2012-588) — published LW 30 November 2012

#### Environmental Planning Instruments

[Armidale Dumaresq Local Environmental Plan 2012](#) (2012-589) — published LW 30 November 2012

[Gosford Local Environmental Plan No 476](#) (2012-590) — published LW 30 November 2012

[Guyra Local Environmental Plan 2012](#) (2012-591) — published LW 30 November 2012

[Young Local Environmental Plan 2010 \(Amendment No 4\)](#) (2012-592) — published LW 30 November 2012

# OFFICIAL NOTICES

## Appointments

### ART GALLERY OF NEW SOUTH WALES ACT 1980

NSW Trade and Investment

Art Gallery of New South Wales Trust  
Appointment of Trustees

HER Excellency the Governor, with the advice of the Executive Council, has approved, pursuant to section 6 of the Art Gallery of New South Wales Act 1980, the appointment of the following persons as trustees of the Art Gallery of New South Wales Trust from 1 January 2013 to 31 December 2015 (inclusive):

Mr Geoffrey AINSWORTH, AM (reappointment).

Mr Guido BELGIORNO-NETTIS, AM (reappointment).

Dr Mark NELSON (reappointment).

Mr Ben QUILTY (new appointment and section 6(1) appointee as a person who has knowledge and/or experience in the visual arts), and

The Hon. Warwick L. SMITH, AM (new appointment).

The Hon. GEORGE SOURIS, M.P.,  
Minister for the Arts

### AUSTRALIAN MUSEUM TRUST ACT 1975

NSW Trade and Investment

Australian Museum Trust  
Appointment of Trustees

HER Excellency the Governor, with the advice of the Executive Council, has approved, pursuant to section 6 of the Australian Museum Trust Act 1975, the appointment of the following persons as trustees of the Australian Museum Trust from 1 January 2013 to 31 December 2015 (inclusive):

Mr Paul CONNOR (reappointment), and

Ms Belinda GIBSON (new appointment).

The Hon. GEORGE SOURIS, M.P.,  
Minister for the Arts

### CONSTITUTION ACT 1902

Ministerial Arrangements during the Absence of the  
Minister for Sport and Recreation

PURSUANT to section 36 of the Constitution Act 1902, Her Excellency the Governor, with the advice of the Executive Council, has authorised the Honourable V. M. DOMINELLO, M.P., Minister for Citizenship and Communities and Minister for Aboriginal Affairs to act for and on behalf of the Minister for Sport and Recreation, on and from 7 December 2012, with a view to his performing the duties of the Honourable G. ANNESLEY, M.P., during his absence from duty.

BARRY O'FARRELL, M.P.,  
Premier

Department of Premier and Cabinet, Sydney,  
5 December 2012.

### CRIMES (ADMINISTRATION OF SENTENCES) ACT 1999

State Parole Authority  
Appointment of Community Member

HER Excellency the Governor, with the advice of the Executive Council and pursuant to the provisions of the Crimes (Administration of Sentences) Act 1999, has approved the appointment of Rodney (Rod) Graham HARVEY as a community member of the State Parole Authority for a period of three (3) years on and from 28 November 2012.

GREG SMITH, M.P.,  
Minister for Justice

### FILM AND TELEVISION OFFICE ACT 1988

NSW Trade and Investment  
Appointment of Members to  
The Board of the New South Wales Film  
and Television Office

HER Excellency the Governor, with the advice of the Executive Council, has approved, pursuant to section 6A of the Film and Television Office Act 1988, the appointment of the following persons as members of the Board of the New South Wales Film and Television Office from 1 January 2013 to 31 December 2015 (inclusive):

Mr Bob CAMPBELL (new appointment),

Mr Ken REID (reappointment), and

Ms Helen WRIGHT (reappointment as section 6A(3) member from outside the film and television industry and reappointment as Chairperson under section 6(4). Section 6(4) also requires that the Chairperson is to be a member appointed from outside the film and television industry).

The Hon. GEORGE SOURIS, M.P.,  
Minister for the Arts

### GAMING AND LIQUOR ADMINISTRATION ACT 2007

NSW Department of Trade and Investment, Regional  
Infrastructure and Services

Independent Liquor and Gaming Authority  
Appointment of member and Chairperson

HER Excellency the Governor, with the advice of the Executive Council, has reappointed Christopher Dominic SIDOTI pursuant to section 7 of the Gaming and Liquor Administration Act 2007 ('the Act'), as a member of the Independent Liquor and Gaming Authority from 1 January 2013 to 31 December 2017 (inclusive).

Mr Sidoti is also hereby appointed for this term of office as a person who has been an Australian lawyer for at least 7 years, pursuant to section 7(2) of the Act, and as Chairperson of the Authority, pursuant to section 7(3) of the Act.

GEORGE SOURIS, M.P.,  
Minister for Tourism, Major Events,  
Hospitality and Racing  
and Minister for the Arts

**HOME BUILDING ACT 1989**

Home Warranty Insurance Scheme Board  
Appointment of Members

PURSUANT to section 89F of the Home Building Act 1989 and Schedule 1 thereto, I hereby appoint the following persons as members of the Home Warranty Insurance Scheme Board:

- Mr Matthew CURLL;
- Mr Donald MARPLES;
- Mr Greg McCARTHY;
- Ms Denise BOFILL; and
- Mr John McINTYRE.

These appointments will expire on 31 December 2013.

Pursuant to section 2, Clause 1 of Schedule 1 of the Act, I also hereby appoint Mr Matthew CURLL as Chairperson and Mr Donald MARPLES as Deputy Chairperson of the Home Warranty Insurance Scheme Board up until 31 December 2013.

Dated this 3rd day of December 2012.

ANTHONY ROBERTS, M.P.,  
Minister for Fair Trading

**SYDNEY CRICKET AND SPORTS GROUND ACT  
1978**

Department of Education and Communities

Appointment of Trustee to the Sydney Cricket and  
Sports Ground Trust

HER Excellency the Governor, with the advice of the Executive Council, has appointed the following person, pursuant to section 6(1)(a) of the Sydney Cricket and Sports Ground Act 1978, as a member of the Sydney Cricket and Sports Ground Trust for a term commencing on 1 January 2013, up to and including the date indicated below:

Maurice Newman, AC (to 13 July 2015).

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

**MUSEUM OF APPLIED ARTS AND SCIENCES ACT  
1945**

NSW Trade and Investment

Appointment of Trustees to the  
Museum of Applied Arts and Sciences

HER Excellency the Governor, with the advice of the Executive Council, has approved, pursuant to sections 3 and 4 of the Museum of Applied Arts and Sciences Act 1945, the appointment of the following persons as trustees of the Museum of Applied Arts and Sciences from 1 January 2013 to 31 December 2015 (inclusive):

Professor Shirley ALEXANDER (reappointment),  
The Hon. James LONGLEY (reappointment), and  
Dr Judith O'CALLAGHAN (new appointment and section 4(2)(a) appointee as a person who has knowledge of, or experience in, the arts or sciences. This appointment is also pursuant to section 4(2)(b) which requires that the trustees must include at least one person who has knowledge of, or experience in, education).

The Hon. GEORGE SOURIS, M.P.,  
Minister for the Arts

---

## Roads and Maritime Services

---

### ROAD TRANSPORT (GENERAL) ACT 2005

#### Ministerial Declaration (Written-Off Vehicles) Order 2012

I, DUNCAN GAY, M.L.C., Minister for Roads and Ports, pursuant to section 16 of the Road Transport (General) Act 2005, make the following Order.

Dated, this 21st day of November 2012.

DUNCAN GAY, M.L.C.,  
Minister for Roads and Ports

---

#### SCHEDULE

**1. Name of Order**

This Order is the Ministerial Declaration (Written-Off Vehicles) Order 2012.

**2. Commencement**

This Order commences on 1 February 2013.

**3. Effect**

This Order remains in force until 31 January 2014.

**4. Interpretation**

Words and expressions used in this Order have the same meaning as those defined in the Road Transport (Vehicle Registration) Act 1997 ("the Act").

**5. Application**

This order applies to:

- (a) a vehicle recorded on the register of written-off vehicles on the commencement day as a repairable written-off vehicle; and
- (b) a person who makes an application for the issue of an authorisation to repair the vehicle under section 16E of the Act;

in circumstances where RMS is satisfied on evidence provided by the person that they owned the vehicle as at 31 January 2011.

**6. Order**

- (a) sections 16D (1) (b) and 16E(2)(b) of the Act is declared to not apply to a vehicle referred to in clause 5; and
  - (b) section 16D (1) (c) of the Act is declared to not apply to a person referred to in clause 5.
- 

#### Explanatory note

The object of this Order is to permit Roads and Maritime Services to grant an authorisation to repair a vehicle that was recorded on the register of written-off vehicles as a repairable written-off vehicle as at 31 January 2011, and for which an application for authorisation to repair the vehicle is lodged with Roads and Maritime Services between 1 February 2013 and 31 January 2014 inclusive. Such an authorisation to repair may be granted to a person who owned the vehicle as at 31 January 2011, despite the vehicle being declared to be a non-eligible vehicle, or the applicant for the authorisation to repair being declared a non-eligible person, by the Road Transport (Vehicle Registration) Regulation 2007 (the Regulation). The effect of this Order is to extend the transitional arrangements provided for in the Road Transport (Vehicle Registration) Act 1997 (the Act) by a further 12 months.

**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

ORANGE CITY COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which 4.6 metre high vehicles may be used subject to any requirements or conditions set out in the Schedule.

Dated: 4 December 2012.

GARRY STYLES,  
General Manager,  
Orange City Council  
(by delegation from the Minister for Roads)

---

**SCHEDULE****1. Citation**

This Notice may be cited as Orange City Council 4.6 Metre High Vehicle Route Notice No. 1/2012.

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2015 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those 4.6 metre high vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 2 of the Road Transport (Vehicle Registration) Regulation 2007.

**5. Routes**

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
4.6	892	Northern Distributor Road, Orange	Leeds Parade Orange	Ophir Road, Orange	Both directions
4.6	892	Northern Distributor Road, Orange	Ophir Road, Orange	Icely Road, Orange	Both directions
4.6	892	Northern Distributor Road, Orange	Icely Road, Orange	Mitchell Highway, Orange	Both directions
4.6	6	Astill Drive, Orange	Northern Distributor Road, Orange	Colliers Avenue, Orange	Both directions



**ROADS ACT 1993****LAND ACQUISITION (JUST TERMS  
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land at  
Collombatti in the Kempsey Shire Council area

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

T D Craig  
Manager, Compulsory Acquisition & Road Dedication  
Roads and Maritime Services

---

**SCHEDULE**

ALL those pieces or parcels of land situated in the Kempsey Shire Council area, Parish of Yarrabandini and County of Dudley, shown as Lots 34 and 35 Deposited Plan 1175444, being part of the land in Certificate of Title Auto-Consol 679-96.

The land is said to be in the possession of the Estate of the late George Frederick Sutherland.

(RMS Papers: SF2012/13033)



## Department of Trade and Investment, Regional Infrastructure and Services

### MINERAL RESOURCES

NOTICE is given that the following applications have been received:

#### EXPLORATION LICENCE APPLICATIONS

(T12-1279)

No. 4720, MINOTAUR OPERATIONS PTY LTD (ACN 108 925 284), area of 31 units, for Group 1, dated 27 November 2012. (Orange Mining Division).

(T12-1280)

No. 4722, MINOTAUR OPERATIONS PTY LTD (ACN 108 925 284), area of 34 units, for Group 1, dated 28 November 2012. (Orange Mining Division).

(T12-1281)

No. 4723, MINOTAUR OPERATIONS PTY LTD (ACN 108 925 284), area of 49 units, for Group 1, dated 28 November 2012. (Orange Mining Division).

(T12-1282)

No. 4724, SANDFIRE RESOURCES NL (ACN 105 154 185), area of 41 units, for Group 1, dated 30 November 2012. (Orange Mining Division).

(T12-1283)

No. 4725, OCHRE RESOURCES PTY LTD (ACN 112 833 351), area of 46 units, for Group 1, dated 3 December 2012. (Wagga Wagga Mining Division).

(T12-1284)

No. 4726, OCHRE RESOURCES PTY LTD (ACN 112 833 351), area of 33 units, for Group 1, dated 3 December 2012. (Sydney Mining Division).

(T12-1285)

No. 4727, SOUTHERN CAPITAL INVESTMENTS PTY LTD (ACN 098 333 932), area of 33 units, for Group 1, dated 3 December 2012. (Inverell Mining Division).

(T12-1286)

No. 4728, SOUTHERN CAPITAL INVESTMENTS PTY LTD (ACN 098 333 932), area of 60 units, for Group 1, dated 3 December 2012. (Orange Mining Division).

#### MINING LEASE APPLICATION

(11-6783)

No. 446, GLOUCESTER RESOURCES LIMITED (ACN 114 162 597), area of about 242 hectares, for the purpose of any bin, magazine or fuel chute, any building or mining plant, any cable, conveyor, pipeline, telephone line or signal, removal of overburden, plant nursery, any reservoir, dam, drain or water race, any road, railway, tramway, bridge or jetty, stockpiling or depositing of overburden, ore or tailings and storage of fuel, machinery, timber or equipment, dated 16 November 2012. (Singleton Mining Division).

The Hon. CHRIS HARTCHER, M.P.,  
Minister for Resources and Energy

NOTICE is given that the following applications have been granted:

#### EXPLORATION LICENCE APPLICATIONS

(T11-0243)

No. 4336, now Exploration Licence No. 8007, GOODRICH RESOURCES LTD (ACN 150 737 563), Counties of Ashburnham and Kennedy, Map Sheet (8431, 8531), area of 7 units, for Group 1, dated 6 November 2012, for a term until 6 November 2014.

(T11-0288)

No. 4376, now Exploration Licence No. 8021, OXLEY EXPLORATION PTY LTD (ACN 137 511 141), County of Robinson, Map Sheet (8134, 8135), area of 100 units, for Group 1, dated 27 November 2012, for a term until 27 November 2014.

(T11-0299)

No. 4384, now Exploration Licence No. 8022, RESMETCO LTD (ACN 150 566 626), County of Westmoreland, Map Sheet (8830), area of 52 units, for Group 1, dated 27 November 2012, for a term until 27 November 2014.

(T12-1027)

No. 4483, now Exploration Licence No. 8010, SIBELCO AUSTRALIA LIMITED (ACN 000 971 844), County of Roxburgh, Map Sheet (8831), area of 3 units, for Group 2, dated 12 November 2012, for a term until 12 November 2014.

(T12-1031)

No. 4487, now Exploration Licence No. 8025, SANDFIRE RESOURCES NL (ACN 105 154 185), County of Bland, Map Sheet (8329, 8429, 8430), area of 53 units, for Group 1, dated 29 November 2012, for a term until 29 November 2014.

(T12-1124)

No. 4577, now Exploration Licence No. 8012, SOC1 PTY LTD (ACN 158 330 646), Counties of Hawes and Parry, Map Sheet (9134, 9135), area of 100 units, for Group 1, dated 21 November 2012, for a term until 21 November 2014.

(T12-1128)

No. 4581, now Exploration Licence No. 8016, PMR3 PTY LTD (ACN 157 845 620), Counties of Dudley and Raleigh, Map Sheet (9436), area of 100 units, for Group 1, dated 23 November 2012, for a term until 23 November 2014.

(T12-1136)

No. 4589, now Exploration Licence No. 8011, THOMSON RESOURCES LTD (ACN 138 358 728), Counties of Robinson and Yanda, Map Sheet (8035, 8036), area of 100 units, for Group 1, dated 21 November 2012, for a term until 21 November 2014.

(T12-1157)

No. 4607, now Exploration Licence No. 8017, PMR1 PTY LTD (ACN 145 210 528), Counties of Clarke, Sandon and Vernon, Map Sheet (9336), area of 103 units, for Group 1, dated 23 November 2012, for a term until 23 November 2014.

(T12-1161)

No. 4611, now Exploration Licence No. 7998, PMR3 PTY LTD (ACN 157 845 620), Counties of Menindee and Yancowinna, Map Sheet (7133, 7233), area of 55 units, for Group 1, dated 29 October 2012, for a term until 29 October 2014.

(T12-1162)

No. 4612, now Exploration Licence No. 7999, PMR3 PTY LTD (ACN 157 845 620), Counties of Menindee and Yancowinna, Map Sheet (7133), area of 51 units, for Group 1, dated 29 October 2012, for a term until 29 October 2014.

(T12-1164)

No. 4614, now Exploration Licence No. 8000, PMR3 PTY LTD (ACN 157 845 620), County of Yancowinna, Map Sheet (7233, 7234), area of 10 units, for Group 1, dated 29 October 2012, for a term until 29 October 2014.

(T12-1165)

No. 4615, now Exploration Licence No. 8018, PMR3 PTY LTD (ACN 157 845 620), County of Yancowinna, Map Sheet (7133), area of 39 units, for Group 1, dated 23 November 2012, for a term until 23 November 2014.

(T12-1166)

No. 4616, now Exploration Licence No. 8019, NBH RESOURCES PTY LTD (ACN 141 901 939), County of Yancowinna, Map Sheet (7134), area of 30 units, for Group 1, dated 23 November 2012, for a term until 23 November 2014.

The Hon. CHRIS HARTCHER, M.P.,  
Minister for Resources and Energy

NOTICE is given that the following applications have been withdrawn:

#### EXPLORATION LICENCE APPLICATIONS

(T12-1049)

No. 4505, ELSMORE RESOURCES LIMITED (ACN 145 701 033), County of Hardinge, Map Sheet (9137, 9138). Withdrawal took effect on 22 November 2012.

(T12-1170)

No. 4620, KINNMINE PTY LTD (ACN 154 013 135) and Stephen Roy HOARE, County of Yancowinna, Map Sheet (7234). Withdrawal took effect on 12 November 2012.

#### MINING LEASE APPLICATIONS

(T10-0101)

Broken Hill No. 370, Riley WARD, Parish of Yancowinna, County of Yancowinna (7234-2-N, 7234-3-N). Withdrawal took effect on 2 November 2012.

(T10-0252)

Singleton No. 382, Michael John KIELY, Parish of Carrington, County of Gloucester (9332-4-S). Withdrawal took effect on 27 November 2012.

(T10-0253)

Singleton No. 383, Michael John KIELY, Parish of Carrington, County of Gloucester (9332-4-S). Withdrawal took effect on 27 November 2012.

(T10-0254)

Singleton No. 384, WEDGE ROCK PTY LTD (ACN 009 038 123), Parish of Carrington, County of Gloucester (9332-4-S). Withdrawal took effect on 27 November 2012.

(T10-0255)

Singleton No. 385, WEDGE ROCK PTY LTD (ACN 009 038 123), Parish of Carrington, County of Gloucester (9332-4-S). Withdrawal took effect on 27 November 2012.

(T10-0256)

Singleton No. 386, VINTAGE BOAT YARD PTY LTD (ACN 130 160 940), Parish of Carrington, County of Gloucester (9332-4-S). Withdrawal took effect on 27 November 2012.

(T10-0264)

Singleton No. 387, VINTAGE BOAT YARD PTY LTD (ACN 130 160 940), Parish of Carrington, County of Gloucester (9332-4-S). Withdrawal took effect on 27 November 2012.

The Hon. CHRIS HARTCHER, M.P.,  
Minister for Resources and Energy

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

(06-7068)

Assessment Lease No. 15 (Act 1992), CASTLE MOUNTAIN ENTERPRISES PTY LIMITED (ACN 003 274 539), area of 154 hectares. Application for renewal received 29 November 2012.

(M81-3187)

Authorisation No. 311, GLOUCESTER COAL LTD (ACN 008 881 712) and CIM STRATFORD PTY LTD (ACN 070 387 914), area of 5125 hectares. Application for renewal received 28 November 2012.

(11-1142)

Authorisation No. 315, GLOUCESTER COAL LTD (ACN 008 881 712) and CIM STRATFORD PTY LTD (ACN 070 387 914), area of 7610 hectares. Application for renewal received 28 November 2012.

(06-0239)

Exploration Licence No. 6673, DEFIANCE RESOURCES PTY LTD (ACN 119 700 220), area of 16 units. Application for renewal received 3 December 2012.

(T08-0214)

Exploration Licence No. 7255, WHITE ROCK (NEW ENGLAND) PTY LIMITED (ACN 145 026 268), area of 23 units. Application for renewal received 29 November 2012.

(T08-0204)

Exploration Licence No. 7281, JERVOIS MINING LIMITED (ACN 007 626 575), area of 20 units. Application for renewal received 29 November 2012.

(T10-0152)

Exploration Licence No. 7640, SILVER MINES LIMITED (ACN 107 452 942), area of 7 units. Application for renewal received 3 December 2012.

(T10-0178)

Exploration Licence No. 7644, PLATINA RESOURCES LIMITED (ACN 119 007 939), area of 26 units. Application for renewal received 29 November 2012.

(T10-0159)

Exploration Licence No. 7646, VINCENT RESOURCES PTY LTD (ACN 142 721 579), area of 270 units. Application for renewal received 3 December 2012.

(T10-0114)

Exploration Licence No. 7658, GREYSTOKE MINES PTY LTD (ACN 125 517 259), area of 43 units. Application for renewal received 4 December 2012.

The Hon. CHRIS HARTCHER, M.P.,  
Minister for Resources and Energy

---

#### RENEWAL OF CERTAIN AUTHORITIES

NOTICE is given that the following authorities have been renewed:

(T03-0027)

Exploration Licence No. 6098, OMYAAUSTRALIA PTY LIMITED (ACN 001 682 533), County of Bathurst, Map Sheet (8830), area of 4 units, for a further term until 9 July 2016. Renewal effective on and from 28 November 2012.

(T03-0058)

Exploration Licence No. 6181, CLANCY EXPLORATION LIMITED (ACN 105 578 756), Counties of Bathurst and Wellington, Map Sheet (8731), area of 29 units, for a further term until 18 January 2014. Renewal effective on and from 27 November 2012.

(T03-0890)

Exploration Licence No. 6341, ARK MINES LIMITED (ACN 123 668 717), County of Yanda, Map Sheet (8036), area of 24 units, for a further term until 9 November 2013. Renewal effective on and from 22 October 2012.

(T07-0488)

Exploration Licence No. 7152, ILUKA RESOURCES LIMITED (ACN 008 675 018), County of Perry, Map Sheets (7332, 7431, 7432), area of 124 units, for a further term until 18 June 2014. Renewal effective on and from 3 December 2012.

(T09-0106)

Exploration Licence No. 7444, GOLD FIELDS AUSTRALASIA PTY LTD (ACN 087 624 600), Counties of Kennedy and Narromine, Map Sheet (8532), area of 20 units, for a further term until 19 January 2014. Renewal effective on and from 26 November 2012.

(T09-0237)

Exploration Licence No. 7468, TRI ORIGIN MINING PTY LIMITED (ACN 115 529 112), County of Argyle, Map Sheet (8728), area of 13 units, for a further term until 4 March 2014. Renewal effective on and from 3 December 2012.

The Hon. CHRIS HARTCHER, M.P.,  
Minister for Resources and Energy

---

#### WITHDRAWAL OF APPLICATIONS FOR RENEWAL

NOTICE is given that the applications for renewal in respect of the following authorities have been withdrawn:

(07-0392)

Exploration Licence No. 7000, RAPTOR MINERALS LIMITED (ACN 101 168 343), Counties of Fitzgerald, Yantara and Yungnulgra, Map Sheet (7437, 7537), area of 100 units. The authority ceased to have effect on 30 November 2012.

(07-0385)

Exploration Licence No. 7087, PANGAEA MINERALS PTY LIMITED (ACN 120 631 316), Counties of Georgiana and Westmoreland, Map Sheet (8829, 8830), area of 24 units. The authority ceased to have effect on 30 November 2012.

(12-5165)

Mineral Lease No. 3300, Colin James JILLET and Ronald Cleve JILLET, area of 4.05 hectares. The authority ceased to have effect on 19 October 2012.

The Hon. CHRIS HARTCHER, M.P.,  
Minister for Resources and Energy

## PRIMARY INDUSTRIES

## STOCK DISEASES ACT 1923

Notification No. 1827 – Cattle Tick (*Rhipicephalus microplus*)

671 Grady's Creek Road, Grady's Creek via Kyogle NSW 2474

I, KATRINA ANN HODGKINSON, Minister for Primary Industries, pursuant to section 10 of the Stock Diseases Act 1923 ("the Act"), declare the land described in the following Schedule to be a quarantine area on account of the presence or suspected presence of Cattle Tick (*Rhipicephalus microplus*) in cattle, horses, sheep, goats & donkeys ("the stock").

Note: It is an offence under section 20C (1) (c) of the Act to move any of the stock or cause or permit any of the stock to be moved out of a quarantine area, unless they are moved in accordance with a permit under section 7 (6) or an order under section 8 (1) (b) or when all of the conditions set out in section 20C (3) are satisfied.

The course of action to be taken by the owner or occupier of the land in the quarantine area or the owner or person in charge of the stock in the quarantine area shall be as ordered by an inspector

## SCHEDULE

Owner	Mr Anthony Baker
Shire	Kyogle
County	Rous
Parish	Sherwood
Land	Lot 872 in DP 803186

Dated this 13th day of November 2012.

KATRINA HODGKINSON, M.P.,  
Minister for Primary Industries

## PLANT DISEASES (NSW FRUIT FLY EXCLUSION ZONE AND GREATER SUNRAYSIA PEST FREE AREA) (No. 2) ORDER 2012

under the Plant Diseases Act 1924

I, SATENDRA KUMAR, Director, Plant Biosecurity, with the delegated authority of the Minister for Primary Industries in pursuance of section 3A of the Plant Diseases Act 1924 ("the Act"), and in pursuance of sections 3 (2) and 4 of the Act being of the opinion that the importation, introduction or bringing of host fruit into specified portions of New South Wales is likely to introduce the pest Queensland fruit fly (*Bactrocera tryoni*) into specified portions of New South Wales, make the following Order regulating the importation, introduction or bringing of host fruit into specified portions of New South Wales.

## 1 Name of Order

This Order is the Plant Diseases (NSW Fruit Fly Exclusion Zone and Greater Sunraysia Pest Free Area) (No. 2) Order 2012.

## 2 Commencement

This Order commences on the date it is published on the Department's internet website.

## 3 Interpretation

In this Order:

**approved treatment** means the treatment and manner and timing of harvest and packing relevant to the type of host fruit, as specified in Schedule 7.

**approved systems approach** means the risk management measures relevant to the type of host fruit, as specified in Schedule 8.

**APVMA** means the Australian Pesticides and Veterinary Medicines Authority.

**area freedom certificate** means a certificate:

- (a) approved by the officer responsible for plant biosecurity in the State or Territory where the host fruit was grown or packed, and
- (b) certifying that the State or Territory or that part of the State or Territory where the host fruit was grown or packed is known to be free of Queensland fruit fly.

**assorted tropical and sub-tropical fruits – inedible peel** means the host fruit specified in Schedule 4, being host fruit classified as such in accordance with the Codex Classification of Foods and Animal Feeds.

**authorised person** means an inspector or a person authorised pursuant to section 11 (3) of the Act.



**cart note** means a written document that is:

- (a) required under the Part VIA (Label integrity program) of the Wine Australia Corporation Act 1980 (Cth), to accompany all consignments of wine grapes; and
- (b) issued by the owner or occupier of a vineyard.

**certificate** means a Plant Health Certificate or a Plant Health Assurance Certificate.

**Certification Assurance Arrangement** means an arrangement approved by the Department of Primary Industries which enables a business accredited under the arrangement to certify that certain quarantine requirements have been satisfied for the movement of host fruit to interstate and/or intrastate markets.

*Note:* An example of an approved Certification Assurance Arrangement is the Interstate Certification Assurance (ICA) Scheme.

**citrus fruits** means the host fruit specified in Schedule 5, being host fruit classified as such in accordance with the Codex Classification of Foods and Animal Feeds.

**composite lots** means a consignment comprising packages of different types of host fruit sourced from one or more suppliers.

**Codex Classification of Foods and Animal Feeds** means the listing of food commodities in trade classified into groups on the basis of the commodity's similar potential for pesticides residues, as published by the Joint Food and Agriculture Organization of the United Nations (FAO)/World Health Organisation (WHO) Food Standards Programme Codex Alimentarius Commission (publication available at <http://www.codexalimentarius.net>).

**free of broken skin** means the skin has no pre-harvest cracks, punctures, pulled stems or other breaks which penetrate through the skin and that have not healed with callus tissue.

**Greater Sunraysia (NSW Portion) Pest Free Area** means the portion of New South Wales described in Schedule 2.

**Greater Sunraysia (Victoria Portion) Pest Free Area** means the part of Victoria declared as a restricted area under section 20 of the Plant Health and Plant Products Act 1995 (Vic) for the control of Queensland fruit fly.

**host fruit** means fruit of a type specified in Schedule 3 that is fresh, but does not include processed fruit.

**lot** means a discrete quantity of fruit received from one grower at one time.

**New South Wales Fruit Fly Exclusion Zone or NSW FFEZ** means the portion of New South Wales specified in Schedule 1.

**outbreak area** means an area within a 1.5 kilometre radius of the epicentre of an outbreak of Queensland fruit fly.

**Phylloxera Exclusion Zone** means an area that is within the definition of "Phylloxera Exclusion Zone" in the National Phylloxera Management Protocol: Definitions of Phylloxera Management Zones as published by the National Vine Health Steering Committee (publication available at <http://www.gwrdc.com.au>).

**Plant Health Assurance Certificate** means a document (known as a Plant Health Assurance Certificate) issued by a business accredited under a Certification Assurance Arrangement.

**Plant Health Certificate** means a document (known as a Plant Health Certificate) issued by:

- (a) an authorised person; or
- (b) a person authorised to issue such a certificate under a law of another State or Territory that relates to plant biosecurity.

**processed fruit** means fruit that has been subjected to a processing activity such as cooking, drying, canning, juicing or freezing and includes pre-prepared fresh fruit that has been chopped, sliced or shredded, and packaged.

**Queensland fruit fly** means the pest *Bactrocera tryoni* (Froggatt).

**suspension area** means an area within a 15 kilometre radius of the epicentre of an outbreak of Queensland fruit fly (excluding an outbreak area).

**the Act** means the Plant Diseases Act 1924.

*Note:* **Department, covering or package, inspector, occupier and owner** all have the same meaning as in the Act.

#### 4 Revocation

Pursuant to sections 4 and 3 (2) of the Act, the Plant Diseases (NSW Fruit Fly Exclusion Zone and Greater Sunraysia Pest Free Area) Order 2012 published in *NSW Government Gazette* No. 44 of 27 April 2012 at pages 1004 to 1015, is revoked (as is any instrument revived as a result of this revocation).

#### 5 Regulation of the movement of host fruit

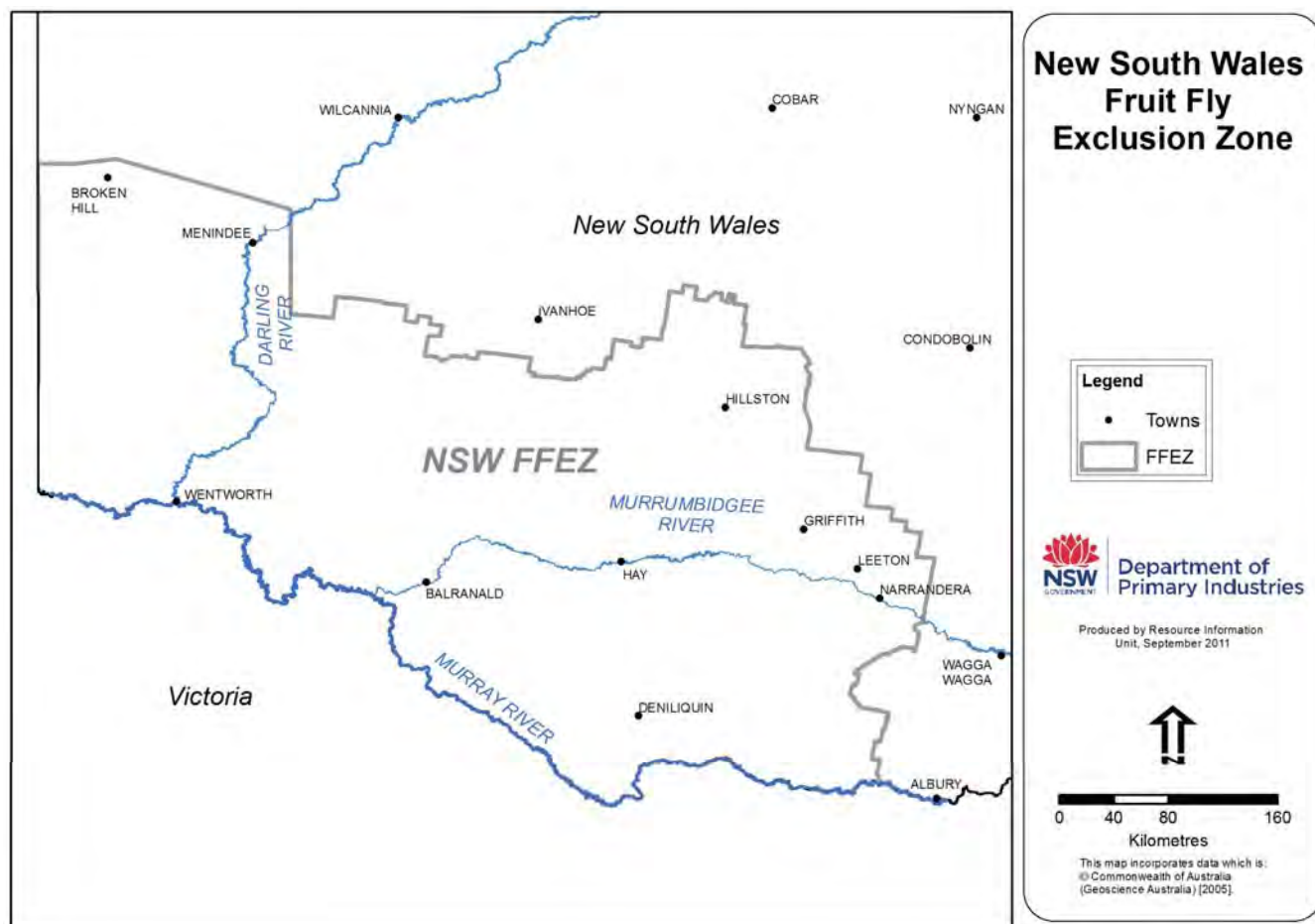
- (1) Pursuant to section 4 (1) of the Act, the importation, introduction or bringing of host fruit into specified portions of New South Wales is regulated as specified in this clause.
- (2) Host fruit from any area outside the NSW FFEZ must not be moved into the NSW FFEZ (excluding the Greater Sunraysia (NSW Portion) Pest Free Area) unless:
  - (a) the host fruit is grown and packed in a State or Territory, or part of a State or Territory, for which an area freedom certificate is currently in force and the packaging containing the host fruit is legibly marked with:
    - (i) the name and postcode of the city or town nearest to the locality where the host fruit was grown; and
    - (ii) a description of the contents of the package; or

- (b) the host fruit has been inspected and found to be free of Queensland fruit fly and is accompanied by:
    - (i) a Plant Health Certificate certifying:
      - (A) the origin of the host fruit; and
      - (B) that the host fruit has been inspected and found to be free of Queensland fruit fly; or
    - (ii) a Plant Health Assurance Certificate issued under a Certification Assurance Arrangement; or

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-47 Inspection of fresh fruits and vegetables for freedom from Fruit Fly.
  - (c) the movement is as specified in Schedule 6 and complies with the relevant conditions of exception set out in Schedule 6.
- (3) Host fruit from any area outside the Greater Sunraysia (NSW Portion) Pest Free Area must not be moved into the Greater Sunraysia (NSW Portion) Pest Free Area, unless:
- (a) the host fruit is grown and packed within the Greater Sunraysia (Victoria Portion) Pest Free Area (excluding any outbreak area and suspension area) and legibly marked with:
    - (i) the name and postcode of the city or town nearest to the locality where the host fruit was grown; and
    - (ii) a description of the contents of the package; or
  - (b) the movement is as specified in Schedule 6 and complies with the relevant conditions of exception set out in Schedule 6.
- (4) Host fruit grown and packed within the Greater Sunraysia (NSW Portion) Pest Free Area (excluding any outbreak area and suspension area) must not be moved into the NSW FFEZ unless the packaging containing the host fruit is legibly marked with:
- (a) the name and postcode of the city or town nearest to the locality where the host fruit was grown; and
  - (b) a description of the contents of the package.
- (5) The movement of any host fruit in accordance with paragraph 1 of Schedule 6 must be accompanied by:
- (a) a Plant Health Certificate certifying:
    - (i) the origin of the host fruit; and
    - (ii) that the host fruit has been grown and packed in an area free of Queensland fruit fly; or
  - (b) a Plant Health Assurance Certificate issued under a Certification Assurance Arrangement; or
  - (c) in the case of wine grapes grown in and originating from a Phylloxera Exclusion Zone, a cart note that:
    - (i) includes all information that is required under Part VIA (Label integrity program) of the Wine Australia Corporation Act 1980 (Cth); and
    - (ii) declares that:
      - (A) the consignment originates from a Phylloxera Exclusion Zone; and
      - (B) the consignment originates from an area covered by an area freedom certificate for Queensland fruit fly.
- (6) The movement of any host fruit in accordance with paragraph 2 of Schedule 6 must be accompanied by:
- (a) a Plant Health Certificate certifying:
    - (i) the origin of the host fruit; and
    - (ii) that the host fruit has received an approved treatment; or
    - (iii) that the host fruit has been grown and packed in accordance with an approved systems approach; or
  - (b) a Plant Health Assurance Certificate issued under a Certification Assurance Arrangement; or
  - (c) in the case of wine grapes grown in and originating from a Phylloxera Exclusion Zone, a cart note that:
    - (i) includes all information that is required under Part VIA (Label integrity program) of the Wine Australia Corporation Act 1980 (Cth); and
    - (ii) declares that:
      - (A) the consignment originates from a Phylloxera Exclusion Zone; and
      - (B) the consignment has been handled and processed in accordance with clause 4 of Schedule 8.
- (7) Host fruit that has been moved in accordance with clause 5 (2) (b) or Schedule 6 and the accompanying certificate or cart note must, on arrival in the NSW FFEZ or the Greater Sunraysia (NSW Portion) Pest Free Area, be presented:
- (a) to a business accredited under a Certification Assurance Arrangement; or
  - (b) to an authorised person, or
  - (c) in the case of a cart note, to the receiving processor,
- for verification that the host fruit corresponds with the accompanying certificate or cart note.

## SCHEDULE 1 – New South Wales Fruit Fly Exclusion Zone

All land in the Local Government Areas of: Balranald, Berrigan, Broken Hill, Carrathool, Conargo, Deniliquin, Griffith, Hay, Jerilderie, Leeton, Murray, Murrumbidgee, Narrandera, Urana, Wakool, Wentworth and, that part of Central Darling Local Government Area, being the area south and west of Balaka Lake, and all of Corowa Local Government Area EXCLUDING that part of Corowa Local Government Area east of a line which commences at the intersection of Lavis Road, County of Hume, Parish of Quat Quatta, Local Government Area of Greater Hume and Carroll Lane, County of Hume, Parish of Quat Quatta, Local Government Area of Corowa, and proceeds in a generally southerly direction along Carroll Lane to where Carroll Lane intersects with the Riverina Highway and then continues along the same bearing as Carroll Lane until the line intersects with the Murray River, and all land in that part of the western unincorporated area of the State south of Stephens Creek.



## SCHEDULE 2 – Greater Sunraysia (NSW Portion) Pest Free Area

The area of land bounded by a line commencing at the intersection of the Murray River and the western boundary of the Parish of Wentworth, County of Wentworth, then in a generally northerly direction by the Parish of Wentworth boundary to its intersection with the Silver City Highway, then in a north westerly direction along the Silver City Highway to the intersection of the Silver City Highway and High Darling Road, then in a north easterly direction along High Darling Road to the intersection of High Darling Road and Polia Road, then in northerly direction along Polia Road to grid line 070 (grid reference 366070, Cuthero), then in a straight line in an easterly direction to Pooncarie – Menindee Road (grid reference 465070 Pooncarie), then in a south easterly direction along Pooncarie – Menindee Road, which becomes Tarcoola Street, which becomes Wentworth – Pooncarie Road, then in a generally south westerly direction along Wentworth – Pooncarie Road to the intersection of Wentworth – Pooncarie Road and an unnamed road (grid reference 943518, Para), then in a south westerly direction along the unnamed road to the intersection with an unnamed road (grid reference 204207, Mildura East), then in a south westerly direction along the unnamed road to the intersection with an unnamed road (grid reference 174111, Mildura East), then in a south easterly direction along the unnamed road to the intersection of the unnamed road and the Sturt Highway (grid reference 230035, Karadoc), then in a south easterly direction along the Sturt Highway to the intersection with an unnamed road (grid reference 537763, Robinvale), then in a northerly direction along the unnamed road to the intersection with an unnamed road (grid reference 547778, Robinvale), then in a generally easterly direction along the unnamed road to the intersection with Leslie Drive (grid reference 604767, Robinvale), then in an easterly direction along Leslie Drive to an intersection with an unnamed road (grid reference 620766, Robinvale), then along the unnamed road to an intersection with an unnamed road (grid reference 627765, Robinvale), then in a south easterly direction along the unnamed road to the intersection with the Sturt Highway (grid reference 631760, Robinvale), then in a generally easterly direction along the Sturt Highway to an intersection with an unnamed road (grid reference 988714, Waldaira Lake), then in a southerly direction along the unnamed road to the intersection with an unnamed road (grid reference 983675, Waldaira



Lake), then in a generally south easterly direction along the unnamed road to the intersection with an unnamed road (grid reference 040600, Waldaira Lake), then in a straight line in a south easterly direction to the intersection of Weimby – Benongal Road and Weimby Road (grid reference 084536, Waldaira Lake), then in a south easterly direction along Weimby Road, which becomes Weimby – Kyalite Road, to the intersection of Weimby – Kyalite Road and an unnamed road (grid reference 256383, Windomal), then in a straight line in a southerly direction to Wakool River (grid reference 256348, Windomal), then in a south easterly direction along Wakool River to the intersection of Wakool River and Moulamein Road, then in a generally easterly direction along Moulamein Road, to the intersection with the Moulamein Barham Road, then in a generally south westerly direction along the Moulamein Barham Road to its intersection with the northern boundary of the Parish of Barham, County of Wakool, then in a generally south easterly direction along the eastern boundary of the Parish of Barham to its intersection with the Murray River, then in a generally north westerly direction along the Murray River to the point of commencement.

‘Cuthero’ 1:100,000 Topographic Map 7331

‘Karadoc’ 1:50,000 Topographic Map 7329-S

‘Mildura East’ 1:50,000 Topographic Map 7329-N

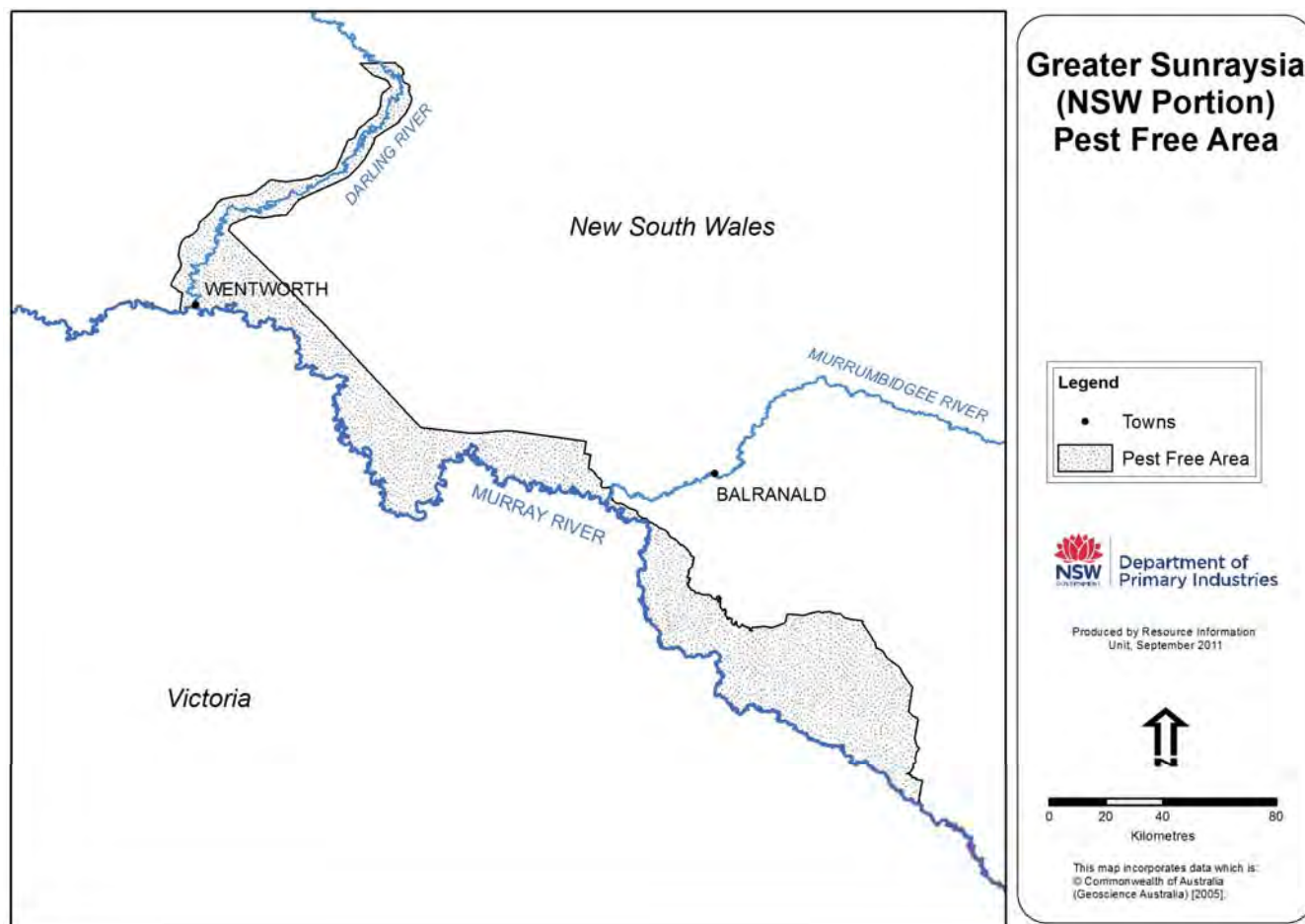
‘Para’ 1:100,000 Topographic Map 7330

‘Pooncarie’ 1:100,000 Topographic Map 7431

‘Robinvale’ 1:50,000 Topographic Map 7428-N

‘Waldaira Lake’ 1:50,000 Topographic Map 7528-N

‘Windomal’ 1:50,000 Topographic Map 7528-S



### SCHEDULE 3 – Host Fruit

Abiu	Chilli	Loganberry	Plum
Acerola	Citron	Longan	Plumcot
Apple	Cumquat	Loquat	Pomegranate
Apricot	Custard apple	Lychee (Litchi)	Prickly pear
Avocado	Date	Mandarin	Pummelo (Pomelo)
Babaco	Durian	Mango	Quince
Banana	Eggplant	Mangosteen	Rambutan
Black sapote	Feijoa	Medlar	Raspberry
Blackberry	Fig	Miracle fruit	Rollinia
Blueberry	Granadilla	Mulberry	Rose apple

Boysenberry	Grape	Nashi	Santol
Brazil cherry (Grumichama)	Grapefruit	Nectarine	Sapodilla
Breadfruit	Guava	Orange	Shaddock
Caimito (Star apple)	Hog plum	Passionfruit	Soursop
Cape gooseberry	Jaboticaba	Papaya	Sweetsop (Sugar apple)
Capsicum	Jackfruit	Peach	Strawberry
Carambola (Starfruit)	Jew plum	Peacharine	Tamarillo
Cashew Apple	Ju jube	Pear	Tangelo
Casimiro (White sapote)	Kiwifruit	Pepino	Tomato
Cherimoya	Lemon	Persimmon	Wax jambus
Cherry	Lime		

---

SCHEDULE 4 – Assorted Tropical and Sub-Tropical Fruits – Inedible Peel

Avocado	Durian	Longan	Pomegranate
Banana	Feijoa	Lychee (Litchi)	Prickly pear
Black sapote	Granadilla	Mango	Rambutan
Breadfruit	Guava (inedible peel varieties only)	Mangosteen	Sapodilla
Caimito (Star apple)	Jackfruit	Passionfruit	Soursop
Casimiro (White sapote)	Kiwifruit	Papaya	Sweetsop (Sugar apple)
Cherimoya	Kiwifruit (inedible peel varieties only)	Persimmon (inedible peel varieties only)	Wax jambus
Custard apple			

---

SCHEDULE 5 – Citrus Fruits

Citron	Lime	Orange	Shaddock
Grapefruit	Mandarin	Pummelo (Pomelo)	Tangelo
Lemon			

---

SCHEDULE 6 – Exceptions for Movement of Host Fruit

**1 Host fruit grown and packed in an area free of Queensland fruit fly**

Movement of host fruit from an area free of Queensland fruit fly, subject to the following conditions:

- (a) Prior to movement, the owner or occupier of the property or facility where the host fruit originates must ensure that:
  - (i) any transport vehicles, used bins or used packaging or coverings containing host fruit are free of soil, plant residues and other organic matter; and
  - (ii) any previous incorrect information displayed on the outer covering of the package is removed and the outer covering is legibly marked with the following information:
    - (A) the district of production; and
    - (B) the name, address, postcode and the State or Territory of both the grower and the packer; or where the packer is sourcing from multiple growers, the name, address, postcode and the State or Territory of the packer; and
    - (C) a brief description of the contents of the package;
- or
- (iii) where the property or facility is owned or occupied by a business accredited under a Certification Assurance Arrangement, the host fruit is packed and labelled in accordance with any conditions prescribed in the Certification Assurance Arrangement.

*Note:* The procedure under an approved Certification Assurance Arrangement for the purposes of this clause is ICA-23 Certification of area or property freedom based on monitoring by the accrediting authority.

**2 Host fruit that has received an approved treatment or that has been grown and packed in accordance with an approved systems approach**

Movement of host fruit that has, prior to movement, received an approved treatment or that has been grown and packed in accordance with an approved systems approach, subject to the following conditions:

- (a) The owner or occupier of the property or facility from which the host fruit originates must ensure the host fruit remains under secure conditions which prevent infestation by Queensland fruit fly, from post harvest to the time of dispatch and transport; and
- (b) Prior to movement, the owner or occupier of the property or facility where the host fruit is packed must ensure that:
  - (i) any used packaging or coverings containing host fruit are free of soil, plant residues and other organic matter; and
  - (ii) in the case of host fruit that has been consigned:
    - (A) as a lot for the purpose of producing smaller packs of host fruit and has been repacked in smaller packs;
- or

- (B) as a packed lot for the purpose of producing composite lots, the host fruit has been received, handled, stored and repacked under secure conditions which prevent infestation by Queensland fruit fly; and
- (iii) any individual package contains only one kind of host fruit; and
- (iv) all previous incorrect information displayed on the outer covering of the package is removed and the outer covering is legibly marked with the following information:
  - (A) the district of production; and
  - (B) the name, address, postcode and the State or Territory of both the grower and the packer; or where the packer is sourcing from multiple growers, the name, address, postcode and the State or Territory of the packer; and
  - (C) a brief description of the contents of the package;or
- (v) where the property or facility is owned or occupied by a business accredited under a Certification Assurance Arrangement, the host fruit is packed and labelled in accordance with the Certification Assurance Arrangement.

#### SCHEDULE 7 – Approved Treatments for Host Fruit

### 1 Definitions

In this Schedule:

**hard condition**, in the case of avocados, means the flesh is not soft or softening, the skin is not cracked and there is no unbroken skin.

**hard green condition**, in the case of bananas, means the fruit is hard and green, with no sign of colouration when assessed over the entire surface area and there is no unbroken skin.

**immature green condition**, in the case of babaco and papaya (excluding defective flower-end type papaya), means the fruit is hard and green and has no ripe colouration.

**mature green condition**, in the case of:

- (a) babaco and papaya (excluding defective flower-end type papaya), means the fruit is hard and has no more than 25% of ripe colouring at the time of packing.
- (b) bananas, means the flesh is hard and not flexible, the skin is green and shows no yellow colouration except for areas towards the flower end of a fruit where the sun has bleached the skin but the flesh beneath is still hard, and has no pre-harvest cracks, splits, punctures or other breaks that penetrate through to the flesh.
- (c) black sapote, means the skin is free from any black colouring and there is no unbroken skin.
- (d) passionfruit, means the skin is smooth and unwrinkled and there is no unbroken skin.
- (e) Tahitian lime, means the skin has no yellow colouration and there is no unbroken skin.

**unbroken skin** means the skin has no pre-harvest cracks, punctures, pulled stems or other breaks which penetrate through the skin and that have not healed with callus tissue.

### 2 Dimethoate Dip

(1) Assorted tropical and sub-tropical fruits – inedible peel (excluding black sapote, breadfruit, jackfruit, longan, defective flower-end type papaya, mango, persimmon, custard apple, cherimoya, soursop, sweetsop and other *Annona* spp.), abiu, rollinia, santol and tamarillo:

- (a) treated postharvest by full immersion in a dip containing 400 mg/L dimethoate for:
  - (i) a period of 1 minute; or
  - (ii) in the case of passionfruit, dipping for a period of 10 seconds provided the fruit remains wet for a further 60 seconds; and
- (b) dipping must be the final treatment before packing.

(2) Citrus fruits:

- (a) treated postharvest by full immersion in a dip containing 400 mg/L dimethoate for a period of 1 minute; and
- (b) dipping must be the final treatment before packing, except where a non-recovery gloss coating (wax) and/or compatible fungicide may be added within 24 hours of treatment.

(3) Mangoes (Kensington Pride, Calypso, R2E2 and Honey Gold varieties only):

- (a) a sample of the lot inspected before treatment and found free of Queensland fruit fly larvae; and
- (b) treated postharvest by full immersion in a dip containing 400 mg/L dimethoate for a period of 1 minute; and
- (c) dipping must be the final treatment before packing.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-01 Dipping with dimethoate or fenthion.

### 3 Dimethoate Flood Spray

- (1) Assorted tropical and sub-tropical fruits – inedible peel (excluding black sapote, breadfruit, jackfruit, longan, defective flower-end type papaya, mango, persimmon, custard apple, cherimoya, soursop, sweetsop and other *Annona* spp.), abiu, rollinia, santol and tamarillo:
  - (a) treated postharvest by flood spraying in a single layer with a mixture containing 400 mg/L dimethoate at a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the fruit for a minimum of 10 seconds after which the fruit must remain wet for a further 60 seconds; and
  - (b) spraying must be the final treatment before packing.
- (2) Citrus fruits:
  - (a) treated postharvest by flood spraying in a single layer with a mixture containing 400 mg/L dimethoate at a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the fruit for a minimum of 10 seconds after which the fruit must remain wet for a further 60 seconds; and
  - (b) spraying must be the final treatment before packing, except where a non-recovery gloss coating (wax) and/or compatible fungicide may be added within 24 hours of treatment.
- (3) Mangoes (Kensington Pride, Calypso, R2E2 and Honey Gold varieties only):
  - (a) a sample of the lot is inspected before treatment and found free of Queensland fruit fly larvae; and
  - (b) treated postharvest by flood spraying in a single layer with a mixture containing 400 mg/L dimethoate with a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the fruit for a minimum of 10 seconds after which the fruit must remain wet for a further 60 seconds; and
  - (c) spraying must be the final treatment before packing.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-02 Flood spraying with dimethoate or fenthion.

### 4 Fenthion Dip

- (1) Assorted tropical and sub-tropical fruits – inedible peel (excluding caimito, mango, persimmon, custard apple, cherimoya, soursop, sweetsop and other *Annona* spp. and defective flower-end type papaya):
  - (a) treated postharvest by full immersion in a dip containing 412.5 mg/L fenthion for:
    - (i) a period of 1 minute; or
    - (ii) in the case of longan, lychee, passionfruit and rambutan, dipping for a period of 10 seconds provided the fruit remains wet for a further 60 seconds; and
  - (b) dipping must be the final treatment before packing.
- (2) Chilli (excluding hollow fruited chilli):
  - (a) treated postharvest by full immersion in a dip containing 412.5 mg/L fenthion for a period of 1 minute; and
  - (b) dipping must be the final treatment before packing.
- (3) Mangoes (Kensington Pride, Calypso, R2E2 and Honey Gold varieties only):
  - (a) a sample of the lot inspected before treatment and found free of Queensland fruit fly larvae; and
  - (b) treated postharvest by full immersion in a dip containing 412.5 mg/L fenthion for a period of 1 minute; and
  - (c) dipping must be the final treatment before packing.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-01 Dipping with dimethoate or fenthion.

### 5 Fenthion Flood Spray

- (1) Assorted tropical and sub-tropical fruits – inedible peel (excluding mango, persimmon, custard apple, cherimoya, soursop, sweetsop and other *Annona* spp. and defective flower-end type papaya) and chilli:
  - (a) treated postharvest by flood spraying, in a single layer with a mixture containing 412.5 mg/L fenthion at a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the host fruit for a minimum of 10 seconds after which the host fruit must remain wet for a further 60 seconds; and
  - (b) spraying must be the final treatment before packing.
- (2) Mangoes (Kensington Pride, Calypso, R2E2 and Honey Gold varieties only):
  - (a) a sample of the lot inspected before treatment and found free of Queensland fruit fly larvae; and
  - (b) treated postharvest by flood spraying in a single layer with a mixture containing 412.5 mg/L fenthion at a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the host fruit for a minimum of 10 seconds after which the host fruit must remain wet for a further 60 seconds; and
  - (c) spraying must be the final treatment before packing.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-02 Flood spraying with dimethoate or fenthion.

**6 Fenthion Non-Recirculating Spray**

- (1) Avocados treated in a single layer non-recirculating system with a mixture containing 412.5 mg/L fenthion at a rate of at least 0.6 L/minute/m<sup>2</sup>, providing complete coverage of the host fruit for a minimum of 10 seconds after which the host fruit must remain wet for a further 60 seconds.
- (2) Mangoes (Kensington Pride, Calypso, R2E2 and Honey Gold varieties only):
  - (a) a sample of the lot inspected before treatment and found free of Queensland fruit fly larvae; and
  - (b) treated in a single layer non-recirculating system with a mixture containing 412.5 mg/L fenthion at a rate of at least 1.2 L/minute/m<sup>2</sup>, providing complete coverage of the host fruit for a minimum of 10 seconds after which the host fruit must remain wet for a further 60 seconds.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-03 Low volume non-recirculated spraying with fenthion.

**7 Methyl Bromide Fumigation**

- (1) Any host fruit:
  - (a) fumigated postharvest with a fumigant containing 1000 g/kg methyl bromide as its only active constituent for 2 hours at the following rates:
    - (i) 10.0°C – 14.9°C at 48 g/m<sup>3</sup>; or
    - (ii) 15.0°C – 20.9°C at 40 g/m<sup>3</sup>; or
    - (iii) 21.0°C + at 32 g/m<sup>3</sup>; and
  - (b) in the case of defective flower end-type papaya, is in a mature green condition.
- (2) In this clause:

**mature green condition** means the fruit is hard and has no more than 25% ripe colouring at the time of packing.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-04 Fumigating with methyl bromide.

**8 Postharvest Cold Treatment**

- (1) Any host fruit (excluding lemons), treated postharvest at a temperature of:
  - (a) 0°C ± 0.5°C for a minimum of 14 days; or
  - (b) 1.0°C ± 0.5°C to 3.0°C ± 0.5°C for a minimum of 16 days.
- (2) Lemons treated post harvest at a temperature of 0.0°C ± 0.5°C to 3.0°C ± 0.5°C for a minimum of 14 days.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-07 Cold treatment.

**9 Hot Water Treatment**

Mangoes treated by full immersion in hot water at a temperature of 46.0°C for a minimum of 10 minutes, as measured in the water and at or as near as practicable to the seed of 3 fruits.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-10 Hot water treatment of mangoes.

**10 High Temperature Forced Air**

Papaya treated in a hot air chamber, at a temperature of 47.2°C for at least 3.5 hours as measured in the seed cavity.

**11 Vapour Heat Treatment**

Mangoes treated by vapour heat at a temperature of:

- (a) 46.5°C for 20 minutes; or
- (b) 47.0°C for 15 minutes.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-05 Vapour heat treatment of mangoes under AQIS supervision.

**12 Gamma Irradiation**

Any host fruit approved for irradiation by the Food Standards Australia New Zealand (FSANZ) treated post harvest with gamma irradiation at a minimum dose of 150Gy.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-55 Irradiation treatment.

**13 Mature green condition**

- (1) Black sapote, passionfruit and Tahitian lime harvested and packed in a mature green condition.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-15 Mature green condition of passionfruit, Tahitian limes and black sapotes.

- (2) Banana harvested and packed in a mature green condition.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-16 Certification of mature green condition of bananas.



**14 Immature green condition**

Papaya (excluding defective flower-end type papaya) and babaco harvested and packed in an immature green condition.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-08 Mature green condition and immature green condition of papaw and babaco.

**15 Hard green condition**

Bananas (Cavendish variety only) in a hard green condition at the time of packing.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-06 Certification of hard green bananas.

**16 Hard condition**

Avocados (Hass and Lamb Hass cultivars only) harvested in a hard condition and stored in secured conditions within 24 hours of harvest.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-30 Hard condition of avocado for Mediterranean fruit fly and Queensland fruit fly.

**17 Unbroken skins**

Durian, jaboticaba, jackfruit, longan, lychee, mangosteen, pomegranate and rambutan harvested and packed with unbroken skin.

*Note:* The procedure under an approved certification assurance arrangement is ICA-13 Unbroken skin condition of approved fruits.

---

**SCHEDULE 8 – Approved Systems Approaches for Host Fruit****1 Pre-harvest treatment and postharvest inspection****(1) Capsicum and chilli:****(a) treated pre-harvest with:**

- (i) dimethoate in accordance with all label and APVMA permit directions for the in-field control of Queensland fruit fly; or
- (ii) a program of cover sprays with a chemical containing 500 g/L trichlorfon or 440 g/L maldison (capsicum only) applied a minimum of 21 days prior to harvest in accordance with all label and APVMA permit directions for the control of Queensland fruit fly; or
- (iii) for capsicum only, grown in Queensland or the Northern Territory and treated with a program of fenthion cover sprays in accordance with all label and APVMA permit directions for the control of Queensland fruit fly; and

**(b) inspected postharvest, where a sample of the lot is inspected and found free of Queensland fruit fly.**

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-26 Pre-harvest treatment and postharvest inspection of tomatoes, capsicums, chillies and eggplant.

**(2) Eggplant and tomato:****(a) treated pre-harvest with a program of cover sprays with a chemical containing 500 g/L trichlorfon applied a minimum of 21 days prior to harvest in accordance with all label and APVMA permit directions for the control of Queensland fruit fly; and****(b) inspected postharvest, where a sample of the lot is inspected and found free of Queensland fruit fly.**

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-26 Pre-harvest treatment and postharvest inspection of tomatoes, capsicums, chillies and eggplant.

**(3) Tomato:****(a) treated pre-harvest with a program of cover sprays with a chemical containing 500 g/L trichlorfon applied a minimum of 21 days prior to harvest in accordance with all label and APVMA permit directions for the control of Queensland fruit fly; and****(b) harvested and packed in a mature green condition.****(c) In subclause (3) (b):**

***mature green condition*** means the tomato has no more than a 2 cm diameter area of pink to red colour at the stylar end at the time of colour sorting after harvest.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-27 Mature green condition of tomatoes.

**(4) Blueberry:****(a) treated pre-harvest with a program of cover sprays with a chemical containing:**

- (i) 400 g/L dimethoate; or
- (ii) 500 g/L trichlorfon; or
- (iii) 440 g/L maldison,

in accordance with all label and APVMA permit directions for the control of Queensland fruit fly; and

(b) sampled and inspected postharvest and found free of Queensland fruit fly larvae.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-21 Pre-harvest treatment and inspection of stonefruit, blueberries, persimmon and pomefruit.

(5) Stonefruit (except cherries):

(a) treated pre-harvest with a program of cover sprays with a chemical containing:

- (i) 500 g/L trichlorfon; or
- (ii) 440 g/L maldison,

in accordance with all label directions for the control of Queensland fruit fly; or

(b) treated pre-harvest with a program of cover sprays with a chemical containing 550 g/L fenthion and followed with at least two (2) cover sprays with a chemical containing:

- (i) 500 g/L trichlorfon; or
- (ii) 440 g/L maldison,

in accordance with all label directions for the control of Queensland fruit fly; and

(c) inspected postharvest at the rate of 1 package in every 100 and found free of Queensland fruit fly larvae and free of broken skins.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-21 Pre-harvest treatment and inspection of stonefruit, blueberries, persimmon and pomefruit.

(6) Cherries:

(a) treated pre-harvest with a program of cover sprays with a chemical containing:

- (i) 500 g/L trichlorfon; or
- (ii) 440 g/L maldison,

in accordance with all label directions for the control of Queensland fruit fly; and

(b) inspected postharvest at the rate of 1 package in every 100 and found free of Queensland fruit fly larvae and free of broken skins.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-21 Pre-harvest treatment and inspection of stonefruit, blueberries, persimmon and pomefruit.

(7) Persimmon and pomefruit:

(a) treated pre-harvest with a program of cover sprays with a chemical containing 500 g/L trichlorfon in accordance with all label directions for the control of Queensland fruit fly; and

(b) inspected postharvest at the rate of 1 package in every 100 and found free of Queensland fruit fly larvae and free of broken skins.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-21 Pre-harvest treatment and inspection of stonefruit, blueberries, persimmon and pomefruit.

(8) Table grape:

(a) treated pre-harvest with a program of:

(i) bait sprays applied to every alternate row of vines at the rate of at least 100 mL per 8 m of vine, at a maximum interval of 7 days commencing 6 weeks prior to harvest to the completion of harvest with:

- (A) an insecticide containing 15.4 L of 0.24 g/L spinosad per 100 L of water; or
- (B) a mixture containing 2 L yeast autolysate protein and 435 mL of 1150 g/L maldison per 100 L of water; or

(ii) cover sprays applied to all vines with a chemical containing:

- (A) 500 g/L trichlorfon; or
- (B) 440 g/L maldison, or

(C) 550 g/L fenthion followed with at least three (3) cover sprays with a chemical containing 500 g/L trichlorfon or 440 g/L maldison,

in accordance with all label and APVMA permit directions for the control of Queensland fruit fly; or

(b) treated with a combined program of bait sprays and cover sprays applied in accordance with all the requirements of (i) and (ii) above, at intervals determined by the type of spray in the most recent application; and

(c) inspected postharvest where a sample of the fruit is inspected and found free of Queensland fruit fly larvae.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-20 Pre-harvest treatment and inspection of grapes.

(9) Strawberries grown in south east Queensland:

(a) treated with a program of Male Annihilation Technique (MAT) devices placed on the perimeter of the source property at 20 metre intervals; and

(b) treated with a program of bait sprays using a mixture of 15.4 L of 0.24 g/L spinosad per 100 L of water in accordance with all label requirements:



- (i) at a rate of 1 litre per hectare applied to the perimeter of all strawberry blocks on the source property; and
- (ii) at a maximum interval of 7 days commencing from:
  - (A) the time of planting; or
  - (B) in the case of ratoon crops (being the second or later crops taken from the regrowth of a crop after it has been harvested once) – 1 May; and
- (iii) applied to the strawberry blocks until:
  - (A) the completion of harvest of all strawberries from the source property; or
  - (B) all strawberries have been removed from the block; or
  - (C) all strawberry plants have been sprayed out or removed from the block; or
  - (D) the pre-harvest cover spray program specified in clause 1 (9) (c) has commenced; and
- (c) treated with a program of cover sprays applied to each block of strawberries grown on the property at an interval of every 7 to 10 days, commencing prior to 10 August until the completion of harvest:
  - (i) with a chemical containing:
    - (A) 500 g/L trichlorfon; or
    - (B) 440 g/L maldison; or
    - (C) 1000 g/L maldison; or
    - (D) 1150 g/L maldison,
 in accordance with all APVMA permit directions for the control of Queensland fruit fly; or
  - (ii) with:
    - (A) a chemical containing 120 g/L spinetoram applied at the maximum rate of 400 mL per hectare of plants and in accordance with APVMA permit and label directions; and
    - (B) a program of bait sprays applied in accordance with clause 1 (9) (b); and
- (d) grown under a field hygiene program including:
  - (i) the disposal of infested or untreated fruit; and
  - (ii) the management of abandoned or spent strawberry blocks,
 in a manner generally accepted as likely to prevent the spread of Queensland fruit fly; and
- (e) inspected during harvest and postharvest in accordance with the specifications of ICA-34 Pre-harvest field control and inspection of strawberries and found free from live Queensland fruit fly infestation.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-34 Pre-harvest field control and inspection of strawberries.

## 2 Pre-harvest treatment and inspection, and post harvest treatment

- (1) Custard apple, cherimoya, soursop, sweetsop and other *Annona* spp:
  - (a) treated pre-harvest with a program of:
    - (i) cover sprays applied to all host fruit trees at a maximum interval of 14 days commencing 6 weeks prior to harvest to the completion of harvest with a mixture containing:
      - (A) 75 mL of 550 g/L fenthion per 100 L of mixture; or
      - (B) 75 mL of 400 g/L dimethoate per 100 L of mixture; or
    - (ii) bait sprays applied at the rate of at least 100 mL to all host fruit trees at a maximum interval of 7 days commencing 6 weeks prior to harvest to the completion of harvest with a mixture containing:
      - (A) 2 L yeast autolysate protein and 435 mL of 1150 g/L maldison per 100 L of water; or
      - (B) 2 L yeast autolysate protein and 780 mL of 500 g/L trichlorfon per 100 L of water; or
      - (C) 15.4 L of 0.24 g/L spinosad per 100 L of water; and
  - (b) inspected postharvest where a sample of the lot is inspected and found free of Queensland fruit fly larvae and free of broken skins; and
  - (c) treated postharvest (final treatment before packing):
    - (i) by full immersion for a period of 1 minute in a dip containing:
      - (A) 400 mg/L dimethoate; or
      - (B) 412.5 mg/L fenthion; or
    - (ii) by flood spraying in a single layer at a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the fruit for a minimum of 10 seconds after which the fruit must remain wet for a further 60 seconds with a mixture containing:
      - (A) 400 mg/L dimethoate; or
      - (B) 412.5 mg/L fenthion.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-18 Treatment and inspection of custard apple and other *Annona* spp., in conjunction with ICA-01 Dipping with dimethoate or fenthion or ICA-02 Flood spraying with dimethoate or fenthion.

- (2) Mangoes (excluding Kensington Pride, Calypso, R2E2 and Honey Gold varieties):
  - (a) treated pre-harvest with a program of:

- (i) cover sprays applied to all host fruit trees at a maximum interval of 14 days commencing 6 weeks prior to harvest to the completion of harvest with a mixture containing:
  - (A) 75 mL of 550 g/L fenthion per 100 L of mixture; or
  - (B) 75 mL of 400 g/L dimethoate per 100 L of mixture; or
- (ii) bait sprays applied at the rate of at least 100 mL to all host fruit trees at a maximum interval of 7 days commencing 6 weeks prior to harvest to the completion of harvest with a mixture containing:
  - (A) 15.4 L of 0.24 g/L spinosad per 100 L of water; or
  - (B) 2 L yeast autolysate protein and 435 mL of 1150 g/L maldison per 100 L of water; and
- (b) inspected postharvest where a sample of the lot is inspected and found free of Queensland fruit fly larvae; and
- (c) treated postharvest (final treatment prior to packing):
  - (i) by full immersion for a period of 1 minute in a dip containing:
    - (A) 400 mg/L dimethoate; or
    - (B) 412.5 mg/L fenthion; or
  - (ii) by flood spraying in a single layer at a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the fruit for a minimum of 10 seconds after which the fruit must remain wet for a further 60 seconds with a mixture containing:
    - (A) 400 mg/L dimethoate; or
    - (B) 412.5 mg/L fenthion,
  - (iii) in a single layer non-recirculating system with a mixture containing 412.5 mg/L fenthion at a rate of at least 1.2 L/minute/m<sup>2</sup>, providing complete coverage of the host fruit for a minimum of 10 seconds after which the host fruit must remain wet for a further 60 seconds.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-19 Treatment and inspection of mangoes, in conjunction with ICA-01 Dipping with dimethoate or fenthion or ICA-02 Flood spraying with dimethoate or fenthion or ICA-03 Low volume non-recirculated spraying with fenthion.

### 3 Fruit fly monitoring, pre-harvest baiting, and postharvest inspection

- (1) Citrus fruits (excluding Meyer lemons) grown in Queensland, west of the coastal ranges and south of latitude 22 south and harvested during the period 1 March to 25 August inclusive:
  - (a) treated with a program of bait sprays applied to all host fruit trees in accordance with all label requirements at a maximum interval of 7 days commencing 12 weeks prior to harvest to the completion of harvest with:
    - (i) a mixture containing 2 L yeast autolysate protein; and
      - (A) 435 mL of 1150 g/L maldison per 100 L of water; or
      - (B) 400 g of 500 g/kg chlorpyrifos per 100 L of water; or
      - (C) 400 mL of 500 g/L chlorpyrifos per 100 L of water; or
      - (D) 780 mL of 500 g/L trichlorofon per 100 L of water; or
    - (ii) a mixture containing 15.4 L of spinosad per 100 L of water; and
  - (b) treated with a program of Queensland fruit fly trapping and monitoring using at least 2 Lynfield or approved equivalent traps, placed so that every tree within the orchard is within 400 m of a trap, which are inspected at least every 7 days and found free of Queensland fruit flies; and
  - (c) inspected postharvest where a sample of the lot is inspected after packing and found free of Queensland fruit fly larvae.
- Note:* The procedure under an approved Certification Assurance Arrangement is ICA-28 Pre-harvest treatment (bait spraying) and inspection of citrus.
- (2) Host fruit grown and packed within a suspension area (excluding an outbreak area) which is under an active eradication program:
  - (a) treated with a program of Queensland fruit fly trapping and monitoring with at least one Queensland fruit fly trap installed on the property, monitored in accordance with the Code of Practice for the Management of Queensland fruit fly; and
  - (b) treated with a program of bait sprays applied:
    - (i) a minimum of 2 weeks prior to harvest to the completion of harvest; and
    - (ii) to all host fruit trees with fruit at a stage susceptible to Queensland fruit fly (unless receiving an alternative program of cover sprays), and
    - (iii) in accordance with all label and APVMA permit directions; and
    - (iv) with a mixture containing:
      - (A) 435 mL of 1150 g/L maldison with 2 litres of yeast autolysate protein lure per 100 litres of water; or
      - (B) 15.4 L of 0.24 g/L spinosad per 100 L of water; and
  - (c) inspected postharvest in accordance with the specification of ICA-56 Pre-harvest baiting and inspection protocol for Pest Free Areas and found free of Queensland fruit fly infestation.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-56 Pre-harvest baiting and inspection protocol for Pest Free Areas.

**4 Untreated wine grapes for processing**

Wine grapes:

- (a) contained in bins or containers cleaned free from all plant debris and soil prior to packing and loading; and
- (b) transported in a vehicle ("the transport vehicle"):
  - (i) cleaned free from all plant debris and soil prior to movement; and
  - (ii) secured so as to prevent infestation by Queensland fruit fly and spillage during transportation by:
    - (A) covering with a tarpaulin, shade cloth, bin cover or other covering; or
    - (B) containing within the transport vehicle; and
  - (iii) travelling by the most direct route to the receiving processor; and
- (c) upon receipt at the receiving processor:
  - (i) processed within 24 hours of receipt; and
  - (ii) all measures to avoid spillage of host fruit are taken and where spillages occur, are disposed of in a manner generally accepted as likely to prevent the spread of Queensland fruit fly; and
  - (iii) all processing wastes are disinfested by heat or freezing, or are buried.

*Note:* The procedure under an approved certification assurance arrangement is ICA-33 Movement of Wine Grapes.

Dated this 16th day of December 2012.

SATENDRA KUMAR,  
Director, Plant Biosecurity,  
Department of Primary Industries

(an office within the Department of Trade and Investment, Regional Infrastructure and Services)

*Note:* The Department's reference is O-432

**PLANT DISEASES (FRUIT FLY OUTBREAKS AMENDMENT) (NO. 2) ORDER 2012**

under the Plant Diseases Act 1924

I, SATENDRA KUMAR, Director, Plant Biosecurity, with the delegated authority of the Minister for Primary Industries in pursuance of section 3A of the Plant Diseases Act 1924 ("the Act"), and in pursuance of sections 3 (2) and 4 of the Act being of the opinion that the importation, introduction or bringing of host fruit into specified portions of New South Wales is likely to introduce the pest Queensland fruit fly (*Bactrocera tryoni*) into specified portions of New South Wales, make the following Order regulating the importation, introduction or bringing of host fruit into specified portions of New South Wales.

**1 Name of Order**

This Order is the Plant Diseases (Fruit Fly Outbreaks Amendment) (No. 2) Order 2012.

**2 Commencement**

This Order commences on the date it is published on the Department's internet website.

**3 Revocation of previous Fruit Fly Outbreaks Amendment Order**

Pursuant to sections 4 and 3 (2) of the Act, the Plant Diseases (Fruit Fly Outbreaks Amendment) Order 2012 published in *NSW Government Gazette* No. 44 of 27 April 2012 at pages 1016 to 1021, is revoked (as is any instrument revoked as a result of this revocation).

**4 Amendment of Schedule 1 Fruit Fly Outbreak Orders**

- (1) Each Order made pursuant to section 4 of the Act and specified in Schedule 1 to this Order ("Schedule 1 Order") is amended as specified in this clause.
- (2) Clause 3 (1) (Interpretation) of each Schedule 1 Order is amended as follows:
  - (a) by omitting the following definitions:
    - (i) *authorised person*,
    - (ii) *certificate*,
    - (iii) *fruiting vegetables, other than cucurbits*,
    - (iv) *hard green*,
    - (v) *immature green condition*,
    - (vi) *mature green*,
    - (vii) *unbroken skin*;
  - (b) by omitting the definition of host fruit and inserting instead:
 

"*host fruit* means fruit of a type specified in Schedule 1 that is fresh, but does not include processed fruit."
  - (c) by omitting the definition of Plant Health Certificate and inserting instead:
 

"*Plant Health Certificate* means a document (known as a Plant Health Certificate) issued by:

    - (a) an authorised person; or

- (b) a person authorised to issue such a certificate under a law of another State or Territory that relates to plant biosecurity.”
  - (d) by inserting (in alphabetical order) the following definition of cart note:
    - “**cart note** means a written document that is:
      - (a) required under the Part VIA (Label integrity program) of the Wine Australia Corporation Act 1980 (Cth), to accompany all consignments of wine grapes; and
      - (b) issued by the owner or occupier of a vineyard.”
  - (e) by inserting (in alphabetical order) the following definition of Phylloxera Exclusion Zone:
    - “**Phylloxera Exclusion Zone** means an area that is within the definition of “Phylloxera Exclusion Zone” in the National Phylloxera Management Protocol: Definitions of Phylloxera Management Zones as published by the National Vine Health Steering Committee (publication available at <http://www.gwrdc.com.au>).”
  - (f) by inserting (in alphabetical order) the following definition of processed fruit:
    - “**processed fruit** means fruit that has been subjected to a processing activity such as cooking, drying, canning, juicing or freezing and includes pre-prepared fresh fruit that has been chopped, sliced or shredded, and packaged.”
- (3) Clause 4 (Regulation of the movement of host fruit) of each Schedule 1 Order is amended by omitting clause 4 and inserting instead the provisions in Schedule 3 to this Order.
  - (4) Schedule 4 (Host fruit classified as “Fruiting vegetables, other than cucurbits”) to each Schedule 1 Order is amended by omitting Schedule 4.
  - (5) Schedule 9 (Approved treatments for host fruit) to each Schedule 1 Order is amended by omitting Schedule 9 and inserting instead the provisions in Schedule 4 to this Order.
  - (6) Schedule 10 (Approved systems approaches for host fruit) to each Schedule 1 Order is amended by omitting Schedule 10 and inserting instead the provisions in Schedule 5 to this Order.

## 5 Amendment of Schedule 2 Fruit Fly Outbreak Orders

- (1) Each Order made pursuant to section 4 of the Act and specified in Schedule 2 to this Order (“Schedule 2 Order”) is amended as specified in this clause.
- (2) Clause 3 (1) (Interpretation) of each Schedule 2 Order is amended as follows:
  - (a) by omitting the definition of fruiting vegetables, other than cucurbits;
  - (b) by omitting the definition of host fruit and inserting instead:
    - “**host fruit** means fruit of a type specified in Schedule 1 that is fresh, but does not include processed fruit.”
  - (c) by inserting (in alphabetical order) the following definition of cart note:
    - “**cart note** means a written document that is:
      - (a) required under the Part VIA (Label integrity program) of the Wine Australia Corporation Act 1980 (Cth), to accompany all consignments of wine grapes; and
      - (b) issued by the owner or occupier of a vineyard.”
  - (d) by inserting (in alphabetical order) the following definition of Phylloxera Exclusion Zone:
    - “**Phylloxera Exclusion Zone** means an area that is within the definition of “Phylloxera Exclusion Zone” in the National Phylloxera Management Protocol: Definitions of Phylloxera Management Zones as published by the National Vine Health Steering Committee (publication available at <http://www.gwrdc.com.au>).”
  - (e) by inserting (in alphabetical order) the following definition of processed fruit:
    - “**processed fruit** means fruit that has been subjected to a processing activity such as cooking, drying, canning, juicing or freezing and includes pre-prepared fresh fruit that has been chopped, sliced or shredded, and packaged.”
- (3) Clause 4 (Regulation of the movement of host fruit) of each Schedule 2 Order is amended by omitting clause 4 and inserting instead the provisions in Schedule 3 to this Order.
- (4) Schedule 4 (Fruiting vegetables, other than cucurbits) to each Schedule 2 Order is amended by omitting Schedule 4.
- (5) Schedule 9 (Approved treatments for host fruit) to each Schedule 2 Order is amended by omitting Schedule 9 and inserting instead the provisions in Schedule 4 to this Order.
- (6) Schedule 10 (Approved systems approaches for host fruit) to each Schedule 2 Order is amended by omitting Schedule 10 and inserting instead the provisions in Schedule 5 to this Order.

## SCHEDULE 1

<i>Department's reference</i>	<i>Title of Order</i>	<i>NSW Government Gazette reference</i>
O-376	Plant Diseases (Fruit Fly Outbreak, Darlington Point NTN 2577) Order 2011	GG No. 103 of 28.10.2011 at pages 6260-6279
O-377	Plant Diseases (Fruit Fly Outbreak, Corbie Hill NTN 2476) Order 2011	GG No. 103 of 28.10.2011 at pages 6280-6299
O-378	Plant Diseases (Fruit Fly Outbreak, Pevensey Place, Echuca) Order 2011	GG No. 103 of 28.10.2011 at pages 6300-6319
O-379	Plant Diseases (Fruit Fly Outbreak, Chester Street, Barham) Order 2011	GG No. 103 of 28.10.2011 at pages 6320-6339
O-381	Plant Diseases (Fruit Fly Outbreak, Deniliquin) Order 2011	GG No. 103 of 28.10.2011 at pages 6200-6219
O-382	Plant Diseases (Fruit Fly Outbreak, Rutherglen) Order 2011	GG No. 103 of 28.10.2011 at pages 6220-6239
O-383	Plant Diseases (Fruit Fly Outbreak, Corowa) Order 2011	GG No. 103 of 28.10.2011 at pages 6240-6259
O-386	Plant Diseases (Fruit Fly Outbreak, Pooley Street, Buronga) Order 2012	GG No. 10 of 27.1.2012 at pages 208-224
O-387	Plant Diseases (Fruit Fly Outbreak, Boynton Lane, Balranald) Order 2012	GG No. 10 of 27.1.2012 at pages 155-171
O-388	Plant Diseases (Fruit Fly Outbreak, Wakool Junction Road, Goodnight North) Order 2012	GG No. 10 of 27.1.2012 at pages 172-188
O-389	Plant Diseases (Fruit Fly Outbreak, Little Forest Lane, Barham East) Order 2012	GG No. 10 of 27.1.2012 at pages 189-205

## SCHEDULE 2

<i>Department's reference</i>	<i>Title of Order</i>	<i>NSW Government Gazette reference</i>
O-391	Plant Diseases (Fruit Fly Outbreak, Campbell Street, Swan Hill) Order 2012	GG No. 50 of 18.05.2012 at pages 1674-1683
O-392	Plant Diseases (Fruit Fly Outbreak, Kenley Road, Kenley) Order 2012	GG No. 50 of 18.05.2012 at pages 1694-1703
O-393	Plant Diseases (Fruit Fly Outbreak, Darlington Point NTN 2582) Order 2012	GG No. 50 of 18.05.2012 at pages 1684-1693
O-394	Plant Diseases (Fruit Fly Outbreak, Kockart Road, Goodnight) Order 2012	GG No. 50 of 18.05.2012 at pages 1644-1653
O-395	Plant Diseases (Fruit Fly Outbreak, Grong Grong NTN 2565) Order 2012	GG No. 50 of 18.05.2012 at pages 1664-1673
O-397	Plant Diseases (Fruit Fly Outbreak, Ivanhoe Road, Menindee) Order 2012	GG No. 50 of 18.05.2012 at pages 1654-1663
O-398	Plant Diseases (Fruit Fly Outbreak, Wentworth Road, Menindee) Order 2012	GG No. 50 of 18.05.2012 at pages 1624-1633
O-399	Plant Diseases (Fruit Fly Outbreak, Swan Hill North West) Order 2012	GG No. 50 of 18.05.2012 at pages 1634-1643
O-400	Plant Diseases (Fruit Fly Outbreak, River Road, Murrabit) Order 2012	GG No. 50 of 18.05.2012 at pages 1604-1613
O-401	Plant Diseases (Fruit Fly Outbreak, Charles Road, Cabarita North) Order 2012	GG No. 50 of 18.05.2012 at pages 1614-1623



<i>Department's reference</i>	<i>Title of Order</i>	<i>NSW Government Gazette reference</i>
O-402	Plant Diseases (Fruit Fly Outbreak, Hillston NTN 2320) Order 2012	GG No. 50 of 18.05.2012 at pages 1584-1593
O-403	Plant Diseases (Fruit Fly Outbreak, Darlington Point NTN 2596) Order 2012	GG No. 50 of 18.05.2012 at pages 1594-1603
O-404	Plant Diseases (Fruit Fly Outbreak, Vinifera Road, Vinifera) Order 2012	GG No. 50 of 18.05.2012 at pages 1564-1573
O-405	Plant Diseases (Fruit Fly Outbreak, Lake Boga) Order 2012	GG No. 50 of 18.05.2012 at pages 1574-1583
O-406	Plant Diseases (Fruit Fly Outbreak, Oswin Road, Beverford) Order 2012	GG No. 50 of 18.05.2012 at pages 1544-1553
O-407	Plant Diseases (Fruit Fly Outbreak, Darlington Point NTN 2583) Order 2012	GG No. 50 of 18.05.2012 at pages 1554-1563
O-410	Plant Diseases (Fruit Fly Outbreak, Euroly) Order 2012	GG No. 50 of 18.05.2012 at pages 1714-1723
O-411	Plant Diseases (Fruit Fly Outbreak, Box Road, Beverford South) Order 2012	GG No. 50 of 18.05.2012 at pages 1704-1713
O-412	Plant Diseases (Fruit Fly Outbreak, Menindee North) Order 2012	GG No. 50 of 18.05.2012 at pages 1734-1743
O-413	Plant Diseases (Fruit Fly Outbreak, Selwyn Street, Euston) Order 2012	GG No. 50 of 18.05.2012 at pages 1724-1733
O-414	Plant Diseases (Fruit Fly Outbreak, Darlington Point NTN 2581) Order 2012	GG No. 50 of 18.05.2012 at pages 1744-1753
O-415	Plant Diseases (Fruit Fly Outbreak, Mathoura NTN 4851) Order 2012	GG No. 50 of 18.05.2012 at pages 1754-1763
O-416	Plant Diseases (Fruit Fly Outbreak, Augustine Road, Cohuna) Order 2012	GG No. 50 of 18.05.2012 at pages 1774-1783
O-417	Plant Diseases (Fruit Fly Outbreak, Swan Hill Road, Speewa) Order 2012	GG No. 50 of 18.05.2012 at pages 1764-1773
O-418	Plant Diseases (Fruit Fly Outbreak, Oleander Drive, Dareton North) Order 2012	GG No. 50 of 18.05.2012 at pages 1794-1803
O-419	Plant Diseases (Fruit Fly Outbreak, Darlington Point NTN 2597) Order 2012	GG No. 50 of 18.05.2012 at pages 1784-1793
O-420	Plant Diseases (Fruit Fly Outbreak, Fisher Drive, Narrung) Order 2012	GG No. 50 of 18.05.2012 at pages 1814-1823
O-421	Plant Diseases (Fruit Fly Outbreak, Murray Valley Highway, Boundary Bend West) Order 2012	GG No. 50 of 18.05.2012 at pages 1804-1813
O-422	Plant Diseases (Fruit Fly Outbreak, Cadell and Scott Street, Tooleybuc Town) Order 2012	GG No. 50 of 18.05.2012 at pages 1824-1833
O-423	Plant Diseases (Fruit Fly Outbreak, Goodnight Road, Goodnight North) Order 2012	GG No. 50 of 18.05.2012 at pages 1834-1843
O-424	Plant Diseases (Fruit Fly Outbreak, Kenley South, Victoria) Order 2012	GG No. 71 of 06.07.2012 at pages 3260-3269

## SCHEDULE 3

**“Clause 4 Regulation of the movement of host fruit**

- (1) Pursuant to section 4 (1) of the Act, the importation, introduction or bringing of host fruit into specified portions of New South Wales is regulated as specified in this clause.
- (2) Host fruit that originates from or has moved through:
  - (a) the Outbreak Area must not be moved into the Suspension Area or the Outer Area;
  - (b) the Suspension Area must not be moved into the Outer Area,except for such movements as are specified in Schedule 8 and which comply with the relevant conditions of exception set out in Schedule 8.
- (3) The movement of any host fruit in accordance with paragraph 1 of Schedule 8 must be accompanied by:
  - (a) a Plant Health Certificate certifying:
    - (i) the origin of the host fruit; and
    - (ii) that the host fruit has received an approved treatment; or
    - (iii) that the host fruit has been grown and packed in accordance with an approved systems approach; or
  - (b) a Plant Health Assurance Certificate issued under a Certification Assurance Arrangement; or
  - (c) in the case of wine grapes grown in and originating from a Phylloxera Exclusion Zone, a cart note that:
    - (i) includes all information that is required under Part VIA (Label integrity program) of the Wine Australia Corporation Act 1980 (Cth); and
    - (ii) declares that:
      - (A) the consignment originates from a Phylloxera Exclusion Zone; and
      - (B) the consignment has been handled and processed in accordance with clause 4 of Schedule 10.
- (4) The movement of any host fruit in accordance with paragraph 2 of Schedule 8 must be accompanied by:
  - (a) a Plant Health Certificate certifying:
    - (i) the origin of the host fruit; and
    - (ii) that the origin of the host fruit is an area free of Queensland fruit fly; or
  - (b) a Plant Health Assurance Certificate issued under a Certification Assurance Arrangement; or
  - (c) in the case of wine grapes grown in and originating from a Phylloxera Exclusion Zone, a cart note that:
    - (i) includes all information that is required under Part VIA (Label integrity program) of the Wine Australia Corporation Act 1980 (Cth); and
    - (ii) declares that:
      - (A) the consignment originates from a Phylloxera Exclusion Zone; and
      - (B) the consignment originates from an area covered by an area freedom certificate for Queensland fruit fly.”

## SCHEDULE 4

**“SCHEDULE 9 – Approved Treatments for Host Fruit****1 Definitions**

In this Schedule:

**hard condition**, in the case of avocados, means the flesh is not soft or softening, the skin is not cracked and there is no unbroken skin.

**hard green condition**, in the case of bananas, means the fruit is hard and green, with no sign of colouration when assessed over the entire surface area and there is no unbroken skin.

**immature green condition**, in the case of babaco and papaya (excluding defective flower-end type papaya), means the fruit is hard and green and has no ripe colouration.

**mature green condition**, in the case of:

- (a) babaco and papaya (excluding defective flower-end type papaya), means the fruit is hard and has no more than 25% of ripe colouring at the time of packing.
- (b) bananas, means the flesh is hard and not flexible, the skin is green and shows no yellow colouration except for areas towards the flower end of a fruit where the sun has bleached the skin but the flesh beneath is still hard, and has no pre-harvest cracks, splits, punctures or other breaks that penetrate through to the flesh.
- (c) black sapote, means the skin is free from any black colouring and there is no unbroken skin.
- (d) passionfruit, means the skin is smooth and unwrinkled and there is no unbroken skin.
- (e) Tahitian lime, means the skin has no yellow colouration and there is no unbroken skin.

unbroken skin means the skin has no pre-harvest cracks, punctures, pulled stems or other breaks which penetrate through the skin and that have not healed with callus tissue.



## 2 Dimethoate Dip

- (1) Assorted tropical and sub-tropical fruits – inedible peel (excluding black sapote, breadfruit, jackfruit, longan, defective flower-end type papaya, mango, persimmon, custard apple, cherimoya, soursop, sweetsop and other *Annona* spp.), abiu, rollinia, santol and tamarillo:
  - (a) treated postharvest by full immersion in a dip containing 400 mg/L dimethoate for:
    - (i) a period of 1 minute; or
    - (ii) in the case of passionfruit, dipping for a period of 10 seconds provided the fruit remains wet for a further 60 seconds; and
  - (b) dipping must be the final treatment before packing.
- (2) Citrus fruits:
  - (a) treated postharvest by full immersion in a dip containing 400 mg/L dimethoate for a period of 1 minute; and
  - (b) dipping must be the final treatment before packing, except where a non-recovery gloss coating (wax) and/or compatible fungicide may be added within 24 hours of treatment.
- (3) Mangoes (Kensington Pride, Calypso, R2E2 and Honey Gold varieties only):
  - (a) a sample of the lot inspected before treatment and found free of Queensland fruit fly larvae; and
  - (b) treated postharvest by full immersion in a dip containing 400 mg/L dimethoate for a period of 1 minute; and
  - (c) dipping must be the final treatment before packing.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-01 Dipping with dimethoate or fenthion.

## 3 Dimethoate Flood Spray

- (1) Assorted tropical and sub-tropical fruits – inedible peel (excluding black sapote, breadfruit, jackfruit, longan, defective flower-end type papaya, mango, persimmon, custard apple, cherimoya, soursop, sweetsop and other *Annona* spp.), abiu, rollinia, santol and tamarillo:
  - (a) treated postharvest by flood spraying in a single layer with a mixture containing 400 mg/L dimethoate at a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the fruit for a minimum of 10 seconds after which the fruit must remain wet for a further 60 seconds; and
  - (b) spraying must be the final treatment before packing.
- (2) Citrus fruits:
  - (a) treated postharvest by flood spraying in a single layer with a mixture containing 400 mg/L dimethoate at a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the fruit for a minimum of 10 seconds after which the fruit must remain wet for a further 60 seconds; and
  - (b) spraying must be the final treatment before packing, except where a non-recovery gloss coating (wax) and/or compatible fungicide may be added within 24 hours of treatment.
- (3) Mangoes (Kensington Pride, Calypso, R2E2 and Honey Gold varieties only):
  - (a) a sample of the lot is inspected before treatment and found free of Queensland fruit fly larvae; and
  - (b) treated postharvest by flood spraying in a single layer with a mixture containing 400 mg/L dimethoate with a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the fruit for a minimum of 10 seconds after which the fruit must remain wet for a further 60 seconds; and
  - (c) spraying must be the final treatment before packing.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-02 Flood spraying with dimethoate or fenthion.

## 4 Fenthion Dip

- (1) Assorted tropical and sub-tropical fruits – inedible peel (excluding caimito, mango, persimmon, custard apple, cherimoya, soursop, sweetsop and other *Annona* spp. and defective flower-end type papaya):
  - (a) treated postharvest by full immersion in a dip containing 412.5 mg/L fenthion for:
    - (i) a period of 1 minute; or
    - (ii) in the case of longan, lychee, passionfruit and rambutan, dipping for a period of 10 seconds provided the fruit remains wet for a further 60 seconds; and
  - (b) dipping must be the final treatment before packing.
- (2) Chilli (excluding hollow fruited chilli):
  - (a) treated postharvest by full immersion in a dip containing 412.5 mg/L fenthion for a period of 1 minute; and
  - (b) dipping must be the final treatment before packing.
- (3) Mangoes (Kensington Pride, Calypso, R2E2 and Honey Gold varieties only):
  - (a) a sample of the lot inspected before treatment and found free of Queensland fruit fly larvae; and
  - (b) treated postharvest by full immersion in a dip containing 412.5 mg/L fenthion for a period of 1 minute; and

- (c) dipping must be the final treatment before packing.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-01 Dipping with dimethoate or fenthion.

## 5 Fenthion Flood Spray

- (1) Assorted tropical and sub-tropical fruits – inedible peel (excluding mango, persimmon, custard apple, cherimoya, soursop, sweetsop and other *Annona* spp. and defective flower-end type papaya) and chilli:
- (a) treated postharvest by flood spraying, in a single layer with a mixture containing 412.5 mg/L fenthion at a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the host fruit for a minimum of 10 seconds after which the host fruit must remain wet for a further 60 seconds; and
  - (b) spraying must be the final treatment before packing.
- (2) Mangoes (Kensington Pride, Calypso, R2E2 and Honey Gold varieties only):
- (a) a sample of the lot inspected before treatment and found free of Queensland fruit fly larvae; and
  - (b) treated postharvest by flood spraying in a single layer with a mixture containing 412.5 mg/L fenthion at a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the host fruit for a minimum of 10 seconds after which the host fruit must remain wet for a further 60 seconds; and
  - (c) spraying must be the final treatment before packing.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-02 Flood spraying with dimethoate or fenthion.

## 6 Fenthion Non-Recirculating Spray

- (1) Avocados treated in a single layer non-recirculating system with a mixture containing 412.5 mg/L fenthion at a rate of at least 0.6 L/minute/m<sup>2</sup>, providing complete coverage of the host fruit for a minimum of 10 seconds after which the host fruit must remain wet for a further 60 seconds.
- (2) Mangoes (Kensington Pride, Calypso, R2E2 and Honey Gold varieties only):
- (a) a sample of the lot inspected before treatment and found free of Queensland fruit fly larvae; and
  - (b) treated in a single layer non-recirculating system with a mixture containing 412.5 mg/L fenthion at a rate of at least 1.2 L/minute/m<sup>2</sup>, providing complete coverage of the host fruit for a minimum of 10 seconds after which the host fruit must remain wet for a further 60 seconds.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-03 Low volume non-recirculated spraying with fenthion.

## 7 Methyl Bromide Fumigation

- (1) Any host fruit:
- (a) fumigated postharvest with a fumigant containing 1000 g/kg methyl bromide as its only active constituent for 2 hours at the following rates:
    - (i) 10.0°C – 14.9°C at 48 g/m<sup>3</sup>; or
    - (ii) 15.0°C – 20.9°C at 40 g/m<sup>3</sup>; or
    - (iii) 21.0°C + at 32 g/m<sup>3</sup>; and
  - (b) in the case of defective flower end-type papaya, is in a mature green condition.
- (2) In this clause:

**mature green condition** means the fruit is hard and has no more than 25% ripe colouring at the time of packing.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-04 Fumigating with methyl bromide.

## 8 Postharvest Cold Treatment

- (1) Any host fruit (excluding lemons), treated postharvest at a temperature of:
- (a) 0°C ± 0.5°C for a minimum of 14 days; or
  - (b) 1.0°C ± 0.5°C to 3.0°C ± 0.5°C for a minimum of 16 days.
- (2) Lemons treated post harvest at a temperature of 0.0°C ± 0.5°C to 3.0°C ± 0.5°C for a minimum of 14 days.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-07 Cold treatment.

## 9 Hot Water Treatment

Mangoes treated by full immersion in hot water at a temperature of 46.0°C for a minimum of 10 minutes, as measured in the water and at or as near as practicable to the seed of 3 fruits.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-10 Hot water treatment of mangoes.

## 10 High Temperature Forced Air

Papaya treated in a hot air chamber, at a temperature of 47.2°C for at least 3.5 hours as measured in the seed cavity.

**11 Vapour Heat Treatment**

Mangoes treated by vapour heat at a temperature of:

- (a) 46.5°C for 20 minutes; or
- (b) 47.0°C for 15 minutes.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-05 Vapour heat treatment of mangoes under AQIS supervision.

**12 Gamma Irradiation**

Any host fruit approved for irradiation by the Food Standards Australia New Zealand (FSANZ) treated post harvest with gamma irradiation at a minimum dose of 150Gy.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-55 Irradiation treatment.

**13 Mature green condition**

- (1) Black sapote, passionfruit and Tahitian lime harvested and packed in a mature green condition.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-15 Mature green condition of passionfruit, Tahitian limes and black sapotes.

- (2) Banana harvested and packed in a mature green condition.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-16 Certification of mature green condition of bananas.

**14 Immature green condition**

Papaya (excluding defective flower-end type papaya) and babaco harvested and packed in an immature green condition.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-08 Mature green condition and immature green condition of papaw and babaco.

**15 Hard green condition**

Bananas (Cavendish variety only) in a hard green condition at the time of packing.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-06 Certification of hard green bananas.

**16 Hard condition**

Avocados (Hass and Lamb Hass cultivars only) harvested in a hard condition and stored in secured conditions within 24 hours of harvest.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-30 Hard condition of avocado for Mediterranean fruit fly and Queensland fruit fly.

**17 Unbroken skins**

Durian, jaboticaba, jackfruit, longan, lychee, mangosteen, pomegranate and rambutan harvested and packed with unbroken skin.

*Note:* The procedure under an approved certification assurance arrangement is ICA-13 Unbroken skin condition of approved fruits.”

---

**SCHEDULE 5****“SCHEDULE 10 – Approved Systems Approaches for Host Fruit****1 Pre-harvest treatment and postharvest inspection**

- (1) Capsicum and chilli:

- (a) treated pre-harvest with:

- (i) dimethoate in accordance with all label and APVMA permit directions for the in-field control of Queensland fruit fly; or
    - (ii) a program of cover sprays with a chemical containing 500 g/L trichlorfon or 440 g/L maldison (capsicum only) applied a minimum of 21 days prior to harvest in accordance with all label and APVMA permit directions for the control of Queensland fruit fly; or
    - (iii) for capsicum only, grown in Queensland or the Northern Territory and treated with a program of fenthion cover sprays in accordance with all label and APVMA permit directions for the control of Queensland fruit fly; and

- (b) inspected postharvest, where a sample of the lot is inspected and found free of Queensland fruit fly.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-26 Pre-harvest treatment and postharvest inspection of tomatoes, capsicums, chillies and eggplant.

- (2) Eggplant and tomato:

- (a) treated pre-harvest with a program of cover sprays with a chemical containing 500 g/L trichlorfon applied a minimum of 21 days prior to harvest in accordance with all label and APVMA permit directions for the control of Queensland fruit fly; and

- (b) inspected postharvest, where a sample of the lot is inspected and found free of Queensland fruit fly.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-26 Pre-harvest treatment and postharvest inspection of tomatoes, capsicums, chillies and eggplant.

(3) Tomato:

- (a) treated pre-harvest with a program of cover sprays with a chemical containing 500 g/L trichlorfon applied a minimum of 21 days prior to harvest in accordance with all label and APVMA permit directions for the control of Queensland fruit fly; and

- (b) harvested and packed in a mature green condition.

- (c) In subclause (3) (b):

**mature green condition** means the tomato has no more than a 2 cm diameter area of pink to red colour at the stylar end at the time of colour sorting after harvest.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-27 Mature green condition of tomatoes.

(4) Blueberry:

- (a) treated pre-harvest with a program of cover sprays with a chemical containing:

- (i) 400 g/L dimethoate; or

- (ii) 500 g/L trichlorfon; or

- (iii) 440 g/L maldison,

in accordance with all label and APVMA permit directions for the control of Queensland fruit fly; and

- (b) sampled and inspected postharvest and found free of Queensland fruit fly larvae.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-21 Pre-harvest treatment and inspection of stonefruit, blueberries, persimmon and pomefruit.

(5) Stonefruit (except cherries):

- (a) treated pre-harvest with a program of cover sprays with a chemical containing:

- (i) 500 g/L trichlorfon; or

- (ii) 440 g/L maldison,

in accordance with all label directions for the control of Queensland fruit fly; or

- (b) treated pre-harvest with a program of cover sprays with a chemical containing 550 g/L fenthion and followed with at least two (2) cover sprays with a chemical containing:

- (i) 500 g/L trichlorfon; or

- (ii) 440 g/L maldison,

in accordance with all label directions for the control of Queensland fruit fly; and

- (c) inspected postharvest at the rate of 1 package in every 100 and found free of Queensland fruit fly larvae and free of broken skins.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-21 Pre-harvest treatment and inspection of stonefruit, blueberries, persimmon and pomefruit.

(6) Cherries:

- (a) treated pre-harvest with a program of cover sprays with a chemical containing:

- (i) 500 g/L trichlorfon; or

- (ii) 440 g/L maldison,

in accordance with all label directions for the control of Queensland fruit fly; and

- (b) inspected postharvest at the rate of 1 package in every 100 and found free of Queensland fruit fly larvae and free of broken skins.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-21 Pre-harvest treatment and inspection of stonefruit, blueberries, persimmon and pomefruit.

(7) Persimmon and pomefruit:

- (a) treated pre-harvest with a program of cover sprays with a chemical containing 500 g/L trichlorfon in accordance with all label directions for the control of Queensland fruit fly; and

- (b) inspected postharvest at the rate of 1 package in every 100 and found free of Queensland fruit fly larvae and free of broken skins.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-21 Pre-harvest treatment and inspection of stonefruit, blueberries, persimmon and pomefruit.

(8) Table grape:

- (a) treated pre-harvest with a program of:

- (i) bait sprays applied to every alternate row of vines at the rate of at least 100 mL per 8 m of vine, at a maximum interval of 7 days commencing 6 weeks prior to harvest to the completion of harvest with:

- (A) an insecticide containing 15.4 L of 0.24 g/L spinosad per 100 L of water; or

- (B) a mixture containing 2 L yeast autolysate protein and 435 mL of 1150 g/L maldison per 100 L of water; or
  - (ii) cover sprays applied to all vines with a chemical containing:
    - (A) 500 g/L trichlorfon; or
    - (B) 440 g/L maldison; or
    - (C) 550 g/L fenthion followed with at least three (3) cover sprays with a chemical containing 500 g/L trichlorfon or 440 g/L maldison,
 in accordance with all label and APVMA permit directions for the control of Queensland fruit fly; or
  - (b) treated with a combined program of bait sprays and cover sprays applied in accordance with all the requirements of (i) and (ii) above, at intervals determined by the type of spray in the most recent application; and
  - (c) inspected postharvest where a sample of the fruit is inspected and found free of Queensland fruit fly larvae.
- Note:* The procedure under an approved Certification Assurance Arrangement is ICA-20 Pre-harvest treatment and inspection of grapes.

(9) Strawberries grown in south east Queensland:

- (a) treated with a program of Male Annihilation Technique (MAT) devices placed on the perimeter of the source property at 20 metre intervals; and
- (b) treated with a program of bait sprays using a mixture of 15.4 L of 0.24 g/L spinosad per 100 L of water in accordance with all label requirements:
  - (i) at a rate of 1 litre per hectare applied to the perimeter of all strawberry blocks on the source property; and
  - (ii) at a maximum interval of 7 days commencing from:
    - (A) the time of planting; or
    - (B) in the case of ratoon crops (being the second or later crops taken from the regrowth of a crop after it has been harvested once) – 1 May; and
  - (iii) applied to the strawberry blocks until:
    - (A) the completion of harvest of all strawberries from the source property; or
    - (B) all strawberries have been removed from the block; or
    - (C) all strawberry plants have been sprayed out or removed from the block; or
    - (D) the pre-harvest cover spray program specified in clause 1 (9) (c) has commenced; and
- (c) treated with a program of cover sprays applied to each block of strawberries grown on the property at an interval of every 7 to 10 days, commencing prior to 10 August until the completion of harvest:
  - (i) with a chemical containing:
    - (A) 500 g/L trichlorfon; or
    - (B) 440 g/L maldison; or
    - (C) 1000 g/L maldison; or
    - (D) 1150 g/L maldison,
 in accordance with all APVMA permit directions for the control of Queensland fruit fly; or
  - (ii) with:
    - (A) a chemical containing 120 g/L spinetoram applied at the maximum rate of 400 mL per hectare of plants and in accordance with APVMA permit and label directions; and
    - (B) a program of bait sprays applied in accordance with clause 1 (9) (b); and
- (d) grown under a field hygiene program including:
  - (i) the disposal of infested or untreated fruit; and
  - (ii) the management of abandoned or spent strawberry blocks, in a manner generally accepted as likely to prevent the spread of Queensland fruit fly; and
- (e) inspected during harvest and postharvest in accordance with the specifications of ICA-34 Pre-harvest field control and inspection of strawberries and found free from live Queensland fruit fly infestation.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-34 Pre-harvest field control and inspection of strawberries.

## 2 Pre-harvest treatment and inspection, and post harvest treatment

- (1) Custard apple, cherimoya, soursop, sweetsop and other *Annona* spp:
  - (a) treated pre-harvest with a program of:
    - (i) cover sprays applied to all host fruit trees at a maximum interval of 14 days commencing 6 weeks prior to harvest to the completion of harvest with a mixture containing:
      - (A) 75 mL of 550 g/L fenthion per 100 L of mixture; or
      - (B) 75 mL of 400 g/L dimethoate per 100 L of mixture; or
    - (ii) bait sprays applied at the rate of at least 100 mL to all host fruit trees at a maximum interval of 7 days commencing 6 weeks prior to harvest to the completion of harvest with a mixture containing:
      - (A) 2 L yeast autolysate protein and 435 mL of 1150 g/L maldison per 100 L of water; or



- (B) 2 L yeast autolysate protein and 780 mL of 500 g/L trichlorfon per 100 L of water; or
- (C) 15.4 L of 0.24 g/L spinosad per 100 L of water; and
- (b) inspected postharvest where a sample of the lot is inspected and found free of Queensland fruit fly larvae and free of broken skins; and
- (c) treated postharvest (final treatment before packing):
  - (i) by full immersion for a period of 1 minute in a dip containing:
    - (A) 400 mg/L dimethoate; or
    - (B) 412.5 mg/L fenthion; or
  - (ii) by flood spraying in a single layer at a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the fruit for a minimum of 10 seconds after which the fruit must remain wet for a further 60 seconds with a mixture containing:
    - (A) 400 mg/L dimethoate; or
    - (B) 412.5 mg/L fenthion.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-18 Treatment and inspection of custard apple and other *Annona* spp., in conjunction with ICA-01 Dipping with dimethoate or fenthion or ICA-02 Flood spraying with dimethoate or fenthion.

(2) Mangoes (excluding Kensington Pride, Calypso, R2E2 and Honey Gold varieties):

- (a) treated pre-harvest with a program of:
  - (i) cover sprays applied to all host fruit trees at a maximum interval of 14 days commencing 6 weeks prior to harvest to the completion of harvest with a mixture containing:
    - (A) 75 mL of 550 g/L fenthion per 100 L of mixture; or
    - (B) 75 mL of 400 g/L dimethoate per 100 L of mixture; or
  - (ii) bait sprays applied at the rate of at least 100 mL to all host fruit trees at a maximum interval of 7 days commencing 6 weeks prior to harvest to the completion of harvest with a mixture containing:
    - (A) 15.4 L of 0.24 g/L spinosad per 100 L of water; or
    - (B) 2 L yeast autolysate protein and 435 mL of 1150 g/L maldison per 100 L of water; and
- (b) inspected postharvest where a sample of the lot is inspected and found free of Queensland fruit fly larvae; and
- (c) treated postharvest (final treatment prior to packing):
  - (i) by full immersion for a period of 1 minute in a dip containing:
    - (A) 400 mg/L dimethoate; or
    - (B) 412.5 mg/L fenthion; or
  - (ii) by flood spraying in a single layer at a rate of at least 16 L/minute/m<sup>2</sup> of the area being flood sprayed, providing complete coverage of the fruit for a minimum of 10 seconds after which the fruit must remain wet for a further 60 seconds with a mixture containing:
    - (A) 400 mg/L dimethoate; or
    - (B) 412.5 mg/L fenthion,
  - (iii) in a single layer non-recirculating system with a mixture containing 412.5 mg/L fenthion at a rate of at least 1.2 L/minute/m<sup>2</sup>, providing complete coverage of the host fruit for a minimum of 10 seconds after which the host fruit must remain wet for a further 60 seconds.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-19 Treatment and inspection of mangoes, in conjunction with ICA-01 Dipping with dimethoate or fenthion or ICA-02 Flood spraying with dimethoate or fenthion or ICA-03 Low volume non-recirculated spraying with fenthion.

### 3 Fruit fly monitoring, pre-harvest baiting, and postharvest inspection

- (1) Citrus fruits (excluding Meyer lemons) grown in Queensland, west of the coastal ranges and south of latitude 22 south and harvested during the period 1 March to 25 August inclusive:
  - (a) treated with a program of bait sprays applied to all host fruit trees in accordance with all label requirements at a maximum interval of 7 days commencing 12 weeks prior to harvest to the completion of harvest with:
    - (i) a mixture containing 2 L yeast autolysate protein; and
      - (A) 435 mL of 1150 g/L maldison per 100 L of water; or
      - (B) 400 g of 500 g/kg chlorpyrifos per 100 L of water; or
      - (C) 400 mL of 500 g/L chlorpyrifos per 100 L of water; or
      - (D) 780 mL of 500 g/L trichlorfon per 100 L of water; or
    - (ii) a mixture containing 15.4 L of spinosad per 100 L of water; and
  - (b) treated with a program of Queensland fruit fly trapping and monitoring using at least 2 Lynfield or approved equivalent traps, placed so that every tree within the orchard is within 400 m of a trap, which are inspected at least every 7 days and found free of Queensland fruit flies; and
  - (c) inspected postharvest where a sample of the lot is inspected after packing and found free of Queensland fruit fly larvae.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-28 Pre-harvest treatment (bait spraying) and inspection of citrus.

- (2) Host fruit grown and packed within a suspension area (excluding an outbreak area) which is under an active eradication program:
- (a) treated with a program of Queensland fruit fly trapping and monitoring with at least one Queensland fruit fly trap installed on the property, monitored in accordance with the Code of Practice for the Management of Queensland fruit fly; and
  - (b) treated with a program of bait sprays applied:
    - (i) a minimum of 2 weeks prior to harvest to the completion of harvest; and
    - (ii) to all host fruit trees with fruit at a stage susceptible to Queensland fruit fly (unless receiving an alternative program of cover sprays), and
    - (iii) in accordance with all label and APVMA permit directions; and
    - (iv) with a mixture containing:
      - (A) 435 mL of 1150 g/L maldison with 2 litres of yeast autolysate protein lure per 100 litres of water; or
      - (B) 15.4 L of 0.24 g/L spinosad per 100 L of water; and
  - (c) inspected postharvest in accordance with the specification of ICA-56 Pre-harvest baiting and inspection protocol for Pest Free Areas and found free of Queensland fruit fly infestation.

*Note:* The procedure under an approved Certification Assurance Arrangement is ICA-56 Pre-harvest baiting and inspection protocol for Pest Free Areas.

#### 4 Untreated wine grapes for processing

Wine grapes:

- (a) contained in bins or containers cleaned free from all plant debris and soil prior to packing and loading; and
- (b) transported in a vehicle ("the transport vehicle"):
  - (i) cleaned free from all plant debris and soil prior to movement; and
  - (ii) secured so as to prevent infestation by Queensland fruit fly and spillage during transportation by:
    - (A) covering with a tarpaulin, shade cloth, bin cover or other covering; or
    - (B) containing within the transport vehicle; and
  - (iii) travelling by the most direct route to the receiving processor; and
- (c) upon receipt at the receiving processor:
  - (i) processed within 24 hours of receipt; and
  - (ii) all measures to avoid spillage of host fruit are taken and where spillages occur, are disposed of in a manner generally accepted as likely to prevent the spread of Queensland fruit fly; and
  - (iii) all processing wastes are disinfested by heat or freezing, or are buried.

*Note:* The procedure under an approved certification assurance arrangement is ICA-33 Movement of Wine Grapes."

Dated this 16th day of December 2012.

SATENDRA KUMAR,  
Director, Plant Biosecurity,  
Department of Primary Industries

(an office within the Department of Trade and Investment, Regional Infrastructure and Services

*Note:* The Department's reference is O-433



**LANDS**

**ARMIDALE CROWN LANDS OFFICE**  
**108 Faulkner Street (PO Box 199A), Armidale NSW 2350**  
**Phone: (02) 6770 3100      Fax (02) 6771 5348**

**REVOCATION OF RESERVATION OF CROWN  
LAND**

PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown Land specified in Column 1 of the Schedule hereunder, is revoked to the extent specified opposite thereto in Column 2 of the Schedule.

ANDREW STONER, M.P.,  
Minister for Regional Infrastructure and Services

**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>
Land District: Tenterfield.	The part being Lot 1,
Local Government Area: Tenterfield.	DP No. 1176883, Parish Wellington Vale, County Gough, of an area of 1.528 hectares.
Locality: Stannum.	
Reserve No.: 97483.	
Public Purpose: Future public requirements.	
Notified: 19 October 1984.	
File No.: AE98 H 232.	

Note: Subsequent to this revocation it is intended that Lot 1, DP 1176883 be sold by Private Treaty Sale.

**DUBBO CROWN LANDS OFFICE**  
**45 Wingewarra Street (PO Box 1840), Dubbo NSW 2830**  
**Phone: (02) 6883 3300      Fax: (02) 6884 2067**

**NOTIFICATION OF CLOSING OF A ROAD**

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

ANDREW STONER, M.P.,  
Minister for Regional Infrastructure and Services

Description

*Parish – Dubbo; County – Gordon;  
Land District – Dubbo; L.G.A. – Dubbo*

Road Closed: Lot 1, DP 1170207.

File No.: 10/17367.

Schedule

On closing, the land within Lot 1, DP 1170207 remains vested in the State of New South Wales as Crown Land.

**MAITLAND OFFICE****Corner Newcastle Road and Banks Street (PO Box 6), East Maitland NSW 2323****Phone: (02) 4937 9300****Fax: (02) 4934 2252****ROADS ACT 1993****ORDER****Transfer of a Crown Road to a Council**

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

ANDREW STONER, M.P.,

Minister for Regional Infrastructure and Services

**SCHEDULE 1**

*Parish – Tomaree; County – Gloucester;*

*Land District – Newcastle;*

*Local Government Area – Port Stephens*

The section of Crown public road from the western side of the intersection of Kingsley Road and Branch Street, west to Kingsley Drive at Boat Harbour as shown by red colour on the diagram hereunder.

**SCHEDULE 2**

Roads Authority: Port Stephens Council.

Council's Reference: A2004-0742.

Crown Lands File Reference: 12/08098.

**NOTIFICATION OF CLOSING OF PUBLIC ROAD**

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

ANDREW STONER, M.P.,

Minister for Regional Infrastructure and Services

**Description**

*Parish – Teralba; County – Northumberland;*

*Land District – Newcastle; L.G.A. – Lake Macquarie*

Road Closed: Lots 1, 2, 3 and 4, DP 1161004 (not being land under the Real Property Act).

File Nos: MD02 H 213 and MD04 H 227.

**Schedule**

On closing, the land within Lots 1, 2 and 4, DP 1161004 remains vested in the State of New South Wales as Crown Land.

On closing, the land within Lot 3, DP 1161004 remains vested in Lake Macquarie City Council as operational land for the purposes of the Local Government Act 1993.

Council's Reference: F2004/08482.

## NEWCASTLE OFFICE

437 Hunter Street, Newcastle NSW 2300 (PO Box 2185, Dangar NSW 2309)

Phone: (02) 4925 4104

Fax: (02) 4925 3517

## NOTIFICATION OF CLOSING OF A ROAD

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

ANDREW STONER, M.P.,  
Minister for Regional Infrastructure and Services

## Description

*Parish – Albert; County – Kennedy;  
Land District – Parkes; L.G.A. – Lachlan*

Road Closed: Lots 2-3, DP 1178738.

File No.: CL/00781.

## Schedule

On closing, the land within Lots 2-3, DP 1178738 remains vested in the State of New South Wales as Crown Land.

## Description

*Parishes – Bungee, Cooper and Nelson;  
County – Wellesley; Land District – Bombala;  
L.G.A. – Bombala and Cooma-Monaro*

Road Closed: Lot 1, DP 1179858.

File No.: 11/02517.

## Schedule

On closing, the land within Lot 1, DP 1179858 remains vested in the State of New South Wales as Crown Land.

## Description

*Parish – Vittoria; County – Bathurst;  
Land Districts – Bathurst and Orange;  
L.G.A. – Bathurst Regional*

Road Closed: Lots 2 and 3, DP 1179952.

File Nos: 12/05125 and CL/00211.

## Schedule

On closing, the land within Lots 2 and 3, DP 1179952 remains vested in the State of New South Wales as Crown Land.

## Description

*Parish – Carrawa; County – Georgiana;  
Land District – Blayney; L.G.A. – Bathurst Regional*

Road Closed: Lot 2, DP 1178253.

File No.: CL/00640.

## Schedule

On closing, the land within Lot 2, DP 1178253 remains vested in the State of New South Wales as Crown Land.

## Description

*Parish – Wiagdon; County – Roxburgh;  
Land District – Bathurst; L.G.A. – Bathurst Regional*

Road Closed: Lots 1 and 2, DP 1179521 (subject to right of carriageway created by Deposited Plan dp1179521).

File Nos: 08/0084 and 12/03344.

## Schedule

On closing, the land within Lots 1 and 2, DP 1179521 remains vested in the State of New South Wales as Crown Land.

## Description

*Parish – Bungee; County – Wellesley;  
Land District – Bombala; L.G.A. – Bombala*

Road Closed: Lot 1, DP 1180648.

File No.: 11/02562.

## Schedule

On closing, the land within Lot 1, DP 1180648 remains vested in the State of New South Wales as Crown Land.

## Description

*Parish – Oberon; County – Westmoreland;  
Land District – Bathurst; L.G.A. – Oberon*

Road Closed: Lot 2, DP 1179908.

File No.: CL/00672.

## Schedule

On closing, the land within Lot 2, DP 1179908 remains vested in the State of New South Wales as Crown Land.

## Description

*Parish – Bolton; County – Westmoreland;  
Land District – Bathurst; L.G.A. – Oberon*

Road Closed: Lot 1, DP 1177967.

File No.: CL/00628.

## Schedule

On closing, the land within Lot 1, DP 1177967 remains vested in the State of New South Wales as Crown Land.

## Description

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

Road Closed: Lot 1, DP 1177310 (subject to easements for Transmission Lines and Access created by Deposited Plan 1177310).

File No.: MD06 H 201.

## Schedule

On closing, the land within Lot 1, DP 1177310 remains vested in the State of New South Wales as Crown Land.

Description	Schedule
<i>Parish – Oberon; County – Westmoreland; Land District – Bathurst; L.G.A. – Oberon</i>	On closing, the land within Lot 1, DP 1180610 remains vested in the State of New South Wales as Crown Land.
Road Closed: Lots 5-6, DP 1179908. File No.: 12/02673.	Description
Schedule	<i>Parish – Oldcastle; County – Durham; Land District – Scone; L.G.A. – Upper Hunter</i>
On closing, the land within Lots 5-6, DP 1179908 remains vested in the State of New South Wales as Crown Land.	Road Closed: Lots 1-3, DP 1179180 (subject to rights of carriageways created by Deposited Plan 1179180). File No.: 12/01771.
Description	Schedule
<i>Parish – Moppity; County – Harden; Land District – Young; L.G.A. – Harden</i>	On closing, the land within Lots 1-3, DP 1179180 remains vested in the State of New South Wales as Crown Land.
Road Closed: Lots 1-3, DP 1178677. File No.: 07/3725.	Description
Schedule	<i>Parish – Binda; County – Forbes; Land District – Grenfell; L.G.A. – Cowra</i>
On closing, the land within Lots 1-3, DP 1178677 remains vested in the State of New South Wales as Crown Land.	Road Closed: Lot 1, DP 1180258. File No.: 08/1793.
Description	Schedule
<i>Parish – Gungewalla; County – Monteagle; Land District – Young; L.G.A. – Young</i>	On closing, the land within Lot 1, DP 1180258 remains vested in the State of New South Wales as Crown Land.
Road Closed: Lot 2, DP 1178971. File No.: 12/03804.	Description
Schedule	<i>Parish – Gregra; County – Ashburnham; Land District – Molong; L.G.A. – Cabonne</i>
On closing, the land within Lot 2, DP 1178971 remains vested in the State of New South Wales as Crown Land.	Road Closed: Lot 1, DP 1179910. File No.: CL/00534.
Description	Schedule
<i>Parish – Purrorumba; County – Murray; Land District – Queanbeyan; L.G.A. – Palerang</i>	On closing, the land within part Lot 1, DP 1179910 remains vested in the State of New South Wales as Crown Land.
Road Closed: Lot 26, DP 852987, subject to easement for electricity purposes created by Deposited Plan 1016181. File No.: 12/03633 NB.	On closing, the land within part Lot 1, DP 1179910 becomes vested in the State of New South Wales as Crown Land. Council's Reference: Jacob Evans.
Schedule	Description
On closing, the land within Lot 26, DP 852987 remains vested in the State of New South Wales as Crown Land.	<i>Parish – Wambo; County – Hunter; Land District – Singleton; L.G.A. – Singleton</i>
Description	Road Closed: Lots 1-3, DP 1179909 (subject to rights of carriageway created by Deposited Plan 1179909). File No.: 10/14643.
<i>Parish – Bungee; County – Wellesley; Land District – Bombala; L.G.A. – Bombala</i>	Schedule
Road Closed: Lot 2, DP 1179858. File No.: 11/02517.	On closing, the land within Lots 1-3, DP 1179909 remains vested in the State of New South Wales as Crown Land.
Schedule	Description
On closing, the land within Lot 2, DP 1179858 remains vested in the State of New South Wales as Crown Land.	<i>Parish – Warraberry; County – Gordon; Land District – Molong; LGA – Cabonne</i>
Description	Road Closed: Lot 1, DP 1180444. File No.: CL/00736.
<i>Parish – Mulgunnia; County – Georgiana; Land District – Blayney; L.G.A. – Bathurst Regional</i>	
Road Closed: Lot 1, DP 1180610 (subject to right of carriageway created by Deposited Plan DP 1180610). File No.: CL/00733.	

## Schedule

On closing, the land within Lot 1, DP 1180444 remains vested in the State of New South Wales as Crown Land.

---

Description

*Parish – Iandra; County – Monteagle;  
Land District – Grenfell; L.G.A. – Weddin*

Road Closed: Lots 1 and 2, DP 1180744.

File No.: CL/00249.

## Schedule

On closing, the land within part Lot 1, DP 1180744 remains vested in the State of New South Wales as Crown Land.

On closing, the land within part Lot 1, DP 1180744 and Lot 2, DP 1180744 becomes vested in the State of New South Wales as Crown Land.

Council's Reference: WT:LB:R2.1.4.

---

Description

*Parish – Oberon; County – Westmoreland;  
Land District – Bathurst; L.G.A. – Oberon*

Road Closed: Lot 3, DP 1179908.

File No.: CL/00672.

## Schedule

On closing, the land within Lot 3, DP 1179908 remains vested in the State of New South Wales as Crown Land.

---



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

**APPOINTMENT OF TRUST BOARD MEMBERS**

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

ANDREW STONER, M.P.,  
Minister for Regional Infrastructure and Services

**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Robert MILLER (new member).	Narira Park Trust.	Reserve No.: 1011209. Public Purpose: Community purposes. Notified: 13 January 2006.
John EVANS (new member).		
William Ronald BOYLE (re-appointment).		Reserve No.: 83297. Public Purpose: Public recreation. Notified: 28 July 1961. File No.: NA79 R 107.
Malcolm Kenwyn ELSMLIE (re-appointment).		
William CARR (new member).		
Joel ANDERSON (new member).		
Brett JESSOP (new member).		

Term of Office

For a term commencing 14 December 2012 and expiring 13 December 2017.

**NOTIFICATION OF CLOSING OF A ROAD**

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

ANDREW STONER, M.P.,  
Minister for Regional Infrastructure and Services

Description

*Parish – Bunyan; County – Beresford;*  
*Land District – Cooma; L.G.A. – Cooma-Monaro*  
Road Closed: Lot 2, DP 1179137.  
File No.: GB07 H 359.

Schedule

On closing, the land within Lot 2, DP 1179137 remains vested in the State of New South Wales as Crown Land.

Description

*Parish – Boro; County – Argyle;*  
*Land District – Goulburn; L.G.A. – Goulburn Mulwaree*

Road Closed: Lot 1, DP 1178648 (subject to right of carriageway created by Deposited Plan 1178648).

File No.: GB07 H 327.

Schedule

On closing, the land within Lot 1, DP 1178648 remains vested in the State of New South Wales as Crown Land.

Description

*Parishes – Rugby, Ware and Opton; County – King;*  
*Land District – Boorowa; L.G.A. – Boorowa*

Road Closed: Lot 2, DP 1180139.

File No.: GB07 H 410.

Schedule

On closing, the land within Lot 2, DP 1180139 remains vested in the State of New South Wales as Crown Land.

Description

*Parishes – Rugby, Ware and Opton; County – King;*  
*Land District – Boorowa; L.G.A. – Boorowa*

Road Closed: Lot 1, DP 1180139.

File No.: 12/05886.

Schedule

On closing, the land within Lot 1, DP 1180139 remains vested in the State of New South Wales as Crown Land.

**ORANGE OFFICE**  
**92 Kite Street (PO Box 2146), Orange NSW 2800**  
**Phone: (02) 6391 4300      Fax: (02) 6362 3896**

**NOTIFICATION OF CLOSING OF PUBLIC ROAD**

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

KATRINA HODGKINSON, M.P.,  
Minister for Primary Industries

Description

*Parish – Winburn; County – Roxburgh;  
Land District – Bathurst*

Road Closed: Lot 121 in Deposited Plan 1171380.

File No.: 10/05527.

Schedule

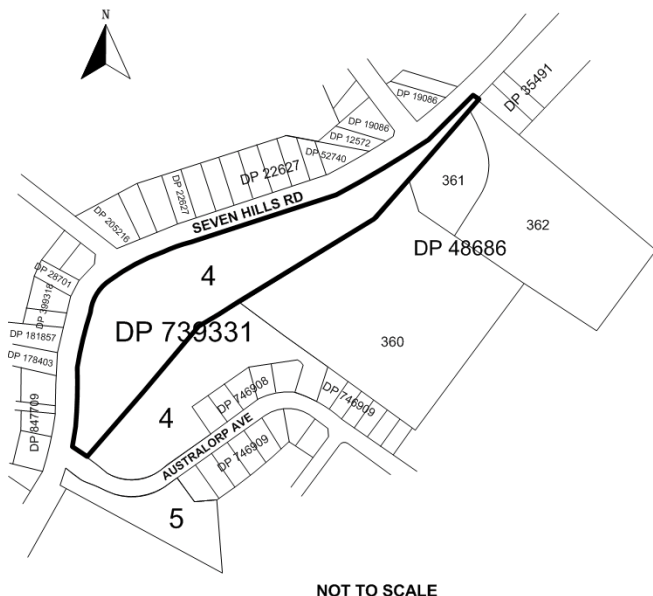
On closing, the land within Lot 121 in DP 1171380 remains vested in Bathurst Regional Council as operational land for the purposes of the Local Government Act 1993.

Council Reference: JW:DR 25.00161.

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

**ERRATUM**

IN the notifications appearing in the *New South Wales Government Gazette* of the 22 June 2012, Folio 2513, under the heading "ADDITION TO RESERVED CROWN LAND" and detailing "an addition to Reserve 100116" after the words "Lot Pt 4, DP 739331" insert the words "as shown by bold edge on the diagram hereunder".



File No.: MN82 R 117-002.

ANDREW STONER, M.P.,  
Minister for Regional Infrastructure and Services

**ESTABLISHMENT OF RESERVE TRUST**

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

ANDREW STONER, M.P.,  
Minister for Regional Infrastructure and Services

**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>
Johnson Park (D500385) Reserve Trust.	Dedication No.: 500385. Public Purpose: Public recreation. Notified: 6 January 1915. File No.: 12/01947.

**APPOINTMENT OF CORPORATION TO MANAGE RESERVE TRUST**

PURSUANT to section 95 of the Crown Lands Act 1989, the corporation specified in Column 1 of the Schedule hereunder, is appointed to manage the affairs of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

ANDREW STONER, M.P.,  
Minister for Regional Infrastructure and Services

**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Marrickville Council.	Johnson Park (D500385) Reserve Trust.	Dedication No.: 500385. Public Purpose: Public recreation. Notified: 6 January 1915. File No.: 12/01947.

For a term commencing the date of this notice.

**ERRATUM**

IN the notifications appearing in the *New South Wales Government Gazette* of the 30 November 2012, Folio 4883, under the heading "ADDITION TO RESERVED CROWN LAND" in Column 1 of the Schedules after the words "Pt Lt 202, DP 1136781" and insert the words "Pt Lot 5, DP 1149334" after the words "Locality:" delete the words "Lucas Heights" and replace with "Barden Ridge".

File No.: 11/13099.

ANDREW STONER, M.P.,  
Minister for Regional Infrastructure and Services

**TAMWORTH OFFICE****25-27 Fitzroy Street (PO Box 535), Tamworth NSW 2340****Phone: (02) 6764 5100      Fax: (02) 6766 3805****NOTIFICATION OF CLOSING OF A ROAD**

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

ANDREW STONER, M.P.,  
Minister for Regional Infrastructure and Services

\_\_\_\_\_  
Description

*Parish – Gunnadilly; County – Buckland;  
Land District – Quirindi; L.G.A. – Liverpool Plains*

Road Closed: Lot 1, DP 1178559.

File No.: 11/06297.

Schedule

On closing, the land within Lot 1, DP 1178559 remains vested in the State of New South Wales as Crown Land.

\_\_\_\_\_

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

**NOTIFICATION OF CLOSING OF A ROAD**

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

ANDREW STONER, M.P.,  
Minister for Regional Infrastructure and Services

Description

*Parishes – Goldspink and Belmore; County – Wynyard;  
Land District – Tumbarumba; L.G.A. – Tumbarumba*

Road Closed: Lot 1, DP 1173280.

File No.: 11/12538.

Schedule

On closing, the land within Lot 1, DP 1173280 remains vested in the State of New South Wales as Crown Land.

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

**GRANTING OF A WESTERN LANDS LEASE**

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

The leases are subject to the provisions of the Western Lands Act 1901 and the Regulations thereunder. The land is to be used only for the purpose of **Residence**.

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

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

All amounts due and payable to the Crown *must* be paid to the Department of Primary Industries, Crown Lands by the due date.

ANDREW STONER, M.P.,  
Minister for Trade and Investment

\_\_\_\_\_  
**SCHEDULE**

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

WLL No.	Name of Lessee	File No.	Folio Identifier	Area (m2)	Term of Lease	
					From	To
WLL 15178	Dobрила BORKOVIC and Petar BORKOVIC	12/07783	34/1063047	1042	23 November 2012	22 November 2032
WLL 15177	Graham Henry MERRETT	12/07334	60/1065215	2479	23 November 2012	22 November 2032
WLL 15172	Robert Alexander KENNEDY	12/05539	38/1065215	1712	30 November 2012	29 November 2032
WLL 15140	Neil Gregory WHITING	11/08576	16/1065215	2771	30 November 2012	29 November 2032

**ORDER – AUTHORISATION OF ADDITIONAL  
PURPOSE UNDER S121A**

PURSUANT to s121A of the Crown Lands Act 1989, I authorise by this Order, the purpose specified in Column 1 to be an additional purpose to the declared purpose of the reserves specified opposite thereto in Column 2 of the Schedule.

ANDREW STONER, M.P.,  
Minister for Trade and Investment

\_\_\_\_\_  
**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>
Community purposes (Part – being Lot 7317, DP 1170701).	Dedication No.: 630023. Public Purpose: Public recreation. Notified: 18 November 1932. File No.: WL86 R 133-5.



**WATER****WATER ACT 1912**

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

Terrence TURNER for an existing earthen bywash dam with an estimated capacity of 2.75 megalitres on a 1st order unnamed watercourse located at Lot 5, DP 1076909, Parish of Narooma, County of Dampier, for the conservation of water for stock and domestic purposes (new licence – dam in excess of harvestable right) (not subject to the 2007 South Coast Catchments embargo). (Reference: 10SL057224).

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

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

WAYNE RYAN,  
Licensing Officer

---

## Other Notices

### ANTI-DISCRIMINATION ACT 1977 (NSW)

#### Exemption Order

UNDER section 126 of the Anti-Discrimination Act 1977, an exemption is granted from sections 8, 51, and 53 of the Anti-Discrimination Act 1977, to Crown Worldwide (Aust) Pty Limited to advertise and recruit and employ up to six Aboriginal and Torres Strait Islander (ATSI) employees.

This exemption will remain in force for a period of two years from the date given in this Order.

Crown Worldwide (Aust) Pty Limited is to provide an annual compliance report to the Anti-Discrimination Board of New South Wales which sets out the number of ATSI employees that have been employed under this employment strategy.

Dated this 3rd day of December 2012.

STEPAN KERKYASHARIAN, A.O.,  
President,  
Anti-Discrimination Board of NSW

### ANTI-DISCRIMINATION ACT 1977 (NSW)

#### Amendment

THE following is an amended notice replacing the one published in the *NSW Government Gazette* at page 4351 on 12 October 2012.

#### Exemption Order

UNDER section 126 of the Anti-Discrimination Act 1977, a temporary exemption from the operation of sections 7, 8, 51 and 52 of the Anti-Discrimination Act 1977, is granted to the University of Technology, Sydney (UTS) and the University of Western Sydney (UWS) (the Applicant) in order to advertise and employ 72 testers of Anglo-Australian, Muslim Australian of Middle Eastern and Indian ethnic origins to assist in the conduct of a research project entitled 'Ethnic Discrimination in the private rental market' in New South Wales.

This exemption will remain in force for a period of three years from the date this order was made: 5 October 2012.

This exemption is granted on the following conditions:

1. No lease undertakings will be given by the testers and no lease agreements for rental property will be entered into by the rental testers;
2. No false references will be provided for the rental testers;
3. The Applicant is to provide to the Anti-Discrimination Board of New South Wales (the Board) a copy of the transcript that the testers will be using before the research commences;
4. The Applicant will consult with the Real Estate Institute of Australia, NSW and the Property Owners Association of New South Wales before the research commences; and

5. The Applicant is to provide the Board a report at the end of the research on the process of the research and its outcomes.

Dated this 3rd day of December 2012.

STEPAN KERKYASHARIAN, A.O.,  
President,  
Anti-Discrimination Board of NSW

### ASSOCIATIONS INCORPORATION ACT 2009

Notice under Section 509 (5) of the Corporations Act 2001 as applied by Section 64 of the Associations Incorporation Act 2009

NOTICE is hereby given that the Incorporated Association mentioned below will be deregistered when three months have passed since the publication of this notice.

SUMMIT CARE INCORPORATED (In Liquidation) –  
Inc9881158

Dated this 29th day of November 2012.

R. LUNNEY,  
Delegate of the Registrar,  
Co-Operatives & Associations

### ASSOCIATIONS INCORPORATION ACT 2009

Reinstatement of Cancelled Association Pursuant to Section 84

TAKE notice that the incorporation of ROSE BAY CHAMBER OF COMMERCE INCORPORATED (Y2295317) cancelled on 13 February 2009 is reinstated pursuant to section 84 of the Associations Incorporation Act 2009.

Dated this 4th day of December 2012.

ROBYNE LUNNEY,  
Manager, Case Management,  
Registry Services,  
NSW Fair Trading,  
Department of Finance & Services

### CHILDREN (PROTECTION AND PARENTAL RESPONSIBILITY) ACT 1997

#### Safer Community Compact – Order

I, the Honourable Greg Smith, S.C., Attorney General and Minister for Justice of the State of New South Wales, in pursuance of section 39 (1) of the Children (Protection and Parental Responsibility) Act 1997, do, by this my Order, approve Canterbury Council's Crime Prevention Plan as a Safer Community Compact for the purposes of Division 3 of Part 4 of that Act.

This Order takes effect on 5 December 2012 remaining in force until 5 December 2015.

Signed at Sydney, this 6th day of November 2012.

GREG SMITH,  
Attorney General and Minister for Justice

### CHILDREN (PROTECTION AND PARENTAL RESPONSIBILITY) ACT 1997

#### Safer Community Compact – Order

I, the Honourable Greg Smith, S.C., Attorney General and Minister for Justice of the State of New South Wales, in pursuance of section 39 (1) of the Children (Protection and Parental Responsibility) Act 1997, do, by this my Order, approve Shellharbour Council's Crime Prevention Plan as a Safer Community Compact for the purposes of Division 3 of Part 4 of that Act.

This Order takes effect on 19 September 2012 remaining in force until 19 September 2015.

Signed at Sydney, this 19th day of September 2012.

GREG SMITH,  
Attorney General  
and Minister for Justice

### DISTRICT COURT ACT 1973

#### District Court of New South Wales

#### Direction

PURSUANT to section 173 of the District Court Act 1973, I direct that the District Court shall sit in its criminal jurisdiction at the place and time shown as follows:

East Maitland 10.00am 11 March 2013 (3 weeks)

Dated this 5th day of December 2012.

R. O. BLANCH,  
Chief Judge

### GEOGRAPHICAL NAMES ACT 1966

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to assign the names listed hereunder as geographical names.

Any person wishing to make comment upon these proposals may within one (1) month of the date of this notice, write to the Secretary of the Board with that comment.

Proposed Name:	Harrison Park
Designation:	Reserve
L.G.A.:	Shellharbour City Council
Parish:	Terragong
County:	Camden
L.P.I. Map:	Albion Park
1:100,000 Map:	Kiama 9028
Reference:	GNB 5614
Proposed Name:	Memory Park
Designation:	Reserve
L.G.A.:	Tamworth Regional Council
Parish:	Moonbi
County:	Inglis
L.P.I. Map:	Moonbi
1:100,000 Map:	Nundle 9135
Reference:	GNB 5598
Proposed Name:	Gandja-baa
Designation:	Islet
L.P.I. Map:	Bombah Point
1:100,000 Map:	Port Stephens 9332
Reference:	GNB 5577

The position and the extent for these features are recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board's website at [www.gnb.nsw.gov.au](http://www.gnb.nsw.gov.au)

KEVIN RICHARDS,  
A/Secretary

Geographical Names Board  
PO Box 143  
Bathurst NSW 2795

### GEOGRAPHICAL NAMES ACT 1966

PURSUANT to the provisions of section 7 (1) of the Geographical Names Act 1966, the Geographical Names Board has this day assigned the geographical names for beaches on Broughton Island as listed hereunder:

Assigned Name:	Esmeralda Beach
Designation:	Beach
L.P.I. Map:	Bombah Point
1:100,000 Map:	Port Stephens 9332
Reference:	GNB 5577
Assigned Name:	Little Poverty Beach
Designation:	Beach
L.P.I. Map:	Bombah Point
1:100,000 Map:	Port Stephens 9332
Reference:	GNB 5577

The position and the extent for these features are recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board's website at [www.gnb.nsw.gov.au](http://www.gnb.nsw.gov.au)

KEVIN RICHARDS,  
A/Secretary

Geographical Names Board  
PO Box 143  
Bathurst NSW 2795

### GEOGRAPHICAL NAMES ACT 1966

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

Assigned Name:	Bulahdelah Lions Park
Designation:	Reserve
L.G.A.:	Great Lakes Council
Parish:	Nerong
County:	Gloucester
L.P.I. Map:	Bulahdelah
1:100,000 Map:	Bulahdelah 9333
Reference:	GNB 5608

The position and the extent for this feature is recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board's website at [www.gnb.nsw.gov.au](http://www.gnb.nsw.gov.au)

KEVIN RICHARDS,  
A/Secretary

Geographical Names Board  
PO Box 143  
Bathurst NSW 2795

**GEOGRAPHICAL NAMES ACT 1966**

## Notice of Discontinuation of a Geographical Name

PURSUANT to the provisions of section 14 of the Geographical Names Act, 1966, the Geographical Names Board hereby notifies that it has this day DISCONTINUED the name:

‘Gateshead Public School’, assigned on the 7 October, 1977, Folio 338.

K. RICHARDS,  
Acting Secretary

Geographical Names Board  
PO Box 143,  
Bathurst NSW 2795

**GEOGRAPHICAL NAMES ACT 1966**

## Notice of Discontinuation of School Names

PURSUANT to the provisions of section 14 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day DISCONTINUED the school names listed below:

‘Clarinda Public School’, assigned 13 January 1984, Folio 3161,

‘Terowie Public School’, assigned 19 January 1979, Folio 300,

‘Gunningbland Public School,’ assigned 26 January 1979, Folio 436,

‘Forest Reefs Public School’, assigned 24 January, 1975, Folio 8057,

‘Jenolan Caves Public School, assigned 24 May, 1968, Folio 5421,

‘Cucumgillica Public School’, assigned 25 July 1975, Folio 1825,

‘Oberon Central School’, assigned 29 April 1977, Folio 6899.

K. RICHARDS,  
Acting Secretary

Geographical Names Board  
PO Box 143,  
Bathurst 2795

**GEOGRAPHICAL NAMES ACT 1966**

## Erratum

IN the notice referring to the assignment of the name ‘Great Turriel Bay’ in the Sutherland Shire Local Government Area, Folio 3605, 4 May 1973, the name is incorrectly spelt. The correct spelling is ‘Great Turriell Bay’. This notice corrects that error.

The position and extent for this feature is recorded and shown in the Geographical Names Register of New South Wales, which can be viewed on the Geographical Names Board internet site at [www.gnb.nsw.gov.au](http://www.gnb.nsw.gov.au).

K. RICHARDS,  
A/Secretary

Geographical Names Board  
PO Box 143  
Bathurst 2795

**GEOGRAPHICAL NAMES ACT 1966**

## Erratum

IN the notice referring to the assignment of the name ‘Anson Street Public School’, Folio 9157 in the *NSW Government Gazette* published on 21 March 1975, the name was assigned in error. The correct name for this feature is ‘Anson Street School’. This notice corrects that error.

K. RICHARDS,  
Acting Secretary

Geographical Names Board  
PO Box 143,  
Bathurst 2795

**GEOGRAPHICAL NAMES ACT 1966**

## Erratum

IN the notice referring to the assignment of the name ‘Eugowra Central School’, Folio 1749 in the *NSW Government Gazette* published on 23 March, 1979, the name was assigned in error. The correct name for this feature is ‘Eugowra Public School’. This notice corrects that error.

K. RICHARDS,  
Acting Secretary

Geographical Names Board  
PO Box 143,  
Bathurst 2795

**GEOGRAPHICAL NAMES ACT 1966**

## Erratum

IN the notice referring to the assignment of the name ‘Wyangala Public School’, Folio 5457, in the *NSW Government Gazette* published on 26 May 1978, the name was assigned in error. The correct name for this feature is ‘Wyangala Dam Public School’. This notice corrects that error.

K. RICHARDS,  
Acting Secretary

Geographical Names Board  
PO Box 143,  
Bathurst 2795

**LAND TAX MANAGEMENT ACT 1956**

## Land Tax Returns for 2013 Tax Year

1. This Order is made under section 12 (1) of the Land Tax Management Act 1956. The purpose of this Order is to advise persons who own land in New South Wales if and when they are required to lodge an initial return or a variation return in relation to the 2013 land tax year or an earlier tax year.

**Persons Who Must Lodge an Initial Return**

2. The requirement to lodge an initial land tax return in 2013, as specified in this Order, applies to certain “persons” who are “owners” of land in New South Wales at midnight on 31 December 2012 (or any previous year if paragraph 5 applies). The reference to an “owner” includes a reference to a person who is an owner of land or is deemed to be an owner for land tax purposes by the Land Tax Management Act 1956. A “person” includes a company, a trustee, a beneficiary of a trust and a natural person.

3. Persons who own land in New South Wales at midnight on 31 December 2012 which is not exempt from land tax must lodge an initial return unless they were assessed and received a land tax notice of assessment for the 2012 land tax year.
  4. Persons who have received a land tax notice of assessment for any land tax year prior to 2013 showing nil tax payable and who have subsequently acquired additional land or an additional interest in land and are the owners of land at midnight 31 December 2012 which is not exempt from land tax must lodge an initial return.
  5. Persons who are liable to be assessed for land tax for any tax year prior to 2012 and have not previously lodged a return for that year, or have not received a land tax notice of assessment for that tax year must also lodge an initial return.
  6. Persons who own land that has previously been exempt from land tax in any tax year prior to 2013 but is not exempt for the 2013 tax year must lodge an initial return.
  7. Where land is subject to a trust, and the trustee has not previously lodged a land tax return, the trustee must lodge an initial return on behalf of the trust. If the trustee fails to lodge a return, or fails to provide the information specified on the form about the beneficiaries of the trust, the trust may be assessed as if it were a special trust.
  8. A Land Tax Registration Form is an initial return for the purposes of section 12.
- (i) a group constituted under section 29 of the Land Tax Management Act 1956 does not have a member classified as a concessional company;
  - (j) a group constituted under section 29 of the Land Tax Management Act 1956 has more than one member classified and separately assessed as a concessional company (note that two or more companies can be correctly classified as joint concessional companies and jointly assessed as such);
  - (k) an error in the calculation of the average value of a parcel of land.
12. A variation return is required if the trustee of a trust that has an interest in land has not previously advised the Chief Commissioner of the existence of the trust, or if the trust has been incorrectly assessed as either a fixed trust when it is a special trust or as a special trust when it is a fixed trust.
  13. A variation return disclosing details of the beneficiaries must be lodged by a trustee of a trust, other than a special trust, if the trustee has not previously advised the Chief Commissioner of the beneficiaries of the trust or the beneficial owners of land owned by the trust. If a trustee fails to comply with this requirement, the Chief Commissioner may classify the trust as a special trust.

#### **Due Date for Lodgement of Initial Returns**

9. Any person who is required by this Order to lodge an initial return must do so by 31 March 2013.
10. Penalty tax and interest may be imposed under the Land Tax Management Act 1956 and the Taxation Administration Act 1996 for failing to lodge a return by the due date.

#### **Persons Who Must Lodge a Variation Return**

11. A variation return is required to be lodged by a person who receives an incorrect notice of assessment of land tax. Errors on the notice which may result in an incorrect notice of assessment of land tax may include:
  - (a) details of land owned by the person as shown on the notice are incorrect (including but not limited to inclusion of land disposed of prior to 31 December 2012; land acquired prior to 31 December 2012 has not been included in the assessment; the percentage interest in land is incorrect for land that is jointly owned; land shown in assessment is owned in capacity of trustee; or an incorrect property description is shown);
  - (b) exempt land has been incorrectly assessed as liable for land tax;
  - (c) liable land has been incorrectly classified as exempt;
  - (d) the calculation of tax contains errors;
  - (e) a special trust has been incorrectly assessed as if it were a fixed trust;
  - (f) a fixed trust has been incorrectly assessed as if it were a special trust;
  - (g) the beneficial owners of land owned by a family unit trust have changed since 31 December 2005;
  - (h) additional land has been acquired by a family unit trust, so that the total liable land owned by the trust has a taxable value of over \$1 million;

#### **Due Date for Lodgement of Variation Returns**

14. A variation return is required to be lodged by the first instalment date shown on the notice of assessment. If the notice of assessment shows that no tax is payable, the due date for lodgement of a variation return is 40 days after the "Issue Date" shown on the notice.
15. Penalty tax and interest may be imposed under the Land Tax Management Act 1956 and the Taxation Administration Act 1996 for failing to lodge a return by the due date.

#### **How to Lodge a Return**

16. A person, including an agent or trustee can satisfy the obligation to lodge an initial return or a variation return:
  - by lodging a return form electronically via the Office of State Revenue's Website at [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au), or
  - by providing the relevant information by telephone to the OSR's telephone inquiry service on 1300 139 816, or
  - by lodging a written return form with OSR.
17. Note that in some cases lodging by webform or telephone will not be possible and a written return form may still be required. Under section 12 (2) of the Land Tax Management Act 1956, the Chief Commissioner may require any person to lodge a return or a further return.

#### **Other Matters**

18. A requirement to lodge a return specified in this notice does not affect a requirement to lodge a return by an earlier date specified by the Chief Commissioner under section 12 (2) of the Act or an earlier date specified in any previous Order made under section 12 (1).
19. Land tax information brochures are available on the Office of State Revenue's website at [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au).

T. NEWBURY,  
Chief Commissioner of State Revenue



**NATIONAL PARKS AND WILDLIFE ACT 1974**

Willandra National Park Plan of Management  
 Warrumbungle National Park Plan of Management  
 Bundjalung and Jackywalbin State Conservation Areas  
 Plan of Management  
 The Charcoal Tank Nature Reserve Plan of Management  
 Prospect Nature Reserve Plan of Management  
 Quanda Nature Reserve

A plan for Bundjalung and Jackywalbin State Conservation Areas was adopted by the Minister for the Environment on 2 October 2012. Plans of management for Willandra National Park and for The Charcoal Tank Nature Reserve were adopted on 3 November 2012. Plans for Warrumbungle National Park and for Prospect Nature Reserve were adopted on 26 November 2012. A plan of management for Quanda Nature Reserve was adopted on 27 November 2012.

The plans are on the website: [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au) (use 'quicklinks' to 'park management plans').

**NATIONAL PARKS AND WILDLIFE ACT 1974**

## Notice of Reservation of a Nature Reserve

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

Signed and sealed at Sydney, this 28th day of November 2012.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

ROBYN PARKER, M.P.,  
Minister for the Environment

GOD SAVE THE QUEEN!

**SCHEDULE**

*Land District – Taree; L.G.A. – Great Lakes*

County Gloucester, Parish Tuncurry, about 8847 square metres, being the Reserve for Drainage within Lot 207, DP 753207.

Papers: OEH/06/01465.

**NATIONAL PARKS AND WILDLIFE ACT 1974**

## Notice of Reservation of a National Park

I, Professor Marie Bashir, A.C., C.V.O., Governor of the State of New South Wales, with the advice of the Executive Council, reserve the lands described in the Schedule below under the provisions of section 30A (1) and (2) of the National Parks and Wildlife Act 1974 and assign the name MALABAR HEADLAND NATIONAL PARK.

Signed and sealed at Sydney, this 21st day of November 2012.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

ROBYN PARKER, M.P.,  
Minister for the Environment

GOD SAVE THE QUEEN!

**SCHEDULE**

*Land District – Metropolitan; LGA – Randwick*

County Cumberland, Parish Botany, at Malabar, 17.729 hectares, being Lot 102 in Deposited Plan 1162245.  
 Papers: OEH-FIL07/19318.

**PESTICIDES ACT 1999**

Environment Protection Authority NSW

Notice under Section 48 (4)

NOTICE is hereby given, pursuant to section 48 (4) of the Pesticides Act 1999, that I have granted a Pilot (Pesticide Rating) Licence, particulars of which are stated in the Schedule.

SEAN NUNAN,  
Team Leader,  
Chemicals and Radiation Licensing  
by delegation

**SCHEDULE**

Pilot (Pesticide Rating) Licence

<i>Name and address of Licensee</i>	<i>Date of Granting of Licence</i>
Nicholas LISSAMAN, PO Box 199, Innisfail Qld 4860	3 December 2012

**POISONS AND THERAPEUTIC GOODS ACT 1966**

Order Under Clause 175 (1),  
Poisons and Therapeutic Goods Regulation 2008

Withdrawal of Drug Authority

IN accordance with the provisions of clause 175 (1) of the Poisons and Therapeutic Goods Regulation 2008 an Order has been made on Dr TUAN MINH DOAN, DEN0001369344, of Unit 3, 11 Bridge Street, Cabramatta NSW 2166, prohibiting him until further notice, as a dentist from supplying or having possession of drugs of addiction as authorised by clause 101 of the Regulation and issuing a prescription for a drug of addiction as authorised by clause 77 of the Regulation.

This Order is to take effect on and from 7 December 2012.

Dated: 3 December 2012.

Dr MARY FOLEY,  
Director-General,  
Ministry of Health, New South Wales

**PRACTICE NOTE No. 2**

Children's Court of New South Wales

Initiating Report and Service of the Relevant Portion of  
the Community Services File in Care Proceedings

Issued 23 July 2010  
Amended 1 January 2013

**1. Commencing proceedings for a Care Order**

- 1.1 This amended Practice Note takes effect on 1 January 2013
- 1.2 The written report required to accompany an application under section 61 (the Report) must succinctly and fairly summarise the information

available to the Director-General, sufficient to support a determination that a child or young person is in need of care and protection and any interim orders sought.

1.3 This Practice Note applies to care applications made under Chapter 5 of the Children and Young Persons (Care and Protection) Act 1998 (the Care Act) with the exception of the following applications:

- Applications for rescission or variation of orders under section 90
- Applications on breach of undertakings under section 76 (5)
- Applications on breach of supervision under section 77 (3)
- Applications for assessment orders under section 53, section 54 and section 55
- Applications for contact orders under section 86 and,
- Applications for emergency care and protection orders under section 45 (1) (a) and section 46.

## 2. Service of Documents

2.1 Where practicable, the Director-General should serve, as a minimum, the documents specified in this Practice Note (the Specified Documents) with the Application and Report (Form 1), but must otherwise serve, or use reasonable efforts to serve, the Specified Documents as soon as possible, but no later than the first occasion the Application comes before the court (the first return date): section 64. Service on the first return date should be the exception, rather than standard practice.

2.2 The Specified Documents are copies of:

- All current orders, from any jurisdiction, including apprehended violence orders, and any other order being relied upon for an argument pursuant to section 106A.
- Redacted Risk of Serious Harm Reports from the previous 12 months.
- Any birth alerts.
- Records of any prior alternative action, including referrals to or reports from support services, any home visits or meetings with any family member, children or others responsible for the child or children in the previous 12 months.
- Safety assessments and narratives (SARA records), and any case plans, parental responsibility agreements, including assessments or reports received from other services or agencies.
- Removal or assumption records.
- Any direct evidence received from the Police, JIRT, health service providers, or mandatory reporters.
- Any assessments or reports received from any health service provider or the Clinic relating to any family member, children or others responsible for the child or children, including any test results such as urinalysis.
- A genogram for the child.

Notes:

- (a) The Specified Documents are to include any actual records, including photographs, together with any

emails, file notes, or notes of any conversations including telephone or other electronic communications.

(b) Documents are only required to be served in the form in which they exist on the Community Services' file. The Director-General is not required to convert information into a different format.

(c) Documents are not required to be supported by an affidavit.

## 3 Further procedures applying to the service of documents

3.1 With the exception of a Summary of Risk of Serious Harm reports and a genogram, only documents held by Community Services are required to be served. The Director-General is not required to source documents that are not in his or her possession at the time of service. If a party wishes to rely on documents not in the possession of Community Services, the party should subpoena the person or entity that holds the documents.

3.2 If a genogram has not been created as at the first return date it is to be prepared and served within 14 days of the first return date.

3.3 If there are additional documents (which may assist the Court or a party) that come into the possession of the Director-General following service of the Specified Documents, he or she must also serve those additional documents forthwith.

3.4 The service of documents by Community Services is subject to compliance with section 29. Accordingly, information disclosing the identity of a person who made a report, the report and evidence of the contents of the report may be deleted from documents.

3.5 Other than the Application and Report, the documents are not to be filed in the Court registry.

3.6 Documents already served in accordance with this Practice Note need not be produced again in response to a subpoena.

3.7 Any party may re-list the matter after giving reasonable notice to the other parties to seek an order to vary the procedures required by this Practice Note.

His Honour JUDGE JOHNSTONE,  
President

## PROTECTION OF THE ENVIRONMENT OPERATIONS (WASTE) REGULATION 2005

General Exemption Under Part 6, Clause 51 and 51A

The Processed Animal Waste Exemption 2012

### Name

1. This exemption is to be known as 'The Processed Animal Waste Exemption 2012'.

### Commencement

2. This exemption commences on 7 December 2012.

### Duration

3. This exemption is valid until revoked by the Environment Protection Authority (EPA) by notice published in the *NSW Government Gazette*.

## Legislation

### 4. Under the Protection of the Environment Operations (Waste) Regulation 2005 (the Regulation):

- 4.1. Clause 51 authorises the EPA to grant an exemption in relation to any matter or thing including an activity or class of activities, and
- 4.2. Clause 51A authorises the EPA to exempt a person or class of persons from any of the following provisions in relation to an activity or class of activities relating to certain waste that is to be land applied or used as a fuel:
  - the provisions of sections 47 to 49 and 88 of the Protection of the Environment Operations Act 1997 (the Act),
  - the provisions of Schedule 1 to the Act, either in total or as they apply to a particular activity, and
  - the provisions of Part 3 and clauses 45 and 47 of the Regulation.

## Exemption

### 5. In this Notice of Exemption:

- 5.1. The responsible person listed in Column 1 of Table 1 is exempt from the provision/s listed in Column 2 of that table but only:
  - in relation to activities involving the relevant waste, and
  - where the responsible person complies with the conditions referred to in Column 3 of the table, and
  - in the case of a consumer, in relation to the premises where the waste is applied to land as permitted by clause 7.1.

However, this Notice of Exemption does not exempt the responsible person from the provisions specified in Column 2 where the relevant waste is received at premises that are, despite this exemption, required to be licensed for waste disposal (application to land) activities under the provisions of the Act.

- 5.2. Where a responsible person complies with the conditions of this Notice of Exemption, the activity referred to in Schedule 1 from which that person is exempt is taken to be a non-scheduled activity for the purposes of the Act.

Table 1

<i>Column 1</i> <i>Responsible person</i>	<i>Column 2</i> <i>Provisions from which the responsible person is exempt</i>	<i>Column 3</i> <i>Conditions to be met by the responsible person</i>
Processor	section 48 of the Act in respect of clause 39 of Schedule 1 to the Act	all requirements specified in section 7
Consumer	section 48 of the Act in respect of clauses 39 and 42 of Schedule 1 to the Act section 88 of the Act clause 47 of the Regulation	all requirements specified in section 7

This Notice of Exemption is a general exemption for the purposes of clause 51 (3) of the Regulation.

## Definitions

### 6. In this Notice of Exemption:

**Animal waste** means dead animals or animal parts and any mixture of dead animals and animal parts.

**Consumer** means a person who applies, causes, or permits the application to land of processed animal waste within the definitions of “application to land” in accordance with the Act. The consumer may be the landholder responsible for the land to which processed animal waste is applied.

**Fish emulsion** means the liquid produced from the heat treatment of animal waste from fishery industries.

**Fish hydrolysate** means the liquid produced from the hydrolysis and/or enzymatic breakdown of animal waste from fishery industries.

**Heat treatment** means the process of heating the animal waste at temperatures and for times which, in combination, are sufficient to destroy pathogenic micro-organisms.

**Meal** means defatted and dried solid product from rendering animal waste after milling, including but is not restricted to meat and bone meal, poultry meal, fish meal and blood meal.

**Processed animal waste** means animal waste that has been processed into meal, fish emulsion or fish hydrolysate.

**Processor** means a person who generates, processes, mixes, blends, or otherwise incorporates the processed animal waste into a material for supply to a consumer.

**Relevant waste** means the processed animal waste that meets the requirements of Section 7.

**Rendering** means the heat treatment of animal waste to remove moisture and/or liberate fat.

## General conditions

### 7. This Notice of Exemption is subject to the following conditions:

- 7.1. The processed animal waste can only be applied to land as a soil amendment material.
- 7.2. Application rates must be equal to or less than the agronomic rate for the most limiting factor.
- 7.3. The consumer must land apply the processed animal waste within a reasonable period of time.

## Exemption Granted

CHRISTOPHER McELWAIN,  
Waste and Resource Strategy,  
Environment Protection Authority  
by delegation

## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the generator, processor and consumer to ensure that they comply with all relevant requirements of the most current exemption. The current version of an exemption will be available on the EPA website: [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

In gazetting this general exemption, the EPA is exempting the relevant waste from the specific requirements of the Act and Regulations as stated in this exemption. The EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The use of exempted material remains subject to other relevant environmental regulations within the Act and Regulations. For example, a person who pollutes land (section 142A) or water (section 120), or does not meet the special requirements for asbestos waste (clause 42), regardless of having an exemption, is guilty of an offence and subject to prosecution.

For the purposes of arrangements between a generator, a processor and a consumer, a 'transaction' is taken to mean the contractual agreement between the two parties which specifies the exchange of waste material from one party to another. A 'statement of compliance' must be in writing and be provided with each transaction.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, however, neither this exemption nor these conditions guarantee that the environment, human health or agriculture will not be harmed. It should be noted that contaminants may be present in the relevant waste that can potentially cause harm.

The consumer should assess whether or not the exempted material is fit for the purpose the material is proposed to be used and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

This exemption does not apply to any material received at a premises that is required to be licensed for waste disposal (application to land) activities under the provisions of the Act. This exemption does not remove the need for a site at which processing occurs to be licensed, if required under Schedule 1 of the Act.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Material Safety Data Sheet (MSDS) or any requirements under the Fertilisers Act 1985.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with the development consent requirements of the land.

All records required to be kept under this exemption must be made available to authorised officers of the EPA upon request.

Failure to comply with the conditions of this Notice of Exemption may constitute an offence under clause 51 of the Regulation and the responsible person will be required to comply with the normal regulatory provisions.

## STATUTORY AND OTHER OFFICES REMUNERATION ACT 1975

### Erratum

THE Annual Report and Determination of the Judges and Magistrates Group by the Statutory and Other Offices Remuneration Tribunal of 9 November 2012 is amended as set out hereunder.

**Determination No. 3** on page 20 is amended as follows:

Remuneration to be paid to the President of the Workers Compensation Commission (pursuant to section 369 of the Workplace Injury Management and Workers Compensation Act 1988) – effective from 1 October 2012

<i>Position</i>	<i>Salary per annum</i>	<i>Conveyance Allowance (1)</i>
President, Workers Compensation Commission	\$402,810	\$22,550

Note 1 The Conveyance Allowance determined here shall not count towards pension or for superannuation purposes

**Determination No. 1** on page 18 and **Determination No. 2** on page 19 are amended as follows. These amendments clarify the eligibility requirements in relation to the conveyance allowance only and do not represent an increase over those levels determined on 9 November 2012.

### Determination No 1

Determination of the Remuneration for Judicial Officers as defined in the Judicial Officers Act 1986 being judicial officers of the Supreme Court and judicial officers linked by legislation to the remuneration of the Supreme Court

Effective on and from 1 October 2012

<i>Position</i>	<i>Salary per annum</i>	<i>Conveyance Allowance (1)</i>
Chief Justice of the Supreme Court	\$450,750	\$22,550
President of the Court of Appeal	\$422,070	\$22,550
President of the Industrial Relations Commission	\$422,070	\$22,550
Chief Judge of the Land and Environment Court	\$422,070	\$22,550
Judge of the Supreme Court	\$402,810	\$22,550
Vice-President of the Industrial Relations Commission	\$402,810	\$22,550
Judge of the Land and Environment Court	\$402,810	\$22,550
Deputy President of the Industrial Relations Commission (being a judicial member)	\$402,810	\$22,550

Note 1 The Conveyance Allowance determined here shall not count towards pension or for superannuation purposes



## Determination No. 2

Determination of the Remuneration for Judicial Officers as defined in the Judicial Officers Act 1986 but not referred to in Determination 1

Effective on and from 1 October 2012

<i>Position</i>	<i>Salary per annum</i>	<i>Conveyance Allowance (1)</i>
Deputy President of the Industrial Relations Commission (not being a judicial member)	\$400,860	\$22,550
Judge of the District Court	\$360,770	\$20,330
Associate Judge or acting Associate Judge (under the Supreme Court Act 1970)	\$360,770	\$20,330
Chief Magistrate	\$360,770	\$20,330
Deputy Chief Magistrate	\$304,850	\$16,235
State Coroner	\$304,850	\$16,235
Chief Industrial Magistrate	\$293,670	\$16,235
Magistrate	\$288,620	\$16,235
Chairperson Victims Compensation Tribunal (NOTE 2)	\$288,620	\$16,235
Children's Magistrate	\$288,620	\$16,235
Deputy State Coroner	\$288,620	\$16,235
Commissioner Industrial Relations Commission	\$264,560	\$16,235

Note 1 The Conveyance Allowance determined here shall not count towards pension or for superannuation purposes

Note 2 When a more senior Magistrate is appointed to the office then he or she shall retain his or her present salary level.

**Determination No. 5** on page 21 has been deleted. Conveyance allowance rates are now listed in Determinations 1 and 2.

**Determination No. 6** on page 22 has been re-titled Determination No. 5.

THE STATUTORY AND OTHER OFFICES  
REMUNERATION TRIBUNAL

## SURVEYING AND SPATIAL INFORMATION ACT 2002

### Registration of Surveyors

PURSUANT to the provisions of the Surveying and Spatial Information Act 2002, section 10 (1) (a), the undermentioned persons have been Registered as Land Surveyors in New South Wales from the dates shown:

<i>Name</i>	<i>Address</i>	<i>Effective Date</i>
BORGERS, Sebastian	PO Box 363, Fyshwick 2609	1 November 2012
SINGH, Dharmendra	Suite 317/5, Celebration Drive, Bella Vista 2153	9 November 2012
SMITH, Anthony Patrick	6 Herb Elliot Ave, Olympic Park 2127	23 November 2012
SMITH, Matthew Graham	19 Massey Street, Gladesville 2111	19 November 2012
STEVENSON, Matthew Dean	PO Box 363, Fyshwick 2609	1 November 2012
STEWART, Peter James	PO Box 491, Chatswood 2057	28 November 2012
TAYLOR, Scott Daniel	186 Fisher Road, Maraylya 2765	31 October 2012
TRIFIRO, Michael Murray	7/1B Kleins Road, Northmead 2152	23 October 2012

D. J. MOONEY,  
President

S. G. GLENCORSE,  
Registrar

## SURVEYING AND SPATIAL INFORMATION ACT 2002

### Registration of Surveyors

PURSUANT to the provisions of the Surveying and Spatial Information Act 2002, section 10 (1) (a), the undermentioned persons have been Registered as Mining Surveyors (Unrestricted) in New South Wales from the dates shown:

<i>Name</i>	<i>Address</i>	<i>Effective Date</i>
BAILLIEU, Nicholas James	PMB 9, Muswellbrook 2333	15 November 2012
CHISHOLM, Timothy Robert	PO Box 86, Lambton 2287	1 November 2012
DEAVES, Michael Geoffrey	PO Box 320, Singleton 2330	12 November 2012
HADDON, Brett Charles	Bells Line of Road, Clarence 2790	21 November 2012
MACPHERSON, John Bernard	76 Bells Road, Lithgow 2790	5 November 2012
NICHOLS, Brendan Luke	Hunter Valley Operations, Singleton 2330	21 November 2012
TUCKER, Nicolas James	PO Box 402, Helensburgh 2508	5 November 2012
WOOPY, Joel Sang Soo	14/55 Auburn Street, Sutherland 2232	31 October 2012

D. J. MOONEY,  
President

S. G. GLENCORSE,  
Registrar



**SURVEYING AND SPATIAL INFORMATION  
ACT 2002**

Registration of Surveyors

PURSUANT to the provisions of the Surveying and Spatial Information Act 2002, section 10 (1) (a), the undermentioned persons have been Registered as a Land Surveyor in New South Wales under the Mutual Recognition Act 1993 from the dates shown:

<i>Name</i>	<i>Address</i>	<i>Effective Date</i>
ORR, Derek Ryan	4/18 George Street Mudgee 2850	18 October 2012

D. J. MOONEY,  
President

S. G. GLENCORSE,  
Registrar

**SURVEYING AND SPATIAL INFORMATION  
ACT 2002**

Restoration of Name to the Register of Surveyors

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

<i>Name</i>	<i>Date of Original Registration</i>	<i>Removal Date</i>	<i>Restoration Date</i>
GREENSLADE, Michael Stephen	28 April 2003	1 November 2004	5 November 2012
McCARTNEY, Peter Michael	20 September 1963	1 September 2012	14 November 2012
SEARLES, Mark Leslie	25 June 2001	1 September 2012	12 October 2012

D. J. MOONEY,  
President

S. G. GLENCORSE,  
Registrar

**TRANSPORT ADMINISTRATION ACT 1988 No. 109**

THE Minister for Transport has approved the closure of the following railway level crossing under section 99B of the Transport Administration Act 1988 No. 109:

Railway Level Crossing at Elizabeth Street, Liverpool  
on the Main Southern Rail Corridor at rail kilometres  
35.043

All rights, easements and privileges in relation to this level crossing are now extinguished.

The Hon. GLADYS BEREJIKLIAN, M.P.,  
Minister for Transport

# PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW

MARCH 2013

## TABLE OF CONTENTS

PART 1	INTRODUCTION
PART 2	DEFINITIONS
PART 3	ADMINISTRATIVE FRAMEWORK
PART 4	HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?
PART 5	HOW ARE CODE OF CONDUCT COMPLAINTS TO BE MANAGED?
PART 6	PRELIMINARY ASSESSMENT
PART 7	OPERATIONS OF CONDUCT REVIEW COMMITTEES
PART 8	INVESTIGATIONS
PART 9	RIGHTS OF REVIEW
PART 10	PROCEDURAL IRREGULARITIES
PART 11	PRACTICE DIRECTIONS
PART 12	REPORTING ON COMPLAINTS STATISTICS

## PART 1 INTRODUCTION

These procedures (“the Model Code Procedures”) are prescribed for the purposes of the administration of the Model Code of Conduct for Local Councils in NSW (“the Model Code”). The Model Code and Model Code Procedures are made under sections 440 and 440AA respectively of the Local Government Act 1993 (“the Act”) and the Local Government (General) Regulation 2005 (“the Regulation”).

Sections 440 and 440AA of the Act require every council to adopt a code of conduct and procedures for the administration of the code of conduct that incorporate the provisions of the Model Code and Model Code Procedures respectively.

In adopting procedures for the administration of their adopted codes of conduct, councils may supplement the Model Code Procedures. However provisions of a council’s adopted procedures that are not consistent with those prescribed under the Model Code Procedures will have no effect.

## PART 2 DEFINITIONS

For the purposes of the procedures, the following definitions apply:

“the Act”	the Local Government Act 1993
“administrator”	an administrator of a council appointed under the Act other than an administrator appointed under section 66
“code of conduct”	a code of conduct adopted under section 440 of the Act
“code of conduct complaint”	a complaint that alleges conduct on the part of a council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the council’s code of conduct
“complainant”	a person who makes a code of conduct complaint
“complainant councillor”	a councillor who makes a code of conduct complaint
“complaints coordinator”	a person appointed by the general manager under these procedures as a complaints coordinator
“conduct reviewer”	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
“council committee”	a committee established by resolution of council
“council committee member”	a person other than a councillor or member of staff of a council who is a member of a council committee
“councillor”	a person elected or appointed to civic office and includes a Mayor
“council official”	includes councillors, members of staff of council, administrators, council committee members, conduct reviewers and delegates of council
“delegate of council”	a person (other than a councillor or member of staff of a council) or body and the individual members of that body to whom a function of the council is delegated
“the Division”	the Division of Local Government, Department of Premier and Cabinet

“investigator”	a conduct reviewer or conduct review committee
“the Regulation”	the Local Government (General) Regulation 2005
“subject person”	a person whose conduct is the subject of investigation by a conduct reviewer or conduct review committee under these procedures

### PART 3 ADMINISTRATIVE FRAMEWORK

#### The establishment of a panel of conduct reviewers

- 3.1 The council must by resolution establish a panel of conduct reviewers.
- 3.2 The council may by resolution enter into an arrangement with one or more other councils to share a panel of conduct reviewers.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council’s panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a member of a panel of conduct reviewers, a person must, at a minimum, meet the following requirements:
  - a) an understanding of local government, and
  - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the Public Interest Disclosures Act 1994, and
  - c) knowledge and experience of one or more of the following:
    - i) investigations, or
    - ii) law, or
    - iii) public administration, or
    - iv) public sector ethics, or
    - v) alternative dispute resolution, and
  - d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not be eligible to be a member of the panel of conduct reviewers if they are
  - a) a councillor, or
  - b) a nominee for election as a councillor, or
  - c) an administrator, or
  - d) an employee of a council, or
  - e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - g) a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7 A person is not precluded from being a member of the council’s panel of conduct reviewers if they are a member of another council’s panel of conduct reviewers.
- 3.8 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.9 The council may terminate the panel of conduct reviewers at any time by resolution.
- 3.10 When the term of the conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.11 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council.

#### The appointment of complaints coordinators

- 3.12 The general manager must appoint a member of staff of the council to act as a complaints coordinator. Where practicable, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.13 The general manager may appoint other members of staff to act as alternates to the complaints coordinator.
- 3.14 The general manager must not undertake the role of complaints coordinator.
- 3.15 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the Public Interest Disclosures Act 1994.
- 3.16 The role of the complaints coordinator is to:
  - a) coordinate the management of complaints made under the council’s code of conduct,
  - b) liaise with and provide administrative support to a conduct reviewer or conduct review committee,

- c) liaise with the Division of Local Government, and
- d) arrange the annual reporting of code of conduct complaints statistics.

#### **PART 4 HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?**

##### What is a “code of conduct complaint”?

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that alleges conduct on the part of a council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the council’s code of conduct.
- 4.2 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a “code of conduct complaint” are to be dealt with under council’s routine complaints management processes.

##### When must a code of conduct complaint be made?

- 4.3 A code of conduct complaint must be made within three months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 4.4 A complaint made after 3 months may only be accepted if the general manager, or, in the case of a complaint about the general manager, the Mayor, is satisfied that there are compelling grounds for the matter to be dealt with under the code of conduct.

##### How may a code of conduct complaint about a council official other than the general manager be made?

- 4.5 All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing.
- 4.6 Where a code of conduct complaint about a council official other than the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.7 In making a code of conduct complaint about a council official other than the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.8 The general manager or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant’s preferences in deciding how to deal with the complaint.
- 4.9 Notwithstanding clauses 4.5 and 4.6, where the general manager becomes aware of a possible breach of the council’s code of conduct, he or she may initiate the process for the consideration of the matter under these procedures without a written complaint.

##### How may a code of conduct complaint about the general manager be made?

- 4.10 Code of conduct complaints about the general manager are to be made to the Mayor in writing.
- 4.11 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.12 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.13 The Mayor or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant’s preferences in deciding how to deal with the complaint.
- 4.14 Notwithstanding clauses 4.10 and 4.11, where the Mayor becomes aware of a possible breach of the council’s code of conduct by the general manager, he or she may initiate the process for the consideration of the matter under these procedures without a written complaint.

#### **PART 5 HOW ARE CODE OF CONDUCT COMPLAINTS TO BE MANAGED?**

##### How are code of conduct complaints about staff (other than the general manager) to be dealt with?

- 5.1 The general manager is responsible for making enquiries or causing enquiries to be made into code of conduct complaints about members of staff of council and for determining the outcome of such complaints.
- 5.2 Where the general manager decides not to make enquiries into a code of conduct complaint about a member of staff, the general manager must give the complainant reasons in writing for their decision.
- 5.3 Without limiting clause 5.2, the general manager may decide not to enquire into the matter on grounds that the complaint is trivial, frivolous, vexatious or not made in good faith.
- 5.4 Enquiries made into staff conduct that might give rise to disciplinary action must occur in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.5 Sanctions for staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

How are code of conduct complaints about delegates of council and council committee members to be dealt with?

- 5.6 The general manager is responsible for making enquiries or causing enquiries to be made into code of conduct complaints about delegates of council and council committee members and for determining the outcome of such complaints.
- 5.7 Where the general manager decides not to make enquiries into a code of conduct complaint about a delegate of council or a council committee member, the general manager must give the complainant reasons in writing for their decision.
- 5.8 Without limiting clause 5.7, the general manager may decide not to enquire into the matter on grounds that the complaint is trivial, frivolous, vexatious or not made in good faith.
- 5.9 Sanctions for delegates of council and/or members of council committees depend on the severity, scale and importance of the breach and may include one or more of the following:
- censure,
  - requiring the person to apologise to any person or organisation adversely affected by the breach,
  - prosecution for any breach of the law,
  - removing or restricting the person's delegation, or
  - removing the person from membership of the relevant council committee.
- 5.10 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.9, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:
- the substance of the allegation (including the relevant provision/s of council's code of conduct that the alleged conduct is in breach of) must be put to the person the subject of the allegation, and
  - the person must be given an opportunity to respond to the allegation, and
  - the general manager must consider the person's response in deciding whether to impose a sanction under clause 5.9.

How are code of conduct complaints about conduct reviewers to be dealt with?

- 5.11 The general manager must refer all code of conduct complaints about conduct reviewers to the Division for its consideration.
- 5.12 The general manager must notify the complainant of the referral of their complaint in writing.
- 5.13 The general manager must implement any recommendation made by the Division as a result of its consideration of a code of conduct complaint about a conduct reviewer.

How are code of conduct complaints about administrators to be dealt with?

- 5.14 The general manager must refer all code of conduct complaints about administrators to the Division for its consideration.
- 5.15 The general manager must notify the complainant of the referral of their complaint in writing.

How are code of conduct complaints about councillors to be dealt with?

- 5.16 The general manager must refer the following code of conduct complaints about councillors to the Division:
- complaints alleging a breach of the pecuniary interest provisions of the Act,
  - complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interests arising from reportable political donations (see section 328B),
  - complaints alleging a breach of Part 8 of the code of conduct relating to the maintenance of the integrity of the code, and
  - complaints the subject of a special complaints management arrangement with the Division under clause 5.40.
- 5.17 Where the general manager refers a complaint to the Division under clause 5.16, the general manager must notify the complainant of the referral in writing.
- 5.18 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Division under clause 5.16, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology instead of referring them to the complaints coordinator under clause 5.20.
- 5.19 Where the general manager resolves a code of conduct complaint under clause 5.18 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.20 The general manager must refer all code of conduct complaints about councillors other than those referred to the Division under clause 5.16 or resolved under clause 5.18 to the complaints coordinator.

How are code of conduct complaints about the general manager to be dealt with?

- 5.21 The Mayor must refer the following code of conduct complaints about the general manager to the Division:
- a) complaints alleging a breach of the pecuniary interest provisions of the Act,
  - b) complaints alleging a breach of Part 8 of the code of conduct relating to the maintenance of the integrity of the code, and
  - c) complaints the subject of a special complaints management arrangement with the Division under clause 5.40.
- 5.22 Where the Mayor refers a complaint to the Division under clause 5.21, the Mayor must notify the complainant of the referral in writing.
- 5.23 Where the Mayor considers it to be practicable and appropriate to do so, he or she may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Division under clause 5.21, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology instead of referring them to the complaints coordinator under clause 5.25.
- 5.24 Where the Mayor resolves a code of conduct complaint under clause 5.23 to the Mayor's satisfaction, the Mayor must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.25 The Mayor must refer all code of conduct complaints about the general manager other than those referred to the Division under clause 5.21 or resolved under clause 5.23 to the complaints coordinator.

Referral of code of conduct complaints to external agencies

- 5.26 The general manager, Mayor or a conduct reviewer or conduct review committee may, at any time, refer a code of conduct complaint to an external agency or body such as, but not limited to, the Division, the Independent Commission Against Corruption, the NSW Ombudsman or the Police for its consideration, where they consider such a referral is warranted.
- 5.27 Where the general manager, Mayor, conduct reviewer or conduct review committee refers a complaint to an external agency or body under clause 5.26, they must notify the complainant of the referral in writing where it is appropriate for them to do so.
- 5.28 Referral of a matter to an external agency or body shall finalise consideration of the matter under the code of conduct unless the council is subsequently advised otherwise by the referral agency or body.

Disclosure of the identity of complainants

- 5.29 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- a) the complainant consents in writing to the disclosure, or
  - b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
  - c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
  - d) a conduct reviewer or conduct review committee is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
  - e) it is otherwise in the public interest to do so.
- 5.30 Clause 5.29 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.
- 5.31 Where a councillor makes a code of conduct complaint about another councillor or the general manager and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 5.32 A request made by a complainant councillor under clause 5.31 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.
- 5.33 The general manager or Mayor or, where the matter is referred, a conduct reviewer or conduct review committee must consider a request made under clause 5.31 before disclosing information that identifies or tends to identify the complainant councillor but are not obliged to comply with the request.
- 5.34 Where a complainant councillor makes a request under clause 5.31, the general manager or Mayor or, where the matter is referred, a conduct reviewer or conduct review committee shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

Code of conduct complaints made as public interest disclosures

- 5.35 Code of conduct complaints that are made as public interest disclosures under the Public Interest Disclosures Act 1994 are to be managed in accordance with the requirements of that Act, the council's internal reporting policy and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.



- 5.36 For a code of conduct complaint to be dealt with as a public interest disclosure, the complainant must state at the outset and in writing at the time of making the complaint that it is made as a public interest disclosure.
- 5.37 Where a councillor makes a code of conduct complaint about another councillor or the general manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.
- 5.38 Where a complainant councillor declines to consent to the disclosure of their identity as the complainant under clause 5.37, the general manager or the Mayor must refer the complaint to the Division for consideration. Such a referral must be made under section 26 of the Public Interest Disclosures Act 1994.

#### Special complaints management arrangements

- 5.39 The general manager may request in writing that the Division enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.
- 5.40 Where the Division receives a request under clause 5.39, it may agree to enter into a special complaints management arrangement where it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:
- imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, or
  - impeded or disrupted the effective administration by the council of its code of conduct, or
  - impeded or disrupted the effective functioning of the council.
- 5.41 A special complaints management arrangement must be in writing and must specify the following:
- the code of conduct complaints the arrangement relates to, and
  - the period that the arrangement will be in force.
- 5.42 The Division may by notice in writing, amend or terminate a special complaints management arrangement at any time.
- 5.43 While a special complaints management arrangement is in force, an officer of the Division (the assessing Divisional officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of these procedures except as provided by clause 5.44 below.
- 5.44 Where, following a preliminary assessment, the assessing Divisional officer determines that a code of conduct complaint warrants investigation by a conduct reviewer or a conduct review committee, the assessing Divisional officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing Divisional officer.
- 5.45 Prior to the expiry of a special complaints management arrangement, the Division shall, in consultation with the general manager, review the arrangement to determine whether it should be renewed or amended.
- 5.46 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.45.

## **PART 6 PRELIMINARY ASSESSMENT**

### Referral of code of conduct complaints to conduct reviewers

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager submitted to the complaints coordinator within 21 days of receipt of a complaint by the general manager or the Mayor.
- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
- a panel of conduct reviewers established by the council, or
  - a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Division.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers.
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
- they have a conflict of interests in relation to the matter referred to them, or
  - a reasonable apprehension of bias arises in relation to their consideration of the matter, or
  - they or their employer has entered into one or more contracts with the council in the 2 years preceding the referral and they or their employer have received or expect to receive payments under the contract or contracts of a cumulative value that exceeds \$100K, or
  - at the time of the referral, they or their employer are the council's legal service providers or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interests in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 4.1 of the Model Code of Conduct).

- 6.6 For the purposes of clause 6.4 (b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council.
- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer and advise which conduct reviewer the matter has been referred to.

Preliminary assessment by a conduct reviewer

- 6.9 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.
- 6.10 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:
- a) to take no action, or
  - b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology, or
  - c) to refer the matter back to the general manager or, in the case of a complaint about the general manager, the Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, or apology, or
  - d) to refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, the Division or the Police, or
  - e) to investigate the matter, or
  - f) to recommend that the complaints coordinator convene a conduct review committee to investigate the matter.
- 6.11 In determining how to deal with a matter under clause 6.10, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.27.
- 6.12 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what option to exercise under clause 6.10.
- 6.13 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what option to exercise in relation to the matter under clause 6.10. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.14 The conduct reviewer must refer to the Division any complaints referred to him or her that should have been referred to the Division under clauses 5.16 and 5.21.
- 6.15 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.
- 6.16 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.10, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it and this will finalise consideration of the matter under these procedures.
- 6.17 Where the conduct reviewer refers a complaint to another agency or body, they must notify the complainant of the referral in writing where it is appropriate for them to do so.
- 6.18 The conduct reviewer may only determine to investigate a matter or to recommend that a conduct review committee be convened to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a “code of conduct complaint” for the purposes of these procedures, and
  - b) that the alleged conduct, on its face, is sufficiently serious to warrant investigation, and
  - c) that the matter is one that could not or should not be resolved by alternative means.
- 6.19 The conduct reviewer may only determine to recommend that a conduct review committee be convened to investigate a matter after consulting with the complaints coordinator and where they are satisfied that it would not be practicable or appropriate for the matter to be investigated by a sole conduct reviewer.
- 6.20 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator.
- 6.21 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint except as may be specifically required under these procedures.

Referral back to the general manager or Mayor for resolution

- 6.22 Where the conduct reviewer determines to refer a matter back to the general manager or to the Mayor to be resolved by alternative and appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the Mayor, recommending the means by which the complaint may be resolved.

- 6.23 The conduct reviewer must consult with the general manager or Mayor prior to referring a matter back to them under clause 6.22.
- 6.24 The general manager or Mayor may decline to accept the conduct reviewer's recommendation. Where the general manager or Mayor declines to do so, the conduct reviewer may determine to deal with the complaint by other means under clause 6.10.
- 6.25 Where the conduct reviewer refers a matter back to the general manager or Mayor under clause 6.22, the general manager or, in the case of a complaint about the general manager, the Mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 6.26 Where the conduct reviewer refers a matter back to the general manager or Mayor under clause 6.22, the general manager, or, in the case of a complaint about the general manager, the Mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

#### Complaints assessment criteria

- 6.27 In undertaking the preliminary assessment of a complaint, the conduct reviewer may have regard to the following considerations:
- a) whether the complaint is a "code of conduct complaint",
  - b) whether the complaint is trivial, frivolous, vexatious or not made in good faith,
  - c) whether the complaint discloses prima facie evidence of a breach of the code,
  - d) whether the complaint raises issues that would be more appropriately dealt with by another agency or body,
  - e) whether there is or was an alternative and satisfactory means of redress available to the complainant in relation to the conduct complained of,
  - f) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation or apology,
  - g) whether the issue/s giving rise to the complaint have previously been addressed or resolved,
  - h) whether the conduct complained of forms part of a pattern of conduct,
  - i) whether there were mitigating circumstances giving rise to the conduct complained of,
  - j) the seriousness of the alleged conduct,
  - k) the significance of the conduct or the impact of the conduct for the council,
  - l) how much time has passed since the alleged conduct occurred, or
  - m) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

### **PART 7 OPERATIONS OF CONDUCT REVIEW COMMITTEES**

- 7.1 Where a conduct reviewer recommends that the complaints coordinator convene a conduct review committee to investigate a matter, the conduct reviewer must notify the complaints coordinator of their recommendation and the reasons for their recommendation in writing.
- 7.2 The complaints coordinator must convene a conduct review committee comprising three conduct reviewers selected from:
- a) a panel of conduct reviewers established by the council, or
  - b) a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Division.
- 7.3 In selecting suitable conduct reviewers for membership of a conduct review committee convened under clause 7.2, the complaints coordinator may have regard to the following:
- a) the qualifications and experience of members of the panel of conduct reviewers, and
  - b) any recommendation made by the conduct reviewer about the membership of the committee.
- 7.4 The conduct reviewer who made the preliminary assessment of the complaint must not be a member of a conduct review committee convened under clause 7.2.
- 7.5 A member of a panel of conduct reviewers may not be appointed to a conduct review committee where they would otherwise be precluded from accepting a referral of the matter to be considered by the committee under clause 6.4.
- 7.6 Where the complaints coordinator convenes a conduct review committee, they will advise the complainant in writing that the committee has been convened and the membership of the committee.
- 7.7 Where, after a conduct review committee has been convened, a member of the committee becomes unavailable to participate in further consideration of the matter, the complaints coordinator may appoint another person from a panel of conduct reviewers to replace them.
- 7.8 Meetings of a conduct review committee may be conducted in person or by teleconference.
- 7.9 The members of the conduct review committee must elect a chairperson of the committee.
- 7.10 A quorum for a meeting of the conduct review committee is two members.

- 7.11 Business is not to be conducted at any meeting of the conduct review committee unless a quorum is present.
- 7.12 If a quorum is not present at a meeting of the conduct review committee, it must be adjourned to a time and date that is specified.
- 7.13 Each member of the conduct review committee is entitled to one vote in relation to a matter. In the event of an equality of votes being cast, the chairperson will have a casting vote.
- 7.14 If the vote on a matter is not unanimous, then this should be noted in the report of the conduct review committee in which it makes its determination in relation to the matter.
- 7.15 The chairperson may make a ruling on questions of procedure and the chairperson's ruling is to be final.
- 7.16 The conduct review committee may only conduct business in the absence of the public.
- 7.17 The conduct review committee must maintain proper records of its proceedings.
- 7.18 The complaints coordinator shall undertake the following functions in support of a conduct review committee:
- a) provide procedural advice where required,
  - b) ensure adequate resources are provided including secretarial support,
  - c) attend meetings of the conduct review committee in an advisory capacity, and
  - d) provide advice about council's processes where requested.
- 7.19 The complaints coordinator must not be present at, or in sight of a meeting of, the conduct review committee where it makes its final determination in relation to the matter.
- 7.20 The conduct review committee may adopt procedures governing the conduct of its meetings that supplement these procedures. However any procedures adopted by the committee must not be inconsistent with these procedures.

## **PART 8 INVESTIGATIONS**

### What matters may a conduct reviewer or conduct review committee investigate?

- 8.1 A conduct reviewer or conduct review committee (hereafter referred to as an "investigator") may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 8.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the general manager, or, in the case of alleged conduct on the part of the general manager, to the Mayor.
- 8.3 The general manager or the Mayor is to deal with a matter reported to them by an investigator under clause 8.2 as if it were a new code of conduct complaint in accordance with these procedures.

### How are investigations to be commenced?

- 8.4 The investigator must at the outset of their investigation provide a written notice of investigation to the subject person. The notice of investigation must:
- a) disclose the substance of the allegations against the subject person, and
  - b) advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
  - c) advise of the process to be followed in investigating the matter, and
  - d) invite the subject person to make a written submission in relation to the matter within 28 days or such other reasonable period specified by the investigator in the notice, and
  - e) provide the subject person the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 8.5 The subject person may within 14 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the subject person to identify the substance of the allegation against them.
- 8.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the subject person in relation to the matter referred to them.
- 8.7 Where an investigator issues an amended notice of investigation, they will provide the subject person with a further opportunity to make a written submission in response to the amended notice of investigation within 28 days or such other reasonable period specified by the investigator in the amended notice.
- 8.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the Mayor. The notice must:
- a) advise them of the matter the investigator is investigating, and
  - b) in the case of the notice to the complainant, invite them to make a written submission in relation to the matter within 28 days or such other reasonable period specified by the investigator in the notice.

Written and oral submissions

- 8.9 Where the subject person or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 8.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 8.11 Prior to preparing a draft report, the investigator must give the subject person an opportunity to address the investigator on the matter being investigated. The subject person may do so in person or by telephone.
- 8.12 Where the subject person fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the subject person.
- 8.13 Where the subject person accepts the opportunity to address the investigator in person, they may have a support person or legal advisor in attendance. The support person or legal advisor will act in an advisory or support role to the subject person only. They must not speak on behalf of the subject person or otherwise interfere with or disrupt proceedings.
- 8.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

How are investigations to be conducted?

- 8.15 Investigations are to be undertaken without undue delay.
- 8.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 8.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 8.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 8.19 An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

Referral or resolution of a matter after the commencement of an investigation

- 8.20 At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:
- resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology, or
  - refer the matter to the general manager, or, in the case of a complaint about the general manager, to the Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology, or
  - refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, the Division or the Police.
- 8.21 Where an investigator determines to exercise any of the options under clause 8.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 8.22 Where an investigator determines to exercise any of the options under clause 8.20 after the commencement of an investigation, they may by written notice to the subject person, the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, the Mayor, discontinue their investigation of the matter.
- 8.23 Where the investigator discontinues their investigation of a matter under clause 8.22, this shall finalise the consideration of the matter under these procedures.
- 8.24 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 8.20 or to discontinue their investigation except as may be specifically required under these procedures.

Draft investigation reports

- 8.25 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 8.26 The investigator must provide their draft report to the subject person and invite them to make a written submission in relation to it within 28 days or such other reasonable period specified by the investigator.
- 8.27 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and



invite the affected person to make a written submission in relation to it within 28 days or such other reasonable period specified by the investigator.

- 8.28 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 8.29 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. Where as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the subject person or an affected person, they must provide the subject person or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 8.30 Where the subject person or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 8.31 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

#### Final investigation reports

- 8.32 Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 8.22.
- 8.33 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 8.34 The investigator's final report must:
- make findings of fact in relation to the matter investigated, and,
  - make a determination that the conduct investigated either,
    - constitutes a breach of the code of conduct, or
    - does not constitute a breach of the code of conduct, and
  - provide reasons for the determination.
- 8.35 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- that the council revise any of its policies or procedures,
  - that the subject person undertake any training or other education relevant to the conduct giving rise to the breach,
  - that the subject person be counselled for their conduct,
  - that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation,
  - that findings of inappropriate conduct be made public,
  - in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach,
  - in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Act,
  - in the case of a breach by a councillor, that the council resolves as follows:
    - that the councillor be formally censured for the breach under section 440G of the Act, and
    - that the matter be referred to the Division for further action under the misconduct provisions of the Act.
- 8.36 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- that the council revise any of its policies or procedures,
  - that a person or persons undertake any training or other education.
- 8.37 In making a recommendation under clause 8.35, the investigator may have regard to the following:
- the seriousness of the breach,
  - whether the breach can be easily remedied or rectified,
  - whether the subject person has remedied or rectified their conduct,
  - whether the subject person has expressed contrition,
  - whether there were any mitigating circumstances,
  - the age, physical or mental health or special infirmity of the subject person,
  - whether the breach is technical or trivial only,
  - any previous breaches,
  - whether the breach forms part of a pattern of conduct,
  - the degree of reckless intention or negligence of the subject person,



- k) the extent to which the breach has affected other parties or the council as a whole,
  - l) the harm or potential harm to the reputation of the council or local government arising from the conduct,
  - m) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny,
  - n) whether an educative approach would be more appropriate than a punitive one,
  - o) the relative costs and benefits of taking formal enforcement action as opposed to taking no action or taking informal action,
  - p) what action or remedy would be in the public interest.
- 8.38 At a minimum, the investigator's final report must contain the following information:
- a) a description of the allegations against the subject person,
  - b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated,
  - c) a statement of reasons as to why the conduct reviewer considered that the matter warranted investigation,
  - d) a statement of reasons as to why the conduct reviewer considered that the matter was one that could not or should not be resolved by alternative means,
  - e) where the matter is investigated by a conduct review committee, a statement as to why the matter was one that warranted investigation by a conduct review committee instead of a sole conduct reviewer,
  - f) a description of any attempts made to resolve the matter by use of alternative means,
  - g) the steps taken to investigate the matter,
  - h) the facts of the matter,
  - i) the investigator's findings in relation to the facts of the matter and the reasons for those findings,
  - j) the investigator's determination and the reasons for that determination,
  - k) any recommendations.
- 8.39 The investigator must provide a copy of their report to the complaints coordinator, the subject person and the complainant.
- 8.40 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the Mayor and this will finalise consideration of the matter under these procedures.
- 8.41 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 8.35, paragraph (a), the complaints coordinator must provide a copy of the investigator's report to the general manager. Where the general manager agrees with the recommendation/s, the general manager is responsible for implementing the recommendation/s.
- 8.42 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 8.35, paragraphs (b) or (c), the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the Mayor. The general manager is responsible for arranging the implementation of the recommendation/s where the report relates to a councillor's conduct. The Mayor is responsible for arranging the implementation of the recommendation/s where the report relates to the general manager's conduct.
- 8.43 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 8.35, paragraphs (d) to (h), the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

#### Consideration of the final investigation report by council

- 8.44 The role of the council in relation to a final investigation report is to impose a sanction where an investigator determines that there has been a breach of the code of conduct and makes a recommendation in their final report under clause 8.35, paragraphs (d) to (h).
- 8.45 The council is to close its meeting to the public to consider the final investigation report where it is permitted to do so under section 10A of the Act.
- 8.46 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interests in relation to the matter unless otherwise required to do so under the Act or the Model Code.
- 8.47 Prior to imposing a sanction, the council must provide the subject person with an opportunity to make an oral submission to the council. The subject person is to confine their submission to addressing the investigator's recommendation/s.
- 8.48 Once the subject person has completed their oral submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.

- 8.49 The council must not invite oral submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.
- 8.50 Prior to imposing a sanction, the council may by resolution:
- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
  - b) seek an opinion by the Division in relation to the report.
- 8.51 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Division.
- 8.52 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 8.53 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council, the subject person and the complainant.
- 8.54 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 8.55 The council is only required to provide the subject person a further opportunity to address it on a supplementary report where the supplementary report contains new information that is adverse to them.
- 8.56 A council may by resolution impose one or more of the following sanctions on a subject person:
- a) that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the resolution,
  - b) that findings of inappropriate conduct be made public,
  - c) in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach,
  - d) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Act,
  - e) in the case of a breach by a councillor:
    - i. that the councillor be formally censured for the breach under section 440G of the Act, and
    - ii. that the matter be referred to the Division for further action under the misconduct provisions of the Act.
- 8.57 The council is not obliged to adopt the investigator's recommendation/s. Where the council does not adopt the investigator's recommendation/s, the council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.
- 8.58 The council may, by resolution, impose a sanction on the subject person under clause 8.56 different to the sanction recommended by the investigator in their final report.
- 8.59 Where the council resolves not to adopt the investigator's recommendation/s, the complaints coordinator must notify the Division of the council's decision and the reasons for it.

## **PART 9 RIGHTS OF REVIEW**

### Failure to comply with a requirement under these procedures

- 9.1 Where any person believes that a person has failed to comply with a requirement prescribed under these procedures, they may, at any time prior to the council's consideration of an investigator's final report, raise their concerns in writing with the Division.

### Practice rulings

- 9.2 Where a subject person and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Division to make a ruling on a question of procedure (a practice ruling).
- 9.3 Where the Division receives a request in writing for a practice ruling, the Division may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 9.4 Where the Division makes a practice ruling, all parties are to comply with it.
- 9.5 The Division may decline to make a practice ruling. Where the Division declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

### Requests for review

- 9.6 A person the subject of a sanction imposed under Part 8 of these procedures other than one imposed under clause 8.56, paragraph (e), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Division.
- 9.7 A review under clause 9.6 may be sought on the following grounds:
- a) that the investigator has failed to comply with a requirement under these procedures, or

- b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
  - c) that the council has failed to comply with a requirement under these procedures in imposing a sanction.
- 9.8 A request for a review made under clause 9.6 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 9.9 The Division may decline to conduct a review, where the grounds upon which the review is sought are not sufficiently specified.
- 9.10 The Division may undertake a review of a matter without receiving a request under clause 9.6.
- 9.11 The Division will undertake a review of the matter on the papers. However, the Division may request that the complaints coordinator provide such further information that the Division considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Division.
- 9.12 Where a person requests a review under clause 9.6, the Division may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Division.
- 9.13 The Division must notify the person who requested the review and the complaints coordinator of the outcome of the Division's review in writing and the reasons for its decision. In doing so, the Division may comment on any other matters the Division considers to be relevant.
- 9.14 Where the Division considers that the investigator or the council has erred, the Division may recommend that a decision to impose a sanction under these procedures be reviewed.
- 9.15 In the case of a sanction implemented by the general manager or Mayor under clause 8.42, where the Division recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must provide a copy of the Division's determination in relation to the matter to the general manager or the Mayor, and
  - b) the general manager or Mayor must review any action taken by them to implement the sanction, and
  - c) the general manager or Mayor must consider the Division's recommendation in doing so.
- 9.16 In the case of a sanction imposed by the council by resolution under clause 8.56, where the Division recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must, where practicable, arrange for the Division's determination to be tabled at the next ordinary council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting following the election, and
  - b) the council must:
    - i. review its decision to impose the sanction, and
    - ii. consider the Division's recommendation in doing so, and
    - iii. resolve to either rescind or reaffirm its previous resolution in relation to the matter.
- 9.17 Where having reviewed its previous decision in relation to a matter under clause 9.16 the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.

## **PART 10 PROCEDURAL IRREGULARITIES**

- 10.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct except as may be otherwise specifically provided under the code of conduct.
- 10.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
- a) the non-compliance is isolated and/or minor in nature, or
  - b) reasonable steps are taken to correct the non-compliance, or
  - c) reasonable steps are taken to address the consequences of the non-compliance.

## **PART 11 PRACTICE DIRECTIONS**

- 11.1 The Division may at any time issue a practice direction in relation to the application of these procedures.
- 11.2 The Division will issue practice directions in writing, by circular to all councils.
- 11.3 All persons performing a function prescribed under these procedures must consider the Division's practice directions when performing the function.

## **PART 12 REPORTING ON COMPLAINTS STATISTICS**

- 12.1 The complaints coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:
- a) the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September,

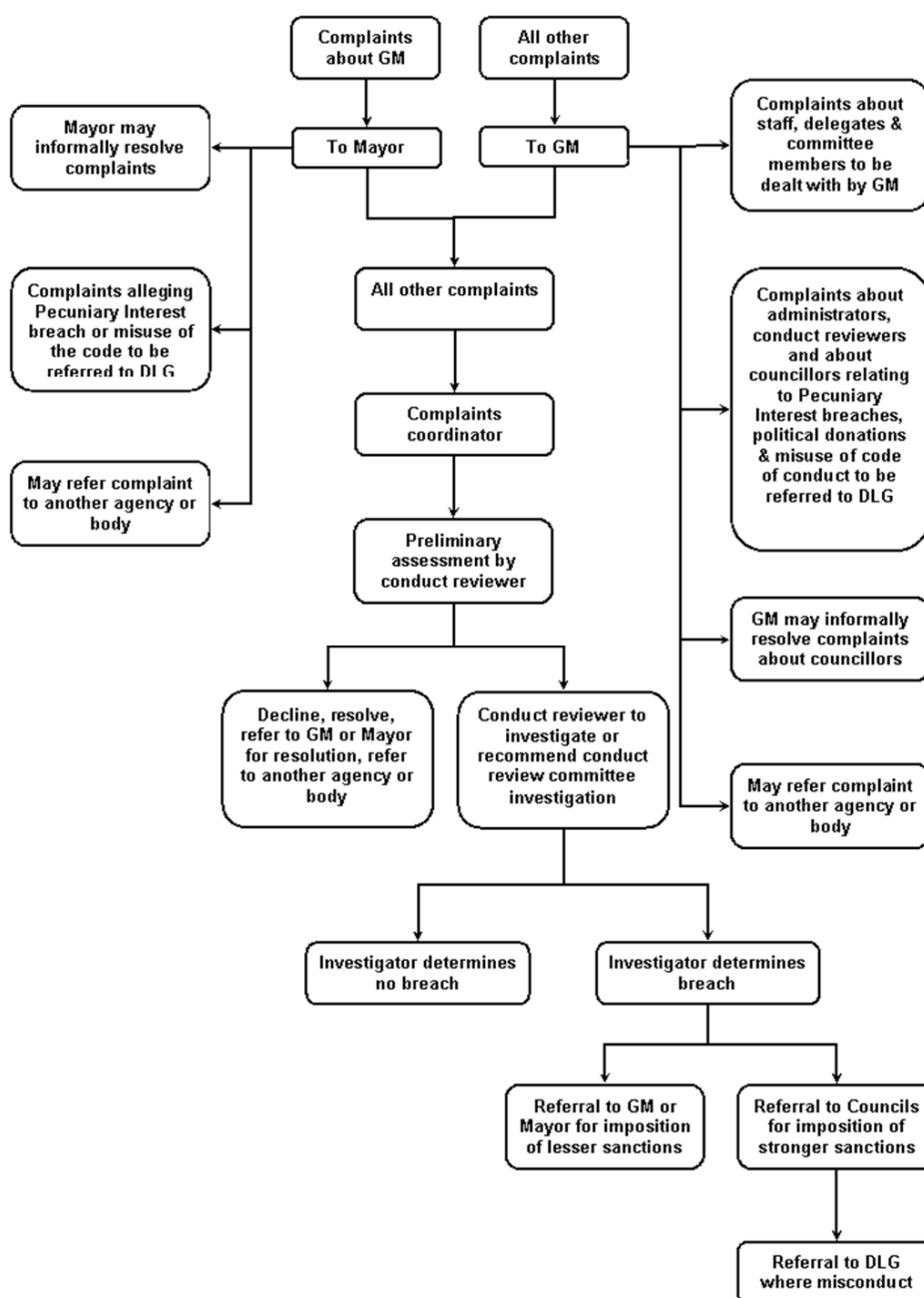
- b) the number of code of conduct complaints referred to a conduct reviewer,
- c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage and the outcome of those complaints,
- d) the number of code of conduct complaints investigated by a conduct reviewer,
- e) the number of code of conduct complaints investigated by a conduct review committee,
- f) without identifying particular matters, the outcome of code of conduct complaints investigated by a conduct reviewer or conduct review committee under these procedures,
- g) the number of matter reviewed by the Division and, without identifying particular matters, the outcome of the reviews, and
- h) The total cost of dealing with code of conduct complaints made about councillors and the general manager in the year to September, including staff costs.

12.2 The council is to provide the Division with a report containing the statistics referred to in clause 12.1 within 3 months of the end of September of each year.

### PART 13 CONFIDENTIALITY

13.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.

Model Code Procedure Flowchart



**THE MODEL CODE OF CONDUCT  
FOR LOCAL COUNCILS IN NSW****MARCH 2013****TABLE OF CONTENTS**

PART 1	INTRODUCTION
PART 2	PURPOSE OF THE CODE OF CONDUCT
PART 3	GENERAL CONDUCT OBLIGATIONS
PART 4	CONFLICT OF INTERESTS
PART 5	PERSONAL BENEFIT
PART 6	RELATIONSHIP BETWEEN COUNCIL OFFICIALS
PART 7	ACCESS TO INFORMATION AND COUNCIL RESOURCES
PART 8	MAINTAINING THE INTEGRITY OF THIS CODE
PART 9	DEFINITIONS

**PART 1 INTRODUCTION**

This Model Code of Conduct for Local Councils in NSW (“the Model Code of Conduct”) is made for the purposes of section 440 of the Local Government Act 1993 (“the Act”). Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code. For the purposes of section 440 of the Act, the Model Code of Conduct comprises all parts of this document.

Councillors, administrators, members of staff of council, independent conduct reviewers, members of council committees including the conduct review committee and delegates of the council must comply with the applicable provisions of council’s code of conduct in carrying out their functions as council officials. It is the personal responsibility of council officials to comply with the standards in the code and regularly review their personal circumstances with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the Act. The Act provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office.

Failure by a member of staff to comply with council’s code of conduct may give rise to disciplinary action.

A better conduct guide has also been developed to assist councils to review and enhance their codes of conduct. This guide supports this code and provides further information on the provisions in this code.

**PART 2 PURPOSE OF THE CODE OF CONDUCT**

The Model Code of Conduct sets the minimum requirements of conduct for council officials in carrying out their functions. The Model Code is prescribed by regulation.

The Model Code of Conduct has been developed to assist council officials to:

- understand the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in the integrity of local government.

**PART 3 GENERAL CONDUCT OBLIGATIONS**General conduct

- 3.1 You must not conduct yourself in carrying out your functions in a manner that is likely to bring the council or holders of civic office into disrepute. Specifically, you must not act in a way that:
  - a) contravenes the Act, associated regulations, council’s relevant administrative requirements and policies
  - b) is detrimental to the pursuit of the charter of a council
  - c) is improper or unethical
  - d) is an abuse of power or otherwise amounts to misconduct
  - e) causes, comprises or involves intimidation, harassment or verbal abuse
  - f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
  - g) causes, comprises or involves prejudice in the provision of a service to the community. (Schedule 6A)
- 3.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (section 439)
- 3.3 You must treat others with respect at all times.

Fairness and equity

- 3.4 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.5 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

Harassment and discrimination

- 3.6 You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

Development decisions

- 3.7 You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.
- 3.8 In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

Binding caucus votes

- 3.9 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.10 For the purposes of clause 3.9, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 3.11 Clause 3.9 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 3.12 Clause 3.9 does not apply to a decision to elect the Mayor or Deputy Mayor or to nominate a person to be a member of a council committee.

**PART 4 CONFLICT OF INTERESTS**

- 4.1 A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 4.2 You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.
- 4.3 Any conflict of interests must be managed to uphold the probity of council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 4.4 Private interests can be of two types: pecuniary or non-pecuniary.

What is a pecuniary interest?

- 4.5 A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (section 442)
- 4.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (section 443)
- 4.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
- a) councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (section 449)
  - b) councillors and members of council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (section 451)
  - c) designated persons immediately declare, in writing, any pecuniary interest. (section 459)
- 4.8 Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.



- 4.9 Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

What are non-pecuniary interests?

- 4.10 Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- 4.11 The political views of a councillor do not constitute a private interest.

Managing non-pecuniary conflict of interests

- 4.12 Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.
- 4.13 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 4.12.
- 4.14 How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.
- 4.15 As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:
- a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
  - b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
  - c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.
- 4.16 If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:
- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official
  - b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply
- 4.17 If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 4.18 If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- 4.19 Despite clause 4.16(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff through the general manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 4.16(b) above.

Reportable political donations

- 4.20 Councillors should note that matters before council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.
- 4.21 Where a councillor has received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
  - b) where the major political donor has a matter before council,
- then the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 4.16(b).
- 4.22 For the purposes of this Part:
- a) a "reportable political donation" is a "reportable political donation" for the purposes of section 86 of the Election Funding, Expenditure and Disclosures Act 1981,
  - b) a "major political donor" is a "major political donor" for the purposes of section 84 of the Election Funding, Expenditure and Disclosures Act 1981.

- 4.23 Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.
- 4.24 If a councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 4.21, that councillor is not prevented from participating in a decision to delegate council's decision-making role to council staff through the general manager or appointing another person or body to make the decision in accordance with the law (see clause 4.19 above).

#### Loss of quorum as a result of compliance with this Part

- 4.25 Where a majority of councillors are precluded under this Part from consideration of a matter the council or committee must resolve to delegate consideration of the matter in question to another person.
- 4.26 Where a majority of councillors are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the councillors may apply in writing to the Chief Executive to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interests.
- 4.27 The Chief Executive will only exempt a councillor from complying with a requirement under this Part where:
- compliance by councillors with a requirement under the Part in relation to a matter will result in the loss of a quorum, and
  - the matter relates to the exercise of a function of the council that may not be delegated under section 377 of the Act.
- 4.28 Where the Chief Executive exempts a councillor from complying with a requirement under this Part, the councillor must still disclose any interests they have in the matter the exemption applies to in accordance with the requirements of this Part.
- 4.29 A councillor, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interests in the matter, is permitted to participate in consideration of the matter, if:
- the matter is a proposal relating to
    - the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or
    - the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
  - the councillor declares any interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part.

#### Other business or employment

- 4.30 If you are a member of staff of council considering outside employment or contract work that relates to the business of the council or that might conflict with your council duties, you must notify and seek the approval of the general manager in writing. (section 353)
- 4.31 As a member of staff, you must ensure that any outside employment or business you engage in will not:
- conflict with your official duties
  - involve using confidential information or council resources obtained through your work with the council
  - require you to work while on council duty
  - discredit or disadvantage the council.

#### Personal dealings with council

- 4.32 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

### **PART 5 PERSONAL BENEFIT**

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

#### Gifts and benefits

- 5.1 You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.
- 5.2 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Token gifts and benefits

5.3 Generally speaking, token gifts and benefits include:

- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
  - i) the discussion of official business
  - ii) council work related events such as training, education sessions, workshops
  - iii) conferences
  - iv) council functions or events
  - v) social functions organised by groups, such as council committees and community organisations
- b) invitations to and attendance at local social, cultural or sporting events
- c) gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers
- e) prizes of token value.

Gifts and benefits of value

5.4 Notwithstanding clause 5.3, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

How are offers of gifts and benefits to be dealt with?

5.5 You must not:

- a) seek or accept a bribe or other improper inducement
- b) seek gifts or benefits of any kind
- c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty
- d) accept any gift or benefit of more than token value
- e) accept an offer of cash or a cash-like gift, regardless of the amount.

5.6 For the purposes of clause 5.5(e), a “cash-like gift” includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.

5.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Mayor or the general manager. The recipient, supervisor, Mayor or general manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register. The gift or benefit must be surrendered to council, unless the nature of the gift or benefit makes this impractical.

Improper and undue influence

5.8 You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the appropriate exercise of their representative functions.

5.9 You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for council in order to obtain a private benefit for yourself or for any other person or body.

**PART 6 RELATIONSHIP BETWEEN COUNCIL OFFICIALS**Obligations of councillors and administrators

6.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. The governing body has the responsibility of directing and controlling the affairs of the council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.

6.2 Councillors or administrators must not:

- a) direct council staff other than by giving appropriate direction to the general manager in the performance of council's functions by way of council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (section 352)
- b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate (Schedule 6A of the Act)
- c) contact a member of the staff of the council on council related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager

- d) contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to council's external auditors or the Chair of council's audit committee who may be provided with any information by individual councillors reasonably necessary for the external auditor or audit committee to effectively perform their functions.

#### Obligations of staff

- 6.3 The general manager is responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation of the decisions of the council without delay.
- 6.4 Members of staff of council must:
  - a) give their attention to the business of council while on duty
  - b) ensure that their work is carried out efficiently, economically and effectively
  - c) carry out lawful directions given by any person having authority to give such directions
  - d) give effect to the lawful decisions, policies, and procedures of the council, whether or not the staff member agrees with or approves of them
  - e) ensure that any participation in political activities outside the service of the council does not conflict with the performance of their official duties.

#### Obligations during meetings

- 6.5 You must act in accordance with council's Code of Meeting Practice, if council has adopted one, and the Local Government (General) Regulation 2005 during council and committee meetings.
- 6.6 You must show respect to the chair, other council officials and any members of the public present during council and committee meetings or other formal proceedings of the council.

#### Inappropriate interactions

- 6.7 You must not engage in any of the following inappropriate interactions:
  - a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
  - b) Council staff approaching councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
  - c) Council staff refusing to give information that is available to other councillors to a particular councillor.
  - d) Councillors and administrators who have lodged a development application with council, discussing the matter with council staff in staff-only areas of the council.
  - e) Councillors and administrators being overbearing or threatening to council staff.
  - f) Councillors and administrators making personal attacks on council staff in a public forum.
  - g) Councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.
  - h) Council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
  - i) Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.
  - j) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by council associated with current or proposed legal proceedings unless permitted to do so by council's general manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.

### **PART 7 ACCESS TO INFORMATION AND COUNCIL RESOURCES**

#### Councillor and administrator access to information

- 7.1 The general manager and public officer are responsible for ensuring that members of the public, councillors and administrators can gain access to the documents available under the Government Information (Public Access) Act 2009.
- 7.2 The general manager must provide councillors and administrators with information sufficient to enable them to carry out their civic office functions.
- 7.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with council procedures.
- 7.4 Members of staff of council who provide any information to a particular councillor in the performance of their civic duties must also make it available to any other councillor who requests it and in accordance with council procedures.
- 7.5 Councillors and administrators who have a private (as distinct from civic) interest in a document of council have the same rights of access as any member of the public.

Councillors and administrators to properly examine and consider information

- 7.6 Councillors and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with council's charter.

Refusal of access to documents

- 7.7 Where the general manager and public officer determine to refuse access to a document sought by a councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the councillor or administrator to perform their civic duty (see clause 7.2). The general manager or public officer must state the reasons for the decision if access is refused.

Use of certain council information

- 7.8 In regard to information obtained in your capacity as a council official, you must:
- only access council information needed for council business
  - not use that council information for private purposes
  - not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with council
  - only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

- 7.9 You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.
- 7.10 In addition to your general obligations relating to the use of council information, you must:
- protect confidential information
  - only release confidential information if you have authority to do so
  - only use confidential information for the purpose it is intended to be used
  - not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
  - not use confidential information with the intention to cause harm or detriment to your council or any other person or body
  - not disclose any information discussed during a confidential session of a council meeting.

Personal information

- 7.11 When dealing with personal information you must comply with:
- the Privacy and Personal Information Protection Act 1998
  - the Health Records and Information Privacy Act 2002
  - the Information Protection Principles and Health Privacy Principles
  - council's privacy management plan
  - the Privacy Code of Practice for Local Government

Use of council resources

- 7.12 You must use council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.
- 7.13 Union delegates and consultative committee members may have reasonable access to council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:
- the representation of members with respect to disciplinary matters
  - the representation of employees with respect to grievances and disputes
  - functions associated with the role of the local consultative committee.
- 7.14 You must be scrupulous in your use of council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.
- 7.15 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 7.16 You must not use council resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.



- 7.17 You must not use council letterhead, council crests and other information that could give the appearance it is official council material for:
- a) the purpose of assisting your election campaign or the election campaign of others, or
  - b) for other non-official purposes.
- 7.18 You must not convert any property of the council to your own use unless properly authorised.
- 7.19 You must not use council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

#### Councillor access to council buildings

- 7.20 Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.
- 7.21 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or delegate) or as provided in the procedures governing the interaction of councillors and council staff.
- 7.22 Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence council staff decisions.

### **PART 8 MAINTAINING THE INTEGRITY OF THIS CODE**

- 8.1 You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this code or its administration.

#### Complaints made for an improper purpose

- 8.2 You must not make a complaint or cause a complaint to be made under this code for an improper purpose.
- 8.3 For the purposes of clause 8.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to intimidate or harass another council official
  - b) to damage another council official's reputation
  - c) to obtain a political advantage
  - d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
  - e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
  - f) to avoid disciplinary action under this code
  - g) to take reprisal action against a person for making a complaint under this code except as may be otherwise specifically permitted under this code
  - h) to take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this code except as may be otherwise specifically permitted under this code
  - i) to prevent or disrupt the effective administration of this code.

#### Detrimental action

- 8.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this code except as may be otherwise specifically permitted under this code.
- 8.5 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this code except as may be otherwise specifically permitted under this code.
- 8.6 For the purposes of clauses 8.4 and 8.5 detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
  - b) intimidation or harassment
  - c) discrimination, disadvantage or adverse treatment in relation to employment
  - d) dismissal from, or prejudice in, employment
  - e) disciplinary proceedings.

#### Compliance with requirements under this code

- 8.7 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.
- 8.8 You must comply with a reasonable and lawful request made by a person exercising a function under this code.



- 8.9 You must comply with a practice ruling made by the Division of Local Government.
- 8.10 Where you are a councillor or the general manager, you must comply with any council resolution requiring you to take action as a result of a breach of this code.

Disclosure of information about the consideration of a matter under this code

- 8.11 You must report breaches of this code in accordance with the reporting requirements under this code.
- 8.12 You must not make allegations of suspected breaches of this code at council meetings or in other public forums.
- 8.13 You must not disclose information about the consideration of a matter under this code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this code.

Complaints alleging a breach of this part

- 8.14 Complaints alleging a breach of this Part (Part 8) by a councillor, the general manager or an administrator are to be made to the Division of Local Government.
- 8.15 Complaints alleging a breach of this Part by other council officials are to be made to the general manager.

## **PART 9 DEFINITIONS**

In the Model Code of Conduct the following definitions apply:

the Act	the Local Government Act 1993
act of disorder	see the definition in clause 256 of the Local Government (General) Regulation 2005
administrator	an administrator of a council appointed under the Act other than an administrator appointed under section 66
Chief Executive	Chief Executive of the Division of Local Government, Department of Premier and Cabinet
committee	a council committee
conflict of interests	a conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
council committee	a committee established by resolution of council
“council committee member”	a person other than a councillor or member of staff of a council who is a member of a council committee
council official	includes councillors, members of staff of council, administrators, council committee members, conduct reviewers and delegates of council
councillor	a person elected or appointed to civic office and includes a Mayor
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	see the definition in section 441 of the Act
election campaign	includes council, State and Federal election campaigns
personal information	information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion
the Regulation	the Local Government (General) Regulation 2005

The term “you” used in the Model Code of Conduct refers to council officials.

The phrase, “this code” used in the Model Code of Conduct refers also to the procedures for the administration of the Model Code of Conduct prescribed under the Local Government (General) Regulation 2005.



Independent Pricing and Regulatory Tribunal

## Sydney Ferries services

Determination No. 5, 2012

## Contents

<b>Preliminary</b>	<b>1</b>
1 Background	1
2 Application of this determination	1
3 Replacement of Determination No. 10, 2006	1
4 Contract may make provision for maximum fares pending first determination	1
5 Compliance with this determination	2
6 Pricing schedules	2
7 Definitions and interpretation	2
<b>Schedule 1 Maximum fares for Regulated Ferry Services provided by a Contract Holder</b>	<b>3</b>
1 Application	3
2 Tickets for Regulated Ferry Services	3
3 Maximum fares for Regulated Ferry Services	4
4 Contract Holder required to submit pricing proposal	8
5 IPART assessment of pricing proposal	9
6 Worked example	9
<b>Table 1</b>	<b>12</b>
<b>Schedule 2 Definitions and interpretation</b>	<b>13</b>
1 Definitions	13
2 Interpretation	18

## Preliminary

### 1 Background

- (a) Under section 16AE (2) of the *Passenger Transport Act 1990* (NSW) (**Passenger Transport Act**) IPART is to conduct investigations and make reports to the Minister on the determination of maximum fares for Regular Ferry Services supplied under a Ferry Service Contract (**Regulated Ferry Services**).
- (b) In investigating and reporting on the maximum fares for Regulated Ferry Services, IPART has had regard to a broad range of matters, including the matters set out in section 16AE (5) of the *Passenger Transport Act*.

### 2 Application of this determination

- (a) This determination sets out the formulae to be applied to determine the maximum fares that a Contract Holder may charge for Regulated Ferry Services, by fixing the maximum weighted average percentage increase across Fares for a number of categories of Regulated Ferry Services.
- (b) This determination commences on the later of:
  - (1) 6 January 2013; and
  - (2) the date that it is published in the *NSW Government Gazette*, (**2013 Commencement Date**).
- (c) This determination applies from the 2013 Commencement Date to the date this determination is replaced (**Determination Period**).

### 3 Replacement of Determination No. 10, 2006

This determination replaces Determination No. 10, 2006 from the 2013 Commencement Date. The replacement does not affect anything done or omitted to be done, or rights or obligations accrued, under Determination No. 10, 2006 prior to its replacement.

### 4 Contract may make provision for maximum fares pending first determination

- (a) Under section 16AE (8) of the *Passenger Transport Act*, a Ferry Service Contract may make provision for maximum fares for the provision of Regular Ferry Services pending the first determination of maximum fares under section 16AE of the *Passenger Transport Act*.

Preliminary

- (b) Under section 16AE (9) of the Passenger Transport Act, any provision of the kind referred to in paragraph (a) above ceases to have effect as part of the Ferry Service Contract on and from the first determination of maximum fares under section 16AE of the Passenger Transport Act that applies to the provision of the Regulated Ferry Services to which the Ferry Service Contract relates.
- (c) This determination is the first determination of maximum fares under section 16AE of the Passenger Transport Act that applies to the provision of Regulated Ferry Services.

## 5 Compliance with this determination

- (a) Under section 16AE (6) of the Passenger Transport Act, a Ferry Service Contract is taken to include a term (**Implied Term**) to the effect that the Contract Holder must not charge a passenger of the Regulated Ferry Service a fare that exceeds the maximum fare determined by IPART for the provision of such a service to a passenger of that kind.
- (b) Under section 16AE (7) of the Passenger Transport Act, any contravention of the Implied Term by the Contract Holder may be remedied at law or in equity as though the term were an essential term to which the parties had by contract agreed.

## 6 Pricing schedules

Schedule 1 and the tables in that schedule set out the formulae to be applied to determine the maximum fares that a Contract Holder may charge for Regulated Ferry Services.

## 7 Definitions and interpretation

Definitions and interpretation provisions used in this determination are set out in schedule 2.

## Schedule 1 Maximum fares for Regulated Ferry Services provided by a Contract Holder

### 1 Application

- (a) This schedule sets out the formulae to be applied to determine the maximum fares that a Contract Holder may charge for Regulated Ferry Services, by fixing the maximum weighted average percentage increase in Fares for a number of categories of Regulated Ferry Services.
- (b) If a Contract Holder introduces any new Fares during the Determination Period, this determination will apply to those Fares in accordance with this schedule 1.
- (c) If a Contract Holder discontinues any Fares during the Determination Period, this determination will apply to remaining Fares in accordance with this schedule 1.

### 2 Tickets for Regulated Ferry Services

As at the date of this determination, the Contract Holder offers the following Ferry Tickets:

- (a) MyFerry1 Single Ticket;
- (b) MyFerry2 Single Ticket;
- (c) MyFerry1 Return Ticket;
- (d) MyFerry2 Return Ticket;
- (e) MyFerry1 TravelTen Ticket;
- (f) MyFerry2 TravelTen Ticket;
- (g) ZooPass Ticket; and
- (h) MyMulti Day Pass Ticket.

[**Note:** maximum prices for Multi-Modal Tickets are determined under Determination No. 6, 2012 entitled 'CityRail and Multi Modal Tickets from January 2013'.]



Schedule 1 Maximum fares for Regulated Ferry  
Services provided by a Contract Holder

### 3 Maximum fares for Regulated Ferry Services

A Contract Holder must ensure that its Fares comply with the following formula:

(a) **For the 2013 Period:**

$$(1 + 4.8\%) \times \left( \sum_{i=1}^n P_{i2012} \times Q_{i2012} \right) \geq \left( \sum_{i=1}^n P_{i2013} \times Q_{i2012} \right)$$

Where:

**n** is number of Ferry Tickets.

**P<sub>i2012</sub>** is the Full Fare specified in Table 1 for Ferry Ticket i.

**P<sub>i2013</sub>** is the Full Fare the Contract Holder charges for Ferry Ticket i during the 2013 Period.

**Q<sub>i2012</sub>** is:

- (1) subject to paragraph (2) below, the total number of Ticket Sales for Ferry Ticket i during the most recent 12 month period (or for such other period as approved by IPART); or
- (2) if, during the 2013 Period, any of the following events occur:
  - (A) a new Ticket is introduced;
  - (B) a Ticket is discontinued;
  - (C) there is a Fare increase or Fare decrease of a Substitutable Ticket;
  - (D) there is a change in conditions of travel for one or more Tickets; or
  - (E) there is not yet 12 months of data on Ticket Sales available for a Ticket,
 a value approved by IPART for each Ticket.

**[Note:** For the purposes of calculating Q under subparagraph (1) above, Ticket Validations of Multi Modal Tickets are to be treated as set out in IPART's Compliance Spreadsheet.]

Schedule 1 Maximum fares for Regulated Ferry  
Services provided by a Contract Holder

(b) **For the 2014 Period:**

$$(1 + 2.4\%) \times (1 + \Delta CPI_1) \times \left( \left( \sum_{i=1}^n P_{i2013} \times Q_{i2013} \right) + CF_{2013} \right) \\ \geq \left( \sum_{i=1}^n P_{i2014} \times Q_{i2013} \right)$$

Where:

**n** is number of Ferry Tickets.

**P<sub>i2013</sub>** is the Full Fare the Contract Holder charged for Ferry Ticket i during the 2013 Period.

**P<sub>i2014</sub>** is the Full Fare the Contract Holder charges for Ferry Ticket i during the 2014 Period.

**Q<sub>i2013</sub>** is:

- (1) subject to paragraph (2) below, the total number of Ticket Sales for Ferry Ticket i during the most recent 12 month period (or for such other period as approved by IPART); or
- (2) if, during the 2014 Period, any of the following events occur:
  - (A) a new Ticket is introduced;
  - (B) a Ticket is discontinued;
  - (C) there is a Fare increase or Fare decrease of a Substitutable Ticket;
  - (D) there is a change in conditions of travel for one or more Tickets; or
  - (E) there is not yet 12 months of data on Ticket Sales available for a Ticket,
 a value approved by IPART for each Ticket.

**[Note:** For the purposes of calculating Q under subparagraph (1) above, Ticket Validations of Multi Modal Tickets are to be treated as set out in IPART's Compliance Spreadsheet.]

Schedule 1 Maximum fares for Regulated Ferry  
Services provided by a Contract Holder

$\Delta CPI_1$  has the meaning given to that term in clause 1.2 of schedule 2 of this determination.

$CF_{2013}$  is the 2013 Catch-up Factor, calculated as follows:

- (1) the Allowed Fare Revenue minus the Proposed Fare Revenue, where:

**Allowed Fare Revenue** is  $(1 + 4.8\%) \times (\sum_{i=1}^n P_{i2012} \times Q_{i2012})$

**Proposed Fare Revenue** is  $(\sum_{i=1}^n P_{i2013} \times Q_{i2012})$

$n$ ,  $P_{i2012}$  and  $Q_{i2012}$  have the meaning given to those terms in paragraph (a) above; and

- (2) must be equal to or greater than 0.

- (c) **For the 2015 Period:**

$$(1 + 2.4\%) \times (1 + \Delta CPI_2) \times \left( \left( \sum_{i=1}^n P_{i2014} \times Q_{i2014} \right) + CF_{2014} \right) \geq \left( \sum_{i=1}^n P_{i2015} \times Q_{i2014} \right)$$

Where:

$n$  is number of Ferry Tickets.

$P_{i2014}$  is the Full Fare the Contract Holder charged for Ferry Ticket  $i$  during the 2014 Period.

$P_{i2015}$  is the Full Fare the Contract Holder charges for Ferry Ticket  $i$  during the 2015 Period.

$Q_{i2014}$  is:

- (1) subject to paragraph (2) below, the total number of Ticket Sales for Ferry Ticket  $i$  during the most recent 12 month period (or for such other period as approved by IPART); or
- (2) if, during the 2015 Period, any of the following events occur:
  - (A) a new Ticket is introduced;
  - (B) a Ticket is discontinued;
  - (C) there is a Fare increase or Fare decrease of a Substitutable Ticket;
  - (D) there is a change in conditions of travel for one or more Tickets; or
  - (E) there is not yet 12 months of data on Ticket Sales available for a Ticket,
 a value approved by IPART for each Ticket.

[Note: For the purposes of calculating  $Q$  under subparagraph (1) above, Ticket Validations of Multi Modal Tickets are to be treated as set out in IPART's Compliance Spreadsheet.]

Schedule 1 Maximum fares for Regulated Ferry  
Services provided by a Contract Holder

$\Delta CPI_2$  has the meaning given to that term in clause 1.2 of schedule 2 of this determination.

$CF_{2014}$  is the 2014 Catch-up Factor, calculated as followed:

- (1) the Allowed Fare Revenue minus the Proposed Fare Revenue, where:

**Allowed Fare Revenue** is  $(1 + 2.4\%) \times (1 + \Delta CPI_1) \times ((\sum_{i=1}^n P_{i2013} \times Q_{i2013}) + CF_{2013})$

**Proposed Fare Revenue** is  $(\sum_{i=1}^n P_{i2014} \times Q_{i2013})$

$\Delta CPI_1$ ,  $n$ ,  $P_{i2013}$ ,  $Q_{i2013}$ ,  $P_{i2014}$  and  $CF_{2013}$  have the meaning given to those terms in paragraph (b) above; and

- (2) must be equal to or greater than 0.

- (d) **For the 2016 Period:**

$$(1 + 2.4\%) \times (1 + \Delta CPI_3) \times \left( \left( \sum_{i=1}^n P_{i2015} \times Q_{i2015} \right) + CF_{2015} \right) \geq \left( \sum_{i=1}^n P_{i2016} \times Q_{i2015} \right)$$

Where:

$n$  is number of Ferry Tickets.

$P_{i2015}$  is the Full Fare the Contract Holder charged for Ferry Ticket  $i$  during the 2015 Period.

$P_{i2016}$  is the Full Fare the Contract Holder charges for Ferry Ticket  $i$  during the 2016 Period.

$Q_{i2015}$  is:

- (1) subject to paragraph (2) below, the total number of Ticket Sales for Ferry Ticket  $i$  during the most recent 12 month period (or for such other period as approved by IPART); or
- (2) if, during the 2016 Period, any of the following events occur:
  - (A) a new Ticket is introduced;
  - (B) a Ticket is discontinued;
  - (C) there is a Fare increase or Fare decrease of a Substitutable Ticket;
  - (D) there is a change in conditions of travel for one or more Tickets; or
  - (E) there is not yet 12 months of data on Ticket Sales available for a Ticket,
 a value approved by IPART for each Ticket.

[Note: For the purposes of calculating  $Q$  under subparagraph (1) above, Ticket Validations of Multi Modal Tickets are to be treated as set out in IPART's Compliance Spreadsheet.]

Schedule 1 Maximum fares for Regulated Ferry  
Services provided by a Contract Holder

$\Delta CPI_3$  has the meaning given to that term in clause 1.2 of schedule 2 of this determination.

$CF_{2015}$  is the 2015 Catch-up Factor, calculated as follows:

- (1) the Allowed Fare Revenue minus the Proposed Fare Revenue, where:

**Allowed Fare Revenue** is

$$(1 + 2.4\%) \times (1 + \Delta CPI_2) \times \left( \left( \sum_{i=1}^n P_{i2014} \times Q_{i2014} \right) + CF_{2014} \right)$$

**Proposed Fare Revenue** is  $(\sum_{i=1}^n P_{i2015} \times Q_{i2014})$

$\Delta CPI_2$ ,  $n$ ,  $P_{i2014}$ ,  $Q_{i2014}$  and  $CF_{2014}$  have the meaning given to those terms in paragraph (c) above; and

- (2) must be equal to or greater than 0.

#### 4 Contract Holder required to submit pricing proposal

- (a) If a Contract Holder proposes to, or Transport for NSW requires a Contract Holder to:
- (1) increase a Fare;
  - (2) change the conditions of travel for one or more Tickets;
  - (3) introduce one or more new Tickets; or
  - (4) discontinue one or more Tickets,
- (each a **Proposed Fare Change Event**), the Contract Holder (or Transport for NSW on behalf of the Contract Holder) must submit to IPART, in accordance with this clause 4, a pricing proposal at least 20 Business Days before the Proposed Fare Change Event takes place (or by such later date as agreed by IPART).
- (b) The Contract Holder (or Transport for NSW on behalf of the Contract Holder) is not required to submit a pricing proposal if the Contract Holder is proposing only to reduce a Fare.
- (c) Each pricing proposal submitted by the Contract Holder (or by Transport for NSW on behalf of the Contract Holder) must contain the following information:
- (1) all proposed Fares and Tickets;
  - (2) details of the Ticket Sales for the most recent 12 month period (or such other period approved by IPART) for each Ticket;
  - (3) the information required in IPART's Compliance Spreadsheet (as published on its website and updated from time to time);

Schedule 1 Maximum fares for Regulated Ferry  
Services provided by a Contract Holder

- (4) if a new Ticket is to be introduced:
    - (A) details of that proposed new Ticket and Fare, including:
      - (i) if the Fare is distance-based, zone-based, or time-based;
      - (ii) the number of journeys included (or, if a time-based Fare, the estimated average number of journeys likely to be taken by passengers on that Fare, and the period for which it is valid); and
      - (iii) any other conditions of travel;
    - (B) how the change is expected to impact sales of other Tickets; and
    - (C) the expected revenue impact of the change;
  - (5) if a Ticket is to be discontinued:
    - (A) details of the discontinued Ticket;
    - (B) how the change is expected to impact on sales of other Tickets; and
    - (C) the expected revenue impact of the change; and
  - (6) any other information IPART requires to satisfy itself that the Contract Holder's proposed fares comply with this determination.
- (d) IPART may publish a pricing proposal submitted under this section on its website.

## 5 IPART assessment of pricing proposal

- (a) IPART will notify the Contract Holder and Transport for NSW if it forms the view that the pricing proposal submitted by the Contract Holder would, if implemented, result in the Contract Holder charging passengers of the Regulated Ferry Services Fares that exceed the maximum fares that may be charged under this determination.
- (b) IPART may publish this notice on its website.

## 6 Worked example

Assume for the purposes of this worked example only that:

- ▼ the Contract Holder has 3 Fares; and
- ▼ the allowed Fare increase between 2012 and 2013 is 4.8%.



Schedule 1 Maximum fares for Regulated Ferry  
Services provided by a Contract Holder

(a) Full Fares for 2012 and 2013 are as follow:

<b>Ferry Ticket</b>	<b>2012 Full Fare (P<sub>2012</sub>)</b>	<b>2013 Full Fare (P<sub>2013</sub>)</b>
MyFerry1 Single Ticket	\$7.00	\$7.40
MyFerry1 Return Ticket	\$14.00	\$14.80
MyFerry2 TravelTen Ticket	\$56.00	\$56.00

(b) number of Ticket Sales are as follows:

<b>Ferry Ticket</b>	<b>Number of Ticket Sales 1 July 2011 -30 June 2012 (Q<sub>2012</sub>)</b>
MyFerry1 Single Ticket	100
MyFerry1 Return Ticket	70
MyFerry2 TravelTen Ticket	15

To determine whether the 2013 Fares comply with clause 3 (a), schedule 1 of the determination, the following must be calculated:

(i) Allowed Fare Revenue

<b>Ferry Ticket</b>	<b>Full Fare (P<sub>2012</sub>)</b>	<b>Number of Ticket Sales (Q<sub>2012</sub>)</b>	<b>Revenue</b>
	a	b	a * b
MyFerry1 Single Ticket	\$7	100	\$7*100 = \$700
My Ferry 1 Return Ticket	\$14	70	\$14*70 = \$980
My Ferry 2 TravelTen Ticket	\$56	15	\$5.60*15 = \$840
Total revenue			\$2,520

For an average increase in 2013 of 4.8%, the total revenue allowed in 2013 will be  $\$2,520 \times (1 + 4.8\%) = \$2,641$ .

(ii) Proposed Fare Revenue

<b>Ferry Ticket</b>	<b>Full Fare (P<sub>2013</sub>)</b>	<b>Number of Ticket Sales (Q<sub>2012</sub>)</b>	<b>Revenue</b>
	a	b	a * b
MyFerry1 Single Ticket	\$7.40	100	\$7.40*100 = \$740
My Ferry 1 Return Ticket	\$14.80	70	\$14.80*70 = \$1,036
My Ferry 2 TravelTen Ticket	\$56	15	\$56*15 = \$840
Total revenue			\$2,616

Schedule 1 Maximum fares for Regulated Ferry  
Services provided by a Contract Holder

The fares for 2013 comply with clause 3 (a), schedule 1 of the determination. The proposed fares for 2013 in the table above would comply with the maximum average fare increase because the Proposed Fare Revenue is less than the Allowed Fare Revenue – \$2,616 is less than \$2,641.

## Table 1

**Table 1 2012 Full Fares (P<sub>2012</sub>)**

<b>Ferry Ticket</b>	<b>2012 Full Fare</b>
MyFerry1 Single Ticket	\$5.60
MyFerry2 Single Ticket	\$7.00
MyFerry1 Return Ticket	\$11.20
MyFerry2 Return Ticket	\$14.00
MyFerry1 TravelTen Ticket	\$44.80
MyFerry2 TravelTen Ticket	\$56.00
Zoo Pass Ticket	\$11.20 <sup>a</sup>
MyMulti Day Pass Ticket	\$21.00

<sup>a</sup> The Regulated Ferry Service component of a ZooPass Ticket.

## Schedule 2 Definitions and interpretation

### 1 Definitions

#### 1.1 General definitions

**2013 Commencement Date** means the 2013 Commencement Date as defined in clause 2 (b) of the Preliminary section of this determination.

**2014 Commencement Date** means 5 January 2014 or such other date as specified by IPART.

**2015 Commencement Date** means 4 January 2015 or such other date as specified by IPART.

**2016 Commencement Date** means 3 January 2016 or such other date as specified by IPART.

**2013 Period** means the period commencing on the 2013 Commencement Date and ending on the date immediately before the 2014 Commencement Date.

**2014 Period** means the period commencing on the 2014 Commencement Date and ending on the date immediately before the 2015 Commencement Date.

**2015 Period** means the period commencing on the 2015 Commencement Date and ending on the date immediately before the 2016 Commencement Date.

**2016 Period** means the period commencing on the 2016 Commencement Date and ending on the date immediately before the date that this determination is replaced.

**Adult** means a person who is aged 16 years or over, and is not entitled to a concession fare.

**Business Day** means a day other than a Saturday, a Sunday or a public holiday or bank holiday in all of New South Wales.

**Compliance Spreadsheet** means the spreadsheet entitled 'Sydney Ferries Compliance Spreadsheet' published on IPART's website and updated from time to time.

**Contract Holder** means a party to a Ferry Service Contract under which that party provides Regulated Ferry Services.

## Schedule 2 Definitions and interpretation

**Determination No. 10, 2006** means IPART's Determination No. 10, 2006 entitled 'Sydney Ferries'.

**Determination Period** means the Determination Period defined in clause 2 (c) of the Preliminary section of this determination.

**Fare** means a fare payable by any passenger for a Regulated Ferry Service, but does not include the fares payable for the Trial Fares and the tickets known as "Pensioner Excursion Ticket" and "Family Funday Sunday".

**Ferry Service Contract** means a contract:

- (a) between a Contract Holder and Transport for NSW under Division 1A of Part 3 of the Passenger Transport Act for the provision of a Regular Ferry Service; and
- (b) which authorises or otherwise provides for the fares charged by the Contract Holder to be determined in accordance with section 16AE of the Passenger Transport Act.

**Ferry Ticket** means a ticket made available for sale, which entitles a customer to travel on a particular Regulated Ferry Service or a MyMulti Day Pass Ticket but does not include the tickets:

- (a) for Trial Fares;
- (b) known as "Pensioner Excursion Ticket"; and
- (c) known as "Family Funday Sunday".

**Full Fare** means:

- (a) a fare payable by an Adult for a Regulated Ferry Service; or
- (b) in the case of a ZooPass Ticket, the fare payable by an Adult for the Regulated Ferry Service component of the ZooPass Ticket.

[**Note:** as at the date of this determination, the Regulated Ferry Service component of the ZooPass is a MyFerry1 Return].

**GST** has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Implied Term** means the Implied Term defined in clause 5 (a) of the Preliminary section of this determination.

**IPART** means the Independent Pricing and Regulatory Tribunal of New South Wales established under the IPART Act.

**IPART Act** means the *Independent Pricing and Regulatory Tribunal Act 1992*.

**MyFerry1 Single Ticket** means a ticket for a single journey on a Regulated Ferry Service within the MyFerry1 Zone.

**MyFerry2 Single Ticket** means a ticket for a single journey on a Regulated Ferry Service within the MyFerry2 Zone.

**MyFerry1 Return Ticket** means a ticket for a return journey on a Regulated Ferry Service within the MyFerry1 Zone.

**MyFerry2 Return Ticket** means a ticket for a return journey on a Regulated Ferry Service within the MyFerry2 Zone.

**MyFerry1 TravelTen Ticket** means a ticket for 10 journeys (from the date of ticket activation) on a Regulated Ferry Service within the MyFerry1 Zone.

**MyFerry2 TravelTen Ticket** means a ticket for 10 journeys (from the date of ticket activation) on a Regulated Ferry Service within the MyFerry2 Zone.

**MyFerry1 Zone** means a fare band which is bounded by Cabarita wharf, Darling Harbour wharf, Mosman Bay wharf, Neutral Bay wharf, Taronga Zoo wharf and Watson's Bay wharf from Circular Quay.

**MyFerry2 Zone** means a fare band which is bounded by Kissing Point wharf, Meadowbank wharf, Rydalmere wharf, Parramatta wharf, Sydney Olympic Park wharf and Manly wharf from Circular Quay.

**Multi Modal Ticket** means:

- (a) each MyMulti Ticket; and
  - (b) any new ticket which:
    - (1) is introduced during the Determination Period; and
    - (2) entitles a customer to travel partly by means of the Regulated Ferry Services and partly by means of transport that are not Regulated Ferry Services (including by bus or train); and
    - (3) is determined by IPART to be a Multi Modal Ticket,
- but does not include ZooPass Tickets or MyMulti Day Pass Tickets.

**MyMulti Day Pass Ticket** means as a ticket which provides unlimited travel from the time of purchase until 4.00am on the next day on:

- (a) all CityRail rail passenger services,
- (b) all bus passenger services within the Sydney metropolitan area;
- (c) all Regulated Ferry Services; and
- (d) all Metro light rail services.



**MyMulti Ticket** means any of the following tickets:

- (a) a MyMulti1 Weekly ticket;
- (b) a MyMulti2 Weekly ticket;
- (c) a MyMulti3 Weekly ticket;
- (d) a MyMulti1 Monthly ticket;
- (e) a MyMulti2 Monthly ticket;
- (f) a MyMulti3 Monthly ticket;
- (g) a MyMulti1 Quarterly ticket;
- (h) a MyMulti2 Quarterly ticket;
- (i) a MyMulti3 Quarterly ticket;
- (j) a MyMulti1 Yearly ticket;
- (k) a MyMulti2 Yearly ticket; and
- (l) a MyMulti3 Yearly ticket,

as described at <http://www.131500.com.au/tickets/buy/terms-and-conditions> (as updated from time to time).

**Passenger Transport Act** means the *Passenger Transport Act 1990* (NSW).

**Period** means the 2013 Period, the 2014 Period, the 2015 Period or the 2016 Period (as the case may be).

**Regular Ferry Service** has the meaning given to that term in the Passenger Transport Act.

**Regulated Ferry Services** means the Regulated Ferry Services defined in clause 1(a) of the Preliminary section of this determination.

**Substitutable Ticket** means a ticket which has one or more alternative tickets which can be used for the same Regulated Ferry Service.

**Ticket** means a Ferry Ticket (including a ticket using smart card or magnetic strip technology) made available for sale by a Contract Holder or a Multi Modal Ticket made available for use on the Regulated Ferry Services.

**Ticket Sale** means:

- (a) in the case of a paper Ferry Ticket (apart from a paper MyMulti Day Pass Ticket), the sale of a Ferry Ticket through any vendor;
- (b) in the case of a paper MyMulti Day Pass Ticket, a Ticket Validation of a MyMulti Day Pass Ticket converted to a Ticket Sale in accordance with the Compliance Spreadsheet; and
- (c) in the case of an electronic ticket, the use of an electronic ticket for a Regulated Ferry Service.

For the purpose of calculating (a) above, Ticket Validations of Multi Modal Tickets are to be converted to Ticket Sales and allocated to a Ferry Ticket in accordance with the Compliance Spreadsheet.

**Ticket Validation** means a validation of a ticket for one journey on a Regulated Ferry Service through a validation system which records boardings and/or alightings of passengers on Regulated Ferry Services.

**Transport for NSW** means Transport for NSW as constituted under the *Transport Administration Act 1988* (NSW).

**Trial Fare** means a Fare:

- (a) that is forecast by Transport for NSW or a Contract Holder to contribute less than 1% of ticket sales (**Ticket Sale Threshold**) and 1% of fare revenue (**Revenue Threshold**) for a Contract Holder over any calendar month period; and
- (b) for which there is an existing Fare for the same Regulated Ferry Services covered by the Trial Fare.

A Fare will cease to be a Trial Fare if it:

- (a) exceeds:
  - (1) the Ticket Sale Threshold; or
  - (2) the Revenue Threshold; or
- (b) is offered for a period of more than 12 months.

**ZooPass Ticket** means a ticket for a return ferry journey from Circular Quay to Taronga Zoo, entry to Taronga Zoo and connecting bus transport between the ferry wharf and the zoo.

## 1.2 Consumer Price Index

- (a) CPI means the consumer price index All Groups index number for Sydney as published by the Australian Bureau of Statistics, or if the Australian Bureau of Statistics does not or ceases to publish the index, then CPI will mean an index determined by IPART.
- (b)  $\Delta\text{CPI}_1$ ,  $\Delta\text{CPI}_2$  and  $\Delta\text{CPI}_3$  are calculated as follows:

$$\Delta\text{CPI}_1 = \left( \frac{\text{CPI}_{\text{Sept 2013}}}{\text{CPI}_{\text{Sept 2012}}} \right) - 1$$

$$\Delta\text{CPI}_2 = \left( \frac{\text{CPI}_{\text{Sept 2014}}}{\text{CPI}_{\text{Sept 2013}}} \right) - 1$$

$$\Delta\text{CPI}_3 = \left( \frac{\text{CPI}_{\text{Sept 2015}}}{\text{CPI}_{\text{Sept 2014}}} \right) - 1$$

where the subtext (for example  $\text{Sept}_{2013}$ ) refers to the CPI for the quarter and year indicated (in the example, the September quarter for 2013).

## 2 Interpretation

### 2.1 General provisions

In this determination:

- (a) headings are for convenience only and do not affect the interpretation of this determination;
- (b) a reference to a schedule, annexure, clause or table is a reference to a schedule, annexure, clause or table to this determination unless otherwise indicated;
- (c) words importing the singular include the plural and vice versa;
- (d) a reference to a law or statute includes regulations, rules, codes and other instruments under it and consolidations, amendments, re-enactments or replacements of them;
- (e) where a word is defined, other grammatical forms of that word have a corresponding meaning;
- (f) a reference to a day is to a calendar day;
- (g) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, persons taking by novation), replacements and assigns;

- (h) a reference to an officer includes a reference to the officer which replaces it or which substantially succeeds to its powers or functions;
- (i) a reference to a body, whether statutory or not:
  - (1) which ceases to exist; or
  - (2) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

## **2.2 Explanatory notes, simplified outline, worked examples and clarification notices**

- (a) Explanatory notes, simplified outlines and worked examples do not form part of this determination, but in the case of uncertainty may be relied on for interpretation purposes.
- (b) IPART may publish a clarification notice in the NSW Government Gazette to correct any manifest error in or to clarify any part of this determination. Such a clarification notice is taken to form part of this determination.

## **2.3 Fares inclusive of GST**

Fares specified in this determination include GST.



## **Guidelines for work capacity decision Internal Reviews by insurers and Merit Reviews by the WorkCover Authority**

*Workers Compensation Act 1987*

*Workplace Injury Management and Workers Compensation Act 1998*

I, Julie Newman, Chief Executive Officer of the WorkCover Authority of New South Wales, under section 376(1)(c) of the *Workplace Injury Management and Workers Compensation Act 1998* (NSW) and section 44(1)(a) of the *Workers Compensation Act 1987* (NSW), issue the following guidelines.

Dated this 2<sup>nd</sup> day of December 2012

**Julie Newman**  
Chief Executive Officer  
WorkCover Authority of NSW



## **Guidelines for work capacity decision Internal Reviews by insurers and Merit Reviews by the Authority**

These Guidelines are issued pursuant to section 376(1)(c) of the *Workplace Injury Management and Workers Compensation Act 1998* (NSW) and section 44(1)(a) of the *Workers Compensation Act 1987* (NSW). The Guidelines set out the procedures to be followed by insurers, workers and the WorkCover Authority when carrying out a review of work capacity decisions.

These Guidelines come into effect on 1 January 2013.



## Contents

<b>Explanatory note</b>	<b>4</b>
<b>Division 1. Introduction</b>	<b>5</b>
1. Commencement, Definitions	5
Commencement date	5
Definitions	5
2. Time, Delivery of documents, ECM system	7
Reckoning of time	7
Delivery of documents	7
Electronic case management system	7
3. Workers Compensation System Objectives	8
4. Work capacity decisions and Reviews	9
Legal practitioners may not recover costs from a worker or insurer	10
Advisory Services to assist workers	10
<b>Division 2. Internal Review by insurers</b>	<b>11</b>
5. Internal Review by insurers	11
Chapter 6. Applications to insurers for Internal Review	12
Form of application	12
Time limit for lodgement	12
Frivolous or vexatious applications	12
Declining to Review a decision	12
Multiple work capacity decisions or claims	12
7. Internal Review process and decisions	13
Acknowledgement of application	13
Internal Reviewer and decision	13
Notification of the Internal Review decision	13
<b>Division 3. Merit Review by the Authority</b>	<b>15</b>
8. Merit Review by the Authority	15
9. Applications to the Authority for Merit Review	16
Form of application	16
Multiple work capacity decisions or claims	16
Exchange and lodgement of application by worker	16
Time limit for lodging an application with the Authority	16
Frivolous or vexatious applications	17
Declining to Review a decision	17
Lodging an application with the Authority	17
Exchange and lodgement of reply by insurer	17
Surveillance images	18
Privacy	18
10. Merit Review process and decisions	19
Acknowledgement of worker's application	19
Acknowledgement of insurer's reply	19
Exchange of Information by workers and insurers	19
Merit Reviewer and decision	19
Notification of the Merit Review decision	20

## Explanatory note

These Review Guidelines:

- are made with respect to the procedures to be followed by insurers, workers and the WorkCover Authority in reviews by insurers and by the Authority under section 44 of the *Workers Compensation Act 1987* (NSW) ('the 1987 Act') of work capacity decisions made by insurers.
- are made under section 376(1)(c) of the *Workplace Injury Management and Workers Compensation Act 1998* (NSW) ('the 1998 Act') and section 44(1)(a) of the 1987 Act and operate by force of law as if they were delegated legislation.
- explain the operation of those sections of the 1987 Act relating to the review by insurers and by the Authority of work capacity decisions made by insurers, and instruct insurers, workers, the Authority and its Officers, and legal and other representatives of those parties how to make and deal with such applications for review.

This new version of the Review Guidelines replaces the previous Review Guidelines gazetted 28 September 2012. It applies to all new applications for review received by insurers and the Authority on or after 1 January 2013 and to all reviews lodged with insurers and the Authority at that date, that have not been determined.

Questions about these Guidelines should be directed to the Director, Assessment Services.

### **Julie Newman**

Chief Executive Officer  
Safety Return to Work and Support Division

### **Geniere Aplin**

General Manager, Workers Compensation Insurance  
WorkCover Authority of NSW  
Safety Return to Work and Support Division

### **Cameron Player**

A/Director, Assessment Services  
Motor Accidents Authority of NSW and WorkCover Authority of NSW  
Safety Return to Work and Support Division

## Division 1. Introduction

### 1. Commencement, Definitions

#### Commencement date

- 1.1 These guidelines may be referred to as the **Review Guidelines** and are made pursuant to section 44(1)(a) of the 1987 Act and section 376(1)(c) of the 1998 Act. They apply in respect of all claims made by a worker, before or after 1 October 2012. These Guidelines are delegated legislation.
- 1.2 These Review Guidelines replace the Review Guidelines that came into effect on 1 October 2012. They apply to all new applications for review received by insurers and the Authority on or after 1 January 2013 and to all reviews lodged with insurers and the Authority at that date that have not been determined.

#### Definitions

- 1.3 To the extent that they are not defined in clause 1.4, the words and expressions as defined in sections 3, 4 and 32A of the 1987 Act, and sections 4, 42 and 70 of the 1998 Act, apply to these Review Guidelines.
- 1.4 The terms used in these Review Guidelines have the following meanings:
- |        |   |   |
|--------|---|---|
| 1.4.1  | <b>1987 Act</b>                             | <i>Workers Compensation Act 1987</i>  |
| 1.4.2  | <b>1998 Act</b>                             | <i>Workplace Injury Management and Workers Compensation Act 1998</i>  |
| 1.4.3  | <b>Application</b>                          | The means by which a worker requests the referral of a work capacity decision by an insurer for a Review  |
| 1.4.4  | <b>Authority</b>                            | WorkCover Authority of NSW, an agency in the Safety, Return to Work and Support Division  |
| 1.4.5  | <b>Days</b>                                 | A reference in these Guidelines to a number of days is a reference to a number of calendar days, unless otherwise stated  |
| 1.4.6  | <b>DX box</b>                               | Exchange box in the Australian Document Exchange Pty Ltd  |
| 1.4.7  | <b>ECM system</b>                           | An electronic case management system established by the Authority   |
| 1.4.8  | <b>Electronic Transactions Act</b>          | <i>Electronic Transactions Act 2000</i>   |
| 1.4.9  | <b>Form</b>                                 | A form approved by the Authority that may be an application and/or a reply to an application  |
| 1.4.10 | <b>WIRO</b>                                 | The WorkCover Independent Review Officer  |
| 1.4.11 | <b>WorkCover Independent Review Officer</b> | The person holding office under Chapter 2, Part 3 of the 1987 Act who may conduct a final work capacity review after an internal review by the insurer and a review by the Authority. |
| 1.4.12 | <b>Insurer</b>                              | Any party against whom a claim is made under the workers Compensation Acts  |

- 1.4.13     **Internal Reviewer**  
The person conducting an internal review by the insurer of a work capacity decision made by the insurer
- 1.4.14     **Matter**  
The application, reply and all supporting documents and correspondence held by the Authority in relation to one discrete application for review by the Authority. Each matter lodged with the Authority is given a discrete matter number.
- 1.4.15     **Merit Reviewer**  
The person conducting a review by the Authority of a work capacity decision made by an insurer
- 1.4.16     **Officer**  
An officer of the Authority undertaking work in relation to Reviews of work capacity decisions as directed by, or as delegated by the Director, Assessment Services
- 1.4.17     **Regulation**     *Workers Compensation Regulation 2010*
- 1.4.18     **Reply**  
The means by which an insurer answers an application lodged by a worker seeking a Review by the Authority
- 1.4.19     **Workers Compensation Acts**  
*The Workers Compensation Act 1987 and the Workplace Injury Management and Workers Compensation Act 1998*

## 2. Time, Delivery of documents, ECM system

### Reckoning of time

- 2.1 Any period of time fixed by these Guidelines for doing something is to be considered in accordance with clauses 2.1, 2.2 and 2.3.
- 2.2 Where a time of 1 day or longer is to be calculated by reference to a given day or event, the given day or the day of the given event is not counted.
- 2.3 Where, apart from this sub-clause, the period in question, being a period of 5 days or less, would include a weekend or public holiday, those days are to be excluded.

### Delivery of documents

- 2.4 Unless documents are lodged via an ECM system, delivery to an address for service is taken to have been effected at the following times:
  - 2.4.1 in the case of a physical address, on the day the document is left at that address;
  - 2.4.2 in the case of a postal address, on a day 5-days after the document is posted;
  - 2.4.3 in the case of a DX box, leaving a document addressed to the recipient in that DX box or at another DX box for transmission to that DX box, 2-days after the document is so left;
  - 2.4.4 in the case of an email address, on the day the email or email attachment is sent if sent before 5:00pm, or on the day after the email or email attachment is sent if sent at or after 5:00pm; or
  - 2.4.5 in the case of a facsimile number, on the day the facsimile is sent if sent before 5:00pm, or on the day after the facsimile is sent if sent at or after 5:00pm.
- 2.5 For matters lodged via the ECM system, for the purpose of these Guidelines the provisions of section 13 of the Electronic Transactions Act apply.

### Electronic case management system

- 2.6 The Authority may establish an ECM system to do one or more of the following:
  - 2.6.1 enable documents with respect to applications for review to be created, exchanged, filed, issued and used in electronic form;
  - 2.6.2 enable parties to applications for review to communicate in electronic form with the Authority and with other parties to those disputes;
  - 2.6.3 enable information concerning the progress of applications to the Authority for review to be provided in electronic form to parties to those disputes; and/or
  - 2.6.4 enable the Authority to communicate in electronic form with parties to applications for review.
- 2.7 The Authority may establish a protocol for the use of the ECM system, and for persons to become registered users of the ECM system.
- 2.8 The protocol established under clause 2.7 may provide, amongst other things, for the specification of the level of access to the system to which persons or specified classes of persons are entitled, the conditions of use of the system applicable to persons generally or persons of any such class, the security methods by which persons using the system are identified and verified, and how users gain access to the system.

- 2.9 Subject to any protocol established under clause 2.7, a person may not use the ECM system for particular applications unless the person is a registered user of the ECM system and is:
- 2.9.1 a party to the application for review; or
- 2.9.2 a person representing a party to the application for review.
- 2.10 In relation to any application for review, the level of access to the ECM system to which a user is entitled, and the conditions of use applicable to a user, are subject to any decision of the Authority.
- 2.11 Documents and information lodged via the ECM system may be dealt with in accordance with the provisions of the Electronic Transactions Act.
- 2.12 When the Authority sends documents, or forwards correspondence to a party who is a registered user of the ECM system, the Authority will generally only do so via electronic communication to that party.

### 3. Workers Compensation System Objectives

- 3.1 The 1998 Act sets out its purpose in section 3 as follows:

***“3 System objectives***

*The purpose of this Act is to establish a workplace injury management and workers compensation system with the following objectives:*

- (a) *to assist in securing the health, safety and welfare of workers and in particular preventing work-related injury,*
- (b) *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,*
- (c) *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,*
- (d) *to be fair, affordable, and financially viable,*
- (e) *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,*
- (f) *to deliver the above objectives efficiently and effectively.”*

- 3.2 In exercising their functions and interpreting the provisions of these Guidelines insurers, the Authority and its Officers must have regard to these system objectives.



## 4. Work capacity decisions and Reviews

- 4.1 An application may be made by a worker for a review of a work capacity decision by an insurer in accordance with section 44 of the 1987 Act:
- 4.1.1 to an insurer for an internal review, and then;
  - 4.1.2 to the Authority for a merit review, and then,
  - 4.1.3 to the WIRO for a procedural review.
- 4.2 Work capacity decisions by insurers are defined in section 43 of the 1987 Act, extracted below:

### **43 Work capacity decisions by insurers**

- (1) *The following decisions of an insurer (referred to in this Division as work capacity decisions) are final and binding on the parties and not subject to appeal or review except review under section 44 or judicial review by the Supreme Court:*
- (a) *a decision about a worker's current work capacity,*
  - (b) *a decision about what constitutes suitable employment for a worker,*
  - (c) *a decision about the amount an injured worker is able to earn in suitable employment,*
  - (d) *a decision about the amount of an injured worker's pre-injury average weekly earnings or current weekly earnings,*
  - (e) *a decision about whether a worker is, as a result of injury, unable without substantial risk of further injury to engage in employment of a certain kind because of the nature of that employment,*
  - (f) *any other decision of an insurer that affects a worker's entitlement to weekly payments of compensation, including a decision to suspend, discontinue or reduce the amount of the weekly payments of compensation payable to a worker on the basis of any decision referred to in paragraphs (a)–(e).*
- (2) *The following decisions are not work capacity decisions:*
- (a) *a decision to dispute liability for weekly payments of compensation,*
  - (b) *a decision that can be the subject of a medical dispute under Part 7 of Chapter 7 of the 1998 Act.*
- (3) *The Commission does not have jurisdiction to determine any dispute about a work capacity decision of an insurer and is not to make a decision in respect of a dispute before the Commission that is inconsistent with a work capacity decision of an insurer."*

- 4.3 Jurisdiction for internal review by insurers, and merit review by the Authority, is established in section 44 of the 1987 Act. Those provisions are extracted in later sections of this Guideline relating to each specific review.

**Legal practitioners may not recover costs from a worker or insurer**

- 4.4 Workers' legal costs in relation to the review of work capacity decisions are referred to specifically in section 44(6) of the 1987 Act, which provides that:

*A legal practitioner acting for a worker is not entitled to be paid or recover any amount for costs incurred in connection with a review under this section of a work capacity decision of an insurer.*

- 4.5 Insurers' legal costs in relation to the review of work capacity decisions are referred to specifically in Schedule 8, clause 9 of the Regulation, which provides that:

*A legal practitioner is not entitled to be paid or recover any amount for a legal service provided to an insurer in connection with an internal or other review under section 44 of the 1987 Act in relation to a work capacity decision of the insurer.*

**Advisory Services to assist workers**

- 4.6 The Authority will provide and maintain an advisory service to assist workers in connection with the procedures for reviews of work capacity decisions.

## Division 2. Internal Review by insurers

### 5. Internal Review by insurers

- 5.1 A worker who has received a work capacity decision from an insurer may make an application to the insurer for an internal review of the work capacity decision, in accordance with the relevant provisions of the 1987 Act.
- 5.2 The jurisdiction for internal review by insurers is established in section 44 of the 1987 Act, and the relevant parts of that section are extracted below:

#### **44 Review of work capacity decisions**

- (1) *An injured worker may refer a work capacity decision of an insurer for review:*
- (a) *by the insurer (an internal review) in accordance with the WorkCover Guidelines within 30-days after an application for Internal Review is made by the worker, or*
- (b) *...*
- (c) *...*
- (2) *An application for review of a work capacity decision must be made in the form approved by the Authority and specify the grounds on which the review is sought. ...*
- (3) *...*
- (4) *A review of a work capacity decision does not operate to stay the decision or otherwise prevent the taking of action based on the decision.*
- (5) *The Commission is not to make a decision in proceedings concerning a dispute about weekly payments of compensation payable to a worker while a work capacity decision by an insurer about those weekly payments is the subject of a review under this section.*
- (6) *A legal practitioner acting for a worker is not entitled to be paid or recover any amount for costs incurred in connection with a review under this section of a work capacity decision of an insurer.*

## Chapter 6. Applications to insurers for Internal Review

### Form of application

- 6.1 An application for internal review must be made to the insurer by the worker in the form approved by the Authority, available on the Authority's website at <http://www.workcover.nsw.gov.au>. The form approved by the Authority for that purpose is the 'Work capacity – application for internal review by insurer' form.
- 6.2 The application form must set out the grounds on which the review is being sought and may attach any new or additional information relevant to the work capacity decision.
- 6.3 An insurer may decline to review a decision if an application for review is not lodged in the form approved by the Authority.
- 6.4 A worker may be assisted in completing the application form by another person such as the insurer, a support person, agent, union representative, employer, legal representative, or interpreter.
- (Note: Legal practitioners may not recover costs from a worker or insurer, see Clause 4.4 and 4.5.)

### Time limit for lodgement

- 6.5 An application for internal review must be lodged by the worker with the insurer within 30-days of receiving the work capacity decision from the insurer.
- 6.6 An insurer shall decline to review a decision if an application for review is not lodged by the worker within 30-days of the worker receiving the work capacity decision, unless the insurer is satisfied that exceptional circumstances exist sufficient to justify the delay.

### Frivolous or vexatious applications

- 6.7 An insurer may decline to review a decision at any stage of the internal review process if an application for review is, or becomes, frivolous or vexatious.

### Declining to Review a decision

- 6.8 The insurer must notify the worker in writing if the insurer declines to review a decision under clause 6.3 (approved form), clause 6.6 (time limit) or clause 6.7 (frivolous or vexatious).
- 6.9 If an insurer declines to Review a decision the dispute has not '*been the subject of internal review by the insurer*' as required by and for the purposes of section 44(1)(b) and (c) of the 1987 Act. Under these circumstances, an application may not be made to the Authority for merit review or to WIRO for procedural review until the insurer has been able to conduct an internal review.

### Multiple work capacity decisions or claims

- 6.10 An application may refer for internal review more than one work capacity decision, about one or more of the worker's related claims that are managed by the same insurer, however the time limit requirements must be met for each work capacity decision.
- 6.11 The insurer may determine whether or not such internal reviews of multiple work capacity decisions are most appropriately conducted together or separately as is appropriate in the circumstances of each particular case.

## 7. Internal Review process and decisions

### Acknowledgement of application

- 7.1 The insurer must write to the worker within 7 days of receiving the application for review to acknowledge receipt of the application and to:
  - 7.1.1 explain the review process that will be undertaken;
  - 7.1.2 confirm that a review of a work capacity decision does not operate to stay the decision or otherwise prevent the taking of action based on the decision;
  - 7.1.3 confirm that the worker may provide any new or additional information relevant to the work capacity decision and advising when that information is due to be received; and
  - 7.1.4 indicate when and how the decision will be conveyed to the worker.

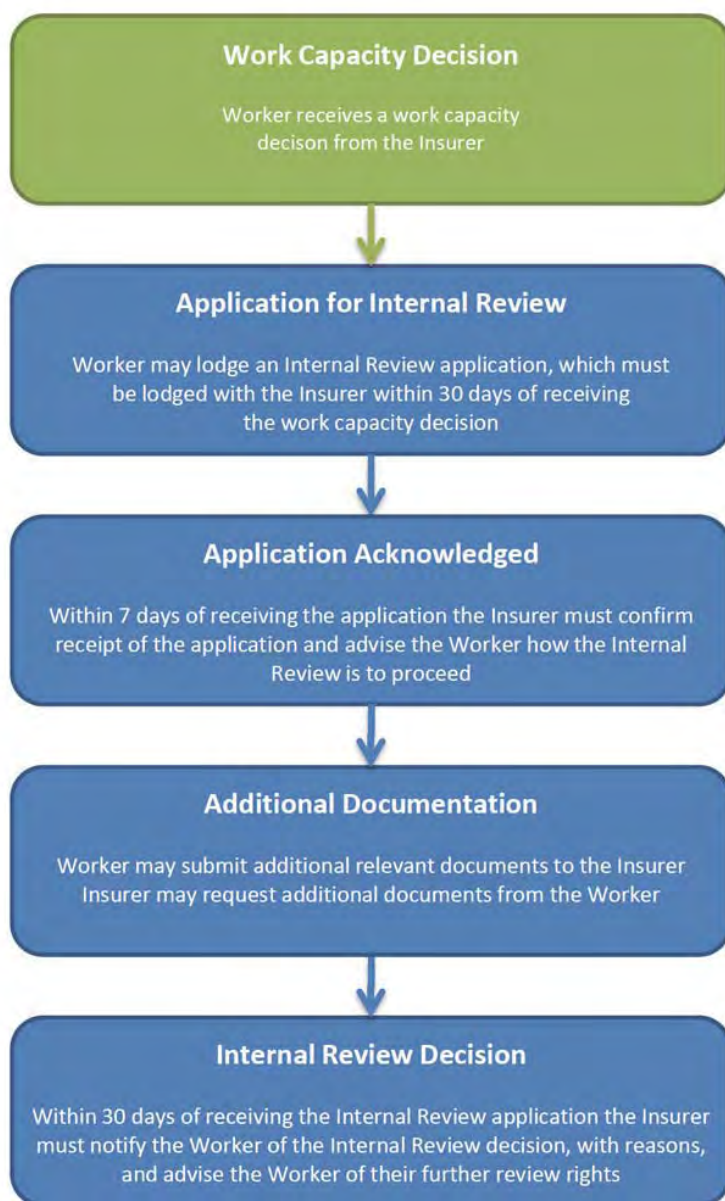
### Internal Reviewer and decision

- 7.2 The internal review is to be undertaken by a person who was not involved in the making of the original work capacity decision.
- 7.3 The internal review is to be conducted by a person with the appropriate level of knowledge, expertise and skill relevant to the particular work capacity decision referred.
- 7.4 The internal reviewer may request additional information from the worker, and if doing so should allow the worker no less than 7-days to supply any such information.
- 7.5 The internal reviewer is to consider all of the material substantively and on its merits as if the original work capacity decision had not been made, and is obliged to make the decision that they think is more likely than not to be correct.

### Notification of the Internal Review decision

- 7.6 The insurer must write to the worker within 30 days of receiving the application advising of the outcome of the internal review and if the insurer fails to do so the worker may then make an application for merit review by the Authority.
- 7.7 The notification of the decision must be in writing and must include:
  - 7.7.1 details of the decision and its impacts:
  - 7.7.2 a statement of reasons which includes the following:
    - 7.7.2.1 findings on material questions of fact, referring to the documents or other material on which those findings were based;
    - 7.7.2.2 the internal reviewer's understanding of the applicable law and rules, including the legislation, regulations or guidelines;
    - 7.7.2.3 the reasoning process that led the Internal Reviewer to the decision;
  - 7.7.3 advice to the worker about the availability of further review options including:
    - 7.7.3.1 that the worker may make an application to the Authority for a merit review within 30-days after receipt of the internal review decision;
    - 7.7.3.2 a copy of, or a website link to, the application form approved by the Authority; and
    - 7.7.3.3 advice on where and how such an application is to be made.

## Insurer Internal Review Process





## Division 3. Merit Review by the Authority

### 8. Merit Review by the Authority

- 8.1 A worker may refer a work capacity decision to the Authority for merit review, but only after the dispute has been the subject of an internal review by the insurer.
- 8.2 The jurisdiction for merit review by the Authority is set out in section 44 of the 1987 Act. The relevant parts of that section are extracted below:

#### **44 Review of work capacity decisions**

- (1) *An injured worker may refer a work capacity decision of an insurer for review:*
- (a) ...
  - (b) *by the Authority (as a Merit Review of the decision), but not until the dispute has been the subject of Internal Review by the insurer, or*
  - (c) ...
- (2) *An application for review of a work capacity decision must be made in the form approved by the Authority and specify the grounds on which the review is sought. The worker must notify the insurer in a form approved by the Authority of an application made by the worker for review by the Authority or the Independent Review Officer.*
- (3) *The following provisions apply to the review of a work capacity decision when the reviewer is the Authority or the Independent Review Officer:*
- (a) *an application for review must be made within 30 days after the worker receives notice in the form approved by the Authority of the insurer's decision on Internal Review of the decision (when the application is for review by the Authority) or the Authority's decision on a review (when the application is for review by the Independent Review Officer),*
  - (b) *an application for review by the Authority may be made without an Internal Review by the insurer if the insurer has failed to conduct an Internal Review and notify the worker of the decision on the Internal Review within 30-days after the application for Internal Review is made,*
  - (c) *the reviewer may decline to review a decision because the application for review is frivolous or vexatious or because the worker has failed to provide information requested by the reviewer,*
  - (d) *the worker and the insurer must provide such information as the reviewer may reasonably require and request for the purposes of the review,*
  - (e) *the reviewer is to notify the insurer and the worker of the findings of the review and may make recommendations to the insurer based on those findings (giving reasons for any such recommendation),*
  - (f) ...
  - (g) *recommendations made by the Authority are binding on the insurer and must be given effect to by the insurer,*
  - (h) ...
- (4) *A review of a work capacity decision does not operate to stay the decision or otherwise prevent the taking of action based on the decision.*
- (5) *The Commission is not to make a decision in proceedings concerning a dispute about weekly payments of compensation payable to a worker while a work capacity decision by an insurer about those weekly payments is the subject of a review under this section.*
- (6) *A legal practitioner acting for a worker is not entitled to be paid or recover any amount for costs incurred in connection with a review under this section of a work capacity decision of an insurer.*

## 9. Applications to the Authority for Merit Review

### Form of application

- 9.1 An application for merit review to the Authority must be made by the worker in the form approved by the Authority, available on the Authority's website at <http://www.workcover.nsw.gov.au>. The form approved by the Authority is the *Work capacity – application for merit review by the Authority* form.
- 9.2 The application form must set out the grounds on which the Review is being sought and may attach any new or additional information relevant to the work capacity decision.
- 9.3 The Authority may decline to review a decision if the worker has not complied with clause 9.1 or if the internal review process has not been finalised.
- 9.4 The worker does not need to attach to their application all of the existing documents and information relating to the claim or the work capacity decision, as the insurer will be required to provide all relevant information to the Authority as part of their reply to the application.
- 9.5 A worker may be assisted in completing the application form by another person such as the insurer, a support person, agent, union representative, employer, legal representative, or interpreter.

(Note: Legal practitioners may not recover costs from a worker or insurer, see Clause 4.4 and 4.5.)

### Multiple work capacity decisions or claims

- 9.6 An application may refer for review by the Authority more than one work capacity decision, about one or more of the worker's claims, whether or not they are managed by the same insurer, however the time limit requirements must be met for each decision.
- 9.7 The Authority may determine whether or not such merit reviews of multiple work capacity decisions are most appropriately conducted together or separately as is appropriate in the circumstances of each particular case.

### Exchange and lodgement of application by worker

- 9.8 Section 44(2) of the 1987 Act requires the worker to notify the insurer of an application for review by the Authority, in a form approved by the Authority. The form approved by the Authority for that purpose is the *Work capacity – application for merit review by the authority* form.
- 9.9 The worker must send the insurer a copy of the form before, or at the same time as, lodging the application with the Authority.
- 9.10 The Authority may decline to Review a decision unless and until the worker has complied with clause 9.9.

### Time limit for lodging an application with the Authority

- 9.11 An application for merit review must be lodged by the worker with the Authority within:
- 9.11.1 30-days of receiving the internal review decision from the insurer; or
- 9.11.2 if the insurer failed to issue an internal review decision on time under clause 7.7, within 30-days of the date that the insurers' internal review decision was due.

- 9.12 The Authority shall decline to review a decision if the workers application does not satisfy clause 9.11, unless it is satisfied that exceptional circumstances exist sufficient to justify any delay.

#### **Frivolous or vexatious applications**

- 9.13 The Authority may decline to Review a decision at any stage of the merit review process if an application for review is, or becomes, frivolous or vexatious.

#### **Declining to Review a decision**

- 9.14 The Authority must notify the worker and insurer in writing if the Authority declines to review a decision under clause 9.3 (approved form), clause 9.10 (exchange), clause 9.12 (time limit) or clause 10.1 (frivolous or vexatious).
- 9.15 If the Authority declines to review a decision the dispute has not been the subject of merit review by the Authority for the purposes of section 44(1)(c) of the 1987 Act. An application may not be made to the WIRO for procedural review until the Authority has been able to conduct a merit review.

#### **Lodging an application with the Authority**

- 9.16 The Authority shall establish and maintain a registry for the referral of applications for review by the Authority. For the purposes of delivery or sending of documents for lodgement the address is:

##### **Merit Review Service**

WorkCover Authority of NSW

Level 19, 1 Oxford Street, Darlinghurst, NSW, 2010

Email: [wcdmeritreviewservice@workcover.nsw.gov.au](mailto:wcdmeritreviewservice@workcover.nsw.gov.au)

- 9.17 For the purposes of delivery or sending of documents for lodgement using the ECM system, access may be made available to registered ECM users via password login to the Authority's website address at <http://www.workcover.nsw.gov.au>.
- 9.18 Except on Saturdays, Sundays and public holidays, the registry is open for lodgement of documents in person between 8.30am and 5:00pm.
- 9.19 The registry may provide for lodgement of documents electronically and outside the registry's usual opening hours. Any documents lodged electronically after 5:00pm are deemed to be received on the next registry business day.
- 9.20 The registry shall, notwithstanding clause 9.18, be kept open to the public for business or closed for business, at such times and on such days as the Authority shall determine.
- 9.21 The Authority shall arrange for all applications made to the Authority under these Guidelines to be allocated a matter number and registered. All subsequent correspondence concerning the merit review application is to quote that matter number.

#### **Exchange and lodgement of reply by insurer**

- 9.22 A reply to an application for merit review must be lodged by the insurer with the Authority in the form approved by the Authority, as quickly as possible and within 7-days of receiving the worker's application. The form approved by the Authority for that purpose is the *Work capacity – reply to an application for merit review by the authority* form.

- 9.23 The reply lodged with the Authority must be submitted electronically via email or via the ECM system and must:
- 9.23.1 include a detailed list of all documents relevant to the work capacity decision and the Review of that decision, including documents supplied by the worker;
  - 9.23.2 attach electronic copies of all of the documents included in the list of relevant documents, including documents supplied by the worker.
- 9.24 The insurer must first notify the worker of its reply to the application, by sending the worker a copy of the reply before, or at the same time as, lodging the reply with the Authority.
- 9.25 The reply provided to the worker must include the list of all relevant documents but does not need to attach copies of all the relevant documents being lodged with the reply. The insurer is required to provide the worker with copies of any of those documents which have not already been provided to the worker previously.

### Surveillance images

- 9.26 Any surveillance images to be lodged with the Authority are to be provided by the insurer in DVD format and must first be provided to the worker. Any investigator's or loss adjuster's report concerning those surveillance images must also be provided with the images when they are provided to the worker and when lodged with the Authority.
- 9.27 If surveillance images have been provided by an insurer to a worker for the first time in support of a reply lodged with the Authority, the worker will be offered an opportunity to respond to the surveillance images.
- 9.28 Surveillance images held by the Authority are, where they contain personal information, subject to the *Privacy and Personal Information Protection Act 1998* (NSW).

### Privacy

- 9.29 Merit reviews by the Authority are to be conducted in private and are not open to the public. Any decision, recommendations or statement of reasons are not available to the public.

(Note: An individual's privacy should be respected. Failure to respect the privacy of an individual may result in a breach of the *Privacy and Personal Information Protection Act 1998* (NSW) and/or the *Health Records and Information Privacy Act 2002* (NSW).

The Authority recommends that no application, reply, decision, recommendation, or statement of reasons should be published, distributed or used in any way unless the privacy of all individuals referred to in the documents is respected, including the privacy of workers, their relatives, support persons, employers and their staff, insurers' staff, officers of the Authority, legal representatives, medical practitioners, witnesses, interpreters, Internal Reviewers, Merit Reviewers, and any other individual person.

The Authority recommends that no such documents should be published, distributed or used in any way unless the express consent of any such identified individuals has first been obtained, or unless the documents have been thoroughly and sufficiently de-identified to ensure that the privacy of those individuals is respected.)

## 10. Merit Review process and decisions

### Acknowledgement of worker's application

- 10.1 The Authority must write to the worker and insurer within 7 days of receiving the application for review to acknowledge receipt of the application and to:
- 10.1.1 explain the review process that will be undertaken;
  - 10.1.2 confirm that a review of a work capacity decision does not operate to stay the decision or otherwise prevent the taking of action based on the decision;
  - 10.1.3 confirm that the worker or insurer may provide any new or additional information relevant to the work capacity decision, after first exchanging that with the other party, and advising when that information is due to be received;
  - 10.1.4 indicate when and how the decision will be conveyed to the worker and insurer.

### Acknowledgement of insurer's reply

- 10.2 The Authority must write to the worker and insurer within 7 days of receiving the reply from the insurer to acknowledge receipt of the application and to:
- 10.2.1 advise whether any further information is required from either of the parties for the purposes of the review; and
  - 10.2.2 confirm that a review of a work capacity decision does not operate to stay the decision or otherwise prevent the taking of action based on the decision.

### Exchange of Information by workers and insurers

- 10.3 Any information that the worker sends to the Authority, whether as part of an Application, in response to a request by the Authority, or otherwise, must be sent to the insurer before, or at the same time as, sending the information to the Authority.
- 10.4 Any information that the insurer sends to the Authority, whether as part of a reply, in response to a request by the Authority, or otherwise, must be sent to the worker before, or at the same time as, sending the information to the Authority.

### Merit Reviewer and decision

- 10.5 Merit review by the Authority is to be undertaken by a person:
- 10.5.1 who was not involved in the making of the original work capacity decision or the internal review by the insurer; and
  - 10.5.2 with the appropriate level of knowledge, expertise and skill relevant to the particular work capacity decision referred.
- 10.6 The merit reviewer may determine his or her own procedure and is not bound by the rules of evidence and may inquire into any matter relating to the review of the work capacity decision in such manner as they think fit.
- 10.7 The merit reviewer is to take such measures as are reasonably practicable to ensure that the parties understand the nature of the application, the issues to be considered and the role of the Reviewer as an independent decision-maker, and that they have had an opportunity to have their submissions and any relevant documents or information considered.

- 10.8 The merit reviewer is to act with as little formality as the circumstances of the matter permit and according to equity, good conscience and the substantial merits of the matter without regard to technicalities and legal forms.
- 10.9 The merit reviewer is to take into account the workers compensation system objectives at all times.
- 10.10 The merit reviewer may reasonably require additional information from the worker or the insurer for the purposes of the review, which the worker and insurer must provide.
- 10.11 If requiring additional information from the worker the merit reviewer should allow the worker at least 7 days to supply the information. The merit reviewer may decline to review a decision if the worker fails to provide information requested by the reviewer within the time allowed.
- 10.12 The merit reviewer is to consider all of the material substantively and on its merits as if the original work capacity decision had not been made, and is obliged to make the decision that they think is more likely than not to be correct.
- 10.13 The merit reviewer may also make recommendations to the insurer based on their findings, which are binding on the insurer and must be given effect to by the insurer.

#### **Notification of the Merit Review decision**

- 10.14 The Authority must shall write to the worker and insurer within 30-days of receiving the application advising of the outcome of the merit review.
- 10.15 The notification of the decision must be in writing and shall include:
  - 10.15.1 details of the decision and its impacts;
  - 10.15.2 details of any recommendations to the insurer;
  - 10.15.3 a statement of reasons which includes the following:
    - 10.15.3.1 findings on material questions of fact, referring to the documents or other material on which those findings were based;
    - 10.15.3.2 the merit reviewer's understanding of the applicable law and rules, including the legislation, regulations or guidelines;
    - 10.15.3.3 the reasoning process that led the merit reviewer to the decision and to any recommendations made;
  - 10.15.4 advice to the worker about the availability of further review options including:
    - 10.15.4.1 that the worker may make an application to the WorkCover Independent Review Officer (WIRO) for a review of the insurer's procedures in making the work capacity decision, within 30 days after receipt of the merit review decision from the Authority;
    - 10.15.4.2 advice on where the worker can obtain the application form approved by the Authority; and
    - 10.15.4.3 advice on where and how such an application is to be made.



## Authority Merit Review Process





# PRIVATE ADVERTISEMENTS

## COUNCIL NOTICES

### THE COUNCIL OF THE CITY OF SYDNEY

Section 162, Roads Act 1993

Naming of Roads

NOTICE is hereby given that the Council of the City of Sydney, in accordance with section 162 of the Roads Act 1993, has named the laneway at Zetland, described as "12.5 wide and variable width, dedicated to the public as public road" in Deposited Plan 1177468, as "LAMOND LANE". Authorised by Resolution of Council dated 20 August 2012. MONICA BARONE, Chief Executive Officer, Council of the City of Sydney, 456 Kent Street, Sydney NSW 2000. [6776]

### LACHLAN SHIRE COUNCIL

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

LACHLAN SHIRE COUNCIL declares with the approval of Her Excellency the Governor, that the land described in the Schedule below, excluding any mines or deposits of minerals in the land, is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the removal of building debris and future resale. GEORGE COWAN, General Manager, Lachlan Shire Council, PO Box 216, Condobolin NSW 2877.

#### SCHEDULE

Lot 1, DP 948736. [6777]

### ORANGE CITY COUNCIL

Roads Act 1993

Notice of Dedication of Land as Public Road at Orange in the Orange City Council Area

ORANGE CITY COUNCIL, by its General Manager, dedicates the land described in the Schedule below as public road under section 10 of the Roads Act 1993. GARRY STYLES, General Manager, Orange City Council, PO Box 35, Orange NSW 2800.

#### SCHEDULE

All those pieces or parcels of land situated in the Orange City Council Area, Parish of Orange and County of Bathurst, shown as:

Description of Land:

Lot 2, DP 1142713, Huntley Road, Orange.

Title Particulars:

Certificate of Title Identifier 2/1142713. [6778]

## TWEED SHIRE COUNCIL

Roads Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

TWEED SHIRE COUNCIL declares with the approval of Her Excellency the Governor, that the lands described in the Schedule below, excluding any mines or deposits of minerals in the lands, are acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for road widening and giving as compensation. Dated at Murwillumbah, this 5th day of December 2012. DAVID KEENAN, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

#### SCHEDULE

Lot 1, DP 1176881.

Lot 2, DP 1176881.

Lot 3, DP 1176881.

Lot 4, DP 1176881.

Lot 5, DP 1176881.

Lot 6, DP 1176881.

Lot 7, DP 1176881.

[6779]

## ESTATE NOTICES

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of KAY PATRICIA GEHL, late of Arncliffe, in the State of New South Wales, clerical assistant, who died on 6 June 2012, must send particulars of their claim to the executor, Ronald Karl Gehl, c.o. Newnhams, Solicitors, 233 Castlereagh Street, Sydney NSW 2000, within one (1) calendar month from publication of this notice. After that time the executor may distribute the assets of the estate having regard only to the claims of which at the time of distribution he has notice. Probate was granted in New South Wales on 22 November 2012. NEWNHAMS, Solicitors, Level 7, 233 Castlereagh Street, Sydney NSW 2000 (PO Box 21087, World Square NSW 2002), (DX 11495, Sydney Downtown NSW), tel.: (02) 9264 7788. [6780]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of JACK GREGORY HEALEY, late of Warrenave, in the State of New South Wales, retired grazier, who died on 21 August 2011, must send particulars of the claim to the legal representative of the estate, care of Stephen R. W. Reed, Solicitor, Level 11, 68 Pitt Street, Sydney NSW 2000, within 30 days from the publication of this notice. After that time, the legal representative intends to distribute the property in the estate having regard only to the claims of which the legal representative had notice at the time of the distribution. STEPHEN R. W. REED, Solicitor, Level 11, 68 Pitt Street, Sydney NSW 2000, tel.: (02) 9221 6700. Reference: SR. [6781]

**COMPANY NOTICES**

NOTICE of voluntary winding up.—CO-OPERATIVE SYDNEY DIGITAL PRINT LIMITED, ABN 35 498 396 741 (in Creditors' Voluntary Liquidation).—Notice is hereby given pursuant to the Corporations Act that at a general meeting of the co-operative held on 19 November 2012, the following special resolution was passed: "That by reason of its insolvency the co-operative be wound up voluntarily". G. G. WOODGATE, Liquidator, c.o. Woodgate & Co., Chartered Accountants, Level 8, 6-10 O'Connell Street, Sydney NSW 2000, tel.: (02) 9233 6088. [6782]

**OTHER NOTICES****ESSENTIAL ENERGY**

Electricity Supply Act 1995

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Easement for Electricity Purposes at Cullerin

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

Dated at Sydney, this 7th day of December 2012.

VINCE GRAHAM,  
Chief Executive Officer

Essential Energy,  
PO Box 718, Queanbeyan NSW 2620.

**SCHEDULE 1**

Interest in Land: Easement for overhead powerlines 40 wide and variable width affecting Crown Land being the bed and banks of the Lachlan River shown as "Proposed Easement for Overhead Powerlines 40 wide and variable width" on DP 1170525.

Locality: Cullerin.

Local Government Area: Upper Lachlan Shire.

Parish: Mutmutbilly.

County: Argyle.

**SCHEDULE 2**

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

In so far as any Native Title rights and interests exist over the Crown land affected by the easement, the "non-extinguishment principle" as defined in section 238 of the Native Title Act 1993 (Cth) applies to the acquisition of the Interest in Land. [6783]

**FORBES SHIRE COUNCIL**

Local Government Act 1993, Section 713

**Sale of Land for Overdue Rates**

NOTICE is hereby given to the persons named hereunder, that the Forbes Shire Council has resolved, in pursuance of section 713 of the Local Government Act 1993, to sell the land described hereunder of which the person(s) named are known to the Council to be the owner(s) or to have an interest in the land on which the amount of rates stated in each case, as at 3 December 2012, is due:

<i>Owner or person having interest in the land</i>	<i>Description</i>	<i>Rates overdue for more than 5 years (incl extra charges)</i> (c)	<i>Rates overdue and in arrears (incl extra charges)</i> (d)	<i>Total</i> (e)
(a)	(b)			
Raymond John SHARPE; THE TRUST COMPANY (AUSTRALIA) LIMITED. Mortgage No. 5790860.	House and land. Lot 132, DP 591708, 77 Quarry Road, Forbes NSW 2871.	\$2,770.47	\$15,330.94	\$18,101.41
Raymond John SHARPE; STACKS MANAGED INVESTMENTS LIMITED. Mortgage No. AA957213.	House and land. Lot 2, DP 727018, 44 Parkes Road, Forbes NSW 2871.	\$4,185.45	\$40,090.43	\$44,275.88
Raymond John SHARPE; STACKS MANAGED INVESTMENTS LIMITED. Mortgage No. AA957213.	House and land. Lot 1, DP 962486, 110 Lachlan Street, Forbes NSW 2871.	\$9,746.73	\$36,353.11	\$46,099.84
Raymond John SHARPE; ST GEORGE BANK LIMITED. Mortgage No. AA489212	House and land. Lot 4, DP 592306, 1 Leather Street, Forbes NSW 2871.	\$1,529.59	\$15,772.54	\$17,302.13

In default of payment to the Council of the amount stated in column (e) above and any other rates (including extra charges) becoming due and payable after publication of this notice, or an arrangement satisfactory to the Council for payment of all such rates and charges being entered into by the rateable person before the time fixed for the sale, the said land will be offered for sale by public auction by Forbes Shire Council at the Forbes Town Hall, Harold Street, Forbes NSW 2871, on Monday, 8 April 2013, commencing at 2:00pm. B. STEFFEN, General Manager, Forbes Shire Council, PO Box 333, Forbes NSW 2871.

[6784]

---

 Authorised to be printed

ISSN 0155-6320

TONY DUCKMANTON, Government Printer.