



Government Gazette

OF THE STATE OF
NEW SOUTH WALES

Number 175
Friday, 8 December 2006

Published under authority by Government Advertising

LEGISLATION

Assents to Acts

ACTS OF PARLIAMENT ASSENTED TO

Legislative Assembly Office, Sydney 29 November 2006

IT is hereby notified, for general information, that Her Excellency the Governor has, in the name and on behalf of Her Majesty, this day assented to the undermentioned Acts passed by the Legislative Assembly and Legislative Council of New South Wales in Parliament assembled, viz.:

Act No 107, 2006 – An Act to make miscellaneous amendments to legislation relating to crimes, courts and other matters. [Crimes and Courts Legislation Amendment Bill].

Act No 108, 2006 – An Act to amend the James Hardie Former Subsidiaries (Winding up and Administration) Act 2005 to give recognition to a discretionary trust fund to be administered by the SPF trustee that is to be a source of funding in addition to the SPF; and for other purposes. [James Hardie Former Subsidiaries (Winding up and Administration) Amendment (Trust Funds) Bill].

Russell D. GROVE, P.S.M.,
Clerk of the Legislative Assembly

ACTS OF PARLIAMENT ASSENTED TO**Legislative Assembly Office, Sydney 4 December 2006**

IT is hereby notified, for general information, that Her Excellency the Governor has, in the name and on behalf of Her Majesty, this day assented to the undermentioned Acts passed by the Legislative Assembly and Legislative Council of New South Wales in Parliament assembled, viz.:

Act No 109, 2006 – An Act to amend the Parliamentary Electorates and Elections Act 1912 to require candidates for election to disclose child sexual offences and certain other child-related conduct; and for other purposes. [Parliamentary Electorates and Elections Amendment (Child Sexual Offences Disclosures) Bill].

Act No 110, 2006 – An Act to amend the Road Transport (General) Act 2005, the Road Transport (Safety and Traffic Management) Act 1999 and the Roads Act 1993 with respect to evidentiary matters; and for other purposes. [Road Transport Legislation Amendment (Evidence) Bill].

Act No 111, 2006 – An Act to amend the Aboriginal Land Rights Act 1983 with respect to the constitution, functions and governance of Aboriginal Land Councils, the provision of community benefits by those Councils and investment by and business enterprises of those Councils; and for other purposes. [Aboriginal Land Rights Amendment Bill].

Act No 112, 2006 – An Act to amend the Adoption Act 2000 in relation to the adoption of adults, the adoption of Aboriginal and Torres Strait Islander children and certain other matters; and for other purposes. [Adoption Amendment Bill].

Act No 113, 2006 – An Act with respect to the ownership, regulation and release of captive deer and the control of deer that are not captive; and for other purposes. [Deer Bill].

Act No 114, 2006 – An Act to amend the Education Act 1990 with respect to students, with respect to compulsory schooling and with respect to reports; to amend the Education (School Administrative and Support Staff) Act 1987 with respect to delegations; to amend the Teaching Service Act 1980 with respect to the making of regulations under that Act; to amend the Freedom of Information Act 1989 in relation to information about students; and for other purposes. [Education Legislation Amendment Bill].

Act No 115, 2006 – An Act to amend the Freedom of Information Act 1989 so as to require publication of government contracts; and for other purposes. [Freedom of Information Amendment (Open Government - Disclosure of Contracts) Bill].

Act No 116, 2006 – An Act to amend the Legal Profession Act 2004 with respect to the role and procedures of the Legal Profession Admission Board, the grant of local practising certificates, payments from and to the Public Purpose Fund, the abolition of the Legal Profession Advisory Council, and other matters, and to align the Act more closely with legal profession model legislation; to amend the Administrative Decisions Tribunal Act 1997; and for other purposes. [Legal Profession Further Amendment Bill].

Act No 117, 2006 – An Act to amend the Mount Panorama Motor Racing Act 1989 to make further provision with respect to the holding of meetings for motor racing; and for other purposes. [Mount Panorama Motor Racing Amendment Bill].

Act No 118, 2006 – An Act to amend the Rural Lands Protection Act 1998 to make further provision in relation to the accounting, auditing and financial obligations of the State Council of Rural Lands Protection Boards and the rural lands protection boards; and for other purposes. [Rural Lands Protection Amendment Bill].

Act No 119, 2006 – An Act to amend the Sale of Goods Act 1923 and the Warehousemen’s Liens Act 1935 in relation to the sale and storage of bulk goods. [Sale of Goods and Warehousemen’s Liens Amendment (Bulk Goods) Bill].

Act No 120, 2006 – An Act to repeal certain Acts and to amend certain other Acts and instruments in various respects and for the purpose of effecting statute law revision; and to make certain savings. [Statute Law (Miscellaneous Provisions) Bill (No 2)].

Act No 121, 2006 – An Act to amend the Superannuation Administration Act 1996 with respect to trust deed schemes. [Superannuation Administration Amendment (Trust Deed Schemes) Bill].

Act No 122, 2006 – An Act to amend the Sydney Water Catchment Management Act 1998 so as to reduce in size an area of land at Warragamba that is a special area for the purposes of that Act. [Sydney Water Catchment Management Amendment (Warragamba) Bill].

Act No 123, 2006 – An Act to amend the Environmental Planning and Assessment Act 1979 with respect to the certification of development, development contributions, major projects and other miscellaneous matters; to amend the City of Sydney Act 1988 with respect to the Central Sydney Planning Committee; and for other purposes. [Environmental Planning Legislation Amendment Bill].

Act No 124, 2006 – An Act to amend various Acts to provide for the regulation of health practitioners who are not registered under a health registration Act or whose registration under such an Act has been cancelled or suspended; and for other purposes. [Health Legislation Amendment (Unregistered Health Practitioners) Bill].

Act No 125, 2006 – An Act to amend the Threatened Species Conservation Act 1995 to establish a biodiversity banking and offsets scheme; and to amend other Acts consequentially. [Threatened Species Conservation Amendment (Biodiversity Banking) Bill].

Act No 126, 2006 – An Act to provide for proceedings in the Land and Environment Court for the resolution of disputes between neighbours concerning trees; and for other purposes. [Trees (Disputes Between Neighbours) Bill].

Act No 127, 2006 – An Act to amend the Victims Support and Rehabilitation Act 1996 with respect to assistance and compensation for victims of violence; and for other purposes. [Victims Support and Rehabilitation Amendment Bill].

Russell D. Grove PSM,
Clerk of the Legislative Assembly

Proclamations



New South Wales

Proclamation

under the

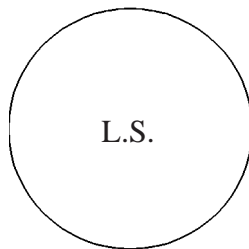
Conveyancers Licensing Act 2003 No 3

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 (1) of the *Conveyancers Licensing Act 2003*, do, by this my Proclamation, appoint 15 December 2006 as the day on which the uncommenced provisions of that Act commence.

Signed and sealed at Sydney, this 6th day of December 2006.

By Her Excellency's Command,



DIANE BEAMER, M.P.,
Minister for Fair Trading

GOD SAVE THE QUEEN!

Explanatory note

The object of this Proclamation is to commence all of the *Conveyancers Licensing Act 2003* apart from some minor amendments made by that Act in connection with Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002*. Those amendments commenced on the commencement of that Division (1 December 2005).



New South Wales

Proclamation

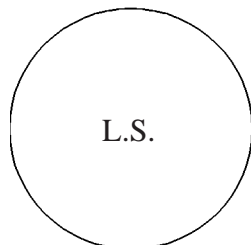
under the

Electricity Supply Amendment (Greenhouse Gas Abatement Scheme) Act 2006 No 83

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Electricity Supply Amendment (Greenhouse Gas Abatement Scheme) Act 2006*, do, by this my Proclamation, appoint 8 December 2006 as the day on which that Act commences. Signed and sealed at Sydney, this 6th day of December 2006.

By Her Excellency's Command,



JOSEPH TRIPODI, M.P.,
Minister for Energy

GOD SAVE THE QUEEN!

Regulations



New South Wales

Conveyancers Licensing Regulation 2006

under the

Conveyancers Licensing Act 2003

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Conveyancers Licensing Act 2003*.

DIANE BEAMER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to make provision under the *Conveyancers Licensing Act 2003* (*the Act*) for or with respect to the following matters:

- (a) prescribing the fees payable in relation to conveyancing licences,
- (b) requiring licensees to be insured under a policy of professional indemnity insurance as provided for in this Regulation (and deeming a policy of professional indemnity insurance that was approved by the Minister under the *Conveyancers Licensing Act 1995* for the period 1 July 2006 to 30 June 2007 to be a policy approved by the Minister for the purposes of that requirement),
- (c) specifying the matters to be taken into account by the Director-General in considering whether to grant an exemption from the provisions of the Act that prevent a licensee from being in charge at more than one place of business or of the business of more than one licensee,
- (d) prescribing rules of conduct to be observed by licensees in the course of the conduct of conveyancing businesses or the exercise of their functions under licences,
- (e) prohibiting licensees from conducting, or being employed in the conduct of, the business of an *agent* (within the meaning of the *Property, Stock and Business Agents Act 2002*),
- (f) requiring licensees to disclose certain matters to clients in accordance with the Act,
- (g) prescribing requirements as to itemised accounts,
- (h) providing for the form of notifications to the Consumer, Trader and Tenancy Tribunal (*the Tribunal*) of disputes about costs payable in respect of conveyancing work, and of applications to the Tribunal for determinations of such disputes, providing for the

Conveyancers Licensing Regulation 2006

Explanatory note

manner in which parties are to bear the costs of assessment of such disputes by an independent expert, prescribing the fees that must accompany such notifications and applications, and providing for the procedure for transferring proceedings with respect to costs disputes from a court to the Tribunal,

- (i) providing for requirements in relation to trust money, including in relation to the keeping of records and accounts, the furnishing of statements of account, computer systems controls, the banking of trust money and the payment of trust money,
- (j) providing for the keeping and retaining by licensees of other records relating to conveyancing transactions,
- (k) prescribing the particulars to be recorded in the Register under the Act,
- (l) prescribing the provisions of the Act that remain applicable to a suspended licence,
- (m) modifying the *Licensing and Registration (Uniform Procedures) Act 2002* in its application to conveyancers' licences,
- (n) prescribing offences as penalty notice offences and setting the penalties for those offences,
- (o) providing for other miscellaneous, minor, transitional or consequential matters.

This Regulation is made under the *Conveyancers Licensing Act 2003*, including sections 4, 12, 15, 20, 22, 28, 36, 43, 45, 47, 50, 53, 67, 69, 90, 133, 158, 162 and 172 (the general regulation-making power) and clause 2 of Schedule 1.

Conveyancers Licensing Regulation 2006

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Conveyancers Licensing Regulation 2006

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Conveyancers Licensing Regulation 2006

Clause 1

Preliminary

Part 1

Conveyancers Licensing Regulation 2006

under the

Conveyancers Licensing Act 2003

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Conveyancers Licensing Regulation 2006*.

2 Commencement

This Regulation commences on 15 December 2006.

3 Definition

- (1) In this Regulation:
the Act means the *Conveyancers Licensing Act 2003*.
- (2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.
- (3) Notes included in this Regulation do not form part of this Regulation.

4 Meaning of “Operating Account”

The departmental account known as the Compensation Fund is prescribed for the purposes of the definition of *Operating Account* in section 90 of the Act.

Clause 5	Conveyancers Licensing Regulation 2006
Part 2	Licensing

Part 2 Licensing

5 Fees for licence

- (1) Certain of the fees payable for the purposes of the Act are listed in Column 1 of Schedule 2.
- (2) The amount of each fee is to be calculated by adding together the various components set out in Columns 2 and 3 of Schedule 2 in relation to that fee.
- (3) An amount specified in relation to an application fee in Column 3 of Schedule 2 under the heading **Processing component** is taken to be a fee to cover the costs incurred by the Director-General in processing the application.

Note. This amount is consequently a **processing fee** for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*.

- (4) Despite subclause (2), the amount of the fixed component of an application fee for the grant of a licence of less than 12 months duration is a proportionate amount of the amount specified in relation to that fee in Column 2 of Schedule 2 under the heading **Fixed component**, calculated on a monthly basis with part of a month being treated as a whole month.

Note. Section 89 of the *Conveyancers Licensing Act 2003* provides that an applicant for a licence is liable to pay the contribution to the Compensation Fund, and any levy for that Fund, required to be paid from time to time under section 168 or 169 of the *Property, Stock and Business Agents Act 2002*. Regulations made under that Act specify the amount of the contribution payable by the applicant for the licence concerned. That amount (and any levy) is payable in addition to the amount of an application fee prescribed by this Regulation.

6 Professional indemnity insurance: section 15

- (1) A licensee must be insured under a policy of professional indemnity as provided in subclause (2).
- (2) A licensee is insured as required by this clause if:
 - (a) the licensee is insured under a policy of professional indemnity insurance in force with respect to the licensee or his or her employer, being a policy, or a policy of a kind, that is approved by the Minister for the time being by order published in the Gazette, or
 - (b) the licensee carries out conveyancing work only in the licensee's capacity as an employee of a complying law practice.
- (3) In this clause, **complying law practice** means a law practice within the meaning of the *Legal Profession Act 2004* that complies with the requirements of Part 3.3 (Professional indemnity insurance) of that Act.

Conveyancers Licensing Regulation 2006

Clause 7

Conduct of conveyancing business

Part 3

Part 3 Conduct of conveyancing business

7 Section 20 exemptions—person in charge at place of business

- (1) The following matters are to be taken into account by the Director-General in considering whether to grant an exemption from any provision of section 20 of the Act that will authorise a licensee to be the person in charge of business (*the licensee-in-charge*) at more than one place of business of a licensee or to exercise functions or provide services on behalf of two or more licensees at a place of business:
- (a) reasons why the exemption is needed,
 - (b) the licensee's previous experience as licensee-in-charge at a place of business of a licensee,
 - (c) the licensee's capacity to comply with any guidelines issued by the Director-General under section 21 (3) of the Act,
 - (d) the licensee's record in relation to compliance with:
 - (i) the conditions of a licence held at any time by the licensee under the Act, the 1992 Act or the 1995 Act, and
 - (ii) the provisions of the Act under which the licence was held and the provisions of the regulations under the Act concerned, and
 - (iii) the relevant provisions of the *Legal Profession Act 1987* or the *Legal Profession Act 2004* (or both), and the relevant provisions of the regulations under the Act concerned,
 - (e) employer references in relation to the licensee's experience as a licensee-in-charge.
- (2) The following additional matters are to be taken into account by the Director-General in considering whether to grant an exemption from section 20 (1), (2) or (3) of the Act that will authorise a licensee to be the person in charge of business (*the licensee-in-charge*) at more than one place of business of a licensee:
- (a) the licensee's capacity to properly supervise the conduct of business at more than one place of business,
 - (b) office systems proposed to be established at each place of business concerned to provide for accountability to the licensee-in-charge at each of those places of business,
 - (c) proposed staffing and office management arrangements at each place of business concerned,
 - (d) whether there is a centralised trust account for the deposit of trust money received in connection with the businesses for which the licensee will be the licensee-in-charge pursuant to the exemption.

Clause 8	Conveyancers Licensing Regulation 2006
Part 3	Conduct of conveyancing business

-
- (3) The following additional matters are to be taken into account by the Director-General in considering whether to grant an exemption from section 20 (4) of the Act that will authorise a licensee employed as the person in charge of business (*the licensee-in-charge*) at a place of business to exercise functions or provide services on behalf of two or more licensees at that place:
- (a) the licensee's capacity to properly supervise the conduct of business of more than one licensee,
 - (b) fiduciary safeguards and office systems proposed to be established to provide for accountability to the licensee-in-charge,
 - (c) whether separate trust accounts are in place for the deposit of trust money received in connection with the business of each licensee for whom the licensee proposes to act pursuant to the exemption.
- (4) In this clause:
1992 Act means the *Conveyancers Licensing Act 1992*.
1995 Act means the *Conveyancers Licensing Act 1995*.

8 Rules of conduct

The rules set out in Schedule 3 are prescribed for the purposes of section 22 of the Act as rules of conduct to be observed in the course of the conduct of a conveyancing business or the exercise of functions under a licence.

9 Conduct of other businesses

For the purposes of section 28 of the Act, a licensee who conducts a conveyancing business, or who is employed in the conduct of a conveyancing business, is prohibited from conducting, or being employed in the conduct of, the business of an agent (within the meaning of the *Property, Stock and Business Agents Act 2002*).

10 Obligation to disclose certain matters to client

For the purposes of section 36 of the Act, a licensee who is to carry out both conveyancing work and work that is not conveyancing work for a client must disclose to the client, in accordance with Division 5 of Part 3 of the Act:

- (a) the fact that some of the work to be carried out is not conveyancing work, and
- (b) the nature of the work that is not conveyancing work.

Conveyancers Licensing Regulation 2006

Clause 11

Conduct of conveyancing business

Part 3

11 Itemised account

- (1) A request for an itemised account under section 67 of the Act may be served on the licensee concerned by:
 - (a) delivering it personally to the licensee, or
 - (b) leaving it for the licensee at a place of business of the licensee, or
 - (c) sending it by post to the licensee at the address of a place of business of the licensee, or
 - (d) sending it by facsimile transmission to a number specified by the licensee (in correspondence or otherwise) as a number to which facsimile transmissions to the licensee may be sent.
- (2) An itemised account requested under section 67 of the Act may be provided to the person who made the request by:
 - (a) delivering it personally to the person, or
 - (b) leaving it for the person at an address specified as the person's address in the request, or
 - (c) sending it by post to the person at an address specified as the person's address in the request, or
 - (d) sending it by facsimile transmission to a number specified by the person (in correspondence or otherwise) as a number to which facsimile transmissions to the person may be sent.

Clause 12 Conveyancers Licensing Regulation 2006

Part 4 Resolution of costs disputes

Part 4 Resolution of costs disputes

12 Notifying Tribunal of costs dispute

For the purposes of section 43 (1) of the Act, a notification to the Tribunal of a costs dispute must be made:

- (a) in writing and in accordance with the requirements (for the making of applications to the Tribunal) of Part 3 of the *Consumer, Trader and Tenancy Tribunal Regulation 2002*, and
- (b) within 60 days after the licensee has delivered to the client concerned a bill or account of costs (being a bill or account in relation to the costs the subject of the dispute).

13 Fee for notifying Tribunal of costs dispute

- (1) For the purposes of section 43 (2) of the Act, the prescribed fee to accompany a notification to the Tribunal of a costs dispute is the amount prescribed for the time being under clause 10 (1) (c) (i), (ii) or (iii) of the *Consumer, Trader and Tenancy Tribunal Regulation 2002* (whichever is applicable).
- (2) A person is exempt from section 43 (2) of the Act to the extent that the Tribunal (in considering that there are special reasons for so doing):
 - (a) directs that a fee that would otherwise be required to be paid by the person under section 43 (2) of the Act be waived wholly or in part, or
 - (b) postpones the time for payment by the person of the whole or part of any such fee.
- (3) A direction by the Tribunal referred to in subclause (2) (a) may include a direction that any part of the fee waived that has been paid be refunded.
- (4) The Tribunal may make any postponement referred to in subclause (2) (b) subject to any conditions the Tribunal may think fit to impose.

14 Costs of assessment

For the purposes of section 45 of the Act, if the Tribunal refers a costs dispute to an independent expert for assessment, the parties are to bear the costs of the assessment in such manner as may be ordered by the Tribunal.

15 Application for determination of costs dispute

For the purposes of section 47 of the Act, an application to the Tribunal for the determination of a costs dispute must be made in writing and in

Conveyancers Licensing Regulation 2006

Clause 16

Resolution of costs disputes

Part 4

accordance with the requirements of Part 3 of the *Consumer, Trader and Tenancy Tribunal Regulation 2002*.

16 Fee for application for determination of costs dispute

- (1) For the purposes of section 47 of the Act, the prescribed fee to accompany an application to the Tribunal for determination of a costs dispute is the amount prescribed for the time being under clause 10 (1) (c) (i), (ii) or (iii) of the *Consumer, Trader and Tenancy Tribunal Regulation 2002* (whichever is applicable).
- (2) A person is exempt from section 47 of the Act to the extent that the Tribunal (in considering that there are special reasons for so doing):
 - (a) directs that a fee that would otherwise be required to be paid by the person under section 47 of the Act be waived wholly or in part, or
 - (b) postpones the time for payment by the person of the whole or part of any such fee.
- (3) A direction by the Tribunal referred to in subclause (2) (a) may include a direction that any part of the fee waived that has been paid be refunded.
- (4) The Tribunal may make any postponement referred to in subclause (2) (b) subject to any conditions the Tribunal may think fit to impose.

17 Transfer of proceedings to or from other courts or tribunals

- (1) For the purposes of section 50 (2) of the Act:
 - (a) proceedings are to be transferred by order of the court hearing the costs dispute, and
 - (b) notice of the transfer is to be given to the Registrar of the Tribunal by the registrar of the court hearing the costs dispute, and
 - (c) all documents relating to the proceedings in the custody of the court hearing the costs dispute are to be transferred by the registrar of the court to the Registrar of the Tribunal.
- (2) On receipt of such a notice of transfer and accompanying documents, the Registrar must serve on all of the parties a notice fixing a date and time for the holding of the hearing or a directions hearing in relation to the proceedings.

Clause 18 Conveyancers Licensing Regulation 2006

Part 5 Trust money

Part 5 Trust money

Division 1 General

18 Definitions

- (1) In this Part:
- associate*, in relation to a licensee, has the same meaning as it has in Part 8 of the Act.
- cash book* means the record required to be kept under clause 20 (c).
- trust money* has the same meaning as it has in Part 5 of the Act.
- trust receipt book* means the record required to be kept under clause 20 (a).
- viewable form*, in relation to a record, means a form that enables the production of the record, on demand, in permanent legible form in the English language.
- (2) A reference in this Part to a trust account is a reference to a trust account required to be maintained by section 53 of the Act.

19 Keeping of records generally

- (1) A licensee must keep the records required by this Part in viewable form.
- (2) A licensee must keep the records concerned (including any records kept by means of a computer system) at the place of business where the licensee conducts the conveyancing business under the licence.
- (3) A licensee who conducts a conveyancing business under the licence at more than one place of business is taken to comply with subclause (2) if the licensee:
- (a) keeps the records relating to business transacted at a particular place of business at that place of business, or
 - (b) keeps the records relating to the business transacted at each place of business at one place of business specified in a written notice given to the Director-General.
- (4) A licensee must, within 21 days after the end of each month:
- (a) compile with the records kept by the licensee under this Part the original, or a true copy, of the trial balance statement prepared by the licensee in accordance with clause 31 for that month, and
 - (b) maintain a summary of the total of trust money disclosed in the trial balance statements for that month.

Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.

Conveyancers Licensing Regulation 2006

Clause 20

Trust money

Part 5

20 Specific records to be kept by licensees

Every licensee must keep the following records:

- (a) a trust receipt book containing the duplicates of all receipts issued from that book (the duplicates being machine-numbered consecutively to correspond with the machine-numbered receipts),
- (b) a deposit book of an authorised deposit-taking institution referred to in section 53 (1) (c) showing all deposits made by the licensee into the trust account or some other written or electronic record showing those deposits,
- (c) a trust account cash book or some other written or electronic record of all receipts of amounts required to be paid into, and of all payments made from, the trust account.

21 Computer records

- (1) A licensee who keeps records for the purposes of this Part by means of a computer system must comply with this clause.
Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.
- (2) The licensee must keep a record, compiled in chronological sequence, of all changes (by creation, amendment or deletion) to any of the following information, showing the details of the information before and after the change:
 - (a) client name,
 - (b) client address,
 - (c) matter number,
 - (d) matter description,
 - (e) client number,
 - (f) trust account number.
- (3) The licensee must ensure that computer programs relating to ledgers:
 - (a) are not capable of accepting the entry of a transaction resulting in a debit balance to an account unless a contemporaneous record of the transaction is made in such a manner as to enable the production in viewable form of a separate chronological report of all such occurrences, and
 - (b) are not capable of amending the particulars of a transaction already recorded otherwise than by a separate transaction effecting the amendment, and

Clause 22 Conveyancers Licensing Regulation 2006

Part 5 Trust money

- (c) are not capable of deleting an account unless:
 - (i) the balance of the account is zero, and
 - (ii) when the account is deleted, a record of the account will be retained in viewable form.
- (4) The licensee must also ensure the following:
 - (a) that each computer program requires input in each field of a data entry screen intended to receive information that this Regulation requires to be included in trust records,
 - (b) that entries in the ledger of a journal balance before further entries are made,
 - (c) that journal reference numbers are allocated in sequence by the computer program,
 - (d) that entries in a record retained in viewable form appear in chronological sequence,
 - (e) that a report, or each page of or entry in a report, is numbered in sequence by the computer program in a manner that enables easy verification of the completeness of the records that this Regulation requires to be kept,
 - (f) that a back-up copy of all records that this Regulation requires to be kept that are kept by means of a computer system is made on a computer disk or magnetic tape, or by other electronic means, at least once in every four weeks,
 - (g) that the most recent back-up copy is kept in such a place that any incident (such as a power or disk failure) that could adversely affect the records would not also affect the back-up copy.

22 Statements of account

- (1) A licensee must, in accordance with this clause, furnish to each person for whom or on whose behalf money is held by the licensee a separate statement of account in respect of the ledger account maintained for the person.
- (2) The statement of account must be furnished:
 - (a) within 14 days after the licensee receives a written request for the statement, and
 - (b) within 21 days after each of the following:
 - (i) completion of the matter to which the ledger account relates,
 - (ii) the closure and removal of the account from the relevant ledger,

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Trust money

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- (iii) except as provided by subclause (4)—31 March and 30 September in each year.
- (3) The statement of account must contain particulars of:
- (a) the money received and held by the licensee for or on behalf of the person in the course of the licensee's conveyancing business, and
 - (b) the disbursement of the money, and
 - (c) the remaining balance of the money,
- and must identify the transactions to which the particulars relate.
- (4) A licensee is not required to furnish a statement of account under subclause (2) (b) (iii) if, at the relevant day:
- (a) the account has been open for less than 6 months, or
 - (b) the balance of the account is zero and no transaction affecting the account has taken place within the last preceding 6 months, or
 - (c) a statement of account has been furnished within the last preceding 6 months and there has been no subsequent transaction affecting the account, or
 - (d) the licensee has received a notice under subclause (5) waiving compliance with the requirement and has not received notice of revocation of the waiver.
- (5) A person for whom, or on whose behalf, money is held by a licensee:
- (a) may, by written notice to the licensee in accordance with Form 1, waive compliance by the licensee with the requirements of subclause (2) (b) (iii), and
 - (b) may, by further written notice to the licensee, revoke the waiver.
- (6) A licensee must retain a copy of a statement of account with the file to which it relates.
- Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.

23 Receipt and withdrawal of money for costs and disbursements

- (1) This clause prescribes, for the purposes of section 53 (3) (a) of the Act, the procedure to be followed by a licensee to permit the licensee to withdraw or receive, from trust money, money due to the licensee for costs.
- (2) The licensee:
- (a) must have disclosed, in accordance with Division 5 of Part 3 of the Act, the costs and other matters required to be disclosed under

Clause 24	Conveyancers Licensing Regulation 2006
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section 36 of the Act to the person from whom the licensee has received trust money, or

- (b) must be able to claim, in terms of section 39 of the Act, that the disclosure was not required because, in the circumstances, it was not reasonable to require it.
- (3) However, a licensee who complied with Part 11 of the *Legal Profession Act 1987*, or with Part 3.2 of the *Legal Profession Act 2004*, in relation to trust money received by the licensee before the commencement of Part 5 of the *Conveyancers Licensing Act 2003* is taken, for the purposes of section 53 (3) (a) of the Act, to have complied with subclause (2) in respect of so much of that money as is still held by the licensee on that commencement.
- Note.** Section 16 of the *Conveyancers Licensing Act 1995* provided that Part 11 of the *Legal Profession Act 1987* applied to the fees charged by a licensee in the same way as it applied to the costs charged by a solicitor, subject to such modifications as were prescribed by the regulations (no modifications were prescribed). Part 11 dealt with costs, including disclosures as to costs. On the repeal of the *Legal Profession Act 1987*, Part 11 was replaced by Part 3.2 of the *Legal Profession Act 2004* and the reference in section 16 of the *Conveyancers Licensing Act 1995* was updated accordingly—see clause 179 of, and Schedule 6 to, the *Legal Profession Regulation 2005*.
- (4) The licensee must deliver to the person a bill or account of the costs together with written notice that, unless the person objects, the licensee intends to withdraw the money and to apply it towards payment of the bill or account at the expiration of 30 days after the delivery.
- (5) One of the following circumstances must apply:
- the person has authorised in writing the withdrawal or receipt,
 - the period of 30 days specified in the notice accompanying the bill or account has expired without the person having made an objection,
 - the person, having made an objection within that specified period, has not, within the time limited by clause 12, notified the Tribunal of a dispute in relation to the costs concerned.

Division 2 Trust accounts

24 Banking of trust money

A licensee who receives trust money must pay it into the licensee's trust account:

- before the end of the next banking day after the day of its receipt, if that is practicable, or

Conveyancers Licensing Regulation 2006

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Trust money

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(b) if that is not practicable, as soon as practicable after that day.
Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.

25 Receipts for trust money

- (1) A licensee must cause a receipt to be prepared in accordance with this clause immediately after the licensee receives trust money for or on behalf of any person.
- (2) The following particulars must be shown on each receipt:
 - (a) the date of issue,
 - (b) the number of the receipt,
 - (c) the name of the licensee, or (if appropriate) the business name under which the licensee conducts the conveyancing business, and the words "Trust Account",
 - (d) the name of the person from whom the payment was received,
 - (e) the name and ledger reference number of the person on whose behalf the payment was made,
 - (f) particulars sufficient to identify the transaction in respect of which the money was paid,
 - (g) the amount of money received and whether (or the extent to which) it was paid in cash or by cheque, by electronic funds transfer or otherwise.
- (3) A copy of the particulars shown on the receipt must be made simultaneously:
 - (a) on the machine-numbered duplicate form provided in the trust receipt book (if the receipt is issued from that book), or
 - (b) in the cash book (if the receipt is issued otherwise than from the trust receipt book).
- (4) Receipts must be prepared in the numerical order of the series to which they belong.
- (5) The original of a receipt must be issued, on demand, to the person from whom the trust money is received.
- (6) A licensee must retain:
 - (a) any original receipt that is not issued to the person from whom the trust money is received, and
 - (b) any original receipt that is cancelled after it is prepared, and

Clause 26 Conveyancers Licensing Regulation 2006

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- (c) duplicate receipts (except in the case of receipts referred to in subclause (3) (b)).

Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.

26 Payment of trust money

- (1) A licensee must ensure that trust money is not drawn from the licensee's trust account otherwise than by cheque or electronic funds transfer in accordance with this clause (including the record keeping requirements of this clause).
Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.
- (2) Each cheque must:
- (a) be machine numbered in series, and
 - (b) be marked "not negotiable", and
 - (c) not be payable to cash, and
 - (d) contain the name of the licensee, or (if appropriate) the business name under which the licensee conducts the conveyancing business, and the words "Trust Account", and
 - (e) be signed by the licensee or another person authorised by or under clause 32 to sign the cheque.
- (3) The licensee must ensure that cheques are drawn in the numerical order of the series to which they belong and that for each cheque a record is kept of:
- (a) the number and date of issue, the payee and the amount of the cheque, and
 - (b) details identifying the ledger account to be debited and the name and ledger reference number of the person on whose behalf the cheque was drawn, and
 - (c) the reason for which the cheque was drawn.
- (4) The licensee must ensure that a record of the following is kept in relation to each electronic funds transfer:
- (a) the name of the person effecting the transfer and, if the transfer is effected under the direction of some other person or under an authority delegated under clause 32, the name of the person under whose direction or delegation the transfer is effected,
 - (b) the reference number or other particulars sufficient to identify the transfer, the date of the transfer, the payee and the amount transferred to or from each ledger account,

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Trust money

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- (c) details identifying the ledger accounts to be debited and the name and ledger reference number of each person on whose behalf the transfer was made,
 - (d) particulars of the reason for the transfer.

27 Trust deposits

- (1) A licensee who makes a deposit of money to the licensee's trust account must ensure:
 - (a) that the relevant deposit book or other written deposit record is produced to the bank when the deposit is made, and
 - (b) that the following particulars are entered in the book or record:
 - (i) the date of the deposit,
 - (ii) the amount of the deposit,
 - (iii) whether the deposit consists of cheques, notes or coins,
 - (iv) if cheques are included in the deposit, the name of the drawer, the name and branch of the bank on which the cheque is drawn and the amount of each cheque, and
 - (c) that a duplicate of the particulars of each deposit is retained by the licensee.

Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.
- (2) This clause does not apply to a deposit of money made directly to a licensee's trust account (except a deposit made by the licensee), electronically or otherwise.

28 Cash book record of trust account transactions

- (1) A licensee must keep in the cash book, in accordance with this clause, a record of daily receipts and payments of money into and out of the licensee's trust account.
- (2) The pages of the cash book must be consecutively numbered.
- (3) The cash book must show the following:
 - (a) the consecutive numbers of receipts issued or cancelled,
 - (b) the consecutive numbers of cheques drawn or cancelled,
 - (c) in the case of money received or disbursed by means of electronic funds transfer, the consecutive reference numbers or other means of identification of the transfers.
- (4) The particulars of payments of money into and out of a licensee's trust account that are required by this clause must be entered in the cash book

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as soon as is practicable after the receipt or payment of the money concerned.

- (5) When money required to be paid into the trust account is received, the licensee must enter the following particulars in the cash book:
- (a) the date of issue of the receipt,
 - (b) the number of the receipt,
 - (c) the name of the person from whom the payment was received,
 - (d) the name and ledger reference number of the person on whose behalf the payment was made,
 - (e) particulars sufficient to identify the transaction in respect of which the money was paid,
 - (f) the amount of money received and whether (or the extent to which) it was paid in cash or by cheque, by electronic funds transfer or otherwise,
 - (g) the date of the deposit of the money to the trust account,
 - (h) the amount of the deposit.
- (6) When money is paid out of the trust account, the licensee must enter into the cash book the particulars required by clause 26 (3) to be recorded for a cheque or required by clause 26 (4) to be recorded for an electronic funds transfer.
- (7) At the end of each named month, the licensee must balance the cash book and either:
- (a) carry forward the balance to the commencement of the next month, or
 - (b) carry forward the balance to a ledger account provided for the purpose.
- (8) The licensee must, at the end of each named month, prepare a statement reconciling the balance of the licensee's trust account with the balance of the related cash book.

Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.

29 Journal

- (1) A licensee must record, in accordance with this clause, in a journal maintained exclusively for the licensee's trust account, all transfers between accounts in the trust account ledger that are not effected by cheque or electronic funds transfer.
- (2) The recording must include the following:
 - (a) the date of the transfer,

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Part 5

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- (b) the amount transferred to and from each ledger account,
 - (c) the names of all ledger accounts to be debited or credited,
 - (d) the relevant reference number or other identification,
 - (e) sufficient particulars to identify the transfer and the reason for the transfer.
- (3) Each transfer, when entered in the journal, is to be numbered consecutively.
- Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.

30 Trust account ledger

- (1) A licensee must maintain, in accordance with this clause, a separate ledger account for trust money received on behalf of or paid to each client.
- (2) The ledger account must include the name of the client, a reference number or other identification and particulars of each transaction affecting trust money.
- (3) Those particulars must include the following:
 - (a) the date of the transaction,
 - (b) a description of the transaction,
 - (c) particulars sufficient to identify the trust record originating the transaction,
 - (d) the amount of the transaction,
 - (e) the resulting current balance of account arising from the transaction.

Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.

31 Trust account ledger trial balance

- (1) A licensee must, within 21 days after the end of each named month, prepare, in accordance with subclause (2), a trial balance statement of all ledger accounts current as at the end of that month.
- (2) The trial balance statement must:
 - (a) specify the month to which it refers and the date of its preparation, and
 - (b) list each ledger account that does not have a zero balance at the end of that month by stating the name of the client, the reference number or other identification and the balance of the account at the end of the month, and

Clause 32 Conveyancers Licensing Regulation 2006

Part 5 Trust money

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- (c) show the total of the ledger account balances at the end of that month, and
 - (d) show a comparison between that total and the balance in the cash book reconciled with the balance in the trust account as required by clause 28 (8).

Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.

32 Signing of cheques or effecting electronic funds transfers—trust account

- (1) A licensee that is a corporation or who is a sole proprietor or a partner has authority to sign a cheque (a *trust cheque*) drawn on, or to effect an electronic funds transfer (a *trust EFT*) from, the licensee's trust account.
- (2) A licensee in charge of a place of business has authority to sign a trust cheque or effect a trust EFT.
- (3) A licensee who has authority otherwise than as a delegate to sign trust cheques or effect trust EFTs may delegate that authority:
 - (a) if the licensee is a corporation, to one or more directors of the corporation each of whom is a licensee, and to not more than 2 employees at each place of business of the corporation, or
 - (b) if the licensee is a sole proprietor or a partner, to not more than 2 employees at each place of business of the sole proprietor or partnership, or
 - (c) if the licensee is a person in charge of a place of business, to not more than 2 employees at the place of business.
- (4) The delegation must be in writing and signed by the licensee and the delegate and may be revoked by the delegator by giving written notice of revocation to the delegate.
- (5) A delegation in force under this clause authorises the delegate to sign trust cheques or effect trust EFTs to which the delegation relates:
 - (a) (except in the case of a delegation by a licensee that is a corporation) only if the delegator is unable to sign the cheque or effect the transfer with due expedition because of his or her being sick or injured or absent for good reason, and
 - (b) subject to such terms and conditions (whether relating to the value of the cheques or transfers or the number of signatories or not) as may be stated in the instrument of delegation.
- (6) This clause does not remove any additional prohibition or restriction on the signing of trust cheques or the effecting of trust EFTs made by the

Conveyancers Licensing Regulation 2006

Clause 33

Trust money

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constitution or the terms of the partnership agreement of any company or partnership concerned.

- (7) A licensee who purports to delegate his or her authority to sign a trust cheque or effect a trust EFT otherwise than in accordance with this clause is guilty of an offence.
- (8) A person who signs a trust cheque or effects a trust EFT purporting to do so as the delegate of a licensee but who has not been authorised to do so in accordance with this clause is guilty of an offence.

Maximum penalty (subclauses (7) and (8)): 40 penalty units in the case of a corporation or 20 penalty units in any other case.

33 Account in the name of a licensee

- (1) A licensee may maintain in his or her trust account ledger an account in his or her name:
- (a) for the purpose of aggregating in the account, by transfer from other accounts in the trust account ledger, money properly due to the licensee for costs and disbursements, and
 - (b) in respect of money in which the licensee has a personal and beneficial interest as a vendor, purchaser, mortgagor, mortgagee, lessor, lessee or in other like capacity.
- (2) A licensee must withdraw money held in an account under subclause (1) (a) not later than 21 days after the day on which the money is transferred to the account.
- (3) A licensee must withdraw money held in an account under subclause (1) (b):
- (a) at the conclusion of any matter to which the money relates, or
 - (b) if it comprises rent, interest, instalments of principal or other periodic payments—not later than 6 months after the date on which the money was credited to the account.

Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.

Clause 34 Conveyancers Licensing Regulation 2006

Part 6 Records

Part 6 Records

34 Records that licensees must keep

- (1) A licensee must keep the following records relating to any transaction carried out by the licensee or the licensee's employees in connection with conveyancing work carried out by them:
 - (a) originals or copies of all documents evidencing the transaction concerned (for example, agreements, conveyances, transfers, leases and mortgages) and all associated documents (for example, documents required by law to be attached to contracts for the sale of land, inspection reports, requisitions on title and responses to such requisitions),
 - (b) originals or copies of all other documents and records maintained, issued or received by the licensee or the licensee's employees (for example, letters, file notes, invoices and settlement sheets).
- (2) The licensee must ensure that the records required to be kept under subclause (1) in relation to a transaction are kept in a separate file (relating only to that transaction) for the client concerned.

Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.

35 Period for which records must be retained

- (1) A licensee must retain a record required to be kept under clause 34 or Part 5 (including any such record the possession of which the licensee has lawfully acquired as a consequence of a transfer to the licensee of a conveyancing business) for at least 6 years after it is made and provide for its safe keeping throughout that time.

Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.
- (2) However, subclause (1) does not apply to the licensee if the record has passed to the lawful possession of another licensed conveyancer or a solicitor as a consequence of the transfer of the licensee's conveyancing business.

36 Records and book entries to be in English language

A licensee must ensure that all written records required to be made or produced by the licensee, by the provisions of the Act or this Regulation, are in the English language.

Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.

Conveyancers Licensing Regulation 2006

Clause 37

General

Part 7

Part 7 General

37 The Register

- (1) The Director-General is to enter and keep in the Register required to be maintained under section 162 of the Act details of the following particulars in respect of each licence issued under the Act:
- (a) the name and business address of the person to whom the licence is issued,
 - (b) the number of the licence,
 - (c) date of issue and expiry,
 - (d) in the case of a licence issued to a member of a partnership, the name and business address of each licensed member of the partnership,
 - (e) in the case of a corporation licence, the name and business address of each director of the corporation,
 - (f) the cancellation or any current suspension of the licence,
 - (g) any condition of the licence under section 14 (a)–(d) of the Act,
 - (h) action taken under Part 9 (Complaints and disciplinary action) of the Act against the licensee that resulted in an adverse finding against the licensee, together with details of any disciplinary action taken against the licensee as a result of that adverse finding,
 - (i) proceedings for any offence under the Act or this Regulation taken against the licensee that resulted in a conviction for any such offence, together with details of any penalty imposed for the offence,
 - (j) current undertakings given under the Act by the licensee,
 - (k) the appointment of a manager or receiver under the Act in respect of the licensee,
 - (l) the number of payments made from the Compensation Fund under Part 10 of the *Property, Stock and Business Agents Act 2002* in respect of any failure to account of the licensee,
 - (m) the suspension of the licence under section 64A of the *Fair Trading Act 1987*,
 - (n) action in the nature of disciplinary action taken under any other legislation administered by the Minister against the licensee that resulted in an adverse finding against the licensee, together with details of any action taken against the licensee as a result of that adverse finding.

Clause 38 Conveyancers Licensing Regulation 2006

Part 7 General

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- (2) The Director-General is also to enter and keep in the Register details of any application for a licence that is refused on the ground that the applicant is not a fit and proper person to hold a licence.
 - (3) Details entered in the Register under subclause (2) in respect of a person whose application is so refused are to be removed from the Register on the subsequent grant of a licence to the person.
 - (4) Details entered in the Register under subclause (1) (h) or (i) are to be removed from the Register on the expiration of the period of 10 years after the action or conviction to which they relate.

38 Complaints and discipline

The following provisions of the Act are prescribed as provisions that remain applicable to a suspended licence for the purposes of section 133 (3) of the Act:

- (a) section 66 (Director-General may require information),
- (b) section 72 (Power to require production of licensee's records),
- (c) sections 75 (Requirement for audit) and 77 (Statutory declaration required where no money held or received on behalf of another person), except when a receiver or manager has been appointed,
- (d) section 88 (Claims can be made against Compensation Fund) to the extent that it applies section 179 of the *Property, Stock and Business Agents Act 2002* (Production of documents),
- (e) section 95 (Powers of a manager),
- (f) section 152 (Fraudulent conversion and false accounts of money received by licensee),
- (g) section 153 (Fraudulent accounts for expenses, fees and other charges).

39 Modification of Licensing and Registration (Uniform Procedures) Act 2002

Section 10 (Applications for restoration of licences) of the *Licensing and Registration (Uniform Procedures) Act 2002* does not apply in respect of a licence that has been cancelled under Part 9 (Complaints and disciplinary action) of the *Conveyancers Licensing Act 2003*.

40 Corporate licensees

A licensee that is a corporation meets any obligation it may have under section 77 of the Act if the requisite statutory declarations are made and lodged in accordance with that section by:

- (a) if the corporation has only one director—the director of the corporation, or

Conveyancers Licensing Regulation 2006

Clause 41

General

Part 7

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- (b) if the corporation has more than one director—any two directors of the corporation.

41 Penalty notice offences and penalties

For the purposes of section 158 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 4 is an offence for which a penalty notice may be served, and
- (b) the penalty prescribed for each such offence is the amount specified opposite the provision in Column 2 of Schedule 4 or, if the person alleged to have committed the offence is a corporation and a greater penalty is specified in Column 3 of Schedule 4, the amount specified in Column 3 of Schedule 4.

Clause 42 Conveyancers Licensing Regulation 2006

Part 8 Transitional provisions

Part 8 Transitional provisions

Division 1 Preliminary

42 Definitions

In this Part:

controlled money means money that, immediately before the repeal of the former Act, was controlled money within the meaning of that Act.

the former Act means the *Conveyancers Licensing Act 1995*.

the former Regulation means the *Conveyancers Licensing Regulation 2001*.

the 2003 Act means the *Conveyancers Licensing Act 2003*.

Division 2 Transitional provisions relating to controlled money

43 Part 5 and controlled money

Part 5 of the 2003 Act does not apply to controlled money held by a licensee immediately before the repeal of the former Act unless the controlled money is transferred to a trust account in accordance with clause 44 (1) (a).

44 Manner of dealing with controlled money

- (1) A licensee who was holding controlled money immediately before the repeal of the former Act must:
 - (a) with the written approval of the person on whose behalf the licensee is carrying out the relevant conveyancing work, open a separate trust account for the benefit of that person and transfer the controlled money to that trust account, or
 - (b) deal with, and account for, the money in accordance with the former Act and the former Regulation, as provided by clause 45.Maximum penalty: 40 penalty units in the case of a corporation or 20 penalty units in any other case.
- (2) On being transferred to a trust account as provided by subclause (1) (a), the controlled money concerned becomes trust money within the meaning of Part 5 of the 2003 Act.

Conveyancers Licensing Regulation 2006

Clause 45

Transitional provisions

Part 8

45 Controlled money not transferred to trust account

Despite the repeal of the former Act and the former Regulation, the following provisions of that Act and that Regulation continue to apply, as if they had not been repealed, to and in respect of controlled money:

- (a) sections 25–28 of, and the relevant definitions in the Dictionary to, the former Act,
- (b) clauses 3 (Definitions) and 29 (Delegation) and Divisions 1 (General), 3 (Controlled money) and 4 (Registered company auditor's report) of Part 4 (Trust money and controlled money) of, and Schedule 1 (Forms) to, the former Regulation.

Division 3 Other transitional provisions

46 Audit period

Despite section 76 of the 2003 Act, the period beginning on 1 April 2006 and ending on 30 June 2007 is taken to be the audit period in respect of the first audit required to be made (and the auditor's report on that audit required to be submitted) under section 75 of the 2003 Act.

47 Approved policy of professional indemnity insurance

The policy for professional indemnity insurance approved by the Minister by the *Conveyancers Licensing Amendment (Vero Insurance) Order 2006* is taken to be a policy approved by the Minister under clause 6 (2) (a).

Note. The policy of professional indemnity insurance approved by the Minister by the *Conveyancers Licensing Amendment (Vero Insurance) Order 2006* covers the period from 1 July 2006 to 30 June 2007.

Conveyancers Licensing Regulation 2006

Schedule 1 Forms

Schedule 1 Forms

(Clause 3 (2))

Form 1 Waiver

(Clause 22)

(Conveyancers Licensing Act 2003)
(Conveyancers Licensing Regulation 2006)

To
Licensed Conveyancer,

[address]

Re:

I/We acknowledge that I/we have instructed you to hold money on my/our behalf.

I/We am/are aware that while you continue to hold my/our money I/we am/are entitled to receive from you a periodical statement of account in accordance with the provisions of clause 22 of the *Conveyancers Licensing Regulation 2006*, the terms of which are set out on, or attached to, this form.

I/We do not require you to furnish to me/us the periodical statement of account provided for by clause 22 (2) (b) (iii) of the Regulation.

*This waiver continues until [specify date] unless revoked earlier in writing.

*This waiver continues until revoked in writing.

Signature:

Date:

* Delete as appropriate.

Conveyancers Licensing Regulation 2006

Fees

Schedule 2

Schedule 2 Fees

(Clause 5)

Column 1	Column 2	Column 3
Nature of fee payable	Fixed component	Processing component
Application fee for grant of licence	\$179	\$162
Application fee for renewal of licence	\$179	\$53
Application fee for restoration of licence	\$179	\$107
Application fee for replacement of licence	nil	\$35

Conveyancers Licensing Regulation 2006

Schedule 3 Rules of conduct

Schedule 3 Rules of conduct

(Clause 8)

1 Knowledge of Act and this Regulation

A licensee must have a knowledge and understanding of the Act and this Regulation, and such other laws as may be necessary to enable the licensee to exercise his or her functions as a conveyancer lawfully.

2 Honesty, fairness and professionalism

- (1) A licensee must act honestly, fairly and professionally with all parties in a transaction.
- (2) A licensee must not misinform or otherwise mislead or deceive any parties in negotiations or a transaction.

3 Skill, care and diligence

A licensee must exercise reasonable skill, care and diligence.

4 Fiduciary obligations

A licensee must comply with the fiduciary obligations arising from the licensee's activities as a conveyancer.

5 To undertake only work within competence

A licensee must not accept instructions to act as a conveyancer unless the licensee is competent to perform the conveyancing work concerned.

6 To perform work promptly

A licensee must only accept instructions to act as a conveyancer if he or she reasonably expects to be able to carry out the conveyancing work concerned reasonably promptly.

7 To act in client's best interests

A licensee must act in the client's best interest at all times unless it would be contrary to the Act or this Regulation or otherwise unlawful to do so.

8 To communicate regularly with client

A licensee must communicate regularly with a client to ensure that the client is kept up to date with the progress of the client's matter.

Conveyancers Licensing Regulation 2006

Rules of conduct

Schedule 3

9 To act in accordance with client's instructions

A licensee must act in accordance with a client's instructions unless it would be contrary to the Act or this Regulation or otherwise unlawful to do so.

10 To confirm client's oral instructions in writing

A licensee must ensure that oral instructions (other than those of a trivial nature) received from a client are confirmed with the client in writing as soon as possible after they are received.

11 Conflicts of interest

A licensee must not accept instructions to act, or continue to act, as a conveyancer for a client if doing so would place the licensee's interests in conflict with the client's interests.

12 Acting for more than one party to a transaction

- (1) A licensee may only act for more than one party to a transaction if the licensee discloses in writing to each party that the licensee is intending to act for the others, and each party consents in writing to the licensee so acting.
- (2) If a licensee who is acting for more than one party cannot continue to act for all of the parties without acting in a manner contrary to the interests of one or more of them, the licensee must cease to act for all of the parties.
- (3) The disclosure referred to in subclause (1) must indicate that, as a consequence of acting for more than one party to the transaction:
 - (a) the licensee may be prevented from:
 - (i) disclosing to each party all information within the licensee's knowledge that is relevant to the transaction, and
 - (ii) giving advice to one party that is contrary to the interests of the other, and
 - (b) the licensee will cease to act for all parties if the licensee would, otherwise, be obliged to act in a manner contrary to the interests of one or more of them.

13 Confidentiality

A licensee must not, at any time, use or disclose any confidential information obtained while acting on behalf of a client unless:

- (a) the client authorises disclosure, or

Conveyancers Licensing Regulation 2006

Schedule 3 Rules of conduct

- (b) the licensee is permitted or compelled by law to disclose the information.

14 Noting of instructions, enquiries and telephone conversations

- (1) A licensee must make a written record of the following communications (other than those of a trivial nature):
- (a) all instructions received from the licensee's clients and advice given,
 - (b) all telephone conversations made or received in connection with conveyancing work,
 - (c) all enquiries made in connection with conveyancing work and responses given.
- (2) The record must be in the form of a file note and be kept on the file of the client to whom the conveyancing work relates.
- (3) The record must be retained for at least six years after it is made.
- (4) A record required to be kept under this rule may be maintained in electronic form, provided it can be produced in a permanent legible form in the English language.

15 Referral to service provider

- (1) A licensee who refers a client or prospective client to a service provider must not falsely represent to the client or prospective client that the service provider is independent of the licensee.
- (2) A service provider is considered to be *independent* of a licensee if:
- (a) the licensee receives no rebate, discount, commission or benefit for referring a client or customer to the service provider, and
 - (b) the licensee does not have a personal or commercial relationship with the service provider.
- (3) The following are examples of a personal or commercial relationship:
- (a) a family relationship,
 - (b) a business relationship,
 - (c) a fiduciary relationship,
 - (d) a relationship in which one person is accustomed, or obliged, to act in accordance with the directions, instructions or wishes of the other person.
- (4) If the service provider is not independent of the licensee, the licensee must disclose to the client or prospective client:

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Schedule 3

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- (a) the nature of any relationship, whether personal or commercial, the licensee has with the service provider, and
 - (b) the nature and value of any rebate, discount, commission or benefit the licensee may receive, or expects to receive, by referring the client or prospective client to the service provider.

(5) In this rule:

service provider means a person who provides a service in relation to a conveyancing transaction (for example, a building inspector, pest inspector, valuer, surveyor, insurer, mortgage originator, mortgage broker or another licensee).

16 Inducements

A licensee must not offer to provide to any other person any gift, favour or benefit, whether monetary or otherwise, in order to induce any third person to engage the services of the licensee as conveyancer in respect of any matter.

17 Soliciting through false or misleading advertisements or communications

- (1) A licensee must not solicit clients or customers through advertisements or other communications that the licensee knows or should know are false or misleading.
- (2) A licensee must not include any matter (including any statement, slogan or logo) on stationery or business cards used in connection with conveyancing work that the licensee knows or should know is false or misleading.

18 Termination of licensee's services

A licensee must complete the conveyancing work in respect of which the licensee has accepted instructions to act for a client unless:

- (a) the licensee and the client have otherwise agreed, or
- (b) the client terminates the services of the licensee, or
- (c) the licensee terminates the provision of services to the client by giving 14 days written notice to the client.

19 Transfer of conveyancing work

If:

- (a) a licensee ceases to act for a client before completing the conveyancing work in respect of which the licensee has accepted instructions to act for a client, and

Conveyancers Licensing Regulation 2006

Schedule 3 Rules of conduct

-
- (b) the client instructs another licensee or a solicitor to take over the conduct of the client's conveyancing work,

the first-mentioned licensee must, within 14 days after receipt of a direction in writing from the client, deliver to the second-mentioned licensee or the solicitor all relevant documents to which the client is entitled and any information that is necessary for the proper conduct of the client's conveyancing work.

20 Transfer of conveyancing business

- (1) If a licensee intends to transfer the whole or part of the licensee's conveyancing business (including clients' work in progress) to another licensee or a solicitor, the first-mentioned licensee must give each client 14 days written notice of the following:
- (a) the intended transfer of documents to the licensee or solicitor acquiring the business, unless a contrary direction is received from the client,
 - (b) the client's right to give to the first-mentioned licensee a contrary direction in relation to the conduct of the client's affairs and the delivery of the client's documents.
- (2) If the licensee holds money on behalf of the client in trust, the notice referred to in subclause (1) must also advise the client of the following:
- (a) the balance of money held on the client's behalf,
 - (b) the licensee's intention to transfer the relevant account to the licensee or solicitor acquiring the business, unless advised by the client to the contrary,
 - (c) the client's right to give to the first-mentioned licensee a contrary direction as to the manner in which the licensee should deal with the account on the client's behalf.
- (3) Nothing in this rule limits the operation of any other legislative provisions applicable to the trust money held by the licensee.

21 Conducting another business

- (1) A licensee who engages in the conduct of another business concurrently with the conduct of the licensee's conveyancing business must ensure the following:
- (a) that the other business is not of such a nature that the licensee's involvement in it would be likely to impair, or conflict with, the licensee's duties to clients in the conduct of the conveyancing business,

Conveyancers Licensing Regulation 2006

Rules of conduct

Schedule 3

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- (b) that separate and independent files, records and accounts are maintained in respect of the conveyancing business and of the other business,
 - (c) that the licensee ceases to act for a client of the conveyancing business if the licensee's interest in the other business is likely to conflict with the client's interests.
- (2) A licensee is taken to be engaged in the conduct of another business if the licensee, or an associate:
- (a) is entitled, at law or in equity, to an interest in the assets of the business which is significant or of relatively substantial value, or
 - (b) exercises any material control over the conduct and operation of the business, or
 - (c) has an entitlement to a share of the income of the business which is substantial, having regard to the total income which is derived from the business.

22 Independence of licensee advising on loan or security documents

- (1) A licensee must provide competent, independent and disinterested advice in advising a proposed signatory to documents creating a loan or a security interest (*loan or security documents*).
- (2) The licensee must not act for the lender in the transaction to which the loan or security documents relate.
- (3) The licensee must not advise a proposed signatory to loan or security documents in any circumstances where the interests of any signatory or proposed signatory to the documents conflict with those of the licensee or with those of any other client of the licensee.

23 Advising proposed signatories on loan or security documents

- (1) A licensee must advise a proposed signatory to documents creating a loan or security interest (*loan or security documents*) of those matters that the licensee, in exercising the professional skill and judgment called for in the circumstances of the particular case, considers appropriate.
- (2) Without limiting the generality of subclause (1), when advising a proposed signatory who is to be a borrower or a security provider referred to as a borrower in loan or security documents (*the borrower*), the licensee must, where applicable, advise the borrower of the following:
 - (a) that by signing the documents the borrower will be liable for regular payments of interest and repayment of the amount of the loan at the due date,

Conveyancers Licensing Regulation 2006

Schedule 3 Rules of conduct

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- (b) that if the borrower fails to make any payment on time, the lender can charge a higher rate of interest, and the lender's costs of rectifying that failure,
 - (c) that if the borrower fails to comply with any of the terms and conditions of the loan including the obligations to pay principal or interest:
 - (i) the lender can sue the borrower personally, and
 - (ii) the lender may take possession of the borrower's property and, after notice, sell it to recover the amount owing together with interest and other costs including conveyancer's costs, the costs of selling the property and the costs of maintaining the property, and
 - (iii) if the proceeds of sale of the borrower's property are insufficient to satisfy the debt to the lender, the lender can sue the borrower for the deficit,
 - (d) that if the *Consumer Credit (New South Wales) Code* applies, additional obligations, rights and remedies may apply as set out in the loan documents.
- (3) A licensee giving independent advice to a proposed borrower must obtain the borrower's written acknowledgment of the independent advice.
- (4) Without limiting the generality of subclause (1), when advising a proposed signatory who is to be a third party mortgagor, guarantor, surety mortgagor or indemnifier providing security for the borrower (*the guarantor*), the licensee must, where applicable, advise the guarantor of the following:
- (a) that if the borrower fails to make any payment on time, the guarantor will be liable to remedy that failure, and that could involve the guarantor in payment to the lender of all amounts owed by the borrower to the lender including principal, interest, default interest and the lender's costs of rectifying the default,
 - (b) that if the guarantor fails to remedy any failure by the borrower to comply with the terms and conditions of the loan in any way, including the obligation to pay principal, interest, default interest, or other charges:
 - (i) the lender can sue the guarantor personally, and
 - (ii) the lender can take possession of the guarantor's property secured to the lender and, after notice, sell it to recover the amount owing together with interest and other costs including conveyancer's costs, the costs of selling the property and the costs of maintaining the property, and

Conveyancers Licensing Regulation 2006

Rules of conduct

Schedule 3

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- (iii) if the proceeds of sale of the guarantor's property are insufficient to satisfy the debt to the lender, the lender can sue the guarantor for the deficit,
 - (c) if the guarantor is a proposed signatory to documents under which the guarantor's liability can be increased, of that fact and the extent of the possible increase, and of any restriction or limitation of the guarantor's rights or obligations in relation to the security and any other party to the documents,
 - (d) that the lender can exercise the lender's rights against the guarantor even if the lender has not pursued the borrower,
 - (e) that the liability of the guarantor is limited to a specified sum, or is unlimited (whichever is the case) and may be affected by cross guarantees,
 - (f) that if the *Consumer Credit (New South Wales) Code* applies, additional obligations, rights and remedies may apply as set out in the loan documents.
- (5) A licensee giving independent advice to a proposed guarantor must obtain the guarantor's written acknowledgment of the independent advice.
- (6) In any case, a licensee advising a proposed signatory (whether a proposed borrower or a proposed guarantor) must advise the proposed signatory of the following:
- (a) that the licensee does not profess any qualification to give financial advice,
 - (b) that if the proposed signatory has any questions about any financial aspect of the transaction or the loan or security documents, the proposed signatory should consult an accountant or other financial counsellor of the proposed signatory's choice before signing the documents.

Conveyancers Licensing Regulation 2006

Schedule 4 Penalty notice offences

Schedule 4 Penalty notice offences

(Clause 41)

Column 1	Column 2	Column 3
Provision	Penalty	Penalty
Offences under the Act		
section 6 (1)	\$1,100	
section 19 (1)	\$550	
section 19 (3)	\$550	
section 20 (1)	\$1,100	\$2,200
section 20 (2)	\$1,100	\$2,200
section 20 (3)	\$1,100	\$2,200
section 20 (4)	\$1,100	\$2,200
section 21 (1)	\$1,100	\$2,200
section 24 (1)	\$550	
section 25	\$1,100	
section 26 (1)	\$1,100	\$2,200
section 27 (1)	\$1,100	\$2,200
section 28 (2)	\$1,100	\$2,200
section 29 (5)	\$550	
section 31 (1)	\$550	
section 31 (2)	\$550	
section 31 (3)	\$550	
section 32	\$550	
section 33	\$550	
section 35	\$1,100	
section 36 (1)	\$1,100	\$2,200
section 53 (6)	\$1,100	
section 53 (7)	\$1,100	

Conveyancers Licensing Regulation 2006

Penalty notice offences

Schedule 4

Column 1	Column 2	Column 3
Provision	Penalty	Penalty
section 56	\$1,100	
section 58	\$1,100	
section 59	\$1,100	
section 60	\$1,100	
section 64 (6)	\$550	
section 68 (1)	\$1,100	
section 74 (1) (a)	\$1,100	
section 74 (1) (b)	\$1,100	
section 74 (1) (c)	\$1,100	
section 74 (1) (d)	\$1,100	
section 74 (3)	\$110	
section 75 (1) (a)	\$550	\$1,100
section 75 (1) (b)	\$550	\$1,100
section 75 (3)	\$550	\$1,100
section 77	\$550	
section 83 (1)	\$5,500	
section 83 (3)	\$1,100	\$1,100
section 84	\$1,100	
section 110 (1)	\$1,100	
section 112 (a)	\$1,100	
section 112 (b)	\$1,100	
section 112 (c)	\$1,100	
section 112 (d)	\$1,100	
section 112 (e)	\$1,100	
section 130 (2)	\$550	
section 143	\$1,100	\$2,200
section 144	\$220	\$440

Conveyancers Licensing Regulation 2006

Schedule 4 Penalty notice offences

Column 1	Column 2	Column 3
Provision	Penalty	Penalty
section 161 (1)	\$220	
Offences under this Regulation		
clause 19 (1)	\$550	\$1,100
clause 19 (2)	\$550	\$1,100
clause 19 (4)	\$550	\$1,100
clause 21 (1)	\$550	\$1,100
clause 22 (1)	\$550	\$1,100
clause 22 (6)	\$550	\$1,100
clause 24	\$550	\$1,100
clause 25 (1)	\$550	\$1,100
clause 25 (6)	\$550	\$1,100
clause 27 (1) (b)	\$550	\$1,100
clause 28 (1)	\$550	\$1,100
clause 28 (5)	\$550	\$1,100
clause 28 (6)	\$550	\$1,100
clause 29 (1)	\$550	\$1,100
clause 30 (1)	\$550	\$1,100
clause 31 (1)	\$550	\$1,100
clause 32 (7)	\$550	\$1,100
clause 32 (8)	\$550	\$1,100
clause 34 (1)	\$550	\$1,100
clause 34 (2)	\$550	\$1,100
clause 35 (1)	\$550	\$1,100
clause 36	\$550	\$1,100



New South Wales

Fines Amendment (Penalty Notices) Regulation 2006

under the

Fines Act 1996

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fines Act 1996*.

MICHAEL COSTA, M.L.C.,
Treasurer

Explanatory note

The object of this Regulation is to insert a provision into the *Fines Regulation 2005* so that notices issued under various statutory provisions specified in the provision are penalty notices for the purposes of the *Fines Act 1996*.

This Regulation is made under the *Fines Act 1996*, including sections 20 and 128 (the general regulation-making power).

Clause 1 Fines Amendment (Penalty Notices) Regulation 2006

Fines Amendment (Penalty Notices) Regulation 2006

under the

Fines Act 1996

1 Name of Regulation

This Regulation is the *Fines Amendment (Penalty Notices) Regulation 2006*.

2 Amendment of Fines Regulation 2005

The *Fines Regulation 2005* is amended as set out in Schedule 1.

Fines Amendment (Penalty Notices) Regulation 2006

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 2)

Clause 4A

Insert before clause 5:

**4A Statutory provisions under which penalty notices issued:
section 20**

A notice issued under any of the following statutory provisions is a penalty notice for the purposes of the Act:

- (a) section 38 of the *Marine Parks Act 1997*,
- (b) section 65 of the *Sydney Water Catchment Management Act 1998*.



New South Wales

Mental Health Amendment (Fees) Regulation 2006

under the

Mental Health Act 1990

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Mental Health Act 1990*.

JOHN HATZISTERGOS, M.L.C.,
Minister for Health

Explanatory note

The object of this Regulation is to amend the *Mental Health Regulation 2000* to increase the following fees:

- (a) the application fee for a licence for an authorised hospital (within the meaning of the *Mental Health Act 1990*),
- (b) the annual licence fee for an authorised hospital,
- (c) the fee for a duplicate licence for an authorised hospital.

The fee increases are generally in line with movements in the Consumer Price Index.

This Regulation is made under the *Mental Health Act 1990*, including sections 211 (Application for licence), 214 (Annual statement and licence fee), 215 (Duplicate licence) and 302 (the general regulation-making power).

Clause 1 Mental Health Amendment (Fees) Regulation 2006

Mental Health Amendment (Fees) Regulation 2006

under the

Mental Health Act 1990

1 Name of Regulation

This Regulation is the *Mental Health Amendment (Fees) Regulation 2006*.

2 Amendment of Mental Health Regulation 2000

The *Mental Health Regulation 2000* is amended as set out in Schedule 1.

Mental Health Amendment (Fees) Regulation 2006

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 2)

- [1] **Clause 33 Application for licence for authorised hospital**
Omit "\$55". Insert instead "\$60".
- [2] **Clause 34 Annual licence fee for authorised hospital**
Omit "\$55". Insert instead "\$60".
- [3] **Clause 35 Fee for duplicate licence**
Omit "\$25". Insert instead "\$30".



New South Wales

Law Enforcement and National Security (Assumed Identities) Amendment Regulation 2006

under the

Law Enforcement and National Security (Assumed Identities) Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Law Enforcement and National Security (Assumed Identities) Act 1998*.

JOHN WATKINS, M.P.,
Minister for Police

Explanatory note

The object of this Regulation is to change the office to which the functions of the chief executive officer of the Australian Security Intelligence Organisation under the *Law Enforcement and National Security (Assumed Identities) Act 1998* may be delegated.

This Regulation is made under the *Law Enforcement and National Security (Assumed Identities) Act 1998*, including sections 16 and 19 (the general regulation-making power).

Clause 1 Law Enforcement and National Security (Assumed Identities) Amendment
Regulation 2006

Law Enforcement and National Security (Assumed Identities) Amendment Regulation 2006

under the

Law Enforcement and National Security (Assumed Identities) Act 1998

1 Name of Regulation

This Regulation is the *Law Enforcement and National Security (Assumed Identities) Amendment Regulation 2006*.

2 Amendment of Law Enforcement and National Security (Assumed Identities) Regulation 2004

The *Law Enforcement and National Security (Assumed Identities) Regulation 2004* is amended by omitting clause 7 (f) and by inserting instead the following paragraph:

- (f) in respect of the Australian Security Intelligence Organisation—Manager/New South Wales (Position Identifier 103004),



New South Wales

Public Finance and Audit Amendment (Statutory Bodies) Regulation 2006

under the

Public Finance and Audit Act 1983

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Public Finance and Audit Act 1983*.

MICHAEL COSTA, M.L.C.,
Treasurer

Explanatory note

The objects of this Regulation are to:

- (a) amend Schedule 2 to the *Public Finance and Audit Act 1983* (**the Act**) by omitting the name of the Bursary Endowment Board from the Schedule (general audit requirements set out in Division 3 of Part 3 of the Act apply to persons, groups and bodies specified in the Schedule), and
- (b) amend the *Public Finance and Audit Regulation 2005* by omitting the names of Games Information Services Pty Ltd and the Waste Planning and Management Fund from the lists of bodies and funds prescribed for the purposes of Division 4 of Part 3 of the Act (special audit requirements set out in Division 4 of Part 3 of the Act apply to bodies and funds prescribed for the purposes of the Division).

This Regulation is made under the *Public Finance and Audit Act 1983*, including sections 40, 44 and 64 (the general regulation-making power).

Clause 1 Public Finance and Audit Amendment (Statutory Bodies) Regulation 2006

Public Finance and Audit Amendment (Statutory Bodies) Regulation 2006

under the

Public Finance and Audit Act 1983

1 Name of Regulation

This Regulation is the *Public Finance and Audit Amendment (Statutory Bodies) Regulation 2006*.

2 Amendment of Public Finance and Audit Act 1983 No 152

The *Public Finance and Audit Act 1983* is amended by omitting “Bursary Endowment Board” from Schedule 2.

3 Amendment of Public Finance and Audit Regulation 2005

The *Public Finance and Audit Regulation 2005* is amended by omitting clause 17 (1) (ai) and (2) (g).



New South Wales

Public Finance and Audit Amendment (CHEC English Language Centre) Regulation 2006

under the

Public Finance and Audit Act 1983

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Public Finance and Audit Act 1983*.

MICHAEL COSTA, M.L.C.,
Treasurer

Explanatory note

Division 4 of Part 3 of the *Public Finance and Audit Act 1983* (*the Act*) enables the Auditor-General, at the request of the Treasurer, a Minister or certain other persons, to audit certain bodies and funds to which section 44 of the Act applies.

The object of this Regulation is to amend the *Public Finance and Audit Regulation 2005* to add, under section 44 (1) (a) of the Act, the CHEC English Language Centre Joint Venture, established for the operation of the Coffs Harbour Education Campus English Language Centre, to the list of statutory bodies that are subject to such particular audits.

This Regulation is made under the *Public Finance and Audit Act 1983*, including sections 44 and 64 (the general regulation-making power).

Clause 1 Public Finance and Audit Amendment (CHEC English Language Centre)
 Regulation 2006

Public Finance and Audit Amendment (CHEC English Language Centre) Regulation 2006

under the

Public Finance and Audit Act 1983

1 Name of Regulation

This Regulation is the *Public Finance and Audit Amendment (CHEC English Language Centre) Regulation 2006*.

2 Amendment of Public Finance and Audit Regulation 2005

The *Public Finance and Audit Regulation 2005* is amended by inserting in appropriate order in clause 17 (1):

- (au) CHEC English Language Centre Joint Venture, established for the operation of the Coffs Harbour Education Campus English Language Centre,



New South Wales

Professional Standards Amendment (Fees) Regulation 2006

under the

Professional Standards Act 1994

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Professional Standards Act 1994*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The objects of this Regulation are as follows:

- (a) to make the application fee for the renewal of a scheme relating to limiting the occupational liability of members of an occupational association under the *Professional Standards Act 1994* the same as the fee (\$5,000) for the approval, amendment or revocation of such a scheme,
- (b) to increase (from \$35 to \$50), and change the timing of the payment for, the annual fee paid to the Professional Standards Council on behalf of each member of such a scheme by the member's occupational association,
- (c) to allow the Professional Standards Council to waive (in addition to remit, as is currently the case) application fees, annual fees and any interest payable in relation to such a scheme.

This Regulation is made under the *Professional Standards Act 1994*, including section 53 (the general regulation-making power).

Clause 1 Professional Standards Amendment (Fees) Regulation 2006

Professional Standards Amendment (Fees) Regulation 2006

under the

Professional Standards Act 1994

1 Name of Regulation

This Regulation is the *Professional Standards Amendment (Fees) Regulation 2006*.

2 Amendment of Professional Standards Regulation 2004

The *Professional Standards Regulation 2004* is amended as set out in Schedule 1.

Professional Standards Amendment (Fees) Regulation 2006

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 2)

[1] Clause 4 Application fee for approval relating to occupational liability schemes

Omit clause 4 (2) and (3).

[2] Clause 5 Amount of annual fee

Omit "\$35". Insert instead "\$50".

[3] Clause 6

Omit the clause. Insert instead:

6 Payment of annual fee

- (1) The annual fee must be paid:
 - (a) if the relevant scheme commences during the period of 3 months ending on 31 March in any year—not later than 31 March in each year, or
 - (b) if the relevant scheme commences during the period of 3 months ending on 30 June in any year—not later than 30 June in each year, or
 - (c) if the relevant scheme commences during the period of 3 months ending on 30 September in any year—not later than 30 September in each year, or
 - (d) if the relevant scheme commences during the period of 3 months ending on 31 December in any year—not later than 31 January of each following year.
- (2) If for any reason a scheme becomes applicable to an additional member of the occupational association during the annual fee period, the payment under clause 5 must be made in respect of the additional member:
 - (a) if the scheme becomes applicable to that member during the period of 3 months ending on 31 March—not later than 31 March, or
 - (b) if the scheme becomes applicable to that member during the period of 3 months ending on 30 June—not later than 30 June, or
 - (c) if the scheme becomes applicable to that member during the period of 3 months ending on 30 September—not later than 30 September, or

Professional Standards Amendment (Fees) Regulation 2006

Schedule 1 Amendments

-
- (d) if the scheme becomes applicable to that member during the period of 3 months ending on 31 December—not later than 31 January of the following year.

[4] Clause 8 Remission and waiver of amounts payable

Insert “or waive” after “remit” in clause 8 (1).

[5] Clause 8 (2) and (3)

Omit “Secretary” wherever occurring. Insert instead “Executive Officer”.

[6] Clause 8 (3)

Insert “or waived” after “remitted”.



New South Wales

Road Transport Amendment (Christmas Holiday Demerit Points) Regulation 2006

under the

Road Transport (Driver Licensing) Act 1998

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (Driver Licensing) Act 1998*.

ERIC ROOZENDAAL, M.L.C.,
Minister for Roads

Explanatory note

The object of this Regulation is to amend the *Road Transport (Driver Licensing) Regulation 1999* so that double demerit points apply to offences related to the driving or use of a motor vehicle committed during the entire Christmas holiday period between Christmas and New Year.

This Regulation is made under the *Road Transport (Driver Licensing) Act 1998*, including section 15 and section 19 (the general regulation-making power).

Clause 1 Road Transport Amendment (Christmas Holiday Demerit Points)
 Regulation 2006

Road Transport Amendment (Christmas Holiday Demerit Points) Regulation 2006

under the

Road Transport (Driver Licensing) Act 1998

1 Name of Regulation

This Regulation is the *Road Transport Amendment (Christmas Holiday Demerit Points) Regulation 2006*.

2 Amendment of Road Transport (Driver Licensing) Regulation 1999

The *Road Transport (Driver Licensing) Regulation 1999* is amended by inserting the following matter after paragraph (b) of the definition of *over a long weekend* in clause 36 (5):

- (c) the following periods in a year (but not a year before 2006):
 - (i) if December 25 is a Monday—22 December until 1 January the following year (inclusive),
 - (ii) if December 25 is a Tuesday—21 December until 1 January the following year (inclusive),
 - (iii) if December 25 is a Wednesday—20 December until 1 January the following year (inclusive),
 - (iv) if December 25 is a Thursday—24 December until 4 January the following year (inclusive),
 - (v) if December 25 is a Friday—24 December until 3 January the following year (inclusive),
 - (vi) if December 25 is a Saturday—24 December until 3 January the following year (inclusive),
 - (vii) if December 25 is a Sunday—23 December until 2 January the following year (inclusive).

Orders



New South Wales

Conveyancers Licensing Order 2006

under the

Conveyancers Licensing Act 2003

I, Diane Beamer MP, the Minister for Fair Trading, in pursuance of sections 9 (1) and 10 (4) of the *Conveyancers Licensing Act 2003*, make the following Order.

Dated, this day of December 2006.

DIANE BEAMER, M.P.,
Minister for Fair Trading

Explanatory note

The objects of this Order are:

- (a) to approve certain qualifications as qualifications required for the issue of a licence to conduct a conveyancing business under the *Conveyancers Licensing Act 2003* (***the Act***), and
- (b) to declare certain laws of other jurisdictions to be ***corresponding laws*** for the purposes of section 10 of the Act, so that any person who is disqualified from holding a licence or other authority under such a law, or whose licence or authority under such a law is suspended, is not eligible to hold a licence to conduct a conveyancing business under the Act.

This Order is made under sections 9 (1) and 10 (4) of the *Conveyancers Licensing Act 2003*.

Conveyancers Licensing Order 2006

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Conveyancers Licensing Order 2006

Clause 1

Conveyancers Licensing Order 2006

under the

Conveyancers Licensing Act 2003

1 Name of Order

This Order is the *Conveyancers Licensing Order 2006*.

2 Commencement

This Order commences on 15 December 2006.

3 Definitions

In this Order:

approved bridging course means any of the following courses:

- (a) the Conveyancers Licensing Bridging Course conducted by the University of Western Sydney—Centre for Agency Licensing Education,
- (b) the Conveyancing-Law and Practice—Bridging Course for Conveyancers conducted by Macquarie University,
- (c) the Conveyancing Bridging Course conducted by the Sydney Institute of Technology.

full licence means a licence that is not a restricted licence.

recognised law degree or diploma means any of the following degrees, diplomas or qualifications:

- (a) a law degree conferred by a tertiary institution in Australia,
- (b) a law diploma conferred by the Legal Profession Admission Board,
- (c) any corresponding academic qualification within the meaning of section 24 of the *Legal Profession Act 2004*.

restricted licence means a licence that is subject to a condition prohibiting the licensee from carrying out conveyancing work otherwise than under the supervision of:

- (a) a licensee who is the holder of a full licence, or
- (b) an Australian legal practitioner whose practising certificate is an unrestricted practising certificate.

Clause 4 Conveyancers Licensing Order 2006

the Act means the *Conveyancers Licensing Act 2003*.

unrestricted practising certificate has the same meaning as in the *Legal Profession Act 2004*.

4 Qualifications for licence

(1) For the purposes of section 9 (1) of the Act, the following are approved qualifications for the issue of a full licence:

(a) **Conveyancing qualifications**

The combination of the following qualifications:

- (i) the educational qualifications, and any additional educational qualifications, set out in Schedule 1,
- (ii) at least 2 years' practical experience in conveyancing work, at least one year of which was obtained while employed or otherwise engaged on a full-time basis under the supervision of a licensee whose licence was not a restricted licence or an Australian legal practitioner with an unrestricted practising certificate,

(b) **Legal qualifications**

The combination of the following qualifications:

- (i) a recognised law degree or diploma,
- (ii) practical experience, being either:
 - (A) practical experience (including experience in conveyancing work) that confers eligibility to receive a practising certificate authorising practice as an Australian legal practitioner without supervision, or
 - (B) at least 2 years' practical experience in conveyancing work, at least one year of which was obtained while employed or otherwise engaged on a full-time basis under the supervision of a licensee whose licence was not a restricted licence or an Australian legal practitioner with an unrestricted practising certificate,

(c) **Licensee under 1995 Act**

Having held a full licence under the *Conveyancers Licensing Act 1995*,

(d) **Licensee under 1992 Act**

Having held a licence under the *Conveyancers Licensing Act 1992* and having completed an approved bridging course.

-
- (2) For the purposes of section 9 (1) of the Act, the following are approved qualifications for the issue of a restricted licence:

(a) **Conveyancing qualifications**

The combination of the following qualifications:

- (i) the educational qualifications, and any additional educational qualifications, set out in Schedule 1,
- (ii) at least 1 year's practical experience in conveyancing work that was obtained while employed or otherwise engaged on a full-time basis under the supervision of a licensee whose licence was not a restricted licence or an Australian legal practitioner with an unrestricted practising certificate,

(b) **Legal qualifications**

The combination of the following qualifications:

- (i) a recognised law degree or diploma,
- (ii) practical experience, being either:
 - (A) practical experience (including experience in conveyancing work) that confers eligibility to receive a practising certificate authorising practice as a legal practitioner without supervision, or
 - (B) at least 1 year's practical conveyancing experience that was obtained while employed or otherwise engaged on a full-time basis under the supervision of a licensee whose licence was not a restricted licence or an Australian legal practitioner with an unrestricted practising certificate.

5 Corresponding laws

For the purposes of the definition of *corresponding law* in section 10 (4) of the Act, the following laws are declared to be laws that correspond to the Act:

- (a) the *Conveyancers Act 1994* of South Australia and any regulations in force under that Act,
- (b) the *Settlement Agents Act 1981* of Western Australia and any regulations in force under that Act,
- (c) the *Agents Licensing Act* of the Northern Territory and any regulations in force under that Act.

Conveyancers Licensing Order 2006

Schedule 1 Qualifications for licence

Schedule 1 Qualifications for licence

(Clause 4)

Educational qualification	Additional educational qualification
Conveyancing–Law and Practice course (amended course effective from August 1996) conducted by Macquarie University	Nil
Conveyancing–Law and Practice course conducted by Macquarie University and completed before December 1997	Completion of an approved bridging course
Advanced Diploma in Conveyancing (amended course effective from February 1997) conducted by the Sydney Institute of Technology, Ultimo	Nil
Advanced Diploma in Conveyancing conducted by the Sydney Institute of Technology, Ultimo and completed before February 1997	Completion of an approved bridging course
Associate Degree in Law (Paralegal Studies) (amended course effective from February 1996) conducted by Southern Cross University, Lismore	Nil
Associate Degree in Law (Paralegal Studies) conducted by Southern Cross University, Lismore and completed before February 1996	Completion of approved bridging course
Bachelor of Arts Degree conducted by Southern Cross University, Lismore (if the conveyancing option has been completed) and completed in or after February 1996	Nil
Bachelor of Arts Degree conducted by Southern Cross University, Lismore (if the conveyancing option has been completed) and completed before February 1996	Completion of an approved bridging course
Bachelor of Business Degree conducted by Southern Cross University, Lismore (if the conveyancing option has been completed) and completed in or after February 1996	Nil

Conveyancers Licensing Order 2006

Qualifications for licence

Schedule 1

Educational qualification	Additional educational qualification
Bachelor of Business Degree conducted by Southern Cross University, Lismore (if the conveyancing option has been completed) and completed before February 1996	Completion of an approved bridging course
Bachelor of Legal and Justice Studies Degree conducted by Southern Cross University, Lismore (if the conveyancing option has been completed) and completed in or after February 1996	Nil
Bachelor of Legal and Justice Studies Degree conducted by Southern Cross University, Lismore (if the conveyancing option has been completed) and completed before February 1996	Completion of an approved bridging course

Rules



New South Wales

Uniform Civil Procedure Rules (Amendment No 11) 2006

under the

Civil Procedure Act 2005

The Uniform Rules Committee made the following rules of court under the *Civil Procedure Act 2005* on 4 December 2006.

Jennifer Atkinson
Secretary of the Uniform Rules Committee

Explanatory note

The object of these Rules is to amend the *Uniform Civil Procedure Rules 2005* with respect to:

- (a) proceedings arising under the Commonwealth Constitution or involving its interpretation, and
- (b) the manner in which land is to be formally described in court process, and
- (c) the preparation of affidavits, and
- (d) the awarding of costs following a defendant's unaccepted offer of compromise, and
- (e) the rate at which interest is payable on unpaid judgment debts, and
- (f) other matters of a miscellaneous nature.

Rule 1 Uniform Civil Procedure Rules (Amendment No 11) 2006

Uniform Civil Procedure Rules (Amendment No 11) 2006

under the

Civil Procedure Act 2005

1 Name of Rules

These Rules are the *Uniform Civil Procedure Rules (Amendment No 11) 2006*.

2 Amendment of Uniform Civil Procedure Rules 2005

The *Uniform Civil Procedure Rules 2005* are amended as set out in Schedule 1.

Uniform Civil Procedure Rules (Amendment No 11) 2006

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Schedule 1 Amendments

(Rule 2)

[1] Rule 1.3 References to barristers and solicitors

Omit “and section 18 of the *Legal Profession Act 1987*” from rule 1.3 (1).

[2] Rule 1.3 (1), note

Omit “1987”. Insert instead “2004”.

[3] Rule 1.3 (2) (b)

Omit “belonging to the same firm or organisation (whether as partner or employee)”.

Insert instead “belonging to or employed by the same firm or organisation”.

[4] Rule 1.3 (3) (b) (i) and (iii)

Omit “belonging (whether as partner or employee) to” wherever occurring.

Insert instead “belonging to or employed by”.

[5] Part 1, Division 5

Insert after Division 4:

Division 5 Notices under section 78B of Judiciary Act 1903 of Commonwealth

1.22 Notice of constitutional matter (cf Federal Court Rules, Order 51, rule 1)

- (1) If proceedings pending in a court involve a matter arising under the Commonwealth Constitution or involving its interpretation within the meaning of section 78B of the *Judiciary Act 1903* of the Commonwealth, the party whose case raises the matter must file a notice of a constitutional matter.

Note. Section 78B of the *Judiciary Act 1903* of the Commonwealth provides that if a cause is pending in a State court that involves a matter arising under the Commonwealth Constitution or involving its interpretation, the court is under a duty not to proceed in the cause unless or until it is satisfied that notice of the cause and the matter raised in the cause has been served on the Attorneys-General of the Commonwealth and the States.

The purpose of such a notice is to afford the Attorneys-General a reasonable time to consider whether or not they wish to intervene in the proceedings or to have the cause removed into the High Court for determination.

Uniform Civil Procedure Rules (Amendment No 11) 2006

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- (2) Notice of a constitutional matter must state:
- (a) specifically the nature of the matter, and
 - (b) facts showing the matter is one to which subrule (1) applies.

1.23 Time for filing and service of notice of constitutional matter (cf Federal Court Rules, Order 51, rule 2)

- (1) The party whose case raises the constitutional matter, or such other party as the court may direct, must file notice of a constitutional matter and serve a copy of the notice on all other parties and the Attorneys-General of the Commonwealth, the States, the Australian Capital Territory and the Northern Territory:
- (a) if the matter arises before any directions hearing or case management conference in the proceedings, not later than 2 days before the date of that hearing or conference, or
 - (b) if no directions hearing or case management conference has been fixed or is imminent, as soon as practicable, or
 - (c) if the matter arises at a hearing, within such time as the court directs.
- (2) As soon as practicable after a party files and serves a notice in the circumstances referred to in subrule (1) (b), the party must apply to the court for directions.

1.24 Affidavit of service (cf Federal Court Rules, Order 51, rule 3)

The party whose case raises a constitutional matter must file an affidavit of service of each notice required to be served under rule 1.23, and must do so promptly after the notice is served.

1.25 Documents for intervening Attorneys-General (cf Federal Court Rules, Order 51, rule 4)

The party whose case raises a constitutional matter must provide copies of any other documents that have been filed in the proceedings and that are relevant to the matter to any intervening Attorney-General as soon as practicable after notice of the intervention is given to the party.

[6] Rule 4.4 Signing documents

Omit “belonging to the same firm or organisation (whether as partner or employee)” from rule 4.4 (1) (a) (iii).

Insert instead “belonging to or employed by the same firm or organisation”.

Uniform Civil Procedure Rules (Amendment No 11) 2006

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[7] Rule 4.7A

Insert after rule 4.7:

4.7A Land descriptions

- (1) Unless the court otherwise orders, in any claim or judgment for the possession of land, and in any writ of execution in relation to land, the description of the land must include:
 - (a) a formal description of the land sufficient to identify the land in any document establishing title to the land, together with any appropriate reference to title, and
 - (b) the postal address (if any) of the land.
- (2) Without limitation, a formal description of land referred to in subrule (1) (a) may be given:
 - (a) in the case of land under the provisions of the *Real Property Act 1900* that comprises the whole of the land referred to in one or more folios of the register under that Act, by reference to the relevant folio identifiers, or
 - (b) in the case of any land (including land referred to in paragraph (a)), by reference to:
 - (i) a registered plan (within the meaning of the *Conveyancing Act 1919*), or
 - (ii) a formal land survey plan (within the meaning of the *Surveying Act 2002*), or
 - (iii) a metes and bounds description prepared by a registered land surveyor (within the meaning of the *Surveying Act 2002*).

[8] Rule 6.12 Relief claimed

Omit “section 196 (1) (b) of the *Legal Profession Act 1987* or” wherever occurring in rule 6.12 (3) and (4).

[9] Rule 6.17 Payment towards liquidated claim stays proceedings on claim

Omit “1987” from rule 6.17 (2) (b). Insert instead “2004”.

[10] Rule 12.1 Discontinuance of proceedings

Omit “as to the whole or any part of a claim for relief” from rule 12.1 (1).

Insert instead “as to all claims for relief so far as they concern a particular defendant”.

Uniform Civil Procedure Rules (Amendment No 11) 2006

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[11] Rule 14.23 Verification of certain pleadings

Omit rule 14.23 (6). Insert instead:

- (6) Unless the court otherwise orders, the affidavit verifying a pleading must be subscribed to the pleading.

[12] Rule 14.26 Admission and traverse from pleadings

Omit rule 14.26 (4). Insert instead:

- (4) Subrule (1) does not apply to an opposite party who is a person under a legal incapacity.

[13] Rule 15.12 Particulars required for proceedings generally

Omit “it must also be accompanied by the following documents” from rule 15.12 (6).

Insert instead “copies of the following documents must be served on all active parties”.

[14] Rule 15.13 Particulars required for proceedings under Compensation to Relatives Act 1897

Omit rule 15.13 (2) and (3). Insert instead:

- (2) On or as soon as practicable after serving the statement of claim, the plaintiff must serve on the defendant, or on the defendant’s insurer or solicitor:
 - (a) in respect of each person on whose behalf the proceedings are commenced, a statement containing the following information:
 - (i) the person’s name, address, relationship to the deceased person the subject of the proceedings, marital status and any anticipated alteration to that status,
 - (ii) whether the person’s dependency on the deceased person, or the person’s reliance on services provided by the deceased person, is claimed to have been whole or partial, the circumstances in which the person received support or services from the deceased person, and the quantum of that support or those services during the 12-month period immediately before the death of the deceased person, and

Uniform Civil Procedure Rules (Amendment No 11) 2006

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- (b) in respect of each person on whose behalf the proceedings are commenced, copies of the following documents:
 - (i) a copy or extract of the person's birth certificate and, if the person has been married, a copy of the person's marriage certificate,
 - (ii) copies of any bank statements, financial records or other documents on which the person intends to rely to establish the extent of the support and other benefits provided to the person by the deceased person, covering a period of not less than 12 months immediately before the date of the death of the deceased person, and
 - (c) in respect of the deceased person, copies of the following documents:
 - (i) a letter from the employer (if any) of the deceased person immediately before the accident, providing particulars of the deceased person's remuneration and prospects of promotion at the date of his or her death,
 - (ii) copies of the deceased person's income tax returns relating to income received during the period of 2 financial years ending immediately before the financial year that included the date of his or her death,
 - (iii) copies of all documents, including accounts and receipts, in support of any claim for the cost of a funeral or headstone or for any other expenses relating to the deceased person's death,
 - (iv) copies of documents evidencing the net value of the estate of the deceased person.

[15] Rule 15.15 Provision of schedule of documents and reports

Omit the rule.

[16] Rules 16.4, 16.5, 16.6 and 16.7

Insert after rule 16.4 (3) (e), 16.5 (2) (d), 16.6 (2) (e) and 16.7 (2) (c) (before the notes), with appropriate paragraph numbers:

, and

- () must state when and how the originating process was served on the defendant.

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Schedule 1 Amendments

[17] Rules 16.4, 16.5, 16.6 and 16.7

Omit “section 196 (1) (b) of the *Legal Profession Act 1987* or” wherever occurring in the notes in those rules.

[18] Rule 34.1 Notice to produce to court

Insert after rule 34.1 (a):

- (a) at any time fixed by the court for the return of subpoenas,
or

[19] Rule 34.1 (2)

Insert at the end of the rule:

- (2) The other party must comply with a notice to produce:
- (a) by producing the notice or a copy of it, and the document or thing, to the court, or to the examiner authorised to take evidence in the proceeding as permitted by the court, at the date, time and place specified for production, or
- (b) by delivering or sending the notice or a copy of it, and the document or thing, to the registrar at the address specified for the purpose in the notice, so that they are received not less than 2 clear days before the date specified in the notice for production.

[20] Rule 34.2 Production under notice to produce to court

Omit rule 34.2 (2).

[21] Rule 35.3A

Insert after rule 35.3:

35.3A Heading to affidavit

The heading to an affidavit must include the name of the deponent and the date on which the affidavit is made.

[22] Rule 39.3 Affidavit in support of application for writ of execution

Omit “section 196 (1) (b) of the *Legal Profession Act 1987* or” from the note to rule 39.3 (2).

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[23] Rule 39.3 (4) (c) and 39.35 (2) (c)

Omit the paragraphs. Insert instead, with appropriate paragraph numbers:

- () if the judgment was entered as a result of the filing of a cost assessor's certificate, must include a statement to that effect, together with a statement to the effect that the determination set out in the certificate:
 - (i) is not subject to any suspension under section 377 (1) of the *Legal Profession Act 2004* that has not been ended under section 377 (2) of that Act, and
 - (ii) is not subject to any suspension under section 386 (1) of the *Legal Profession Act 2004* that has not been ended under section 386 (2) of that Act.

[24] Rule 39.21 Judgment creditor's notice to judgment debtor

Insert "or mortgage" after "sell" in rule 39.21 (2) (c).

[25] Rule 39.45 Affidavit in support of application for charging order

Omit rule 39.45 (2) (b). Insert instead:

- (b) if the judgment was entered as a result of the filing of a cost assessor's certificate, must include a statement to that effect, together with a statement to the effect that the determination set out in the certificate:
 - (i) is not subject to any suspension under section 377 (1) of the *Legal Profession Act 2004* that has not been ended under section 377 (2) of that Act, and
 - (ii) is not subject to any suspension under section 386 (1) of the *Legal Profession Act 2004* that has not been ended under section 386 (2) of that Act, and

[26] Rule 42.15A

Insert after rule 42.15:

42.15A Where offer not accepted and judgment as or more favourable to defendant (cf SCR Part 52A, rule 22; DCR Part 39A, rule 25; LCR Part 31A, rule 20)

- (1) This rule applies if the offer concerned is made by the defendant, but not accepted by the plaintiff, and the defendant obtains an order or judgment on the claim concerned as favourable to the defendant, or more favourable to the defendant, than the terms of the offer.

Uniform Civil Procedure Rules (Amendment No 11) 2006

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- (2) Unless the court orders otherwise:
- (a) the defendant is entitled to an order against the plaintiff for the defendant's costs in respect of the claim, to be assessed on the ordinary basis, up to the time from which the defendant becomes entitled to costs under paragraph (b), and
 - (b) the defendant is entitled to an order against the plaintiff for the defendant's costs in respect of the claim, assessed on an indemnity basis:
 - (i) if the offer was made before the first day of the trial, as from the beginning of the day following the day on which the offer was made, and
 - (ii) if the offer was made on or after the first day of the trial, as from 11 am on the day following the day on which the offer was made.

[27] Rule 45.1 Entry as indicated by originating process

Omit rule 45.1 (2). Insert instead:

- (2) If the originating process in proceedings in the Equity Division of the Supreme Court indicates that the proceedings are intended to be entered in one of the following lists, the proceedings are to be entered in that list:
- The Admiralty List
 - The Commercial List
 - The Technology and Construction List
 - The Revenue List

[28] Rule 45.7A

Insert after rule 45.7:

45.7A The Revenue List

The following proceedings in the Equity Division of the Supreme Court may be entered in the Revenue List:

- (a) proceedings in which:
 - (i) the Commissioner of Taxation, or a Second Commissioner of Taxation or Deputy Commissioner of Taxation, in and for the Commonwealth, or

Uniform Civil Procedure Rules (Amendment No 11) 2006

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- (ii) the holder of an equivalent office in and for a jurisdiction outside Australia,
is a party,
 - (b) proceedings in which:
 - (i) the Commissioner of State Revenue in and for New South Wales, or
 - (ii) the holder of an equivalent office in and for a jurisdiction outside New South Wales,
is a party,
 - (c) proceedings in which an issue has arisen in relation to a law under which the holder of an office referred to in paragraph (a) or (b) exercises functions.

[29] Rule 50.4 Statement of ground

Omit “A summons commencing an appeal must state” from rule 50.4 (1).

Insert instead “The plaintiff must file and serve, with a summons commencing an appeal, a statement of”.

[30] Rule 50.12 Leave to appeal

Omit “, or subscribe to,” from rule 50.12 (3).

[31] Schedule 5 Interest rates

Omit “after 28 February 2002”.

Insert instead “the beginning of 1 March 2002 to the end of 31 December 2006”.

[32] Schedule 5

Insert at the end of the table to the Schedule in Columns 1 and 2, respectively:

after 31 December 2006

10

[33] Dictionary

Omit the definition of *costs assessor’s certificate*. Insert instead:

costs assessor’s certificate means a certificate issued under Division 11 of Part 3.2 of the *Legal Profession Act 2004* in relation to a determination of costs under that Division.

Note. Pursuant to clause 3 of Schedule 9 to the *Legal Profession Act 2004*, a costs assessor’s certificate issued under the *Legal Profession Act 1987* is taken to be a costs assessor’s certificate issued under the *Legal Profession Act 2004*.



New South Wales

Uniform Civil Procedure Rules (Amendment No 12) 2006

under the

Civil Procedure Act 2005

The Uniform Rules Committee made the following rules of court under the *Civil Procedure Act 2005* on 4 December 2006.

Jennifer Atkinson
Secretary of the Uniform Rules Committee

Explanatory note

The object of these Rules is to amend the *Uniform Civil Procedure Rules 2005* so as:

- (a) to replace the existing rules concerning the appointment and engagement of expert witnesses with new rules, and
- (b) to replace the existing code of conduct for expert witnesses with a new code of conduct.

Clause 1 Uniform Civil Procedure Rules (Amendment No 12) 2006

Uniform Civil Procedure Rules (Amendment No 12) 2006

under the

Civil Procedure Act 2005

1 Name of Rules

These Rules are the *Uniform Civil Procedure Rules (Amendment No 12) 2006*.

2 Amendment of Uniform Civil Procedure Rules 2005

The *Uniform Civil Procedure Rules 2005* are amended as set out in Schedule 1.

Uniform Civil Procedure Rules (Amendment No 12) 2006

Amendments

Schedule 1

Schedule 1 Amendments

(Rule 2)

[1] Part 31, Division 2

Omit Divisions 2 and 3. Insert instead:

Division 2 Provisions applicable to expert evidence generally

Note. The provisions of this Division replace those of former Divisions 2 and 3, as in force immediately before 8 December 2006. The numbering of the individual provisions of this Division varies considerably from that of the provisions of the former Divisions. The following Table identifies the new rules corresponding to former rules 31.17–31.35.

Table

Former rule	New rule
Rule 31.17	Rule 31.18
Rule 31.18	Rule 31.28
Rule 31.18A	Rule 31.29
Rule 31.19	Rule 31.30
Rule 31.20	Rule 31.31
Rule 31.21	Rule 31.32
Rule 31.22	Rule 31.33
Rule 31.23	Rule 31.27
Rule 31.24	Rule 31.34
Rule 31.25	Rules 31.24 and 31.26
Rule 31.26	Rule 31.35
Rule 31.27	Rule 31.36
Rule 31.28	Rule 31.18
Rule 31.29	Rule 31.46
Rule 31.30	Rule 31.23
Rule 31.31	Rule 31.49
Rule 31.32	Rule 31.51
Rule 31.33	Rule 31.52
Rule 31.34	Rule 31.53
Rule 31.35	Rule 31.54

Uniform Civil Procedure Rules (Amendment No 12) 2006

Schedule 1 Amendments

Subdivision 1 Preliminary**31.17 Main purposes of Division** (cf Queensland Uniform Civil Procedure Rules 1999, rule 423; United Kingdom Civil Procedure Rules 1998, rule 35.1)

The main purposes of this Division are as follows:

- (a) to ensure that the court has control over the giving of expert evidence,
- (b) to restrict expert evidence in proceedings to that which is reasonably required to resolve the proceedings,
- (c) to avoid unnecessary costs associated with parties to proceedings retaining different experts,
- (d) if it is practicable to do so without compromising the interests of justice, to enable expert evidence to be given on an issue in proceedings by a single expert engaged by the parties or appointed by the court,
- (e) if it is necessary to do so to ensure a fair trial of proceedings, to allow for more than one expert (but no more than are necessary) to give evidence on an issue in the proceedings,
- (f) to declare the duty of an expert witness in relation to the court and the parties to proceedings.

31.18 Definitions (cf SCR Part 36, rules 13A and 13C; DCR Part 28, rule 8; LCR Part 23, rule 1D)

In this Division:

court-appointed expert means an expert appointed pursuant to rule 31.46.

expert, in relation to any issue, means a person who has such knowledge or experience of, or in connection with, that issue, or issues of the character of that issue, that his or her opinion on that issue would be admissible in evidence.

expert witness means an expert engaged or appointed for the purpose of:

- (a) providing an expert's report for use as evidence in proceedings or proposed proceedings, or
- (b) giving opinion evidence in proceedings or proposed proceedings.

expert's report means a written statement by an expert (whether or not an expert witness in the proceedings concerned) that sets out the expert's opinion and the facts, and assumptions of fact, on which the opinion is based.

Uniform Civil Procedure Rules (Amendment No 12) 2006

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hospital report means a written statement concerning a patient, made by or on behalf of a hospital, that the party serving the statement intends to adduce in evidence in chief at the trial.

parties' single expert means an expert engaged pursuant to rule 31.37.

Subdivision 2 Expert witnesses generally

31.19 Parties to seek directions before calling expert witnesses

- (1) Any party:
 - (a) intending to adduce expert evidence at trial, or
 - (b) to whom it becomes apparent that he or she, or any other party, may adduce expert evidence at trial,must promptly seek directions from the court in that regard.
- (2) Directions under this rule may be sought at any directions hearing or case management conference or, if no such hearing or conference has been fixed or is imminent, by notice of motion or pursuant to liberty to restore.
- (3) Unless the court otherwise orders, expert evidence may not be adduced at trial:
 - (a) unless directions have been sought in accordance with this rule, and
 - (b) if any such directions have been given by the court, otherwise than in accordance with those directions.

31.20 Court may give directions regarding expert witnesses

- (1) Without limiting its other powers to give directions, the court may at any time give such directions as it considers appropriate in relation to the use of expert evidence in proceedings.
- (2) Directions under this rule may include any of the following:
 - (a) a direction as to the time for service of experts' reports,
 - (b) a direction that expert evidence may not be adduced on a specified issue,
 - (c) a direction that expert evidence may not be adduced on a specified issue except by leave of the court,
 - (d) a direction that expert evidence may be adduced on specified issues only,
 - (e) a direction limiting the number of expert witnesses who may be called to give evidence on a specified issue,

Uniform Civil Procedure Rules (Amendment No 12) 2006

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- (f) a direction providing for the engagement and instruction of a parties' single expert in relation to a specified issue,
 - (g) a direction providing for the appointment and instruction of a court-appointed expert in relation to a specified issue,
 - (h) a direction requiring experts in relation to the same issue to confer, either before or after preparing experts' reports in relation to a specified issue,
 - (i) any other direction that may assist an expert in the exercise of the expert's functions,
 - (j) a direction that an expert who has prepared more than one expert's report in relation to any proceedings is to prepare a single report that reflects his or her evidence in chief.

31.21 Expert evidence in chief to be given by way of experts' reports

Unless the court otherwise orders, an expert witness's evidence in chief must be given by the tender of one or more expert's reports.

31.22 Expert witness to provide details of contingency fees or deferred payment schemes

- (1) A person who is engaged as an expert witness in relation to any proceedings must include information as to any arrangements under which:
 - (a) the charging of fees or costs by the expert witness is contingent on the outcome of the proceedings, or
 - (b) the payment of any fees or costs to the expert witness is to be deferred,
 in, or in an annexure to, any report that he or she prepares for the purposes of the proceedings.
- (2) If a report referred to in subrule (1) indicates the existence of any such arrangements, the court may direct disclosure of the terms of the engagement (including as to fees and costs).

31.23 Code of conduct (cf SCR Part 39, rule 2; DCR Part 28A, rule 2; LCR Part 38B, rule 2)

- (1) An expert witness must comply with the code of conduct set out in Schedule 7.
- (2) As soon as practicable after an expert witness is engaged or appointed:

Uniform Civil Procedure Rules (Amendment No 12) 2006

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- (a) in the case of an expert witness engaged by one or more parties, the engaging parties, or one of them as they may agree, or
 - (b) in the case of an expert witness appointed by the court, such of the affected parties as the court may direct,
- must provide the expert witness with a copy of the code of conduct.
- (3) Unless the court otherwise orders, an expert's report may not be admitted in evidence unless the report contains an acknowledgment by the expert witness by whom it was prepared that he or she has read the code of conduct and agrees to be bound by it.
 - (4) Unless the court otherwise orders, oral evidence may not be received from an expert witness unless the court is satisfied that the expert witness has acknowledged, whether in an expert's report prepared in relation to the proceedings or otherwise in relation to the proceedings, that he or she has read the code of conduct and agrees to be bound by it.

31.24 Conference between expert witnesses (cf SCR Part 36, rule 13CA; DCR Part 28, rule 9D; LCR Part 23, rule 1E)

- (1) The court may direct expert witnesses:
 - (a) to confer, either generally or in relation to specified matters, and
 - (b) to endeavour to reach agreement on any matters in issue, and
 - (c) to prepare a joint report, specifying matters agreed and matters not agreed and reasons for any disagreement, and
 - (d) to base any joint report on specified facts or assumptions of fact,and may do so at any time, whether before or after the expert witnesses have furnished their experts' reports.
- (2) The court may direct that a conference be held:
 - (a) with or without the attendance of the parties affected or their legal representatives, or
 - (b) with or without the attendance of the parties affected or their legal representatives, at the option of the parties, or
 - (c) with or without the attendance of a facilitator (that is, a person who is independent of the parties and who may or may not be an expert in relation to the matters in issue).

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- (3) An expert witness so directed may apply to the court for further directions to assist the expert witness in the performance of his or her functions in any respect.
 - (4) Any such application must be made by sending a written request for directions to the court, specifying the matter in relation to which directions are sought.
 - (5) An expert witness who makes such an application must send a copy of the request to the other expert witnesses and to the parties affected.
 - (6) Unless the parties affected agree, the content of the conference between the expert witnesses must not be referred to at any hearing.

31.25 Instructions to expert witnesses where conference ordered before report furnished

If a direction to confer is given under rule 31.24 (1) (a) before the expert witnesses have furnished their reports, the court may give directions as to:

- (a) the issues to be dealt with in a joint report by the expert witnesses, and
- (b) the facts, and assumptions of fact, on which the report is to be based,

including a direction that the parties affected must endeavour to agree on the instructions to be provided to the expert witnesses.

31.26 Joint report arising from conference between expert witnesses (cf SCR Part 36, rule 13CA; DCR Part 28, rule 9D; LCR Part 23, rule 1E)

- (1) This rule applies if expert witnesses prepare a joint report as referred to in rule 31.24 (1) (c).
- (2) The joint report must specify matters agreed and matters not agreed and the reasons for any disagreement.
- (3) The joint report may be tendered at the trial as evidence of any matters agreed.
- (4) In relation to any matters not agreed, the joint report may be used or tendered at the trial only in accordance with the rules of evidence and the practices of the court.
- (5) Except by leave of the court, a party affected may not adduce evidence from any other expert witness on the issues dealt with in the joint report.

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Subdivision 3 Experts' reports and expert evidence

31.27 Experts' reports (cf SCR Part 36, rule 13C; DCR Part 28, rule 9C; LCR Part 23, rule 1D)

- (1) An expert's report must (in the body of the report or in an annexure to it) include the following:
 - (a) the expert's qualifications as an expert on the issue the subject of the report,
 - (b) the facts, and assumptions of fact, on which the opinions in the report are based (a letter of instructions may be annexed),
 - (c) the expert's reasons for each opinion expressed,
 - (d) if applicable, that a particular issue falls outside the expert's field of expertise,
 - (e) any literature or other materials utilised in support of the opinions,
 - (f) any examinations, tests or other investigations on which the expert has relied, including details of the qualifications of the person who carried them out,
 - (g) in the case of a report that is lengthy or complex, a brief summary of the report (to be located at the beginning of the report).
- (2) If an expert witness who prepares an expert's report believes that it may be incomplete or inaccurate without some qualification, the qualification must be stated in the report.
- (3) If an expert witness considers that his or her opinion is not a concluded opinion because of insufficient research or insufficient data or for any other reason, this must be stated when the opinion is expressed.
- (4) If an expert witness changes his or her opinion on a material matter after providing an expert's report to the party engaging him or her (or that party's legal representative), the expert witness must forthwith provide the engaging party (or that party's legal representative) with a supplementary report to that effect containing such of the information referred to in subrule (1) as is appropriate.

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31.28 Disclosure of experts' reports and hospital reports (cf SCR Part 36, rule 13A; DCR Part 28, rule 8; LCR Part 23, rule 3)

- (1) Each party must serve experts' reports and hospital reports on each other active party:
 - (a) in accordance with any order of the court, or
 - (b) if no such order is in force, in accordance with any relevant practice note, or
 - (c) if no such order or practice note is in force, not later than 28 days before the date of the hearing at which the report is to be used.
- (2) An application to the court for an order under subrule (1) (other than an order solely for abridgment or extension of time) may be made without serving notice of motion.
- (3) Except by leave of the court, or by consent of the parties:
 - (a) an expert's report or hospital report is not admissible unless it has been served in accordance with this rule, and
 - (b) without limiting paragraph (a), an expert's report or hospital report, when tendered under section 63, 64 or 69 of the *Evidence Act 1995*, is not admissible unless it has been served in accordance with this rule, and
 - (c) the oral expert evidence in chief of any expert is not admissible unless an expert's report or hospital report served in accordance with this rule contains the substance of the matters sought to be adduced in evidence.
- (4) Leave is not to be given as referred to in subrule (3) unless the court is satisfied:
 - (a) that there are exceptional circumstances that warrant the granting of leave, or
 - (b) that the report concerned merely updates an earlier version of a report that has been served in accordance with subrule (1).

31.29 Admissibility of expert's report (cf SCR Part 36, rule 13B)

- (1) If an expert's report is served in accordance with rule 31.28 or in accordance with an order of the court, the report is admissible:
 - (a) as evidence of the expert's opinion, and
 - (b) if the expert's direct oral evidence of a fact on which the opinion was based would be admissible, as evidence of that fact,without further evidence, oral or otherwise.

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- (2) Unless the court otherwise orders, a party may require the attendance for cross-examination of the expert by whom the report was prepared by notice served on the party by whom the report was served.
 - (3) Unless the court otherwise orders, such a requirement may not be made later than:
 - (a) in the case of proceedings for which the court has fixed a date for trial, 35 days before the date so fixed, or
 - (b) in any other case, 7 days before the date on which the court fixes a date for trial.
 - (4) The parties may not by consent abridge the time fixed by or under subrule (3).
 - (5) If the expert's attendance for cross-examination is required under subrule (2), the report may not be tendered under section 63, 64 or 69 of the *Evidence Act 1995* or otherwise used unless the expert attends or is dead or the court grants leave to use it.
 - (6) The party using the report may re-examine the expert if the expert attends for cross-examination pursuant to a requirement under subrule (2).
 - (7) This rule does not apply to proceedings in the District Court or a Local Court or to proceedings on a trial with a jury.

31.30 Admissibility of expert's report in District Court and Local Courts

(of DCR Part 28, rule 9; LCR Part 23, rule 2)

- (1) This rule applies to proceedings in the District Court or a Local Court.
- (2) If an expert's report is served in accordance with rule 31.28 or in accordance with an order of the court, the report is admissible:
 - (a) as evidence of the expert's opinion, and
 - (b) if the expert's direct oral evidence of a fact on which the opinion was based would be admissible, as evidence of that fact,without further evidence, oral or otherwise.
- (3) Unless the court orders otherwise:
 - (a) it is the responsibility of the party requiring the attendance for cross-examination of the expert by whom an expert's report has been prepared to procure that attendance, and

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- (b) the party requiring the expert's attendance must notify the expert at least 28 days before the date on which attendance is required.
 - (4) Except for the purpose of determining any liability for conduct money or witness expenses, an expert does not become the witness for the party requiring his or her attendance merely because his or her attendance at court has been procured by that party.
 - (5) A party who requires the attendance of a person as referred to in subrule (2):
 - (a) must inform all other parties to the proceedings that the party has done so at least 28 days before the date fixed for hearing, and
 - (b) must pay to the person whose attendance is required (whether before or after the attendance) an amount sufficient to meet the person's reasonable expenses (including any standby fees) in complying with the requirement.
 - (6) If the attendance of an expert is required under subrule (2), the report may not be tendered under section 63, 64 or 69 of the *Evidence Act 1995* or otherwise used unless the expert attends or is dead or the court grants leave to use it.
 - (7) The party using an expert's report may re-examine an expert who attends for cross-examination under a requirement under subrule (2).
 - (8) This rule does not apply to proceedings on a trial with a jury.
- 31.31 Fees for medical expert for compliance with subpoena** (cf SCR Part 36, rule 13BA)
- (1) If a subpoena is served on a medical expert who is to give evidence of medical matters but is not called as a witness, the expert is, unless the court orders otherwise, entitled to be paid, in addition to any other amount payable to the expert, the amount specified in item 2 of Schedule 3.
 - (2) The amount payable under subrule (1) must be paid to the expert by the issuing party within 28 days after the date for the expert's attendance.

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- (3) A party that requires an expert's attendance under rule 31.29 (2), but subsequently revokes it, must pay to the issuing party any amount paid by the issuing party under subrule (2), but otherwise such an amount is not recoverable by the issuing party from any other party unless the court so orders.
 - (4) In this rule, *issuing party* means the party at whose request a subpoena is issued.

31.32 Service of subpoena on medical expert (cf SCR Part 36, rule 13BB)

- (1) Service of a subpoena on a medical expert may be effected, at any place at which the expert's practice is carried on, by handing it over to a person who is apparently engaged in the practice (whether as an employee or otherwise) and is apparently of or above the age of 16 years.
- (2) If a person refuses to accept a subpoena when it is handed over, the subpoena may be served by putting it down in the person's presence after he or she has been told of its nature.
- (3) If a subpoena requires a medical expert to attend court on a specified date for the purpose of giving evidence on medical matters, it must be served on the expert not later than 21 days before the date so specified unless the court orders otherwise.
- (4) The parties may not by consent abridge the time fixed by or under subrule (3).

31.33 Subpoena requiring production of medical records (cf SCR Part 36, rule 13BC)

- (1) A subpoena for production may require a medical expert to produce medical records or copies of them.
- (2) A person is not required to comply with a subpoena for production referred to in subrule (1) unless the amount specified in item 3 of Schedule 3 is paid or tendered to the person at the time of service of the subpoena or a reasonable time before the date on which production is required.
- (3) Rule 33.6 (Compliance with subpoena) does not apply to a subpoena to which subrule (1) applies.
- (4) Rule 33.7 (Production otherwise than on attendance) applies to the photocopies in the same way as it applies to the records.
- (5) If, after service of a subpoena for production referred to in subrule (1), the party who requested the issue of the subpoena requires production of the original medical records without the

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option of producing copies of them, the party must request the issue of, and serve, another subpoena requiring production of the original medical records.

31.34 Supplementary reports by expert witness (cf SCR Part 36, rule 13C; DCR Part 28, rule 9C; LCR Part 23, rule 1D)

- (1) If an expert witness provides a supplementary report to the party by whom he or she has been engaged, neither the engaging party nor any other party having the same interest as the engaging party may use:
 - (a) the supplementary report, or
 - (b) any earlier report affected by the supplementary report, unless all of those reports have been served on all parties affected.
- (2) For the purposes of this rule, *supplementary report*, in relation to an earlier report provided by an expert witness, includes any report by the expert witness that indicates that he or she has changed his or her opinion on a material matter expressed in the earlier report.
- (3) This rule does not apply to a report prepared by a court-appointed expert.

31.35 Opinion evidence by expert witnesses (cf Federal Court Rules, Order 34A, rule 3)

In any proceedings in which two or more parties call expert witnesses to give opinion evidence about the same issue or similar issues, or indicate to the court an intention to call expert witnesses for that purpose, the court may give any one or more of the following directions:

- (a) a direction that, at trial:
 - (i) the expert witnesses give evidence after all factual evidence relevant to the issue or issues concerned, or such evidence as may be specified by the court, has been adduced, or
 - (ii) the expert witnesses give evidence at any stage of the trial, whether before or after the plaintiff has closed his or her case, or
 - (iii) each party intending to call one or more expert witnesses close that party's case in relation to the issue or issues concerned, subject only to adducing evidence of the expert witnesses later in the trial,

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- (b) a direction that, after all factual evidence relevant to the issue, or such evidence as may be specified by the court, has been adduced, each expert witness file an affidavit or statement indicating:
 - (i) whether the expert witness adheres to any opinion earlier given, or
 - (ii) whether, in the light of any such evidence, the expert witness wishes to modify any opinion earlier given,
 - (c) a direction that the expert witnesses:
 - (i) be sworn one immediately after another (so as to be capable of making statements, and being examined and cross-examined, in accordance with paragraphs (d), (e), (f), (g) and (h)), and
 - (ii) when giving evidence, occupy a position in the courtroom (not necessarily the witness box) that is appropriate to the giving of evidence,
 - (d) a direction that each expert witness give an oral exposition of his or her opinion, or opinions, on the issue or issues concerned,
 - (e) a direction that each expert witness give his or her opinion about the opinion or opinions given by another expert witness,
 - (f) a direction that each expert witness be cross-examined in a particular manner or sequence,
 - (g) a direction that cross-examination or re-examination of the expert witnesses giving evidence in the circumstances referred to in paragraph (c) be conducted:
 - (i) by completing the cross-examination or re-examination of one expert witness before starting the cross-examination or re-examination of another, or
 - (ii) by putting to each expert witness, in turn, each issue relevant to one matter or issue at a time, until the cross-examination or re-examination of all of the expert witnesses is complete,
 - (h) a direction that any expert witness giving evidence in the circumstances referred to in paragraph (c) be permitted to ask questions of any other expert witness together with whom he or she is giving evidence as so referred to,
 - (i) such other directions as to the giving of evidence in the circumstances referred to in paragraph (c) as the court thinks fit.

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31.36 Service of experts' reports in professional negligence claims (cf SCR Part 14C, rules 1 and 6; DCR Part 28, rule 9B)

- (1) Unless the court orders otherwise, a person commencing a professional negligence claim (other than a claim against a legal practitioner) must file and serve, with the statement of claim commencing the professional negligence claim, an expert's report that includes an opinion supporting:
 - (a) the breach of duty of care, or contractual obligation, alleged against each person sued for professional negligence, and
 - (b) the general nature and extent of damage alleged (including death, injury or other loss or harm and prognosis, as the case may require), and
 - (c) the causal relationship alleged between such breach of duty or obligation and the damage alleged.
- (2) In the case of a professional negligence claim against a legal practitioner, the court may order the plaintiff to file and serve an expert's report or experts' reports supporting the claim.
- (3) If a party fails to comply with subrule (1) or (2), the court may by order made on the application of a party or of its own motion dismiss the whole or any part of the proceedings, as may be appropriate.
- (4) In this rule:

professional negligence means the breach of a duty of care or of a contractual obligation in the performance of professional work or in the provision of professional services by a medical practitioner, an allied health professional (such as dentist, chemist, physiotherapist), a hospital, a solicitor or a barrister.

professional negligence claim means a claim for damages, indemnity or contribution based on an assertion of professional negligence.

Subdivision 4 Parties' single experts**31.37 Selection and engagement**

- (1) If an issue for an expert arises in any proceedings, the court may, at any stage of the proceedings, order that an expert be engaged jointly by the parties affected.
- (2) A parties' single expert is to be selected by agreement between the parties affected or, failing agreement, by, or in accordance with the directions of, the court.

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- (3) A person may not be engaged as a parties' single expert unless he or she consents to the engagement.
 - (4) If any party affected knows that a person is under consideration for engagement as a parties' single expert:
 - (a) the party affected must not, prior to the engagement, communicate with the person for the purpose of eliciting the person's opinion as to the issue or issues concerned, and
 - (b) if the party affected has previously communicated with the person for that purpose, he or she must notify the other parties affected as to the substance of those communications.

31.38 Instructions to parties' single expert

- (1) The parties affected must endeavour to agree on written instructions to be provided to the parties' single expert concerning the issues arising for the expert's opinion and concerning the facts, and assumptions of fact, on which the report is to be based.
- (2) If the parties affected cannot so agree, they must seek directions from the court.

31.39 Parties' single expert may apply to court for directions

- (1) The parties' single expert may apply to the court for directions to assist the expert in the performance of the expert's functions in any respect.
- (2) Any such application must be made by sending a written request for directions to the court, specifying the matter in relation to which directions are sought.
- (3) A parties' single expert who makes such an application must send a copy of the request to the parties affected.

31.40 Parties' single expert's report to be sent to parties

- (1) The parties' single expert must send a signed copy of his or her report to each of the parties affected.
- (2) Each copy must be sent on the same day and must be endorsed with the date on which it is sent.

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31.41 Parties may seek clarification of report

- (1) Within 14 days after the parties' single expert's report is sent to the parties affected, and before the report is tendered in evidence, a party affected may, by notice in writing sent to the expert, seek clarification of any aspect of the report.
- (2) Unless the court orders otherwise, a party affected may send no more than one such notice.
- (3) Unless the court orders otherwise, the notice must be in the form of questions, no more than 10 in number.
- (4) The party sending the notice must, on the same day as it is sent to the parties' single expert, send a copy of it to each of the other parties affected.
- (5) Each notice sent under this rule must be endorsed with the date on which it is sent.
- (6) Within 28 days after the notice is sent, the parties' single expert must send a signed copy of his or her response to the notice to each of the parties affected.

31.42 Tender of reports and of answers to questions

- (1) Subject to rule 31.23 (3) and unless the court orders otherwise, the parties' single expert's report may be tendered in evidence by any of the parties affected.
- (2) Unless the court orders otherwise, any or all of the parties' single expert's answers in response to a request for clarification under rule 31.41 may be tendered in evidence by any of the parties affected.

31.43 Cross-examination of parties' single expert

Any party affected may cross-examine a parties' single expert, and the expert must attend court for examination or cross-examination if so requested on reasonable notice by a party affected.

31.44 Prohibition of other expert evidence

Except by leave of the court, a party to proceedings may not adduce evidence of any other expert on any issue arising in proceedings if a parties' single expert has been engaged under this Division in relation to that issue.

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31.45 Remuneration of parties' single expert

- (1) The remuneration of a parties' single expert is to be fixed by agreement between the parties affected and the expert or, failing agreement, by, or in accordance with the directions of, the court.
- (2) Subject to subrule (3), the parties affected are jointly and severally liable to a parties' single expert for his or her remuneration.
- (3) The court may direct when and by whom a parties' single expert is to be paid.
- (4) Subrules (2) and (3) do not affect the powers of the court as to costs.

Subdivision 5 Court-appointed experts

31.46 Selection and appointment (cf SCR Part 39, rule 1; DCR Part 28A, rule 1; LCR Part 38B, rule 1)

- (1) If an issue for an expert arises in any proceedings the court may, at any stage of the proceedings:
 - (a) appoint an expert to inquire into and report on the issue, and
 - (b) authorise the expert to inquire into and report on any facts relevant to the inquiry, and
 - (c) direct the expert to make a further or supplemental report or inquiry and report, and
 - (d) give such instructions (including instructions concerning any examination, inspection, experiment or test) as the court thinks fit relating to any inquiry or report of the expert or give directions concerning the giving of such instructions.
- (2) The court may appoint as a court-appointed expert a person selected by the parties affected, a person selected by the court or a person selected in a manner directed by the court.
- (3) A person must not be appointed as a court-appointed expert unless he or she consents to the appointment.
- (4) If any party affected knows that a person is under consideration for appointment as a court-appointed expert:
 - (a) the party affected must not, prior to the appointment, communicate with the person for the purpose of eliciting the person's opinion as to the issue or issues concerned, and

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- (b) if the party affected has previously communicated with the person for that purpose, he or she must notify the court as to the substance of those communications.

31.47 Instructions to court-appointed expert

The court may give directions as to:

- (a) the issues to be dealt with in a report by a court-appointed expert, and
(b) the facts, and assumptions of fact, on which the report is to be based,

including a direction that the parties affected must endeavour to agree on the instructions to be provided to the expert.

31.48 Court-appointed expert may apply to court for directions

- (1) A court-appointed expert may apply to the court for directions to assist the expert in the performance of the expert's functions in any respect.
(2) Any such application must be made by sending a written request for directions to the court, specifying the matter in relation to which directions are sought.
(3) A court-appointed expert who makes such an application must send a copy of the request to the parties affected.

31.49 Court-appointed expert's report to be sent to registrar (cf SCR Part 39, rule 3; DCR Part 28A, rule 3; LCR Part 38B, rule 3)

- (1) The court-appointed expert must send his or her report to the registrar, and a copy of the report to each party affected.
(2) Subject to rule 31.23 (3) and unless the court orders otherwise, a report that has been received by the registrar is taken to be in evidence in any hearing concerning a matter to which it relates.
(3) A court-appointed expert who, after sending a report to the registrar, changes his or her opinion on a material matter must forthwith provide the registrar with a supplementary report to that effect.

31.50 Parties may seek clarification of court-appointed expert's report

Any party affected may apply to the court for leave to seek clarification of any aspect of the court-appointed expert's report.

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31.51 Cross-examination of court-appointed expert (cf SCR Part 39, rule 4; DCR Part 28A, rule 4; LCR Part 38B, rule 4)

Any party affected may cross-examine a court-appointed expert, and the expert must attend court for examination or cross-examination if so requested on reasonable notice by a party affected.

31.52 Prohibition of other expert evidence (cf SCR Part 39, rule 6; DCR Part 28A, rule 6; LCR Part 38B, rule 6)

Except by leave of the court, a party to proceedings may not adduce evidence of any expert on any issue arising in proceedings if a court-appointed expert has been appointed under this Division in relation to that issue.

31.53 Remuneration of court-appointed expert (cf SCR Part 39, rule 5; DCR Part 28A, rule 5; LCR Part 38B, rule 5)

- (1) The remuneration of a court-appointed expert is to be fixed by agreement between the parties affected and the expert or, failing agreement, by, or in accordance with the directions of, the court.
- (2) Subject to subrule (3), the parties affected are jointly and severally liable to a court-appointed witness for his or her remuneration.
- (3) The court may direct when and by whom a court-appointed expert is to be paid.
- (4) Subrules (2) and (3) do not affect the powers of the court as to costs.

31.54 Assistance to court by other persons (cf SCR Part 39, rule 7; DCR Part 28A, rule 7; LCR Part 38B, rule 7)

- (1) In any proceedings, the court may obtain the assistance of any person specially qualified to advise on any matter arising in the proceedings and may act on the adviser's opinion.
- (2) Rule 31.53 applies to and in respect of a person referred to in subrule (1) in the same way as it applies to and in respect of a court-appointed witness.
- (3) This rule does not apply to proceedings in the Admiralty List of the Supreme Court or to proceedings that are tried before a jury.

[2] Schedule 3 Fees and other prescribed amounts

Omit "31.20" from item 2. Insert instead "31.31".

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[3] Schedule 3

Omit “31.22” from item 3. Insert instead “31.33”.

[4] Schedule 7

Omit the Schedule. Insert instead:

Schedule 7 Expert witness code of conduct

(Rule 31.23)

(cf SCR Schedule K)

1 Application of code

This code of conduct applies to any expert witness engaged or appointed:

- (a) to provide an expert’s report for use as evidence in proceedings or proposed proceedings, or
- (b) to give opinion evidence in proceedings or proposed proceedings.

2 General duty to the court

- (1) An expert witness has an overriding duty to assist the court impartially on matters relevant to the expert witness’s area of expertise.
- (2) An expert witness’s paramount duty is to the court and not to any party to the proceedings (including the person retaining the expert witness).
- (3) An expert witness is not an advocate for a party.

3 Duty to comply with court’s directions

An expert witness must abide by any direction of the court.

4 Duty to work co-operatively with other expert witnesses

An expert witness, when complying with any direction of the court to confer with another expert witness or to prepare a parties’ expert’s report with another expert witness in relation to any issue:

- (a) must exercise his or her independent, professional judgment in relation to that issue, and
- (b) must endeavour to reach agreement with the other expert witness on that issue, and

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- (c) must not act on any instruction or request to withhold or avoid agreement with the other expert witness.

5 Experts' reports

- (1) An expert's report must (in the body of the report or in an annexure to it) include the following:
 - (a) the expert's qualifications as an expert on the issue the subject of the report,
 - (b) the facts, and assumptions of fact, on which the opinions in the report are based (a letter of instructions may be annexed),
 - (c) the expert's reasons for each opinion expressed,
 - (d) if applicable, that a particular issue falls outside the expert's field of expertise,
 - (e) any literature or other materials utilised in support of the opinions,
 - (f) any examinations, tests or other investigations on which the expert has relied, including details of the qualifications of the person who carried them out,
 - (g) in the case of a report that is lengthy or complex, a brief summary of the report (to be located at the beginning of the report).
- (2) If an expert witness who prepares an expert's report believes that it may be incomplete or inaccurate without some qualification, the qualification must be stated in the report.
- (3) If an expert witness considers that his or her opinion is not a concluded opinion because of insufficient research or insufficient data or for any other reason, this must be stated when the opinion is expressed.
- (4) If an expert witness changes his or her opinion on a material matter after providing an expert's report to the party engaging him or her (or that party's legal representative), the expert witness must forthwith provide the engaging party (or that party's legal representative) with a supplementary report to that effect containing such of the information referred to in subclause (1) as is appropriate.

6 Experts' conference

- (1) Without limiting clause 3, an expert witness must abide by any direction of the court:
 - (a) to confer with any other expert witness, or

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- (b) to endeavour to reach agreement on any matters in issue, or
 - (c) to prepare a joint report, specifying matters agreed and matters not agreed and reasons for any disagreement, or
 - (d) to base any joint report on specified facts or assumptions of fact.
- (2) An expert witness must exercise his or her independent, professional judgment in relation to such a conference and joint report, and must not act on any instruction or request to withhold or avoid agreement.

Other Legislation



New South Wales

Notice of Determination

under the

Threatened Species Conservation Act 1995

The Scientific Committee established under the *Threatened Species Conservation Act 1995* (*the Act*) has made a determination to list the following species as an endangered species under that Act pursuant to section 36A (1) (a) (being an insertion that is necessary or desirable to reflect a reclassification of a species into further species as a result of taxonomic revision). Accordingly, Part 1 of Schedule 1 to the Act is amended by inserting in alphabetical order under the heading “Petaluridae” (under the heading “Odonata”):

Petalura litorea Theischinger 1999

Dated, this 25th day of November 2006.

Associate Professor Lesley Hughes
Chairperson of the Scientific Committee

Copies of final determination and reasons

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

- (a) on the Internet at www.nationalparks.nsw.gov.au,
- (b) by contacting the Scientific Committee Unit, by post C/- Department of Environment and Conservation, PO Box 1967, Hurstville, 2220, by telephone (02) 9585 6940 or by facsimile (02) 9585 6606,
- (c) in person at the Department of Environment and Conservation Information Centre, Level 14, 59-61 Goulburn St, Sydney.



New South Wales

Notice of Final Determination

under the

Threatened Species Conservation Act 1995

The Scientific Committee established under the *Threatened Species Conservation Act 1995* has made a final determination to insert the following population as an endangered population under that Act, and accordingly, Schedule 1 to that Act is amended by inserting in Part 2 in the matter relating to plants in alphabetical order under the heading "Orchidaceae" the following:

Rizanthella slateri (Rupp) M.A.Clem. & Cribb *Rizanthella slateri* (Rupp) M.A.Clem. & Cribb in the Great Lakes local government area

Dated, this 25th day of November 2006.

Associate Professor Lesley Hughes
Chairperson of the Scientific Committee

Copies of final determination and reasons

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

- (a) on the Internet at www.nationalparks.nsw.gov.au,
- (b) by contacting the Scientific Committee Unit, by post C/- Department of Environment and Conservation, PO Box 1967, Hurstville, 2220, by telephone (02) 9585 6940 or by facsimile (02) 9585 6606,
- (c) in person at the Department of Environment and Conservation Information Centre, Level 14, 59-61 Goulburn St, Sydney.

OFFICIAL NOTICES

Appointments

NOXIOUS WEEDS ACT 1993

Appointment of Authorised Officers

I, B. D. BUFFIER, Director-General of NSW Department of Primary Industries:

- (a) Hereby revoke Appointment of Authorised Officers under the Noxious Weeds Act 1993 ('the Act'), dated 22 March 2001; and,
- (b) Pursuant to section 42 of the Noxious Weeds Act 1993 ('the Act'), hereby authorise the employees of the NSW Department of Primary Industries listed in the Schedule to exercise all the functions of an Inspector under the Act in relation to the whole of the State.

Dated this 28th day of November 2006.

B. D. BUFFIER,
Director-General,
NSW Department of Primary Industries

SCHEDULE

Harald BENSCH
Philip John BLACKMORE
Richard John CARTER
Philip John CHRISTIAN
Anthony Scott COOK
Rodney Peter ENSBEY
Peter Errol Thomas GORHAM
Peter John GRAY
Gary Stephen GRIMSHAW
Royce Hendrick HOLTkamp
Stephen Barry JOHNSON
Sydney Denis LISLE
Alan Joseph MAGUIRE
Michael MICHELMORE
Lesley POSTLE
Peter John PROCTOR
Barry John SAMPSON
Glenda May STEAIN
Phillip David STEPHENSON
Andrew Malcolm STORRIE
Paul Richard SULLIVAN
Birgitte VERBEEK

PLANT DISEASES ACT 1924

Appointment of Inspector

I, B. D. BUFFIER, Director-General of NSW Department of Primary Industries, pursuant to section 11 (1) of the Plant Diseases Act 1924 ("the Act"), Glenn Ashley NEYLAND as an Inspector under the Act.

Dated this 28th day of November 2006.

B. D. BUFFIER,
Director-General,
NSW Department of Primary Industries

PLANT DISEASES ACT 1924

Appointment of Inspector

I, B. D. BUFFIER, Director-General of NSW Department of Primary Industries, pursuant to section 11 (1) of the Plant Diseases Act 1924 ("the Act"), appoint Brian Joseph DORSETT as an Inspector under the Act.

Dated this 28th day of November 2006.

B. D. BUFFIER,
Director-General,
NSW Department of Primary Industries

Department of Lands

ORANGE OFFICE

92 Kite Street (PO Box 2146), Orange NSW 2800

Phone: (02) 6391 4300 Fax: (02) 6362 3896

ROADS ACT 1993

Order

Transfer of Crown Road to a Council

IN pursuance of the provisions of section 151, Roads Act 1993, the Crown public roads specified in Schedule 1 are 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 roads specified in Schedule 1 cease to be Crown public roads.

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

SCHEDULE 1

The Crown public road south of Lots 5, 6 and 7, Deposited Plan 1078086; Lots 807 and 898, Deposited Plan 750152 and Lot 3, Deposited Plan 608843 in the Town of Parkes, Parish of Currajong, County of Ashburnham and Land District of Parkes.

SCHEDULE 2

Roads Authority: Parkes Shire Council.

Council Reference: SLR:360146.

File No.: OE06 H 374.

WITHDRAWAL OF RESERVES FROM CONTROL OF A RURAL LANDS PROTECTION BOARD

IN pursuance of the provisions of section 86 (1), Rural Lands Protection Act 1998, the reserves specified hereunder are withdrawn from control of the Rural Lands Protection Board specified in the notice.

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

Description

*Rural Lands Protection District – Mudgee;
Merriwa Rural Lands Protection Board.*

Parish Cummings, County Wellington, Reserve No. 33180 for water and camping, notified 31 August 1901, comprised in Lot 7003 in DP 1021511 of about 5.07 hectares. (Placed under control, *New South Wales Government Gazette*, 1 August 1930).

Parish Hearne, County Roxburgh, Reserve No. 72 for travelling stock, notified 6 March 1882, comprised in Lot 7004, DP 1056614 and Lot 7006, DP 1055785 of about 12.44 hectares. (Placed under control, *New South Wales Government Gazette*, 1 August 1930).

Parish Goongal, County Roxburgh, Reserve No. 61407 for camping, notified 27 September 1929, comprised in Lot 7002 in DP 755777 of about 9.63 hectares. (Placed under control, *New South Wales Government Gazette*, 8 April 1938).

Parish Coolcalwin, County Phillip, Reserve No. 4997 for camping and access to water, notified 4 February 1888, comprised in Lots 7012, DP 1051738 and Lot 7001, DP 1069232 of about 8.41 hectares. (Placed under control, *New South Wales Government Gazette*, 1 August 1930).

Parish Capertee, County Roxburgh, Reserve No. 42819 for travelling stock and camping, notified 17 June 1908, comprised in Lots 7002, 7003 and 7004, DP 755763 of about 5.18 hectares. (Placed under control, *New South Wales Government Gazette*, 5 October 1934).

Parish Growee, County Phillip, Reserve No. 135 for water supply and access, notified 20 November 1882, comprised in Lot 153, DP 755432 of 7.21 hectares. (Placed under control, *New South Wales Government Gazette*, 28 March 1941).

Parish Never Never, County Phillip, Reserve No. 82728 for travelling stock, notified 5 August 1960, comprised in Lot 7002, DP 1028173 of about 1.38 hectares. (Placed under control, *New South Wales Government Gazette*, 5 August 1960).

Note: Reserves have been revoked and re-reserved for the purpose of future public requirements this day.

File No.: OE06 R 2/1.

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 Schedules hereunder, is revoked to the extent specified opposite thereto in Column 2 of the Schedules.

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

SCHEDULE 1

Column 1

Land District: Rylstone.
Local Government Area:
Mid-Western Regional
Council.
Locality: Olinda.
Reserve No.: 4997.
Public Purpose: Access to
water and camping.
Notified: 4 February 1888.
File No.: OE06 R 2/1.

Note: Part of R1012828 for future public requirements, notified this day.

Column 2

The whole being Lot 7001,
DP 1069232, Parish
Ganguddy, County
Roxburgh and Lot 7012,
DP 1051738, Parish
Coolcalwin, County Phillip,
of an area of 8.41 hectares.

SCHEDULE 2

<i>Column 1</i>	<i>Column 2</i>
Land District: Rylstone. Local Government Area: Lithgow City Council. Locality: Airly. Reserve No.: 25863. Public Purpose: Water. Notified: 10 April 1897. File No.: OE06 R 2/1.	The whole being Lot 7001, DP 1057060, Parish Airly, County Roxburgh, of an area of 2.33 hectares.
Note: Part of R1012828 for future public requirements, notified this day.	

SCHEDULE 3

<i>Column 1</i>	<i>Column 2</i>
Land District: Bathurst. Local Government Area: Mid-Western Regional Council. Locality: Cummings. Reserve No.: 33180. Public Purpose: Water and camping. Notified: 31 August 1901. File No.: OE06 R 2/1.	The whole being Lot 7003, DP 1021511, Parish Cummings, County Wellington, of an area of 5.07 hectares.
Note: Part of R1012828 for future public requirements, notified this day.	

SCHEDULE 4

<i>Column 1</i>	<i>Column 2</i>
Land District: Rylstone. Local Government Area: Mid-Western Regional Council. Locality: Boguee. Reserve No.: 42819. Public Purpose: Travelling stock and camping. Notified: 17 June 1908. File No.: OE06 R 2/1.	The whole being Lot 7002, DP 755763 #, Parish Capertee, County Roxburgh; Lot 7003, DP 755763 #, Parish Capertee, County Roxburgh and Lot 7004, DP 755763 #, Parish Capertee, County Roxburgh, of an area of 5.18 hectares.
Note: Part of R1012828 for future public requirements, notified this day.	

Disclaimer: # Please note that the above Lot numbers
marked # are for Departmental use only.

SCHEDULE 5

<i>Column 1</i>	<i>Column 2</i>
Land District: Rylstone. Local Government Area: Mid-Western Regional Council. Locality: Goongal. Reserve No.: 61407. Public Purpose: Camping. Notified: 27 September 1929. File No.: OE06 R 2/1.	The whole being Lot 7002, DP 755777 #, Parish Goongal, County Roxburgh, of an area of 9.63 hectares.
Note: Part of R1012828 for future public requirements, notified this day.	

Disclaimer: # Please note that the above Lot numbers
marked # are for Departmental use only.

SCHEDULE 6

<i>Column 1</i>	<i>Column 2</i>
Land District: Rylstone. Local Government Area: Mid-Western Regional Council. Locality: Never Never. Reserve No.: 82728. Public Purpose: Travelling stock. Notified: 5 August 1960. File No.: OE06 R 2/1.	The whole being Lot 7002, DP 1028173, Parish Never Never, County Phillip, of an area of 1.38 hectares.
Note: Part of R1012828 for future public requirements, notified this day.	

SCHEDULE 7

<i>Column 1</i>	<i>Column 2</i>
Land District: Rylstone. Local Government Area: Mid-Western Regional Council. Locality: Round Swamp. Reserve No.: 72. Public Purpose: Travelling stock. Notified: 6 March 1882. File No.: OE06 R 2/1.	The whole being Lot 7004, DP 1056614, Parish Hearne, County Roxburgh and Lot 7006, DP 1055785, Parish Hearne, County Roxburgh, of an area of 12.44 hectares.
Note: Part of R1012828 for future public requirements, notified this day.	

SCHEDULE 8

<i>Column 1</i>	<i>Column 2</i>
Land District: Rylstone. Local Government Area: Mid-Western Regional Council. Reserve No.: 135. Public Purpose: Access and water supply. Notified: 20 November 1882. File No.: OE06 R 2/1.	The whole being Lot 153, DP 755432, Parish Growee, County Phillip, of an area of 7.21 hectares.
Note: Part of R1012828 for future public requirements, notified this day.	

Note: Part of R1012828 for future public requirements,
notified this day.

RESERVATION OF CROWN LAND

PURSUANT to section 87 of the Crown Lands Act 1989, the
Crown Land specified in Column 1 of the Schedule hereunder,
is reserved as specified opposite thereto in Column 2 of the
Schedule.

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

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Land District: Rylstone. Local Government Area: Mid-Western Regional Council. Locality: Rylstone. Lot 7001, DP 1069232,	Reserve No.: 1012828. Public Purpose: Future public requirements.

*Column 1**Column 2*

Parish Ganguddy,
County Roxburgh;
Lot 7012, DP 1051738,
Parish Coolcalwin,
County Phillip;
Lot 7001, DP 1057060,
Parish Airly,
County Roxburgh;
Lot 7003, DP 1021511,
Parish Cummings,
County Wellington;
Lot 7002, DP 755763 #,
Parish Capertee,
County Roxburgh;
Lot 7003, DP 755763 #,
Parish Capertee,
County Roxburgh;
Lot 7004, DP 755763 #,
Parish Capertee,
County Roxburgh;
Lot 7002, DP 755777 #,
Parish Goongal,
County Roxburgh;
Lot 7002, DP 1028173,
Parish Never Never,
County Phillip;
Lot 7004, DP 1056614,
Parish Hearne,
County Roxburgh;
Lot 7006, DP 1055785,
Parish Hearne, County
Roxburgh and
Lot 153, DP 755432,
Parish Growee, County Phillip.
Area: About 51.65 hectares.
File No.: OE06 R 2/1.

Disclaimer: # Please note that the above Lot numbers
marked # are for Departmental use only.

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

APPOINTMENT OF TRUST BOARD MEMBERS

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

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

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Kylie-Ann RICHARDSON (new member).	Mt St Joseph Trust.	Reserve No.: 100102. Public Purpose: Community purposes. Notified: 26 June 1987. File No.: MN84 R 130/2.

Term of Office

For a term commencing the date of this notice and expiring
 31 March 2009.

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

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

Description

Land District – Quirindi; L.G.A. – Liverpool Plains.

Road Closed: Lots 1 and 2 in Deposited Plan 1104433,
 Parish Wallabadah, County Buckland.

File No.: TH05 H 95.

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

TAREE OFFICE**98 Victoria Street (PO Box 440), Taree NSW 2430****Phone: (02) 6591 3500 Fax: (02) 6552 2816****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.

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

Description

*Land District – Taree;
Local Government Area – Greater Taree.*

Road Closed: Lots 1 and 2, DP 1103926 at Bootawa,
Parish of Tinonee, County of Gloucester.

File No.: TE05 H 116.

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

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

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

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

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Geoff FIRKIN.	Scotts Head Reserve Trust.	Reserve No.: 65963. Public Purpose: Public recreation and resting place. Notified: 8 May 1936. File No.: TE80 R 170.

For a term commencing 2 December 2006 and expiring
1 June 2007.

WAGGA WAGGA OFFICE**Corner Johnston and Tarcutta Streets (PO Box 60), Wagga Wagga NSW 2650****Phone: (02) 6937 2700 Fax: (02) 6921 1851****ROADS ACT 1993**

Order

Transfer of Crown Road to a Council

IN pursuance of the provisions of section 151, Roads Act 1993, the Crown public roads specified in Schedule 1 are 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 roads specified in Schedule 1 cease to be Crown public road.

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

SCHEDULE 1

*Parish – Mulwala; County – Denison;
Land District – Corowa; Shire – Corowa.*

Crown public lanes 6.235 wide described as the lanes
within section 33 and DP 1082193, Town of Mulwala.

SCHEDULE 2

Roads Authority: Corowa Shire Council.

File No.: WA06 H 442.

WESTERN DIVISION OFFICE
45 Wingewarra Street (PO Box 1840), Dubbo NSW 2830
Phone: (02) 6883 3000 Fax: (02) 6883 3099

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 1 April of each year.

The Conditions and Reservations annexed to such leases are those conditions published in the *New South Wales Government Gazette* of 18 February 2005, Folios 434 – 435.

All amounts due and payable to the Crown MUST be paid to the Department of Lands by the due date.

IAN MACDONALD, M.L.C.,
Minister for Natural Resources

SCHEDULE

Administrative District – Walgett North; Shire – Walgett; Parish – Wallangulla; County – Finch.

WLL No.	Name of Lessee	Lot	Deposited Plan No.	Folio Identifier	Area (square metres)	Term of Lease	
						From	To
WLL14686	Benito SANTAJIULIANA	32	1073508	32/1073508	2538m2	1-12-2006	30-11-2026
WLL14802	Ronald William YABSLEY	239	1076808	239/1076808	2237m2	1-12-2006	30-11-2026
WLL14639	Sandra Kay THOMAS	108	1076808	108/1076808	2063m2	1-12-2006	30-11-2026
WLL14786	Terry RIXON, Amanda RIXON and Laurence MASCOND as Joint Tenants	172	1073508	172/1073508	2429m2	1-12-2006	30-11-2026

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 Lease of the land specified has been granted to the undermentioned persons.

The lease is subject to the provisions of the Western Lands Act 1901 and the Regulations thereunder and to the special conditions, provisions, exceptions, covenants and reservations set out hereunder.

The land is to be used only for the purpose for which the lease is granted.

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

IAN MACDONALD, M.L.C.,
Minister for Natural Resources

Description

*Administrative District – Bourke;
Shire – Bourke Shire Council;
Parishes – Davidson and East Bourke; County – Cowper.*

Western Lands Lease 14580 was granted to Mervyn William Asmus GORDON and Margaret Jill GORDON, comprising Lots 4357 and 4358 DP 767194 (folio identifiers 4357/767194 and 4358/767194) of 438 hectares at Bourke, for the purpose of "Grazing" for a term of 40 years commencing 15 November 2006 and expiring 14 November 2046.

Papers: WLL 14580.

CONDITIONS AND RESERVATIONS ATTACHED TO WESTERN LANDS LEASE 14580

- (1) In the conditions annexed to the lease, the expression "the Minister" means the Minister administering the Western Lands Act 1901, and any power, authority, duty or function conferred or imposed upon the Minister by or under those conditions may be exercised or performed either by the Minister or by such officers of the Department of Infrastructure, Planning and Natural Resources as the Minister may from time to time approve.
- (2) In these conditions and reservations the expression "the Commissioner" means the Commissioner charged with the administration of the Western Lands Act 1901 ("the Act") in accordance with section 4(2) of the Act.
- (3) (a) For the purposes of this clause the term Lessor shall include Her Majesty the Queen Her Heirs and Successors the Minister and the agents servants employees and contractors of the Lessor Her Majesty Her Majesty's Heirs and Successors and the Minister.
 (b) The lessee covenants with the Lessor to indemnify and keep indemnified the Lessor from and against all claims for injury loss or damage suffered by any person or body using or being in or upon the Premises or any adjoining land or premises of

- the Lessor arising out of the Holder's use of the Premises and against all liabilities for costs charges and expenses incurred by the Lessor in respect of the claim of any such person or body except to the extent that any such claims and demands arise wholly from any negligence or wilful act or omission on the part of the Lessor.
- (c) The indemnity contained in this clause applies notwithstanding that this Lease authorised or required the lessee to undertake or perform the activity giving rise to any claim for injury loss or damage.
- (d) The lessee expressly agrees that the obligations of the Holder under this clause shall continue after the expiration or sooner determination of this Lease in respect of any act deed matter or thing occurring before such expiration or determination.
- (4) The rent of the lease shall be assessed in accordance with Part 6 of the Western Lands Act 1901.
- (5) The rent shall be due and payable annually in advance on 1 July in each year.
- (6) (a) "GST" means any tax on goods and/or services, including any value-added tax, broad-based consumption tax or other similar tax introduced in Australia.
 "GST law" includes any Act, order, ruling or regulation, which imposes or otherwise deals with the administration or imposition of a GST in Australia.
- (b) Notwithstanding any other provision of this Agreement:
- (i) If a GST applies to any supply made by either party under or in connection with this Agreement, the consideration provided or to be provided for that supply will be increased by an amount equal to the GST liability properly incurred by the party making the supply.
- (ii) If the imposition of a GST or any subsequent change in the GST law is accompanied by or undertaken in connection with the abolition of or reduction in any existing taxes, duties or statutory charges (in this clause "taxes"), the consideration payable by the recipient of the supply made under this Agreement will be reduced by the actual costs of the party making the supply that are reduced directly or indirectly as a consequence of the abolition of or reduction in taxes.
- (7) The lessee shall pay all rates and taxes assessed on or in respect of the land leased during the currency of the lease.
- (8) The lessee shall hold and use the land leased bona fide for the lessee's own exclusive benefit and shall not transfer, convey or assign the land or any portion thereof without having first obtained the written consent of the Minister.
- (9) The lessee shall not enter into a sublease of the land leased unless the sublease specifies the purpose for which the land may be used under the sublease, and it is a purpose which is consistent with the purpose for which the land may be used under this lease.
- (10) If the lessee enters into a sublease of the land leased, the lessee must notify the Commissioner of the granting of the sublease within 28 days after it is granted.
- (11) The land leased shall be used only for the purpose of Grazing.
- (12) The lessee shall maintain and keep in reasonable repair all improvements on the land leased during the currency of the lease and shall permit the Minister or the Commissioner or any person authorised by the Minister or the Commissioner at all times to enter upon and examine the whole or any part of the land leased and the buildings or other improvements thereon.
- (13) All minerals within the meaning of the Mining Act 1992, and all other metals, gemstones and semiprecious stones, which may be in, under or upon the land leased are reserved to the Crown and the lessee shall permit any person duly authorised in that behalf to enter upon the land leased and search, work, win and remove all or any minerals, metals, gemstones and semiprecious stones in, under or upon the land leased.
- (14) Mining operations may be carried on, upon and in the lands below the land leased and upon and in the lands adjoining the land leased and the lands below those lands and metals and minerals may be removed therefrom and the Crown and any lessee or lessees under any Mining Act or Acts shall not be subject to any proceedings by way of injunction or otherwise in respect of or be liable for any damage occasioned by the letting down, subsidence or lateral movement of the land leased or any part thereof or otherwise by reason of the following acts and matters, that is to say, by reason of the Crown or any person on behalf of the Crown or any lessee or lessees, having worked now or hereafter working any mines or having carried on or now or hereafter carrying on mining operations or having searched for, worked, won or removed or now or hereafter searching for, working, winning or removing any metals or minerals under, in or from the lands lying beneath the land leased or any part thereof, or on, in, under or from any other lands situated laterally to the land leased or any part thereof or the lands lying beneath those lands, and whether on or below the surface of those other lands and by reason of those acts and matters or in the course thereof the Crown reserves the liberty and authority for the Crown, any person on behalf of the Crown and any lessee or lessees from time to time to let down without payment of any compensation any part of the land leased or of the surface thereof.
- (15) The lessee shall comply with the provisions of the Local Government Act 1993, and of the ordinances made thereunder.
- (16) The lessee shall ensure that the land leased is kept in a neat and tidy condition to the satisfaction of the Commissioner and not permit refuse to accumulate on the land.
- (17) Upon termination or forfeiture of the lease the Commissioner may direct that the former lessee shall remove any structure or material from the land at his own cost and without compensation. Where such a direction has been given the former lessee shall leave the land in a clean and tidy condition free from rubbish and debris.

- (18) The lessee shall, within 1 year from the date of commencement of the lease or such further period as the Commissioner may allow, enclose the land leased, either separately or conjointly with other lands held in the same interest, with a suitable fence to the satisfaction of the Commissioner.
- (19) The lessee shall not obstruct or interfere with any reserves, roads or tracks on the land leased, or the lawful use thereof by any person.
- (20) The lessee shall erect gates on roads within the land leased when and where directed by the Commissioner for public use and shall maintain those gates together with approaches thereto in good order to the satisfaction of the Commissioner.
- (21) The right is reserved to the public of free access to, and passage along, the bank of any watercourse adjoining the land leased and the lessee shall not obstruct access or passage by any member of the public to or along the bank.
- (22) Any part of a reserve for travelling stock, camping or water supply within the land leased shall, during the whole currency of the lease, be open to the use of bona fide travellers, travelling stock, teamsters and carriers without interference or annoyance by the lessee and the lessee shall post in a conspicuous place on the reserve a notice board indicating for public information the purpose of such reserve and, in fencing the land leased, the lessee shall provide gates and other facilities for the entrance and exit of travelling stock, teamsters and others. The notice board, gates and facilities shall be erected and maintained to the satisfaction of the Commissioner. The lessee shall not overstock, wholly or in part, the areas leased within the reserve, the decision as to overstocking resting with the Commissioner.
- (23) The Crown shall not be responsible to the lessee or the lessee's successors in title for provision of access to the land leased.
- (24) The lessee shall comply with requirements of section 18DB of the Western Lands Act 1901 which provides that, except in the circumstances referred to in subsection (4) of that section, any native vegetation on the land the subject of the lease, and any part of the land that is protected land, must not be cleared except in accordance with the Native Vegetation Conservation Act 1997.
- (25) The lessee shall comply with requirements of section 18DA of the Western Lands Act 1901 which provides that except in circumstances referred to in subsection (3) of that section, cultivation of the land leased or occupied may not be carried out unless the written consent of the Department has first been obtained and any condition to which the consent is subject under subsection (6) is complied with.
- (26) Notwithstanding any other condition annexed to the lease, the lessee shall, in removing timber for the purpose of building, fencing or firewood, carefully preserve all timber, scrub, vegetative cover and any regeneration thereof (except noxious plants and those "woody weeds" specified in Clause 28(1) and parts 9 and 13 in Schedule 4 of the Regulations) on the following parts of the land leased:
- (a) between the banks of, and within strips at least 20 metres wide along each bank of, any creek or defined watercourse;
 - (b) within strips at least 30 metres wide on each side of the centre line of any depression, the sides of which have slopes in excess of 1 (vertically) in 4 (horizontally), that is, approximately 14 degrees;
 - (c) where the slopes are steeper than 1 (vertically) in 3 (horizontally), that is, approximately 18 degrees;
 - (d) within strips not less than 60 metres wide along the tops of any ranges and main ridges;
 - (e) not in contravention of section 21CA of the Soil Conservation Act 1938.
- In addition to the foregoing requirements of this condition, the lessee shall preserve on so much of the land leased as is not the subject of a clearing licence (where possible, in well distributed clumps or strips) not less than an average of 30 established trees per hectare, together with any other timber, vegetative cover or any regeneration thereof which may, from time to time, be determined by the Commissioner to be useful or necessary for soil conservation or erosion mitigation purposes or for shade and shelter.
- (27) The lessee shall not interfere with the timber on any of the land leased which is within a State forest, timber reserve or flora reserve unless authorisation has been obtained under the provisions of the Forestry Act 1916 and shall not prevent any person or persons duly authorised in that behalf from taking timber on the land leased. The lessee shall not have any property right in the timber on the land leased and shall not ringbark, kill, destroy or permit the killing or destruction of any timber unless authorised under the Forestry Act 1916 or unless a clearing licence has been issued pursuant to section 18DB of the Western Lands Act 1901, but the lessee may take such timber as the lessee may reasonably require for use on the land leased, or on any contiguous land held in the same interest, for building, fencing or firewood.
- (28) The lessee shall take all necessary steps to protect the land leased from bush fire.
- (29) The lessee shall, as the Commissioner may from time to time direct, foster and cultivate on the land leased such edible shrubs and plants as the Commissioner may consider can be advantageously and successfully cultivated.
- (30) Whenever so directed by the Commissioner, the lessee shall, on such part or parts of the land leased as shall be specified in the direction, carry out agricultural practices, or refrain from agricultural practices, of such types and for such periods as the Commissioner may in the direction specify.
- (31) The lessee shall not overstock, or permit or allow to be overstocked, the land leased and the decision of the Commissioner as to what constitutes overstocking shall be final and the lessee shall comply with any directions of the Commissioner to prevent or discontinue overstocking.
- (32) The lessee shall, if the Commissioner so directs, prevent the use by stock of any part of the land leased for such periods as the Commissioner considers necessary to permit of the natural reseedling and regeneration of vegetation and, for that purpose, the lessee shall erect within the time appointed by the Commissioner such fencing as the Commissioner may consider necessary.

- (33) The lessee shall furnish such returns and statements as the Commissioner may from time to time require on any matter connected with the land leased or any other land (whether within or outside the Western Division) in which the lessee has an interest.
- (34) The lessee shall, within such time as may be specified by the Commissioner take such steps and measures as the Commissioner shall direct to destroy vermin and such animals and weeds as may, under any Act, from time to time be declared (by declaration covering the land leased) noxious in the Gazette and shall keep the land free of such vermin and noxious animals and weeds during the currency of the lease to the satisfaction of the Commissioner.
- (35) The lessee shall not remove or permit any person to remove gravel, stone, clay, shells or other material for the purpose of sale from the land leased unless the lessee or the person is the holder of a quarry license under regulations made under the Crown Lands Act 1989 or, in respect of land in a State forest, unless the lessee or the person is the holder of a forest materials licence under the Forestry Act 1916, and has obtained the special authority of the Minister to operate on the land, but the lessee may, with the approval of the Commissioner, take from the land such gravel, stone, clay, shells or other material for building and other purposes upon the land as may be required by the lessee.
- (36) The lessee shall comply with the provisions of the Protection of the Environment Operations Act 1997.

ALTERATION OF PURPOSE OF A WESTERN LANDS LEASE

IT is hereby notified that in pursuance of the provisions of section 18J, Western Lands Act 1901, the purpose and conditions of the undermentioned Western Lands Lease have been altered as shown.

IAN MACDONALD, M.L.C.,
Minister for Natural Resources

Description

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

The purpose of Western Lands Lease 14637, being the land contained within Folio Identifier 2/1104383 has been altered from “Pastoral Purposes” to “Grazing and Residence” effective from 9 November 2006.

As a consequence of the alteration of purpose rent will be assessed annually in line with the Western Lands Act 1901 and Regulations.

The conditions previously annexed to Western Lands Lease 14637 have been revoked and the following conditions have been annexed thereto.

CONDITIONS AND RESERVATIONS ATTACHED TO WESTERN LANDS LEASE 14637

- (1) In the conditions annexed to the lease, the expression “the Minister” means the Minister administering the Western Lands Act 1901, and any power, authority, duty or function conferred or imposed upon the Minister by or under those conditions may be exercised or performed either by the Minister or by such officers of the Department of Natural Resources as the Minister may from time to time approve.
- (2) In these conditions and reservations the expression “the Commissioner” means the Commissioner charged with the administration of the Western Lands Act 1901 (“the Act”) in accordance with section 4(2) of the Act.
- (3) (a) For the purposes of this clause the term Lessor shall include Her Majesty the Queen Her Heirs and Successors the Minister and the agents servants employees and contractors of the Lessor Her Majesty Her Majesty’s Heirs and Successors and the Minister.
- (b) The lessee covenants with the Lessor to indemnify and keep indemnified the Lessor from and against all claims for injury loss or damage suffered by any person or body using or being in or upon the Premises or any adjoining land or premises of the Lessor arising out of the Holder’s use of the Premises and against all liabilities for costs charges and expenses incurred by the Lessor in respect of the claim of any such person or body except to the extent that any such claims and demands arise wholly from any negligence or wilful act or omission on the part of the Lessor.
- (c) The indemnity contained in this clause applies notwithstanding that this Lease authorised or required the lessee to undertake or perform the activity giving rise to any claim for injury loss or damage.
- (d) The lessee expressly agrees that the obligations of the Holder under this clause shall continue after the expiration or sooner determination of this Lease in respect of any act deed matter or thing occurring before such expiration or determination.
- (4) The rent of the lease shall be assessed in accordance with Part 6 of the Western Lands Act 1901.
- (5) The rent shall be due and payable annually in advance on 1 July in each year.
- (6) (a) “GST” means any tax on goods and/or services, including any value-added tax, broad-based consumption tax or other similar tax introduced in Australia.
- “GST law” includes any Act, order, ruling or regulation, which imposes or otherwise deals with the administration or imposition of a GST in Australia.
- (b) Notwithstanding any other provision of this Agreement:
- (i) If a GST applies to any supply made by either party under or in connection with this Agreement, the consideration provided or to be provided for that supply will be increased by an amount equal to the GST liability properly incurred by the party making the supply.
- (ii) If the imposition of a GST or any subsequent change in the GST law is accompanied by or undertaken in connection with the abolition of or reduction in any existing taxes, duties or statutory charges (in this clause “taxes”), the consideration payable by the recipient of the supply made under this Agreement will

- be reduced by the actual costs of the party making the supply that are reduced directly or indirectly as a consequence of the abolition of or reduction in taxes.
- (7) The lessee shall pay all rates and taxes assessed on or in respect of the land leased during the currency of the lease.
- (8) The lessee shall hold and use the land leased bona fide for the lessee's own exclusive benefit and shall not transfer, convey or assign the land or any portion thereof without having first obtained the written consent of the Minister.
- (9) The lessee shall not enter into a sublease of the land leased unless the sublease specifies the purpose for which the land may be used under the sublease, and it is a purpose which is consistent with the purpose for which the land may be used under this lease.
- (10) If the lessee enters into a sublease of the land leased, the lessee must notify the Commissioner of the granting of the sublease within 28 days after it is granted.
- (11) The land leased shall be used only for the purpose of Grazing and Residence.
- (12) The lessee shall maintain and keep in reasonable repair all improvements on the land leased during the currency of the lease and shall permit the Minister or the Commissioner or any person authorised by the Minister or the Commissioner at all times to enter upon and examine the whole or any part of the land leased and the buildings or other improvements thereon.
- (13) All minerals within the meaning of the Mining Act 1992, and all other metals, gemstones and semiprecious stones, which may be in, under or upon the land leased are reserved to the Crown and the lessee shall permit any person duly authorised in that behalf to enter upon the land leased and search, work, win and remove all or any minerals, metals, gemstones and semiprecious stones in, under or upon the land leased.
- (14) Mining operations may be carried on, upon and in the lands below the land leased and upon and in the lands adjoining the land leased and the lands below those lands and metals and minerals may be removed there from and the Crown and any lessee or lessees under any Mining Act or Acts shall not be subject to any proceedings by way of injunction or otherwise in respect of or be liable for any damage occasioned by the letting down, subsidence or lateral movement of the land leased or any part thereof or otherwise by reason of the following acts and matters, that is to say, by reason of the Crown or any person on behalf of the Crown or any lessee or lessees, having worked now or hereafter working any mines or having carried on or now or hereafter carrying on mining operations or having searched for, worked, won or removed or now or hereafter searching for, working, winning or removing any metals or minerals under, in or from the lands lying beneath the land leased or any part thereof, or on, in, under or from any other lands situated laterally to the land leased or any part thereof or the lands lying beneath those lands, and whether on or below the surface of those other lands and by reason of those acts and matters or in the course thereof the Crown reserves the liberty and authority for the Crown, any person on behalf of the Crown and any lessee or lessees from time to time to let down without payment of any compensation any part of the land leased or of the surface thereof.
- (15) The lessee shall comply with the provisions of the Local Government Act 1993, and of the ordinances made thereunder.
- (16) The lessee shall not erect or permit any person to erect any buildings or extend any existing buildings on the land leased except in accordance with plans and specifications approved by the Council of the local Government area.
- (17) The lessee shall ensure that the land leased is kept in a neat and tidy condition to the satisfaction of the Commissioner and not permit refuse to accumulate on the land.
- (18) Upon termination or forfeiture of the lease the Commissioner may direct that the former lessee shall remove any structure or material from the land at his own cost and without compensation. Where such a direction has been given the former lessee shall leave the land in a clean and tidy condition free from rubbish and debris.
- (19) The lessee may enclose the leased land with a suitable fence to the satisfaction of the Commissioner, but only if it does not interfere with or impede the use of any existing track or road on the leased land or adjacent to the leased land.
- (20) If the lessee is an Australian registered company than the following conditions shall apply:
- i/ The Lessee will advise the Commissioner of the name, address and telephone number of the Lessee's company secretary, that person being a person nominated as a representative of the company in respect of any dealings to be had with the company. The Lessee agrees to advise the Commissioner of any changes in these details.
 - ii/ Any change in the shareholding of the Lessee's company which alters its effective control of the lease from that previously known to the Commissioner shall be deemed an assignment by the Lessee.
 - iii/ Where any notice or other communication is required to be served or given or which may be convenient to be served or given under or in connection with this lease it shall be sufficiently executed if it is signed by the company secretary.
 - iv/ A copy of the company's annual financial balance sheet or other financial statement which gives a true and fair view of the company's state of affairs as at the end of each financial year is to be submitted to the Commissioner upon request.

ERRATUM

In the notification appearing in the *New South Wales Government Gazette* of 1 December 2006, Folio 10138, under the heading Addition to a Western Lands Lease (being Western Lands Lease 13827), the description for the area added should have read: Lot 5075, DP 46616; Lot 5076, DP 46616 and Lot 4, DP 753003, Parish of Wyadra, County of Franklin of 204.3 hectares (Folio Identifier's 5075/46616, 5076/46616 and 4/753003).

Department of Natural Resources

WATER ACT 1912

APPLICATIONS for licenses under section 10 of Part 2 of the Water Act have been received as follows:

Anthony Charles and Roslyn Maree DRISCOLL for a pump on Howes Lagoon on Lot 1, DP 137364, Parish of Maitland, County of Northumberland for irrigation of 9.0 hectares (lucerne, pumping restrictions will apply) 20SL061699.

Gregan John and Margaret Ann McMAHON for a pump on the Williams River on Lot 75, DP 1091687, Parish of Wilmot, County of Gloucester for irrigation of 4.5 hectares (improved pasture, split of existing license 20SL028254) 20SL061689.

CORNISH GROUP PTY LTD (trading as Torryburn Stud) for two pumps on the Allyn River and a dam and pump on an Unnamed Watercourse on Lot 100, DP 1087128, Parish of Fingal, County of Durham, for conservation of water for stock purposes and irrigation of 49.5 hectares (improved pasture, replacement license, permanent water transfer from McIntyre Creek to the Allyn River with 50% reduction of transferred allocation and a further transfer from the Allyn River. Existing pumping restrictions will apply. In lieu of previous notice dated 17 September 2006, existing objections will apply) 20SL061686.

Grant Gervaise BRISCOE for two pumps on the Goulburn River on Lot 102, DP 1067152 and Lot 17, DP 753768, Parish of Baerami, County of Hunter for irrigation of 86.5 hectares (lucerne and improved pasture, replacement license, permanent water transfer) 20SL061691.

Any inquiries regarding the above should be directed to Brian McDougall (02) 4904 2546.

Written objections specifying grounds thereof must be lodged with the Department within 28 days of the date of this publication as prescribed by the Act.

HEMANTH DE SILVA,
Team Leader Water Access,
Hunter Region

Department of Natural Resources,
PO Box 2213, Dangar NSW 2309

WATER ACT 1912

APPLICATIONS under Part 2, being within a proclaimed (declared) local area under section 10 of the Water Act 1912, as amended.

Applications for licences within a proclaimed local area as generally described hereunder have been received as follows:

Macintyre-Dumaresq River Valley

Roger CARRIGAN for a 1 x 660mm pump on the Macintyre River on Lot 9, DP 840655, Parish of Canary, County of Staphylton for irrigation. Replacement licence due to permanent transfer of 44 megalitres of existing entitlement and change of purpose from irrigation to industrial. LO Papers 90SL100910. GA2 472337

Written objections to the applications specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed (declared) area, whose interest may be affected and must be lodged with the Department's Manager, Resource Access, Tamworth within 28 days as specified in the Act.

GEOFF CAMERON,
Manager Resource Access

Department of Natural Resources,
PO Box 550, Tamworth NSW 2340

WATER ACT 1912

APPLICATIONS under Part 2, being within a proclaimed (declared) local area under section 10 of the Water Act 1912, as amended.

Applications for licences within a proclaimed local area as generally described hereunder have been received as follows:

Namoi River Valley

Rex MORGAN and Jennifer May TOUT for 3 x 80mm pump on the Peel River on Lot 32, DP 816506 and Lot 604, DP 818933, Parish of Loomberah, County of Parry for irrigation. Replacement licence due to permanent transfer of 42 megalitres of existing entitlement from Terry James and Valda Marie Tout. L.O. Papers 90SL100914. GA2472340.

Written objections to the applications specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed (declared) area, whose interest may be affected and must be lodged with the Department's Manager, Resource Access, Tamworth within 28 days as specified in the Act.

GEOFF CAMERON,
Manager Resource Access

Department of Natural Resources,
PO Box 550, Tamworth NSW 2340

WATER ACT 1912

AN application under Part 8, being within a proclaimed local area under section 5 (4) of the Water Act.

An application for approval of a controlled work under section 167 within the proclaimed local area described hereunder has been received as follows:

Mooki River Valley

MORCOT FARMING PTY LIMITED for Controlled Works consisting of supply channels and water storage On the Liverpool Plains Floodplain on Lot4, DP 539766, Parish of Texas County of Buckland son the property known as "Morwell" for irrigation and/or drainage development on the floodplain and conservation of water. Reference: 90CW810951

Written objections to the application specifying the grounds thereof may be made by any statutory authority or local occupier within the Proclaimed Area, whose interest may be affected must be lodged with the Department's Resource Access Manager at Tamworth by 4 January 2007.

Plans showing the location of the works referred to in the above applications may be viewed at the Tamworth or Narrabri office of the Department of Natural Resources.

GA2: 472338

GEOFF CAMERON,
Resource Access Manager

Department of Natural Resources,
PO Box 550, Tamworth NSW 2340

WATER ACT 1912

AN application under Part 8, being within a proclaimed local area under section 5 (4) of the Water Act.

An application for approval of a controlled work under section 167 within the proclaimed local area described hereunder has been received as follows:

Namoi River Valley

Alastair Laurence and Carrie Lynn HAIRE for Controlled Works consisting of Levees and Supply Channels on the Lower Namoi Floodplain on Lot 16, DP 753945 Parish of Merah North County of Jamison on the property known as "Wilgamere" for the prevention of inundation of land irrigation and/or drainage development on the floodplain Reference: 90CW810952

Written objections to the application specifying the grounds thereof may be made by any statutory authority or local occupier within the Proclaimed Area, whose interest may be affected must be lodged with the Department's Resource Access Manager at Tamworth by 4 January 2007.

Plans showing the location of the works referred to in the above applications may be viewed at the Tamworth or Narrabri office of the Department of Natural Resources.

GA2: 472339

GEOFF CAMERON,
Resource Access Manager

Department of Natural Resources,
PO Box 550, Tamworth NSW 2340

Department of Planning

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

ORDER

I, the Minister for Planning, order, under section 75B (1) of the Environmental Planning and Assessment Act 1979, that the development described in the Schedule is a project to which Part 3A of the Environmental Planning and Assessment Act 1979 applies.

FRANK SARTOR, M.P.,
Minister for Planning

Sydney, 5 December 2006.

SCHEDULE

Development for the purposes of upgrading the following segments of the Pacific Highway, located within the Tweed, Byron, Ballina, Richmond Valley, Clarence Valley, Coffs Harbour, Bellingen, Nambucca, Kempsey, Port Macquarie-Hastings, Port Stephens and Newcastle Local Government Areas and at the locations shown on the map marked 'Pacific Highway Upgrade Planning Projects', to achieve at least four lanes of dual carriageway ('the Project'):

1. Banora Point, from the northern extent of the completed Chinderah bypass extending approximately 2.5 kilometres to the southern extent of the Tweed Heads bypass north of Minjungbal Drive.
2. Tintenbar to Ewingsdale, from Ross Lane approximately 13 kilometres north of Ballina extending for approximately 17 kilometres to the existing Ewingsdale interchange approximately 32 kilometres north of Ballina.
3. Woodburn to Ballina, from approximately 3 kilometres south of Woodburn extending for approximately 36 kilometres to the Ballina bypass approximately 6 kilometres south of Ballina.
4. Iluka Road to Woodburn, from the Iluka Road intersection extending for approximately 35 kilometres to a point approximately 3 kilometres of south Woodburn.
5. Wells Crossing to Iluka Road, from approximately 23 kilometres south of Grafton extending for approximately 71 kilometres to the Iluka Road intersection approximately 56 kilometres north of Grafton.
6. Woolgoolga to Wells Crossing, from Arrawarra Creek, approximately 5 kilometres north of Woolgoolga extending for approximately 28 kilometres to the intersection of the Pacific Highway and Bald Knob Tick Gate Road.
7. Sapphire to Woolgoolga, from Campbell Close approximately 8 kilometres north of Coffs Harbour extending for approximately 25 kilometres to the intersection with Arrawarra Beach Road approximately 31 kilometres north of Coffs Harbour.
8. Coffs Harbour Bypass, from approximately 700 metres south of the Englands Road intersection extending for approximately 12 kilometres to approximately 500 metres south of Old Coast Road.
9. Macksville to Urunga, from Crouchs Creek approximately 47 kilometres north of Kempsey extending for approximately 37 kilometres to Waterfall Way Bridge approximately 88 kilometres north of Kempsey.
10. Warrell Creek, from south of Warrell Creek approximately 42 kilometres north of Kempsey extending for approximately 6 kilometres to Crouchs Creek approximately 47 kilometres north of Kempsey.
11. Kempsey to Eungai, from approximately 7 kilometres south of Kempsey extending for approximately 41 kilometres to approximately 34 kilometres north of Kempsey.
12. Oxley Highway to Kempsey, from the intersection of the Pacific Highway and the Oxley Highway extending for approximately 37 kilometres to the Maria River south of Kempsey.
13. F3 Freeway to Raymond Terrace, from the F3 Freeway approximately 1 kilometre south of the John Renshaw Drive Roundabout extending for approximately 15 kilometres to approximately 1.5 kilometres of Masonite Road, Raymond Terrace.

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

- a) construction (including demolition works) and operation (excluding maintenance) of the Project;
- b) access for construction and operation of the Project including access for pedestrians, public transport and vehicles;
- c) environmental management and pollution control for the Project;
- d) associated interchanges, intersections, bridges, overpasses, ramps, service roads and road modifications for the Project;
- e) any changes to the route of the existing carriageway or road for the Project;
- f) any re-alignment, modification, demolition or replacement of the existing carriageway or road for the Project; and
- g) any winning or obtaining extractive material as part of the construction work for the Project.

Development does not include activities comprising of surveys, test drilling, test excavations, preliminary geotechnical investigations or the like associated with the design and environmental assessments required for the Project prior to the commencement of construction.



ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Declaration of Critical Infrastructure Project

I, the Minister for Planning, declare under section 75C of the *Environmental Planning and Assessment Act 1979*, that the project referred to in the Schedule is a critical infrastructure project, having formed the opinion that the project is essential for the State for economic and social reasons.

FRANK SARTOR, M.P.,
Minister for Planning

Sydney, 5 December 2006.

SCHEDULE

Development for the purposes of upgrading the following segments of the Pacific Highway, located within the Tweed, Byron, Ballina, Richmond Valley, Clarence Valley, Coffs Harbour, Bellingen, Nambucca, Kempsey, Port Macquarie-Hastings, Port Stephens and Newcastle Local Government Areas and at the locations shown on the map marked 'Pacific Highway Upgrade Planning Projects', to achieve at least four lanes of dual carriageway ('the Project'):

1. Banora Point, from the northern extent of the completed Chinderah bypass extending approximately 2.5 kilometres to the southern extent of the Tweed Heads bypass north of Minjungbal Drive.
2. Tintenbar to Ewingsdale, from Ross Lane approximately 13 kilometres north of Ballina extending for approximately 17 kilometres to the existing Ewingsdale interchange approximately 32 kilometres north of Ballina.
3. Woodburn to Ballina, from approximately 3 kilometres south of Woodburn extending for approximately 36 kilometres to the Ballina bypass approximately 6 kilometres south of Ballina.
4. Iluka Road to Woodburn, from the Iluka Road intersection extending for approximately 35 kilometres to a point approximately 3 kilometres south of Woodburn.
5. Wells Crossing to Iluka Road, from approximately 23 kilometres south of Grafton extending for approximately 71 kilometres to the Iluka Road intersection approximately 56 kilometres north of Grafton.
6. Woolgoolga to Wells Crossing, from Arrawarra Creek, approximately 5 kilometres north of Woolgoolga extending for approximately 28 kilometres to the intersection of the Pacific Highway and Bald Knob Tick Gate Road.
7. Sapphire to Woolgoolga, from Campbell Close approximately 8 kilometres north of Coffs Harbour extending for approximately 25 kilometres to the intersection with Arrawarra Beach Road approximately 31 kilometres north of Coffs Harbour.
8. Coffs Harbour Bypass, from approximately 700 metres south of the Englands Road intersection extending for approximately 12 kilometres to approximately 500 metres south of Old Coast Road.
9. Macksville to Urunga, from Crouchs Creek approximately 47 kilometres north of Kempsey extending for approximately 37 kilometres to Waterfall Way Bridge approximately 88 kilometres north of Kempsey.
10. Warrell Creek, from south of Warrell Creek approximately 42 kilometres north of Kempsey extending for approximately 6 kilometres to Crouchs Creek approximately 47 kilometres north of Kempsey.
11. Kempsey to Eungai, from approximately 7 kilometres south of Kempsey extending for approximately 41 kilometres to approximately 34 kilometres north of Kempsey.
12. Oxley Highway to Kempsey, from the intersection of the Pacific Highway and the Oxley Highway extending for approximately 37 kilometres to the Maria River south of Kempsey.
13. F3 Freeway to Raymond Terrace, from the F3 Freeway approximately 1 kilometre south of the John Renshaw Drive Roundabout extending for approximately 15 kilometres to approximately 1.5 kilometres of Masonite Road, Raymond Terrace.

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

- a) construction (including demolition works) and operation (excluding maintenance) of the Project;
- b) access for construction and operation of the Project including access for pedestrians, public transport and vehicles;
- c) environmental management and pollution control for the Project;
- d) associated interchanges, intersections, bridges, overpasses, ramps, service roads and road modifications for the Project;
- e) any changes to the route of the existing carriageway or road for the Project;
- f) any re-alignment, modification, demolition or replacement of the existing carriageway or road for the Project; and
- g) any winning or obtaining extractive material as part of the construction work for the Project.

Development does not include activities comprising of surveys, test drilling, test excavations, preliminary geotechnical investigations or the like associated with the design and environmental assessments required for the Project prior to the commencement of construction.



ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Declaration of Critical Infrastructure Project

I, the Minister for Planning, declare under section 75C of the Environmental Planning and Assessment Act 1979, that the project referred to in the Schedule is a critical infrastructure project, having formed the opinion that the project is essential for the State for economic and social reasons.

FRANK SARTOR, M.P.,
Minister for Planning

Sydney, 5 December 2006.

SCHEDULE

Development for the purposes of upgrading the following segments of the Hume Highway, located within the Greater Hume and Wagga Wagga Local Government Areas and at the locations shown on the map marked 'Hume Highway Duplication', to achieve four lanes of dual carriageway ('the Project'):

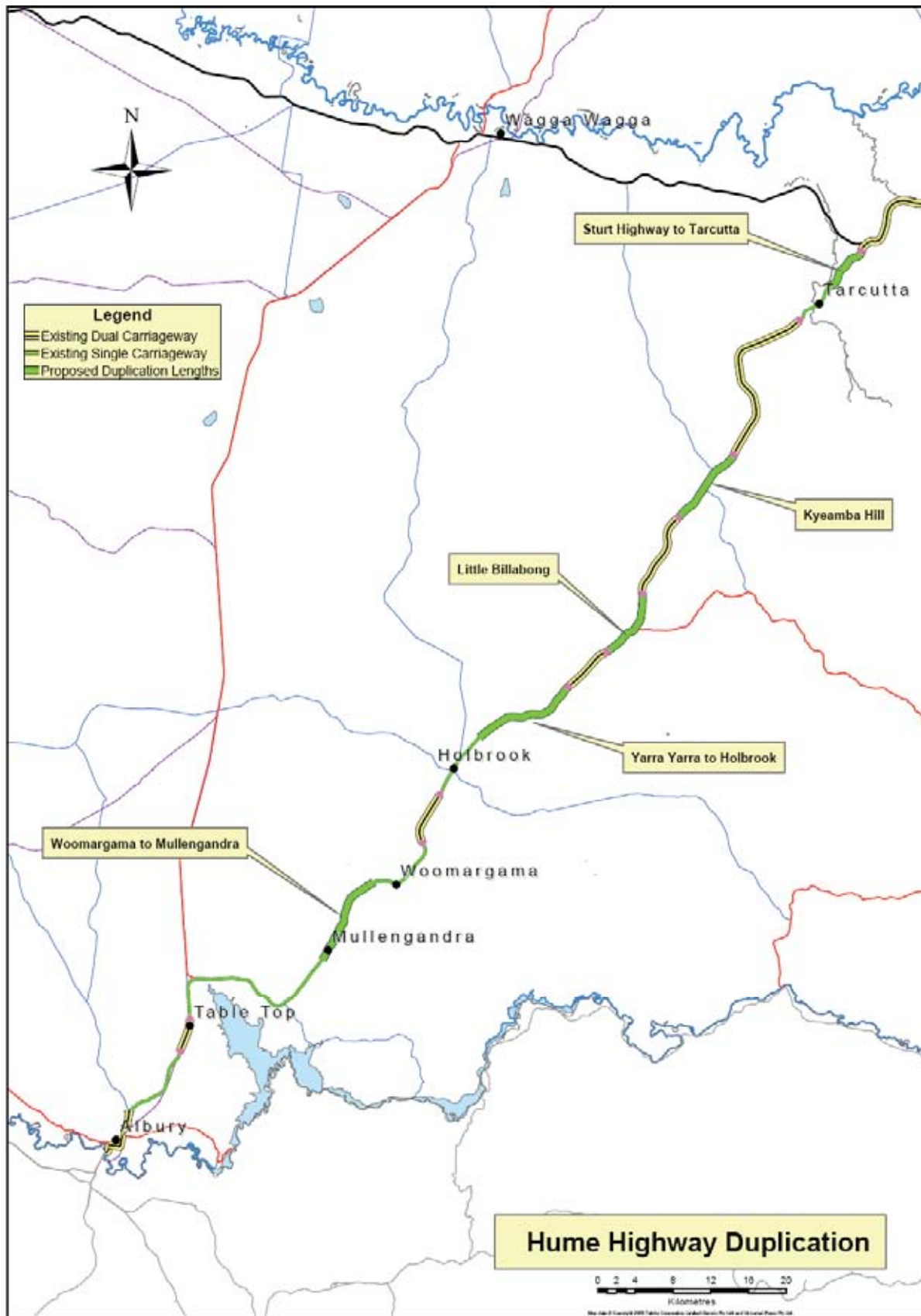
1. Sturt Highway to Tarcutta, from approximately 37 kilometres south of Gundagai to approximately 43 kilometres south of Gundagai;
2. Kyeamba Hill, from approximately 67 kilometres south of Gundagai to approximately 76 kilometres south of Gundagai;
3. Little Billabong, from approximately 85 kilometres south of Gundagai to approximately 93 kilometres south of Gundagai;
4. Yarra Yarra to Holbrook, from approximately 98 kilometres south of Gundagai to approximately 110 kilometres south of Gundagai;
5. Woomargama to Mullengandra, from approximately 131 kilometres south of Gundagai to approximately 141 kilometres south of Gundagai.

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

- a) construction (including demolition works) and operation of the Project;
- b) access for the construction and operation of the Project, including access for pedestrians, public transport and vehicles;
- c) environmental management and pollution control for the Project;
- d) associated interchanges, intersections, bridges, overpasses, ramps, service roads and road modifications for the Project;
- e) any changes to the route of the existing carriageway or road for the Project;
- f) any re-alignment, modification, demolition or replacement of the existing carriageway or road for the Project; and
- g) any winning or obtaining extractive material as part of construction work for the Project.

Development does not include activities comprising of surveys, test drilling, test excavations, preliminary geotechnical investigations or the like associated with the design and environmental assessments required for the Project prior to the commencement of construction.

Hume Highway Duplication





New South Wales

State Environmental Planning Policy No 62—Sustainable Aquaculture (Amendment No 3)

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Planning. (S06/00687)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 State Environmental Planning Policy No 62—Sustainable Aquaculture
(Amendment No 3)

State Environmental Planning Policy No 62— Sustainable Aquaculture (Amendment No 3)

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy No 62—Sustainable Aquaculture (Amendment No 3)*.

2 Aims of Policy

The aims of this Policy are:

- (a) to identify priority oyster aquaculture areas (*priority areas*) in accordance with the Government's *NSW Oyster Industry Sustainable Aquaculture Strategy*, and
- (b) to make oyster aquaculture development in priority areas permissible without consent, and
- (c) to retain the requirement for consent for oyster aquaculture development outside priority areas, and
- (d) to require the Director-General of the Department of Primary Industries to be notified of any application for consent to a development that, because of its proposed location, may affect a priority oyster aquaculture area or oyster aquaculture outside such an area, and
- (e) to remove the requirement for certain classes of oyster aquaculture development to be approved under Part 3A of the Act, and
- (f) to protect priority areas and oyster aquaculture development outside these areas from new development that is unrelated to oyster aquaculture that may have adverse impacts on water quality (and, consequently, on the health of oysters and oyster consumers) by introducing particular requirements for the assessment of such development.

3 Land to which Policy applies

- (1) In so far as this Policy amends *State Environmental Planning Policy No 62—Sustainable Aquaculture* it applies to all the land to which that Policy applies.

State Environmental Planning Policy No 62—Sustainable Aquaculture
(Amendment No 3)

Clause 4

(2) In so far as this Policy amends *State Environmental Planning Policy (Major Projects) 2005* it applies to the State.

4 Amendment of State Environmental Planning Policy No 62—Sustainable Aquaculture

State Environmental Planning Policy No 62—Sustainable Aquaculture is amended as set out in Schedule 1.

5 Amendment of State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 is amended as set out in Schedule 2.

State Environmental Planning Policy No 62—Sustainable Aquaculture
(Amendment No 3)

Schedule 1 Amendment of State Environmental Planning Policy No 62—Sustainable
Aquaculture

Schedule 1 Amendment of State Environmental Planning Policy No 62—Sustainable Aquaculture

(Clause 4)

[1] Clause 4 Definitions

Insert in alphabetical order in clause 4 (1):

NSW Oyster Industry Sustainable Aquaculture Strategy means the New South Wales Department of Primary Industries publication of that title, as published in 2006.

oyster aquaculture development means development for the purposes of oyster aquaculture.

priority oyster aquaculture area means an area identified as a priority oyster aquaculture area on a map referred to in Chapter 5.3 of the *NSW Oyster Industry Sustainable Aquaculture Strategy*, being a map a copy of which is held in the head office of the Department of Primary Industries.

[2] Clause 5 Where this Policy applies

Omit clause 5 (b). Insert instead:

- (b) in relation to natural water-based aquaculture in the form of oyster aquaculture—to the State, and
- (ba) in relation to other forms of natural water-based aquaculture—to the parts of the State described in Schedule 2.

[3] Clause 5A

Insert after clause 5:

5A Development to which this Policy applies

- (1) This Policy, other than Part 3A, applies to aquaculture development.
- (2) Part 3A applies to all development.

[4] Clause 8 Natural water-based aquaculture (other than oyster aquaculture) permissible with consent

Insert “, other than oyster aquaculture development” after “Policy applies” in clause 8 (1).

State Environmental Planning Policy No 62—Sustainable Aquaculture
(Amendment No 3)

Amendment of State Environmental Planning Policy No 62—Sustainable Aquaculture Schedule 1

[5] Clauses 8A

Insert after clause 8:

8A Oyster aquaculture development permissible

- (1) A person may carry out oyster aquaculture development only with development consent, except as provided by subclause (3).
- (2) The consent authority for oyster aquaculture development is the council of the area in which the development is to be carried out.
Note. Sections 19 and 20 of the *Marine Parks Act 1997* impose requirements relating to a determining authority's approval, or carrying out, of an activity within a marine park and a consent authority's consideration of a development application for the carrying out of development within a marine park.
- (3) A person may carry out oyster aquaculture development without the need for development consent:
 - (a) on any land that is wholly within a priority oyster aquaculture area, or
 - (b) on any land that is partly within and partly outside a priority oyster aquaculture area, but only if the land outside the area is no more than 0.1 hectare in area.

[6] Clause 9 Consent authority for permissible aquaculture

Omit "State significant". Insert instead "oyster aquaculture".

[7] Clause 10 Consent authority to take aquaculture industry development plan into consideration

Insert at the end of clause 10:

- (2) Without limiting subclause (1), in determining a development application for oyster aquaculture development the consent authority is to take into consideration the *NSW Oyster Industry Sustainable Aquaculture Strategy*.

[8] Clause 11 Other aquaculture development prohibited

Insert "(whether with or without consent)" after "permissible".

[9] Clause 12 Project profile analysis

Insert after clause 12 (4):

- (5) This clause does not apply with respect to oyster aquaculture development.
Note. Suitability of sites for oyster aquaculture development is to be assessed having regard to the *NSW Oyster Industry Sustainable Aquaculture Strategy*—see clause 10.

State Environmental Planning Policy No 62—Sustainable Aquaculture
(Amendment No 3)

Schedule 1 Amendment of State Environmental Planning Policy No 62—Sustainable
Aquaculture

[10] Clause 13 Categorisation of development having regard to project profile analysis

Insert after clause 13 (3):

- (4) This clause does not apply with respect to oyster aquaculture development.

[11] Part 3A

Insert after Part 3:

Part 3A Consideration of effects of proposed development on oyster aquaculture

15A Application of Part

This Part applies to all development and all land.

15B Consultation with Director-General of Primary Industries

- (1) Before determining a development application for any development, a consent authority:
- (a) must consider whether, because of its nature and location, the development may have an adverse effect on oyster aquaculture development or a priority oyster aquaculture area, and
 - (b) if it suspects that the development may have that effect, must give notice of the application to the Director-General of the Department of Primary Industries.
- (2) In determining a development application for any development, a consent authority must consider any comments received from the Director-General of the Department of Primary Industries pursuant to subclause (1), including, in particular, such comments as identify:
- (a) any adverse effect that the development may have on, or ways in which the development may impede or be incompatible with, any oyster aquaculture development or priority oyster aquaculture area, and
 - (b) any measures to avoid or minimise any such adverse effect, impediment or incompatibility.

Note. Development may be incompatible with or impede oyster aquaculture if, for example, the development will limit access to oyster leases or have an impact on water quality and, consequently, on the health of oysters and of consumers of those oysters.

State Environmental Planning Policy No 62—Sustainable Aquaculture
(Amendment No 3)

Amendment of State Environmental Planning Policy No 62—Sustainable Aquaculture Schedule 1

- (3) This clause does not require a consent authority to consider any comments received more than 21 days after notice was given as referred to in subclause (1) (b).

15C Development consent may be refused if development adversely affects oyster aquaculture

A consent authority may refuse to grant consent to development:

- (a) if it is satisfied that the development will have an adverse effect on, or impede or be incompatible with:
- (i) any oyster aquaculture development that is being carried out (whether or not within a priority oyster aquaculture area), or
 - (ii) any oyster aquaculture development that may in the future be carried out within a priority oyster aquaculture area, or
- (b) if it is not satisfied that appropriate measures will be taken to avoid or minimise any such adverse effect, impediment or incompatibility.

15D NSW Oyster Industry Strategy to be considered

In exercising their functions under this Part, a consent authority and the Director-General of the Department of Primary Industries must each take into consideration the *NSW Oyster Industry Sustainable Aquaculture Strategy*.

[12] Clause 19

Insert after clause 18:

19 Application of amendments made by SEPP No 62—Sustainable Aquaculture (Amendment No 3)

An application for or with respect to:

- (a) an approval under Part 3A of the Act, or
(b) development consent under Part 4 of the Act,

in relation to oyster aquaculture development, being an application that was made but not finally determined before the commencement of *State Environmental Planning Policy No 62—Sustainable Aquaculture (Amendment No 3)*, is to be determined as if that Policy had not commenced.

State Environmental Planning Policy No 62—Sustainable Aquaculture
(Amendment No 3)

Schedule 2 Amendment of State Environmental Planning Policy (Major Projects) 2005

Schedule 2 Amendment of State Environmental Planning Policy (Major Projects) 2005

(Clause 5)

Schedule 1 Part 3A projects—classes of development

Insert after clause 2 (2):

- (3) This clause does not apply to development for the purpose of oyster aquaculture.

Note. Subclause (3) is affected by clause 19 of *State Environmental Planning Policy No 62—Sustainable Aquaculture*, which relates to applications under the Act with respect to oyster aquaculture that were pending immediately before the commencement of subclause (3).



New South Wales

Lane Cove Local Environmental Plan 1987 (Amendment No 65)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S06/00558/S69)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 Lane Cove Local Environmental Plan 1987 (Amendment No 65)

Lane Cove Local Environmental Plan 1987 (Amendment No 65)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Lane Cove Local Environmental Plan 1987 (Amendment No 65)*.

2 Aims of plan

This plan aims to permit, with the consent of Lane Cove Council, the carrying out of development on the land to which this plan applies for the purpose of a child care centre.

3 Land to which plan applies

This plan applies to all land within Zone No 4 (a) (Industrial General Zone) under *Lane Cove Local Environmental Plan 1987*.

4 Amendment of Lane Cove Local Environmental Plan 1987

Lane Cove Local Environmental Plan 1987 is amended by inserting in alphabetical order in item 3 of the matter relating to Zone No 4 (a) in the Table to clause 9 the words "child care centres;".



New South Wales

Lismore Local Environmental Plan 2000 (Amendment No 28)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (GRA6323859/PC)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 Lismore Local Environmental Plan 2000 (Amendment No 28)

Lismore Local Environmental Plan 2000 (Amendment No 28)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Lismore Local Environmental Plan 2000 (Amendment No 28)*.

2 Aims of plan

This plan aims to rezone the land to which this plan applies from Zone No 1 (a) (the General Rural Zone) to partly Zone No 4 (a) (the Industrial Zone) and partly Zone No 6 (a) (the Recreation Zone) under *Lismore Local Environmental Plan 2000*.

3 Land to which plan applies

This plan applies to Lot 12, DP 858912, Holland Street, Goonellabah, as shown edged heavy black and lettered “4 (a)” or “6 (a)” on the map marked “Lismore Local Environmental Plan 2000 (Amendment No 28)” deposited in the office of Lismore City Council.

4 Amendment of Lismore Local Environmental Plan 2000

Lismore Local Environmental Plan 2000 is amended by inserting in appropriate order in the definition of *the map* in Schedule 7 the following words:

Lismore Local Environmental Plan 2000 (Amendment No 28)



New South Wales

Mosman Local Environmental Plan 1998 (Amendment No 23)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (9041094/S69)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 Mosman Local Environmental Plan 1998 (Amendment No 23)

Mosman Local Environmental Plan 1998 (Amendment No 23)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Mosman Local Environmental Plan 1998 (Amendment No 23)*.

2 Aims of plan

This plan aims to amend *Mosman Local Environmental Plan 1998* to allow, with the consent of Mosman Municipal Council, the carrying out of development on the land to which this plan applies for the purpose of a child care centre.

3 Land to which plan applies

This plan applies to land situated in the local government area of Mosman, being land known as the Warringah Bowling Club site, Nos 72–82 Bradleys Head Road, Mosman.

4 Amendment of Mosman Local Environmental Plan 1998

Mosman Local Environmental Plan 1998 is amended by inserting at the end of Schedule 6 under the headings “**Property**” and “**Development**”, respectively, the following words:

Warringah Bowling Club site,
72–82 Bradleys Head Road

Development for the purpose of a
child care centre.



New South Wales

Nambucca Local Environmental Plan 1995 (Amendment No 57)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (GRA6322734/PC)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 Nambucca Local Environmental Plan 1995 (Amendment No 57)

Nambucca Local Environmental Plan 1995 (Amendment No 57)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Nambucca Local Environmental Plan 1995 (Amendment No 57)*.

2 Aims of plan

This plan aims to allow, with the consent of Nambucca Shire Council, the carrying out of development on the land to which this plan applies (being land zoned 1 (a2) Rural (Prime/Flooding) under *Nambucca Local Environmental Plan 1995*) for the purpose of a crematorium.

3 Land to which plan applies

This plan applies to Lot 51, DP 613620, Foxs Road, Nambucca Heads, as shown edged heavy black on the map marked “Nambucca Local Environmental Plan 1995 (Amendment No 57)” deposited in the office of Nambucca Shire Council.

4 Amendment of Nambucca Local Environmental Plan 1995

Nambucca Local Environmental Plan 1995 is amended by inserting at the end of the matter relating to Nambucca Heads in Schedule 5 the following words:

Lot 51, DP 613620, Foxs Road, Nambucca Heads—
crematorium.



New South Wales

Scone Local Environmental Plan 1986 (Amendment No 64)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (NEW0000291/S69)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 Scone Local Environmental Plan 1986 (Amendment No 64)

Scone Local Environmental Plan 1986 (Amendment No 64)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Scone Local Environmental Plan 1986 (Amendment No 64)*.

2 Aims of plan

This plan aims to amend *Scone Local Environmental Plan 1986* to enable development in certain zones for the purposes of renewable energy generation.

3 Land to which plan applies

This plan applies to all land within Zone No 1 (d) (Rural Holdings Zone), Zone No 1 (e) (General Agricultural Zone), Zone No 1 (s) (Small Farm Zone) and Zone No 7 (a) (Environment Protection “A”—Scenic Zone) under *Scone Local Environmental Plan 1986*.

4 Amendment of Scone Local Environmental Plan 1986

Scone Local Environmental Plan 1986 is amended as set out in Schedule 1.

Score Local Environmental Plan 1986 (Amendment No 64)

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 4)

[1] Clause 5 Interpretation

Insert in alphabetical order in clause 5 (1):

eco-generating works means a building, work or place used for the generation of energy using:

- (a) renewable resources, such as solar, wind or tidal energy and the like, or
- (b) resources such as methane gas produced from land-fill operations.

[2] Clause 8 Zones and development control table

Insert “(other than eco-generating works)” after “generating works” in item 4 (Prohibited) of the matter relating to Zone No 1 (d) in the Table to the clause.

[3] Clause 8, Table

Insert “(other than eco-generating works)” after “generating works” in item 4 (Prohibited) of the matter relating to Zone No 1 (e).

[4] Clause 8, Table

Insert “(other than eco-generating works)” after “generating works” in item 4 (Prohibited) of the matter relating to Zone No 1 (s).

[5] Clause 8, Table

Insert “eco-generating works;” after “dwelling-houses;” in item 3 (Only with development consent) of the matter relating to Zone No 7 (a).

Department of Primary Industries

PLANT DISEASES ACT 1924

Proclamation – P135R

Proclamation to revoke P135, P142, P145 and P161 that regulated the importation, introduction or bringing into specified parts of New South Wales of certain fruit on account of outbreaks of Queensland fruit fly

Her Excellency Professor MARIE BASHIR, AC, CVO,
Governor

I, Professor MARIE BASHIR, AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council and pursuant to section 3(2)(a) of the Plant Diseases Act 1924, revoke Proclamation P135 published in *New South Wales Government Gazette* No. 25 of 24 January 2003 at pages 459 and 460, Proclamation P142 published in *New South Wales Government Gazette* No. 132 of 29 August 2003 at pages 8961-8963, Proclamation P145 published in *New South Wales Government Gazette* No. 19 of 30 January 2004 at pages 330 and 331, Proclamation P161 published in *New South Wales Government Gazette* No. 30 of 4 March 2005 at pages 677 and 678, and any Proclamation revived as a result of their revocation.

Note Proclamation P135 was amended by an Erratum (see *New South Wales Government Gazette* No. 45 of 14 February 2003 at page 1646). The revocation of Proclamation P135 effected by this Proclamation includes the revocation of that Erratum.

Signed and sealed at Sydney, this 29th day of November 2006.

By Her Excellency's Command,

IAN MACDONALD, M.L.C.,
Minister for Primary Industries

GOD SAVE THE QUEEN!

MINERAL RESOURCES

NOTICE is given that the following applications have been received:

EXPLORATION LICENCE APPLICATIONS

(06-7069)

No. 2937, ALLIANCE FUEL CELLS PEM PTY LTD (ACN 096 947 223), area of 355 units, for Group 1, dated 29 November 2006. (Broken Hill Mining Division).

(06-7070)

No. 2938, ROSANE PTY LTD (ACN 102 903 837), area of 220 units, for Group 1, dated 30 November 2006. (Broken Hill Mining Division).

(06-7071)

No. 2939, DAVID HOBBY AND BELINDA MAREE HOBBY, area of 3 units, for Group 1, dated 4 December 2006. (Orange Mining Division).

(06-7073)

No. 2941, GOLD FIELDS AUSTRALASIA PTY LTD (ACN 087 624 600), area of 100 units, for Group 1, dated 5 December 2006. (Broken Hill Mining Division).

(06-7074)

No. 2942, GOLD FIELDS AUSTRALASIA PTY LTD (ACN 087 624 600), area of 99 units, for Group 1, dated 5 December 2006. (Broken Hill Mining Division).

(06-7075)

No. 2943, GOLD FIELDS AUSTRALASIA PTY LTD (ACN 087 624 600), area of 79 units, for Group 1, dated 5 December 2006. (Broken Hill Mining Division).

(06-7076)

No. 2944, GOLD FIELDS AUSTRALASIA PTY LTD (ACN 087 624 600), area of 94 units, for Group 1, dated 5 December 2006. (Broken Hill Mining Division).

(06-7077)

No. 2945, GOLD FIELDS AUSTRALASIA PTY LTD (ACN 087 624 600), area of 100 units, for Group 1, dated 5 December 2006. (Broken Hill Mining Division).

(06-7078)

No. 2946, GOLD FIELDS AUSTRALASIA PTY LTD (ACN 087 624 600), area of 100 units, for Group 1, dated 5 December 2006. (Broken Hill Mining Division).

(06-7079)

No. 2947, GOLD FIELDS AUSTRALASIA PTY LTD (ACN 087 624 600), area of 76 units, for Group 1, dated 5 December 2006. (Broken Hill Mining Division).

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources.

NOTICE is given that the following application has been granted:

EXPLORATION LICENCE APPLICATION

(06-218)

No. 2736, now Exploration Licence No. 6662, CLANCY EXPLORATION PTY LTD (ACN 105 578 756), County of Lincoln, Map Sheet (8633, 8733), area of 31 units, for Group 1, dated 15 November 2006, for a term until 14 November 2008.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources.

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

(05-1011)

Exploration Licence No. 5662, PEREGRINE MINERAL SANDS N.L. (ACN 009 307 591), area of 80 units. Application for renewal received 4 December 2006.

(T00-0093)

Exploration Licence No. 5800, NORTH MINING LIMITED (ACN 000 081 434), area of 42 units. Application for renewal received 4 December 2006.

(T02-0078)

Exploration Licence No. 6036, PLATSEARCH NL (ACN 003 254 395), area of 15 units. Application for renewal received 1 December 2006.

(04-613)

Exploration Licence No. 6363, PLATSEARCH NL (ACN 003 254 395) AND EAGLEHAWK GEOLOGICAL CONSULTING PTY LTD (ACN 061 324 454), area of 51 units. Application for renewal received 29 November 2006.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources.

(T99-0226)

Exploration Licence No. 5765, PLATSEARCH NL (ACN 003 254 395) AND EAGLEHAWK GEOLOGICAL CONSULTING PTY LTD (ACN 061 324 454), Counties of Menindee and Yancowinna, Map Sheet (7133), area of 24 units, for a further term until 21 August 2008. Renewal effective on and from 21 November 2006.

(C00-1585)

Exploration Licence No. 5888, BICKHAM COAL COMPANY PTY. LIMITED (ACN 087 270 899), County of Brisbane, Map Sheet (9034), area of 2040 hectares, for a further term until 27 May 2009. Renewal effective on and from 9 November 2006.

RENEWAL OF CERTAIN AUTHORITIES

NOTICE is given that the following authorities have been renewed:

(T93-0814)

Exploration Licence No. 4657, PLATSEARCH NL (ACN 003 254 395), County of Yancowinna, Map Sheet (7134), area of 5 units, for a further term until 20 April 2008. Renewal effective on and from 27 November 2006.

(T94-0244)

Exploration Licence No. 4848, ROBERT PATRICK HEWETT, County of Hawes, Map Sheet (9234), area of 1 units, for a further term until 18 August 2008. Renewal effective on and from 1 December 2006.

(T99-0224)

Exploration Licence No. 5764, PLATSEARCH NL (ACN 003 254 395) AND EAGLEHAWK GEOLOGICAL CONSULTING PTY LTD (ACN 061 324 454), County of Yancowinna, Map Sheet (7134, 7234), area of 16 units, for a further term until 21 August 2008. Renewal effective on and from 30 November 2006.

(T04-0045)

Exploration Licence No. 6286, PROTO RESOURCES AND INVESTMENTS LTD (ACN 108 507 517), Counties of Evelyn and Tongowoko, Map Sheet (7238, 7239), area of 49 units, for a further term until 22 August 2008. Renewal effective on and from 17 November 2006.

(T86-0334)

Exploration (Prospecting) Licence No. 1094, ROBERT PATRICK HEWETT, County of Hawes, Map Sheet (9234), area of 2 units, for a further term until 18 August 2008. Renewal effective on and from 1 December 2006.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources.

NSW Oyster Industry

Sustainable Aquaculture Strategy

2006

A NSW Government Initiative

The NSW Oyster Industry Sustainable Aquaculture Strategy

A NSW Government initiative of Premiers Department, Department of Primary Industries, Department of Planning, Department of Natural Resources, Department of State and Regional Development, Department of Environment and Conservation, Department of Lands and NSW Maritime Authority to encourage sustainable oyster aquaculture in New South Wales.

ISBN 0 7347 1776 8

Published by NSW Department of Primary Industries
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Disclaimer

The information contained in this publication is based on knowledge and understanding at the time of writing. However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of New South Wales Department of Primary Industries or the user's independent adviser.

NSW Oyster Industry Sustainable Aquaculture Strategy**Foreword**

Aquaculture is one of the fastest-growing industries in the world. More than 30 per cent of worldwide seafood consumption is produced through aquaculture.

NSW is capable of capturing a significant proportion of this dynamic growth industry.

The State Government recognises the great potential of aquaculture, as a way of generating jobs, supporting regional businesses and communities.

We remain focused on implementing measures to stimulate further investment opportunities in aquaculture throughout the State while maintaining strict environmental standards.

The NSW Oyster Industry Sustainable Aquaculture Strategy (OISAS) is a major part of this commitment.

The NSW oyster industry accounts for nearly 70% of the value of NSW aquaculture production. With a history of over 100 years, the industry is an icon to many NSW coastal communities and provides invaluable employment and economic opportunities.

OISAS is the result of a collaborative process that included the 'whole-of-Government', the oyster industry and the community who all contributed to its development. This important industry planning document strives to facilitate community and industry confidence in oyster aquaculture and is a milestone for profitable, sustainable oyster aquaculture in NSW estuaries.

We look forward to the continued close cooperation of all interested parties in the implementation of this Strategy.

The Hon. Frank Sartor, MP
Minister for Planning

The Hon. I M Macdonald MLC
Minister for Primary Industries

NSW Oyster Industry Sustainable Aquaculture Strategy

Executive Summary

The New South Wales oyster aquaculture industry is Australia's largest producer of edible oysters, the fourth largest Australian aquaculture industry and accounts for nearly 70% of the value of NSW aquaculture production. It is the state's most valuable fishery.

The 2003/04 production of 72,853 bags of oysters confirms a relatively stable trend for the last eight years. This stable period comes after nearly 20 years of declining production from a peak of 146,500 bags in 1976/77.

It is estimated that the sustainable production level for oysters in NSW estuaries is 120,000 bags and the principal aim of the NSW Oyster Industry Sustainable Aquaculture Strategy (OISAS) is to establish the regulatory environment within which the industry can grow to this level.

This growth can be achieved within the boundaries of ecological sustainability and within the boundaries developed in co-operation with all relevant State government agencies, neighboring communities and the oyster industry.

These boundaries are set physically, by the identification of suitable 'priority' areas for edible oyster aquaculture. Specifying areas where commercial oyster aquaculture is a *priority intended outcome from a state perspective* is the first recommendation of the Healthy Rivers Commission in its *Healthy Oysters, Healthy Rivers* report (HRC, 2003).

Consistent with this recommendation, every current and potential lease area in the state was individually inspected and evaluated against a list of location, environmental and socio-economic suitability criteria and classified as either suitable or unsuitable for classification as a priority oyster aquaculture area.

Management and operational boundaries are established in a set of best practice standards, which are supported by a commitment to environmentally sustainable practices.

The importance of farmed oysters to healthy estuaries should not be underestimated. They are a sentinel species, in that, if the oysters are healthy and suitable for human consumption, then it is likely that the estuary as a whole is healthy too.

On average, a farmed Sydney rock oyster will filter an estimated 0.25 ML of estuarine river water in its lifetime, removing large quantities of suspended material, chiefly nutrients bound in phytoplankton. This means that oysters are important in maintaining healthy estuaries, but in performing this role they are exceedingly vulnerable to poor estuarine water quality.

In recognition of this dichotomous relationship, OISAS establishes a set of water quality and flow objectives for oyster aquaculture areas that, if met, will provide for the healthy growth of oysters that are safe for human consumption. A set of water quality protection and improvement measures are proposed to achieve the desired water quality objectives for oyster aquaculture areas.

The assessment of all environmental aspects of oyster aquaculture in this strategy, and the establishment of best practice standards, allows for a streamlined approvals process for proposals that are located in the areas identified as priority oyster aquaculture areas. Oyster aquaculture in these areas will be 'development without consent', but will require an Aquaculture Permit and lease from the Department of Primary Industries. If these areas are on the National Parks or Marine Parks estate an additional written ministerial concurrence is required.

Oyster aquaculture outside of the scope of OISAS can be undertaken, but only with development consent from the relevant local council or Department of Planning for state significant proposals. On the National Park or Marine Park estate an approval from the relevant authority and written ministerial concurrence are required.

NSW Oyster Industry Sustainable Aquaculture Strategy

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NSW Oyster Industry Sustainable Aquaculture Strategy

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Acronyms

Acronym	Definition
AHD	Australian Height Datum
AIDP	Aquaculture Industry Development Plan
ASQAP	Australian Shellfish Quality Assurance Program
ANZECC	Australian and New Zealand Environment and Conservation Council
CSIRO	Commonwealth Scientific Industrial Research Organisation
DA	Development Application
DEC	Department of Environment and Conservation
DoP	Department of Planning
DNR	Department of Natural Resources
DPI	Department of Primary Industries
DSRD	Department of State and Regional Development
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act, 1979</i>
FAO	Food and Agricultural Organisation of the United Nations
ha	Hectare
ISO	International Standards Organisation
LEP	Local Environment Plan
NSW FA	NSW Food Authority (previously Safefood Production NSW)
NSW SP	NSW Shellfish Program
NSW	New South Wales
OISAS	Oyster Industry Sustainable Aquaculture Strategy
POEO Act	<i>Protection of the Environment Operations Act, 1997</i>
Ramsar	Convention on Wetlands of International Importance
SASC	State Aquaculture Steering Committee
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
SIS	Species Impact Statement

Definitions

Term	Definition
AHD or Australian Height Datum	A common national plane of level corresponding approximately to mean sea level.
Aquaculture	The commercial cultivation of aquatic animals or marine vegetation for the purpose of harvesting the animals or marine vegetation, or their progeny for sale, or the keeping of animals or marine vegetation in a confined area for commercial purposes.
Broodstock	A parent shellfish.
Catchment Area	A drainage area, for example for a reservoir, river or estuary (includes subject water body as well).
Carrying Capacity	The maximum biomass (weight) of shellfish that an area can support and remain commercially viable.
Classified area	An area classified under the NSW Shellfish Program.
Culling	The division by hand of clumps of oysters into single oysters or the removal by hand of unwanted marine organisms which attach to oyster crops.

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Cultivation Techniques	
Catching	The collection of wild juvenile shellfish spat - settled onto 'catching' sticks or plastic slats.
Depotting	The practice of using blocks of catching sticks bound together. The protection of the block enables oysters to grow to a size that can withstand predation by fish, prior to separation into a single layer of sticks.
Dredge Bed	An area leased for the harvest of oysters directly from the bed sediments. No oyster farming infrastructure is placed on oyster dredge bed leases.
Floating Cultivation	Sub-tidal cultivation of oysters, on sticks or in baskets suspended from tethered, low buoyancy systems that may include lines and/or polyethylene floats.
Post supported intertidal cultivation	A series of parallel vertical posts that support horizontal rails or lines on which oyster sticks, trays and/or baskets that are placed so the oysters are submerged for varying periods of the tidal cycle.
Raft	Sub-tidal cultivation of oysters in trays or baskets suspended from a permanently anchored, rigid, high buoyancy structure.
Single seed	An individual unattached oyster that is grown from small spat produced by removing wild oysters at a very early age from plastic collectors or produced as single oysters in a shellfish hatchery.
Stick cultivation	Growing out wild caught oysters on the sticks they are caught on. Suitable method for areas subject to significant wave action. 'Stick oysters' may be removed from sticks and fattened on trays prior to harvest.
Tray cultivation	Growing out single seed oysters on trays. Suitable method for sheltered areas. Often used for the final stage of growth prior to harvest.
Depuration	A statutory process that requires oysters to be placed in a sterilised recirculation tank for 36 hours. During this process oysters self cleanse in recirculation water, which is sterilised using ultraviolet light.
Development without consent	Has the same meaning as it would under the <i>Environmental Planning and Assessment Act, 1979</i> .
Development with consent	Has the same meaning as it would under the <i>Environmental Planning and Assessment Act, 1979</i> .
Endangered Species	The species is likely to become extinct in nature if threats continue, or its numbers are reduced to a critical level, or its habitat is reduced.
Endemic Species	A species confined in occurrence to a local region.
Environmental Impact	The potential biophysical, social and/or economic effects of an activity on the community or the natural environment.
Environmental Impact Statement (EIS)	A detailed assessment on the potential effects of a proposed development prepared in accordance with the requirements of the <i>Environmental Planning and Assessment Act, 1979</i> .
Estuarine	of, pertaining to or formed in an estuary (brackish water). Also relates to those soil materials, which have been under the influence of brackish water during their deposition.
Fish	As defined in <i>Fisheries Management Act, 1994</i> .
Indigenous Species	A species native to a particular region or country at the time of first British colonisation.
Introduced Species	A species introduced into an area where it does not naturally occur.
Noxious fish	A fish declared to be noxious under the <i>Fisheries Management Act, 1994</i> and the <i>Fisheries Management (General) Regulation, 2002</i> .
Oyster Aquaculture Lease	An area of submerged Crown land that is leased for the purpose of oyster aquaculture.

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Oyster Aquaculture Land Base Site	An area of non-submerged Crown land that is leased for the purpose of supporting oyster aquaculture.
Pathogen	An infectious agent capable of causing disease.
pH	A measure of acidity or alkalinity of a substance. A pH of 7.0 denotes neutrality, higher values indicate increasing alkalinity, and lower values indicate increasing acidity.
Quarantine	<p>a) The holding of aquatic animals or plants in a facility which ensures retention and destruction of said animals as well as any organisms associated with them.</p> <p>b) Disease management procedures including quarantine (sense 1) and certification (Australia).</p>
Salinity	The measure of salt concentration of water in ponds, tanks or hatchery expressed in part per thousand or ppt.
Siltation	The deposition of silt or sand in the estuarine environment.
SEPP	State Environmental Planning Policy as an instrument pertaining to issues of State Environmental Planning significance made under section 39 of the <i>Environmental Planning and Assessment Act, 1979</i> .
Spat	Small juvenile oysters.
Stocking density	Number of animals per given area.

Acknowledgment

The OISAS steering group developed the strategy as an extension of the NSW State Government's Aquaculture Initiative. The Steering Group would like to thank all those who contributed to the development of the strategy by making submissions. The Steering Group will continue to liaise with all stakeholders in implementing the strategy and reviewing it from time to time.

The following have contributed through the OISAS Steering Group to the development of the strategy.

Ben Chard (Chair), Jennifer Collison,	Premiers Department
Yolande Stone, Peter Adrian, Daryl McPhee	DoP
Tim Gippel, Steve McOrrie, Ian Lyall, Damian Ogburn, Antonia Creese, Scott Carter, Francis Dorman	DPI
Estelle Blair, David Darvall, Graeme Clark, Brendan Diacano	DEC
Nicolas Van der Voort	DSRD
Charlie Dunkley	Maritime Authority
Stuart Veitch, Stephen Francis, Tony Wiseman, Cam Cochino, Annette Wheeler	Lands
David Miller	DNR

For further Information

Aquaculture Management Unit
 NSW Department of Primary Industries
 Port Stephens Fisheries Centre
 Locked Bag 1, Nelson Bay 2315
 Phone: 02 4982 1232
 Fax: 02 4981 9074
www.dpi.nsw.gov.au

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1.1 Vision statement

The vision of this strategy is to achieve the sustainable production of 120,000 bags of premium NSW oyster products for domestic and export markets by 2013.

1.2 Scope and objectives

This strategy applies to the NSW edible oyster aquaculture industry. This strategy does not apply to the cultivation of Akoya pearl oysters.

Oyster aquaculture is the commercial cultivation of any species of edible oyster (eg. Sydney rock oyster, native flat oyster, Pacific oyster). Oyster aquaculture includes all routine activities associated with the cultivation of oysters, including the construction and maintenance of culture infrastructure and stock management activities.

The NSW Oyster Industry Sustainable Aquaculture Strategy (OISAS):

- Identifies those areas within NSW estuaries where oyster aquaculture is a suitable and priority outcome;
- Secures resource access rights for present and future oyster farmers throughout NSW;
- Documents and promotes environmental, social and economic best practice for NSW oyster farming and ensures that the principles of ecological sustainable development, community expectations and the needs of other user groups are integrated into the management and operation of the NSW oyster industry;
- Formalises industry's commitment to environmental sustainable practices and a duty of care for the environment in which the industry is located;
- Provides a framework for the operation and development of a viable and sustainable NSW oyster aquaculture industry with a clear approval regime and up-front certainty for existing industry participants, new industry entrants, the community and decision makers;
- Identifies the key water quality parameters necessary for sustainable oyster aquaculture and establishes a mechanism to maintain and where possible improve the environmental conditions required for sustainable oyster production; and,
- Ensures that the water quality requirements for oyster growing are considered in the State's land and water management and strategic planning framework.

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1.3 The need for this strategy

The need for OISAS arose from concerns of both the NSW Government and the NSW oyster aquaculture industry, as to the existing and potential impact on the oyster aquaculture industry associated with the rapid development of the NSW coastline. The strategy has been developed by the government in partnership with the NSW oyster aquaculture industry and local community and other key stakeholders. The strategy sets out best practice in the identification and use by the oyster aquaculture industry of those estuarine areas suitable as priority oyster aquaculture areas and provides for the protection of water quality in these areas. The strategy is one of a suite of strategies initiated by the NSW Government for the management and development of aquaculture in NSW.

1.4 Ecological sustainable development

Ecological sustainable development (ESD) is not just about the environment, but also about the viability of businesses and the broader community's well being. The principles of ecologically sustainable development were adopted by all Australian governments in the National Strategy on ESD (1992) which states that we should be:

'Using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased.'

At the national level ESD is being addressed in aquaculture through the National ESD Framework. The *How to guide for aquaculture* (Fletcher et.al 2004) is the first stage in the development of this framework and documents the methods needed to enable the initial analyses of any aquaculture sector against the principles of ESD. OISAS has been developed with reference to this framework. More details can be found at <http://www.fisheries-esd.com.au/c/implementation/implementation0300.cfm>.

Since NSW adopted this strategy, ESD has become a major objective of all NSW natural resource management, environment protection and planning legislation. A key object of the *Fisheries Management Act, 1994* is to *promote ecologically sustainable development* and this object is being met in part through the development of statewide Sustainable Aquaculture Strategies. ESD is now accepted as the foundation for aquaculture management in NSW.

The relevant definition for ESD in NSW is given in the *Protection of the Environment Administration Act, 1991* (s.6), which states:

Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes. Ecologically sustainable development can be achieved through the implementation of the following principles and programs:

- (a) the precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

- (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and

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- (ii) an assessment of the risk-weighted consequences of various options,
- (b) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,
- (c) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,
- (d) improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:
 - (i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,
 - (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,
 - (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

The principles of ESD are integrated into OISAS by:

- Identifying areas where oyster farming is an intended outcome and implementing measures that will lead to the protection and improvement of water quality in those areas;
- Permitting oyster farming in areas only where it is ecologically sustainable by virtue of its location, for example navigation channels and environmental sensitive areas are excluded; and,
- Describing best operational and management practices for the industry that are based on ESD principles.

For the oyster industry, adopting ESD principles will:

- Provide a pathway to address issues affecting the industry's long-term survival;
- Put in place a systematic and recognised means of establishing the industry's resource management credentials with regulatory agencies, oyster consumers and neighbours;
- Put the industry in a stronger position to argue for the protection of the environmental conditions required for oyster growing;
- Support the industry's position as a legitimate user of public water land; and,
- Result in improved development outcomes that provide greater certainty and a simplified assessment and decision making process.

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For individual farmers the potential benefits are to:

- Safeguard business profitability through maintaining access to existing markets, accessing new 'green' markets and reducing the cost of production;
- Gain the support of the local community and reduce the risk of conflict with neighbours;
- Understand obligations to comply with environmental and planning legislation so that the risk of breaches can be minimised; and,
- Have ongoing continual improvement that will help the business keep pace with developments in environmental legislation and community expectations.

For the broader community the potential benefits are:

- Improved environmental outcomes that address cumulative issues and provide effective indicators of sustainability;
- Increased certainty in the scale, nature and operation of the industry;
- Increased confidence in the environmental performance of the industry;
- Improved employment outcomes with an improvement in industry viability, and,
- Improved outcomes for regional NSW with a coordinated approach to providing sustainable oyster aquaculture investment opportunities.

1.5 Implementation and legislation

This strategy is as an Aquaculture Industry Development Plan for the purpose of s.143 of the *Fisheries Management Act, 1994*.

State Environmental Planning Policy 62 – Sustainable Aquaculture gives effect to revised planning provisions for the NSW oyster industry and gazettes the Oyster Aquaculture maps described in Chapter 5.

The implementation of OISAS requires effective collaboration between government, industry and the community. The strategy brings together the interests of economic development, land use planning and sustainable natural resource management to form a partnership that can lead to sustainable oyster aquaculture and employment generation in regional NSW.

DPI is the key agency responsible for delivery of the on-the-ground oyster industry management outcomes of the strategy. Local government and state agencies share responsibility for implementing the water quality measures and development assessment process detailed in Chapter 3 and Chapter 8 respectively.

The *Fisheries Management Act, 1994*, requires performance indicators to be established within an AIDP to determine if the objectives set out in the plan are being achieved. The plan must also specify at what point a review is required if these performance indicators are not being met. The indicators in Section 1.7 will be used to meet these requirements.

1.6 Community and stakeholder consultation

The Hunter Aquaculture Taskforce that prepared this strategy comprises representatives from the following NSW government agencies; Premiers Department, Department of Planning, Department of Primary Industries, Department of Environment and Conservation, Department of State and

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Regional Development, Maritime Authority, Department of Natural Resources and the Department of Lands.

The strategy has therefore been prepared using a whole-of-government process that integrates the requirements of all state government agencies to achieve a cohesive and consistent agency position.

The Hunter Aquaculture Taskforce consulted with the NSW oyster industry in a series of sixteen estuary meetings during September to December 2005.

The draft NSW Oyster Industry Sustainable Aquaculture Strategy (Version 2.1) was approved for public exhibit by the State Aquaculture Steering Committee on the 17th of March 2006. The Strategy was subsequently placed on public exhibition on the 10th of April 2006 for six weeks.

The Strategy was made available to the general public at all DPI coastal Fisheries Offices, all relevant local Council offices and the Department of Planning Information Centre. The public exhibit was advertised in 23 local coastal newspapers and the Sydney Morning Herald during the period 5th April 2006 to 8th April 2006.

In addition, copies of the strategy and an invitation to comment on it were sent to the agencies participating in preparation of the strategy (Hunter Aquaculture Taskforce), coastal Catchment Management Authorities, relevant Councils, estuary management committees, Ocean Watch, Nature Conservation Council, Marine Parks Authority, Department of Environment and Heritage, Department of Local Government and the Peak Oyster Advisory Group.

The Hunter Aquaculture Taskforce met to consider all submissions and the final OISAS was prepared.

1.7 Performance indicators and review

DPI along with other agencies will be responsible for making recommendations to the SASC on the need to review and update any aspects of the strategy as a result of cumulative impacts, technological developments or other changes in an estuary or area of an estuary.

The strategy will be reviewed in five years, or earlier if triggered by the performance indicators given in Table 1.

DPI will report annually on the performance indicators. This report shall consider the need to update or review the strategy generally or in relation to particular estuaries or particular aspects of environmental performance. New species, improved oyster farming practices and management responses to emerging issues will also be considered. All recommendations shall be referred to the SASC for action.

The indicators in Table 1 relate to performance and cumulative issues and will provide a trigger that will initiate a review of the strategy.

A review of this strategy will involve the preparation of a review report by DPI for consideration by the State Aquaculture Steering Committee and the Peak Oyster Advisory Group. DPI will consult with the relevant agencies in preparing the review report.

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Table 1: Triggers for review.

Indicator	Justification	Trigger for review of the strategy (Triggers calculated at June 30 every year)
1. Annual production.	Production trends indicate industry viability and development.	Five year average production drops by 3000 bags or more.
2. Lease compliance.	Indicates commitment to best practice standards.	Number of compliant leases falls by more than 10% from previous year, OR More than 10% of current leases are not compliant 5 years after this strategy is gazetted.
3. Rainfall threshold for harvest closures.	Harvest closures are indicative of short term water quality trends and are affected by catchment land use.	Rainfall threshold that triggers a closure is reduced in more than three harvest area management plans since the last review.
4. Harvest area classification.	Classification is an indicator of longer term water quality.	More than two harvest areas have harvest classification downgraded due to water quality deterioration since the last review.
5. Leases abandoned due to water quality conditions.	Indicates sustainability of oyster farming areas and trends in water quality protection.	More than 5% of the total NSW lease portfolio abandoned due to water quality issues since the last review.
6. Number of years since review (if not triggered for other reasons).	Reflects the currency of the strategy - potential to become out-of-date with advice no longer reflecting the most sustainable approach.	> 5 years since gazettal or last review.

The report will collate historical data on the performance indicators and identify which trigger initiated the review. The report will analyse the performance of the strategy and may make recommendations for amendment.

The review will also consider amendments to the priority oyster aquaculture area on the oyster aquaculture maps for leases nominated by industry, local government or the State Aquaculture Steering Committee in accordance with Section 5.3.

Any proposed amendments will be subject to industry and community consultation in accordance with the requirements of the *Fisheries Management Act, 1994* (Section 143(8)) and *Environmental Planning and Assessment Act, 1979*. DPI will refer any proposed amendments to State Aquaculture Steering Committee prior to recommending them for gazettal by the Minister.

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2.1 Industry history

The utilisation of natural stocks of oysters in NSW has a long history. Oyster shells are common in Aboriginal middens along the coast, with some being carbon dated back to 6,000 BC. With the colonisation of NSW by Europeans, oysters were also gathered for food and burnt in large quantities (alive or dead) to provide lime for building mortar. As a result of these activities, wild oyster stocks were quickly depleted and in 1868 legislation was passed to prohibit the burning of live oysters for lime. This legislation and the demand for edible oysters, fostered the establishment of commercial oyster cultivation practices during the 1870's. In 1884 the *Oyster Fisheries Act* was proclaimed, which regulated the gathering of oysters and the leasing of oyster beds.

The practice of commercial cultivation of oysters accompanied the early settlement and development of the NSW coast, becoming a significant element in the history of many coastal areas and towns. As such, the industry today has a strong association with the character and community of coastal NSW. It provides employment and contributes significantly to local regional economies. In many areas, oyster leases and the industry's shore based infrastructure delineate areas of community use and are now important elements in the historical heritage of these areas.

Oyster production grew steadily, reaching its peak in the 1976/77 financial year, by which time the industry had grown to the most important sector of the NSW fishing industry with an annual production approaching 150,000 bags¹ (Figure 1). This is equivalent to 17 million dozen oysters, valued (in today's dollars) at the farm gate at around \$76 million. This peak was driven mainly by a peak production of 43,000 bags in Port Stephens.

Since the mid 1970's, oyster production has declined. This has been attributed to many factors. These factors include supply-side factors such as oyster disease, the effects of Pacific oyster introduction and the degradation of water quality in many coastal rivers, estuaries and lakes (White, 2001); and demand-side factors such as non-contested competition in the marketplace from oysters grown in other Australian states and the diversification of consumer tastes.

¹ NSW oyster production is reported in 'Bags' to account for the variation in size between species and the various grades of oyster produced. The following conversions are used:

<u>Sydney Rock Oysters</u>	<u>Pacific Oysters</u>
1 bag of Plate Grade Oysters = 100 dozen	1 bag of Grade 1 (Select and Prime) = 76 dozen
1 bag of Bistro Grade Oysters = 110 dozen	1 bag of Grade 2 (Bistro) = 120 dozen
1 bag of Bottle Grade Oysters = 130 dozen	1 bag of Grade 3 (Mini) = 150 dozen

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Figure 1: Annual NSW oyster production 1938/39 to 2003/04.

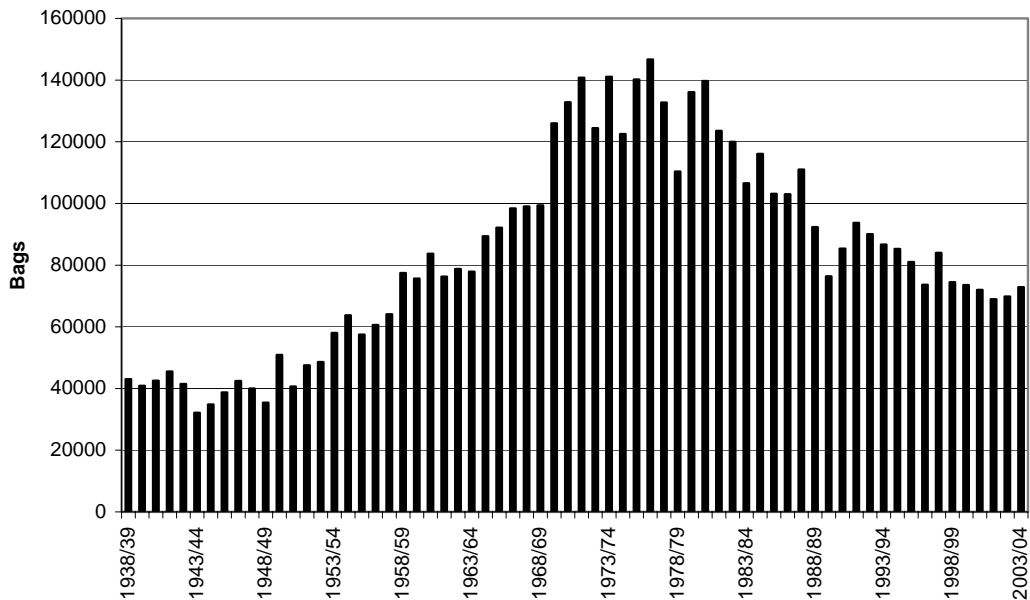


Table 2 shows peak production of oysters for human consumption from the main oyster producing estuaries and the year the peak occurred. Of note is the significant loss of production due to the effects of QX on the North Coast (Tweed to Clarence) in the early 1980's, Georges River in 1994 and the Hawkesbury River in 2004; and the reduction in production in Port Stephens as a result of the introduction of Pacific oyster in the mid 1980's. Also note that peak production has occurred only recently in Nelson Lagoon, Clyde River and Bellinger River.

Table 2 also shows the maximum 10 year moving average production from historical records. These records date back to 1932 for most estuaries and cover periods of high and low production. Ogburn (2006) uses the maximum 10 year moving average to estimate sustainable production levels. Ogburn estimates state sustainable production at approximately 120,000 bags taking into account the effects of production losses due to QX and Pacific oyster.

At the estuary level, production records do not include spat production and inter-estuarine transfers, so the actual biomass production from some estuaries greatly exceeds the data records. Spat production changed significantly with the introduction of measures to control Pacific oysters and QX disease. Prior to the closure of spat movements from Port Stephens in the early 1990's, over 70% of all oysters sold for human consumption originated from Port Stephens stock.

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**Table 2: Historic NSW oyster aquaculture production
(human consumption).**

Estuary	2003/04	Historic peak		Historic maximum 10 year moving average (bags)
	(bags)	(bags)	(Year)	
Tweed R.	*	3944	1980/81	2434
Brunswick R.	*	964	1981/82	396
Richmond R.	*	771	1940/41	510
Clarence R.	*	2106	1974/75	1560
Wooli R.	*	869	1966/67	633
Bellinger R.	*	865	2001/02	485
Nambucca R.	849	3066	1985/86	1841
Macleay R.	1308	5881	1974/75	3983
Hastings R.	3039	6942	1987/88	5124
Camden Haven	1731	3672	1977/78	2673
Manning R.	1847	6854	1960/61	4855
Wallis Lake	20828	28841	1987/88	23181
Port Stephens	10714	43130	1976/77	33973
Hunter R.	384	687	1993/94	415
Brisbane Waters	5229	13473	1982/83	8923
Hawkesbury R / Patonga	7211	21252	1969/70	16798
Georges R./ Botany Bay	*	41068	1971/72	32923
Shoalhaven / Crookhaven	1612	3339	1990/91	2294
Conjola/Burril Lake & Narrawallee Ck.	*	5679	1980/81	946
Clyde R.	7916	7916	2003/04	6104
Moruya & Tomaga	*	1195	1981/82	509
Tuross Lake	576	2205	1994/95	1392
Wagonga R.	2156	3277	1987/88	2257
Bermagui & Cuttagee Lakes	*	1000	1998/99	363
Nelson Lagoon	*	170	2001/02	111
Wapengo Lake	734	1812	1988/89	1114
Merrimbula Lake	2586	2888	1999/00	2157
Pambula R.	1124	1589	1986/87	957
Wonboyn	268	2271	1990/91	1066
Miscellaneous Estuaries	2741			
State Production (Bags)	72853	146666	1976/77	

* A small number of permit holders farm these estuaries and data is combined and reported as 'Miscellaneous Estuaries' to protect confidentiality.

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2.2 Current profile

Oyster aquaculture is currently undertaken in 32 NSW estuaries spread along the entire length of the NSW coast from the Tweed River on the Queensland border to Wonboyn Lake adjacent to the Victorian border (Figure 2). The industry comprises approximately 380 oyster aquaculture permit holders that hold between them 2,600 oyster leases occupying 3,100 hectares of submerged Crown lands (June 2005).

The NSW oyster industry is based almost entirely on the cultivation of the Sydney rock oyster (*Saccostrea glomerata*)², a species native to the NSW and southern Queensland coast. The industry is supplemented by small developing industries based on the cultivation of the Pacific oyster (*Crassostrea gigas*) at Port Stephens³ and the cultivation of the native flat oyster (*Ostrea angasi*) in southern NSW. Following the impact of the oyster disease, QX in the Georges and Hawkesbury rivers, triploid Pacific oysters are also cultured in those estuaries. Hatchery produced QX resistant and faster growth lines of Sydney rock oyster are also being trialed in NSW.

In recent years annual production has stabilized at around 70,000 bags (8 million dozen). Production for 2003/04 was 72,853 bags (Table 2) valued at the farm gate at approximately \$38 million.

The oyster aquaculture industry is the largest aquaculture industry in NSW by production value and accounts for approximately 30% of the State's total commercial fisheries production. The industry is the fourth largest aquaculture industry in Australia, behind the bluefin tuna aquaculture industry, the pearl aquaculture industry and the Tasmanian salmon aquaculture industry. Oyster aquaculture is also one of the State's most valuable per hectare agricultural enterprises with long term gross average production of \$8,000/ha across the state and as high as \$35,000/ha in some estuaries (White, 2001).

Approximately 1600 people are currently directly employed within the industry (White 2001). The total capital investment in the industry is estimated at \$268 million (White 2001).

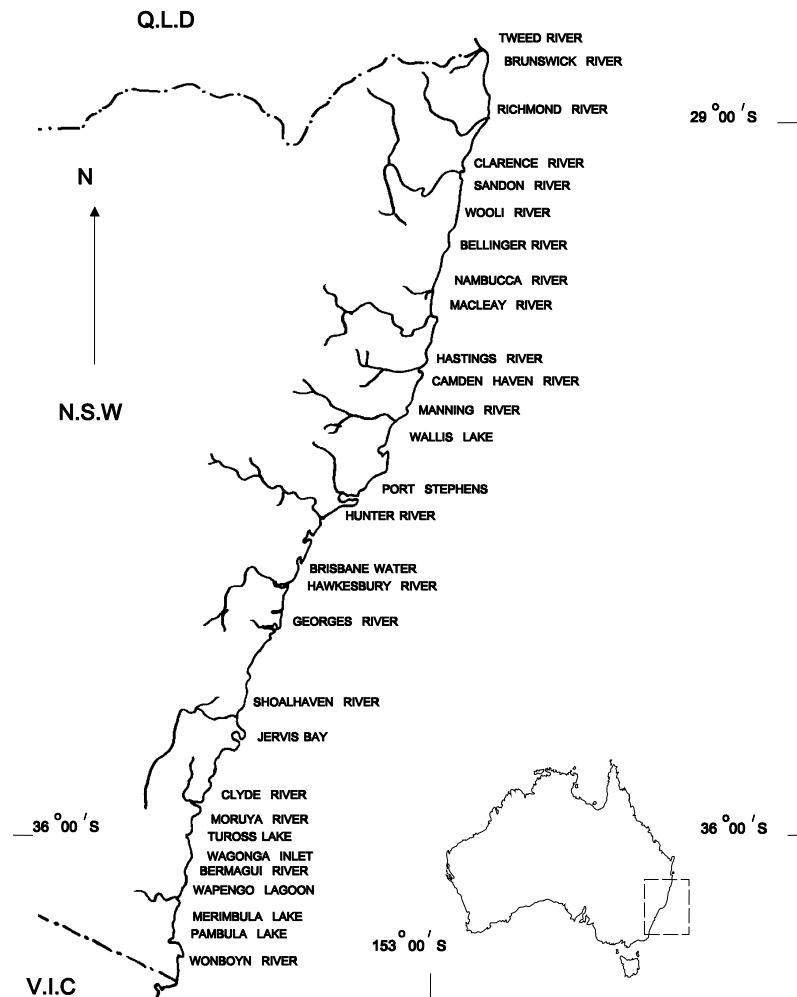
Around 75% of all oysters grown in NSW are sold within the State, the remaining oysters being shipped to interstate markets. Currently there is no significant export of oysters from NSW to overseas markets. Classification of harvest areas under the NSW Shellfish Program may open opportunities for export.

² Previously *Saccostrea commercialis*

³ The Pacific oyster is an introduced species and is declared as a 'noxious fish' in all NSW waters other than in the waters of Port Stephens, under the *Fisheries Management Act, 1994* and the *Fisheries Management (General) Regulation, 2002*. Due to the overwhelming numbers of wild Pacific oysters present at Port Stephens, permission was granted for the cultivation of Pacific oysters in the estuary in 1990.

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Figure 2: The location of major oyster producing estuaries in NSW.



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2.3 Industry management initiatives

2.3.1 Department of Primary Industries

Oyster lease bond system

In January 2001 the Aquaculture Lease Security Arrangements (bonds) came into effect in NSW. The bonds apply to all oyster farmers in New South Wales. The bonds system was introduced to ensure that the industry shares responsibility for problems arising from lease management and maintenance issues.

The bond is either a cash deposit, bank guarantee or other security arrangement to the value of \$1000 per hectare OR an annual contribution of \$40 per hectare. The lease security system was introduced in 2001.

Re-leasing

Leases identified as priority oyster aquaculture areas in OISAS, especially those leases that are approved for direct harvest by the NSW Food Authority will be keenly sought by the industry. Leases in these areas with derelict infrastructure on them will be re-let subject to the new lessee removing all old materials prior to placing new infrastructure on the lease.

DPI has a competitive tender process for letting vacant lease areas so that the commercial value of these areas can be realised. Leases may also be let by application, auction or ballot.

Aquaculture compliance strategy

A new strategy for aquaculture compliance has been implemented. The system will detect areas that are falling into a derelict condition at an early stage so that timely compliance action can be initiated. The key components provide a system that provides a consistent management, monitoring, education and enforcement process.

The strategy includes:

- Regular permit and lease condition inspections conducted by DPI.
The standard inspection period is every three years but may be varied where required.
Permit holders are required to complete an annual condition report detailing the condition of lease areas showing how well they meet permit and lease conditions. This is usually sent as part of the annual production reporting form.
It is compulsory for the report to be completed and returned to DPI.
- Lease transaction condition report.
The compliance condition of all leases is checked by DPI before being renewed, transferred or sub-let. The information obtained is considered when deciding if the lease transaction will be approved.
Where the permit holder/lessee has a poor record of management such as non-completion of required work from a compliance notice, untidy lease/former lease areas or workplans not being followed the lease transaction will normally be refused.

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Transfers of non-compliant leases will be approved if the proposed new lessee has a good management record and agrees to an approved workplan to bring the lease into compliance.

Special conditions may also be included to deal with specific local issues.

- **Workplans**

Oyster aquaculture permit holders and lessees may submit a workplan for approval to extend the time given in a notice to tidy and repair oyster lease areas where there is a large quantity of work, extenuating circumstances or high seasonal workloads.

Workplans are prepared by the permit holder/lessee and approved by the relevant District Fisheries Officer.

Lease marking and signs must be attended to in the time given on all Oyster Lease Inspection Reports and this work cannot be included in a workplan due to navigation safety issues.

- **Complying with lease marking notices**

If an oyster aquaculture lease does not comply with the relevant lease marking standards specified in this strategy (unless otherwise authorised under an approved DPI workplan or exemption) the holder of the oyster aquaculture lease will be ordered to take the following action:

In the case of an oyster aquaculture lease corner marker post,

Within 14 days from notification, bring the aquaculture lease corner marker post into compliance with the standards specified in the strategy. A penalty notice may be issued at any time for a missing corner post; and,

In the case of an oyster aquaculture intermediate lease marker post,

Within 14 days from notification, bring the oyster aquaculture intermediate lease marker post into compliance with the standards specified in the strategy. A penalty notice may be issued at any time for a missing intermediate lease marker post.

- **Complying with neat and tidy notices**

If an oyster aquaculture lease does not comply with the provisions of this strategy (unless otherwise authorised under an approved DPI workplan or exemption) the holder of the oyster aquaculture lease will be ordered to take the following action:

Within 30 days from notification, bring the lease into compliance with the standards specified in the strategy.

Historic derelict oyster leases

Historic derelict oyster leases are mainly the product of catastrophic disasters such as the outbreak of oyster disease in the Georges River and the initial incursion of Pacific oyster in Port Stephens that severely impacted the financial viability of the affected growers.

Responsibility for cleaning up oyster cultivation material passes to the State (as land owner) when clean-up costs can not be recovered from the lessee. In some cases, lessees have their interests discharged under bankruptcy or insolvency legislation.

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Over the last four years the State government rehabilitated 433 ha of derelict former oyster lease area in Port Stephens and 84 hectares in the Georges River. An additional 85 hectares of former derelict lease in Port Stephens was re-let for clean-up by new tenants.

The NSW Oyster Industry Sustainable Aquaculture Strategy will improve industry resilience to the factors that has previously led to leases being abandoned in derelict condition. Also, NSW Department of Primary Industries has in place an oyster lease compliance program and a lease bond system that can be called on in the event that a lease is abandoned.

DPI is working with NSW Department of Lands to plan future clean-up campaigns that will remove the remaining historic derelict oyster farming materials from former lease areas.

2.3.2 Department of Lands

The Department of Lands has implemented a new strategy for Oyster Industry land base sites located on Crown land.

By working in partnership with the grower the Department will promote environmentally sensitive and well managed Crown land associated with the oyster farming industry.

The strategy includes:

- A commitment to 20 year lease for each land base site;
- Five year Work Plans developed in consultation with the grower;
- A series of key principles in the Work Plan, assembled into three categories:
 1. Commitment to environmentally sustainable practices and social responsibilities;
 2. Site management and presentation;
 3. Roles and initiatives provided by Department of Lands.
- Work Plans also contain a walk-through agreement, developed in consultation with the grower;
- The walk-through agreement will detail initiatives proposed by the farmer and the department to improve site efficiencies, presentation and environmental practices;
- The 20 year lease and associated Work Plan contains no initial requirement for a security bond system. The aim here, is to work in partnership with the grower to maintain an environmentally sensitive and professionally well managed land base;
- The Work Plan will provide for the calling in of a security deposit should the grower fail to meet obligations and commitments contained in the walk-through agreement; and
- Should the grower fail to adhere to work plan and subsequent walk-through agreement the department maintains the option to terminate the lease on a breach of conditions.

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Work Plans will be required when:

- A new lease is being granted;
- The lease is being transferred; and
- Work Plans are to be updated, if and when required. This option is determined in consultation with the grower and can be called for by either the grower or the department.

2.3.3 The NSW Shellfish Program

The NSW Shellfish Program is a compulsory, industry funded program that assists in ensuring the public health safety of oysters and other shellfish grown and harvested from NSW waters. The Shellfish Program is administered by the NSW Food Authority under the *Food Act, 2003*. A brief description of the program is given here for information only. This strategy does not affect the operation of the program. Full details of the program including water quality monitoring details can be obtained from the NSW Food Authority.

The objective of the NSW Shellfish Program is to protect the health of shellfish consumers through the administration and application of procedures described in the *New South Wales Shellfish Program Operations Manual* that:

- assess the risk of shellfish contamination by pathogenic bacteria and viruses, biotoxins and chemicals derived from the growing area;
- control the harvest of shellfish in accordance with the assessed risk; and,
- protect shellfish from contamination after harvesting.

In addition the *Operations Manual* describes administrative procedures for the operation of *Local Shellfish Programs* as specified under the *Food Production (Seafood Safety Scheme) Regulation, 2001*. The NSW Shellfish Program adheres to the principles and objectives of the *Australian Shellfish Quality Assurance Program (ASQAP)*.

Classification of oyster harvest areas

Harvest area risk assessment (also known as a comprehensive sanitary survey) is the cornerstone of the NSW Shellfish Program. The completion of a risk assessment for each harvest area is an objective process that is taken independently of the oyster aquaculture industry which follows the requirements of the *ASQAP Operations Manual 2002* and the *NSW Shellfish Program Operations Manual 2001*.

Each initial risk assessment is completed over a period of one to three years and results in each harvest area being classified as either approved, restricted or prohibited according to its sanitary status. The harvest area classification then determines the food safety controls to be applied to shellfish harvest from the area. Additionally, where a harvest area's classification is 'conditional' (essentially meaning it is subject to closure in prescribed conditions), a specific harvest area management plan is prepared which details harvest area closure and opening parameters as well as other requirements for the efficient and effective management of the area.

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Components of the risk assessment process

- A shoreline survey which includes a thorough physical examination of the catchment area draining into the shellfish harvest area in order to identify the actual or potential sources of pollution that may adversely affect water quality.
- A bacteriological survey of the shellfish growing waters, which provides quantitative data to explore and develop preliminary findings of the shoreline survey, data that describes the extent of faecal contamination of the harvest area and quantitative data for the classification of the area. (see Table 3)
- A bacteriological and chemical examination of the shellfish which includes an assessment of the microbial, chemical and algal biotoxin contaminants.
- An evaluation of the meteorological, hydrographic and geographic characteristics to assist the development of a harvest area management plan.
- An algal biotoxin risk assessment to assist in the appropriate classification of the area.

Table 3: Sanitary water quality standards for oyster harvest area classification.

Parameter	Classification Status		
	Approved	Restricted	Prohibited (Nursery)
Faecal (thermotolerant) coliforms	90th percentile of randomly collected Faecal coliform samples do not exceed 43MPN or 21 MF/100mL	90th percentile of randomly collected Faecal coliform samples do not exceed 300MPN or 85 MF/100mL	Median of randomly collected Faecal coliform samples do not exceed 88MPN or 70 MF/100mL

Implications for oyster cultivation and harvest

Classification determines the management regime under which oysters are harvested. Also, oysters may only be exported from classified areas according to AQIS export criteria for shellfish.

Under the risk assessment process oyster growing areas are classified into one of the following four categories:

1. **Approved.** Direct harvest for human consumption under prescribed conditions;
2. **Restricted Harvest.** Product requires depuration in an approved depuration plant under prescribed conditions or relay to an Approved area prior to sale for human consumption;
3. **Prohibited (Nursery).** The harvest of shellfish for sale for human consumption is not permitted; or,
4. **Prohibited (Closed Safety).** Identifies areas that are not suitable for growing or harvesting shellfish.

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Oysters may be progressed to a higher category by relaying those oysters into the higher category waters, under prescribed conditions, for a minimum period of 14 days or translocating juvenile (nursery) shellfish for on-growing for a minimum period of 60 days.

Most oyster growing areas currently fall within the 'depuration' or 'nursery' classification and operate under interim management plans pending completion of the harvest area risk assessments.

Oysters may be harvested from Direct Harvest areas and sold directly for human consumption without the additional cost of the 'depuration' process. These areas are therefore the most valuable and sought after areas for oyster aquaculture.

2.4 Agency roles and responsibilities

The key agencies, and their responsibilities with respect to the NSW oyster industry, are summarised below.

Premiers Department

This department manages issues and projects of significance to NSW, such as the development of this strategy. Premiers Department has provided direction and leadership to the Hunter Aquaculture Taskforce to ensure a whole of government approach to policy development.

Department of State and Regional Development

DSRD works with the NSW oyster industry to assist in business development. The department has sponsored many industry initiatives in the areas of marketing, business planning and trialing new species and farming methods.

Department of Primary Industries

DPI is the key regulatory agency for the NSW oyster industry. The department administers leases and permits, collates production data, develops policy and also has an industry development role. The department is also the key NSW aquatic habitat protection and compliance agency and develops policies and guidelines for the industry that are consistent with habitat protection objectives.

Department of Planning

DoP's key role for the oyster industry is in ensuring that the OISAS is integrated into the state land use planning and development control frameworks. DoP ensure that strategies such as OISAS integrate the government's social, economic and environmental agendas to promote sustainability.

Department of Natural Resources

DNR include a specialist estuary and coastal management team that oversees the preparation of estuary management plans and studies. DNR works with the oyster industry to provide estuary process information to help resolve issues such as dredging.

NSW Food Authority

The NSW FA provides the regulatory framework for safe and correctly labelled food to be produced in NSW. Of particular importance to the oyster industry, the NSW FA has responsibility for implementing the NSW Shellfish Program that classifies and establishes management plans for oyster harvest areas. The NSW FA also licenses oyster depuration, processing and handling facilities.

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Department of Environment and Conservation

The Department of Environment and Conservation (DEC) has statutory responsibilities for protected and threatened wildlife throughout NSW, whether on or off the DEC estate. Of particular relevance to oyster leases is the DEC's role in the protection of marine mammals and reptiles, such as dolphins and sea turtles which may swim into shallow water, and shorebirds or waders which often forage in the intertidal zone and roost nearby.

The DEC has care and control of national parks and nature reserves throughout NSW, and these are often located in estuarine areas. Although oyster leases are granted under the *Fisheries Management Act, 1994*, any new lease on DEC estate requires the written concurrence of the Minister for the Environment.

The DEC shares responsibility for regulating pollution of waters in NSW with local government and the Maritime Authority. The DEC is responsible for regulating state and local government agencies and those premises holding an environment protection license. The Maritime Authority regulates water pollution from vessels and local government regulates most other sources.

Department of Lands

The Department of Lands is the primary administrator for Crown land tenures and unallocated Crown lands across NSW. The department leases land to the oyster industry for land based activities and also gives owners consent to lodgment of development applications for new aquaculture lease areas where development consent is required.

Future management of land based sites located on Crown land will be driven by the need for both the grower and the Department of Lands to maintain an environmentally sensitive and professionally well managed land base. This will be achieved through the process of a long term lease agreement and an associated Work Plan that is developed in partnership with the grower to achieve sound environmental and social outcomes.

Maritime Authority

The Maritime Authority is the state government's maritime regulator responsible for providing safe and sustainable ports and waterways. The authority helps to establish aquaculture lease marking requirements and helps to determine if a lease area will adversely affect navigation. NSW Maritime also have responsibilities for pollution from vessels.

Marine Parks Authority

Marine parks are large marine and estuarine protected areas that are designed to conserve all forms of marine plant and animal species (biodiversity). The NSW Marine Parks Authority is responsible for the declaration, management, selection and zoning of marine parks and the regulation of ecologically sustainable use of these areas.

Local Government

Local government has a diverse role covering town planning, building approvals, local roads, parking, public libraries, public toilets, water and sewerage, approval and inspection of septic systems, waste removal, domestic animals and community facilities. Of particular importance to the NSW oyster industry is council's part in managing estuarine water quality and resolving land and water use conflicts through estuary management planning, land use planning and development control. Council may also provide waste management services to the industry. Council's also assist the oyster industry with water quality monitoring and have a role in investigating water pollution incidents.

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Catchment Management Authorities

Catchment Management Authorities (CMAs) coordinate natural resource management (NRM) at the catchment scale. The CMAs are responsible for involving regional communities in management of the NRM issues facing their region, and are the primary means for the delivery of funding from the NSW and Commonwealth Governments to help land managers improve and restore the natural resources of the State. Key roles include preparing Catchment Action Plans (CAPs) and managing incentive programs to implement the plans. Implementation of the CAP in the coastal CMA areas will lead to favourable outcomes for the oyster industry.

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Healthy oysters and healthy estuaries

Chapter 3

Healthy oysters and healthy estuaries

Estuaries (where all NSW oyster farming occurs) are essentially the confluence point for all runoff and groundwater flow yielded by their catchments. Estuarine health is therefore a good indicator of the sustainability of catchment activity.

There are numerous potential sources of pollution that may affect estuaries, including urban and industrial effluent discharges, boat discharges, contaminant transport by rivers and agricultural run-off.

Raised concentrations of pollutants can have serious effects on the health of plant and animal populations. Oysters are particularly affected because they rely on high quality water for their food. On average, a farmed Sydney rock oyster will filter an estimated 0.25 ML of estuarine river water. It has been estimated that the farmed oysters in NSW remove over 1 million tonnes of suspended material, chiefly phytoplankton, in their lifetime (White, 2001). They have therefore an important role in the ecology of estuaries.

Because oysters filter such large volumes of water they are particularly sensitive to changes in water chemistry. For this reason they are sometimes referred to as 'grey canaries', as they are excellent biological indicators of estuary health. Their feeding habits and life-style make oysters extremely valuable, integrative indicators of water quality in estuaries and coastal lakes (White, 2001).

3.1 Water quality for food safety

Bacteria, viruses, marine biotoxins and environmental pollutants may all impact on the suitability of oysters for human consumption. Most are a direct result of human activity with the exception of marine biotoxins.

Sources that may pose a risk to food safety include:

- Sewerage system and septic tank overflows and leaks;
- Sewage discharges from vessels;
- Re-suspension of contaminated sediments;
- Stormwater run-off; and,
- Discharges from industrial premises or agriculture.

3.2 Water quality for healthy oyster growth

Oyster growth and production shows a wide variation from lease to lease, season to season and year to year. The majority of this variation would be explained by natural variations in water chemistry, temperature and seston availability although, surprisingly, there are gaps in knowledge on the Sydney rock oysters basic physiology and ecology (White, 2001).

On top of these natural effects, oyster growth and production can be affected by water quality problems caused or exacerbated by human activity. This activity is predominantly catchment land use and activities close to the estuary.

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The 'healthy growth' water quality parameters most likely to be affected by human activity are:

- **Suspended solids.** Silt affects the sensitive feeding apparatus of oysters and can lead to infestations of mudworm. In general, oysters feed more efficiently in relatively clear waters (White, 2001). Increased turbidity may also reduce primary production and seston levels. Suspended solids levels can be raised by any catchment land use that exposes and leaves soil bare to erosion or by excessive wave wash arising from activities such as power boating, within the estuary;
- **pH.** The optimal pH range for oysters appears to be between 6.75 to 8.75 with growth rates rapidly declining at either side of this range (White, 2001). Large areas of acid sulfate soils occur in coastal floodplains in NSW and the drainage of acid waters from these areas is a major concern to the oyster industry (White, 2001). An oyster can survive in low pH waters for a time, but eventually the shell dissolves and the oyster dies (Dove et al, 1999); and,
- **Toxic elements and substances.** Detailed knowledge of all substances that may affect oyster growth is not available, but Dove and others (1999) observed that elevated concentrations of Iron and Aluminium at low pH could cause significant mortality in oysters. Suspended iron compounds (flocs) associated with acid drainage can also smother growing oysters and clog gill structures (Dove et al., 1999).

3.3 Tidal range, water flow and salinity

Oyster aquaculture ideally requires a stable mean water level that varies with each tide cycle. This allows oysters to be 'set' at a height where predictable periods of inundation and drying can be achieved.

Tidal variation also drives currents that exchange water through lease areas, delivering food. In some instances stream flow and wind driven circulation may supplement tidal currents, although these are highly variable and cannot be relied upon alone.

Salinity affects oyster growth and larval distribution and therefore catchment diversions, extractions, periodic releases of freshwater or changes to estuary entrances and channels may pose a threat to optimal oyster production. Salinity is also an important parameter in the operation of the NSW Shellfish program.

Tidal range and flows are affected by the morphology (shape and depth) of the estuary and the size of the entrance. Oyster farming is situated mainly in permanently open estuaries and estuaries that close infrequently (in the order of 1 closure per century).

Estuaries are dynamic environments and the shape and position of channels and the estuary entrance has a natural pattern of variation. The state of the entrance and channels is a balance between the river and tidal flows, sediment dynamics and coastal (oceanic) process.

Entrance closures and channel movements often occur during extreme climatic conditions, but may be exacerbated by regulated river flows, abstractions and catchment land use leading to accelerated estuarine sedimentation.

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When an estuary entrance closes or major flow channels become clogged there are increased periods of low salinity, higher water temperatures and poor water quality. Under these conditions, oyster aquaculture may experience:

- increased mortality, increased susceptibility to disease, reduced production and poor oyster growth,
- increased restrictions on harvest due to increased periods of low salinity,
- increased production costs as oysters may need to be moved frequently to other parts of the estuary or to different growing heights.

High water and flood levels associated with closed entrances may also adversely affect infrastructure and property; recreational and commercial fishing; recreational use of the estuary; and estuarine ecology.

The decision to artificially open an estuarine entrance or dredge a channel has to balance all potential social, economic and environmental impacts and is ideally planned well ahead of the need to undertake the work.

The social and economic cost of potential impacts on the oyster industry are relatively easy to determine, and need to be considered in the preparation of Estuary Management Plans, entrance opening strategies and estuary dredging strategies that may affect salinity, tidal range and flows in an oyster growing estuary. However, oyster aquaculture needs alone may not be sufficient to justify the artificial opening of an estuary.

3.4 Water quality and flow objectives for oyster aquaculture areas

Objectives

The water quality objective and flow objective for areas identified as priority oyster aquaculture areas mapped in Chapter 5 are:

Protecting water quality for safe human consumption and viable production of edible oysters.

Maintain or rehabilitate estuarine processes and habitats.

Background

The NSW Government established interim environmental objectives for water quality for 31 NSW catchments.

These water quality objectives aim to provide policy direction for local government, state government agencies and Catchment Management Authorities for the protection of the identified objectives for each catchment. Objectives identified include aquatic ecosystem protection, visual amenity, recreation, water supply and aquatic foods (cooked). (<http://www.epa.nsw.gov.au/ieo>).

Objectives are used by these agencies to guide the issuing of permits, approvals, development consents and licenses for activities that may impact on water quality. They also provide a reference, against which the state of water quality in a particular area can be assessed, and help to determine whether water quality studies and improvement strategies should be initiated.

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Oyster production requires water quality that supports healthy oyster growth and results in a product that is safe to eat following harvest under the NSW Shellfish Program. The water quality guidelines (Table 4), established in this strategy, are designed specifically to meet this objective.

The most important water quality parameter in oyster aquaculture is sanitary water quality. The most relevant guideline for sanitary water quality in oyster growing areas is the internationally accepted *ASQAP Operations Manual 2002* and the *NSW Shellfish Program Operations Manual 2001*.

These two manuals use faecal coliform bacteria as an indicator of faecal pollution. The standard for *Direct Harvest* classification has been used as the objective for oyster aquaculture so that current *Direct Harvest* areas are protected and *Restricted Areas* may see an improvement in water quality that results in a future upgrading.

Five other key water quality guidelines have been set. The objectives are based on published values and are given in Table 4.

The NSW Government has also established interim river flow objectives for 31 NSW catchments. Four objectives have been set for estuarine areas:

- Maintain or rehabilitate estuarine processes and habitats
- Maintain wetland and floodplain inundation
- Manage groundwater for ecosystems
- Minimise effects of weirs and other structures

The most relevant to the protection of the environmental conditions required for oyster aquaculture, has been specifically adopted by this strategy, but achieving the other three will also assist in providing the environmental conditions required for healthy oyster growth.

Table 4: Water quality guidelines for oyster aquaculture areas.

Parameter	Guideline	Source
Faecal (thermotolerant) coliforms	90th percentile of randomly collected Faecal coliform samples do not exceed 43MPN or 21 MF/100mL	ASQAP Operations Manual 2002 and the NSW Shellfish Program Operations Manual 2001.
pH	6.75 – 8.75	Schumway (1996).
Salinity	20.0 – 35.0 g/L	Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2000).
Suspended solids	<75 mg/l	
Aluminium	<10µg/L	
Iron	<10µg/L	
Other parameters	For other parameters please refer to Section 4.4 and Section 9.4 of the Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2000)	

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Chapter 4

Water quality protection guidelines for planners, developers and estuary managers

Chapter 4

Water quality protection guidelines for planners, developers and estuary managers

4.1 Recognition of oyster aquaculture in land and water use planning

The aim of this strategy is that water quality, tidal range and flow in oyster growing areas is maintained and where possible improved to ensure the long-term security and sustainability of the NSW oyster aquaculture industry.

The maintenance of existing water quality, tidal range and flow will be achieved primarily through establishing links between the requirements for the sustainable cultivation of healthy oysters and catchment land and water use planning.

Three such links are established by this strategy.

Firstly, when preparing statutory environmental management plans that govern activities (both upstream and downstream) that may influence priority oyster aquaculture areas the relevant agency is required to:

- Consider the potential impact of the activity or plan on oyster aquaculture areas, and,
- Include specific actions that will contribute to the protection and/or improvement of water quality for oyster aquaculture.

Secondly, in determining applications for consent or approval under the *Environmental Planning and Assessment Act, 1979* the consent or determining authority needs to consider the potential impacts of the activity on oyster aquaculture areas in the locality. Of particular concern is that catchment or foreshore development will reduce the suitability of an oyster aquaculture area for its intended purpose.

Thirdly, the NSW oyster industry is recognised as a neighbour/stakeholder and will be notified of relevant applications for approvals and consents and natural resource plan making activities.

These links are established through the planning amendments given in Chapter 8.

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4.2 Guidelines for harvest area protection

This section lists some specific actions that will contribute to the protection and/or improvement of water quality for oyster aquaculture. Local government, state government agencies, private landowners and developers should directly implement these actions. They should be included in strategic land and water use planning as development standards and considered in determining development applications.

Non point sources

Some specific actions include:

- Riparian zones in agricultural areas fenced to prevent access of livestock to estuary;
- Encourage establishment of riparian filters and settlement areas for run-off drainage in landscape with potential high animal faecal/fertiliser/chemical contamination (eg livestock, golf link, turf farm);
- Elevated monitoring and awareness of septic safe programs in areas adjacent to harvest zones;
- Marinas and vessel pump out facilities carefully regulated;
- Educational and advisory signs for recreational boating warning of the need to protect sanitary water quality;
- Avoid artificially attracting large numbers of birds into a harvest zone.
- Investigate the need for exclusion of recreational/private boating in specific oyster harvest area to protect sanitary water quality if required; and,
- Inclusion of buffer zones between foreshore sub-divisions and the shoreline.

Point sources

Some specific actions include:

- Sewer systems improved, maintained and operated so that overflows do not occur as a result of maintenance or operational failure, overflows in dry weather are eliminated or occur only under exceptional circumstances and wet weather overflows are minimised;
- Identification of priority urban storm water drains and installation of suitable treatment systems;
- Priority treatment drains would include those with a catchment from large hard stand car parks and roadway car parks, caravan parks, golf links, subdivision, commercial/business and shopping centers and industrial areas; and,
- At source control of stormwater for new developments to reduce stormwater impacts.

NSW Oyster Industry Sustainable Aquaculture Strategy**Chapter 4****Water quality protection guidelines for planners, developers and estuary managers****4.3 Prioritising actions to address existing water quality issues**

Declining water quality trends may be detected by the routine monitoring undertaken by the oyster industry for the NSW Shellfish Program, from growing area production records and from visual impacts detected while working on leases. State government agencies and local councils also undertake water quality monitoring.

The NSW Catchment Management Authorities (CMA) have responsibility for establishing regional standards and targets for natural resource management, including water quality. These standards and targets are implemented through a Catchment Action Plan.

In setting regional water quality objectives, CMA's refer to the Statewide Standards and Targets prepared by the NSW Natural Resources Commission and any relevant water quality objectives. The water quality objectives and guidelines for oyster aquaculture, established in this strategy, will assist CMA's to set specific objectives relevant to the protection of oyster growing areas.

The relevant CMA, Estuary Management Committee (EMC) and local council have responsibility for establishing priorities for action through their planning processes. Where it is identified that water quality is degraded in an oyster aquaculture area the issue needs to be brought to the attention of the relevant CMA, EMC and local council for prioritisation.

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Chapter 5
Priority oyster aquaculture areas

Chapter 5

Priority oyster aquaculture areas

5.1 Areas where oyster farming is a desired outcome

Since its inception in the 1870's, the oyster aquaculture industry has undertaken extensive and on-going commercial assessment of sites that appeared to the 'experienced industry eye' to be suitable for oyster aquaculture. Much of this process took place in an era where there were few productive uses, other than fisheries, for the States estuarine waterways and urban development on estuary foreshores was relatively limited. This process of commercial assessment was often dynamic, with the suitability of sites often changing as industry cultivation practices evolved in each estuary.

In addition to commercial considerations, however, the oyster industry recognises that a range of environmental and socio-economic factors must also be considered in determining suitable oyster farming areas.

The Area Suitability Assessment (ASA) process ensures that potential environmental impacts and the needs of the community and other legitimate users of the State's estuarine resources are taken into account in the location and allocation of oyster aquaculture areas.

Suitable areas have been designated as priority oyster aquaculture areas in line with the recommendations of the Healthy Rivers Commission in its *Healthy Oysters, Healthy Rivers* report (HRC, 2003). Identifying priority oyster aquaculture areas recognises the importance of the industry to state and regional economies and the need to implement planning reforms that facilitate the environmental sustainability of the industry.

Areas assessed

This strategy has restricted the assessment of areas suitable as priority oyster aquaculture areas to those that were held under an oyster lease in 1980 issued under the *Fisheries and Oyster Farms Act, 1935* and any lease issued over previously unleased area since that time either under the *Fisheries and Oyster Farms Act, 1935* or the *Fisheries Management Act, 1994*. Small contiguous areas between adjacent oyster leases were also assessed.

Areas not currently or previously leased may still be subject to application for oyster farming, but these applications will be dealt with on a case by case basis and will require development consent (see Chapter 8 Planning).

Each lease was individually inspected and evaluated against a list of locational, environmental and socio-economic suitability criteria. This process classified current and previous oyster aquaculture areas as either suitable or unsuitable. All suitable areas are mapped as priority oyster aquaculture areas (POAA) on the oyster aquaculture maps. Table 5 lists the key location, environment and socio-economic criteria used in the ASA.

Areas in the National Park estate were assessed for oyster aquaculture suitability, but not mapped as POAA as this is not consistent with the intent of reserving National Park land. Current suitable leases in the National Park estate may continue subject to the relevant park management plan.

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Priority oyster aquaculture areas

Table 5: Assessment criteria for priority oyster aquaculture areas in NSW estuaries.

Assessment Issue	Standard for an area to be classified as a priority oyster aquaculture area
Navigation	Not within an identified navigation channel as marked by the NSW Maritime Authority (except dredge bed leases).
	Not directly offshore from, or 50 m to either side of any public wharf or public boat ramp. Greater distances may be required in high use areas.
	Not directly offshore from, or 50 m to either side of, any public or privately operated marina. Greater distances may be required in high use areas.
	Not within a recognised mooring area.
	Not within 50 m of an area identified by NSW Maritime Authority as a specific watercraft operation area. Greater distances may be required in high use areas.
Commercial fishing	Not within a commercial net hauling ground recognised in a Fisheries Management Strategy made under the <i>Fisheries Management Act, 1994</i> .
Recreational activity	Not directly offshore from, or 50 m to either side of, an area managed for public recreation.
	Not within 50 m of an area identified by the NSW Maritime Authority as a designated swimming area.
Conservation areas	Not within any areas mapped under SEPP 14 if oyster aquaculture is likely to have significant adverse impacts on the wetland.
	Not in an area where oyster aquaculture is likely to have a significant adverse impact on matters of national environmental significance under the <i>Environment Protection and Biodiversity Conservation Act, 1999</i> .
	Not in an area declared as an Aquatic Reserve under Part 6 of the <i>Fisheries Management Act, 1994</i> if oyster aquaculture is likely to have significant adverse impacts on the conservation values of the Reserve.
	Only within areas within a Marine Park that identify oyster aquaculture as a permitted activity.
	Not within an area if oyster aquaculture is likely to have significant adverse impacts on threatened species or habitats listed under Part 7A of the <i>Fisheries Management Act, 1994</i> OR under the <i>Threatened Species Conservation Act, 1995</i> .
	Not in the National Park estate without the written concurrence of the Minister for the Environment.
	Not immediately adjacent to a National Park or Nature Reserve if oyster aquaculture is likely to have significant adverse impacts on the conservation values of the area.
Heritage	Not within over or adjacent to any area likely to adversely affect items listed on the State Heritage Inventory eg shipwrecks.
Aboriginal heritage	Not within, over or adjacent to sites/places of regional or national aboriginal significance without consultation and endorsement by the local Aboriginal community.
Public health safety	Not within any areas classified as a Prohibited (Closed Safety) under the NSW Shellfish Program.
Miscellaneous	Not over any area deemed as commercially non-viable for oyster aquaculture or not in the public interest.

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Priority oyster aquaculture areas

5.2 Oyster aquaculture area available for leasing

This strategy does not seek to achieve a windfall increase in area available to the NSW oyster industry NOR does it seek to force a sudden decrease in area that would adversely affect business viability.

Oyster lease holdings have contracted since the mid 1970's and at June 2005 were 3132 ha, down from a peak of over 5,550 ha (not including foreshore leases let on a linear rather than area basis). Chapter 1 discusses the reason for this contraction.

It is anticipated that lease area will continue to consolidate due to the advent of single seed production technology and faster growing selected lines. These culture methods do not require 'catching leases' and may require less grow out area for the same production, as fewer age classes of stock need to be held. However, some QX affected estuaries and estuaries affected by poor water quality may be able to bring non-viable areas back into production in future if QX resistant oyster lines are proven successful and water quality issues are addressed.

Demand for lease area in an estuary is driven by the cost of production, demand and price for the product, water quality, production methods, availability of land bases and supporting infrastructure, and confidence in the security of access to the water and land resources required. Supply is controlled by competition from other estuarine user groups, estuarine carrying capacity and the availability of suitable area.

This strategy therefore aims to establish an orderly process of adjusting the lease area available to industry.

The following lease area adjustment policies apply.

1. An amnesty on lease surrender fees will be established for five years commencing on gazettal of this strategy.
2. At each five year review of OISAS, all surrendered lease area will be considered for removal from the priority oyster aquaculture area identified on the oyster aquaculture maps.
3. Leases marked as 'phase out' on the oyster aquaculture maps will not be renewed at expiry or re-leased if surrendered.
4. Following commencement of this strategy, any priority oyster aquaculture area identified on the oyster aquaculture maps that remains unleased for more than 10 years may be considered for removal from the priority oyster aquaculture area on the oyster aquaculture maps.
5. The priority oyster aquaculture area identified on the oyster aquaculture maps may be increased by adding new lease area approved by development consent under Part 4 of the *Environmental Planning and Assessment Act, 1979*.
6. The priority oyster aquaculture area identified on the oyster aquaculture maps may be adjusted to facilitate the objectives of this strategy.

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Priority oyster aquaculture areas

5.3 Oyster aquaculture maps

Table 6 gives the areas of each of the mapped categories of oyster aquaculture lease area, which are:

Areas identified as priority oyster aquaculture areas	coloured green
Areas that are currently leased that are not suitable for oyster aquaculture and are identified for phase-out	coloured orange
Current leases on the National Parks estate	coloured blue
Previously leased areas not suitable for oyster aquaculture	stippled grey
Oyster aquaculture areas located on the Marine Parks estate.	cross hatched

Table 6: Lease area for oyster aquaculture.

Estuary Column 1	Greatest area historically leased (ha) Column 2	Current leases in the National Parks estate (ha) Column 3	Area mapped as priority oyster aquaculture area (ha) Column 4	Current lease area mapped as phase out (ha) Column 5
Tweed River	41.0		27.5	0.3
Brunswick River	15.0		9.3	1.7
Richmond River	29.0		22.2	
Clarence River	37.0		13.4	3.3
Sandon River	7.0		4.5	0.2
Wooli Wooli River	32.0		18.3	
Bellinger River	29.0		24.5	0.9
Nambucca River	75.0		65.3	
Macleay River	118.0		100.0	
Hastings River	144.0		120.5	
Camden Haven	166.0	18.0	80.4	
Manning River	331.0		274.9	
Wallis Lake	414.0		358.3	1.7
Port Stephens	1705.0		861.8	3.3
Hunter River	35.0	17.8	0.9	0.6
Brisbane Waters	228.0		151.4	5.3
Patonga Creek	27.0		23.5	
Hawkesbury River	447.0		292.7	70.7
Botany Bay	297.0		109.8	
Georges River	74.0		1.8	
Shoalhaven River	21.0		12.9	0.4
Crookhaven River	260.0	35.2	101.1	1.2
Currambene Creek	13.0			
Moona Moona Creek	<1			
Conjola River	14.0		8.5	
Narrawallee Creek	12.0			
Burrill Lake	19.0		1.1	
Clyde River	236.0		187.3	3.6
Tomaga River	11.0		3.5	
Moruya River	25.0		12.5	
Tuross Lake	145.0		109.7	0.4
Wagonga Inlet	112.0		86.6	
Wallaga Lake	28.0		5.2	
Bermagui River	45.0		35.3	
Murrah Lagoon	<1			
Wapengo Lake	94.0		76.3	1.0
Nelson Lagoon	48.0		22.3	
Bega River	7.0		1.8	
Merimbula Lake*	142.5		125.8	
Pambula River	116.0		97.3	2.0
Towamba River (Kiah)	9.0			1.0
Wonboyn River	62.0		52.6	0.5

* does not include 16.4 ha sub-let from the lessees of the Merimbula Airport.

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Chapter 6

Commitment to environmentally sustainable practices

6.1 Good neighbour policy

The NSW oyster industry is an integral part of many NSW coastal communities. Oyster farming businesses not only generate economic benefits, but also make a positive and constructive contribution to the social fabric of these communities.

Oyster farmers appreciate the wider social responsibilities of their businesses and aim to be recognised in their communities as good corporate citizens and environmentally responsible, professional primary producers.

Oyster farmers recognise that the land adjacent to leased areas is either community owned public land or private land. In either case, this land is treated with respect and oyster farming activities are conducted so as to minimise any existing and potential impact on this land.

Responsible NSW oyster farmers:

- Do not abandon infrastructure and equipment as it can cause a hazard to water craft, land vehicles and the environment;
- Ascertain ownership of adjacent lands and liaise with these 'neighbours';
- Recognise that Crown land or National Park is land owned and managed for the public good, and is not vacant land;
- Acknowledge the responsibility that goes with the right of access to public waterways and infrastructure;
- Operate so as not to interfere with the reasonable peace, comfort or privacy of other estuarine and foreshore neighbours;
- Minimise noise, especially in the vicinity of residences and during the quiet times of the day;
- Treat neighbours and the community cordially and with respect;
- Actively participate in community forums;
- Give preference to purchasing local products and employing local people;
- Develop and maintain excellent relationships with their communities, building mutual trust and respect; and,
- Acknowledge community concerns and co-operate with neighbours to resolve them.
- Recognise that Aboriginal people may have occupied oyster lease areas and/or land adjacent to lease areas,
- Are committed to assessing and preserving the Aboriginal Heritage values of coastal communities.

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6.2 Estuarine stewardship policy

Stewardship is the management of a resource on behalf of someone else. In the context of ESD, the stewardship of estuarine resources is on behalf of present and future generations. The estuarine stewardship 'team' consists of governments, the local community, local industries that are dependent on the estuary, and other industries and communities whose activities are affecting the estuary.

The NSW oyster industry is dependant on healthy environmental conditions in estuaries for healthy and productive oyster growth. The industry therefore has a vested interest in seeing estuarine ecosystems protected and restored. In turn, farmed oysters now provide the filtering of estuarine water previously undertaken by natural oyster reefs. These reefs all but disappeared from NSW estuaries in the late nineteenth century following the appearance of a parasitic mudworm that is lethal to the Sydney rock oyster. The mudworm spread between east coast estuaries and forced oyster farmers to develop intertidal cultivation practices.

The oyster industry has an intimate knowledge of estuarine processes and resources, developed over generations of 'working the water'. Estuaries would benefit from having this knowledge incorporated into land and water planning. A focused involvement may also establish a positive feedback loop for the industry that is likely to increase consumer confidence and community acceptance of a sustainable oyster industry remaining in NSW estuaries (Healthy Rivers Commission, Oysters Review, 2003).

Responsible NSW oyster farmers:

- Do not litter or pollute land or waters;
- Take all reasonable measures to minimise any existing or potential impacts on adjoining land and remove any oyster farming materials that unintentionally wash ashore, as soon as possible;
- Operate their business to minimise any existing and potential environmental impact;
- Support catchment management and land use planning processes that maintain and/or improve estuarine health;
- Get involved in local resource management planning, estuary management and land use decision making;
- Ensure that the industry's intimate knowledge of estuaries and the industry's reliance on healthy estuaries is heard and incorporated into land and water management processes;
- Continue to work with government and the community to manage pest, disease and noxious species;
- Keep an eye on their patch and report environmental changes and potential water quality problems to the relevant authority;
- Recognise and promote the public benefit of estuarine water and environmental monitoring and reporting;
- Ensure that their activities do not degrade conservation and care of unique natural and cultural resources; and,
- Act as a good example to others and actively promote responsible habitat management and estuarine stewardship.

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6.3 Commitment to comply with, and where possible exceed, regulated standards

Government establishes minimum standards of performance in key areas of the operation of the oyster industry on behalf of the people of NSW. These standards attempt to balance potential environmental and social impacts of activities with the operational and viability needs of industry. These aims are not mutually exclusive and the oyster industry is committed to identifying and implementing improvements to their businesses that achieve a threefold effect: meet, and where possible exceed, regulatory standards; improve business profitability; and, improve environmental performance. Leading farmers have prepared environmental management systems to formally address these issues and incorporate them into their business operation.

Responsible NSW oyster farmers:

- Make themselves aware of the regulations that apply to their businesses and as a minimum standard comply with those standards;
- Seek to identify aspects of their business activities that can improve profitability and environmental performance;
- Support and participate in training programs to improve skills and knowledge on industry best practice, environmental and community issues;
- Support research and development initiatives that aim to improve the profitability and environmental performance of the industry; and,
- Get involved in the development of appropriate standards for industry regulation.

6.4 Oyster industry Crown land base sites

To ensure a sustainable industry which is in harmony with the surrounding environment, including the need for stewardship and accountability for land management over the leased areas it is important that:

- Activities are carried out within the lease boundaries and do not encroach onto adjoining Crown land, including the bed of adjoining waterways;
- Disposal of oyster shell and other by-products does not occur within the lease or on the adjoining Crown land, including the bed of adjoining waterways;
- Submerged land is not reclaimed by filling with oyster shell or other materials without written approval of all relevant authorities;
- Native vegetation, including riparian vegetation is not interfered with, both within and outside the leased areas;
- Disused and abandoned equipment is removed from Crown land, including the bed of waterways; and,
- Any activity on leased areas is consistent with the purpose of the lease.
- The Aboriginal heritage values of the site are assessed in consultation with DEC, the Aboriginal Community and by making reference to the Aboriginal Heritage Information Management System.

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Definitions for Crown land base sites

'Lease' – means lease under the *Crown Lands Act*, 1989;

'Premises' – means land and improvements within the leased area; and,

'Oyster Industry Purposes' – means depuration, spat growing (nursery) and operations directly related to the transfer of oysters to and from cultivation areas.

Delineation of lease boundaries and identification of structures and works

The holder of a Crown land lease is required to undertake a program to identify the surveyed boundaries of the lease and the position of any buildings, works or uses thereon.

Boundary identification and marking

Boundaries and/or corners of leases are to be clearly marked and remain clearly marked for the duration of the lease. The Department of Lands will accept, as a minimum, the positioning of white painted posts (minimum 100mm diameter) extending no less than one (1) metre above ground level, on all corners and at intervals no greater than 20 metres apart. In some instances, particularly where there is a history of continued encroachment and/or dumping of waste outside the lease boundaries, the Department of Lands may require the lease holder to fence the landward boundaries of the lease.

Identification of structures and works

The holder of a lease is required to provide the local office of the Department of Lands a description of all existing works and structures (size, materials, condition, etc.).

Unauthorised developments

All structures, works or uses are to be authorised and holders are required to show proof of any authorisation. Structures, works and uses without the appropriate consents are regarded as 'unauthorised developments' and the holder will need to remove the structures or cease the unauthorised use. Lease holders will need to justify why any structures, works or uses regarded as 'unauthorised developments' should not be removed or ceased. This will apply to those structures, works or uses that do not comply with the lease purpose.

Condition and maintenance of premises**Visual amenity**

To minimise potential impacts on the visual amenity of the estuary, oyster industry land base sites should be kept in a reasonably neat and tidy condition at all times and all structures are to be kept in good repair. The visual amenity of the area is to be maintained by painting the structures in colours acceptable to the relevant local council.

Materials and equipment are to be stored in an orderly fashion and storage of chemicals and other hazardous materials to comply with Australian Pesticides and Veterinary Medicines Authority and Department of Environment and Conservation requirements.

Any redundant material or equipment is to be removed from the premises. Materials and/or equipment are not to be stored temporarily or otherwise on adjoining Crown lands (including waterways).

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Disposal of shell, disused tarred sticks and other waste material

The deposition of oyster shell, solid waste (including tarred sticks), debris and contaminated by-products within the premises, other than on a temporary basis, is prohibited. All such materials are to be removed from the premises to a disposal site authorised to accept such materials.

6.5 Stocking density

Over-stocking is where oyster stocking levels exceed the carrying capacity of an individual growing area or estuary. Overstocking means that stock does not have access to sufficient food. Poor growth, increased susceptibility to disease and increased susceptibility to heat kills have been linked to overstocking in various NSW estuaries (see Ogburn, 2006).

The number of oysters an estuary, or area within an estuary, can produce is dependent on a wide range of environmental variables and there is currently insufficient data and knowledge to successfully estimate it on an environmental basis (for example using the primary productivity of an estuary). Consequently, no practical scientific tools exist to quantify optimal stocking densities.

Current projects are being undertaken to address this deficiency. Key projects include PhD. Research at the Australian National University, an FRDC funded project being carried out at the University of Sydney and the NSW Comprehensive Coastal Assessment Project 'Effect on coastal lakes of different kinds of land use'. The outcomes of these projects may be used to develop lease area management strategies in future versions of this strategy.

Stocking density varies widely between estuaries, method of cultivation and individual farmer preference. Estuary stocking levels are controlled to a large extent by lease stocking density decisions made by individual farmers. White (2002) estimated that, on average, over the period 1968/69 to 2000/01 the annual yield for NSW oyster leases for human consumption was 20.5 bags/ha. Ogburn (2006) used 2003/04 production data (for human consumption) and estimated that the average yield was closer to 50 bags/ha taking into consideration that approximately 50% of lease area was fallow or uncultivated. Taking into consideration that it takes 3 to 4 years to grow an oyster, stocking densities tend to vary between less than 100 bags/ha for some stick growing areas to over 600 bags/ha in prime fattening areas.

Experienced oyster farmers can estimate local carrying capacities based on previous production and environmental conditions. It is acknowledged however, that because oyster farmers rely on a common food resource, a conflict between individual interests and the common good may develop. DPI can prepare stock management plans to manage this issue, for estuaries or parts of estuaries, at the request of the local oyster industry. These plans would be prepared in consultation with all affected parties and would be given effect under the *Fisheries Management Act, 1994*.

The following stocking densities can be used as a guide for an average NSW oyster producing estuary:

- The minimum distance between tray or single layer non-cement coated stick cultivation is 8 metres;
- The minimum distance between multiple layer or cement coated stick cultivation is 16 metres;
- The maximum length of single strand of supported baskets/tumblers or floating cultivation on a lease is 2.5 km per ha of lease; and,
- The maximum area of raft cultivation on a lease is 540 square metres of raft per ha of lease.

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Best practice standards

These best practice standards contain both voluntary (should) and mandatory (must) provisions. It is envisaged that oyster businesses will adopt voluntary practices as finances and maintenance schedules allow, consistent with their commitment to environmentally sustainable practices. Nothing in these standards stifles any innovation that achieves an even higher standard of performance.

Existing approved activities continue to be permissible provided they are not inconsistent with the mandatory provisions, permit conditions, lease conditions or the provisions of the *Fisheries Management Act, 1994*.

7.1 Lease marking

To ensure the safe navigation of oyster aquaculture areas, individual oyster aquaculture leases must be marked in a consistent and appropriate manner. In this regard all marking must be highly visible and provide navigational guidance, and in doing so, marking itself should not provide a threat to safe navigation of oyster aquaculture areas. Appropriate marking also clearly establishes the use of the area for oyster aquaculture and clearly identify individual oyster aquaculture leases.

Compliance with marking requirements is mandatory.

7.1.1 Marking standards 'common' to all leases

The following lease marking standards apply to all oyster aquaculture lease areas identified under this strategy:

Marker post materials

All oyster aquaculture lease marker posts must:

- Be constructed of materials that are long lasting, pose no risk of significant environmental harm, be recycleable and made from renewable resources and/or recycled materials;
- Be white in colour above the high water mark;
- Not be constructed of steel or materials that will corrode rapidly.

Lease corner marker posts

An oyster aquaculture lease corner marker post is required at each point on the lease where there is a change in heading of the boundary of more than 20 degrees or the boundary point is shared with one or more adjacent oyster aquaculture leases. An oyster aquaculture lease corner post must:

- Have an approved DPI⁴ oyster lease sign attached at least 1 metre above the high-water mark;

⁴ An oyster aquaculture lease sign provided by an approved DPI supplier.

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- Have a minimum diameter or diagonal width of,
 - 90 millimetres where the post is constructed wholly of white plastic with internal timber reinforcing (minimum diagonal width of 80mm), or
 - 150 millimetres where the post is constructed wholly of timber;
- Be firmly placed;
- Be equal in height to adjacent intermediate posts and evenly spaced;
- Appear to be square to the water surface to the casual observer;
- Be white in colour above the high water mark; and,
- Have between 1.25 metres and 1.5 metres showing above high-water mark (spring tides).

Intermediate lease marker posts

An intermediate oyster aquaculture lease marker post marks the boundary of a lease between two lease corner posts. Intermediate oyster aquaculture lease marker posts must:

- Have a minimum diameter or diagonal width of,
 - 75 millimetres, where the post is constructed wholly of white plastic with internal timber reinforcing (minimum diagonal width of 70 millimetres), or
 - 100 millimetres, where the post is constructed wholly of timber;
- Be firmly placed;
- Be equal in height to adjacent intermediate posts and evenly spaced;
- Appear to be square to the water surface to the casual observer;
- Be white in colour above the high water mark; and
- Have between 1.25 metres and 1.5 metres showing above high-water mark (spring tides).

Intermediate lease marker post spacing

The oyster aquaculture maps categorise the water adjacent to each oyster lease boundary using Categories 1, 2, 3 and 4. The requirements for intermediate lease marker post spacing is given in Table 7.

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Table 7: Intermediate lease marker post spacing.

<i>Marking Category</i>	<i>Description</i>	<i>Minimum intermediate post spacing</i>
1	High level of boating activity – i.e. adjacent to main navigation channels, ways of access, and recreational areas.	10 metres
2	Medium level boating activity.	25 metres
3	Low use areas and foreshore boundaries with public access.	50 metres
4	Minimal use areas with boundaries adjoining other oyster leases and minimal use/limited access foreshores such as bushland.	100 metres
SPECIAL	Dredge leases and other exceptional circumstances.	As directed

Navigation aids

Navigation aids (e.g. directional arrows, port and starboard colours and/or visual marks) must not be placed on any oyster lease or oyster lease boundary without prior consultation and written approval of the local Maritime Authority boating services officer.

The Maritime Authority may require the installation of navigation aids in some circumstances and will advise leaseholders in writing of any such requirements.

7.1.2 Special marking standards

Dredge bed oyster leases

The following additional marking requirements apply to all dredge bed oyster aquaculture leases:

- Where oyster dredge beds are entirely below the Mean Low Water Mark and the depth of water precludes the placement of posts, DPI may consider a written request for exemption from normal marking requirements;
- The oyster dredge lease must be marked on the shore, directly adjacent to the lease boundary and the mark must be clearly visible from the water and land; and,
- The shoreline mark must have an approved DPI oyster lease sign attached at least 1metre above the high-water mark.

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Raft oyster leases

The following additional marking requirements apply to all oyster aquaculture leases approved for raft cultivation:

- At each corner of a raft that adjoins a navigational channel, a vertical posts must be fitted that,
 - is of a minimum height of 0.7 metres above the waterline,
 - has attached near the top, two flat white panels (attached at 90 degrees to one another) each of a dimension of 300 mm x 300 mm when sighted from any horizontal position,
 - has post and fixture painted white,
 - has reflectors fitted if required by the NSW Maritime Authority; and,
- At the end of a raft located closest to each corner of the oyster aquaculture lease, a lease sign must be fixed (between 1.25 metres and 1.5 metres showing above high-water mark),
 - such signs may form part of the corner marks of the raft, and
 - may substitute for a 'common' oyster aquaculture lease corner post and sign.

Foreshore oyster aquaculture leases

The following additional marking requirements apply to all foreshore oyster aquaculture leases:

- Foreshore leases, being natural rock or break-walls where no cultivation infrastructure has been placed on the lease area are to be marked on the shore, directly adjacent to the lease boundary and the mark must be clearly visible from the water and land;
- The shoreline mark must have an approved DPI oyster lease sign attached at least 1m above the high-water mark; and,
- No sign may be installed on a National Park or Nature Reserve without approval from the Department of Environment and Conservation.

7.2 Keeping leases neat and tidy

The perception of 'neat and tidy' is affected by the design and construction of the lease infrastructure, choice of materials and colour and how well it is maintained. Neat and tidy leases are important to minimise potential effects on estuarine amenity, to ensure lease materials are safe and secure and to provide optimal conditions for oyster cultivation.

To minimise potential impacts on estuarine amenity it is desirable that lease infrastructure be designed to fit into its surroundings as much as possible. A unified appearance helps to reduce the potential impact. Contrasting elements that vary in height, angle, material finish, colour or reflectivity, draw the attention of viewers and may lead to unacceptable visual impacts.

Materials should ideally be long lasting, pose no risk of environmental harm, be recyclable and made from renewable resources and/or recycled products. The use of new tar treated timber infrastructure will be phased out as soon as practical as identified by the *Timber Alternatives in the NSW Oyster Industry* project.

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The *Timber Alternatives in the NSW Oyster Industry* project is a joint industry and government program established to identify alternative infrastructure materials to traditional tarred timber. Alternatives have been identified that are durable, recyclable, economical and practical. Adoption of alternative infrastructure materials will minimise risk of leases becoming derelict because the materials (eg HDPE plastics) are more durable (up to four-fold time period) and have a salvage value. Consequently leases will have much longer depreciation cycles and will maintain higher resale values over a long time frame with minimal refurbishing and clean-up requirements. The industry has recognised the economic and environmental benefits of this program and is rapidly adopting this new technology. The program won the 2003 Sydney Fish Market Seafood Award for Excellence in Environmental Practice.

A list of suppliers of alternative oyster farming infrastructure can be accessed from the NSW Farmers Association website at:

http://www.nswfarmers.org.au/_data/page/4400/SUPPLIERS_NETWORK_FOR_ALTERNATIVE_OYSTER_FARMING_INFRASTRU.pdf

The Department of Environment and Conservation immobilisation approval for the disposal of tar treated oyster industry waste expires on December 2006. This approval will be reviewed prior to expiry.

7.2.1 Neat and tidy standards 'common' to all leases

The following oyster aquaculture lease tidiness standards apply to all oyster aquaculture lease areas identified under this strategy.

Visual amenity

To create visual harmony and compatibility oyster lease infrastructure should be:

- Black, dark grey or dark grey/green in colour;
- Consistent in shape and design;
- Consistent in colour;
- Consistent with the natural environmental line and form;
- Consistent and low in height;
- Consistent in line and direction;
- Matched to the scale of the surroundings; and,
- Matt finish texture.

If possible leases that are within the same visual catchment should use the same types of cultivation equipment, same spacing and alignment as this creates uniformity.

Lease maintenance and materials

All oyster aquaculture leases must be:

- Kept in good repair and all fallen or damaged cultivation materials must be rectified within the timeframes specified in this strategy (Section 2.3.1) or under the terms of an agreed DPI workplan;
- Free of old or unserviceable timbers, stumps and waste material;
- Free of these prohibited materials:

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- continuous lengths of conveyor belting exceeding 10 metres
- glass,
- steel, steel star pickets and corrugated iron,
- tiles and bricks, and
- tyres.

All oyster aquaculture leases should:

- Be constructed of materials that are long lasting, pose no risk of significant environmental harm, be recycleable and made from renewable resources and/or recycled materials; and
- Have the use of new tar treated timber infrastructure phased out as viable alternatives become available.

7.2.2 Special neat and tidy standards

Post supported intertidal cultivation

- All sticks, trays and other cultivation materials fallen from supporting rails and/or lines must be re-secured as soon as tides, weather and normal work schedules permit;
- Racks and lines must be constructed to appear straight and level to the casual observer; and,
- Posts must be secure and appear square to the water surface to the casual observer.

Catching sticks, depot sticks and trays

- Catching sticks, depot sticks and trays must not remain continuously on a lease for more than two years; and,
- Any fallen catching sticks, depot sticks or trays must be retrieved as soon as tides, weather and normal work schedules permit.

Rafts

- Rafts may only be placed on a lease subject to DPI approval and endorsement of that lease;
- Rafts must be securely moored within the lease and must remain entirely within the lease boundaries at all times;
- Rafts must be low in height and must not be used to store infrastructure and materials;
- Plastic drums and floats must be adequately secured at all times and replaced if broken or leaking;
- The use of steel or concrete pontoons is prohibited;
- The raft must be designed and constructed to float horizontally to the water surface; and,
- Rafts must not be used to store waste or cultivation materials.

Floating cultivation

- All floating cultivation must be securely fixed, taut and must remain entirely within the lease boundaries at all times; and,

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- Any fallen baskets, trays or sticks must be retrieved as soon as tides, weather and normal work schedules permit.

Fallow leases

- Leases may be left fallow for up to five years. Longer fallow periods are permitted if identified in an approved commercial farm development plan or with the prior written approval of DPI;
- Only sound posts and rail may remain on fallow leases. All rafts trays, sticks, supported baskets/tumblers and floatation must be removed;
- Lease marking must be maintained during the fallow period; and,
- Rails and posts must be maintained in good order during the fallow period.

7.3 Decommissioning oyster aquaculture leases

Leases that are expired, cancelled or surrendered must be completely cleared of all cultivation materials, stock, equipment, wave barrier fences and marker posts before the lessee is discharged from legal responsibility for the area.

The removal of rock cultivation will only be ordered if it poses serious navigation, amenity or safety risk and can be removed without causing significant net environmental harm. Rock cultivation may only be removed with the approval of DPI.

7.4 Platforms and sheds

New work platforms, culling sheds and structures for the storage of un-used culture materials (i.e. depot sticks and trays) will not be approved on oyster aquaculture leases.

A future review of existing platform and shed structures on oyster aquaculture leases will be undertaken in conjunction with the Department of Lands, to verify approval status, condition and tenure.

7.5 *Posidonia* (strapweed) protection

Oyster aquaculture that is over or may potentially shade *Posidonia australis* (Strapweed) should use:

- Supported baskets/tumblers;
- Floating cultivation;
- Single layer stick cultivation; or,
- Other methods that minimise shading.

Multiple layer stick cultivation, tray cultivation, shade cloth and any other materials or culture methods that would unduly shade a *Posidonia* bed are not recommended.

No *new* oyster aquaculture areas will be approved over *Posidonia* sp or *Zostera* spp seagrass beds.

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7.6 Threatened species protection

- Take all possible care to avoid hitting turtles with boats or propellers'.
- Do not discard any debris into the estuary or adjacent lands.
- Ensure all ropes and mooring lines are taut and design floating cultivation to prevent entanglement.
- Participate in the protected, threatened and pest species sighting program to improve knowledge of the distribution and abundance of the species.
- Become familiar in how to identify threatened estuarine species for example, Green Sawfish, Little Tern, Osprey, Pied Oyster Catcher, Sooty Oyster Catcher and Turtles.
- Take care not to disturb potential nest tree sites or nests on oyster leases.
- Take care not to disturb known or potential habitats adjacent to oyster aquaculture areas, for example, Little Tern, Osprey, Pied Oyster Catcher and Sooty Oyster Catcher.

7.7 Wave barrier fencing

Wind and boat generated waves may cause significant damage to oyster aquaculture infrastructure and crops. To mitigate these impacts, wave barrier fences are necessary in some oyster aquaculture lease areas.

Under the *Fisheries Management Act, 1994*, the permission of the Minister for Primary Industries is required to construct a wave barrier fence on an oyster aquaculture lease. Wave barrier fences must meet the standards defined in this strategy and can only be constructed on leases approved and endorsed by DPI for these structures.

All wave barrier fences must comply with the following standards.

Wave barrier fences must:

- Be wholly within the oyster aquaculture lease area;
- Not unreasonably restrict ways of access to other leases, or to other public waters;
- Not obstruct access to an intertidal shoreline;
- Must meet the requirements for lease marking in this strategy if parts of the fence constitute lease markers (e.g. corner and intermediate boundary marking); and
- Be free of these prohibited materials:
 - continuous lengths of conveyor belting exceeding 10 metres
 - glass,
 - steel, steel star pickets and corrugated iron,
 - tiles and bricks, and
 - tyres.

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Wave barrier fences should:

- For floating fences, not extend more than 50cm above or below the water surface and must be fixed such that they do not drift or extend beyond the boundaries of the lease;
- For fixed (not floating) fences, not extend above Mean High Water Mark and where possible, fences should not extend more than 50 cm above the highest level of cultivation materials and must not extend more than 20cm below the lowest level of cultivation;
- Be consistent in materials, construction, design and colour;
- Be compatible in colour and materials with adjacent cultivation infrastructure; and
- A wave barrier fence should have matt finishes in black, dark grey or grey/green.

7.8 Hours of operation

The hours on which oyster leases can be worked are restricted by tides and weather conditions. Therefore it is important that routine stock handling operations and emergency lease and marking repairs can be conducted at all times.

The hours of operation for routine, well managed, stock handling operations, harvest and emergency lease and marking repairs are not restricted. These activities include:

- Harvest,
- Washing,
- Grading,
- Stocking and de-stocking a lease,
- Marking, and
- Emergency lease and marking repairs.

However, within 200 m of private residences programmed lease construction and unduly noisy operations should only be conducted on oyster aquaculture leases during the period from 7:00 am to 6:00 pm Monday to Friday. Emergency repairs and emergency stock management operations are exempt from this restriction.

7.9 Noise

Oyster farmers operate in an extremely variable noise climate. Background noise varies with wind and wave action and the activity of other boats, the sensitivity of receivers varies with the time of day, perceptions and proximity to the activity and noise propagation varies with climatic conditions.

Oyster farming is not known as a noisy activity and has not, historically, been the source of serious noise problems. The main routine noise sources, outboard motors and on-board equipment (winches and pumps) are generally less noisy than recreational power-boats and many other waterway activities. As the industry switches to modern four stroke and fuel injected two stroke motors, the noise levels of outboard motors and on-board equipment has dropped significantly. These modern engines also have reduced emissions.

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The *Protection of the Environment Operations Act, 1997* and the *Protection of the Environment Operations (Noise Control) Regulation, 2000* are the primary legislative means of controlling noise on NSW waterways. The NSW Maritime Authority is the responsible authority.

In the case of an offensive noise issue the NSW Maritime Authority will help to find a compromise between being able to conduct legitimate activities that may emit noise and the responsibility to minimise noise. Where noise is identified as a problem, there is a general expectation that whoever is creating the noise should take all feasible measures to minimise it.

Noise mitigation options may require that the equipment no longer be used, that the equipment be modified or that the equipment only be used at certain times of the day.

Industry best practice for noise management includes:

- Using only four-stroke, fuel injected two stroke outboard motors or other boat motors that meet DEC standards;
- Reducing boat speed near sensitive receivers;
- Keeping all on-board motors in good repair with appropriate mufflers fitted;
- Aiming to develop amicable relations with residential neighbours and have regular contact so that potential problems can be identified and resolved at an early stage;
- Acknowledging complaints and aiming to resolve them co-operatively;
- Complying with any direction of a NSW Maritime Authority authorised officer; and
- Using courteous language in the vicinity of other waterway users and residential neighbours.

7.10 Washing oysters

Washing oysters is undertaken to control parasitic mud worm infection, to cool oysters in very hot conditions and to meet food safety standards. The material washed from oysters is fine silt that settles from the water column and marine bio-fouling organisms.

Washing is undertaken by pumping water from the estuary through sprays and nozzles and returning this water to the estuary. Stock and infrastructure is either returned to a land base for washing or washed in-situ on an aquaculture lease.

In-situ washing must be:

- Undertaken using equipment kept in good repair with mufflers attached to all motors;
- Undertaken to keep noise to a minimum;
- Managed and undertaken to minimise any adverse effects on water quality.

7.11 Spray Irrigation

Where high summer temperatures coincide with low tide periods occurring during the middle of the day, oyster lease temperatures in sheltered areas

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may exceed 50°C. These conditions may result in significant oyster mortality (up to 100%). To mitigate these events in vulnerable and valuable tray finishing areas, oyster farmers have historically installed spray irrigation to cool their oyster crops. Sprays are fed by portable pumps placed on small permanent pump stands to which the irrigation system is attached. Farmers may also use portable oyster washing equipment mounted on an oyster punt to cool oysters.

In most instances heat prone lease areas are located in remote bays and inlets surrounded by steep hills that inhibit local wind cooling effects and are not usually in close proximity to residential development. Where spray irrigation is installed it may only be required to be activated for short periods (2-3 hours) on a few days per year.

Best Practice for spray irrigation includes:

- Approval must be obtained from DPI for the establishment of irrigation infrastructure on previously non-irrigated lease areas;
- An irrigation pump stand may form part of a fence but must be constructed wholly within the lease area;
- All reasonable care must be taken to ensure that irrigation pumps do not pollute the marine environment; and
- Noise provisions described in Section 7.9 apply equally to irrigation pumps and sprinkler systems.

7.12 Dredging and reclamation

Reclamation and dredging to maintain adequate water depth by oyster farmers and is not a routine oyster aquaculture activity and may only be undertaken with development consent. Other approvals may also be required.

7.13 Pest and disease control

DPI biosecurity branch prepares and implements control measures for aquatic pest and disease management.

Where there has been a significant level of oyster mortality or there is good reason to suspect oysters are being affected by a disease/organism the local District Fisheries Office must be notified immediately.

Three aquatic pest and disease control plans are particular relevance to the NSW oyster industry namely, Pacific oyster control, QX disease management and Caulerpa control.

Caulerpa control

Best practice for Caulerpa control includes:

- Abide by any special permit or lease conditions relating to Calurpa control and abide by the conditions of the NSW Control Plan for the Noxious marine weed *Caulerpa taxifolia* in NSW waters.
- Avoid boating near *Caulerpa taxifolia* outbreaks. Propellers cut the plant into many fragments that can drift into areas only to grow into new outbreaks.

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- Inspect and clean anchors, ropes and chains before leaving an affected area.
- Inspect and clean trays and other infrastructure prior to movement out of a *Caulerpa* affected area. Fisheries Offices may inspect movements according to the NSW Control Plan for the Noxious marine weed *Caulerpa taxifolia* in NSW waters.
- Collect fragments of *Caulerpa* and seal the pieces in a plastic bag and dispose of them in a bin where they can not re-enter a waterway.
- Report sightings of *Caulerpa taxifolia* to the Aquatic Pest Taskforce on (02) 4982 1232 or email pests@dpi.nsw.gov.au, or to DPI 24hr reporting hotline on (02) 4916 3877.

QX disease management plan

QX disease (caused by *Marteilia sydneyi*) is a declared disease under the *Fisheries Management (Aquaculture) Regulation, 2002*. The movement of oysters between certain estuaries is prohibited in NSW.

Pacific oyster control

Pacific oysters are a declared noxious fish under the *Fisheries Management Act, 1994* in all NSW waters except Port Stephens.

The Pacific Oyster Control Program must be complied with when moving oysters between estuaries in NSW. Cultivation practices must include every effort to eradicate Pacific oyster overcatch in all estuaries other than Port Stephens. Where Pacific oysters are not controlled by the permit holder the control work may be done by DPI and costs recovered from the permit holder.

Oyster shipment zones

Shipment of oysters between estuaries, permitted under the Pacific Oyster and QX Disease closures, is summarised in Table 8. NSW oyster estuaries have been split into 14 estuary groups. There are restrictions on sending oysters between different groups because of QX and/or Pacific oyster concerns. Oyster shipment restrictions are shown in Table 8. Permitted movements are shown with a '✓'; illegal movements are shown with an 'X'. All movements of oysters between estuaries must be recorded in an Oyster Shipment Log Book. No oysters may be removed from a lease subject to a noxious fish order, and placed on any other lease, unless the oysters are first inspected by a fisheries officer and comply with the inspection criteria prescribed in the Pacific Oyster Control fishing closure.

Oyster shipment log book

All shipments of oysters (except those being moved within the one estuary or those being harvested directly for human consumption) MUST have shipment details recorded in the permit holders Oyster Shipment Logbook prior to shipping.

48 hours PRIOR notice must be given to the local District Fisheries Office before any oysters are shipped to another estuary (this notice may be left on the Fisheries Office voicemail). The notice to the local District Fisheries Office must include the Oyster Shipment Logbook permit number and details of the shipment.

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The original copy of the Oyster Shipment Logbook sheet must accompany the shipment of oysters to another estuary. This copy must be kept by the receiving permit holder.

Copies of all completed logbook forms must be sent monthly to DPI Aquaculture Management.

Inspections of shipments can be conducted by fisheries officers at any time and may include inspection of the logbook. In certain circumstances an inspection is compulsory.

Where the correct procedures have not been followed fisheries officers can detain and/or seize the shipment.

**Table 8: Inter-estuary oyster movement restrictions.
(Current at 9 November 2006)**

		TO ESTUARY															
		Tweed	Richmond Clarence	Brunswick	Wooli	Bellinger Kalang Sandon	Macleay Nambucca	Hastings**	Camden Haven Manning	Wallis Lake	Port Stephens	Hunter	Brisbane Water	Hawkesbury	Patonga	Georges River	Crookhaven/ Shoalhaven south to Wonboyn ***
FROM ESTUARY	Tweed	✓	✓	x	x	x	x	x	x	x	x	x	x	x	x	x	x
	Richmond Clarence	✓	✓	x	x	x	x	x	x	x	x	x	x	x	x	x	x
	Brunswick	✓	✓	✓	x	x	x	x	x	x	x	x	x	x	x	x	x
	Wooli***	x	✓	✓	✓	x	x	x	x	x	x	x	x	✓	x	✓	x
	Bellinger Kalang Sandon	✓	✓	x	x	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Macleay Nambucca	✓	✓	x	x	x	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Hastings	✓	✓	x	x	x	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Camden Haven Manning	✓	✓	x	x	x	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Wallis Lake	✓	✓	x	x	x	x	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Port Stephens*	✓	✓	x	x	x	x	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Hunter	✓	✓	x	x	x	x	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Brisbane Water	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Hawkesbury	x	x	x	x	x	x	x	x	x	x	x	x	✓	x	✓	x
	Patonga	x	x	x	x	x	x	x	x	x	x	x	x	✓	✓	✓	x
	Georges River	x	x	x	x	x	x	x	x	x	x	x	x	x	x	✓	x
	Crookhaven/Shoalhaven south to Wonboyn	✓	✓	x	x	x	x	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
This table does not over-ride the closures published in the NSW Government Gazette.																	
✓ movement of oysters permitted x movement not permitted * Shipping from Port Stephens is restricted to culled single oysters larger than a ten cent piece. No stick culture can be moved from Port Stephens. ** No stick culture can be moved into the Hastings from any estuary south of the Manning River. *** Wooli is permitted to ship to Wonboyn until 30 November 2006.																	
NOTE: Inter-estuary oyster movement restrictions are regularly reviewed. For the latest details please contact your local DPI Fisheries Office.																	

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7.14 Punt and boat mooring

Punts and boats should not be permanently moored on oyster aquaculture leases if alternative arrangements are available. The preferred alternative is for punts and boats to be moored at work sheds, private jetties or on NSW Maritime Authority registered moorings.

7.15 Waste management

Wastes generated from activities on oyster leases include culture infrastructure that is no longer serviceable and bio-fouling. Best practice is:

- Reduce, re-use and recycle waste materials where possible;
- No waste is to be deposited on lease areas;
- All lease infrastructure removed from a lease must be returned to shore for processing or disposal;
- All wastes from culling activities conducted on leases should be returned to shore for processing or disposal;
- Bio-fouling on the lease superstructure (post, rail etc) should be collected and returned to shore for processing or disposal if possible; and,
- Residual materials that cannot be re-used or recycled must be disposed of to an approved waste management facility.

7.16 Theft of oysters and damage to oyster leases

All thefts should be reported to local police for investigation in the first instance.

DPI local fisheries officers should then be informed so that patrols can observe any suspicious activity and liaise with the police and farmers to reduce further theft.

The aquaculture lease/permit holder owns all oysters cultivated on the lease area. It is an offence under the *Crimes Act*, 1900 to steal oysters and under the *Fisheries Management Act*, 1994 to remove oysters or other cultivated species.

It is also an offence under the *Fisheries Management Act*, 1994 to interfere with aquaculture infrastructure on an aquaculture lease without the consent of the lessee.

Reports of illegal or suspicious activity should be made to your local Police Station or Crime Stoppers (1800 333 000) and your local DPI Fisheries Office.

Chapter 8

Planning and approvals

8.1 Approval of new oyster aquaculture leases

DPI Aquaculture Administration should be contacted for current advice and information BEFORE any formal application is made to lease any area for oyster farming.

New applicants should consult the Oyster Aquaculture maps and determine if the area they wish to apply for is in a Priority Oyster Aquaculture Area, a National Park or a Marine Park. Different assessment and approval process apply to each of these areas as detailed below.

8.1.1 New lease in a Priority Oyster Aquaculture Area.

1. An application for a new lease in a Priority Oyster Aquaculture Area (POAA) must be accompanied by a Review of Environmental Factors that addresses potential impacts of the new lease.
2. DPI will advertise for objections and competing interests as required, if the area is potentially available.
3. DPI will consider any objections in deciding to proceed with processing the lease application.
4. If there are multiple interests DPI will administer a competitive allocation process that will be either public tender, auction or ballot (See Section 8.2).
5. The application from the preferred applicant will be processed by DPI and assessed under Part 5 of the *Environmental Planning and Assessment Act, 1979*
6. The new lease will be gazetted by DPI if approval is granted.

8.1.2 New lease in a Priority Oyster Aquaculture Area in a Marine Park

1. An application for a new lease in a Priority Oyster Aquaculture Area (POAA) in a Marine Park must be accompanied by a Review of Environmental Factors that addresses the potential impacts of the new lease on the Marine Park. New leases in a Marine Park need to be consistent with the objects of the *Marine Parks Act 1997*, the objects of the zone within which the proposed lease area is situated and must be a permissible use within that zone.
2. DPI will liaise with the relevant Marine Park Manager.
3. DPI will advertise for objections and competing interests as required, if the area is potentially available.
4. DPI will consider any objections in deciding to proceed with processing the lease application.
5. If there are multiple interests DPI will administer a competitive allocation process that will be either public tender, auction or ballot (See Section 8.2).

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6. The application from the preferred applicant will be processed by DPI in consultation with the Marine Parks Authority (MPA) and assessed under Part 5 of the *Environmental Planning and Assessment Act, 1979*. If an environmental impact statement is required, the concurrence of the relevant MPA Ministers is required.
7. The new lease will be gazetted by DPI if approval is granted.

8.1.3 New lease NOT in a Priority Oyster Aquaculture Area

1. An application for a new lease outside a Priority Oyster Aquaculture Area (POAA) must be accompanied by:
 - a. a suitability assessment using the assessment criteria given in Table 5, AND
 - b. a Review of Environmental Factors that addresses the potential environmental impacts of the proposed new lease.
2. DPI will liaise with the NSW Maritime Authority and the Marine Park Authority if required.
3. DPI will make a preliminary assessment of the application, and determine if the area appears to be available for aquaculture.
4. DPI will advertise for objections and competing interests as required, if the area is potentially available.
5. DPI will consider any objections in deciding to proceed with processing the lease application.
6. If there are multiple interests DPI will administer a competitive allocation process that will be either public tender, auction or ballot (See Section 8.2).
7. The preferred applicant will prepare and submit a development application to the relevant local council for assessment under Part 4 of the *Environmental Planning and Assessment Act, 1979*. The development application will need to be supported by a Statement of Environmental Effects, or for designated development an Environmental Impact Statement. A Species Impact Statement is required if a threatened species is likely to be significantly affected.
8. If the proposed lease area is in a Marine Park and the consent authority intends to grant consent to the lease, the concurrence of the relevant Ministers will be sought.
9. The new lease will be gazetted by DPI if consent, and concurrence if required, are granted.

8.1.4 New lease in the National Park estate

1. An application for a new lease in the National Park estate must be accompanied by
 - a. a suitability assessment using the assessment criteria given in Table 5, AND
 - b. a Review of Environmental Factors that addresses the potential environmental impacts of the proposed new lease, the consistency of the activity with any management plan for the area and an assessment of the impact the activity may have on the National Park area. An Environmental Impact Statement is required if the proposed new lease is likely to significantly affect the environment.

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2. DPI will liaise with NSW Maritime and the Department of Environment and Conservation and make a preliminary assessment of the application and determine if the area appears to be available for aquaculture.
3. DPI will advertise for objections and competing interests as required, if the area is potentially available.
4. DPI will consider any objections in deciding to proceed with processing the lease application.
5. If there are multiple interests DPI will administer a competitive allocation process that will be either public tender, auction or ballot (See Section 8.2).
8. The application from the preferred applicant will be assessed by the determining authority under Part 5 of the *Environmental Planning and Assessment Act, 1979*.
9. The written concurrence of the Minister for Environment will be sought if the determining authority intends to approve the lease.
10. The new lease will be gazetted by DPI if approved and the written concurrence of the Minister for Environment has been granted.

8.2 Competitive allocation of new lease areas

Where an interest is shown in an unleased area for oyster farming, DPI is required under the *Fisheries Management Act, 1994* to advertise for objections to the leasing of the area. DPI also advertises for other interest in leasing the area in most circumstances. Where a lease of the area is to proceed and other interest has been shown DPI may offer the lease by public tender, auction or ballot.

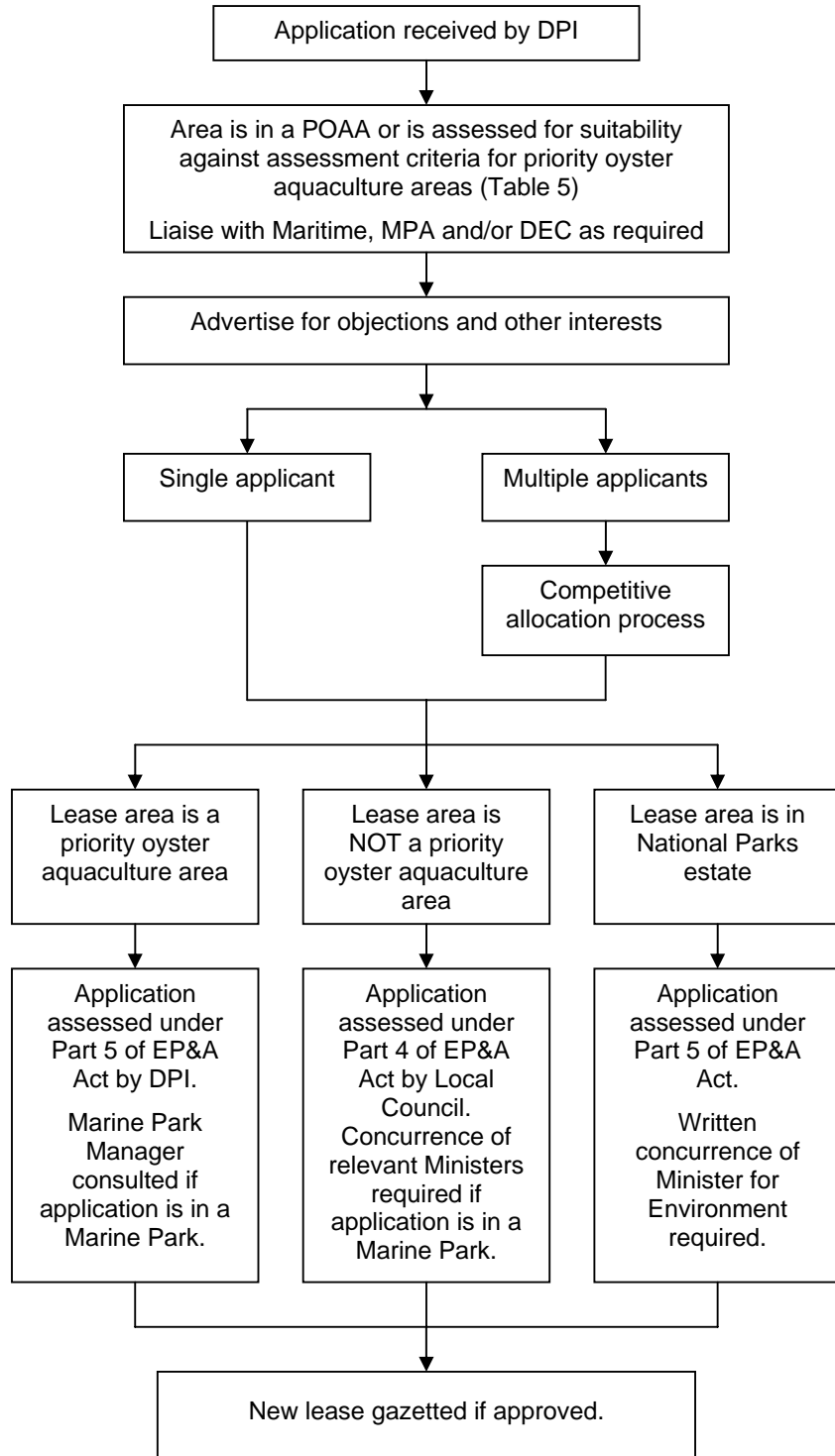
Should the lease be offered by tender, an independent committee assesses tenders against the following criteria:

- The net return to government and community being offered;
- Extent to which the proposal is consistent with this strategy;
- If applicable, the tenderer's record of managing one or more other leased areas; and,
- The public interest in granting the lease to the tenderer.

The new lease assessment and allocation process is outlined in Figure 3.

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Figure 3: New lease assessment and allocation process.



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8.3 Making Local Environmental Plans that may affect oyster aquaculture

As a result of the impacts of development of estuarine catchments (e.g. stormwater, septic seepage, sewerage outfalls), there has been a deterioration in the environmental conditions required for oyster cultivation in some estuaries.

To address this issue the priority oyster aquaculture areas will be shown on Local Environmental Plans and Council must have regard for these areas in preparing a new LEP. The Director-General of DPI may object to the terms of a draft local environmental plan on the grounds of deleterious effects on an oyster aquaculture area.

8.4 Determining development applications that may affect oyster aquaculture

When considering an application for development that, because of its proposed location, may affect a priority oyster aquaculture area or oyster aquaculture outside such an area, the consent authority must:

1. Give the Director-General of the Department of Primary Industries written notice of the development application and take into consideration any written submissions made in response to the notice within 14 days after notice was given, and
2. Take into consideration the provisions of the *NSW Oyster Industry Sustainable Aquaculture Strategy*.
3. Consider any issues that are likely to make the development incompatible with oyster aquaculture and evaluate any measures that the applicant has proposed to address those issues. Examples of potential land use incompatibility issues include access to oyster leases being limited by the development or the risk of adverse impacts of the development on water quality and, consequently, on the health of oysters and on the health of consumers of those oysters.

The consent authority may refuse to grant consent to development if, in the opinion of the consent authority, the development is likely to have an unreasonable impact on a priority oyster aquaculture area or on oyster aquaculture outside such an area.

8.5 Aquaculture permits

Aquaculture permits are not transferable and remain in force until cancelled at the request of the permit holder or by DPI.

The permit holders listed on a permit CAN NOT be changed. If there are changes to a business partnership, business name or group of farmers working under the one permit, then a new permit must be applied for and assessed by DPI.

The permit, as well as the lease, will specify the species allowed to be cultivated on a lease area.

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Applying for a permit

DPI Aquaculture Administration should be contacted for current advice. Information regarding aquaculture permits is also provided on the DPI website. Applications for oyster aquaculture permits will be assessed by the Department of Primary Industries against the Best Practice Standards in OISAS.

A new entrant to the industry will normally be required to demonstrate access to an approved land base site (work area) and have an aquaculture permit or preliminary approval, prior to obtaining any leases.

Commercial farm development plan

All new class 'A' Aquaculture Permits (includes oysters) must submit a Commercial Farm Development Plan (CFDP) that is assessed and by DPI.

A CFDP may be reviewed by DPI where farm management and/or compliance issues arise.

Suspension and cancellation of permits

Aquaculture permits can be suspended and/or cancelled under s.159 and s.160 of the *Fisheries Management Act*, 1994. Some reasons for suspension or cancellation given under these sections of the Act are:

- The permit holder dies or requests the permit be suspended or cancelled;
- The permit application contained false or misleading information;
- Permit conditions, including compliance notices and workplans, are not complied with;
- The permit holder has been convicted of stealing fish (includes oysters) or marine vegetation;
- Aquaculture is not being carried out in line with the Commercial Farm Development Plan; or
- Other circumstances consistent with the *Fisheries Management Act*, 1994 or the *Fisheries Management (Aquaculture) Regulation*, 2002.

In cases other than when the permit holder dies or asks for the permit to be cancelled, the permit holder is given an opportunity to explain why the suspension/cancellation should not go ahead before this action is taken.

The permit holder can request an internal review of a permit suspension or cancellation. If still not satisfied, application can then be made to the Administrative Decisions Tribunal to review the case.

Permit suspension and cancellation may also lead to the cancellation of leases held under the permit.

8.6 Administration of existing leases

An oyster aquaculture lease gives the leaseholder the exclusive right to farm the species listed on the lease within the lease area.

Other community members still have rights of access to the area for fishing and boating, however, it is an offence for a person to interfere with or damage lease structures or stock on the leased area. There are severe penalties for theft and/or damage to stock or infrastructure on aquaculture leases.

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Transfer, subdivision, consolidation and sublet

On application, leases can be transferred, subdivided, consolidated or sublet. Certain conditions have to be met for each of these transactions and DPI Aquaculture Administration should be consulted.

Potential lessees are warned not to exchange a payment or enter into an agreement to take over a lease from a current lessee until they have consulted DPI Aquaculture Administration to obtain current information about the lease and lease transfers. NOTE: The transfer of a lease is NOT automatic.

The assessment of the application will consider financial and compliance records, use of existing leases by an applicant, the condition of the lease area and ensuring that the area remains or is brought into a tidy condition.

Lease transactions will not be approved unless the lease(s) is in a compliant condition or the person taking over the lease agrees to an approved workplan that addresses compliance concerns (eg marking, clean-up).

Surrenders, cancellations, renewals and expired leases.

Leases surplus to oyster farmer's requirements may be surrendered on application. A lease will not be accepted for surrender unless the lease is in a compliant condition and completely free of cultivation materials.

The *Fisheries Management Act, 1994* makes provisions for aquaculture leases to be cancelled in certain cases. Should a lease be cancelled, the previous lessee remains legally responsible for removing any cultivation materials, infrastructure or stock on the lease.

Aquaculture leases are issued for a maximum 15 year term with the leaseholder being entitled to the first renewal for a further maximum 15 year term. Leases are renewable subject to the area remaining available for aquaculture and taking into consideration the lessee's compliance record. The *Fisheries Management Act, 1994* gives preferential rights to the current lessee, on renewal.

Leases that are not otherwise tenanted prior to their expiry date revert to public water land. However, the previous lessee remains legally responsible for removing all cultivation materials from the lease area.

Changes to activity on a lease

The permit holder/leaseholder must obtain written approval from DPI BEFORE commencing any activity that is not consistent with the permit and lease conditions. This may include the introduction of different cultivation methods, new materials, a new species or other significant change in activity. Changes in activity that are not consistent with the OISAS Best Practice Standards may require development consent.

In particular, written approval from DPI must be obtained BEFORE constructing on an oyster lease:

- Raft cultivation,
- Fences,
- Irrigation,
- Platforms, or
- Pumpstands.

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Annual production reports

All permit holders must complete an annual production report and return it on a form approved by DPI.

Public liability insurance and indemnity

Aquaculture permit holders must have public liability insurance cover over all leased areas. Public liability insurance cover must be to a minimum of \$10 million dollars for property owner's and occupier's liability. As this figure is updated periodically you should contact DPI Aquaculture Administration section for the current figure.

Aquaculture permit holders must also indemnify the NSW Government and their officers and agents in respect to any activities carried out on the aquaculture lease area for the purpose of aquaculture. This includes all action, suits, claims and demands, in respect of accident or injury to any person or property arising from the use of the public water land.

The permit holder's public liability insurance and indemnity must remain current at all times and apply to all leases listed on the permit and include terminated/surrendered leases where improvements remain on the lease.

Sub-lessees must list lease details on their permit and must provide public liability insurance and indemnity cover for the area.

8.7 Maintenance dredging of oyster leases

Dredging to maintain adequate water depth on an oyster aquaculture lease situated on Crown submerged land will require a licence issued under the *Crown Lands Act, 1989*. The provisions of the relevant local environmental plan and/or the *Environmental Planning and Assessment Act, 1979* may require development consent to be obtained. Development applications will require land owner's consent from the Department of Lands prior to lodgement.

The Department of Lands will give written notice to the Minister for Primary Industries and consider any matters raised by the Minister concerning the proposed work within 28 days of giving the notice. The Department of Lands and the relevant consent authority should be consulted for further advice.

A permit may also be required from DPI under Section 201 of the *Fisheries Management Act, 1994*. DPI will not issue such a permit unless the following best practice standards are observed.

- The material to be dredged is clean marine sand;
- No potential or actual acid sulphate materials will be disturbed;
- Maximum dredging depth is 1.0 metres below mean low water mark;
- There is no *Posidonia australis* sea grass present in the dredge area;
- The dredging activity will have no significant adverse impact on any threatened species or habitats;
- An approved spoil disposal site is available;
- The activity will not result in any significant water pollution; and

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- An aquaculture lease maintenance dredging plan has been prepared in consultation with the DoP, DNR, the DPI and the relevant local council.

DPI, the Department of Lands and the consent authority should be consulted for further advice.

8.8 Oyster aquaculture species

Species currently approved

There are three main species of edible oysters in NSW, the Sydney rock oyster (*Saccostrea glomerata*), the native flat oyster (*Ostrea angasi*) and the introduced Pacific oyster (*Crassostrea gigas*). Both the Sydney rock oyster and the Pacific oyster belong to a group of oysters known as 'cupped oysters', while the native flat oyster belongs to the 'flat oyster' group. World wide, the vast majority of oysters harvested for human consumption are 'cupped oysters'. This is a recent trend and has been driven largely by the translocation and cultivation of the fast growing Pacific oyster. In the past, flat oyster cultivation has been a major industry in Europe and wild flat oyster fisheries have been important in the past in southern Australia. It is believed that a disease (bonamia) that wiped out the European industry during the late 19th and early 20th century was also responsible for a significant decline in wild flat oyster populations in Australia in the 19th century. The impact of over fishing of flat oyster populations may have also contributed significantly to this decline.

The NSW oyster industry is based almost entirely on the production of the Sydney rock oyster. While the geographic range of this species extends from Wingham Inlet in eastern Victoria north along the eastern Australian coast, across northern Australia to the West Australia coast, wild populations of the oyster are most prolific in southern Queensland and NSW estuaries. In these estuaries the Sydney rock oyster is often the dominant intertidal species.

A small industry with considerable potential for expansion is developing around the cultivation of the native flat oyster in southern NSW. This species is endemic to southern Australia and is the major oyster species found in aboriginal middens in these areas. This species is primarily a sub-tidal oyster commonly found in the marine dominated areas of estuaries and has a low tolerance to fresh water runoff. While self-sustaining wild populations of this species are usually only found south of the Clarence River, individuals have been found as far north as Morton Bay in southern Queensland.

The Pacific oyster was introduced in to southern Australian states in the late 1940's and early 1950's by the CSIRO in an attempt to establish a cupped oyster industry in these states in lieu of a suitable indigenous cupped oyster species. At that time the importation of Pacific oysters into NSW was prohibited by the NSW Government. However, by the 1970's the Pacific oyster had found its way into a number of NSW estuaries. The Pacific oyster is now found in most NSW estuaries south of Port Macquarie.

Recently, farmers in several estuaries have begun trials of farming functionally sterile triploid pacific oysters (Port Stephens, Georges and Hawkesbury Rivers). These oysters are not affected by the oyster disease QX which decimated local Sydney rock oyster populations in these estuaries.

The species of oyster selected for cultivation will affect the design of the aquaculture facility as well as the viability of the aquaculture business. An

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aquaculture business may cultivate more than one species. In designing the facility, flexibility of design and layout allows switching of species to meet opportunities created by changing markets, supply or production technologies.

Factors in the selection of species include:

- Constraints on translocation of species – see below;
- Genetic factors;
- Availability of seed stock (reliability, quality, quantity, seasonality);
- Documented performance of the species in the aquaculture system proposed;
- Site specific attributes eg scale required, flood liability, temperature and water quality requirements;
- Cost of production and business viability;
- Market demand and price;
- Potential disease; and,
- Other management factors.

In some situations, 'polyculture' (ie two or more species farmed simultaneously in the one area) may increase returns to industry and provide a more productive use of an oyster aquaculture lease area. A potential example of this is Sydney rock oyster and flat oyster farming on the one lease. Table 9 lists the edible oyster species approved for cultivation on NSW oyster aquaculture leases by estuary in 2005.

Table 9: Species of oyster approved for cultivation on oyster aquaculture leases in NSW.

Estuary	Sydney rock oyster	Flat oyster	Pacific oyster
Tweed River	✓	X	X
Brunswick River	✓	X	X
Richmond River	✓	X	X
Clarence River	✓	X	X
Sandon River	✓	X	X
Wooli River	✓	X	X
Nambucca River	✓	X	X
Macleay River	✓	X	X
Hastings River	✓	X	X
Camden Haven River	✓	✓	X
Manning River	✓	X	X
Wallis Lake	✓	X	X
Port Stephens	✓	✓	✓ Diploid and Triploid
Hunter River	✓	X	X
Brisbane Water	✓	X	X
Hawkesbury River	✓	X	✓ Triploid only
Georges River System	✓	X	✓ Triploid only
Crookhaven Shoalhaven	✓	✓	X
Clyde River	✓	✓	X
Moruya River	✓	✓	X
Tuross Lake	✓	✓	X
Wagonga Inlet	✓	✓	X
Bermagui River	✓	✓	X
Wapengo Lagoon	✓	✓	X
Nelson Lagoon	✓	✓	X
Merimbula Lake	✓	✓	X
Pambula Lake	✓	✓	X
Wonboyn Lake	✓	✓	X

✓ = Approved

X = Not currently approved

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Protocol for assessing a new species for commercial oyster aquaculture

One of the potential risks of aquaculture is the inadvertent introduction of live species into natural waters beyond their natural range or to areas within their natural range that have genetic stocks or populations that are distinct from the aquaculture stock. This is called translocation (AFFA, 1999). Translocation of non-indigenous species is sanctioned in some catchments. In other circumstances, it may occur accidentally or deliberately.

Translocation of live aquatic organisms has a number of inherent risks for the receiving aquatic habitats as well as for endemic organisms.

The Ministerial Council on Forestry, Fisheries and Aquaculture (1999) developed a national translocation policy to meet the needs of Australia's aquaculture and aquarium industries for the translocation of live aquatic species within jurisdictions and across jurisdictional boundaries. The policy sets out a risk assessment process for considering translocation issues and identifies potential risks under the headings of escape/release, survival and establishment.

An example of illegal translocation occurred in Port Stephens when the Pacific oyster was introduced in 1984. The Pacific oyster has now established in the majority of the estuary, and significantly reduced the harvest of Sydney rock oysters.

Movement of Sydney rock oysters from one estuary to another is practiced widely in NSW to take advantage of changes in temperature and growing conditions that promotes oyster growth and condition.

On application, DPI may consider approving new edible oyster species for culture on oyster aquaculture leases. When proposing new species for cultivation on an oyster aquaculture lease, the proponent needs to submit to DPI an assessment of potential environmental effects on:

- Any critical habitats, threatened species, populations ecological communities and their populations;
- Any community of aquatic plant or animal;
- Existing commercial oyster cultivation;
- The visual, scientific, cultural or recreational amenity;
- Any cumulative effects with other existing or likely future activities; and,
- Any necessary modification to the commercial farm development plan.

DPI may impose special conditions on the approval of new species and may require a trial period of farming to monitor and assess potential environmental impacts. If critical habitats, threatened species, populations ecological communities and their populations are likely to be affected a Species Impact Statement may be required and if the proposal is likely to significantly affect the environment an Environmental Impact Statement may be required.

8.9 Transitional provisions

Current oyster aquaculture activities that are lawfully approved may continue despite the provisions of this strategy.

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Chapter 9
Complaint resolution

Chapter 9

Complaint resolution

Complaints and grievances by residents and community groups near oyster farming areas are best dealt with at the local level with compromise and agreement between the affected parties.

The key contact for industry information is the DPI Oyster Manager who can be contacted at the Port Stephens Fisheries Centre on 4982 1232.

9.1 Complaint resolution principles

- Complaints will be treated seriously and dealt with promptly and, if requested, confidentially;
- All parties to the complaint will be kept informed of relevant developments and actions;
- Both parties will be encouraged to participate in all stages of the complaint resolution process; and
- The complaint resolution procedure emphasises mediation and co-operation.

9.2 Complaint resolution process

Initial response

- All complaints relating to oyster aquaculture will be directed to the Oyster Manager;
- The Oyster Manager will inform the complainant of the broad process to resolve the matter;
- An inspection of the lease or activity subject to complaint may be undertaken by a fisheries officer or the Oyster Manager;
- A fisheries officer or the Oyster Manager will discuss the complaint with the relevant lessee and/or aquaculture permit holder;
- If the lease condition and/or activity that is the subject of the complaint is found to be inconsistent with this strategy or the *Fisheries Management Act, 1994*, then appropriate action will be initiated by the relevant fisheries office or Oyster Manager; and,
- An initial written response will be provided to the complainant by the fisheries officer or Oyster Manager within 15 working days.

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Mediation

For complaints that can not be resolved by the initial response then:

- The complaint will be referred to DPI Manager Aquaculture;
- The Oyster Manager will meet the complainant and the relevant lessee and/or aquaculture permit holder and will attempt to mediate a resolution; and,
- Mediated resolutions will be sent to each party for confirmation within three weeks of the meeting.

Referral to DPI Director of Fisheries Conservation and Aquaculture

For complaints that can not be resolved by mediation then:

- The complaint will be referred to Director, Fisheries Conservation and Aquaculture;
- The Director will review the complaint and make a determination; and,
- The Director's determination will be sent to each party within one month of the referral.

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Chapter 10
References

Chapter 10

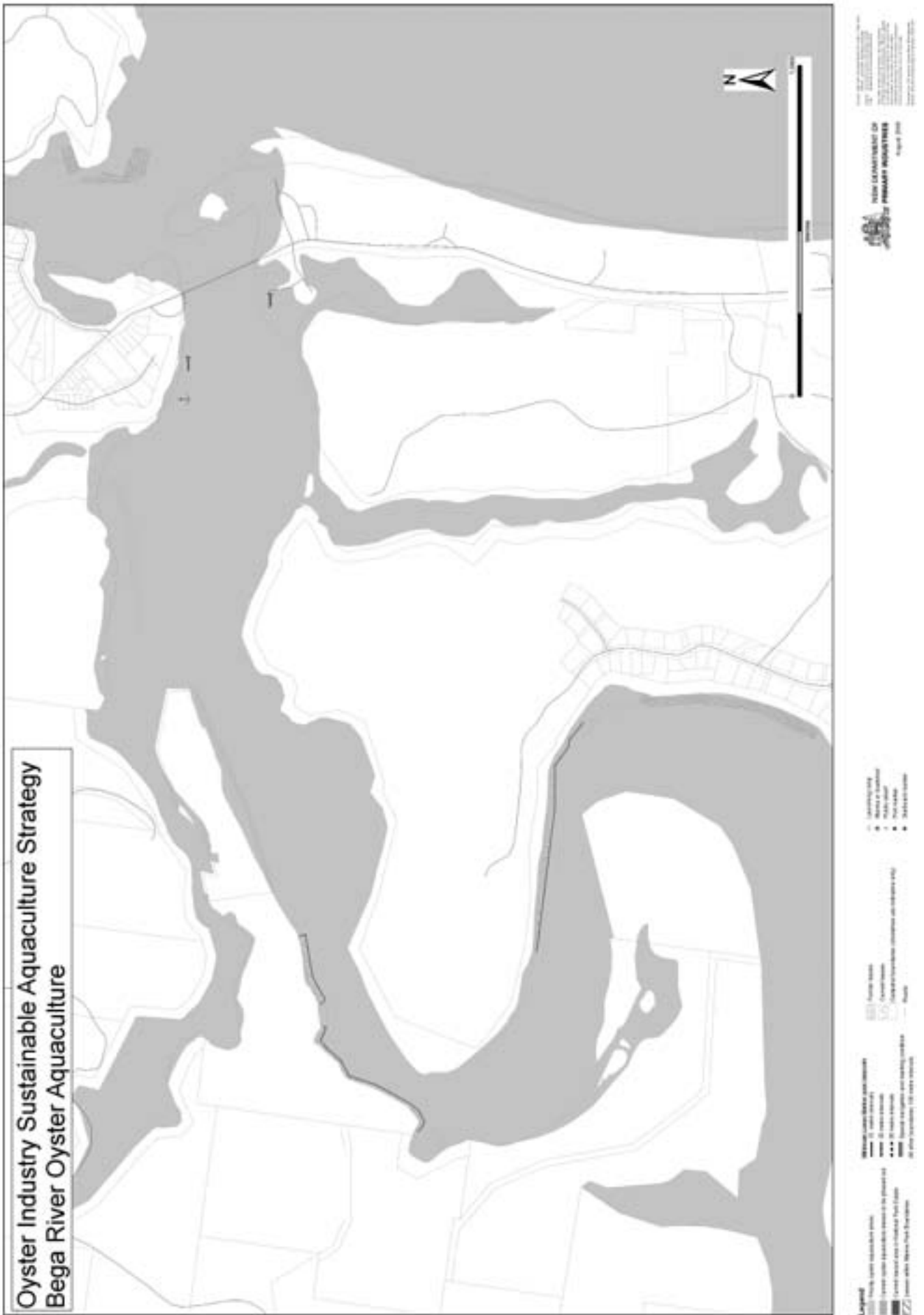
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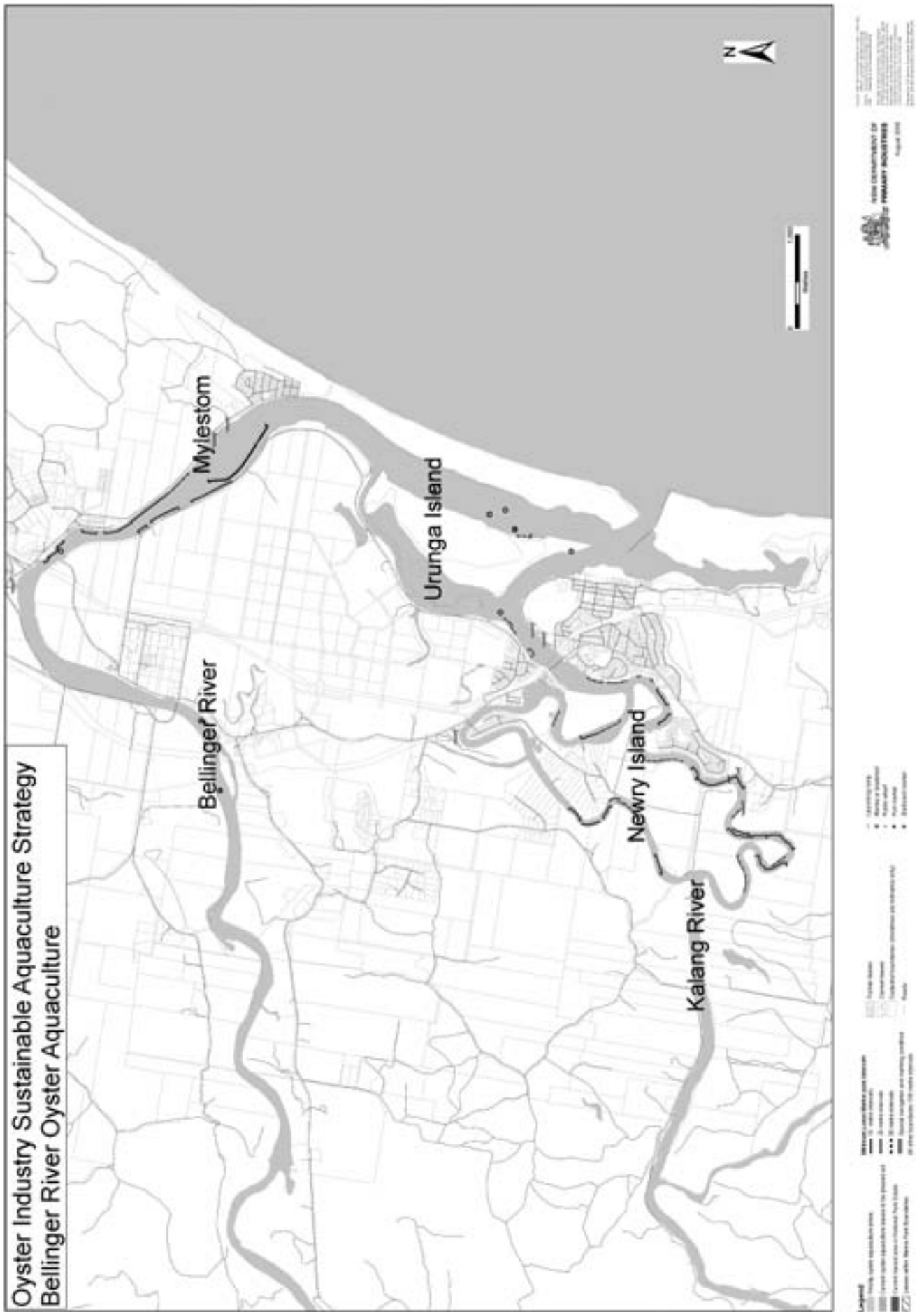
- ANZECC and ARMCANZ, 2000. *Australian and New Zealand Guidelines for Fresh and Marine Water Quality*. National Water Quality Management Strategy Paper No.4. Australian and New Zealand Environment and Conservation Council / Agriculture and Resource Management of Australia and New Zealand.
- Australian Shellfish Quality Assurance Advisory Committee (ASQAAC), 2004. *Australian Shellfish Quality Assurance Program (ASQAP) Operations Manual*. http://www.pir.sa.gov.au/pages/aquaculture/sasqap/asqap_manual_final.pdf
- Dove, M.C., Sammut, J., Callinan, R.B., and Bayne, B. 1999. Impacts of acidified water on the Sydney Rock Oyster *Saccostrea commercialis*. In *Proceedings of the Annual International Conference and Exposition of the World Aquaculture Society*, 26 April-3 May, 1999, Sydney, Australia.
- Ecologically Sustainable Development Steering Committee, 1992. *National Strategy for Ecologically Sustainable Development*. Endorsed by the Council of Australian Governments December, 1992. ISBN 0 644 27253 8. <http://www.deh.gov.au/esd/national/nse/d/strategy/index.html>
- Fletcher, W.J., Chesson, J., Fisher M., Sainsbury, K.J., and Hundloe, T.J. (2004) *National ESD Reporting Framework: The 'How To' Guide for Aquaculture*. Version 1.1 FRDC, Canberra, Australia 88 pp
- Healthy Rivers Commission, 2003. *Independent Review of the Relationship between Healthy Oysters and Healthy Rivers*. Healthy Rivers Commission of NSW, Sydney. http://www.hrc.nsw.gov.au/site/pdf/reports/oysters_final.pdf
- Ministerial Council on Forestry, Fisheries and Aquaculture, 1999. *National Policy for the translocation of live aquatic organisms – issues, principles and guidelines for implementation*. Bureau of Rural Sciences, Kingston.
- Ogburn, D. M. 2006. The NSW oyster industry: an indicator of sustainable coastal policy and practice. A thesis submitted for the degree of doctor of philosophy at the Australian National University.
- SafeFood NSW, 2001. *New South Wales Shellfish Program Operations Manual*. Safe Food NSW, Sydney. <http://www.safefood.nsw.gov.au/pdf/Manual-Shellfish-Program.pdf>.

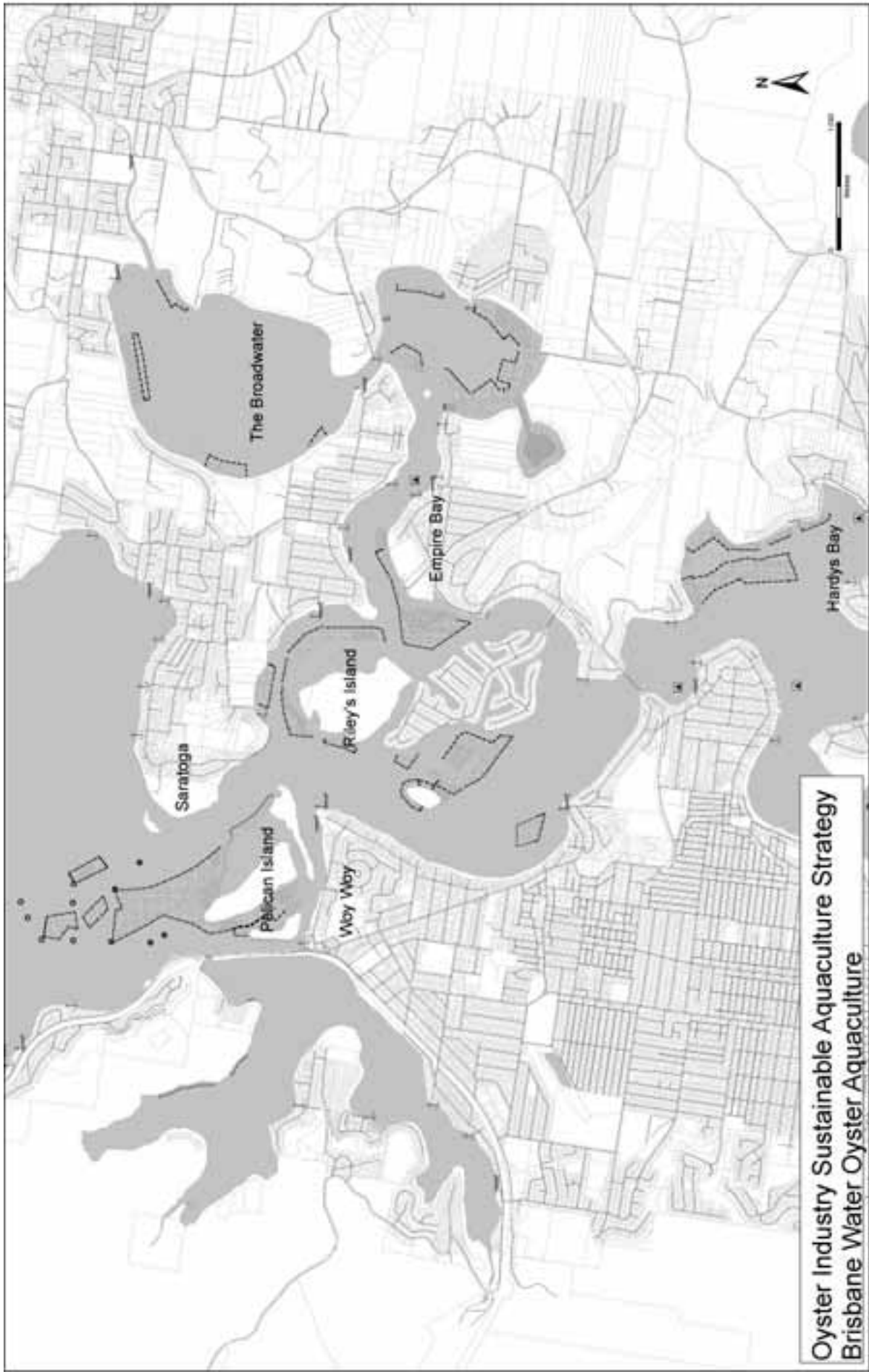
NSW Oyster Industry Sustainable Aquaculture Strategy
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References

Schumway, S.E. 1996. Natural Environmental Factors. *In* Kennedy, V.S., Newell, R.I.E., and Eble, A.F. (Editors). *The Eastern Oyster, Crassostrea virginica*. Maryland Sea Grant College, University of Maryland System, College Park, Maryland, USA.

White, I., 2001. *Safeguarding Environmental Conditions for Oyster Cultivation in New South Wales*. Centre for Resource and Environmental Studies, Australian National University. Report to Healthy Rivers Commission. http://www.hrc.nsw.gov.au/site/pdf/reports/oysters_final.pdf.

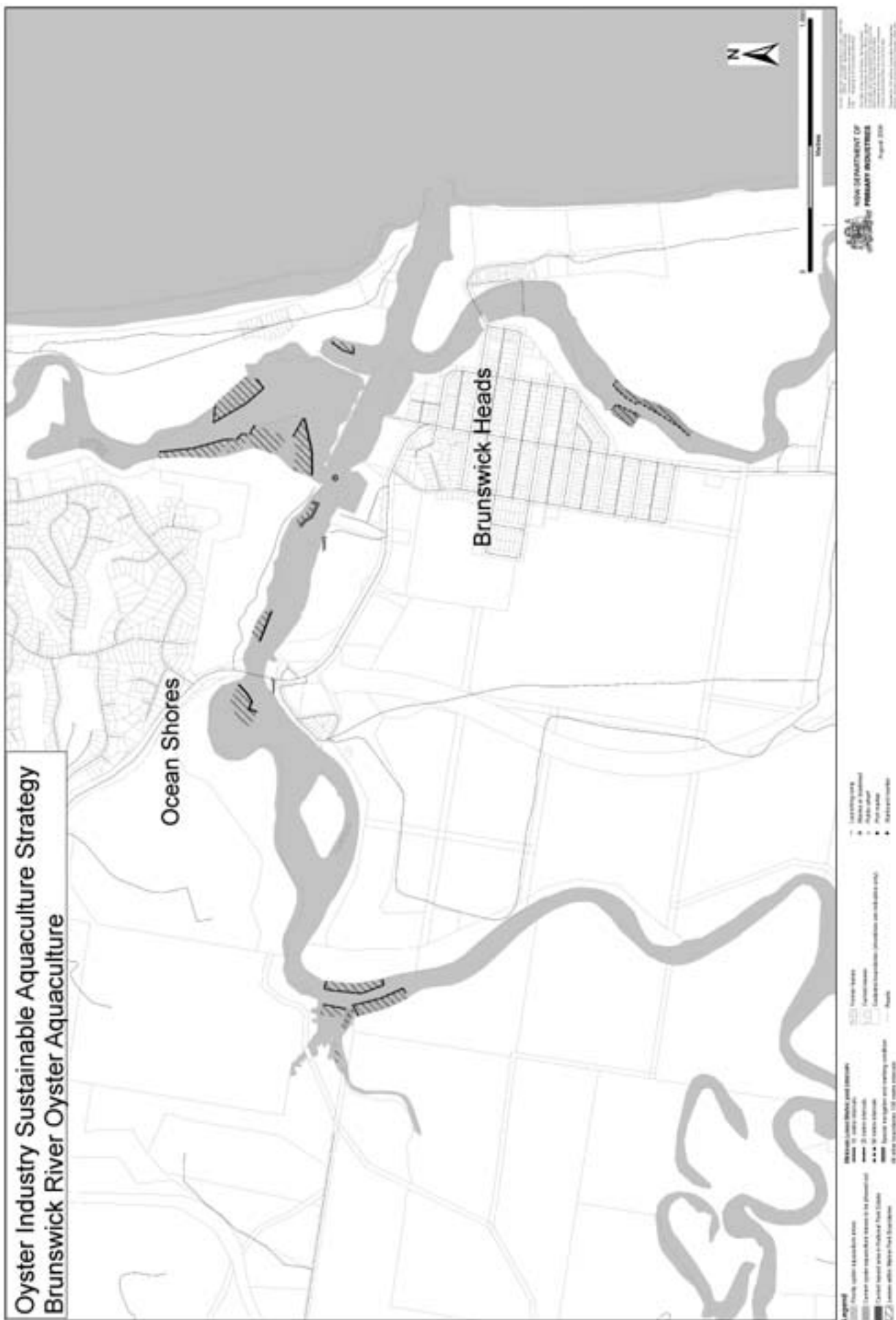


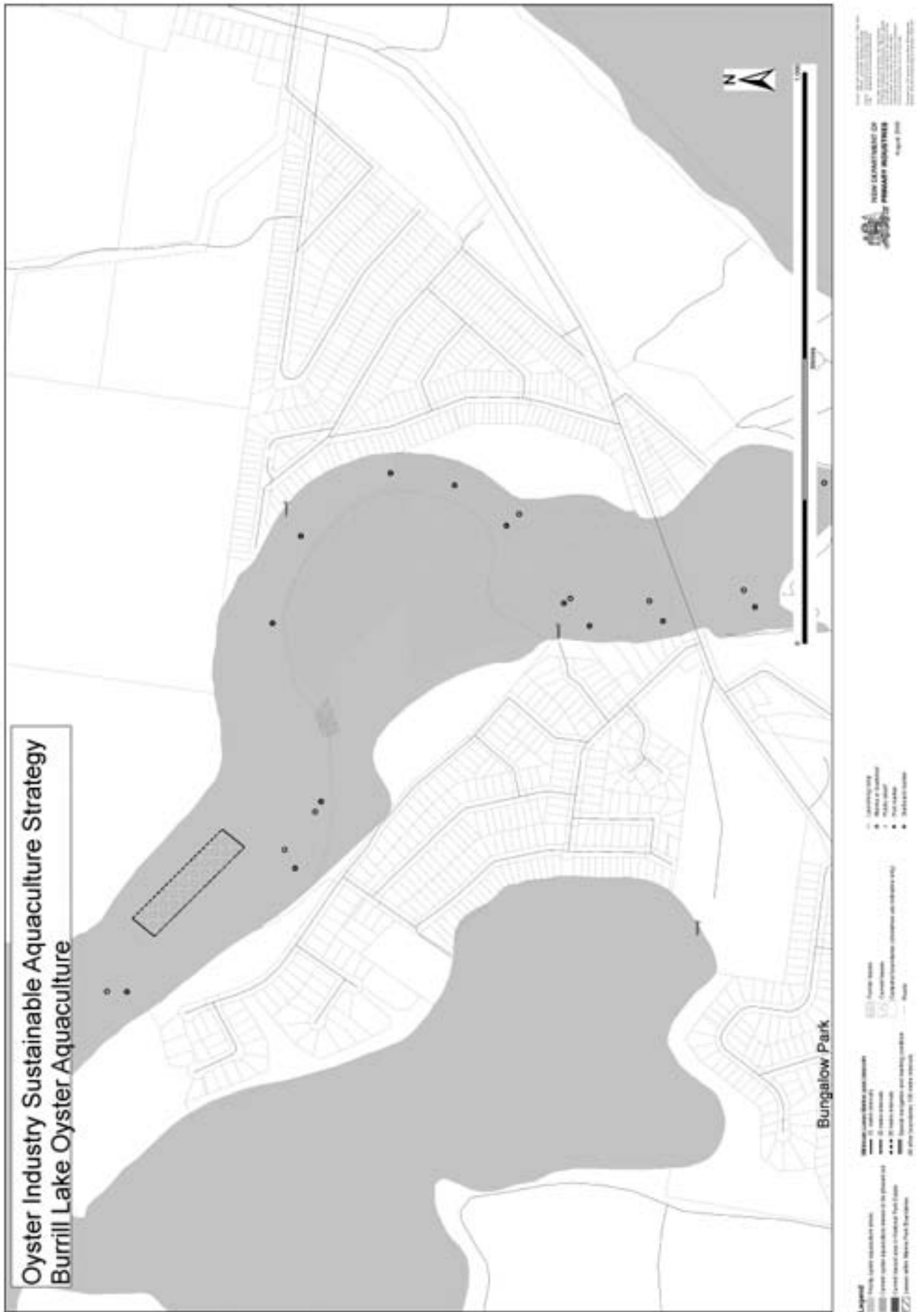


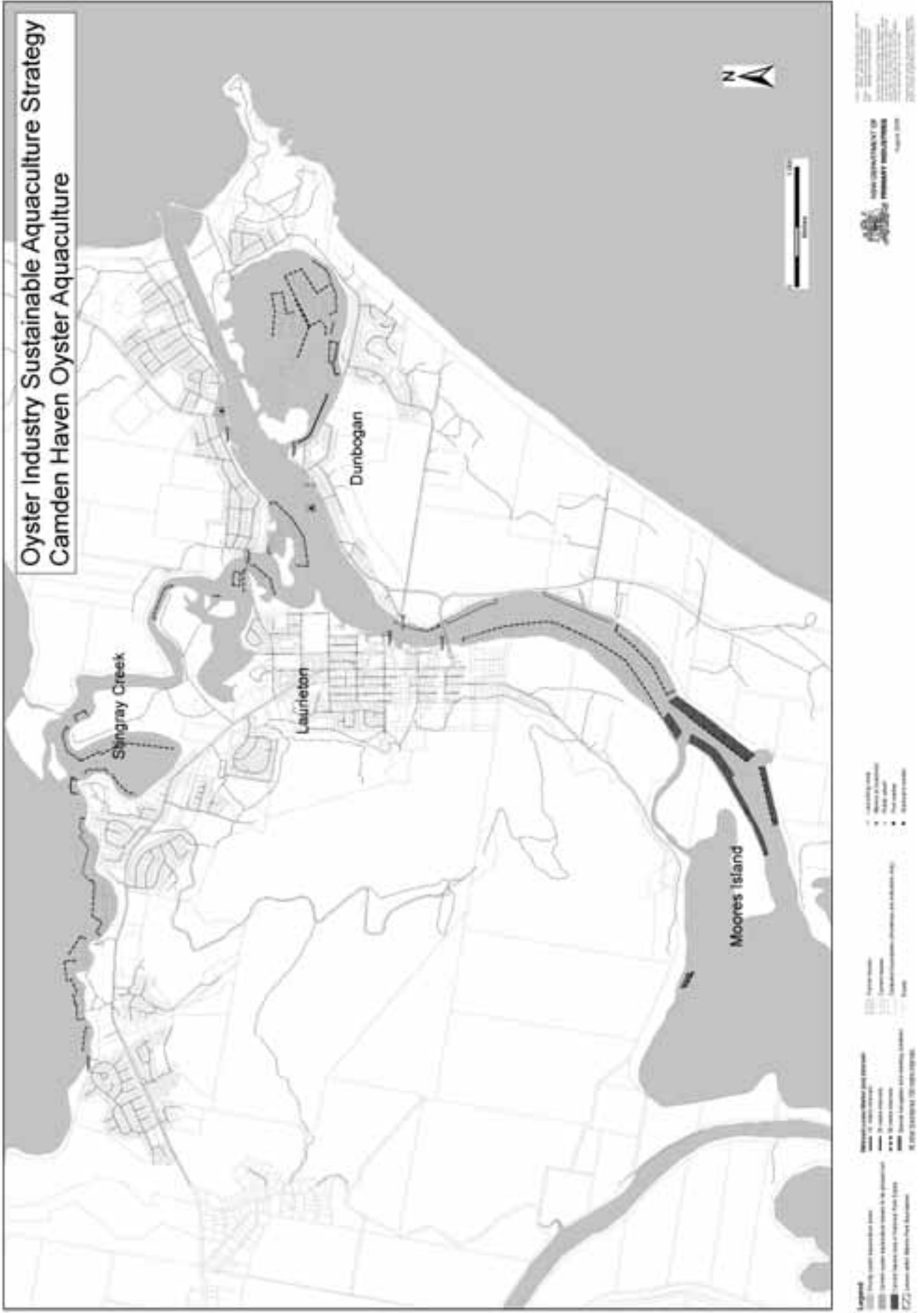


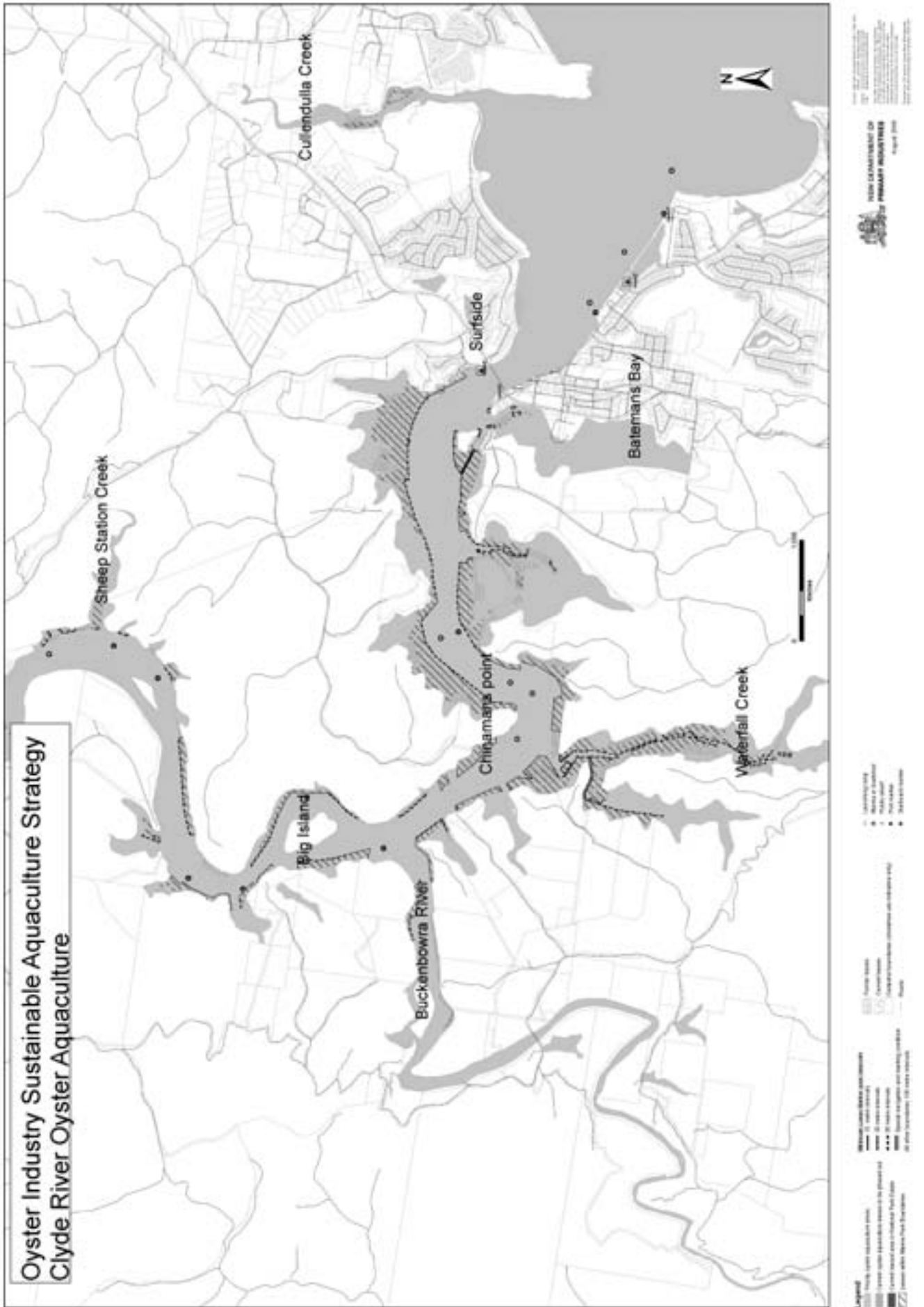
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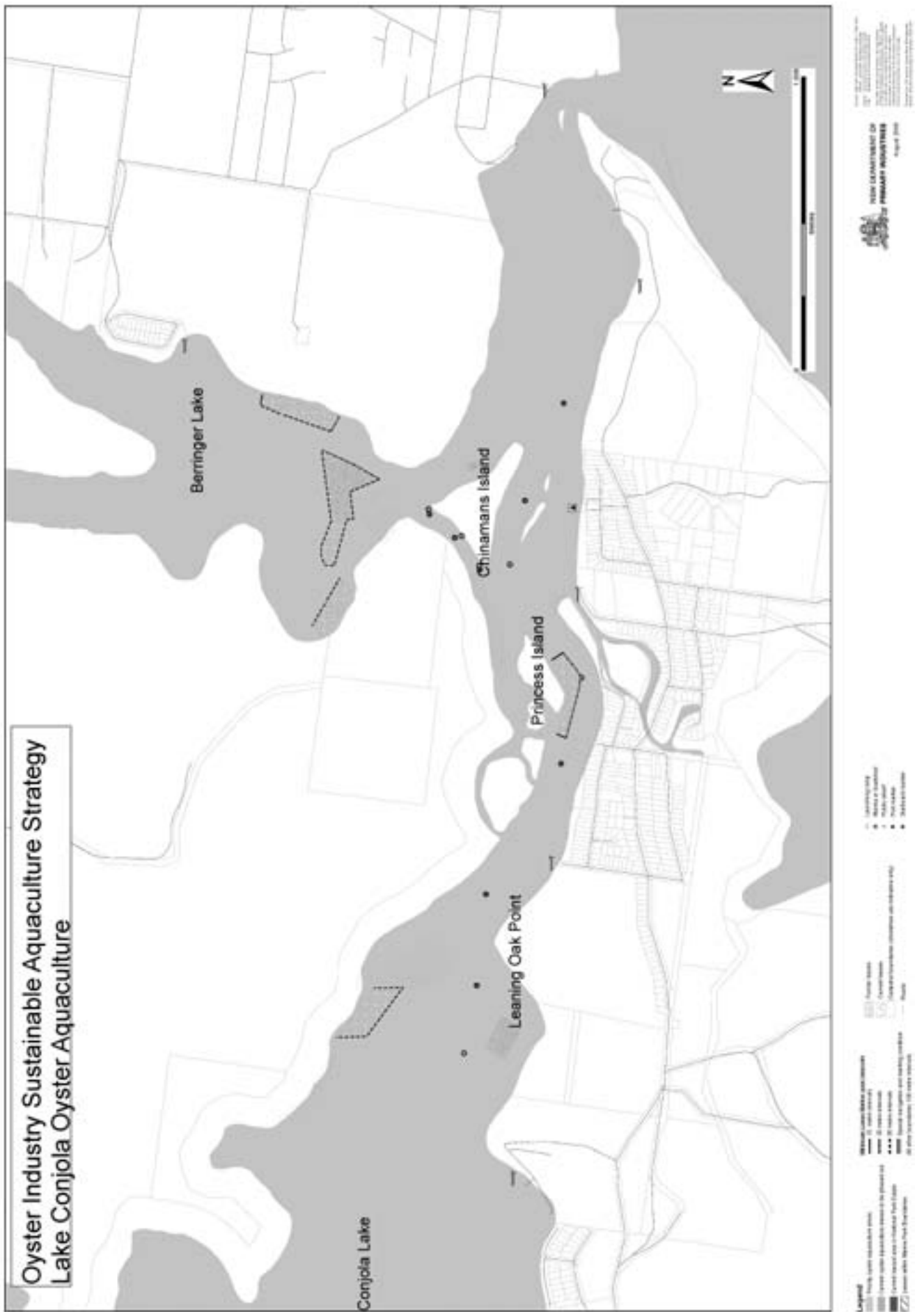
**Oyster Industry Sustainable Aquaculture Strategy
 Brisbane Water Oyster Aquaculture**

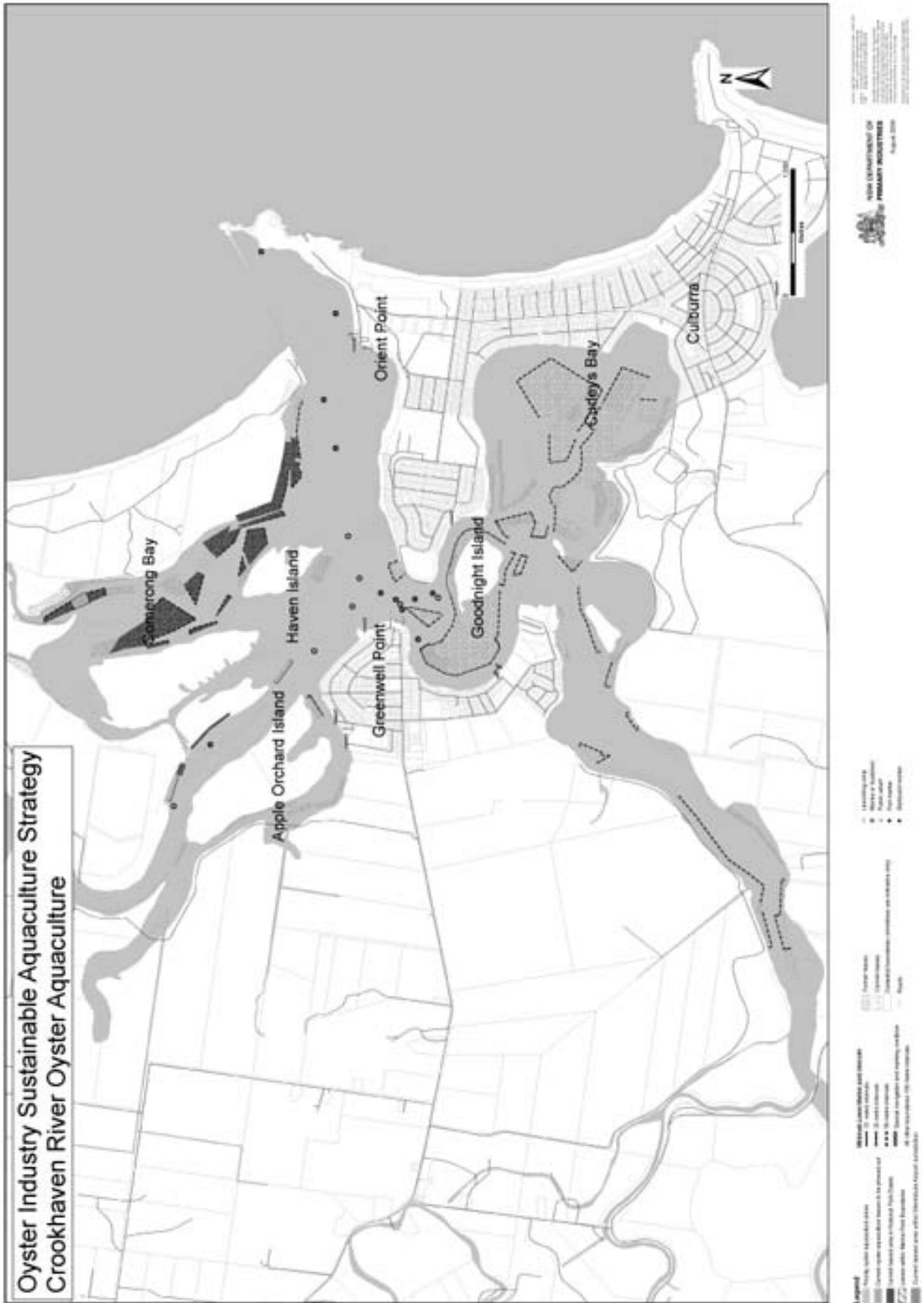


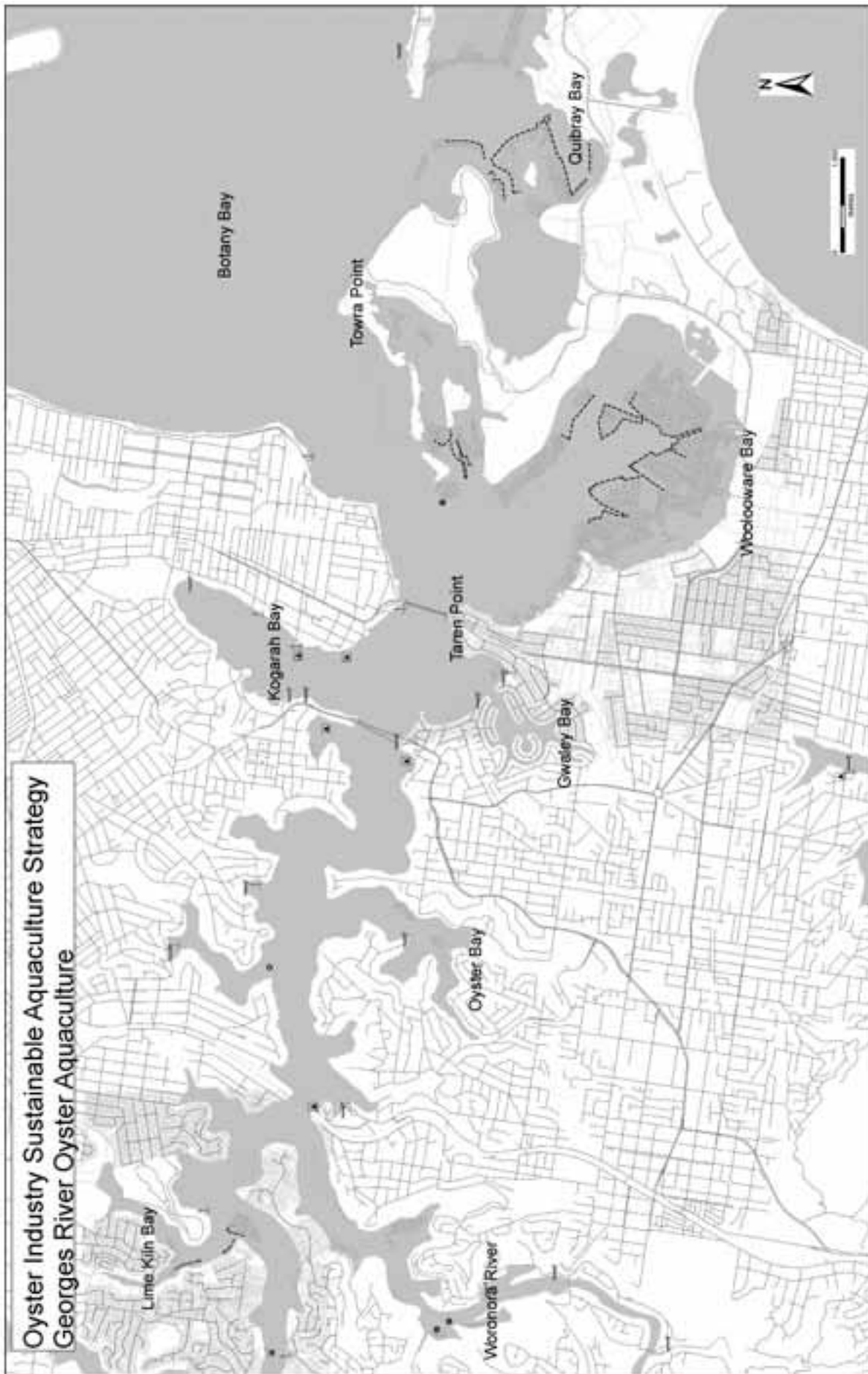












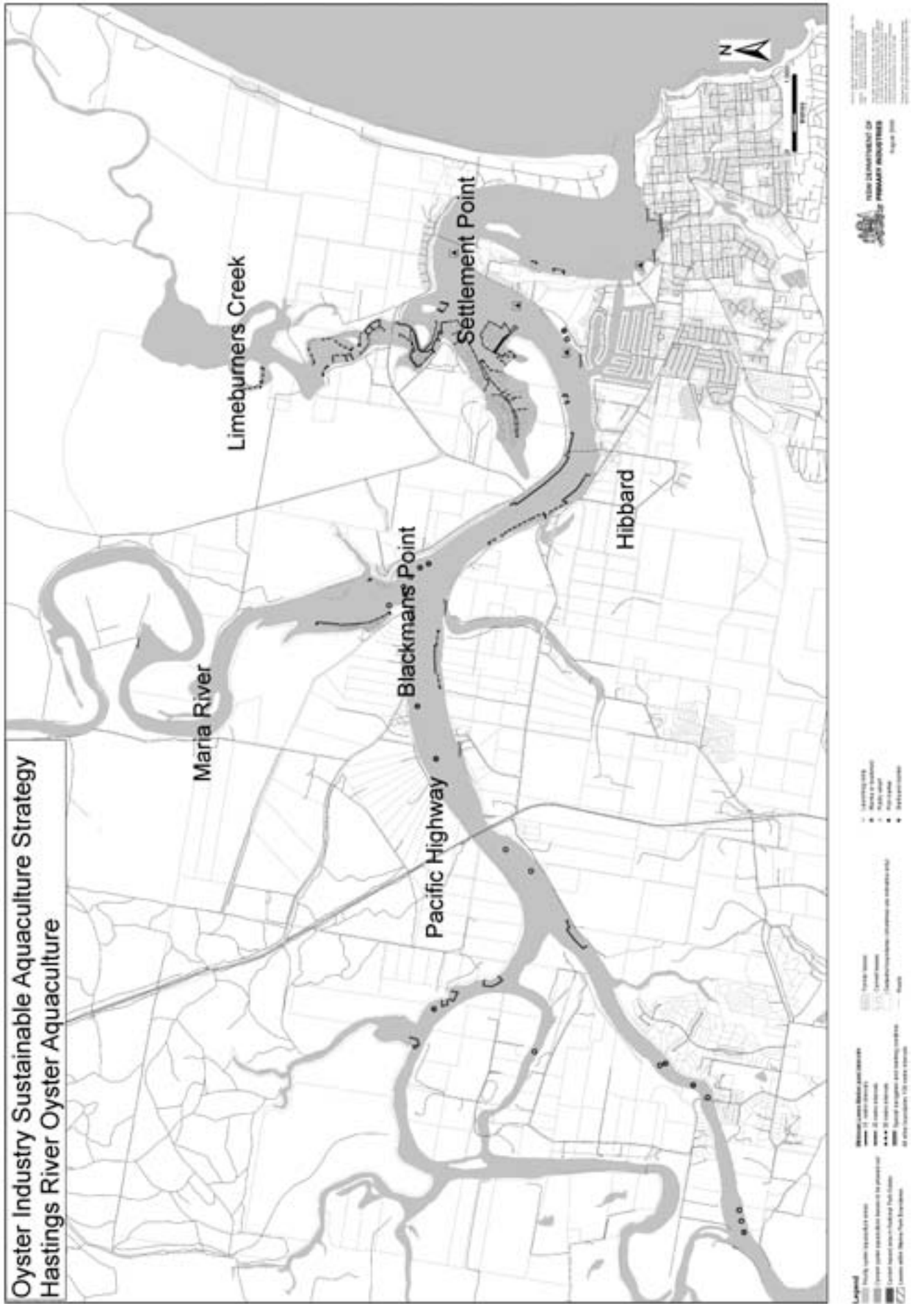
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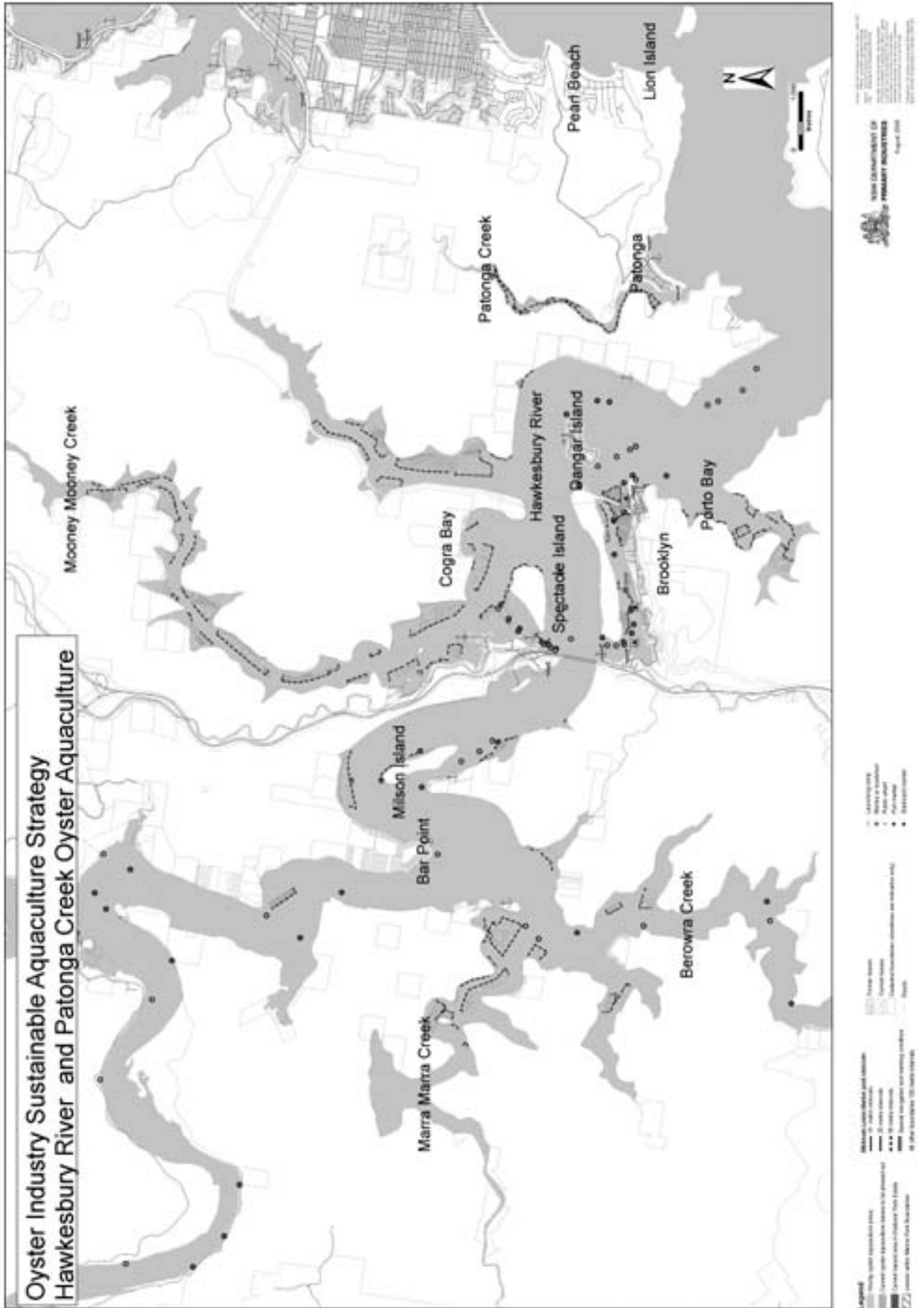
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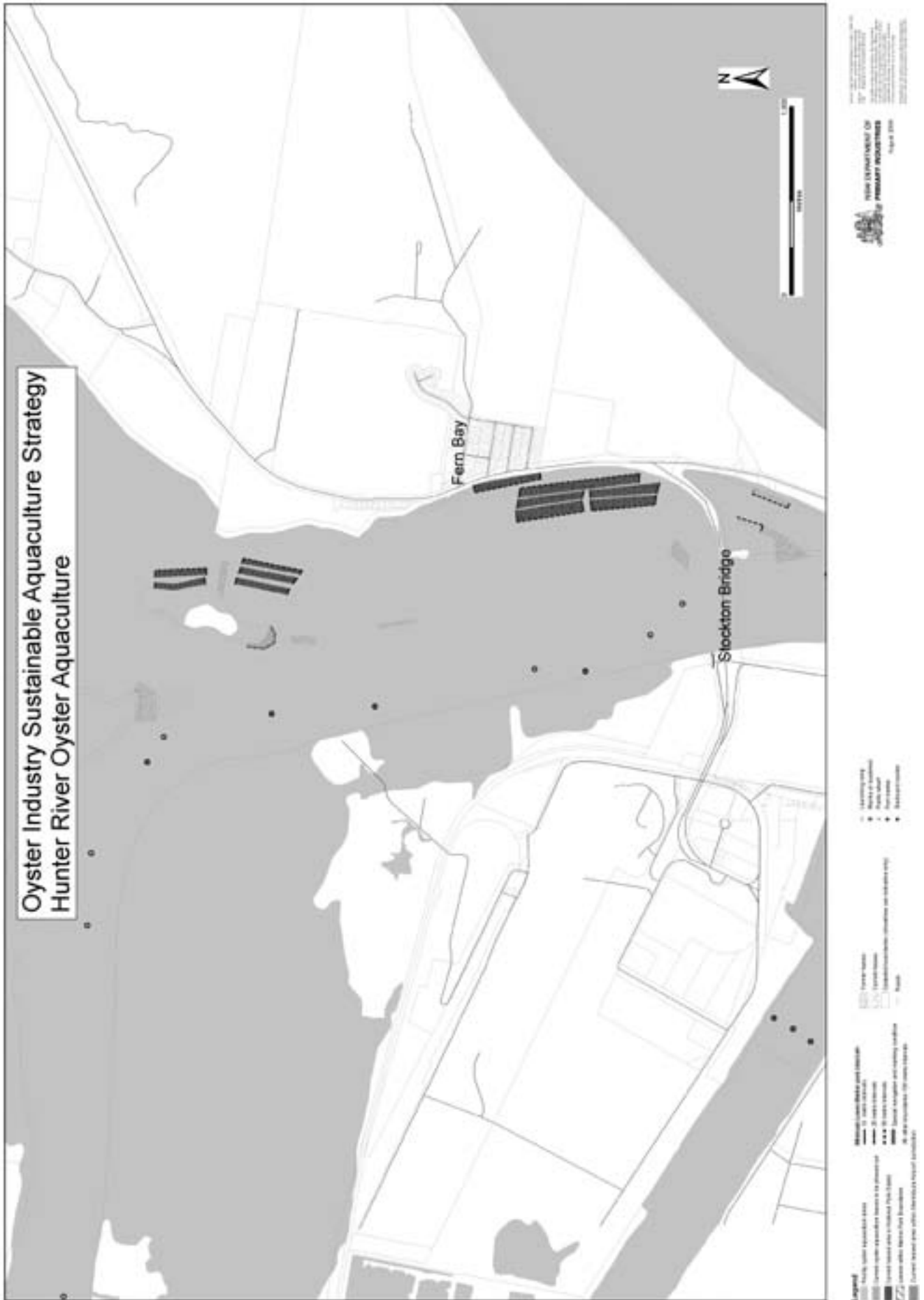
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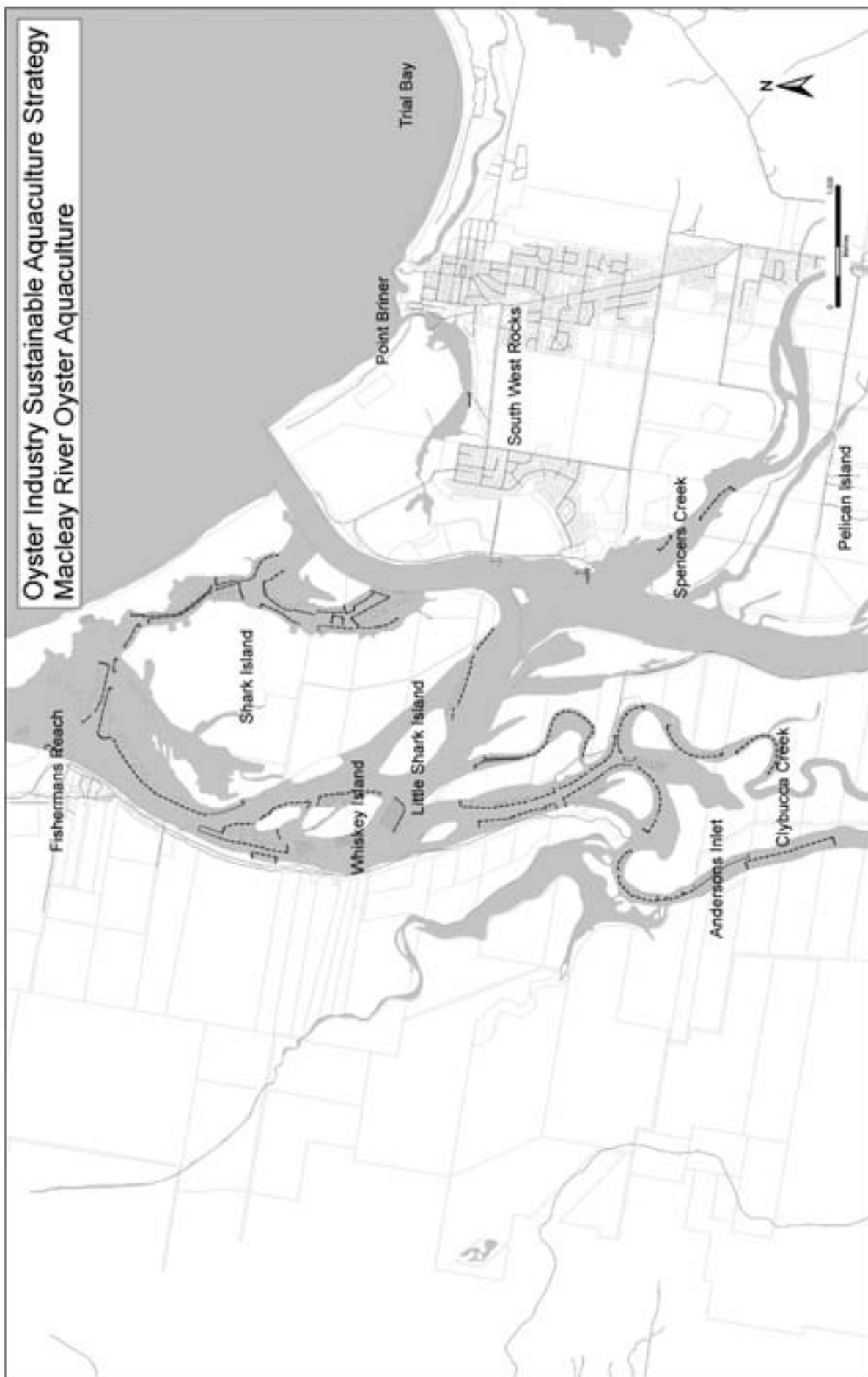
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DEPARTMENT OF PRIMARY INDUSTRIES









**Oyster Industry Sustainable Aquaculture Strategy
Macleay River Oyster Aquaculture**

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PRIMARY INDUSTRIES
April 2006

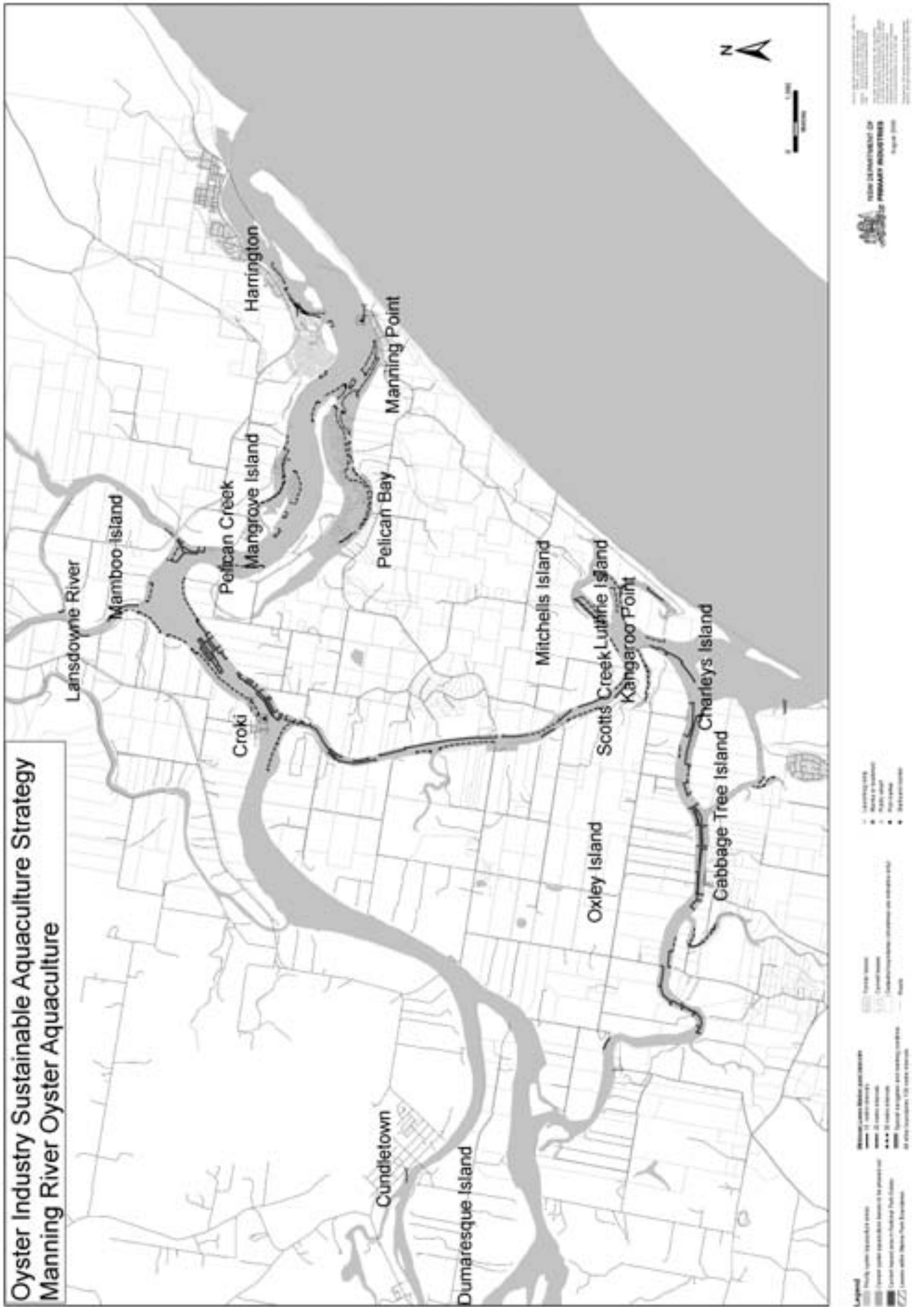


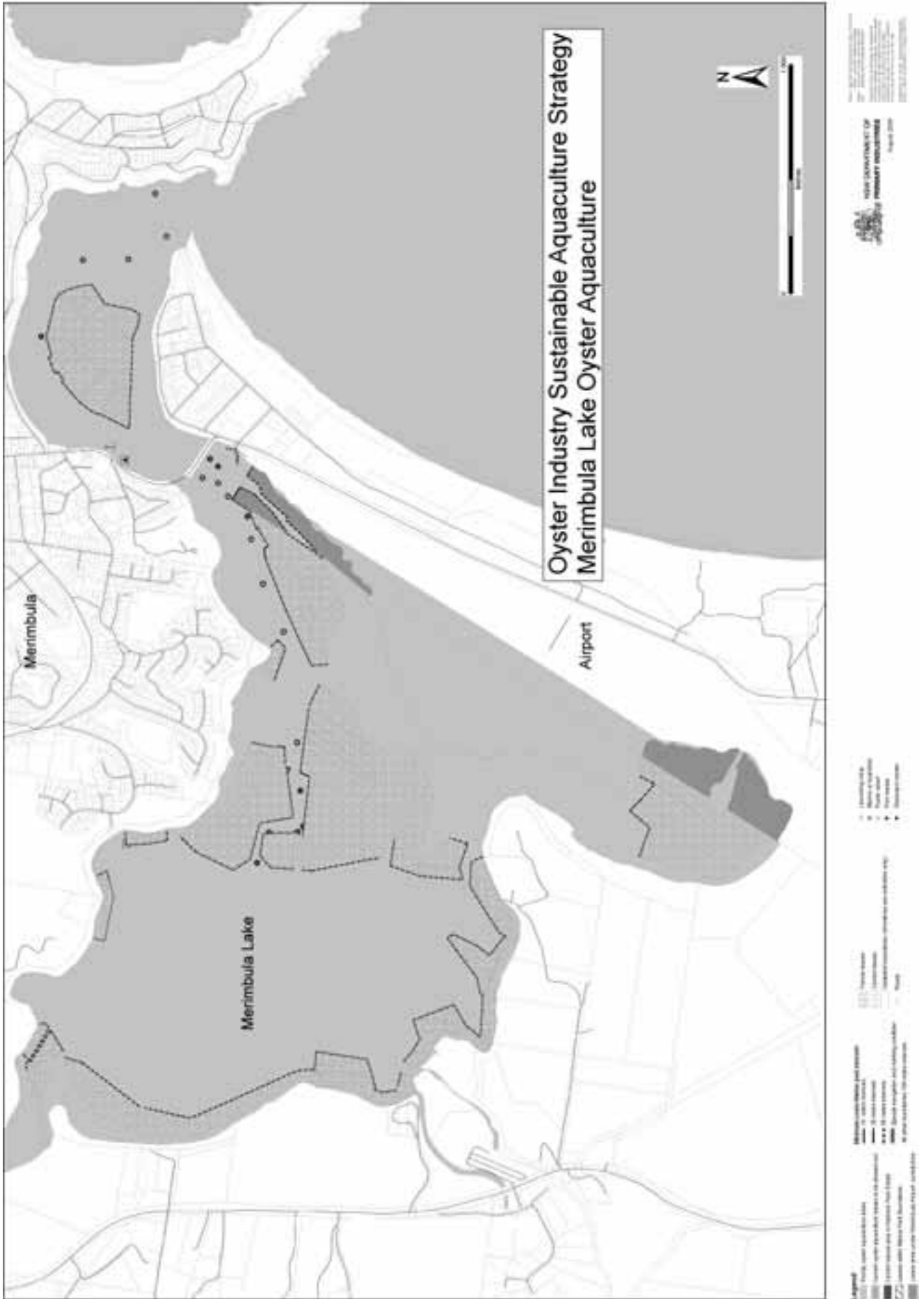
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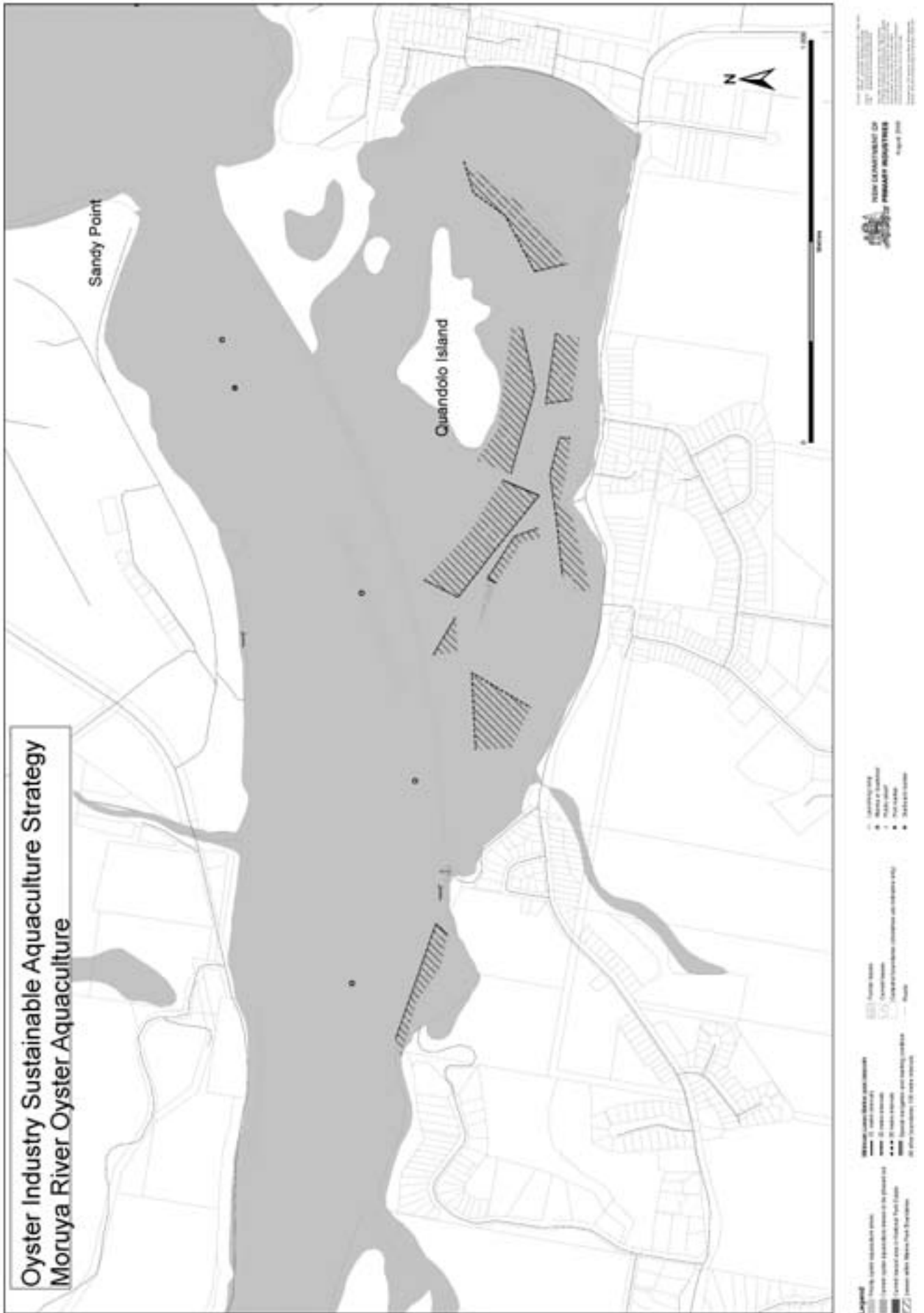
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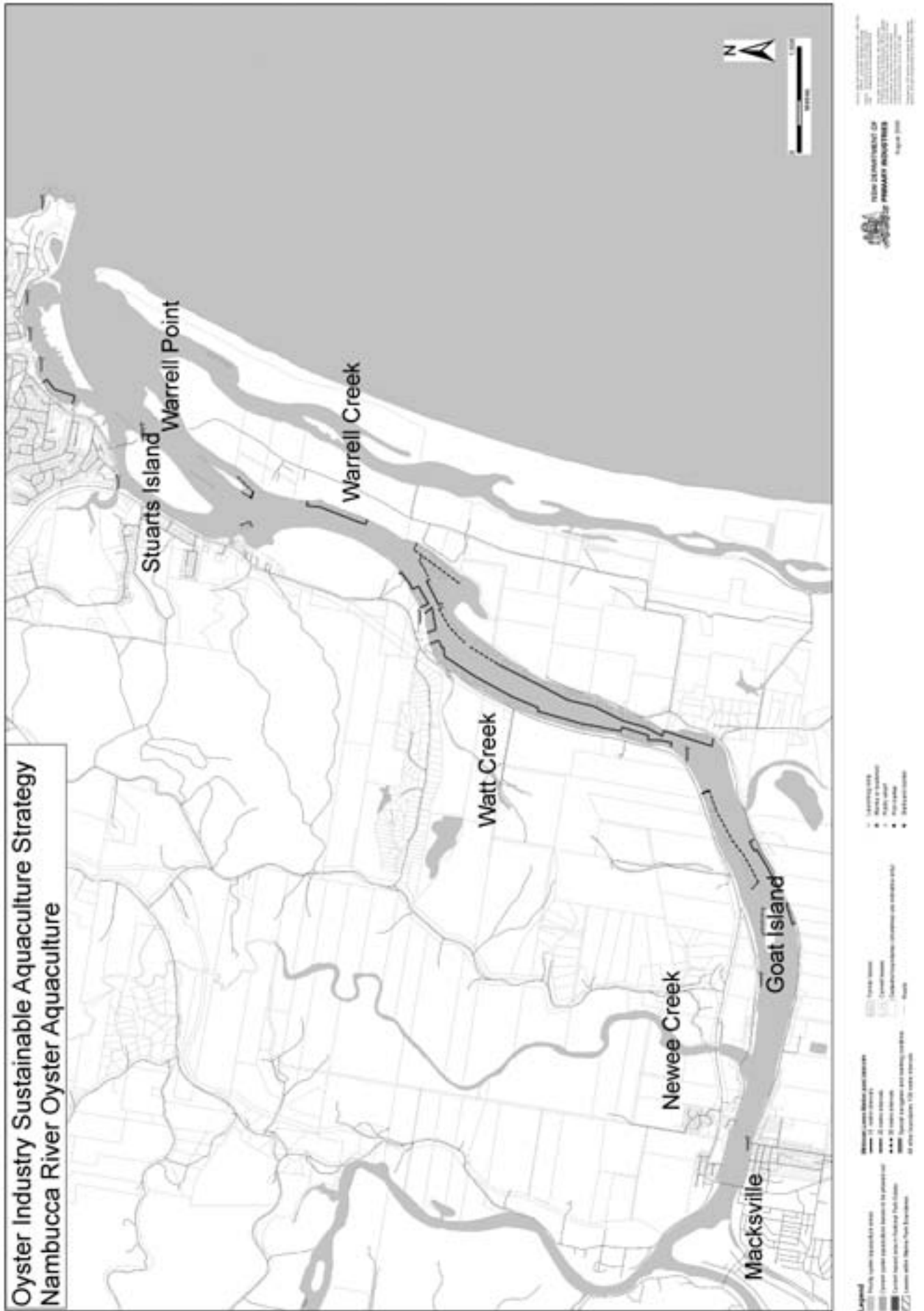
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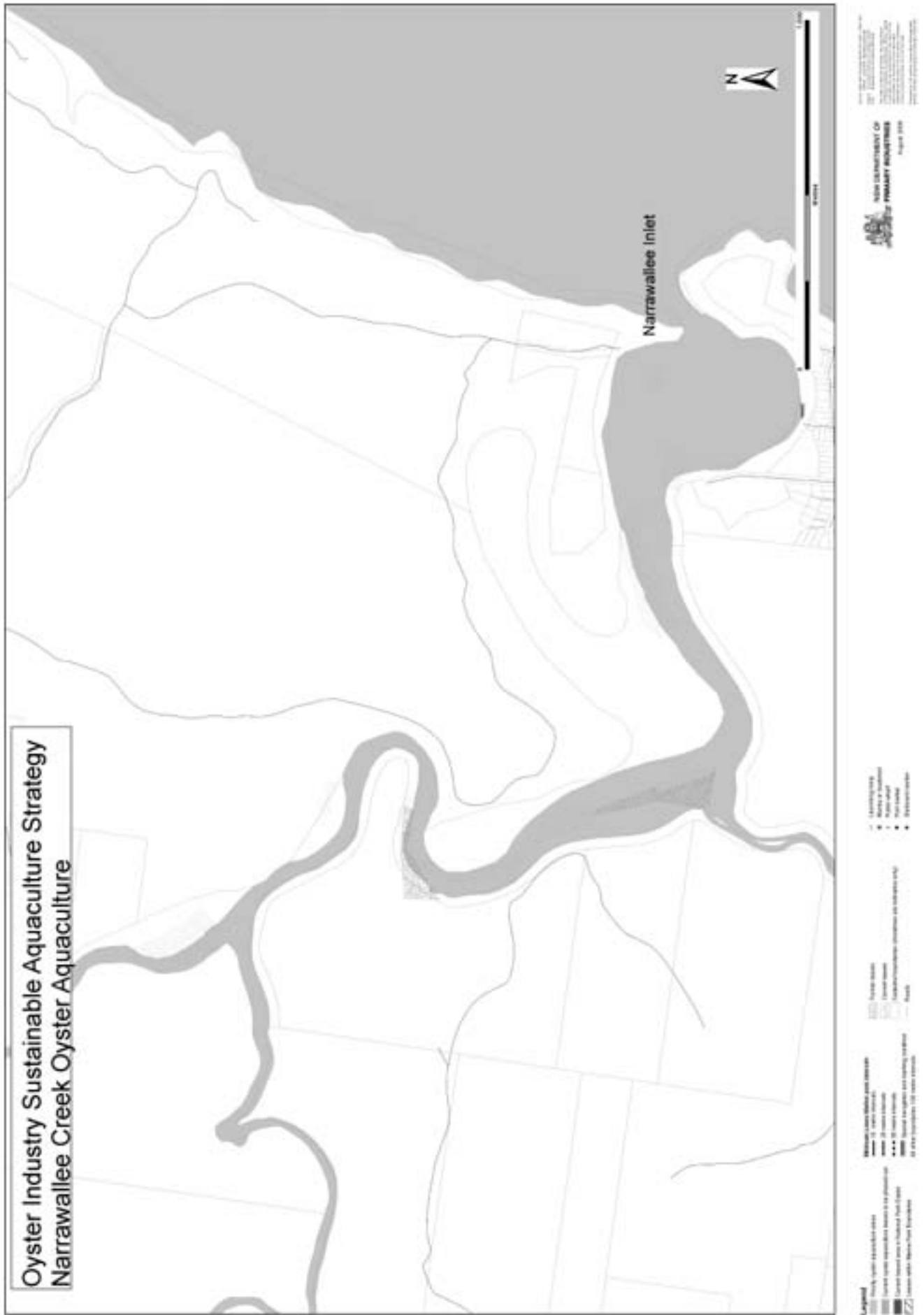


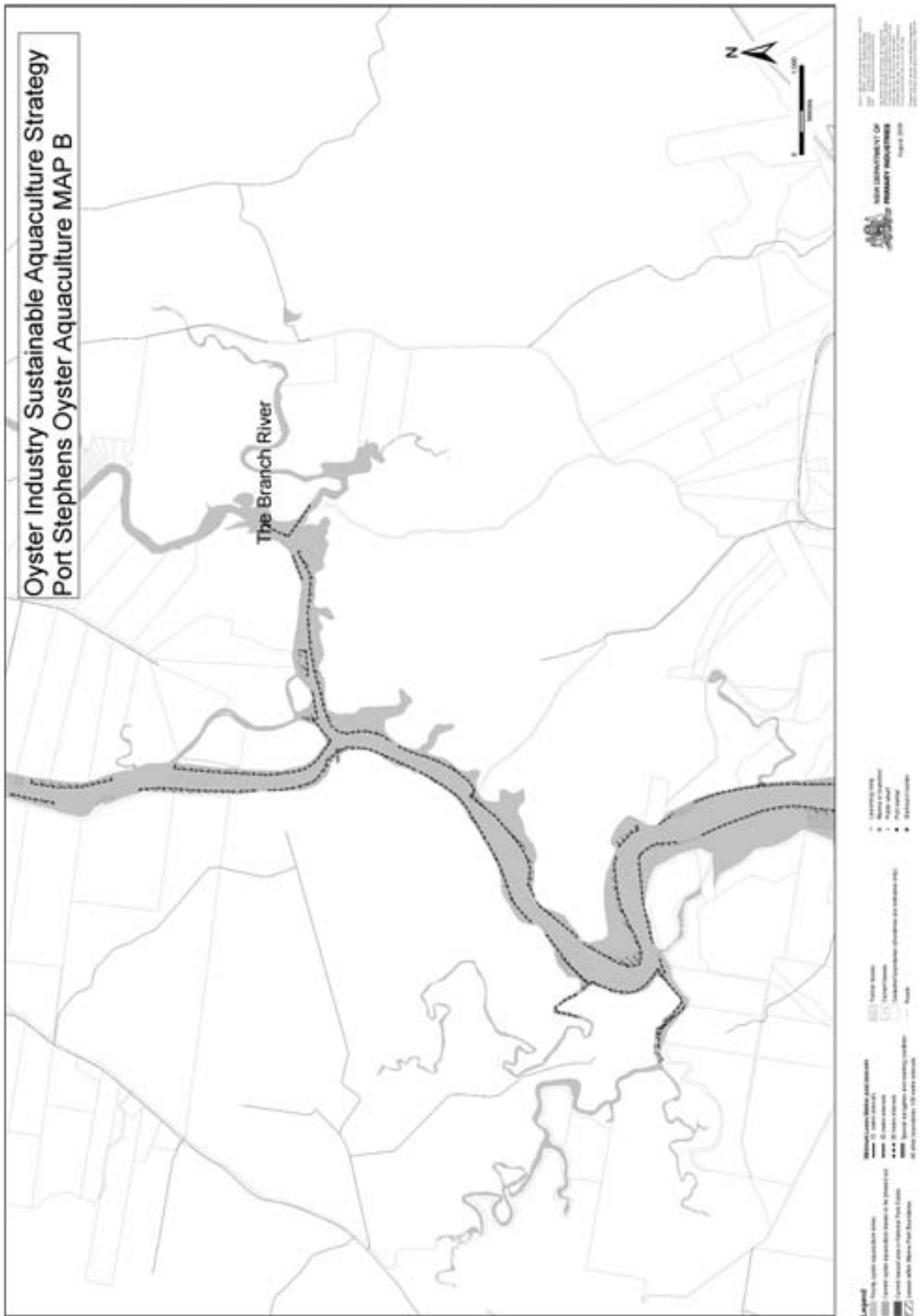


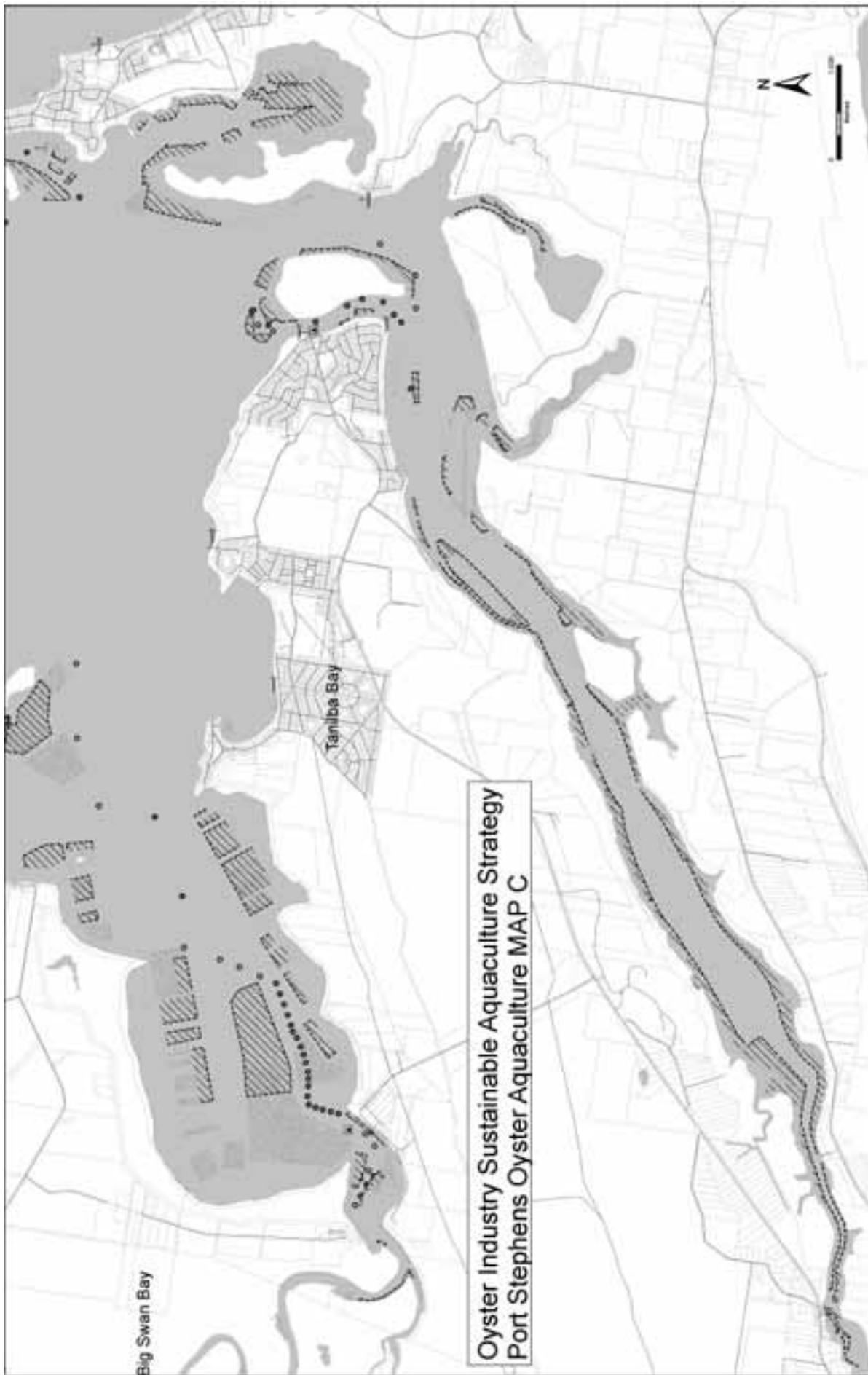












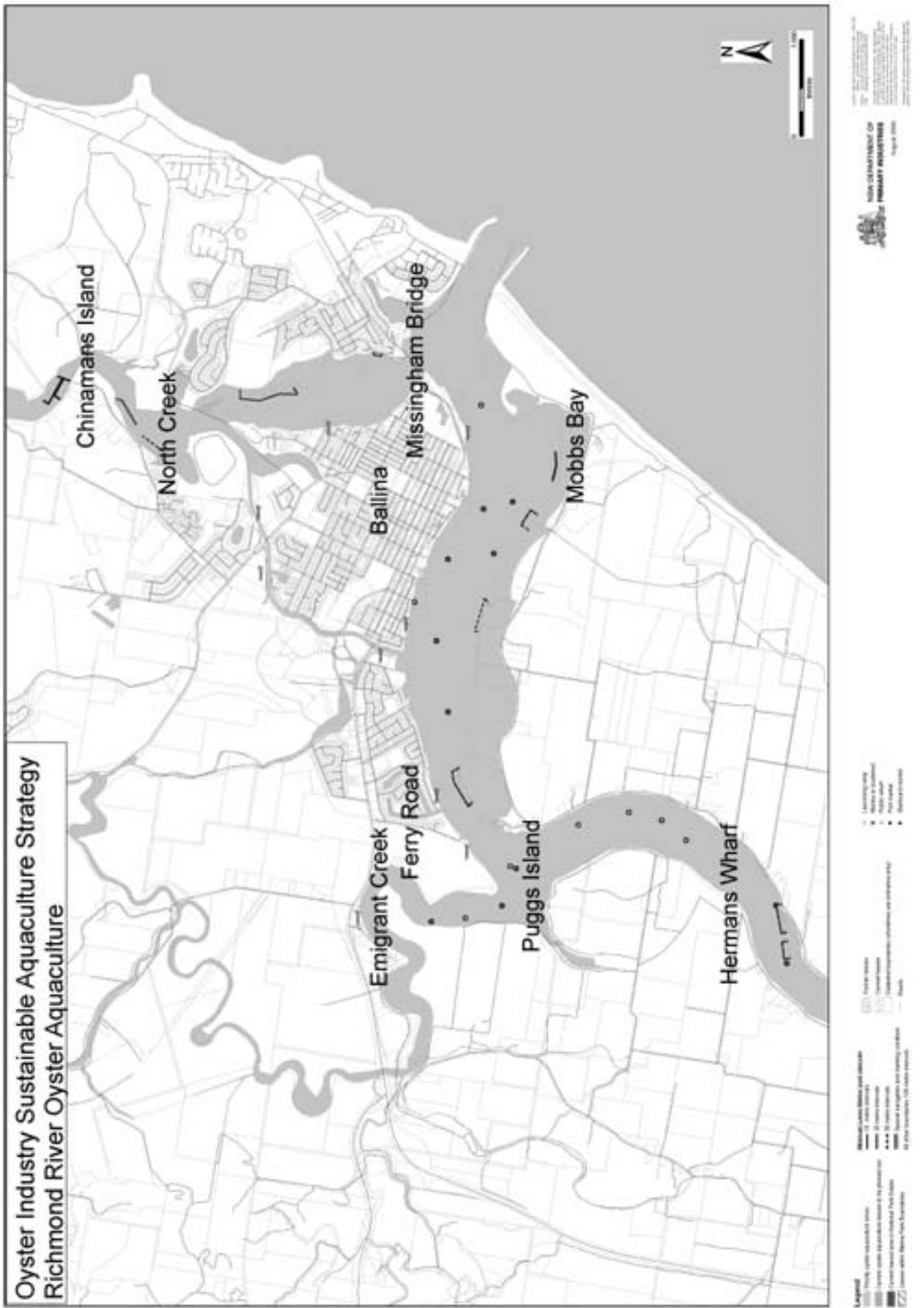

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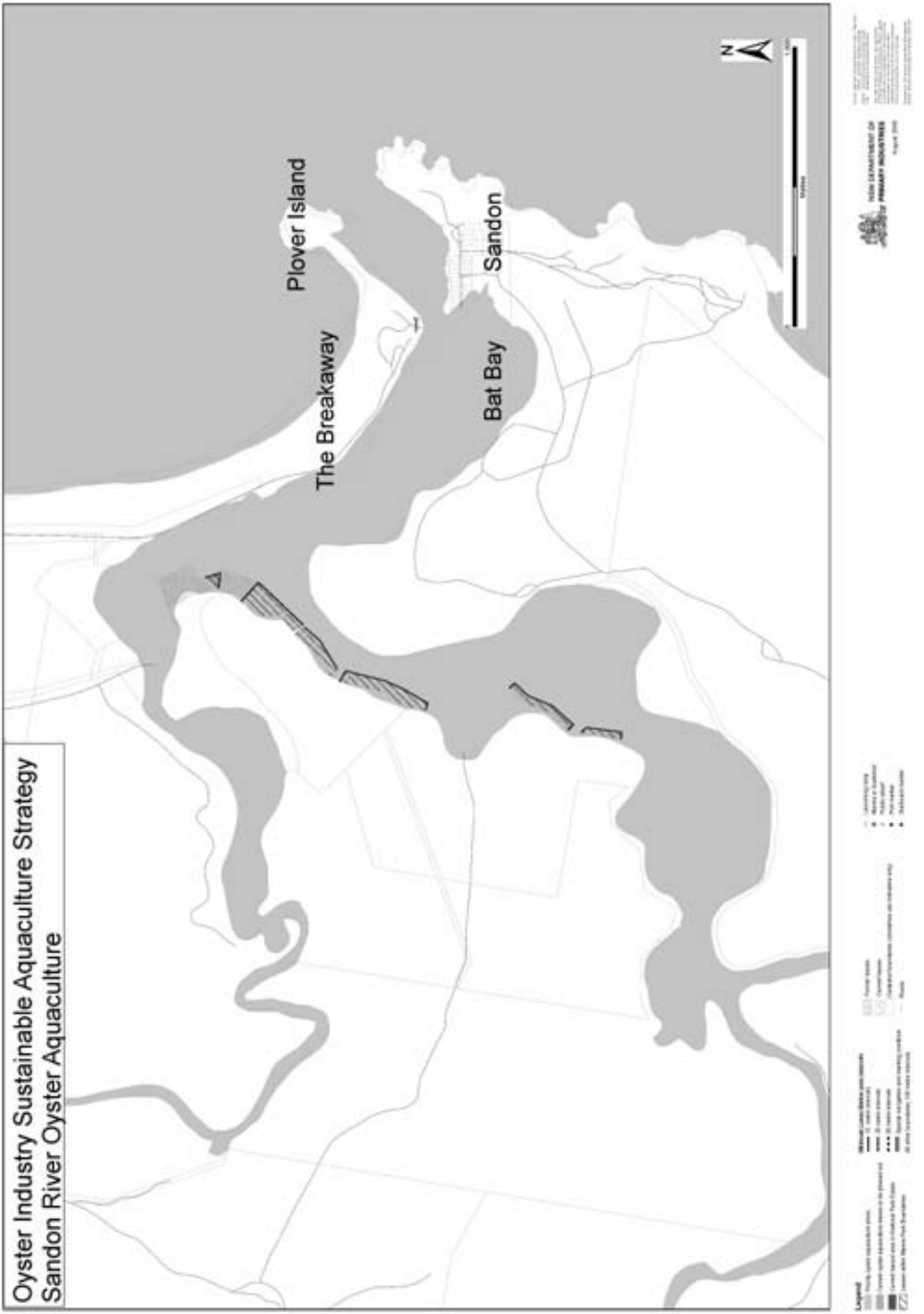
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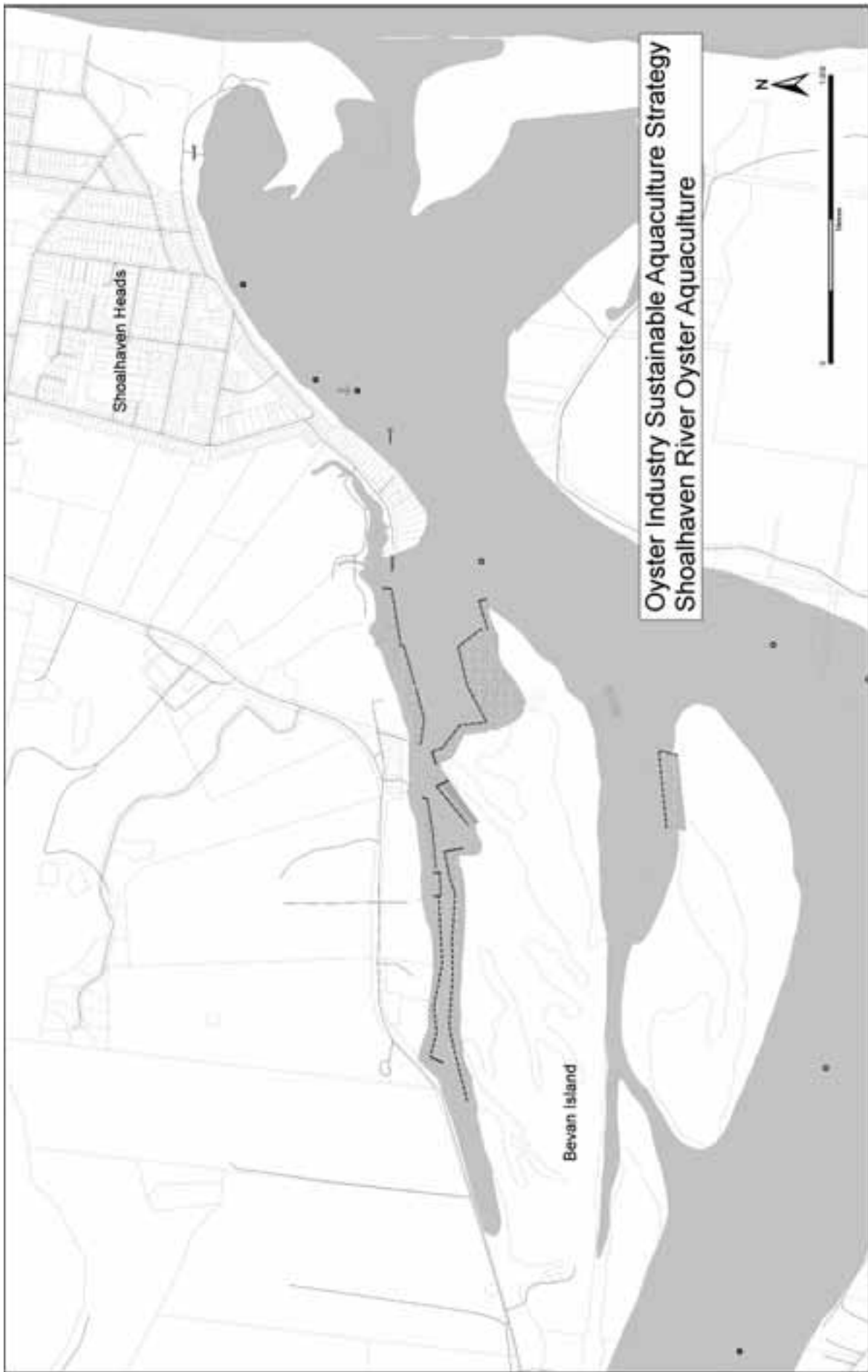
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**Oyster Industry Sustainable Aquaculture Strategy
Shoalhaven River Oyster Aquaculture**



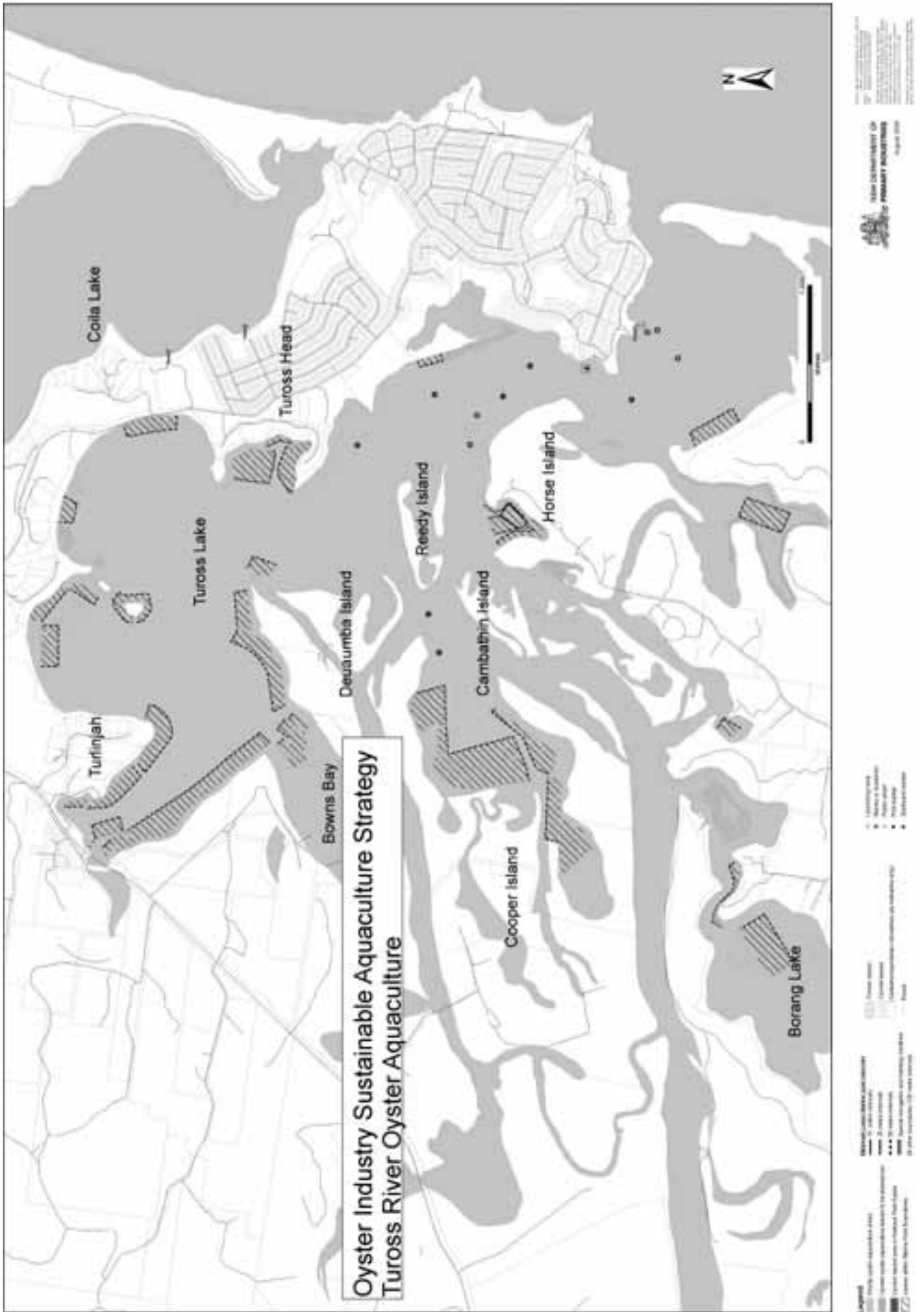
NEW SOUTH WALES GOVERNMENT OF
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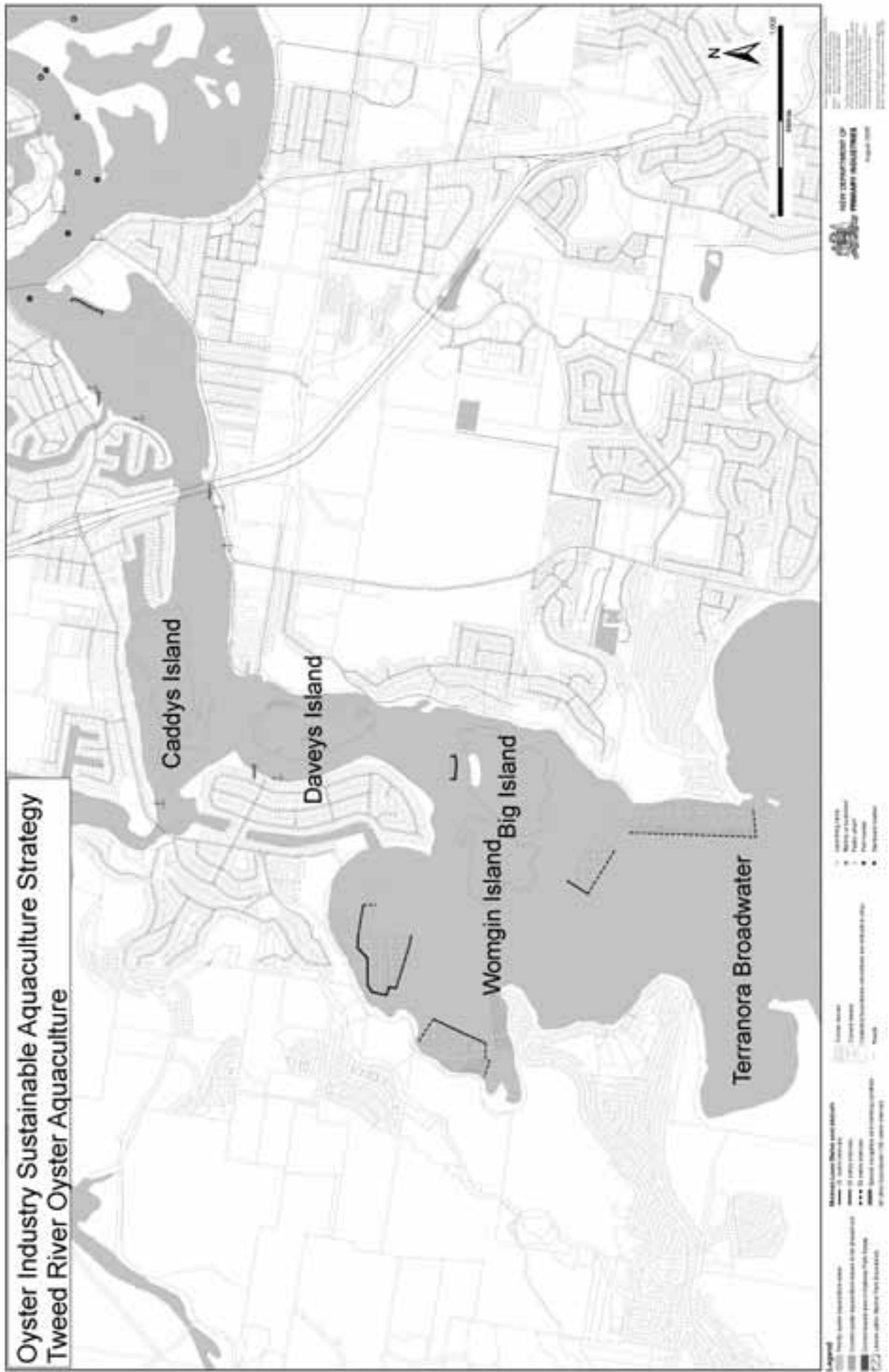
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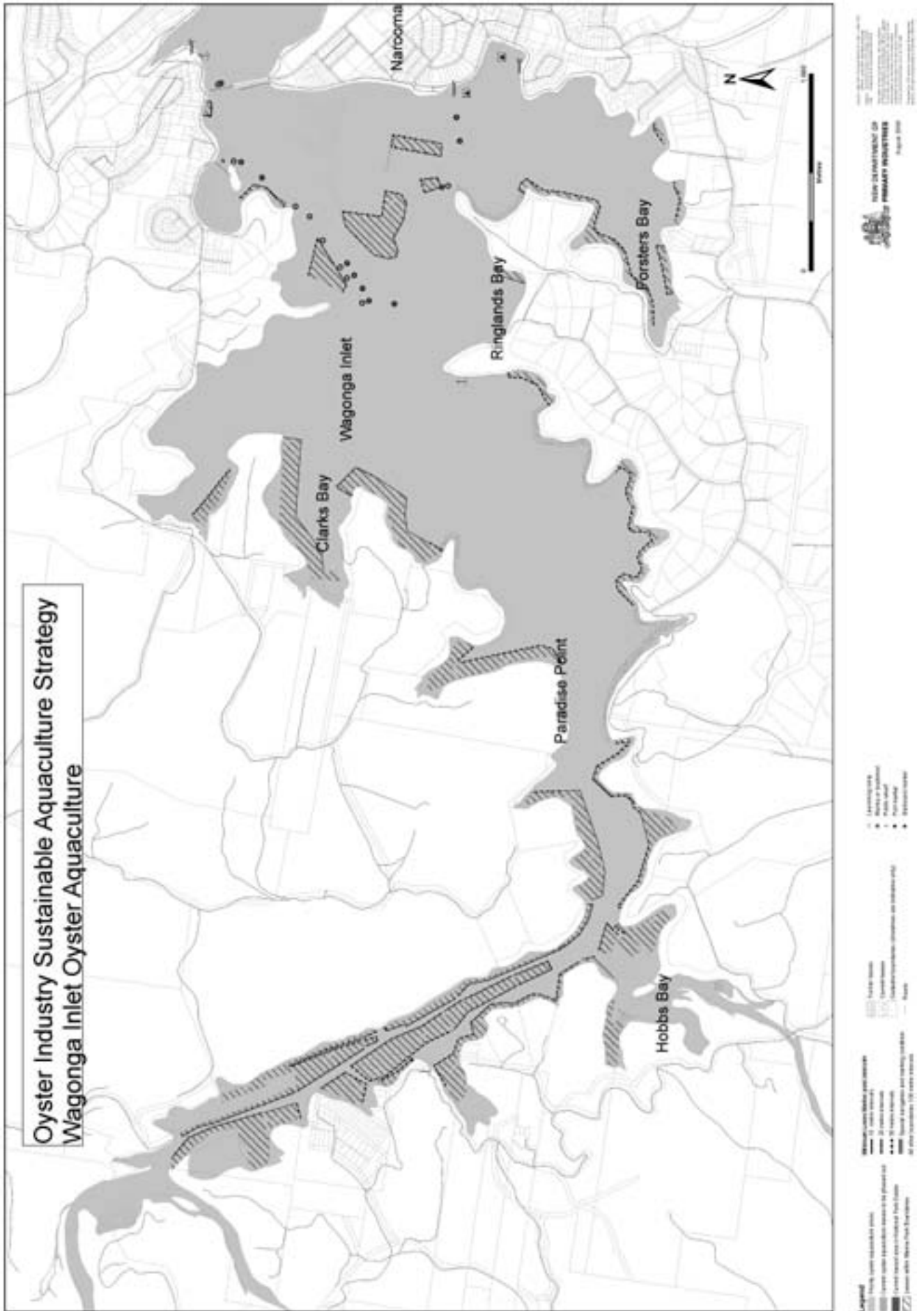
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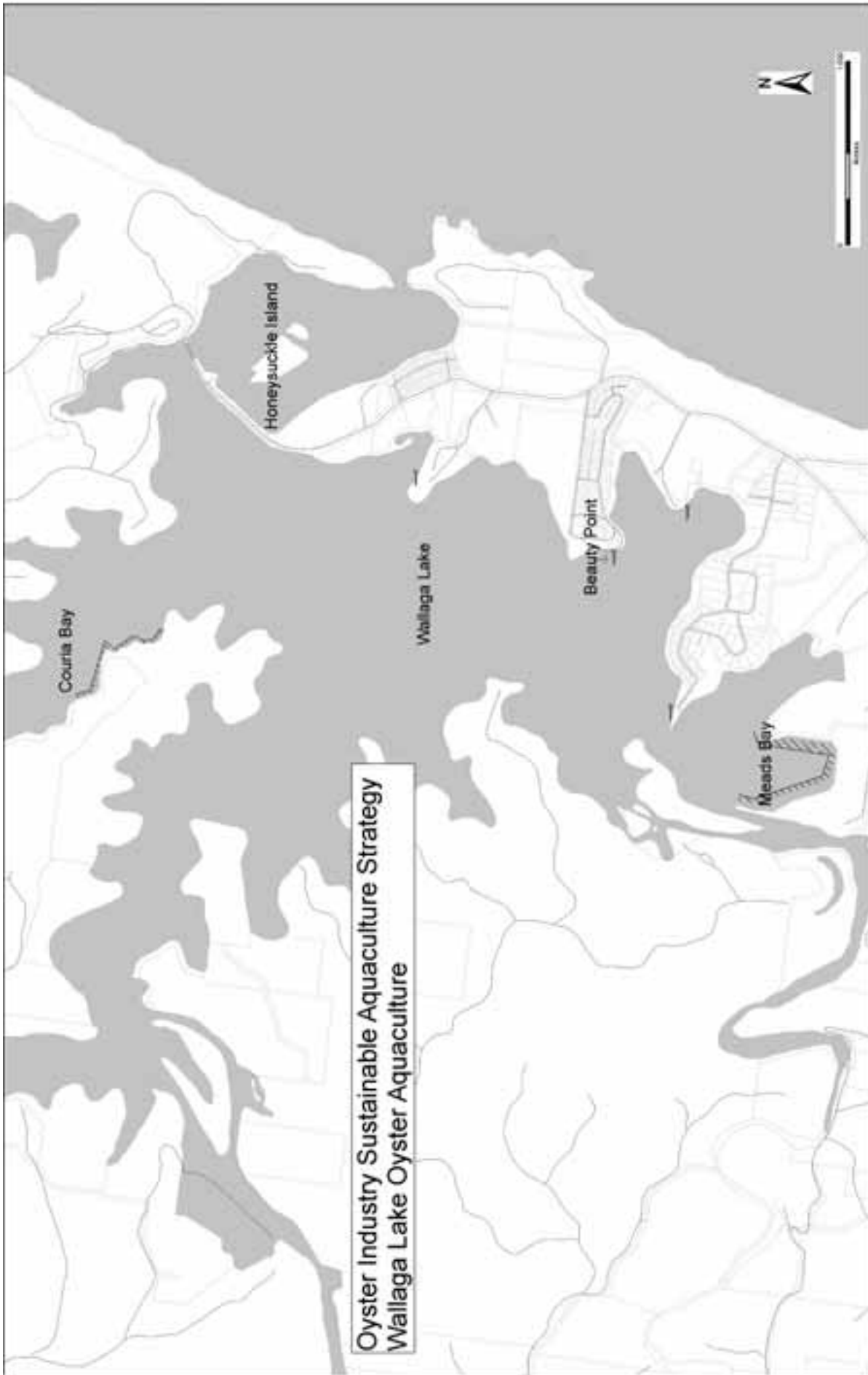
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**Oyster Industry Sustainable Aquaculture Strategy
Wallaga Lake Oyster Aquaculture**

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DEPARTMENT OF PRIMARY INDUSTRIES
August 2006

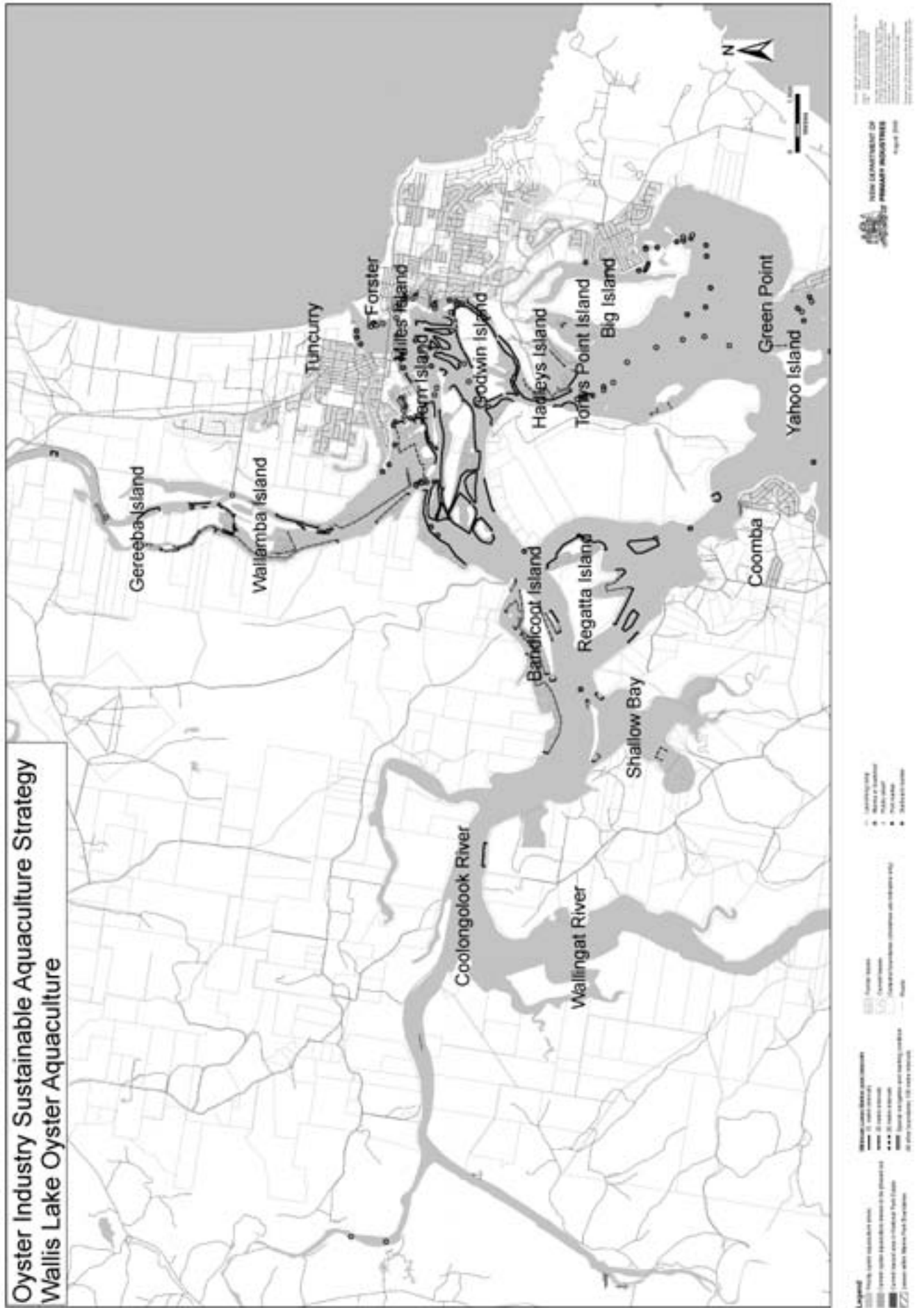


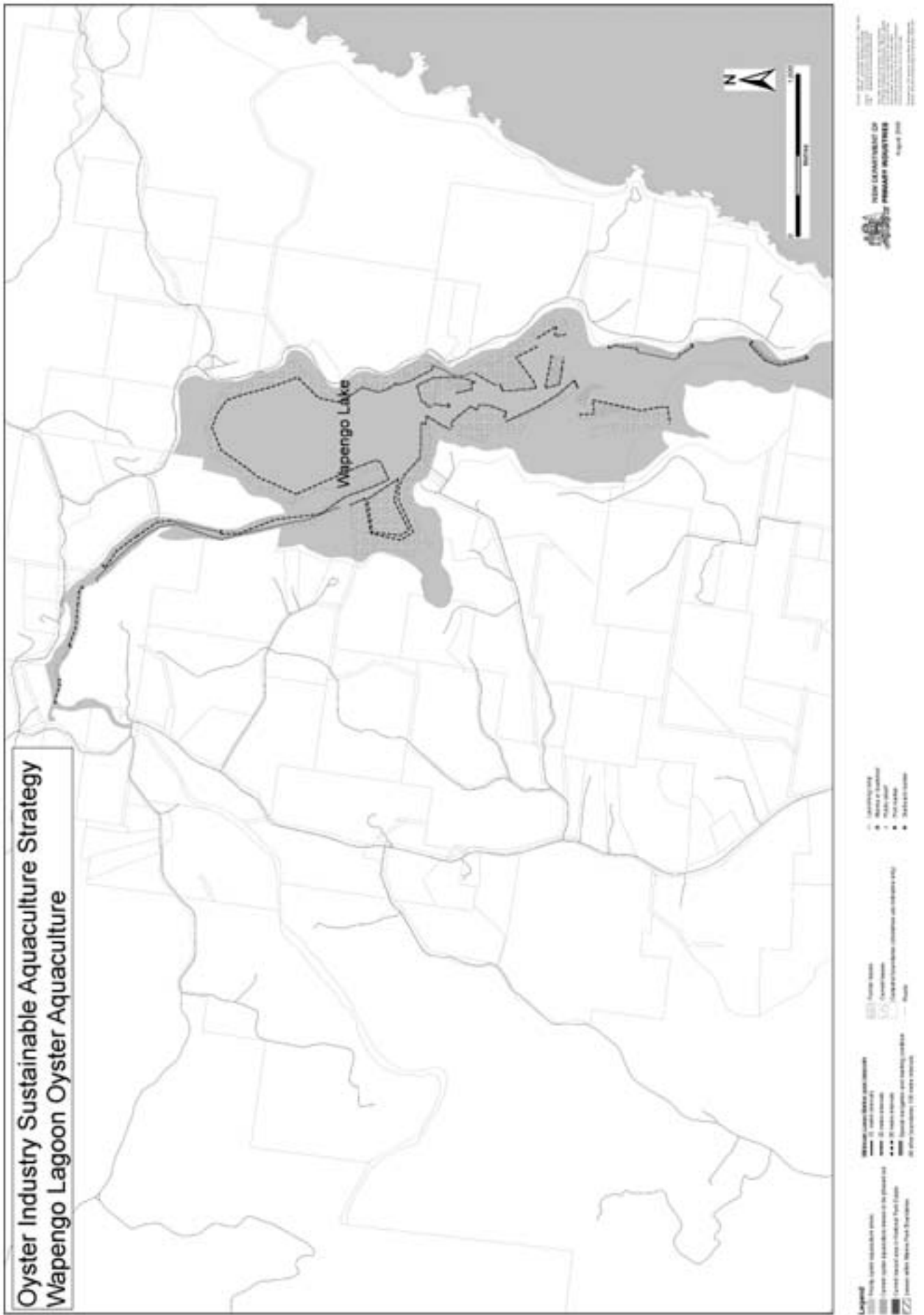
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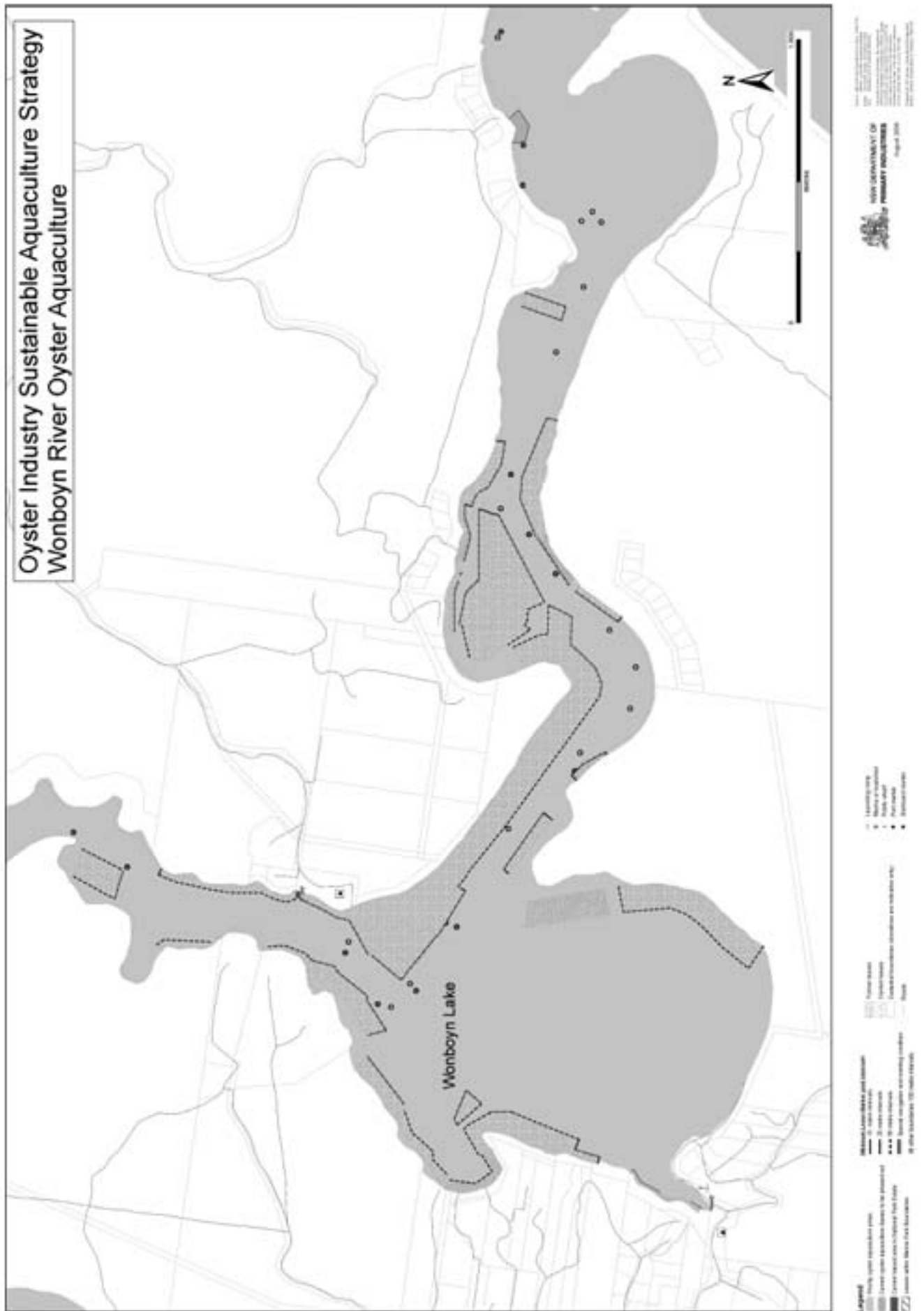
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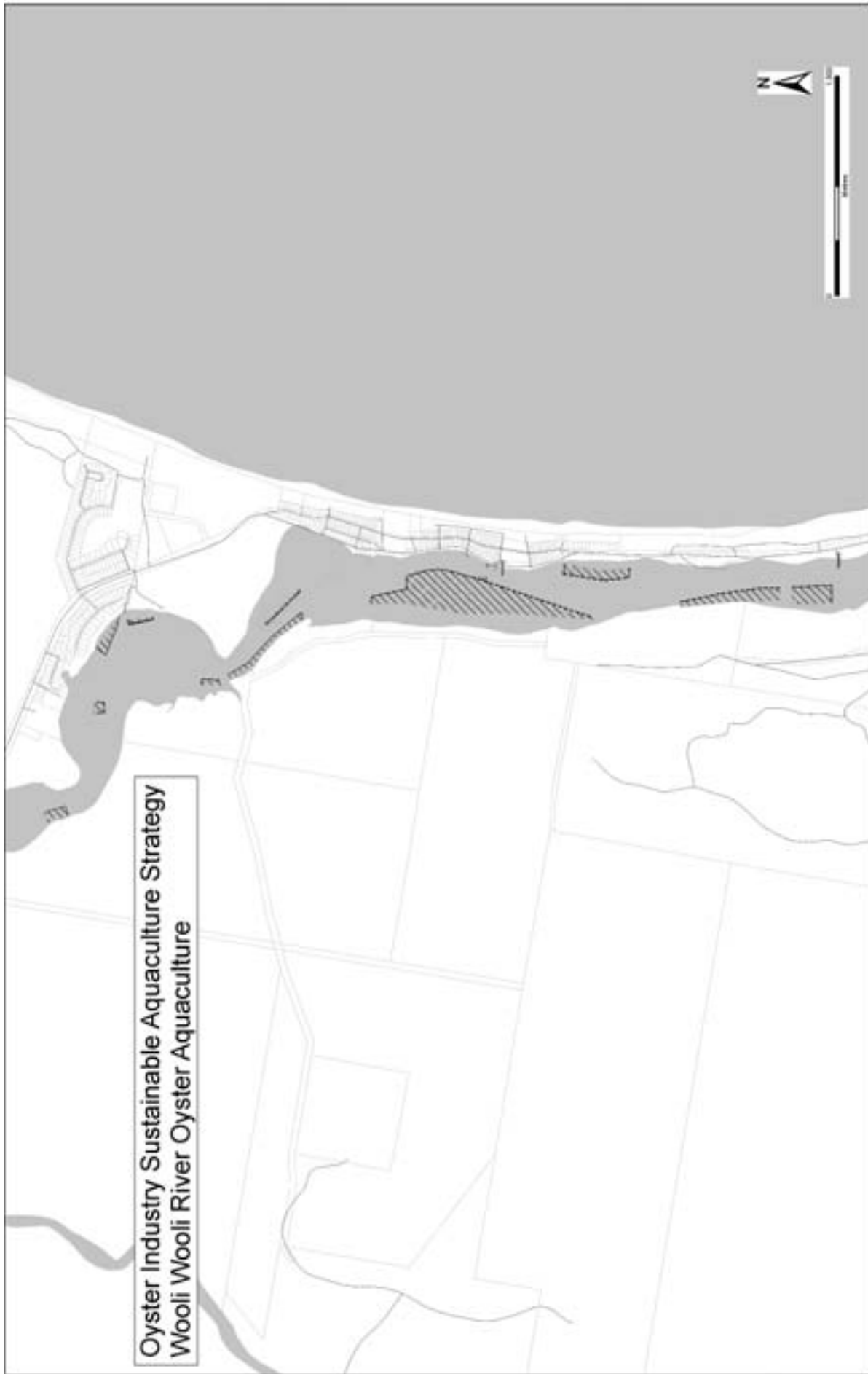
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**Oyster Industry Sustainable Aquaculture Strategy
Woolli River Oyster Aquaculture**

NEW SOUTH WALES GOVERNMENT
 OFFICE OF THE ATTORNEY GENERAL
 LEGISLATION
 2006 No. 106
 8 DECEMBER 2006



- Legend**
- Oyster Aquaculture Zone
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- Road
- Waterway
- Other Infrastructure

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Roads and Traffic Authority

ROADS ACT 1993

Order

I, Les Wielinga, Chief Executive of the Roads and Traffic Authority, in pursuance of section 215 of the Roads Act 1993, make the Order set forth hereunder.

LES WIELINGA,
Chief Executive,
Roads and Traffic Authority

Dated: Sydney, 4 December 2006.

- (b) a pre-penalty notice letter of demand (in the case where a Deferred Toll docket has earlier been given in respect of the outstanding toll) or a second pre-penalty notice letter of demand is given to the owner seeking recovery of the unpaid toll and relevant administrative charges, an administrative charge additional to that in (a) above – \$5.00.

Note: The words “penalty notice” appearing in Clause 6 relate to Clause 74 of (and Schedule 1 to) the Roads (General) Regulation 2000.

SCHEDULE 1

Tolls

Citation

1. This Order may be cited as the Roads (Sydney Harbour Bridge Toll) Order 2007.

Commencement

2. This Order takes effect on 1 January 2007.

Repeal

3. The Roads (Sydney Harbour Bridge Toll) Order 2006, dated 21 December 2005 (published in *New South Wales Government Gazette* No. 167 of 30 December 2005 at pages 11975 to 11978 and in *New South Wales Government Gazette* No. 164 of 23 December 2005 at pages 11493 to 11496) is repealed on and from 1 January 2007.

Tolls

4. The toll payable for a motor vehicle that is travelling across the Sydney Harbour Bridge in a southerly direction is the toll specified in Schedule 1 in respect of the vehicle.

Motor cycle periodic toll pass

5. (1) A motor cycle periodic toll pass –
- (a) is issued by the Roads and Traffic Authority on payment of the appropriate charge as set out in Schedule 2, Schedule 3, Schedule 4 or Schedule 5; and
 - (b) authorises travel by the motor cycle to which the pass relates across the Sydney Harbour Bridge without payment of a toll while the pass is in force.
- (2) A motor cycle periodic toll pass is in force on and from the date specified in Schedule 2, Schedule 3, Schedule 4 or Schedule 5 in respect of the charge paid for the pass as the date the pass may first be used, up to and including the expiry date of the pass as specified in Schedule 2, Schedule 3, Schedule 4 or Schedule 5.

Charges payable by owner of vehicle if toll not paid

6. In accordance with Clause 22 (5) of the Roads (General) Regulation 2000, the following administrative charges are payable by the owner of a motor vehicle referred to in item 1 in Schedule 1 where:
- (a) a Deferred Toll docket or a first pre-penalty notice letter of demand is given to the owner seeking recovery of the unpaid toll and relevant administrative charge – \$5.00 and

<i>Class of Vehicles</i>	<i>Toll</i>
1. Any motor vehicle other than a vehicle referred to in item 2, 3 or 4	\$3.00
2. Any motor vehicle that consists of –	
(a) a vehicle that is the property of the Roads and Traffic Authority, that is readily identifiable as such and that is being used either for the purpose of maintenance work on the Bridge or for the purpose of removing vehicles from the Bridge;	
(b) a police vehicle;	
(c) a vehicle that is the property of the Board of Fire Commissioners and that is readily identifiable as such;	
(d) an ambulance or rescue vehicle that is readily identifiable as such;	
(e) a vehicle that is the property of the NSW Red Cross Blood Transfusion Service (Blood Bank), that is readily identifiable as such and that is fitted with a roof mounted red flashing light and siren or similar warning device;	
(f) a vehicle that is being driven by a person to whom a disabled person’s toll exemption pass has been issued by the Roads and Traffic Authority, being a pass that exempts the person from payment of tolls and charges in respect of travelling across the Bridge;	
(g) a vehicle in which the driver or passenger displays a pass issued on behalf of the Roads and Traffic Authority, being a pass indicating that the holder is an incapacitated ex-service person;	
(h) a Defence Force vehicle that is readily identifiable as such; or	
(i) a vehicle driven by a person who produces evidence that he or she or a passenger is a member of the Diplomatic or Consular Corps	Nil
3. Any motor vehicle that is attached to, or carried or drawn by, another vehicle	Nil
4. Any motor cycle in respect of which a periodic toll pass is in force and displayed in accordance with any directions of the Roads and Traffic Authority	Nil

SCHEDULE 2

Charge for a Motor Cycle Periodic Toll Pass expiring on
31 March 2007

<i>Date pass may first be used</i>	<i>Charge for motor cycle</i>
2 January 2007	\$95.00
8 January 2007	\$89.00
15 January 2007	\$81.00
22 January 2007	\$74.00
29 January 2007	\$68.00
5 February 2007	\$60.00
12 February 2007	\$53.00
19 February 2007	\$45.00
26 February 2007	\$38.00
5 March 2007	\$30.00

SCHEDULE 3

Charge for a Motor Cycle Periodic Toll Pass Expiring on
30 June 2007

<i>Date pass may first be used</i>	<i>Charge for motor cycle</i>
2 April 2007	\$92.00
10 April 2007	\$86.00
16 April 2007	\$80.00
23 April 2007	\$72.00
30 April 2007	\$66.00
7 May 2007	\$59.00
14 May 2007	\$51.00
21 May 2007	\$44.00
28 May 2007	\$36.00
4 June 2007	\$29.00

SCHEDULE 4

Charge for a Motor Cycle Periodic Toll Pass Expiring on
30 September 2007

<i>Date pass may first be used</i>	<i>Charge for motor cycle</i>
2 July 2007	\$98.00
9 July 2007	\$90.00
16 July 2007	\$83.00
23 July 2007	\$75.00
30 July 2007	\$68.00
6 August 2007	\$60.00
13 August 2007	\$53.00
20 August 2007	\$45.00
27 August 2007	\$38.00
3 September 2007	\$30.00

SCHEDULE 5

Charge for a Motor Cycle Periodic Toll Pass Expiring on
31 December 2007

<i>Date pass may first be used</i>	<i>Charge for motor cycle</i>
2 October 2007	\$95.00
8 October 2007	\$89.00
15 October 2007	\$81.00
22 October 2007	\$74.00
29 October 2007	\$66.00
5 November 2007	\$59.00
12 November 2007	\$51.00
19 November 2007	\$44.00
26 November 2007	\$36.00
3 December 2007	\$29.00

ROADS ACT 1993 – ORDER

Marie Bashir, A.C., Governor

I, Professor Marie Bashir, A.C., Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of the definition of approved toll camera in section 250A of the Roads Act 1993, do, by this my Order, approve the following type of digital camera as being designed to take a photograph of a vehicle that is driven in contravention of a requirement to pay a toll and to record on the photograph the matters specified in that definition:

Type of digital camera:

Arecont AV 2100

Signed at Sydney, this 6th day of December 2006.

By Her Excellency's Command,

ERIC ROOZENDAAL, M.L.C.,
Minister for Roads

ROAD TRANSPORT (GENERAL) ACT 2005

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

PARRAMATTA 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 4.6m high vehicles may be used subject to any requirements or conditions set out in the Schedule.

ROD COOK,
Manager,
Technical Services,
Parramatta City Council
(by delegation from the Minister for Roads)
15 November 2006

SCHEDULE**1. Citation**

This Notice may be cited as the Parramatta City Council Notice No. 1/2006.

2. Commencement

This Notice takes effect on the date of gazettal.

3. Effect

This Notice remains in force until 31 December 2007, unless it is amended or repealed earlier.

4. Application

This Notice applies to those B-Doubles vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

<i>Type</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>
25	Shirley Street, Rosehill	Unwin Street	Entire Street

ROAD TRANSPORT (GENERAL) ACT 2005

Notice under the Roads Transport (Mass, Loading and Access) Regulation 2005

I, LES WIELINGA, Chief Executive of the Roads and Traffic Authority, in pursuance of the Road Transport (Mass, Loading, Access) Regulation 2005, make the amendment in the Schedule to the routes and areas previously specified on or in which 25m B-Doubles may be used.

LES WIELINGA,
Chief Executive,
Roads and Traffic Authority

SCHEDULE**1. Citation**

This Notice may be cited as the Roads and Traffic Authority 25m B-Double Notice No. 12/2006

2. Commencement

This Notice takes effect on date of gazettal.

3. Effect

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

4. Application

This Notice applies to those 25m B-Double vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25m	MR76	Waterfall Way	Short Cut Road	Sweedmans Lane	Use during daylight hours only
25m	MR76	Waterfall Way	Sweedmans Lane	Darkwood Road, Thora	Travel in westerly direction and use during daylight hours only

ROAD TRANSPORT (GENERAL) ACT 2005

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

BROKEN HILL 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 Road Trains may be used subject to any requirements or conditions set out in the Schedule.

Frank Zaknich,
General Manager,
Broken Hill City Council
(By delegation from the Minister for Roads)
1 November 2006

SCHEDULE**1. Citation**

This Notice may be cited as Broken Hill City Council, Road Train Vehicle Route Notice No. 1/2006

2. Commencement

This Notice takes effect on the date of gazettal.

3. Effect

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

4. Application

This Notice applies to those Road Train vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
RT	8	Barrier Highway (H8), Broken Hill	Mitchell Highway (H7)	NSW/SA border at Cockburn	Use Rakow Street, Williams Street, Iodide Street, Argent Street
RT	8	Rakow Street (H8), Broken Hill	Adelaide Road, Barrier Highway (H8)	Williams Street (H8)	
RT	8	Williams Street (H8), Broken Hill	Rakow Street (H8)	Iodide Street (H8)	
RT	8	Iodide Street (H8), Broken Hill	Williams Street (H8)	Argent Street (H8)	
RT	8	Argent Street (H8), Broken Hill	Iodide Street (H8)	Sydney Road, Barrier Highway (H8)	
RT	22	Silver City Highway (H22), Broken Hill	Unincorporated Area/Wentworth Council area	NSW/Qld border at Warri Gate	Use Patton Street, Bonanza Street, South Road, Crystal Street, Iodide Street, Williams Street, Racecourse Road.
RT	22	Patton Street (H22), Broken Hill	Wentworth Road, Silver City Highway (H22)	Bonanza Street (H22)	
RT	22	Bonanza Street (H22), Broken Hill	Patton Street (H22)	South Road (H22)	
RT	22	South Road (H22), Broken Hill	Bonanza Street (H22)	Crystal Street (H22)	
RT	22	Crystal Street (H22), Broken Hill	South Road (H22)	Iodide Street (H22)	
RT	22	Iodide Street (H22), Broken Hill	Crystal Street (H22)	Williams Street (H22)	
RT	22	Williams Street (H22), Broken Hill	Iodide Street (H22)	Racecourse Road (H22)	

RT	22	Racecourse Road (H22), Broken Hill	William Street (H22)	Tibooburra Road (H22)	
RT	7507	Regional Route (RR7507), Broken Hill	Wentworth Road (Silver City Highway, H22)	Rakow Street (H8)	Use Kanandah Road, Ryan Street, Creedon Street Height Limit of 5.3m applies at Kanandah Road underpass
RT	7507	Kanandah Road (RR7507), Broken Hill	Wentworth Road (Silver City Highway, H22)	Ryan Street (RR7507)	Height Limit of 5.3m applies at Kanandah Road underpass
RT	7507	Ryan Street (RR7507), Broken Hill	Kanandah Road (RR7507)	Creedon Street (RR7507)	Height Limit of 5.3m applies at Kanandah Road underpass
RT	7507	Creedon Street (RR7507), Broken Hill	Ryan Street (RR7507)	Rakow Street (H8)	Height Limit of 5.3m applies at Kanandah Road underpass
RT	6480	Pinnacles Road, Broken Hill	Kanandah Road (RR7507)	City boundary	Height Limit of 5.3m applies at Kanandah Road underpass
RT	6470	Pinnacles Place, Broken Hill	Off Pinnacles Road	Industrial sites (no through road)	
RT	6010	Kanandah Place, Broken Hill	Off Kanandah Road (RR7507)	Industrial sites (no through road)	Height Limit of 5.3m applies at Kanandah Road underpass
RT	5520/ 5700	Heavy Vehicle Bypass, Broken Hill	Rakow Street (H8)	South Road (H22)	Use Creedon Street, Gaffney Street
RT	5520	Creedon Street (RR7507), Broken Hill	Rakow Street (H8)	Gaffney Street	Heavy Vehicle By-Pass
RT	5700	Gaffney Street, Broken Hill	Creedon Street	South Road	Heavy Vehicle By-Pass
RT	6490	Piper Street, Broken Hill	Bonanza Street (H22)	Comstock Street	
RT	6400	Patton Street, Broken Hill	Bonanza Street (H22)	Comstock Street	
RT	5490	Comstock Street, Broken Hill	Patton Street	Eyre Street	
RT	5640	Eyre Street, Broken Hill	Comstock Street	Holten Drive	Use Eyre Street, Holten Drive
RT	5880	Holten Drive, Broken Hill	Eyre Street	Junction Menindee Road/Holten Drive	
RT	5530	Crystal Street, Broken Hill	Iodide Street	Junction Menindee Road/Crystal Street	
RT	5090	Bagot Street, Broken Hill	Chettle Street	Wolfram Street	
RT	66	Menindee Road, Broken Hill (RR66)	Chettle Street	City boundary	
RT	81	Brookfield Ave (RR81) Broken Hill	Rakow Street (H8)	Brown Street	
RT	81	Horsington Drive, Broken Hill (RR81)	Brown Street	City Boundary	
RT	6250	Morgan Street, Broken Hill	Brookfield Ave (RR81)	Kaolin Street	
RT	6370	O'Farrell Street, Broken Hill	Williams Street (H8)	Morgan Street	

RT	6020	Kaolin Street, Broken Hill	Mica Lane	Schlapp Street	Section from Williams Street (H8) to Mica Lane- Trucks must use low gear (steep hill and access limited to daylight hours only)
RT	6330	Nine Mile Road, Broken Hill	Schlapp Street	City Boundary	
RT	5310	Brown Street, Broken Hill	Kaolin Street	Oxide Street	
RT	6390	Oxide Street, Broken Hill	Brown Street	Schlapp Street	
RT	6690	Schlapp Street, Broken Hill	Oxide Street	Brazil Street	No Through Road
RT	5930	Iodide Street , Broken Hill	Schlapp At	Cummins Street	
RT	5550	Cummins Street, Broken Hill	Iodide Street	McCulloch Street	
RT	6130	McCulloch Street, Broken Hill	Cummins Street	Fisher Street	
RT	5670	Fisher Street, Broken Hill	McCulloch Street	Murton Street	
RT	6290	Murton Street, Broken Hill	Fisher Street	Williams Street (H22)	
RT	5820	Harris Street, Broken Hill	Rakow Street (H8)	Newton Lane	
RT	6310	Newton Lane, Broken Hill	Harris Street	Nicholls Street	
RT	6320	Nicholls Street, Broken Hill	Newton Lane	Rakow Street (H8)	

ROAD TRANSPORT (GENERAL) ACT 2005

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

BROKEN HILL CITY COUNCIL, in pursuance of the Road Transport (Mass, Loading, Access) Regulation 2005, makes the amendment in the Schedule to the routes and areas previously specified on or in which B-Double Vehicles may be used.

FRANK ZAKNICH,
General Manager, Broken Hill City Council
(by delegation from the Minister for Roads)

SCHEDULE**1. Citation**

This Notice may be cited as the Broken Hill City Council, B-Doubles Vehicle Route Repeal Notice No. 1/ 2006

2. Commencement

This Notice takes effect on the date of gazettal.

3. Amendment

The General B-Doubles Notice 2005 is amended by omitting the following from that Notice:

<i>Type</i>	<i>Road</i>	<i>Starting point</i>	<i>Finishing point</i>
25	(H8) Barrier Highway, Broken Hill	Mitchell Highway (H7), Nyngan	NSW/SA border at Cockburn
25	(H22) Silver City Highway, Broken Hill	Unincorporated Area/Wentworth Council area	NSW/QLD border at Warri Gate
25	Beryl Street, Broken Hill	Bromide Street	Iodide Street (H8)
25	Bromide Street, Broken Hill	Williams Street (H8)	Beryl Street
25	Crystal Street, Broken Hill	Iodide Street (H8)	Menindee Road
25	Galena Street, Broken Hill	Mercury Street	William Street (H8)
25	Gypsum Street, Broken Hill	Bonanza Street (H22)	Pell Street
25	Menindee Road, Broken Hill	Crystal Street	Argent Street
25	Pell Street, Broken Hill	Gypsum Street	Galena Street
25	Mercury Street, Broken Hill	Gypsum Street	Galena Street

ROAD TRANSPORT (GENERAL) ACT 2005

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

BROKEN HILL CITY COUNCIL, in pursuance of the Road Transport (Mass, Loading, Access) Regulation 2005, makes the amendment in the Schedule to the routes and areas previously specified on or in which Road Trains may be used.

FRANK ZAKNICH,
General Manager, Broken Hill City Council
(by delegation from the Minister for Roads)

SCHEDULE**1. Citation**

This Notice may be cited as the Broken Hill City Council, Road Train Repeal Notice No. 1/2006.

2. Commencement

This Notice takes effect on the date of gazettal.

3. Amendment

The General Road Train Notice 2005 is amended by omitting the following from that Notice:

<i>Type</i>	<i>Road Train area</i>
RT	Broken Hill Barrier Highway – Rakow Street – William Street – Silver City Hwy
RT	Silver City Highway – Pinnacles Road – Kanandah Road – Ryan Street – Creedon Street
RT	Kanandah Road – Kanandah Place [entire length, no through road]
RT	Pinnacles Road to Saleyards
RT	Creedon Street between Rakow Street and Gaffney Street
RT	Iodide Street between William Street and Crystal Street
RT	Argent Street between Iodide Street and Barrier Highway
RT	From junction of Bonanza and Patton Streets thence Patton Street – Comstock Street – Eyre Street – Holten Drive to the junction with Menindee Road.

ROAD TRANSPORT (GENERAL) ACT 2005

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

BROKEN HILL 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 B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

FRANK ZAKNICH,
General Manager,
Broken Hill City Council
(By delegation from the Minister for Roads)
11 November 2006

SCHEDULE**1. Citation**

This Notice may be cited as Broken Hill City Council, 25 Metre B-Double Vehicle Route Notice No. 1/2006

2. Commencement

This Notice takes effect on the date of gazettal.

3. Effect

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

4. Application

This Notice applies to those B-Doubles vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25	H8	Barrier Highway (H8), Broken Hill	Mitchell Highway (H7)	NSW/SA border at Cockburn	Use Rakow Street, Williams Street, Iodide Street, Argent Street
25	H8	Rakow Street (H8), Broken Hill	Adelaide Road, Barrier Highway (H8)	Williams Street (H8)	
25	H8	Williams Street (H8), Broken Hill	Rakow Street (H8)	Iodide Street (H8)	
25	H8	Iodide Street (H8), Broken Hill	Williams Street (H8)	Argent Street (H8)	
25	H8	Argent Street (H8), Broken Hill	Iodide Street (H8)	Sydney Road, Barrier Highway (H8)	
25	H22	Silver City Highway (H22), Broken Hill	Unincorporated Area/Wentworth Council area	NSW/Qld border at Warri Gate	Use Patton Street, Bonanza Street, South Road, Crystal Street, Iodide Street, Williams Street, Racecourse Road.
25	H22	Patton Street (H22), Broken Hill	Wentworth Road, Silver City Highway (H22)	Bonanza Street (H22)	
25	H22	Bonanza Street (H22), Broken Hill	Patton Street (H22)	South Road (H22)	
25	H22	South Road (H22), Broken Hill	Bonanza Street (H22)	Crystal Street (H22)	
25	H22	Crystal Street (H22), Broken Hill	South Road (H22)	Iodide Street (H22)	
25	H22	Iodide Street (H22), Broken Hill	Crystal Street (H22)	Williams Street (H22)	

25	H22	Williams Street (H22), Broken Hill	Iodide Street (H22)	Racecourse Road (H22)	
25	H22	Racecourse Road (H22), Broken Hill	William Street (H22)	Tibooburra Road (H22)	
25	7507	Regional Route 7507, Broken Hill	Wentworth Road (Silver City Highway, H22)	Rakow Street (H8)	Use Kanandah Road, Ryan Street, Creedon Street, Height Limit of 5.3m applies at Kanandah Road underpass
25	7507	Kanandah Road (RR7507), Broken Hill	Wentworth Road (Silver City Highway, H22)	Ryan Street (RR7507)	Height Limit of 5.3m applies at Kanandah Road underpass
25	7507	Ryan Street (RR7507), Broken Hill	Kanandah Road (RR7507)	Creedon Street (RR7507)	Height Limit of 5.3m applies at Kanandah Road underpass
25	7507	Creedon Street (RR7507), Broken Hill	Ryan Street (RR7507)	Rakow Street (H8)	Height Limit of 5.3m applies at Kanandah Road underpass
25	6480	Pinnacles Road, Broken Hill	Kanandah Road (RR7507)	City boundary	Height Limit of 5.3m applies at Kanandah Road underpass
25	6470	Pinnacles Place, Broken Hill	Off Pinnacles Road	Industrial sites (no through road)	
25	6010	Kanandah Place, Broken Hill	Off Kanandah Road (RR7507)	Industrial sites (no through road)	Height Limit of 5.3m applies at Kanandah Road underpass
25	5520/ 5700	Heavy Vehicle Bypass, Broken Hill	Rakow Street (H8)	South Road (H22)	Use Creedon Street, Gaffney Street
25	7507	Creedon Street (RR7507), Broken Hill	Rakow Street (H8)	Gaffney Street	Heavy Vehicle By-Pass
25	5700	Gaffney Street, Broken Hill	Creedon Street	South Road	Heavy Vehicle By-Pass
25	6490	Piper Street, Broken Hill	Bonanza Street (H22)	Comstock Street	
25	6400	Patton Street, Broken Hill	Bonanza Street (H22)	Comstock Street	
25	5490	Comstock Street, Broken Hill	Patton Street	Eyre Street	
25	5640	Eyre Street, Broken Hill	Comstock Street	Holten Drive	Use Eyre Street, Holten Drive
RT	5880	Holten Drive, Broken Hill	Eyre Street	Junction Menindee Road/Holten Drive	
25	5530	Crystal Street, Broken Hill	Iodide Street	Junction Menindee Road/Crystal Street	
25	5090	Bagot Street, Broken Hill	Chettle Street	Wolfram Street	
25	66	Menindee Road, Broken Hill (RR66)	Chettle Street	City boundary	
25	81	Brookfield Avenue (RR81) Broken Hill	Rakow Street (H8)	Brown Street	

25	81	Horsington Drive, Broken Hill (RR81)	Brown Street	City Boundary	
25	81	Morgan Street, Broken Hill	Brookfield Avenue (RR81)	Kaolin Street	
25	6370	O'Farrell Street, Broken Hill	Williams Street (H8)	Morgan Street	
25	6020	Kaolin Street, Broken Hill	Mica Lane	Schlapp Street	Section from Williams Street (H8) to Mica Lane- Trucks must use low gear (steep hill and access limited to daylight hours only)
25	6330	Nine Mile Road, Broken Hill	Schlapp Street	City Boundary	
25	5310	Brown Street, Broken Hill	Kaolin Street	Oxide Street	
25	6390	Oxide Street, Broken Hill	Brown Street	Schlapp Street	
25	6690	Schlapp Street, Broken Hill	Oxide Street	Brazil Street	No Through Road
25	5930	Iodide Street , Broken Hill	Schlapp At	Cummins Street	
25	5550	Cummins Street, Broken Hill	Iodide Street	McCulloch Street	
25	6130	McCulloch Street, Broken Hill	Cummins Street	Fisher Street	
25	5670	Fisher Street, Broken Hill	McCulloch Street	Murton Street	
25	6290	Murton Street, Broken Hill	Fisher Street	Williams Street (H22)	
25	5820	Harris Street, Broken Hill	Rakow Street (H8)	Newton Lane	
25	6310	Newton Lane, Broken Hill	Harris Street	Nicholls Street	
25	6320	Nicholls Street, Broken Hill	Newton Lane	Rakow Street (H8)	
25	81	Gypsum Street, (RR81) Broken Hill	Rakow Street (H8)	Rowe Street	
25	6420	Pell Street, Broken Hill	Gypsum Street (RR81)	Galena Street	
25	6230	Mercury Street, Broken Hill	Gypsum Street (RR81)	Galena Street	
25	6630	Rowe Street, Broken Hill	Gypsum Street (RR81)	Graphite Street	
25	5780	Graphite Street, Broken Hill	Rowe Street	Mercury Street	
25	5720	Galena Street, Broken Hill	Rakow Street (H8)	Mercury Street	

ROADS ACT 1993

Notice of Dedication of Land as Public Road at Vineyard
in the Hawkesbury City Council area

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

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

SCHEDULE

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

Lot 2 Deposited Plan 1035623;
Lot 2 Deposited Plan 1035630;
Lot 1 Deposited Plan 1091556;
Lots 2, 3 and 18 Deposited Plan 220280;
Lots 12 and 13 Deposited Plan 1080426;
Lots 3 and 4 Deposited Plan 1042607;
Lot 1 Deposited Plan 1036770;
Lot 2 Deposited Plan 1035616;
Lot 11 Deposited Plan 1035225;
Lot 65 Deposited Plan 1070588; and
Lot 32 Deposited Plan 1089253.
(RTA Papers: FPP 91.1625; RO 91.1625)

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

Notice of Compulsory Acquisition of Land at Rockton in
the Bombala Council area

THE Roads and Traffic Authority of New South Wales 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 Traffic Authority of New South Wales

SCHEDULE

ALL those pieces or parcels of land situated in the Bombala Council area, Parish of Bondi and County of Auckland, shown as:

Lots 23, 24, 31, 32, 43 and 44 Deposited Plan 1012868, being parts of land dedicated as Bondi State Forest No 128, No 40 Extension by proclamation in Government Gazette No 121 of 5 November 1993 on page 6675;

Lots 25 and 30 Deposited Plan 1012868, being parts of land dedicated as Bondi State Forest No 128, No 40 Extension by proclamation in Government Gazette No 121 of 5 November 1993 on page 6675 and parts of land dedicated as Bondi State Forest No 128, No 45 Extension by proclamation in Government Gazette No 139 of 25 September 1998 on page 7815;

Lots 26, 27, 28, 29 and 33 Deposited Plan 1012868, being parts of land dedicated as Bondi State Forest No 128, No 45 Extension by proclamation in Government Gazette No 139 of 25 September 1998 on page 7815; and

Lots 51 and 54 Deposited Plan 860890, and Lots 120 to 129 inclusive Deposited Plan 883957 being parts of land dedicated as Bondi State Forest No 128, No 8 Extension by proclamation in Government Gazette No 111 of 13 October 1961 on page 3227.

The land is said to be in the possession of the Forestry Commission of New South Wales.

(RTA Papers: FPP 6M1940; RO 19/47.1253)

ROADS ACT 1993

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

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

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

SCHEDULE

ALL those pieces or parcels of land situated in the Cowra
Shire Council area, Parish of Kenilworth, County of
Bathurst, shown as Lots 12 and 13 Deposited Plan 633809.

(RTA Papers: FPP 6/105.133; RO 6/105.133)

Other Notices

ASSOCIATIONS INCORPORATION ACT 1984

Cancellation of incorporation pursuant to section 55A

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to section 55A of the Associations Incorporation Act 1984.

Cancellation is effective as at the date of gazettal.

Combined Carers to Conserve Combewood Incorporated Inc9883291

Raglan Progress Association Incorporated Inc9883836

A Working Light Incorporated Inc9882212

Young Community Caring Group Incorporated Y1922619

MFS – Bali Incorporated Inc9883193

Conservative Leaders Forum Incorporated Inc9879892

Dated 30 November 2006.

CHRISTINE GOWLAND,
Manager, Financial Analysis Branch,
Registry of Co-operatives and Associations,
Office of Fair Trading,
Department of Commerce

ASSOCIATIONS INCORPORATION ACT 1984

Cancellation of incorporation pursuant to sections 55A and 55B

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to sections 55A and 55B of the Associations Incorporation Act 1984.

Cancellation is effective as at the date of gazettal.

Sharpro Industries Inc Y0247441

Maitland Mobile Children's Resource Unit Inc Y0303905

Dwelling Place Inc. Y1821431

Peak Hill Youth Centre Incorporated Inc9875912

Upper Murray Landcare Groups Incorporated Y2737016

Dated 30 November 2006.

CHRISTINE GOWLAND,
Manager, Financial Analysis Branch,
Registry of Co-operatives and Associations,
Office of Fair Trading,
Department of Commerce

ASSOCIATIONS INCORPORATION ACT 1984

Cancellation of incorporation pursuant to sections 55A and 55B

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to sections 55A and 55B of the Associations Incorporation Act 1984.

Cancellation is effective as at the date of gazettal.

The Friends of John & Nancy Warne Incorporated Inc9882900

Penrith Arts Business Network Incorporated Y2909110

Frogs Australia Network Incorporated Inc9882436

Farmcare Australia Farm Chemical User Training Program Incorporated Y2916115

Tomaree Youth Arts Incorporated Inc9881191

Forum of Commonwealth Agencies in NSW Incorporated Inc9876839

Sydney Cancer Centre Incorporated Y2358907

Aid For Sri Lankan Tsunami Victims Incorporated Inc9883043

Unit Committee T S Rushcutter Incorporated Y1979725

Wagga Wagga Alternative Expo Incorporated Y2786832

Alfords Point Before & After School Care Incorporated Y2785835

Living Waters Book & Music Centre Incorporated Inc9876733

Dated 30 November 2006.

CHRISTINE GOWLAND,
Manager, Financial Analysis Branch,
Registry of Co-operatives and Associations,
Office of Fair Trading,
Department of Commerce

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:

Tamworth	10.00am	28 May 2007 (2 weeks) In lieu of 21 May 2007 (3 weeks)
Lismore	10.00am	26 February 2007 (4 weeks) Special Fixture

Dated this 30th day of November 2006.

R. O. BLANCH,
Chief Judge

DISTRICT COURT ACT 1973

District Court of New South Wales

Direction

PURSUANT to section 32 of the District Court Act 1973, I direct that the District Court shall sit in its civil jurisdiction at the place and time shown as follows:

Newcastle	10.00am	7 May 2007 (1 week)
Newcastle	10.00am	28 May 2007 (3 weeks) In lieu of 21 May 2007 (4 weeks)
Taree	10.00am	28 May 2007 (1 week) In lieu of 21 May 2007 (2 weeks)

Dated this 30th day of November 2006.

R. O. BLANCH,
Chief Judge

DISTRICT COURT RULES 1973

Appointment

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

Summer vacation for 2007/2008 shall commence on 15 December 2007 and conclude on 27 January 2008.

Dated at Sydney, 4 December 2006.

R. O. BLANCH,
Chief Judge

DISTRICT COURT ACT 1973

District Court of New South Wales

Direction

PURSUANT to section 32 of the District Court Act 1973, I direct that the District Court shall sit in its civil jurisdiction at all Courts and at the times that I have directed the Court sit in its criminal jurisdiction during the financial year 2007-2008 and pursuant to section 173 of the District Court Act 1973, I direct that the District Court shall also sit in its criminal jurisdiction at all Courts and at the times that I have directed the Court sit in its civil jurisdiction during the financial year 2007-2008.

Dated, 4 December 2006.

R. O. BLANCH,
Chief Judge

DISTRICT COURT ACT 1973

District Court of New South Wales

Direction

IN pursuance of section 32 (3) of the District Court Act 1973 I direct that for the financial year 2007-2008 all proceedings (other than proceedings before the Registrar) in the District Court of New South Wales in relation to which the proper place is a place specified in Column 1 hereunder shall be continued by the Court sitting at the place specified opposite that place in Column 2 hereunder:

<i>Column 1</i>	<i>Column 2</i>
Bega	Batemans Bay
Bourke	Dubbo
Braidwood	Queanbeyan
Casino	Lismore
Cessnock	Maitland
Cobar	Dubbo
Condobolin	Orange
Cooma	Queanbeyan
Coonamble	Dubbo
Cootamundra	Wagga Wagga
Corowa	Albury
Cowra	Orange
Deniliquin	Albury
Forbes	Orange
Glen Innes	Armidale
Goulburn	Queanbeyan
Grafton	Coffs Harbour
Gundagai	Wagga Wagga
Gunnedah	Tamworth
Hay	Griffith
Inverell	Armidale
Kempsey	Port Macquarie
Leeton	Griffith

Lithgow	Bathurst
Liverpool	Sydney
Moree	Tamworth
Moruya	Bega
Moss Vale	Queanbeyan
Mudgee	Dubbo
Murwillumbah	Lismore
Muswellbrook	Maitland
Narrabri	Tamworth
Narrandera	Griffith
Nowra	Batemans Bay
Nyngan	Dubbo
Parkes	Orange
Quirindi	Tamworth
Scone	Maitland
Singleton	Maitland
Tumut	Wagga Wagga
Walgett	Dubbo
Wellington	Dubbo
Wentworth	Broken Hill
Wyalong	Griffith
Yass	Queanbeyan
Young	Wagga Wagga

Dated at Sydney, 4 December 2006.

R. O. BLANCH,
Chief Judge

DISTRICT COURT AMENDMENT (HOME BUILDING) RULE 2006

under the

District Court Act 1973

THE District Court Rule Committee made the following rule of court under the District Court Act 1973 on 23 November 2006

A. R. GREW,
Secretary to the District Court Rule Committee

Explanatory note

The object of this rule is to omit Part 6 Division 6 (Proceedings under section 83 of the Building Services Corporation Act 1989) of the District Court Rules 1973 as section 83 of the Home Building Act 1989 formerly known as the Building Services Corporation Act 1989 has been repealed.

District Court Amendment (Home Building) Rule 2006

under the

District Court Act 1973

1 Name of Rule

This rule is the District Court Amendment (Home Building) Rule 2006

2 Amendment of District Court Rules 1973

The District Court Rules 1973 are amended as set out in Schedule 1.

Schedule 1

Amendment

(Clause 2)

Part 6 Division 6 – Proceedings under section 83 of the Building Services Corporation Act 1989

Omit the Division

DISTRICT COURT ACT 1973

District Court of New South Wales

Direction

IN pursuance of sections 32 and 173 of the District Court Act 1973 I direct the District Court to sit in its Civil and Criminal jurisdictions at the places and at the times as shown in the attached schedules.

Dated at Sydney, 4 December 2006.

R. O. BLANCH,
Chief Judge

Venue	Time	18/6/07	25/6/07	2/7/07	9/7/07	16/7/07	23/7/07	30/7/07	6/8/07	13/8/07	20/8/07	27/8/07	3/9/07	10/9/07
Albury	10.00am				CR	CR	CR	CR		C	C			
Armidale	10.00am													
Batemans Bay	10.00am													
Bathurst	10.00am				CR	CR	CR	CR						
Bega	10.00am				CR	CR	CR							
Bourke	10.00am													
Broken Hill	10.00am											CR	CR	
Campbelltown	10.00am				CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4
Coffs Harbour	10.00am								C	C	CR	CR	CR	CR
Coonamble	10.00am								CR	CR				
Dubbo	10.00am					CR	CR	CR						C
East Maitland	10.00am					CR	CR	CR						
Gosford	10.00am				CR	CR	CR	CR	CR	CR	CR	CR+C	CR+C	CR
Goulburn	10.00am							CR	CR	CR				
Grafton	10.00am							CR	CR	CR				
Griffith	10.00am											CR	CR	C
Inverell	10.00am													
Lismore	10.00am					CR+C	CR+C	CR	CR	CR	CR	CR	CR	CR
Maitland at East Maitland	10.00am												C	C
Moree	10.00am						CR	CR						
Newcastle	10.00am					CR	CR	CR	CR+C	CR+C+Mng	CR+C+Mng	CRx2+C	CRx2+C	CRx2+C
Nowra	10.00am										CR	CR		
Orange	10.00am										CR	CR	CR	
Parkes	10.00am						CR	CR	CR					
Parramatta	10.00am					CRx3+C	CRx3+C	CRx3+C	CRx4	CRx4	CRx4	CRx3+C	CRx3+C	CRx3+C
Penrith	10.00am					CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3
Port Macquarie	10.00am			CR	CR	CR	CR	CR	CR	CR		C	C	CR
Queanbeyan	10.00am										C	C	CR	CR
Sydney	10.00am	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C+Mng	CR+C	CR+C	CR+C	CR+C	CR+C
Tamworth	10.00am								C	C	CR	CR	CR	
Taree	10.00am						C	CR	CR	CR	CR			
Wagga Wagga	10.00am							C	C	CR	CR			CR
Wollongong	10.00am					CR	CR	CR	CR+C	CR+C	CR+C	CR	CR	CR

Venue	Time	17/9/07	24/9/07	1/10/07	8/10/07	15/10/07	22/10/07	29/10/07	5/11/07	12/11/07	19/11/07	26/11/07	3/12/07	10/12/07
Albury	10.00am				C				CR	CR				
Armidale	10.00am	C	CR	CR										
Batemans Bay	10.00am			C										
Bathurst	10.00am							C	CR	CR				
Bega	10.00am	CR	CR											
Bourke	10.00am					CR	CR	CR						
Broken Hill	10.00am										CR	CR		
Campbelltown	10.00am	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4
Coffs Harbour	10.00am				CR	CR	CR		CR	CR				
Coonamble	10.00am								CR	CR				
Dubbo	10.00am	CR	CR				CR	CR	CR		CR	CR	CR	CR
East Maitland	10.00am						CR	CR						
Gosford	10.00am	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR+C	CR+C
Goulburn	10.00am					CR	CR	CR						
Grafton	10.00am											CR	CR	
Griffith	10.00am	C				CR	CR							
Inverell	10.00am							CR						
Lismore	10.00am	CR+C	CR+C	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR+C	CR+C
Maitland at East Maitland	10.00am					C								
Moree	10.00am													
Newcastle	10.00am	CR+C	CR+C	CR+C	CR+C	CR+C	CRx2+C	CRx2+C	CRx2+C	CRx2+C	CR+C+Mng	CR+C+Mng	CR+C	CR+C
Nowra	10.00am								CR	CR				
Orange	10.00am	C										CR	CR	CR
Parkes	10.00am													
Parramatta	10.00am	CRx4	CRx4	CRx4	CRx4	CRx3+C	CRx3+C	CRx3+C	CRx4	CRx4	CRx4	CRx3+C	CRx3+C	CRx3+C
Penrith	10.00am	CRx3	CRx3	CRx2+C	CRx2+C	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3
Port Macquarie	10.00am	CR	CR						CR	CR				
Queanbeyan	10.00am											CR	CR	CR
Sydney	10.00am	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C+Mng	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C
Tamworth	10.00am						CR	CR						CR
Taree	10.00am	CR	CR	CR						C		CR	CR	CR
Wagga Wagga	10.00am	CR	CR					C	C	C	CR	CR	CR	CR
Wollongong	10.00am	CR+C	CR+C	CR	CR	CR	CR	CR	CR+C	CR+C	CR+C	CRx2	CRx2	CRx2

Venue	Time	28/1/08	4/2/08	11/2/08	18/2/08	25/2/08	3/3/08	10/3/08	17/3/08	24/3/08	31/3/08	7/4/08	14/4/08	21/4/08
Albury	10.00am						CR	CR	CR		C			
Armidale	10.00am					CR	CR	CR			C			
Batemans Bay	10.00am													
Bathurst	10.00am			CR							C			
Bega	10.00am	CR	CR									CR		CR
Bourke	10.00am										CR			
Broken Hill	10.00am	C					CR	CR	CR					
Campbelltown	10.00am	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4
Coffs Harbour	10.00am	CR	CR	CR	C	C								
Coonamble	10.00am													
Dubbo	10.00am	CR	CR	CR						CR	CR	CR	C	C
East Maitland	10.00am			CR	CR	CR								
Gosford	10.00am	CRx2	CRx2	CRx2	CR	CR+C	CR+C	CR+C	CR	CR	CR	CR	CR	CR
Goulburn	10.00am			CR		CR								
Grafton	10.00am													
Griffith	10.00am	CR	CR											C
Inverell	10.00am										CR			
Lismore	10.00am	CR	CR	CR	CR	CR	CR+C	CR+C	CR	CR	CR	CR	C	C
Maitland at East Maitland	10.00am							C	C					
Moree	10.00am					CR	CR							
Newcastle	10.00am	CR+C+Mng	CR+C+Mng	CR+C	CRx2+C	CRx2+C	CRx2+C	CR+C	CR+C	CR	CR+C+Mng	CR+C+Mng	CR+C	CR+C
Nowra	10.00am						CR	CR	CR					
Orange	10.00am	C	C				CR	CR						
Parkes	10.00am		CR	CR										
Parramatta	10.00am	CRx3+C	CRx3+C	CRx4	CRx4	CRx4	CRx4	CRx3+C	CRx3+C	CRx4	CRx4	CRx3+C	CRx3+C	CRx3+C
Penrith	10.00am	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx2+C	CRx2+C	CRx3	CRx3	CRx3
Port Macquarie	10.00am	CR	CR	CR	C	C	C	CR	CR	CR				
Queanbeyan	10.00am										CR	CR	CR	
Sydney	10.00am	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C+Mng	CR+C	CR+C	CR+C	CR+C	CR+C
Tamworth	10.00am		CR	CR	CR						CR	CR	CR	
Taree	10.00am				CR	CR	CR				CR	CR		
Wagga Wagga	10.00am	C	C	CR	CR	CR					CR	CR		
Wollongong	10.00am	CR	CR	CR+C	CR+C	CR+C	CR	CR	CR	CR	CR	CR	CR	CR

Venue	Time	28/04/08	05/05/08	12/05/08	19/05/08	26/05/08	02/06/08	09/06/08	16/06/08
Albury	10.00am			CR	CR				
Armidale	10.00am								
Batemans Bay	10.00am								C
Bathurst	10.00am	CR	CR						
Bega	10.00am	CR							
Bourke	10.00am								
Broken Hill	10.00am				CR	CR			
Campbelltown	10.00am	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4	CRx4
Coffs Harbour	10.00am	CR	CR				CR	CR	CR
Coonamble	10.00am		CR	CR					
Dubbo	10.00am	CR	CR	CR			CR	CR	CR
East Maitland	10.00am							CR	CR
Gosford	10.00am	CR	CR	CR	CR	CR	CR	CR	CR
Goulburn	10.00am			CR	CR				
Grafton	10.00am			CR	CR	CR			
Griffith	10.00am	CR	CR						
Inverell	10.00am								
Lismore	10.00am	CR	CR	CR	CR	CR	CR	C	C
Maitland at East Maitland	10.00am								
Moree	10.00am								
Newcastle	10.00am	CR+C	CR+C	CR+C	CR+C+Mng	CR+C+Mng	CRx2+C	CRx2+C	CRx2+C
Nowra	10.00am					CR	CR		
Orange	10.00am				C	CR	CR	CR	
Parkes	10.00am								
Parramatta	10.00am	CRx4	CRx4	CRx4	CRx3+C	CRx3+C	CRx3+C	CRx3+C	CRx3+C
Penrith	10.00am	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3	CRx3
Port Macquarie	10.00am	CR	CR				CR	CR	CR
Queanbeyan	10.00am						C	CR	CR
Sydney	10.00am	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C	CR+C
Tamworth	10.00am					C		CR	CR
Taree	10.00am				CR	CR	C	C	C
Wagga Wagga	10.00am			C				CR	CR
Wollongong	10.00am	CR+C	CR+C	CR+C	CR	CR	CR	CR	CR

ELECTRICITY SUPPLY ACT 1995

Application for Retail Electricity Supplier Licence

Invitation to comment

THE Tribunal has received an application for an electricity retail supplier's licence under the Electricity Supply Act 1995 from GridX Power Pty Ltd (ACN 100 209 354) to operate in New South Wales.

The Tribunal seeks public submissions on this application. Submissions should address the assessment criteria contained in the Electricity Supply Act 1995.

All submissions should reach the Tribunal by Monday, 22 January 2006. Please direct enquiries to Mr Gary Drysdale on (02) 9290 8477.

2 December 2006.

JAMES P COX,
Chief Executive Officer
and Full Time Tribunal Member

Independent Pricing and Regulatory Tribunal,
PO Box Q290, QVB Post Office NSW 1230

ELECTRICITY SUPPLY ACT 1995LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land

TRANSGRID, by its delegate, Paul Phillips, declares with the approval of Her Excellency the Governor, that the land described in Schedule 1 to this notice, is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purpose of the Electricity Supply Act 1995.

Dated at Sydney, this 6th day of December 2006.

P. PHILLIPS,
General Manager,
Human Resources and Business Services

SCHEDULE 1

All that piece or parcel of land situate in the Local Government Area of Balranald, Parish of Wombah and County of Cairn being Lot 49, Deposited Plan 1049774 having an area of 2082 square metres and said to be in the possession of the State of New South Wales. (2004/1086)

ELECTRICITY (CONSUMER SAFETY) ACT 2004

Order under Section 5

I, Lyn Baker, Commissioner for Fair Trading, Department of Commerce:

- (1) revoke, on and from the date on which this Order is published in the New South Wales Government Gazette, the Order dated 22 August 2006 published in the New South Wales Government Gazette of 25 August, No. 106 at page 6710; and
- (2) pursuant to sections 5 (2) and 5 (3) of the Electricity (Consumer Safety) Act 2004 by this Order, declare the electrical articles of a class described in Schedule 1 to be, on and from the date on which this Order is published in the New South Wales Government Gazette,

declared electrical articles for the purposes of Part 2 of the Electricity (Consumer Safety) Act 2004 and the specifications, including modifications, specified in Schedule 1 to be those applicable to electrical articles of that class.

Signed this 30th day of November 2006.

LYN BAKER,
Commissioner for Fair Trading
Department Of Commerce

SCHEDULE 1

DECLARED ELECTRICAL ARTICLES

Interpretation:

In this schedule a reference to –

- AS/NZS 3350.1 means AS/NZS 3350.1:2002 with amendments 1 to 3;
- AS/NZS 60335.1 means AS/NZS 60335.1:2002 with amendment 1;
- AS/NZS 3100 means AS/NZS 3100:2002 with amendments 1 to 3;
- AS/NZS 60745.1 means AS/NZS 60745.1:2003 with amendments 1 and 2;
- AS/NZS 60598.1 means AS/NZS 60598.1:2003; and
- AS/NZS 61558.1 means AS/NZS 61558.1:2000 with amendments 1 to 4.

1. **APPLIANCE CONNECTOR** – an electrical device which –
 - (a) is for attachment to a flexible cord; and
 - (b) makes a detachable connection between the conductors of the cord and the pins or contacts of any low voltage appliance or equipment of a type intended or generally used for household applications;
 but does not include –
 - (c) a connector within the scope of AS/NZS 3123; or
 - (d) a plug or socket-outlet within the scope of AS/NZS 3131.

Class specification:

- Appliance plug –
AS/NZS 60320.1:2004.
- Plug connector –
AS/NZS 60320.1:2004 and AS/NZS 60320.2.2:2004.

2. **ARC WELDING MACHINE** – an electrical appliance which –
 - (a) is for use in the electric arc welding process;
 - (b) is for connection to single phase low voltage supply;
 - (c) is fitted with a flexible cord and plug rated at not more than 16 A;
 - (d) can easily be moved from one place to another while it is connected to supply; and
 - (e) has, for GMAW (gas metal arc welding), GTAW (gas tungsten arc welding), and FCAW (flux cored arc welding) machines, a 100% output rating not exceeding 65 A. The 100% rating is calculated from the square root of the marked duty cycle expressed in decimal form multiplied by the marked output current associated with the duty cycle in amperes;

- but does not include –
- (f) an arc welding machine promoted exclusively to industry.
- Class specification:
AS/NZS 3100 and AS/NZS 3195:2002.
3. **BAYONET LAMPHOLDER** – an electrical device which –
- (a) accommodates a lamp with a bayonet cap of 15 mm or 22 mm nominal diameter;
- but does not include –
- (b) a lampholder which by design is restricted to specific appliances; or
- (c) a lampholder which is for incorporation in industrial equipment only.
- Class specification:
AS/NZS 3100 and AS 3117:1994.
4. **BAYONET LAMPHOLDER ADAPTOR** – an electrical device which –
- (a) is for insertion into a B22 bayonet lampholder; and
- (b) is for connection to a flexible cord; or
- (c) has one or more lampholders.
- Class specification:
AS/NZS 3100 and AS 3119:1994.
5. **BLANKET** – an electrical appliance which –
- (a) is for the application of heat to a bed;
- (b) is flexible;
- (c) has a fabric enclosure; and
- (d) has a projected surface area exceeding 0.6 square metres;
- and includes –
- (e) any associated power supply or controller.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.17:2000 with amendments 1 and 2 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.17:2004.
6. **BREAD TOASTER** – an electrical appliance which –
- (a) is a household type; and
- (b) is for toasting bread or similar foods.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.9:1999 with amendments 1 to 3 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.9:2002 with amendments 1 to 3.
7. **CLOTHES DRYER** – an electrical appliance which –
- (a) is a household type; and
- (b) is for drying textile material.
- Class specification:
Rotary type –
AS/NZS 3350.1 and AS/NZS 3350.2.11:2001 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.11:2002 with amendment 1.
Cabinet type –
AS/NZS 3350.1 and AS/NZS 3350.2.43:2001 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.45:2005.
8. **CONTROL OR CONDITIONING DEVICE** – an electrical device which –
- (a) is a household type;
- (b) is for controlling or conditioning the electrical input to electrical apparatus;
- (c) is self contained; and
- (d) connects to supply by means of a flexible cord and plug, appliance inlet or pins for engagement with a socket-outlet.
- Class specification:
AS/NZS 3100 and AS/NZS 3197:2005.
9. **COOKING APPLIANCE – PORTABLE TYPE** – an electrical appliance which –
- (a) is a household type;
- (b) is for cooking or warming food by electrical energy; and
- (c) is portable.
- Class specification:
Griller, roaster, or oven (including breadmaker) –
AS/NZS 3350.1 and AS/NZS 3350.2.9:1999 with amendments 1 to 3 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.9:2002 with amendments 1 to 3.
Warming plate and similar –
AS/NZS 3350.1 and AS/NZS 3350.2.12:1997 with amendments 1 and 2 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.12:2004.
Frying pan, deep fryer or wok –
AS/NZS 3350.1 and AS/NZS 3350.2.13:2001 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.13:2004 with amendment 1.
Outdoor barbecue –
AS/NZS 3350.1 and AS/NZS 3350.2.78:1996 with amendments 1 and 2 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.78:2005.
10. **CORD EXTENSION SOCKET** – an electrical device which –
- (a) is for attachment to a flexible cord;
- (b) has a maximum rating of 20 A at low voltage; and
- (c) has contacts whereby a detachable connection may be made with the corresponding pins of a plug or an inlet;
- but does not include –
- (d) a connector or appliance connector designated in AS/NZS 3123; or
- (e) a socket outlet designated in AS/NZS 3131.
- Class specification:
AS/NZS 3100 and AS/NZS 3120:1999.
11. **CORD-LINE SWITCH** – an electrical device which –
- (a) is for attachment in a flexible cord;
- (b) manually opens and closes an electrical circuit; and
- (c) has a rating not exceeding 16 A at low voltage;
- but does not include –
- (d) bell push and pendant switches.
- Class specification:
AS/NZS 3100 and AS/NZS 3127:2005.

12. **DECORATIVE LIGHTING OUTFIT** – an electrical appliance which –
- (a) is for decorative, display or illumination purposes;
 - (b) is portable;
 - (c) consists of –
 - (i) lamps or lampholders interconnected by flexible cord of less than 2.5 square millimetres cross-sectional area; or
 - (ii) lamps within a flexible enclosure; and
 - (d) may be integral with a frame or similar support; and includes –
 - (e) any integral power supply or control device.
- Class specification:
AS/NZS 60598.1 and AS/NZS 60598.2.20:2002.
13. **DISHWASHING MACHINE** – an electrical appliance which –
- (a) is a household type; and
 - (b) is for washing of eating or cooking utensils.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.5:1995 with amendments 1 and 2 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.5:2002 with amendment 1.
14. **EDISON SCREW LAMP HOLDER** – an electrical device which –
- (a) accommodates a lamp with an Edison screw cap of 14 mm or 27 mm nominal outside diameter; but does not include –
 - (b) a lampholder which by design is restricted to specific appliances; or
 - (c) a lampholder which is for incorporation in industrial equipment only.
- Class specification:
AS/NZS 3100 and AS 3140:1994.
15. **FAN** – an electrical appliance which –
- (a) is a household type;
 - (b) has a primary function of moving air in its vicinity; and
 - (c) is self-contained; and includes –
 - (d) any associated ancillary equipment.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.80:1998 with amendments 1 to 3 (until 3 September 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.80:2004.
16. **FENCE ENERGISER** – an electrical appliance which regulates and controls the supply of electrical energy to an electric fence.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.76:1998 with amendments 1 and 2 (until 30 May 2010) or AS/NZS 60335.1 and AS/NZS 60335.2.76:2003.
17. **FLEXIBLE HEATING PAD** – an electrical appliance which –
- (a) is for application of heat to parts of the human body;
 - (b) is in the form of a flexible pad; and
 - (c) has a projected area not exceeding 0.6 square metres.
- Class specification:
Foot warmer and foot mat –
AS/NZS 3350.1 and AS/NZS 3350.2.81 with amendment 1.
- Other –
AS/NZS 3350.1 and AS/NZS 3350.2.17:2000 with amendments 1 and 2 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.17:2004.
18. **FLOOR POLISHER/SCRUBBER** – an electrical appliance which –
- (a) is a household type; and
 - (b) is used to polish or scrub floors.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.10:1996 with amendments 1 and 2.
19. **FLUORESCENT LAMP BALLAST** – an electrical device which –
- (a) is for controlling the magnitude of current flowing through the discharge path of a fluorescent lamp;
 - (b) is of the independent or built-in type intended for use with luminaires (portable or fixed); or
 - (c) is of the integral type, rated at 60 watts or less, such that it forms a non-replaceable part of a fluorescent lamp/ballast combination; or
 - (d) is of the adaptor type such that it allows the insertion of a fluorescent lamp into the ballast by the user; and includes –
 - (e) any capacitor incorporated in or supplied with the ballast; but does not include –
 - (f) a ballast which is incorporated in luminaires certified for compliance with the requirements for electrical equipment with increased safety type protection
- (Ex e) for use in hazardous locations.
- Class specification:
Integral (self ballasted lamp) magnetic and electronic types –
AS/NZS 60968:2001.
- Other magnetic type –
AS/NZS 61347.1:2002 and AS/NZS 61347.2.8:2003.
- Other electronic type –
AS/NZS 60928:2000 (until 30 December 2006) or AS/NZS 61347.2.3:2004.
20. **FLUORESCENT LAMP STARTER** – an electrical device which –
- (a) is for starting preheat type fluorescent lamps;
 - (b) is a glow-start type; and
 - (c) has an enclosure of insulating material.
- Class specification:
AS/NZS 60155:2000 (Section 1) with amendments 1 and 2.

21. **HAIR CARE APPLIANCE** – an electrical appliance which –
- (a) is a household type or a commercial hand-held type; and
 - (b) is for drying, styling or the caring of human hair.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.23:2001 with amendments 1 and 2 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.23:2004.
22. **HEDGE CLIPPER** – an electrical appliance which –
- (a) is for trimming hedges; and
 - (b) is hand held.
- Class specification:
AS/NZS 3100 and AS/NZS 3160:2001.
23. **IMMERSION HEATER** – an electrical appliance which –
- (a) is a household type;
 - (b) is for heating liquid in which it may be immersed; and
 - (c) is self contained;
- and includes –
- (d) aquarium type immersion heaters.
- Class specification:
Aquarium type –
AS/NZS 3350.1 and AS/NZS 3350.2.55:1998 with amendments 1 and 2 (until 3 September 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.55:2004.
- Portable (other than aquarium) type –
AS/NZS 3350.1 and AS/NZS 3350.2.74:2001 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.74:2005.
- Fixed type –
AS/NZS 3350.1 and AS/NZS 3350.2.73:1996 with amendments 1 and 2 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.73:2005.
24. **INSECT ELECTROCUTOR** – an electrical appliance which –
- (a) is a household type; and
 - (b) kills insects by the application of electrical energy.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.59:1999 with amendments 1 and 2 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.59:2005 with amendment 1.
25. **INSPECTION HANDLAMP** – an electrical appliance which –
- (a) is for inspection purposes using illumination;
 - (b) holds an incandescent or discharge lamp; and
 - (c) is hand held;
- but does not include –
- (d) handlamps with a magnification facility.
- Class specification:
AS/NZS 60598.1 and AS/NZS 60598.2.8:2002.
26. **IRON** – an electrical appliance which –
- (a) is a household type;
 - (b) is for smoothing or pressing fabric by the application of heat or steam; and
 - (c) is hand held except for any separate steam generator;
- and includes –
- (d) any associated equipment.
- Class specification:
Fabric steamer –
AS/NZS 3350.1 and AS/NZS 3350.2.85:1998 with amendment 1 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.85.
- Other –
AS/NZS 3350.1 and AS/NZS 3350.2.3:1995 with amendments 1 and 2 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.3:2002 with amendment 1.
27. **KITCHEN MACHINE** – an electrical appliance which –
- (a) is a household type;
 - (b) is for the preparation of food by mechanical means; or
 - (c) is for opening cans; or
 - (d) is for sharpening of knives.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.14:1995 with amendments 1 to 3 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.14:2004.
28. **LAWN CARE APPLIANCE** – an electrical appliance which –
- (a) is a household type; and
 - (b) is for cutting grass or lawn.
- Class specification:
Mower –
AS/NZS 60335.1 and AS/NZS 60335.2.77:2002 with amendment 1.
- Trimmer (with non-metallic filament line or cutter/s) –
AS/NZS 60335.1 and AS/NZS 60335.2.91:2002 with amendment 1.
- Trimmer (other) –
AS/NZS 3100 and AS/NZS 3156: 1995 with amendments 1 and 2 (Withdrawn from publication).
29. **LIQUID HEATING APPLIANCE** – an electrical appliance which –
- (a) is a household type;
 - (b) is portable;
 - (c) has a capacity not exceeding 10L; and
 - (d) heats liquid for:
 - (i) humidifying room air; or
 - (ii) use in, or as, a hot beverage; or
 - (iii) cooking.
- Class specification:
Humidifier –
AS/NZS 3350.1 and AS/NZS 3350.2.98:1998 with amendment 1 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.98:2005.

Other –

AS/NZS 3350.1 and AS/NZS 3350.2.15:2002 with amendments 1 and 2 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.15:2002 with amendments 1 and 2.

30. **LUMINAIRE – PORTABLE TYPE** – an electrical appliance which –
- is a household type;
 - provides illumination or for decorative purposes, produces light;
 - is fitted with a supply flexible cord, an appliance inlet socket or a power supply unit with integral pins for insertion into a socket outlet;
 - is for standing on a table or floor, or is fitted with a clamp or similar for attachment to vertical or horizontal surfaces;
 - is for use with tungsten filament, tubular fluorescent or other discharge lamps; and
 - is constructed to represent a model, person or animal and by its design and materials is likely to be treated by a child as a toy; or
 - has metal parts which are required to be earthed or double insulated from live parts (excluding live parts of an all insulated lampholder).

Class specification:

Child appealing type (refer to clause (f)) – AS/NZS 60598.1 and AS/NZS 60598.2.10:1998.

AS/NZS 60598.2.10:1998 is modified to deem luminaires to be of class III construction where they are permanently connected to an approved safety extra-low voltage source and that source is separated from the child appealing part by at least 2m.

Type fitted with a built-in transformer or convertor – AS/NZS 60598.1 and AS/NZS 60598.2.6:1998.

Floodlight – AS/NZS 60598.1 and AS/NZS 60598.2.5:2002.

Other –

AS/NZS 3100 and AS/NZS 3128:1998 with amendments 1 and 2 or AS/NZS 60598.1 and AS/NZS 60598.2.4:1998.

31. **MESSAGE APPLIANCE** – an electrical appliance which –
- is a household type;
 - is for massaging the human body;
 - is portable; and
 - is self-contained.
- Class specification:
- AS/NZS 3350.1 and AS/NZS 3350.2.32:2001 (until 3 September 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.32.
32. **MICROWAVE OVEN** – an electrical appliance which –
- is a household type; and
 - applies heat to food, liquid or other substances in a chamber by means of high-frequency electromagnetic radiation.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.25:2001 (until 13 May 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.25:2002 with amendment 1.

33. **MINIATURE OVERCURRENT CIRCUIT-BREAKER** – an electrical device which –
- is an enclosed air-break switch;
 - opens a low voltage circuit automatically under pre-determined conditions of over-current;
 - has a nominal rating not exceeding 125 A; and has –
 - a current breaking capacity up to but not including 10 kA; and/or
 - a projected panel mounting area not exceeding 4000 square millimetres per pole;
- but does not include –
- miniature overcurrent circuit-breakers as defined but which are intended and marked as being only for use in industrial application.

Class specification:

AS 3111:1994 with amendment 1 or AS/NZS 60898.1:2004 and 60898.2:2004.

34. **OUTLET DEVICE** – an electrical device which –
- is a household type;
 - as its primary function, extends supply from a socket-outlet;
 - is portable;
 - incorporates facilities for the insertion of a plug or plugs; and
 - has a rating not exceeding 20 A;
- but does not include –
- a cord extension set.

Class specification:

Integral pin type (including travel adaptor) – AS/NZS 3100 and AS/NZS 3122:2005.

AS/NZS 3122:2005 is modified to preclude types that can be rewired by the user.

Other –

AS/NZS 3100 and AS/NZS 3105:2002 with amendments 1 and 2.

35. **PLUG** – an electrical device which –
- makes a detachable connection between the contacts of a socket-outlet and the conductors of a flexible cord;
 - has two, three or four pins for insertion into a socket-outlet; and
 - has a maximum rating of 20 A;
- but does not include –
- a plug which is within the scope of AS/NZS 3123:1994 with amendment 1 and is intended for industrial use; or
 - a plug which is within the scope of AS/NZS 3131:1995.

Class specification:

AS/NZS 3100 and AS/NZS 3112:2004.

36. **POWER SUPPLY OR CHARGER** – an electrical appliance which –
- provides an output not exceeding 50 volts a.c. or 120 volts ripple free d.c.;
 - is a type to provide supply to separate luminaires; or
 - is a household type for either charging batteries or to provide a supply to separate equipment.
- Class specification:
Power supply for general use – AS/NZS 61558.1 and AS/NZS 61558.2.6:2001.
Power supply (electronic or transformer types) designated for use with specific electronic equipment – AS/NZS 60065:2000 with amendment 1 or AS/NZS 60950:2003.
Power supply for toys – AS/NZS 61558.1 and AS/NZS 61558.2.7:2001.
Power supply for bells or chimes – AS/NZS 61558.1 and AS/NZS 61558.2.8:2001.
Power supply (electronic type) for lighting purposes – AS/NZS 61046:2001 (until 30 December 2006) or AS/NZS 61347.2.2:2004.
Power supply for Handlamps – AS/NZS 61558.1 and AS/NZS 61558.2.9:2003.
Battery charger – AS/NZS 3350.1 and AS/NZS 3350.2.29:2001 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.29:2004 with amendment 1.
37. **PROJECTOR** – an electrical appliance which –
- is a household type; and
 - is for projecting an image from a photographic slide or moving film.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.56:1998 with amendments 1 and 2.
38. **RANGE** – an electrical appliance which –
- is a household type;
 - is for cooking food using heat produced by electrical energy; and
 - is stationary.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.6:2001 with amendments 1 to 4 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.6:2002 with amendments 1 and 2.
39. **RANGE HOOD** – an electrical appliance which –
- is a household type;
 - collects and/or filters air; and
 - is for installation above a cooking appliance.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.31:2001 with amendment 1 (until 3 September 2011) or AS/NZS 60335.1 and 60335.2.31:2004.
40. **RAZOR/HAIR CLIPPER** – an electrical appliance which –
- is a household type; and
 - shaves, cuts or trims human hair.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.8:1995 with amendments 1 and 2 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.8:2004.
41. **REFRIGERATOR/FREEZER** – an electrical appliance which –
- is a household type; and
 - cools and stores food.
- Class specification:
AS/NZS 3350.1 and AS/NZS 3350.2.24:2001 (until 14 November 2010) or AS/NZS 60335.1 and AS/NZS 60335.2.24:2003 with amendment 1.
42. **RESIDUAL CURRENT DEVICE** – an electrical device which –
- isolates or initiates a tripping signal to isolate a low-voltage supply to protected circuits, sockets-outlets or equipment in the event of a current flow to earth which exceeds a pre-determined level;
 - has a rated residual current not exceeding 300 mA for devices intended for connection to fixed wiring or 30 mA for other devices; and
 - has a rated load current not exceeding 125 A for devices intended for connection to fixed wiring or 20 A for other devices;
- but does not include –
- a device intended to be used with a particular circuit-breaker other than a miniature overcurrent circuit-breaker; or
 - a device intended to protect an electricity supply authority distribution system; or
 - a device covered by AS 2081 and intended for mines use.
- Class specification:
AS/NZS 61008.1:2004 or AS/NZS 61009.1:2004 or AS 3190:2002 and AS 3111:1994.
43. **ROOM HEATER** – an electrical appliance which –
- is a household type; and
 - is for heating, by electrical energy, the atmosphere for comfort purposes;
- but does not include –
- an airconditioning appliance;
 - a heating system that is intended to heat the atmosphere of a room primarily by raising the temperature of any floor, wall, or ceiling area; or
 - an under-carpet heating system.
- Class specification:
Thermal storage type – AS/NZS 3350.1 and AS/NZS 3350.2.61:2001 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.61:2005.
Other – AS/NZS 3350.1 and AS/NZS 3350.2.30:1997 with amendments 1 to 5 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.30:2004 with amendments 1 and 2.
44. **SEWING MACHINE** – an electrical appliance which –
- is a household type; and
 - is for stitching fabric or other material.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.28:1996 with amendments 1 and 2.

45. **SOCKET-OUTLET** – an electrical device which –
- (a) is for fixing at a point at which fixed wiring terminates;
 - (b) provides a detachable connection with the pins of a plug;
 - (c) has two, three or four contacts; and
 - (d) has a maximum rating of 20 A;
- but does not include –
- (e) an outlet within the scope of AS/NZS 3123 or AS/NZS 3131.

Class specification:

AS/NZS 3100 and AS/NZS 3112:2004.

46. **SOLDERING IRON** – an electrical appliance which –
- (a) is for the application or removal of solder; and
 - (b) is hand held;
- and includes –
- (c) any integral or associated power supply or controller;
- but does not include –
- (d) a soldering iron promoted exclusively to industry.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.45:1997 with amendments 1 and 2 (until 3 September 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.45:2004.

47. **SUPPLY FLEXIBLE CORD** – an electrical cord which –
- (a) is unscreened and flexible;
 - (b) is designed for use at low voltage;
 - (c) consists of two or three elastomer or PVC insulated cores of multistrand construction;
 - (d) has a cross-sectional area of each conductor not exceeding 2.5 square millimetres; and
 - (e) has for other than tinsel cords, individual wire strandings not exceeding –
 - (i) 0.21 mm for conductor sizes up to 1 square millimetre; or
 - (ii) 0.26 mm for conductor sizes exceeding 1 square millimetre;
- but does not include –
- (f) a flexible cord directly connected to equipment or approved non-rewirable accessories which is marked in accordance with the CENELEC HAR marking scheme for flexible cords.

Class specification:

AS 3191:2003; or AS/NZS 60227.5:2003 (PVC); or AS/NZS 60245.4:2003 with amendment 1 (Rubber).

48. **SWIMMING POOL OR SPA EQUIPMENT** – an electrical appliance, device or assembly which –
- (a) is for use in the operation or cleaning of a swimming pool, spa pool or spa bath; or
 - (b) is a combination of devices or appliances used in the operation of a swimming pool, spa pool or spa bath and which may or may not be integral or incorporated with a spa pool or spa bath;

but does not include –

- (c) such an appliance, device or assembly exclusively promoted for commercial use; or
- (d) a heat pump.

Class specification:

Pump –

AS/NZS 3350.1 and AS/NZS 3350.2.41:1997 with amendments 1 and 2 (until 3 September 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.41:2004.

Spa bath including appliances intended to circulate air or water in a conventional bath –

AS/NZS 3350.1 and AS/NZS 3350.2.60:2000 with amendments 1 to 3.

Other –

AS/NZS 3100 and AS/NZS 3136:2001 with amendments 1 and 2.

49. **TELEVISION RECEIVER** – an electrical appliance which –
- (a) is for household use;
 - (b) is for the display of public or subscription television broadcasts; and
 - (c) incorporates a single cathode ray picture tube.

Class specification:

AS/NZS 60065:2003.

50. **THERAPEUTIC LAMP** – an electrical appliance which –
- (a) is a household type;
 - (b) produces ultraviolet or infra-red radiation for personal, therapeutic or cosmetic purposes; and
 - (c) is portable.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.27:1996 with amendments 1 and 2 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.27:2004 with amendment 1.

51. **TOOL – PORTABLE TYPE** – an electrical appliance which –
- (a) is for machining, drilling, sawing, or surface preparation; and
 - (b) may be entirely supported by hand during operation;
- but does not include –
- (c) a tool, portable type, promoted exclusively to industry.

Class specification:

Drill –

AS/NZS 3100 and AS/NZS 3160:2001 with amendment 1 (until 14 November 2006) or AS/NZS 60745.1 and AS/NZS 60745.2.1:2003.

Sander or polisher (other than disk types) –

AS/NZS 3100 and AS/NZS 3160:2001 with amendment 1 (until 14 November 2006) or AS/NZS 60745.1 and AS/NZS 60745.2.4:2003.

Circular saw –

AS/NZS 3100 and AS/NZS 3160:2001 with amendment 1 (until 14 November 2006) or AS/NZS 60745.1 and AS/NZS 60745.2.5:2003.

Jig or sabre saw –
AS/NZS 3100 and AS/NZS 3160:2001 with amendment 1 (until 14 November 2006) or AS/NZS 60745.1 and AS/NZS 60745.2.11:2003.

Planer –
AS/NZS 3100 and AS/NZS 3160:2001 with amendment 1 (until 14 November 2006) or AS/NZS 60745.1 and AS/NZS 60745.2.14:2003.

Router –
AS/NZS 3100 and AS/NZS 3160:2001 with amendment 1 (until 14 November 2006) or AS/NZS 60745.1 and AS/NZS 60745.2.17:2003.

Other –
AS/NZS 3100 and AS/NZS 3160:2001 with amendment 1.

52. **VACUUM CLEANER** – an electrical appliance which –
- (a) is a household type;
 - (b) is portable; and
 - (c) removes dust, dirt or moisture and the like from floor coverings by suction; or
 - (d) removes garden refuse from lawns or paths and the like by suction.

Class specification:

Garden type –
AS/NZS 3350.1 and AS/NZS 3350.2.2:2001 (until 14 November 2010) or AS/NZS 60335.1 and AS/NZS 60335.2.100:2003

Other –
AS/NZS 3350.1 and AS/NZS 3350.2.2:2001 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.2:2002 with amendment 1.

53. **WALL SWITCH** – an electrical device which –
- (a) is an air-break switch;
 - (b) is for connection to the wiring of an electrical installation;
 - (c) is primarily for mounting on a vertical surface;
 - (d) is manually opened and manually closed; and
 - (e) has a rating not exceeding 20 A.

Class specification:

AS/NZS 3100 and AS/NZS 3133:2003 with amendment 1.

54. **WASHING MACHINE** – an electrical appliance which –
- (a) is a household type; and
 - (b) is used for washing clothes.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.7:2001 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.7:2002 with amendment 1.

55. **WATER BED HEATER** – an electrical appliance which –
- (a) is for installation under a water bed envelope; and
 - (b) heats water contained in that envelope; and includes –
 - (c) any associated control device.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.66:1997 with amendments 1 and 2 (until 3 September 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.66:2004.

56. **WATER HEATER** – an electrical appliance which –
- (a) is for heating and storage of water for bathing, washing or similar purposes;
 - (b) incorporates a heating element;
 - (c) is unvented; and
 - (d) has a storage capacity not less than 4.5 L nor more than 680 L.

* Or

* (e) is for heating water

* (f) is of the instantaneous type; and

* (g) incorporates live parts in contact with water.

* applicable 12 months from the date on which the Order to which this schedule relates is published in the New South Wales Government Gazette.

Class specification:

Pressure storage –
AS/NZS 3350.1 and AS/NZS 3350.2.21:1999 with amendments 1 to 3 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.21:2002 with amendments 1 and 2.

Instantaneous –
AS/NZS 3350.1 and AS/NZS 3350.2.35:1999 with amendment 1 (until 15 October 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.35:2004.

DEPARTMENT OF ENVIRONMENT AND CONSERVATION

Notice of Approval of the Southern Brown Bandicoot
(*Isoodon obesulus*) Recovery Plan

THE Department of Environment and Conservation hereby gives notice of the Approval of the Southern Brown Bandicoot (*Isoodon obesulus*) Recovery Plan. Information relating to the sale and inspection of the recovery plan was published during the week commencing 4 December 2006 in the *Bega District News*, *Bombala Times*, *Hills Shire Times*, *Hornsby and Upper North Shore Advocate*, *Imlay Magnet*, *Manly Daily*, *Merimbula News Weekly*, *Narooma News*, *Parramatta Advertiser*, *South Coast Register* and *Sydney Morning Herald*.

GISELLE HOWARD,
Acting Director,
Metropolitan Branch,
Environment Protection and Regulation Division

GEOGRAPHICAL NAMES ACT 1966

Notice of Proposal to Re-define Address Locality Names and Boundaries within Parramatta City Council Area

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to re-define the address locality names and boundaries within the Parramatta Local Government Area as shown on map GNB3483-1-B.

The Board is now calling for submissions from residents and interested people regarding the proposed boundaries which are shown on map GNB3483-1-B. All submissions received will be considered by the Board.

Map GNB3483-1-B may be viewed at Parramatta City Council Offices, Parramatta Library, Dundas Valley Branch,

Ermington Branch, Granville Branch, Guilford Branch, Emma Crescent Branch, The Parramatta Heritage Centre, Holroyd Council Offices and the office of the Geographical Names Board, Land and Property Information, PO Box 143, Bathurst NSW 2795.

Details of this proposal may also be viewed on the Geographical Names Board's internet site at www.gnb.nsw.gov.au. Any person wishing to make comment upon this proposal may, by 10th January 2006, write to the Secretary of the Board with that comment.

WARWICK WATKINS,
Chairperson

Geographical Names Board
PO Box 143, Bathurst NSW 2795

GEOGRAPHICAL NAMES ACT 1966

Notice of proposal to Amend Address Locality Boundaries within the Shellharbour Local Government Area

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to amend address locality boundaries in the Shellharbour Local Government Area as shown on map GNB2535-1-A.

The proposed amendments involve a change to the boundary between the address localities of Tullimbar and Yellow Rock, this boundary is being amended as shown on map GNB2535-1-A.

Map GNB2535-1-A may be viewed at Shellharbour Council Administration Office, Lamerton Crescent, Shellharbour City Centre and Albion Park Library for a period of one month from 7th December 2006. A copy of map GNB2535-1-A will also be on display at the office of the Geographical Names Board, Land and Property Information, 346 Panorama Ave, Bathurst NSW 2795.

This proposal may also be viewed and submissions lodged on the Geographical Names Board web site at www.gnb.nsw.gov.au during the one month consultation period.

Any person wishing to make comment upon this proposal may within one (1) month of 7th December 2006, write to the Secretary of the Board with that comment.

WARWICK WATKINS,
Chairperson

Geographical Names Board,
PO Box 143, Bathurst NSW 2795

GEOGRAPHICAL NAMES ACT 1966

Notice of Amendment of Address Locality Boundaries within the Tamworth Regional Local Government Area

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day amended address locality boundaries in the Tamworth Regional Local Government Area as shown on maps GNB3805-2

The amendments consist of changes to the address locality boundaries between Gowrie and Garoo, the address locality name Thirloene has been amended to Thirdene and the address locality of Gundamulda has been discontinued with that area now being located in the localities of Ironbark and Barraba.

The position and extent for these features is shown in the Geographical Names Register which can be accessed on the Geographical Names Board web site at www.gnb.nsw.gov.au.

WARWICK WATKINS,
Chairperson

Geographical Names Board,
PO Box 143, Bathurst NSW 2795

GEOGRAPHICAL NAMES ACT 1966

Notice of Assignment of Address Locality Name and Boundaries within the Goulburn Mulwaree Local Government Area

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day assigned the name Boxers Creek as an address locality in the Goulburn Mulwaree Local Government Area as shown on map GNB3753.

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

WARWICK WATKINS,
Chairperson

Geographical Names Board,
PO Box 143, Bathurst NSW 2795

ERRATUM

IN the notice referring to the assignment of the name Thortons Bluff, Folio 3389, 19 April 1973. The name was spelt incorrectly, the correct spelling for this feature is Thorntons Bluff. This notice corrects that error.

W. WATKINS,
Chairman

Geographical Names Board,
PO Box 143, Bathurst NSW 2795

GEOGRAPHICAL NAMES ACT 1966

THE Geographical Names Board of New South Wales hereby notifies that the following twenty-eight names which were previously assigned with the designation of locality are now re-assigned with the designation of Rural Place.

The twenty-eight names are:

Adelaide Gate, Berawinnia Downs, Black Swamp Corner, Burns, Cameron Corner, Chapel Hut Crossing, Connulpie, Coombah, Euriowie, Hamilton Gate, Jeffreys Flat, Kinalung, Mount Gipps, Packers Crossing, Poison Corner, Purnamoota, Quondong, Sinclairs Camp, Stephens Creek, Taltangan, Taltowera, Tarrawingee, Thurloo Downs, Urisino, Warricks Crossing, Waverley Downs, Waverley Gate, Yanco Glen.

The Geographical Names Board of New South Wales also hereby notifies that the following two names which were previously assigned with the designation of locality are now re-assigned with the designation of Historic Site.

The two names are:

Depot Glen, Fort Grey.

The position and extent for these features is recorded in the Geographical Names Register of New South Wales which can be accessed through the Board's Web Site at www.gnb.nsw.gov.au

WARWICK WATKINS,
Chairman

Geographical Names Board,
PO Box 143, Bathurst NSW 2795

HEALTH PROFESSIONALS (SPECIAL EVENTS EXEMPTION) ACT 1997

ORDER

I, John Hatzistergos, Minister for Health:

- a. pursuant to section 5 (1) and (2) of the Health Professional (Special Events Exemption) Act 1997 ('the Act') do hereby declare the 2007 Australian Youth Olympic Festival to be a special event for the purpose of the Act; and
- b. pursuant to section 5 (3) of the Act, do hereby specify the period from the 1st to the 31st January 2007 as the period during which the exemptions under section 11 (1), (2) and (3) of the Act shall have effect; and
- c. pursuant to section 5 (5) of the Act, do hereby specify for the purpose of section 7 (c) of the Act that the Australian Olympic Committee shall be required to notify in writing the NSW Department of Health the following information:
 - (i) the names of the visiting health professionals, being medical practitioners and physiotherapists, who will be providing health care services to international youth Olympic team members at the 2007 Australian Youth Olympic Festival and who have been designated by the Australian Olympic Committee as "registered 2007 Australian Youth Olympic Festival doctors", and "registered 2007 Australian Youth Olympic Festival physiotherapists" respectively; and
 - (ii) the name of the country to whose team members those visiting medical practitioners of physiotherapists will be providing health care services; and
- d. pursuant to section 10 (2) (a) of the Act, do hereby authorise a visiting medical practitioner who has been designated as a "registered 2007 Australian Youth Olympic Festival doctor" in accordance with clause c (i) above, to issue written prescriptions for restricted substances or drugs of addiction within the meaning of the NSW Poisons and Therapeutic Goods Act 1966, providing that:
 - (i) those prescriptions are only issued for the treatment of members of a named international youth Olympic team referred to in paragraph c (i) above; and
 - (ii) such prescriptions otherwise satisfy the requirements of the NSW Poisons and Therapeutic Goods Act 1966 and Regulation made under that Act, and are completed in such a manner as the Director-General of the Department of Health may require.

Signed this twenty-sixth day of November 2006.

JOHN HATZISTERGOS,
Minister for Health

NATIONAL PARKS AND WILDLIFE ACT 1974

Yellomundee Regional Park
Draft Plan of Management

A draft plan of management for Yellomundee Regional Park has been prepared and is on public exhibition until 12 March 2007.

Copies of the plan are available free of charge from the NPWS office, Bowmans Cottage, 370 Windsor Road, Richmond (ph 4588 5247) and the Blue Mountains Heritage Centre, Govetts Leap Road, Blackheath ((02) 4787 8877). The plan is also on the NPWS website at www.nationalparks.nsw.gov.au.

Written submissions on the draft plan must be received by The Regional Manager, NPWS, PO Box 552, Katoomba NSW 2780 by 12 March 2007.

All submissions received by NPWS are a matter of public record and are available for public inspection upon request. Your comments on these draft plans may contain information that is defined as "personal information" under the NSW Privacy and Personal Information Protection Act 1998. The submission of personal information with your comments is voluntary.

POISONS AND THERAPEUTIC GOODS ACT 1966

Order Under Clause 171 (1)

Poisons and Therapeutic Goods Regulation 2002

Withdrawal of Drug Authority

IN accordance with the provisions of clause 171 (1) of the Poisons and Therapeutic Goods Regulation 2002 an order has been made on Sharon Leanne MARTIN of "Rosedale" Illawarra Highway Sutton Forest 2577, prohibiting her until further notice, as a nurse from having possession of and supplying drugs of addiction as authorised by clauses 101 and 103 of the Regulation.

This order is to take effect on and from 5 December 2006.

ROBYN KRUK,
Director-General

Department of Health, New South Wales,
Sydney, 28 November 2006

PRACTICE NOTE SC CL 5

Supreme Court Common Law Division – General Case
Management List

Commencement

1. This Practice Note commences 29 January 2007.

Application

2. This Practice Note applies to proceedings mentioned in paragraph 5 of this Practice Note which are in, or to be entered in, the General Case Management List.

Definitions

3. In this Practice Note:
 - ADR means Alternative Dispute Resolution
 - Concurrent expert evidence means two or more expert witnesses giving evidence at the one time.
 - CPA means the Civil Procedure Act 2005

Evidentiary statement means a statement by the plaintiff which will form the basis of his or her evidence in chief or where the plaintiff is a corporation or is unable as a result of age or disability to give evidence a statement by an appropriate officer of the corporation or by that person through whom it is intended to provide the factual basis for the plaintiff's case in chief.

GCM means General Case Management

GCM document means the document in Appendix A of this Practice Note.

List means the General Case Management List

Single expert witness means an expert witness jointly retained by the parties or appointed by the Court in accordance with UCPR Part 31 r 31.37(2).

UCPR means Uniform Civil Procedure Rules 2005 (as amended)

Introduction

4. The purpose of this Practice Note is to explain the operation of the General Case Management List.

Proceedings covered by GCM

5. GCM applies to the following proceedings in the Common Law Division:

- all active proceedings commenced by statement of claim;
- proceedings transferred from another court or from another division of the Supreme Court; and
- any other proceedings the court directs that it applies to.

6. GCM does not apply to:

- proceedings in the Defamation List;
- proceedings in the Professional Negligence List;
- proceedings in the Possession List; and
- proceedings that are commenced in the Administrative Law List.

7. The court may, at any time after the commencement of proceedings, direct that GCM apply to those proceedings.

Removal from the list

8. Upon proceedings being removed from the List, this Practice Note shall, subject to paragraph 9 not apply to the proceedings from the making of the order.

9. The Court may direct that this Practice Note shall continue to apply to the proceedings to the extent stated in the direction.

10. The making of an order removing proceedings from the List shall not affect any orders made or directions given prior to such removal.

The GCM document

11. In relation to any party, the GCM document refers to the document which, by virtue of this Practice Note, may be required to be filed by that party. The form and content of the GCM document are explained in Appendix A.

12. A plaintiff must file the GCM document at the same time as filing the originating process unless the proceedings are only for a liquidated demand or only for a liquidated demand and interest under Section 97 of the Civil Procedure Act ("default proceedings").

13. Where a defence or cross claim is filed in default proceedings the plaintiff must file the GCM document within one month after being served with an appointment for Directions Hearing and a defence and/or cross claim.

14. Each other party must file the GCM document not later than one month before the date of the Directions Hearing.

Directions Hearings

15. Proceedings in the List will generally be managed by way of Directions Hearings conducted by a Judge or Registrar.

16. The first Directions Hearing will be appointed for approximately 3 months after proceedings are entered in the List. The date of the first Directions Hearing will be given by the registry in a notice issued at the time of filing the statement of claim to be served by the filing party.

17. Upon a defence or a statement of cross claim being filed in default proceedings, the registry will give notice to all parties with an address for service in the proceedings of the date of the first Directions Hearing.

18. Where proceedings are transferred to the Common Law Division from another division of the Court or from another court, the Court appoints a date for the Directions Hearing upon receipt of the transferred file. The registry will advise parties with an address for service of the date.

19. At a Directions Hearing, proceedings may be listed at a specified future date for a further Directions Hearing.

20. Directions Hearings, other than the first Directions Hearing for cases to be heard in Sydney, may be conducted by online court or by telephone.

21. Parties who wish to use online court shall do so in accordance with Practice Note SC Gen 12.

22. Parties wishing to avail themselves of telephone facilities must advise the Sydney Registry in writing at least 7 days prior to the date scheduled for the Directions Hearing. This written advice is to be marked to the attention of "The Common Law List Clerk" and must indicate the telephone number that the party or the relevant legal representative wants to be called at for the Directions Hearing. This advice can be forwarded by facsimile transmission to (02) 9230 8234 or by email to supreme_court@courts.nsw.gov.au. Directions Hearings involving parties to be contacted by telephone may have to be re-scheduled to a different time. The registry will contact those parties seeking a telephone Directions Hearing, and the other parties if the Directions Hearing has to be re-scheduled, to confirm the date and time of the Directions Hearing. Parties seeking a telephone Directions Hearing must ensure that the telephone number nominated is available from 10 minutes before the confirmed time of the Directions Hearing. A telephone Directions Hearing may not be available if the case involves multiple defendants that are separately represented and it is thought impractical to use the facility.

Action prior to first directions hearing

23. The originating process and pleadings should be as brief and precise as the nature of the case allows.

24. It is expected that the parties' legal representatives will have discussed the case before the first Directions Hearing and will have:

- narrowed issues and identified any matters of agreement.
- agreed on suitable interlocutory orders, directions or arrangements;
- prepared a draft timetable for the future management of the proceedings;
- prepared draft short minutes of any orders or directions to be sought at the Directions Hearing; and
- discussed the possibility of settling the dispute by ADR.

Representation

25. Each party not appearing in person must be represented at the Directions Hearing by a barrister or a solicitor familiar with the subject matter of the proceedings and with instructions sufficient to enable all appropriate orders and directions to be made.

Actions at a directions hearing

26. The purpose of a Directions Hearing is to ensure the just, quick and cheap disposition of proceedings in accordance with the overriding purpose set out in section 56 of the CPA. Each party is obliged to notify the Court and the other parties if they are aware of any substantial default that cannot be cured by the making of consent variations to directions or timetables.

27. The tasks at a Directions Hearing include, but are not limited to:

- considering whether the proceedings would more appropriately be heard in the District Court and making a consent order accordingly;
- defining the matters in issue, including liability. If no defence (or defence to cross-claim) has been filed the Registrar may direct that there be judgment as to liability on that claim;
- considering whether there should be a separate trial of the liability issue held before the trial of issues as to quantum, especially in the case of a child plaintiff where the assessment of damages may take some time before being able to be determined;
- directing that a party or all parties serve or file and serve witness statements – the purpose of such a direction being to facilitate clarification of issues and realistic negotiations for settlement;
- considering whether ADR is suitable;
- establishing whether any party requires a trial by jury (bearing in mind the provisions of UCPR 29.2);
- making consent orders for the completion at the earliest possible time of interlocutory steps such as discovery, interrogatories, views, medical examinations and expert reports;
- directing that a party or all parties serve or file a statement of damages – the purpose of such a direction being to facilitate what heads of damage are genuinely in dispute and to provide a basis for realistic negotiations for settlement.

28. At the first Directions Hearing a plaintiff is to provide to each party an evidentiary statement. A plaintiff is not precluded from supplementing the evidentiary statement with oral evidence. If it is intended to raise by oral

evidence issues not covered by the evidentiary statement an amended evidentiary statement is to be served on each party as soon as practicable after the need to amend the evidentiary statement arises.

29. Each defendant is to serve on the plaintiff within 28 days of the receipt of the evidentiary statement a statement of issues in dispute. The statement of issues in dispute is to concisely set out those facts which the defendant intends to establish in respect of each issue in dispute.

30. Each defendant is to notify the plaintiff within 28 days of the receipt of the evidentiary statement of those parts of the evidentiary statement which the defendant requires to be given orally.

31. A plaintiff is to serve on each party within 14 days of the receipt of the statement of issues in dispute a statement identifying those issues which are agreed and not agreed.

Expert witnesses in personal injury actions

32. The Court is concerned about the number of experts often expected to give evidence in personal injury cases. The practice of having a large number of experts qualified, both medical and otherwise, whose opinions may be overlapping and whose reports either are not used or are of little assistance to the Court when tendered, is costly, time consuming and productive of delay. The attention of practitioners in cases in which a claim is made for personal injury or disability is drawn to Practice Note PN SC Gen 10 which deals with "Single Expert Witnesses".

33. Where it is considered that an unnecessary expert has been qualified or is sought to be called to give evidence, the Court may:

- reject the tender of the expert's report;
- refuse to allow the expert to be called; and
- disallow any costs incurred in qualifying, in having the expert's report prepared or in calling the expert to give evidence.

34. As a guide, the number of expert witnesses giving evidence on behalf of a party shall be limited to:

- (a) one medical expert in any speciality, unless there is a substantial issue as to ongoing disability, in which case the number shall be limited to two in any relevant speciality concerning that disability; and
- (b) two experts of any other kind.

35. Actuarial reports will as a rule be considered unnecessary except in special circumstances where they are shown to be of assistance in the assessment of damages, for example in proceedings under the Compensation to Relatives Act 1897 or where a claim is made for the costs of future fund management.

Concurrent expert evidence

36. This part of the Practice Note applies to all proceedings in which a claim is made for damages for personal injury or disability.

37. All expert evidence will be given concurrently unless there is a single expert appointed or the Court grants leave for expert evidence to be given in an alternate manner.

38. At the first Directions Hearing the parties are to produce a schedule of the issues in respect of which expert evidence may be adduced and identify whether those issues potentially should be dealt with by a single expert witness appointed by the parties or by expert witnesses retained by each party who will give evidence concurrently.
39. In the case of concurrent experts, within 14 days of all expert witness statements/reports being filed and served, the parties are to agree on questions to be asked of the expert witnesses. If the parties cannot reach agreement within 14 days, they are to arrange for the proceedings to be re-listed before the Court for directions as to the questions to be answered by the expert witnesses.
40. In the case of concurrent experts the experts in each area of expertise are to confer and produce a report on matters agreed and matters not agreed within 35 days of the first Directions Hearing or such other time as the Court may order.

Single expert witness

41. This part of the Practice Note applies to all proceedings in which a claim is made for damages for personal injury or disability.
42. At the first Directions Hearing, a single expert direction will be made in respect of those issues considered to be appropriate for a single expert. In all proceedings in which a claim is made for damages for personal injury, a single expert direction as to damages will be taken to have been made at the first Directions Hearing unless otherwise ordered.
43. A single expert direction, when made in those terms, means that the following directions are to be taken as having been made, with such variations as may be specified at that time or subsequently:
- Any expert evidence is confined to that of a single expert witness in relation to any one head of damages, including but not limited to the nature, extent and cost of required nursing care or domestic care (including claims under *Griffiths v Kerkmeyer*), physiotherapy, speech therapy, home modification, motor vehicle or aids and equipment, being evidence of the kind customarily given (by way of example) by rehabilitation consultants, occupational therapists, nursing and domestic care providers, architects, builders, motor vehicle consultants, and by aids and equipment suppliers.
 - Evidence may be provided by the same single expert in relation to more than one head of damages provided the expert is appropriately qualified. It is contemplated, however, that there may be a number of single expert witnesses retained or appointed in the one proceedings.
 - In relation to any head of damages as to which any party wishes expert evidence to be adduced, the parties are to agree on a single expert to be retained and are to obtain the consent of the expert together with an estimate of the time required by the expert to complete the report within 14 days from a date specified in the order as the commencement date of the direction, otherwise within 14 days from the making of the direction.
 - If the parties are unable to agree on a single expert or obtain the consent of the expert within the 14 day period referred to in the previous paragraph, the parties

are to notify the Court within a further 3 days and the Court will pursuant to Part 31 of the UCPR appoint a Court expert to be the single expert.

- Within 14 days from the selection or appointment of a single expert witness the parties are to brief the expert in such manner as the parties may agree with material sufficient to enable the expert to prepare a report. If the parties do not agree as to the manner of briefing the expert or as to the material to be provided to the expert or as to the questions to be put to the expert, the parties are to notify the Court within 3 days for the purpose of having the matter re-listed for further directions as to briefing the single expert.
- If the parties agree or the single expert witness so requests, the plaintiff in the proceedings is to submit to clinical examination by the single expert witness.
- Within 21 days from the date on which a single expert witness is so briefed or within the time estimate provided by the single expert witness, the expert is to send his or her report to each of the parties to the proceedings, through their legal representatives.
- A single expert witness may be requested to provide a supplementary report taking into account any new or omitted factual material. The provisions of this part of the practice note apply to such a supplementary report *mutatis mutandis*.
- Any party may, within 14 days from receipt of the report, put a maximum of 10 written questions to the expert, but for the purpose only of clarifying matters in the report unless the court otherwise grants leave. The expert is to answer the questions within 14 days.
- The report of a single expert witness and any question put to the expert and the expert's answer thereto may be tendered by any party at the trial subject to all just exceptions.
- A single expert witness may be cross-examined at the trial by any party.
- A single expert witness's fee for preparation of the report and any supplementary report and for attending Court, if required to do so, is to be paid by the parties equally, subject to other agreement or direction and subject to any later order concerning the costs of the proceedings. A single expert witness's fee for answering questions put by a party is to be paid by the party, subject to the same qualification.
- A single expert witness may apply to the Court for directions.

Alternative Dispute Resolution

44. At any Directions Hearing, the Court may consider whether the proceedings are suitable for ADR.
45. ADR includes:
- mediation pursuant to the provisions of Part 4 of the CPA or otherwise;
 - arbitration pursuant to the provisions of Part 5 of the CPA.
46. If the matter appears to the Court to be appropriate for resolution by mediation or arbitration, the Court will refer the proceedings for mediation or arbitration.
47. The Court may give directions requiring statements from parties including a timetable to enable parties to be prepared for mediation.

48. Where proceedings involve a claim for damages in respect of personal injuries or in respect of the death of any person, the Court may, at a Directions Hearing, refer the proceedings for arbitration by a single arbitrator.

49. Where the court refers proceedings for arbitration, the court may give directions for the conduct of the arbitration.

Variation of directions and timetable

50. Case management directions given at a Directions Hearing and times set for compliance with any direction, may be varied:

- (a) by consent of all parties, so long as such variation does not extend the time for compliance with any direction beyond the day specified by the Court for compliance with the last direction made; or
- (b) by the Court.

51. Where a party seeks a variation of the directions and timetable which is not consented to by all other parties or, where a party is in default in timely compliance with any direction, any party may apply to have a further Directions Hearing listed.

Listing for hearing

52. When ready for trial, for proceedings in which a claim is made for damages for personal injury or disability, standard directions in the form of Appendix B are deemed to have been made, unless the Court otherwise orders.

APPENDIX A

53. Each party files the GCM document in order to provide the Court with information which will ensure that the Directions Hearings are efficient and effective.

54. A GCM document is not a pleading. It may be amended at any time without leave, but any amendment may be taken into consideration upon the question of costs.

55. In addition to the matters specifically required by this Practice Note to be included in the GCM document, any party may include in that document, for the information of the Court and the other parties, any further information which that party wishes to be taken into account for any purpose at the Directions Hearings.

56. If a report or other document which is annexed to a party's GCM document has already been served on another party, a further copy of that report or document need not be annexed to the copy of the GCM document which is to be served on that party. That copy of the GCM document must however include a schedule listing the reports and documents which have been served and the date of service.

Plaintiff's GCM document

P1.1 The plaintiff's GCM document is to contain:

- P1.1.1 a concise narrative of the facts the plaintiff intends to prove on the issue of liability, so drafted as to expose the specific matters of fact, but not law, upon which liability is likely to depend;
- P1.1.2 where the plaintiff's claim arises out of an event that has been the subject of previous proceedings, such as a prosecution, a coronial inquest or an inquiry – a statement clearly identifying the previous proceedings.

P.1.1.3 where the plaintiff's claim is for damages for personal injuries:

- (a) a statement about any other proceedings the plaintiff has brought in any court for damages for personal injuries which may be relevant to the assessment of damages in the proceedings in which the GCM document is filed. The statement must clearly identify the other proceedings even if they are not related to the event out of which the present proceedings arise; and
- (b) full particulars of any accident or injury the plaintiff has suffered which is not the subject of a claim in the proceedings in which the GCM document is to be filed and which may be relevant to the assessment of damages;

Defendant's GCM document

D2.1 The defendant's GCM document is to contain:

D2.1.1 a concise narrative of the facts the defendant intends to prove on the issue of liability, including contributory negligence, so drafted as to expose the specific matters of fact which are in issue;

D2.2 Where the plaintiff's claim against the defendant is for damages for personal injuries, the defendant is to annex to the GCM document:

D2.2.1 a copy of any claim form or written report of the injury or accident the defendant or its insurer has received from the plaintiff;

D2.2.2 where the defendant or its insurer has interviewed the plaintiff, and one of the purposes of that interview was to prepare for potential or existing litigation, a copy of any statement made by the plaintiff in that interview, relating to liability or contributory negligence in relation to the claim;

D2.2.3 any documents referred to in P1.2.1 in the possession of the defendant that have not already been served by any other party;

D2.2.4 a list only of any medical certificate or medical report held by the defendant, issued by a doctor who has treated the plaintiff in respect of the injuries alleged in the statement of claim; and

Cross-Claimant's GCM document

XC3.1 A cross-claimant's GCM document is to contain:

XC3.1.1 a concise narrative of the facts the cross-claimant intends to prove on the issue of the cross-defendant's liability, so drafted as to expose the specific matters of fact which are in issue;

XC3.1.3 any information of the type referred to in P1.2.1 that the cross-claimant knows;

Cross-Defendant's GCM document

XD4.1 A cross-defendant's GCM document is to contain:

XD4.1.1 a concise narrative of the facts the cross-defendant intends to prove on the issue of liability, including contributory negligence, so drafted as to expose the specific matters of fact which are in issue;

XD4.2 Where the plaintiff's claim is for damages for personal injuries:

XD4.2.1 a copy of any claim form or written report of the injury or accident the cross-defendant or its insurer has received from the plaintiff or the cross-claimant;

XD4.2.2 where the cross-defendant or its insurer has interviewed the plaintiff or the cross-claimant, and one of the purposes of that interview was to prepare for potential or existing litigation, a copy of any statement made by the plaintiff or the cross-claimant in that interview relating to liability or contributory negligence in relation to the claim;

XD4.2.3 any documents referred to in P1.2.1 and P1.2.2 of this Appendix in the possession of the cross-defendant that have not already been served by any other party.

APPENDIX B

57. Within 7 days of a hearing date having been allocated:

- (i) The plaintiff's legal representative is to prepare a draft chronology of relevant events and serve a copy of it upon other parties which have an address for service;
- (ii) Each party is to prepare a draft schedule of damages, outlining in detail the heads of damages, and identifying the evidence which supports that head of damage.
- (iii) Each party is to prepare its final schedule of issues in dispute.

58. Within 28 days of a hearing date having been allocated a plaintiff is to file and serve a joint chronology, a schedule of damages and a schedule of issues which identify the areas of agreement and the areas in dispute.

J. J. SPIGELMAN ,A.C.,
Chief Justice of New South Wales
5 December 2006

Related information

This Practice Note was issued on 5 December 2006 and commenced on 29 January 2007.

This Practice Note replaces Practice Note SC CL 5 issued on 17 August 2005.

Practice Note SC CL 5 replaced former Practice Note No. 128 on 17 August 2005.

See also:

Practice Note SC Gen 1 Supreme Court – Application of Practice Notes

Practice Note SC Gen 6 Supreme Court – Mediation

Practice Note SC Gen 10 Supreme Court – Single Expert Witnesses

Civil Procedure Act 2005

Uniform Civil Procedure Rules 2005 (as amended)

SPORTING INJURIES INSURANCE ACT 1978

Sporting Injuries Committee

Order of Declaration under Section 5

IN pursuance of Section 5 of the Sporting Injuries Insurance Act 1978, I declare by this order the PIONEERS SHOTBALL & SOCIAL CLUB INC. to be a sporting organisation, for the purposes of the provisions of the Act in respect of the activity of Shotball.

ROB THOMSON,
Deputy Chairperson
Date: 25 October 2006

SPORTING INJURIES INSURANCE ACT 1978

Sporting Injuries Committee

Order of Declaration under Section 5

IN pursuance of section 5 of the Sporting Injuries Insurance Act 1978, I declare by this order the CENTRAL COAST DRAGON BOAT CLUB INC. to be a sporting organisation, for the purposes of the provisions of the Act in respect of the activity of Dragon Boat Racing.

ROB THOMSON,
Deputy Chairperson
Date: 25 October 2006

SPORTING INJURIES INSURANCE ACT 1978

Sporting Injuries Committee

Order of Declaration under Section 5

IN pursuance of section 5 of the Sporting Injuries Insurance Act 1978, I declare by this order the UNDERWATER SKINDIVERS & FISHERMEN'S ASSOCIATION INC. to be a sporting organisation, for the purposes of the provisions of the Act in respect of the activity of Spearfishing and Freediving.

JON BLACKWELL,
Chairperson
Date: 6 December 2006

SPORTING INJURIES INSURANCE ACT 1978

Sporting Injuries Committee

Order of Declaration under Section 5

IN pursuance of section 5 of the Sporting Injuries Insurance Act 1978, I declare by this order the AGL GREATER SYDNEY JUNIORS UMPIRES INC. to be a sporting organisation, for the purposes of the provisions of the Act in respect of the activity of Australian Rules – Umpiring.

JON BLACKWELL,
Chairperson
Date: 6 December 2006

SPORTING INJURIES INSURANCE ACT 1978

Sporting Injuries Committee

Order of Declaration under Section 5

IN pursuance of section 5 of the Sporting Injuries Insurance Act 1978, I declare by this order the NEWCASTLE SOCCER PTY LTD to be a sporting organisation, for the purposes of the provisions of the Act in respect of the activity of Soccer.

JON BLACKWELL,
Chairperson

Date: 6 December 2006

SPORTING INJURIES INSURANCE ACT 1978

Sporting Injuries Committee

Order of Declaration under Section 5

IN pursuance of section 5 of the Sporting Injuries Insurance Act 1978, I declare by this order the PACIFIC HOPPA CUP to be a sporting organisation, for the purposes of the provisions of the Act in respect of the activity of Rugby League.

ROB THOMSON,
Deputy Chairperson

Date: 30 November 2006

THREATENED SPECIES CONSERVATION ACT 1995

Notice of Preliminary Determination

THE Scientific Committee, established by the Threatened Species Conservation Act 1995, has made a Preliminary Determination to support a proposal to list the shrub *Dampiera fusca* Rajput & Carolin as an Endangered Species on Part 1 of Schedule 1 of the Act.

A copy of the Determination, which contains the reasons for the determination, may be obtained free of charge on the Internet www.nationalparks.nsw.gov.au, by contacting the Scientific Committee Unit, PO Box 1967, Hurstville NSW 1481. Tel: (02) 9585 6940 or Fax (02) 9585 6606, or in person at the Department of Environment and Conservation Information Centre, Level 14, 59-61 Goulburn Street, Sydney. Copies of the determination may also be obtained from National Parks and Wildlife Service Area Offices and Visitor Centres, subject to availability.

Any person may make a written submission regarding the Preliminary Determination. Send submissions to: Scientific Committee, PO Box 1967, Hurstville NSW 1481. Attention Suzanne Chate. Submissions must be received by 9 February 2007.

Associate Professor LESLEY HUGHES,
Chairperson

Determination No 8, 2006

**Section 11(1)
Independent Pricing and Regulatory Tribunal Act 1992**

Recycled Water Developer Charges

**Independent Pricing and Regulatory Tribunal
of New South Wales**

Reference No: 05/549

D2005/12774

1 Background

- (1) Section 11 of the *Independent Pricing and Regulatory Tribunal Act 1992* provides the Tribunal with a standing reference to conduct investigations and make reports to the Minister on the determination of the pricing for a government monopoly service supplied by a government agency specified in schedule 1 of the IPART Act.
- (2) Each Water Agency is listed as a government agency for the purposes of schedule 1 of the IPART Act. The services of each Water Agency declared as monopoly services under the *Independent Pricing and Regulatory Tribunal (Water, Sewerage and Drainage Services) Order 1997 (Order)* are:
 - (a) water supply services;
 - (b) sewerage services;
 - (c) stormwater drainage services;
 - (d) trade waste services;
 - (e) services supplied in connection with the provision or upgrading of water supply and sewerage facilities for new developments and, if required, drainage facilities for such developments;
 - (f) ancillary and miscellaneous customer services for which no alternative supply exists and which relate to the supply of services of a kind referred to in paragraphs (a) to (e);
 - (g) other water supply, sewerage and drainage services for which no alternative supply exists.
- (3) In accordance with section 13A of the IPART Act, the Tribunal has established a methodology for fixing the maximum price for Recycled Water Developer Services (being "monopoly services" under clause 2(f) of this section). Schedule 4 sets out the Tribunal's reasons for choosing to make a determination that involves setting the methodology for fixing a maximum price.
- (4) In establishing a methodology for fixing the maximum price for Recycled Water Developer Services, the Tribunal has had regard to a broad range of matters, including the criteria set out in sections 14A and 15(1) of the IPART Act.
- (5) Under section 18(2) of the IPART Act, a Water Agency may not fix a price below the price determined by the methodology prescribed by this determination without the approval of the Treasurer.

2. Application of this determination

- (1) This determination sets a methodology for fixing the maximum prices that a Water Agency may charge for Recycled Water Developer Services specified in this determination.
- (2) This determination commences on:
 - (i) for Hunter Water Corporation and Gosford City Council - the later of 1 January 2007 and the date that it is published in the NSW Government Gazette; and

- (ii) for Sydney Water Corporation and Wyong Shire Council - the later of 1 July 2007 and the date that it is published in the NSW Government Gazette.
- (3) This determination applies to the calculation of charges for Recycled Water Developer Services for all new Developments or stages of Development and re-developments within an existing or new Development Servicing Plan from the Commencement Date except as follows:
 - (i) for Sydney Water Corporation, where, before the Commencement Date, it has issued a compliance certificate pursuant to Section 73 of the *Sydney Water Act, 1994* for a Development or stage of Development;
 - (ii) for Hunter Water Corporation where, before the Commencement Date:
 - (1) it has issued a compliance certificate pursuant to Section 50 of the *Hunter Water Act, 1991* for a Development or stage of Development; or
 - (2) it has served a notice pursuant to Section 50 of the *Hunter Water Act, 1991* in respect of a Development in which case the assessment stands for the period specified in the notice;
 - (iii) for Gosford City Council where, before the Commencement Date, it has given a written "notice of requirements" pursuant to Section 306 of the *Water Management Act, 2000* in respect of a Development or stage of Development in which case the assessment stands for the period specified in the notice of requirements;
 - (iv) for Wyong Shire Council where, before the Commencement Date:
 - (1) it has issued a development consent pursuant to Section 91 of the *Environmental Planning and Assessment Act, 1979* in respect of a Development or stage of Development and such consent incorporates relevant Recycled Water charges and/or conditions in accordance with Section 306 of the *Water Management Act, 2000*; or
 - (2) it has advised the relevant Recycled Water charges and/or conditions to a Developer in accordance with Section 306 of the *Water Management Act, 2000*;
- (4) In implementing this determination, a Water Agency must use a calculation spreadsheet that has been approved by the Tribunal.
- (5) The methodology in this determination applies from the Commencement Date until this determination is replaced.

3. Determination No 9, 2000

Determination No 9, 2000 applies to a Water Agency's Services (as defined in that determination) except Recycled Water Developer Services (as defined in this determination).

4. Monitoring

The Tribunal may monitor the performance of a Water Agency for the purposes of:

- (a) establishing and reporting on the level of compliance by that Water Agency with this determination; and
- (b) preparing a periodic review of pricing policies in respect of the Recycled Water Developer Services supplied by that Water Agency.

5. Schedules

Schedule 1 (read with schedules 2 and 3) sets out the methodology for determining the maximum prices that a Water Agency may charge for Recycled Water Developer Services.

7. Definitions and interpretation

Definitions and interpretation provisions used in this determination are set out in schedule 5.

Schedule 1

Recycled Water Developer Services

1. Application

This Schedule prescribes the methodology for determining the maximum prices that a Water Agency may charge for Recycled Water Developer Services.

2. Charges for Recycled Water Developer Services

The maximum price per Equivalent Tenement that may be levied by a Water Agency for the provision of Recycled Water Developer Services to a Developer is the following:

$$RWDC = \frac{K_1}{L} + \frac{K_2}{L} - \frac{NPV (R_i - C_i)}{L} - \frac{PV(CO_i)}{L} \text{ for } i = \text{years } 1, 2, \dots, n$$

Where:

RWDC – Recycled Water Developer Charge per Equivalent Tenement

K₁ – Capital Charge for Pre 2007 Assets which will serve the DSP Area calculated on a NPV basis discounted at rate *r*

K₂ – Capital Charge for Post 2007 Commissioned Assets and/or Post 2007 Uncommissioned Assets which will serve the DSP Area calculated on an NPV basis discounted at rate *r*

L – the Present Value of the number of Equivalent Tenements in the DSP Area and the Present Value of the number of Equivalent Tenements to be developed in the DSP Area, calculated at discount rate *r*

R_i – future Operating Revenues in each year *i*

C_i – future Operating Costs in each year *i*

r – the Discount Rate

n – the forecast period for the assessment of expected revenues and costs and is 30 years from the date of calculating the RWDC

CO – cost offset in each year *i*, calculated as follows:

$$CO = S_i + AC_i + DC_i + GD$$

Where:

S – any subsidy received in each year *i* by a Water Agency for the provision of Recycled Water Developer Services to a Development

AC – Avoided Costs in each year *i*

DC – Deferred Costs in each year *i*

GD – costs associated with a Government Directive

3. Assessment of Assets

3.1 Identification of Assets

A Water Agency must clearly identify the Assets in the relevant Development Servicing Plan.

3.2 Valuation of Assets

A Water Agency must use the following valuation method when valuing its Assets:

Commissioning Date	Valuation Method
Pre 2007 Assets	MEERA
Post 2007 Assets already commissioned	MEERA
Post 2007 Assets yet to be commissioned	estimated efficient costs determined in accordance with clause 4.4.3 of this schedule

3.3 Apportionment of Assets

If an Asset services a DSP Area (**Single DSP Area**) and another DSP Area (**Other DSP Area**) the value attributable to that Asset that services a Single DSP Area is calculated as follows:

$$V = \left(\frac{E}{T} \right) \times CC$$

Where:

V – value of the Asset that services the Single DSP Area

E – expected utilisation of the Asset servicing the Single DSP Area

T – total expected utilisation of the Asset for the Single DSP Area and the Other DSP Area

CC – K₁ or K₂ (as the case maybe)

K₁ – Capital Charge for Pre 2007 Assets which will serve the DSP Area calculated on a NPV basis discounted at rate r

K₂ – Capital Charge for Post 2007 Commissioned Assets and/or Post 2007 Uncommissioned Assets which will serve the DSP Area calculated on an NPV basis discounted at rate r

r – the Discount Rate

4. Capital Charges

4.1 Calculation of Capital Charges

All Assets must be included when calculating Recycled Water Developer Charges other than the following Assets:

- (a) an Asset that is capable of servicing a DSP Area because that Asset is no longer servicing the land use function for which it was originally commissioned; or
- (b) an Asset that was funded by a Developer and transferred free of charge to the relevant Water Agency; or
- (c) an Asset that was commissioned for a reason other than to service growth; or

- (d) an Asset that was significantly and unreasonably oversized in respect of system and capacity requirements in light of the relevant demographic statistics available for the DSP Area at the time that that Asset was commissioned.

4.2 Capital Charges for Pre 2007 Assets

Subject to clause 4.1, a Water Agency must calculate a Capital Charge for Pre 2007 Assets by applying the following steps:

- (a) estimate the value of the Pre 2007 Assets, in accordance with clause 3.2 above;
- (b) convert the value to Real Terms; and
- (c) the expenditure on those Pre 2007 Assets in Real Terms must then be converted by the Interest Rate, to Current Values.

4.3 Capital Charges for Post 2007 Commissioned Assets

Subject to clause 4.1, a Water Agency must calculate a Capital Charge for Post 2007 Commissioned Assets by applying the following steps:

- (a) estimate the value of the Post 2007 Commissioned Assets in accordance with clause 3.2 above;
- (b) convert the value to Real Terms; and
- (c) the expenditure on those Post 2007 Commissioned Assets in Real Terms must then be converted by the Discount Rate, to Present Values.

4.4 Capital Charges for Post 2007 Uncommissioned Assets

4.4.1 Subject to clause 4.1, a Water Agency must calculate a Capital Charge for Post 2007 Uncommissioned Assets by applying the following steps:

- (a) estimate the value of the Post 2007 Uncommissioned Assets in accordance with clause 3.2 above;
- (b) convert the value to Real Terms; and
- (c) the expenditure on those Post 2007 Uncommissioned Assets in Real Terms must then be converted by the Discount Rate, to Present Values.

4.4.2 Once a Post 2007 Uncommissioned Asset is commissioned, it will be considered a Post 2007 Commissioned Asset. The Water Agency must calculate the Capital Charge for that Asset by applying clause 4.3 at the next review that is provided for under clause 9.2.

4.4.3 When estimating the capital costs of Post 2007 Uncommissioned Assets, the Water Agencies must examine all available options and choose the option that is the most efficient.

4.5 Temporary supply

Where a Water Agency:

- (a) temporarily supplies Recycled Water Developer Services to a Development from an existing Asset; and
- (b) transfers the supply of Recycled Water Developer Services to that Development from an existing Asset to a new Asset that has just been commissioned,

then only the costs of the new Asset must be included in calculating the Recycled Water Developer Charge.

4.6 Timing of anticipated expenditure

Where a proposed Development influences the timing of a Water Agency's anticipated expenditure on an Asset (**Anticipated Expenditure**), the Anticipated Expenditure must be included in the calculation of the Recycled Water Developer Charge by:

- (a) estimating the extent to which the proposed Development would bring forward the timing of the Anticipated Expenditure, as compared with the timing of the Anticipated Expenditure if that Development did not proceed;
- (b) calculating the difference in the Net Present Value between the Anticipated Expenditure that may arise due to that change in timing (**Calculated Cost**); and
- (c) including the Calculated Cost as a cost to the Development only if the Calculated Cost exceeds the cost of any comparable existing Assets used by the Development and the cost of the comparable existing Assets are not included in the calculation.

5 Projection of Operating Costs

5.1 The Operating Costs must:

- (a) be based on the most efficient and lowest cost means of providing the Recycled Water Customer Services;
- (b) assume the continuation of the service standards set out in the Development Servicing Plan; and
- (c) subject to clause 5.2 below, reflect costs associated with the specific Recycled Water Customer Services provided.

5.2 If the costs of providing Recycled Water Customer Services to a DSP Area do not vary significantly from the system-wide operating, maintenance and administration costs, then system-wide averages may be used.

6 Projection of Operating Revenues

6.1 A Water Agency must calculate the Operating Revenues arising from a DSP Area by:

- (a) using the assumption that the Assets used to provide Recycled Water Customer Services for that DSP Area are used efficiently; and
- (b) using relevant Periodic Charges applied to the consumption of an average customer in the relevant customer class.

- 6.2 A Water Agency's projection of Operating Revenues arising from a DSP Area must be formulated to best meet the needs of its users, including Developers, based on the service standards set out in the relevant Development Servicing Plan.

7 Period of analysis for Operating Revenues and Operating Costs

Future Operating Costs and Operating Revenues must be projected over a 30 year period from the date of each review of the Recycled Water Developer Charge under clause 9 of this schedule and calculated in accordance with clauses 5 and 6 of this schedule and using the parameters in schedule 2.

8 Demographic assumptions

Demand for the Recycled Water Customer Services and Recycled Water Developer Services arises from, in part, population growth and changes in urban density. Forecasts by Water Agencies of population and densities must have regard to the latest demographic statistics published by the NSW Department of Planning for the Water Agency Area or a comparable area. For local works, the demographic statistics used must be locality specific (that is, at the local government level). For system wide works, such as Headworks, the demographic statistics used must be for the relevant Water Agency Area.

9 Development Servicing Plan

9.1 Information to be included in DSP

Each Water Agency must prepare a development servicing plan (**Development Servicing Plan**) which contains the information set out in schedule 3 of this determination before that Water Agency is permitted to levy a Recycled Water Developer Charge.

9.2 Reviews of DSP and Recycled Water Developer Charges

Each Water Agency must thereafter:

- (a) review their Development Servicing Plan and Recycled Water Developer Charge once, and no more than once, in each five year period from the date that a Development Servicing Plan is prepared; and
- (b) review their Recycled Water Developer Charge when and to the extent required by a determination of the Tribunal.

10 Indexation of Recycled Water Developer Charges

If there is not a review of Recycled Water Developer Charge under clause 9.2 of this schedule during any given year, the Recycled Water Developer Charge then prevailing will be indexed annually by Δ CPI for each year (or part of a year) until the Recycled Water Developer Charge is reviewed under clause 9.2 of this schedule.

11 Impacts of charges

Water Agencies must publish any revised Recycled Water Developer Charge and the previous Recycled Water Developer Charge, or range of Recycled Water Developer Charges, in their Development Servicing Plans.

Schedule 2**Parameters for calculating Operating Revenues and Operating Costs**

The following parameters apply to the calculation of Operating Revenues and Operating Costs:

1 Sydney Water Corporation

- (a) Discount Rate – the real pre-tax rate of return for Sydney Water Corporation stated in the Tribunal’s Report Nos 5, 6 and 7, 2005 (as replaced and amended from time to time)
- (b) Consumption of 110 kilolitres per annum for an Equivalent Tenement

2 Hunter Water Corporation

- (a) Discount Rate – the real pre-tax rate of return for Hunter Water Corporation stated in the Tribunal’s Report Nos 5, 6 and 7, 2005 (as replaced and amended from time to time)
- (b) Consumption of 110 kilolitres per annum for an Equivalent Tenement

3 Gosford City Council

- (a) Discount Rate – the real pre-tax rate of return for Gosford City Council stated in the Tribunal’s Report Nos 2 and 3, 2006 (as replaced and amended from time to time)
- (b) Consumption of 110 kilolitres per annum for an Equivalent Tenement

4 Wyong Shire Council

- (a) Discount Rate – the real pre-tax rate of return for Wyong Shire Council stated in the Tribunal’s Report Nos 2 and 3, 2006 (as replaced and amended from time to time)
- (b) Consumption of 110 kilolitres per annum for an Equivalent Tenement

Schedule 3**Information to be included in DSP**

1. Each Water Agency must develop a Development Servicing Plan that covers each DSP Area. A Development Servicing Plan must provide, as a minimum, the following for each DSP Area:
 - (a) a summary of the contents of the Development Servicing Plan;
 - (b) the extent of the DSP Area including:
 - (1) its size;
 - (2) the basis for defining its boundaries; and
 - (3) the reference to other DSPs where there is an overlap or co-usage of Assets;
 - (c) demographic and land use planning information including:
 - (1) the current resident population;
 - (2) the estimated Equivalent Tenements as at the Commencement Date;
 - (3) the projected population over the planning horizon of the DSP; and
 - (4) the projected Equivalent Tenements over the planning horizon of the DSP;
 - (d) timing of works including:
 - (1) completed capital works; and
 - (2) proposed capital works;
 - (e) the standards of service to be provided to customers in the DSP Area and design parameters of Assets;
 - (f) the calculated Recycled Water Developer Charge, and the information used to calculate the Recycled Water Developer Charge, including:
 - (1) the future periodic revenues expected to be received from new customers in the DSP Area each year;
 - (2) Periodic Charges used for that calculation;
 - (3) average water usage figures used for that calculation;
 - (4) the future expected annual Operating Costs of providing Recycled Water Customer Services to new customers in the DSP Area in each year; and
 - (5) indexation principles and parameters used for that calculation;
 - (g) a description, or reference to a background document containing the description, of the Pre 2007 Assets, the Post 2007 Commissioned Assets and the Post 2007 Uncommissioned Assets including:
 - (1) the date (or forecast date) of the commissioning of the Assets;
 - (2) the size/length of the Assets;
 - (3) the actual efficient cost of the Assets as listed in the asset register of the relevant Water Agency or other source acceptable to the Tribunal (where applicable);
 - (4) the unit cost of each of the Assets (if applicable);

- (5) the MEERA valuation of the Pre 2007 Assets and the Post 2007 Commissioned Assets (if applicable);
 - (6) the estimated efficient costs of the Post 2007 Uncommissioned Assets (if applicable);
 - (7) the total Asset capacity in Equivalent Tenements (if applicable); and
 - (8) the details of the Equivalent Tenements served by an Asset in each DSP Area where such Assets serve more than one DSP Area.
2. Following preparation of a draft Development Servicing Plan, a Water Agency must:
 - (a) publicly exhibit the draft Development Servicing Plan at least 30 working days prior to that Water Agency adopting that Development Servicing Plan (**Exhibition Period**);
 - (b) prepare and make available upon request by interested parties a background document which includes all of the critical data behind the draft Development Servicing Plan, including the models used to calculate the Recycled Water Developer Charges, in order for interested parties to assess the draft Development Servicing Plan and make informed written submissions on that draft Development Servicing Plan to that Water Agency;
 - (c) advertise in a local newspaper with a circulation covering the Water Agency Area, the start date of the exhibition period, the length of the Exhibition Period and that written submissions on the draft Development Servicing Plan can be made to that Water Agency during the exhibition period;
 - (d) at least 10 working days before the start date of the exhibition period, inform the Urban Development Institute of Australia, the Housing Industry Association, any association representing Developers active in the DSP Area and any Developers who had applied for Planning Approval any time in the 6 months prior to the commencement of the exhibition period.
3. In finalising a Development Servicing Plan a Water Agency must consider all submissions made to it by interested parties on the draft Development Servicing Plan.
4. Once a Water Agency has adopted the Development Servicing Plan, that Water Agency must forward the Development Servicing Plan to the Tribunal for registration. At the time of forwarding the DSP, that Water Agency is to inform the Tribunal of any submissions lodged during the exhibition period and that Water Agency's responses to the submissions.
5. Planning Approval in this schedule means:
 - (a) a compliance certificate issued by Sydney Water Corporation pursuant to section 73 of the *Sydney Water Act, 1994*;
 - (b) a compliance certificate or notice issued by Hunter Water Corporation pursuant to section 50 of the *Hunter Water Act, 1991*;
 - (c) a notice of requirements issued by Gosford City Council pursuant to section 306 of the *Water Management Act, 2000*; or
 - (d) a development consent issued by Wyong Shire Council pursuant to section 91 of the *Environment Planning and Assessment Act, 1979* where that development

- consent incorporates relevant recycled water charges and conditions in accordance with section 306 of the *Water Management Act, 2000*; or
- (e) a charge and/or condition as advised by Wyong Shire Council in accordance with section 306 of the *Water Management Act, 2000*.

Schedule 4

Statement of reasons why the Tribunal has chosen to set a methodology for fixing a maximum price

Under s13A of the IPART Act the Tribunal may set maximum prices or may determine a methodology for setting maximum prices.

In this determination, the Tribunal has employed a methodology for fixing the maximum prices that each Water Agency may charge for Recycled Water Developer Charges because it would be impractical for the Tribunal to cover the required diversity of Recycled Water Developer Charges by individual price determinations. This is because Recycled Water Developer Charges are levied to recover water infrastructure costs incurred to service a large variety of developments.

Developers include Recycled Water Developer Charges in their planning and investment decisions and require a rapid response when applying for an assessment of charges. If Water Agencies had to return to the Tribunal each time they received an application for an assessment of Recycled Water Developer Charges unworkable delays could result as the Tribunal would have to devote considerable time and resources to mechanically calculating such charges. The Tribunal considers it is preferable that this work be completed by the Water Agencies.

The Tribunal has stressed that Recycled Water Developer Charges must be calculated by a consistent and transparent methodology, and recover efficient costs. This determination will ensure Water Agencies regulated by the Tribunal recover only the efficient costs of the Recycled Water Developer Services. This determination will be applied in a transparent manner, will be tested by Developers and monitored by the Tribunal.

The basic principles underlying the methodology in this determination are that Recycled Water Developer Charges should:

- (a) involve full recovery of relevant costs;
- (b) reflect variations in the costs of servicing different development areas;
- (c) result in new development areas meeting the costs of the Recycled Water Developer Services provided; and
- (d) cover only infrastructure expenditures on recycled water assets that can be clearly linked to the development.

Schedule 5

Definitions and Interpretation

1 DEFINITIONS

1.1 General definitions

Asset means an asset (or part of an asset) that directly provides, or will provide, the Recycled Water Developer Services to Developments within a DSP Area for which a Recycled Water Developer Charge is payable.

Avoided Costs means the expected change in the Present Value of a Water Agency's operating costs and capital expenditure resulting from the permanent deferral of water supply augmentation, water or sewage treatment or augmentation of water or sewerage systems and calculated in accordance with the Tribunal's guidelines entitled 'Guidelines for Calculation and Treatment of Avoided and Deferred Costs of Recycled Water' as amended or replaced from time to time.

Capital Charge means the Net Present Value of all expenditure on Assets used to service a Development.

Commencement Date means the commencement date of this determination for a Water Agency as set out in clause 2 of section 2 (**Application of this determination**).

Current Value is the value, as at the date of calculation of a Recycled Water Developer Charge by a Water Agency, of money received or outlaid. The Current Value is derived from the following formula:

$$CV = PV (1 + r)^n$$

Where:

CV = Current Value;

PV = past value;

r = Interest Rate;

n = number of periods to apply Interest Rate.

Deferred Costs means the expected change in the Present Value of a Water Agency's operating costs and capital expenditure resulting from the temporary deferral of water supply augmentation, water or sewage treatment or augmentation of water or sewerage systems and calculated in accordance with the Tribunal's guidelines entitled 'Guidelines for Calculation and Treatment of Avoided and Deferred Costs of Recycled Water' as amended or replaced from time to time.

Determination No 9, 2000 means the Tribunal's Determination No 9, 2000 entitled 'Developer Charges'.

Developer means a person that establishes a Development.

Development means a development of land in a Water Agency Area that supports the provision of a Recycled Water Developer Service.

Development Servicing Plan or **DSP** means the development servicing plan defined in clause 9 of schedule 1.

DSP Area means that part of the Water Agency Area covered by a Development Servicing Plan.

Discount Rate means the discount rate specified in schedule 2 for a Water Agency.

Equivalent Tenement means a measure of the demand (determined by a Water Agency) that a Development will place on the infrastructure in terms of the recycled water consumption for an average residential dwelling.

GST means the Goods and Services Tax as defined in *A New Tax System (Goods and Services Tax) Act, 1999*.

Gosford City Council means the Gosford City Council as constituted under the *Local Government Act, 1993* (NSW).

Government Directive means the directive of the NSW Government to the Tribunal requiring the Tribunal to allow a Water Agency to recover a portion of costs from that Water Agency's customers who do not acquire Recycled Water Customer Services from that Water Agency.

Guidelines means the Tribunal's Guidelines entitled 'Draft Pricing Guidelines for Mandated Recycled Water Schemes', as amended or replaced from time to time.

Headworks means significant assets of recycled water systems that provide services to two or more DSP Areas. For example, recycled water headworks may comprise a system of storage reservoirs, recycled water treatment works and major supply conduits.

Hunter Water Corporation means the Hunter Water Corporation as constituted under the *Hunter Water Act, 1991*.

Interest Rate means the Discount Rate.

IPART Act means the *Independent Pricing and Regulatory Tribunal Act 1992*.

MEERA means an asset value calculated on the basis that the Asset is constructed at the time of valuation in accordance with modern engineering practice and the most economically viable technologies, which provides similar utility functions to the existing Asset in service.

Net Present Value or **NPV** means the difference between the Present Value of Operating Revenue and the Present Value of Operating Costs.

Operating Costs means in relation to a DSP Area, the operating, maintenance and administration costs (excluding depreciation and interest) of a Water Agency in providing Recycled Water Customer Services to that DSP Area.

Operating Revenue means the revenues expected to be received by a Water Agency from customers for Recycled Water Customer Services in a DSP Area.

Periodic Charges means the periodic charges for recycled water services for a Water Agency determined by that Water Agency in accordance with the Guidelines (in relation to mandated recycled water customers (as defined in Report Nos 8 and 9, 2006)) and the Pricing Principles (in relation to voluntary recycled water customers (as defined in Report Nos 8 and 9, 2006) who agree to pay the Recycled Water Developer Charge to that Water Agency as part of that Water Agency's costs in supplying Recycled Water Customer Services to those customers) .

Pre 2007 Assets means the Assets that were commissioned by a Water Agency before the Commencement Date.

Present Value is the value, as at the date of calculation of a Recycled Water Developer Charge by a Water Agency, of money expected to be received or outlaid in the future. The Present Value can be the present value of a stream of incomes and expenditures. The Present Value is derived from the following formula:

$$PV = FV (1 + r)^{-n}$$

Where:

PV = present value;

FV = future value;

r = Discount Rate;

n = number of periods to apply Discount Rate.

Pricing Principles means the Tribunal's pricing principles for voluntary recycled water customers set out in Report Nos 8 and 9, 2006, as amended or replaced from time to time.¹

Post 2007 Commissioned Assets means the Assets that have been commissioned on or after the Commencement Date.

Post 2007 Uncommissioned Assets means the Assets that are yet to be commissioned.

Real Terms means the value of a variable that has been adjusted for changes in the purchasing power of money by a CPI adjustment.

Recycled Water means water that has been treated to enable its use for certain industrial, commercial, and/or household applications, but does not or is not intended to meet the standards for drinking water required by the National Health and Medical Research Council's *Australian Drinking Water Guidelines*.

Recycled Water Customer Service means the service of supplying treated wastewater for non potable uses by a Water Agency to a customer within a Development.

Recycled Water Developer Charges means the charges paid by a Developer to a Water Agency for a Recycled Water Developer Service and calculated in accordance with clause 2 of schedule 1.

Recycled Water Developer Service means the service of providing a connection between a Developer's Development and the Recycled Water infrastructure of a Water Agency.

¹ The Pricing Principles will only apply to those voluntary recycled water customers who agree with the relevant Water Agency to pay the Recycled Water Developer Charge as part of that Water Agency's costs in supplying Customer Recycled Water Services to those customers.

Report Nos 8 and 9, 2006 means the Tribunal's Report Nos 8 and 9, 2006 entitled 'Pricing arrangements for recycled water and sewer mining Sydney Water Corporation, Hunter Water Corporation, Gosford City Council and Wyong Shire Council', as amended or replaced from time to time.

Sydney Water Corporation means the Sydney Water Corporation as constituted under the *Sydney Water Act, 1994*.

Tribunal means the Independent Pricing and Regulatory Tribunal of New South Wales established under the IPART Act.

Water Agency:

- (a) when used in the singular means, each of the following agencies:
 - (1) Sydney Water Corporation;
 - (2) Hunter Water Corporation;
 - (3) Gosford City Council;
 - (4) Wyong Shire Council; and
- (b) when used in the plural means, all of the agencies listed in paragraph (a) above.

Water Agency Area means:

- (a) in relation to Sydney Water Corporation or Hunter Water Corporation, its area of operations (as defined in the *Sydney Water Act 1994* or the *Hunter Water Act 1991*, as the case may be); and
- (b) in relation to Gosford City Council or Wyong Shire Council, its local government area.

Wyong Shire Council means the Wyong Shire Council as constituted under the *Local Government Act, 1993* (NSW).

1.2 Consumer Price Index

- (a) CPI means the consumer price index All Groups index number for the weighted average of eight capital cities, 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 the Tribunal.

$$(b) \quad \Delta CPI = \left(\frac{CPI_{Jun, year_t} + CPI_{Sep, year_t} + CPI_{Dec, year_t} + CPI_{Mar, year_{t+1}}}{CPI_{Jun, year_{t-1}} + CPI_{Sep, year_{t-1}} + CPI_{Dec, year_{t-1}} + CPI_{Mar, year_t}} \right) - 1$$

- (c) The subtext (for example $CPI_{Jun, year_t}$) when used in relation to paragraph (b) above means the CPI for the June quarter and year in which the calculation was made and (for example $CPI_{Jun, year_{t-1}}$) means the CPI for the June quarter in the year immediately preceding June, year_t.

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;
- (c) words importing the singular include the plural and vice versa;
- (d) a reference to a law or statute includes all amendments or replacements of that law or statute;
- (e) a reference to a 'year' is a reference to period commencing on 1 July and ending on 30 June in the ensuing calendar year.

2.2 Explanatory notes, examples and clarification notice

- (a) Explanatory notes and examples do not form part of this determination, but in the case of uncertainty may be relied on for interpretation purposes.
- (b) The Tribunal may publish a clarification notice in the NSW Government Gazette to correct any manifest error in or to clarify any part of this determination as if that clarification notice formed part of this determination.

2.3 Prices exclusive of GST

Prices or charges specified in this determination do not include GST.

Determination No 9, 2006

**Section 11(1)
Independent Pricing and Regulatory Tribunal Act 1992**

Rouse Hill Recycled Water Charges

**Independent Pricing and Regulatory Tribunal
of New South Wales**

Reference No: 05/549

1 Background

- (1) Section 11 of the *Independent Pricing and Regulatory Tribunal Act 1992* provides the Tribunal with a standing reference to conduct investigations and make reports to the Minister on the determination of the pricing for a government monopoly service supplied by a government agency specified in schedule 1 of the IPART Act.
- (2) Sydney Water Corporation (the **Corporation**) is listed as a government agency for the purposes of schedule 1 of the IPART Act. The services of the Corporation declared as monopoly services (**Monopoly Services**) under the *Independent Pricing and Regulatory Tribunal (Water, Sewerage and Drainage Services) Order 1997* ("**Order**") are:
 - (a) water supply services;
 - (b) sewerage services;
 - (c) stormwater drainage services;
 - (d) trade waste services;
 - (e) services supplied in connection with the provision or upgrading of water supply and sewerage facilities for new developments and, if required, drainage facilities for such developments;
 - (f) ancillary and miscellaneous customer services for which no alternative supply exists and which relate to the supply of services of a kind referred to in paragraphs (a) to (e);
 - (g) other water supply, sewerage and drainage services for which no alternative supply exists.Accordingly, the Tribunal may determine the prices for the Corporation's Monopoly Services.
- (3) In investigating and reporting on the pricing of the Corporation's Monopoly Services, the Tribunal has had regard to a broad range of matters, including the criteria set out in section 15(1) of the IPART Act.
- (4) In accordance with section 13A of the IPART Act, the Tribunal has fixed a maximum price for the Corporation's Monopoly Services or has established a methodology for fixing the maximum price.
- (5) By section 18(2) of the IPART Act, the Corporation may not fix a price below that determined by the Tribunal without the approval of the Treasurer.

2. Application of this determination

- (1) This determination fixes the maximum prices (or sets a methodology for fixing the maximum prices) that the Corporation may charge for the Monopoly Services specified in this determination.
- (2) This determination commences on the later of 1 July 2007 and the date that it is published in the NSW Government Gazette (**Commencement Date**).
- (3) The maximum prices in this determination apply from the Commencement Date to 30 June 2009. The maximum prices in this determination prevailing at 30 June 2009 continue to apply beyond 30 June 2009 until this determination is replaced.

3. Replacement of Determination No. 5 of 2005

Subject to clause 2.4 of schedule 2, this determination replaces Schedule 4 of Determination No. 5 of 2005 from the Commencement Date. The replacement does not affect anything done or omitted to be done, or rights or obligations accrued, under that schedule prior to its replacement.

4. Monitoring

The Tribunal may monitor the performance of the Corporation for the purposes of:

- (a) establishing and reporting on the level of compliance by the Corporation with this determination; and
- (b) preparing a periodic review of pricing policies in respect of the Monopoly Services supplied by the Corporation.

5. Schedules

Schedule 1 and the Tables in that schedule set out the maximum prices that the Corporation may charge for the Monopoly Services specified in that schedule.

7. Definitions and Interpretation

Definitions and interpretation provisions used in this determination are set out in schedule 2.

Schedule 1

Rouse Hill Development Area

1. Categories for pricing purposes

- 1.1 This schedule sets the maximum prices that the Corporation may charge the Properties in the Rouse Hill Development Area for services under paragraph (g) of the Order, specifically Recycled Water services.
- 1.2 The maximum prices in this schedule are in addition to the prices applying to the Properties in the Rouse Hill Development Area under schedules 1, 2, 3, 5, 6 and 7 of Determination No 5, 2005.

2. Categories for pricing purposes

The prices in this schedule have been determined only for Properties in the Rouse Hill Development Area.

3. Charges to Properties in the Rouse Hill Development Area.

The maximum price that may be levied by the Corporation for the provision of Recycled Water and drainage services to the Properties in the Rouse Hill Development Area for a Billing Cycle is the sum of the following:

- (a) the Recycled Water usage charge in Table 1 for the Meter Reading Period, corresponding to the applicable Period in that table; and
- (b) the Recycled Water service access charge in Table 2, corresponding to the applicable Meter size and Period in that table, divided by the number of quarters in that Period; and
- (c) the river management charge (drainage) in Table 3, corresponding to the applicable Period and the relevant land size in that table, divided by the number of quarters in that Period.

Tables 1, 2 and 3

Table 1 Recycled Water usage charge

Charge	Commencement Date to 30 June 2008	1 July 2008 to 30 June 2009
	(\$/kL)	(\$/kL)
Recycled Water usage charge	$0.69 \times (1 + \Delta\text{CPI}_1)$	$1.08 \times (1 + \Delta\text{CPI}_2)$

Table 2 Recycled Water service access charge

Charge	Commencement Date to 30 June 2008	1 July 2008 to 30 June 2009
	(\$)	(\$)
Recycled Water service access charge - Meter size		
20mm	$18.15 \times (1 + \Delta\text{CPI}_1)$	$10.28 \times (1 + \Delta\text{CPI}_2)$
For Properties with Meter size >20mm the formula to apply is	$(\text{nominal diameter})^2 \times (\text{charge for 20mm Meter})/400$	

Table 3 River management charge (drainage)

Charge	Commencement Date to 30 June 2008	1 July 2008 to 30 June 2009
	(\$)	(\$)
River management charge (drainage)		
Non Residential Properties with land size $\leq 1000\text{m}^2$ and Residential Properties	$111 \times (1 + \Delta\text{CPI}_1)$	$111 \times (1 + \Delta\text{CPI}_2)$
Non Residential Properties with land size $> 1000\text{m}^2$	$111 \times ((\text{land area m}^2)/1000) \times (1 + \Delta\text{CPI}_1)$	$111 \times ((\text{land area m}^2)/1000) \times (1 + \Delta\text{CPI}_2)$

Schedule 2

Definitions and Interpretation

1 DEFINITIONS

1.1 General definitions

Billing Cycle means each quarter during a Period.

Commencement Date means the Commencement Date defined in clause 2 of section 2 (**Application of this determination**) of this determination.

Corporation means the Corporation as defined in clause 2 of section 1 (**Background**) of this determination, constituted under the *Sydney Water Act 1994*.

Determination No 5, 2005 means the Tribunal's Determination No 5, 2005 entitled 'Sydney Water Corporation'.

Meter Reading Period means a period equal to the number of days between:

- (a) the date on which the Meter was last read (or taken to have been read by the Corporation); and
- (b) the date on which the Meter was read (or taken to have been read by the Corporation) immediately preceding the date in paragraph (a).

Monopoly Services means the Monopoly Services defined in clause 2 of section 1 (**Background**) of this determination.

Period means the Commencement Date to 30 June 2008 or 1 July 2008 to 30 June 2009 (as the case may be).

Recycled Water means water that has been treated to enable its use for certain industrial, commercial, and/or household applications, but does not or is not intended to meet the standards for drinking water required by the National Health and Medical Research Council's *Australian Drinking Water Guidelines*.

1.2 Incorporated definitions

Words and phrases (other than those defined in clause 1.1 of this schedule) defined in Determination No 5, 2005 have the same meanings in this determination.

1.3 Consumer Price Index

- (a) **CPI** means the consumer price index All Groups index number for the weighted average of eight capital cities, 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 the Tribunal

$$(b) \quad \Delta CPI_1 = \left(\frac{CPI_{Jun2006} + CPI_{Sep2006} + CPI_{Dec2006} + CPI_{Mar2007}}{CPI_{Jun2005} + CPI_{Sep2005} + CPI_{Dec2005} + CPI_{Mar2006}} \right) - 1$$

$$\Delta CPI_2 = \left(\frac{CPI_{Jun2007} + CPI_{Sep2007} + CPI_{Dec2007} + CPI_{Mar2008}}{CPI_{Jun2005} + CPI_{Sep2005} + CPI_{Dec2005} + CPI_{Mar2006}} \right) - 1$$

each as calculated by the Tribunal and notified in writing by the Tribunal to the Corporation.

- (c) The subtext (for example $CPI_{Jun,year\ n}$) when used in relation to paragraph (b) above means the CPI for the June quarter and year in which the calculation was made and (for example $CPI_{Jun\ year\ n-1}$) means the CPI for the June quarter in the year immediately preceding June, year_n.

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;
- (c) words importing the singular include the plural and vice versa;
- (d) a reference to a law or statute includes all amendments or replacements of that law or statute.

2.2 Explanatory notes, examples and clarification notice

- (a) Explanatory notes and examples do not form part of this determination, but in the case of uncertainty may be relied on for interpretation purposes.
- (b) The Tribunal may publish a clarification notice in the NSW Government Gazette to correct any manifest error in or to clarify any part of this determination as if that clarification notice formed part of this determination.

2.3 Prices exclusive of GST

Prices or charges specified in this determination do not include GST.

2.4 Billing

- (a) For the avoidance of doubt nothing in this determination affects when the Corporation may issue a bill to a customer for prices or charges under this determination.
- (b) If a Meter Reading Period commences before the Commencement Date and ends after the Commencement Date, the Recycled Water usage charge applying to the whole of that Meter Reading Period is the charge calculated under Schedule 4 of Determination No 5 of 2005, prior to that schedule being replaced by this determination.
- (c) Subject to clause 2.4(b) above, if a Meter Reading Period traverses more than one Period, the Corporation must levy any charge applying in this determination on a pro-rata basis.

TENDERS

Department of Commerce

SUPPLIES AND SERVICES FOR THE PUBLIC SERVICE

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

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

PRIVATE ADVERTISEMENTS

COUNCIL NOTICES

BLACKTOWN CITY COUNCIL

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

THE Blacktown City Council declares with the approval of Her Excellency the Governor, that the land described in the Schedule below, excluding 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 purposes open space. Dated at Blacktown, 20 November 2006. RON MOORE, General Manager, Blacktown City Council, PO Box 63, Blacktown NSW 2148.

SCHEDULE

Lot 3, DP 135930. [2816]

LITHGOW CITY COUNCIL

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

LITHGOW CITY 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 land, are acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of a community asset. Dated at Lithgow, 4 December 2006. PAUL ANDERSON, General Manager, Lithgow City Council, PO Box 19, Lithgow NSW 2790.

SCHEDULE

Lot 1, DP 1081225 and Lot 2, DP 1081225. [2817]

PARKES SHIRE COUNCIL

Erratum

THE notice published in the *New South Wales Government Gazette* of 25 May 1999, under Parkes Shire Council is to be amended with the Naming of Road – Nettlebecks Lane changed as follows:

PARKES SHIRE COUNCIL

Roads Act 1993, Section 162.1

Naming of Public Roads – Nettlebecks Lane

NOTICE is hereby given that in accordance with section 162.1 of the Roads Act 1993, as amended, Council has named the roads shown hereunder:

Location	Name
Shire Road 59 between The Escort Way and Gunningbland Road, west of Davies Lane.	Nettelbecks Lane.

No objections to the proposed names were received within the prescribed period of time. A. McCORMACK, General Manager, Parkes Shire Council, PO Box 337, Parkes NSW 2870. [2818]

PORT MACQUARIE-HASTINGS COUNCIL

Roads Act 1993, Section 10

Dedication of Land as Public Road

NOTICE is hereby given that the lands described in the Schedule below are dedicated to the public as road. B. SMITH, General Manager, Port Macquarie-Hastings Council, Lord and Burrawan Streets, Port Macquarie NSW 2444.

SCHEDULE

Lot 2, Deposited Plan 365835, Parish Macquarie, County Macquarie being land known as 38 Table Street, Port Macquarie.

Lot 7, Deposited Plan 1089217, Parish Macquarie, County Macquarie being land situated on the northern side of The Players Theatre, Lord Street, Port Macquarie [2819]

PORT MACQUARIE-HASTINGS COUNCIL

Roads Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

PORT MACQUARIE-HASTINGS 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 purpose of a public road. Dated at Port Macquarie, 30 November 2006. B SMITH, General Manager, Port Macquarie-Hastings Council, Lord and Burrawan Streets, Port Macquarie NSW 2444.

SCHEDULE

Lot 7, DP 1089217. [2820]

SHOALHAVEN CITY COUNCIL

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Easement

THE Shoalhaven City Council declares, with the approval of Her Excellency the Governor, that the easement described in the Schedule below is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for water supply purposes. Dated at Nowra, 10 November 2006. RUSS PIGG, General Manager, Shoalhaven City Council, PO Box 42, Nowra NSW 2541.

SCHEDULE

Interest in Land

Easement rights for Water Pipeline the terms of which are shown hereunder over the site shown in Deposited Plan 1065111 as '(A) PROPOSED EASEMENT FOR WATER PIPELINE 6 WIDE' within Lot 22 in Deposited Plan 1020330.

Easement for Water Pipeline

FULL AND FREE RIGHT AND LIBERTY for the Authority benefited its officers servant and agents and every person authorised by it to lay down pipes and necessary surface valves for water supply purposes and use and maintain such pipes and valves through and under the easement TOGETHER WITH FULL AND FREE RIGHT AND LIBERTY from time to time and at all times to inspect the condition of the pipes and to cleanse maintain mend repair and relay such pipes or valves or any part thereof and for such purposes or any of them at all reasonable times with or without surveyors workmen materials machinery implements and other persons and things to pass and re-pass and with or without vehicles to enter into and upon the servient tenement and to bring and place and have thereon to remove therefrom carry away use and leave any of the clay, sand, gravel, stones and earth which shall be taken out of the land comprising the servient tenement and to do all such acts and things which may be deemed necessary for the above purpose by the Authority benefited PROVIDED THAT in carrying out or performing any such inspection, cleansing, maintenance, mending, renewing, repairing, relaying or replacing of such lines of pipes and valves and excavating, taking up, renewing, repairing, relaying or replacing the surface of the servient tenement the Authority benefited shall make as little disturbance on or do as little damage as possible to the servient tenement and shall with all practicable speed restore and make good all or any such damage or disturbance and as far as practicable and with all reasonable speed restore the surface of the servient tenement to its former state and condition as existed prior to the undertaking of any works on the servient tenement.

DoC Reference: 309.

[2821]

TWEED SHIRE COUNCIL

NOTICE is hereby given by Tweed Shire Council pursuant to section 50 (4) of the Local Government Act 1993, that the land described in the Schedule below is hereby vested in Council as a public reserve. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484

SCHEDULE

Lot 22, section 15, DP 28390, Glenys Street, Tweed Heads. [2822]

WINGECARRIBEE SHIRE COUNCIL

Roads Act 1993, Section 162

Naming of Public Road

NOTICE is hereby given that Wingecarribee Shire Council in pursuance of section 162 of the Roads Act 1993, has re-named the following road at Robertson, under delegated authority:

<i>Previous Name</i>	<i>New Name</i>
South Street, section between the Illawarra Highway and Wallangunda Street, Parish of Yarrawa.	Sassafras Way.

MIKE HYDE, General Manager, Wingecarribee Shire Council, Elizabeth Street, Moss Vale NSW 2577. [2823]

BALRANALD SHIRE COUNCIL

Local Government Act 1993

Sale of Land for Unpaid Rates

NOTICE is hereby given to the persons named hereunder that the Balranald Shire Council has resolved in pursuance of section 713 of the Local Government Act 1993, to sell the land described hereunder of which the persons named hereunder appear to be the owners or in which case they appear to have an interest and on which the amount of rates stated in each case, as at 23 November 2006, is due:

<i>Owners or Persons having Interest in the Land</i>	<i>Description of Land (Lot, DP, and Address)</i>	<i>Total Amount Owning</i>
Ellen Jane NORMAN.	Lot 7, section 43, DP 758821, Cunningham Street, Oxley. Area: 2023.4 square metres.	\$2030.07.
Ellen Jane NORMAN.	Lot 4, section 43, DP 758821, Oxley Street, Oxley. Area: 2023.4 square metres.	\$1948.50.
Susan SLATTER.	Lot 6, section 43, DP 758821, Cunningham Street, Oxley. Area: 2023.4 square metres.	\$2030.07.
Susan SLATTER.	Lot 5, section 43, DP 758821, Oxley Street, Oxley. Area: 2023.4 square metres.	\$1948.50.
Ronald Stuart HILL.	Lot A, DP 449067; Lot B, DP 449067, Harris Street, Oxley. Area: 777.7 square metres.	\$931.76.

All intending purchasers should satisfy themselves to the exact location of the block and the location/condition of power, water and sewerage connection, as well as the occupation of the property for vacant possession.

Unless payment in full is made to the Balranald Shire Council of the amount stated as Total Amount Owning, together with any other rates and extra charges becoming due and payable after the publication of this notice, before the time fixed for the sale, the said land will be offered for sale by Public Auction by Leo Conway Agencies on 8 March 2007, at 2:00 p.m., at the Balranald Shire Council Chambers, 70 Market Street, Balranald NSW 2715. D. COOPER, General Manager, Balranald Shire Council, PO Box 120, Balranald NSW 2715. [2824]

ESTATE NOTICES

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of PATRICIA JOAN BROOKS, late of Frenchmans Lodge Nursing Home, Randwick, in the State of New South Wales, who died on 29 August 2006, must send particulars of their claim to the executors, Edward George Morgan, Megan Gai Brooks and Robert Lloyd Brooks, c.o. Simpson & Co., Solicitors, 103A Anzac Parade, Kensington NSW 2033, within one (1) calendar month from publication of this notice. After that time, the assets of the estate and the property may be conveyed and distributed having regard only to the claims of which at the time of conveyance or distribution the executor has notice. Probate was granted in New South Wales on 23 November 2006. SIMPSON & CO., Solicitors, 103A Anzac Parade, Kensington NSW 2033, (PO Box 340, Kensington NSW 1465), tel.: (02) 9662 4381. [2825]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of ELAINE BERYL JACKSON, late of Bayview, in the State of New South Wales, widow, who died on 28 July 2006, must send particulars of his claim to the executor, c.o. Rees & Tuckerman, Solicitors, 678 Pittwater Road, Brookvale NSW 2100, 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 to Phillip Donald Jackson on 23 November 2006. REES & TUCKERMAN, Solicitors, 1st Floor, 678 Pittwater Road (PO Box 34), Brookvale NSW 2100, (DX 831, Sydney), tel.: (02) 9905 1469. [2826]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of GABRIEL STEPHEN NAGY, late of Roseville, in the State of New South Wales, retired gastroenterologist, who died on 17 July 2006, must send particulars of their claim to the executors, Michael Alexander Anthony Nagy and Richard Hadley Michael Nagy, c.o. CKB Partners, Lawyers and Consultants, Level 8, 50 Park Street, Sydney NSW 2000, within one (1) calendar month from publication of this notice. After that time the executors may distribute the assets of the estate having regard only to the claims of which at the time of distribution they have notice. Probate was granted in New South Wales on 28 August 2006. CKB PARTNERS, Lawyers and Consultants, Level 8, 50 Park Street, Sydney NSW 2000, (DX 604, Sydney), tel.: (02) 9262 7811. [2827]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of ANGIOLINO ZAMMIT (also known as James Zammit), late of Sylvania Waters, in the State of New South Wales, retired company director, who died on 26 September 2006, must send particulars of their claim to the executor, Michael Samuel Zammit, c.o. CKB Partners, Lawyers and Consultants, Level 8, 50 Park 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 28 November 2006. CKB PARTNERS, Lawyers and Consultants, Level 8, 50 Park Street, Sydney NSW 2000, (DX 604, Sydney), tel.: (02) 9262 7811. [2828]

COMPANY NOTICES

NOTICE of general meeting of members.—OVERSEAS UNION HOLDINGS (AUST) PTY LIMITED, ACN 002 357 333 (in voluntary liquidation).—Notice is hereby given that the a general meeting of members of the company will be held at 9:00 a.m., on Friday, 22 December 2006, at Level 7, 20 Hunter Street, Sydney, to hold the final meeting of the company and receive an account of how the winding up has been conducted. Dated 22 November 2006. S. B. HUMPHRYS, Liquidator, Moore Stephens Sydney Pty Limited, Chartered Accountants, Level 7, 20 Hunter Street, Sydney NSW 2000, tel.: (02) 8236 7700. [2829]

NOTICE of members' voluntary liquidation – PHILGREEN PTY LTD, ACN 095 146 642.—At a general meeting of the abovenamed company duly convened and held at 25 Moss Court, Stanthorpe, Qld 4380, on 30 November 2006, the following special and ordinary resolutions were passed. "That the Company be wound up as a members voluntary liquidation and that the assets of the Company may be distributed in whole or in part to the members in specie should the liquidators so desire" and "That Larry Howard Green of 25 Moss Court, Stanthorpe Qld 4380 and Susan Joan Philipse of 13 Denton Drive, South Grafton NSW 2460, be appointed joint and several liquidators of the company for such winding up". Notice is also given that creditors having claim against the Company should furnish particulars of that claim to the Liquidators within 21 days of this date, otherwise distribution of the assets will take place without regard to such claims. Dated 30 November 2006. LARRY HOWARD GREEN and SUSAN JOAN PHILIPSE, Joint and Several Liquidators, c.o. Henk den Hertog CPA, PO Box 895, Moss Vale NSW 2577. [2830]

NOTICE of appointment of liquidator.—THE GOOD CHRISTIAN HOUSING CO-OPERATIVE LIMITED (in liquidation).—Neil Anderson of Anderson Accounting, Chartered Accountant, Level 1, 58 The Boulevard, Strathfield NSW 2135, was appointed liquidator of the co-operative on 14 November 2006, by a certificate issued under sections 324 and 343 of the Co-operatives Act 1992, by the Registrar of Co-operatives. NEIL ANDERSON, Liquidator, c.o. Anderson Accounting, Level 1, 58 The Boulevard, Strathfield NSW 2135, tel.: (02) 9747 2888. [2831]

NOTICE to creditors.—THE GOOD CHRISTIAN HOUSING CO-OPERATIVE LIMITED (in liquidation).—In the matter of the Co-operative Act and the Corporations Law notice is hereby given that all persons having any claims against the abovenamed co-operative are required on or before 3 January 2007, to send their names and addresses and particulars of their debts and claims to Neil Anderson, the Liquidator of the said Co-operative, at his office and if so required by notice in writing from the said liquidator, are personally or by their Solicitors to come in and prove their debts or claims at such time and place as shall be specified in such notice, or in default thereof they shall be excluded from the benefits of any distribution made before such debts are so lodged or proved. Dated 5 December 2006. NEIL ANDERSON, Liquidator, c.o. Anderson Accounting, Level 1, 58 The Boulevard, Strathfield NSW 2135, tel.: (02) 9747 2888. [2832]

ERRATUM

IN *New South Wales Government Gazette* No. 168 of 1 December 2006, the notice concerning WILSON'S WYOMING PTY LIMITED, ACN 001 815 925 was incorrectly published as the notice was published in a previous Gazette.

OTHER NOTICES

NOTIFICATION of pesticide use.—As of February 2007, Parramatta Stadium Trust will implement a government directive stating that all government departments promote notification of pesticide use. To request a draft copy of the Parramatta Stadium pesticide notification plan please call stadium reception during business hours on (02) 9683 5755. Please direct all enquiries and comments to the attention of the Head Grounds and Maintenance Manager. PARRAMATTA STADIUM TRUST, O'Connell Street, Parramatta NSW 2150. [2833]

COUNTRY ENERGY

Electricity Supply Act 1995

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Easement

Temora to Cowal Electricity Transmission Line

COUNTRY ENERGY declares, with the approval of Her Excellency the Governor and the Executive Council that an easement over the land described in Schedule 1 of this notice, the terms of which are described in Schedule 2 of this notice, is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of the Electricity Supply Act 1995. Dated at Sydney, 6 December 2006. CRAIG MURRAY, Managing Director, Country Energy, PO Box 718, Queanbeyan NSW 2620.

SCHEDULE 1

Locality: Site of proposed easement for overhead powerlines variable width at Temora in DP 1077433

LGA: Temora

Title: Freehold Land in FP 436027, Old Cootamundra Road, Temora

Parish: Bundawarra

County: Bland

SCHEDULE 2

Easement: Easement for overhead powerlines 40 wide and variable width as depicted in DP 1077433 and in Part A of Memorandum No. AA26009 registered at Land and Property Information. [2834]

Authorised to be printed

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ISSN 0155-6320