



# Government Gazette

OF THE STATE OF  
NEW SOUTH WALES

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## LEGISLATION

### Proclamations



New South Wales

## Commencement Proclamation

under the

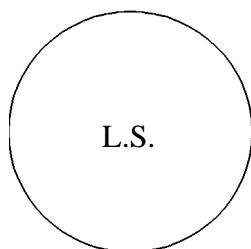
Road Transport Legislation Amendment Act 2008 No 61

JAMES JACOB SPIGELMAN, Lieutenant-Governor

I, the Honourable James Jacob Spigelman AC, Lieutenant-Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Road Transport Legislation Amendment Act 2008*, do, by this my Proclamation, appoint 1 September 2008 as the day on which that Act (except Schedules 2, 4 and 5) commences.

Signed and sealed at Sydney, this 27th day of August 2008.

By His Excellency's Command,



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

GOD SAVE THE QUEEN!

### Explanatory note

The object of this Proclamation is to commence the *Road Transport Legislation Amendment Act 2008* other than Schedule 2 which contains amendments to the *Road Transport (Driver Licensing) Regulation 1999*, Schedule 4 which contains amendments relating to fatigue management and speeding compliance and Schedule 5 which contains amendments relating to toll offences.



New South Wales

## Proclamation

under the

Roman Catholic Church Communities' Lands Act 1942 No 23

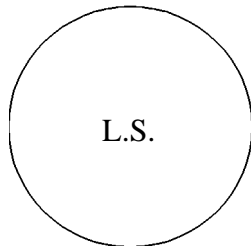
MARIE BASHIR, Governor

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 (2) of the *Roman Catholic Church Communities' Lands Act 1942*, do, by this my Proclamation, amend Schedule 2 to that Act:

- (a) by omitting from Column 1 (Canonical Name) the words "Catholic Health Care Services [NSW & ACT]" and inserting instead "Catholic Healthcare", and
- (b) by omitting from Column 2 (Corporate Name) the words "Trustees of Catholic Health Care Services [NSW & ACT]" and inserting instead "Trustees of Catholic Healthcare".

Signed and sealed at Sydney, this 20th day of August 2008.

By Her Excellency's Command,



JOHN HATZISTERGOS, M.L.C.,  
Attorney General

GOD SAVE THE QUEEN!

### Explanatory note

Schedule 2 to the *Roman Catholic Church Communities' Lands Act 1942* contains canonical and corporate names of certain Roman Catholic orders, congregations, communities, associations and societies. By virtue of being listed in that Schedule, each organisation is a community as defined in the Act and, by virtue of the Act, the trustees of community land for each community become a body corporate and acquire the powers conferred by the Act in relation to property held by them.

Proclamation

Explanatory note

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The community that was known as Catholic Health Care Services [NSW & ACT] has changed its canonical and corporate names.

The object of this Proclamation is to amend Schedule 2 to the Act as a consequence.

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# Regulations

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New South Wales

## Companion Animals Regulation 2008

under the

Companion Animals Act 1998

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Companion Animals Act 1998*.

PAUL LYNCH, M.P.,  
Minister for Local Government

### Explanatory note

The object of this Regulation is to remake the *Companion Animals Regulation 1999*, which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation provides for the following matters:

- (a) permanent identification of companion animals,
- (b) the registration of companion animals,
- (c) the regulation of dangerous or restricted dogs,
- (d) various miscellaneous matters such as the prescription of penalty notice offences.

This Regulation is made under the *Companion Animals Act 1998*, in particular the various provisions referred to in this Regulation and section 96 (the general regulation-making power).

## Companion Animals Regulation 2008

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Clause 1	Companion Animals Regulation 2008
Part 1	Preliminary

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## Companion Animals Regulation 2008

under the

Companion Animals Act 1998

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Companion Animals Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Companion Animals Regulation 1999* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**authorised identifier** means:

- (a) a veterinary practitioner (other than a veterinary practitioner whose authority to identify companion animals has been withdrawn under clause 11), or
- (b) a person who is, for the time being, accredited under Part 2 as an authorised identifier of companion animals.

**authorised identifier number**, in respect of an authorised identifier accredited under Part 2, means the accreditation number allocated to the identifier in connection with his or her accreditation.

**microchip** means a subcutaneous full duplex electronic radio transponder.

**pet shop** means a shop used for the conduct of a business in the course of which an animal is kept for sale.

**recognised breeder** means a person who is a member of:

- (a) Royal New South Wales Canine Council Limited, or
- (b) NSW Cat Fanciers' Association Inc., or
- (c) Waratah State Cat Alliance Inc., or

Companion Animals Regulation 2008

Clause 3

Preliminary

Part 1

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- (d) any other body approved by the Director-General for the purposes of this definition by order published in the Gazette.

**registration agent** means:

- (a) a council, or  
(b) a person appointed under clause 13 (2).

**RSPCA** means the Royal Society for the Prevention of Cruelty to Animals, New South Wales.

**the Act** means the *Companion Animals Act 1998*.

**Note.** The Act defines **desexed** to mean rendered permanently incapable of reproduction.

- (2) Notes included in this Regulation do not form part of this Regulation.



Clause 4	Companion Animals Regulation 2008
Part 2	Permanent identification of companion animals

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## Part 2 Permanent identification of companion animals

### 4 Categories of identified companion animals

- (1) For the purposes of this Regulation, the following categories of identified companion animals are specified:
  - (a) *category 1 companion animals*, being companion animals that are required to be identified for the purposes of section 8 of the Act,
  - (b) *category 2 companion animals*, being companion animals identified on a voluntary basis by the implantation of a microchip on or after 1 October 2001,
  - (c) *category 3 companion animals*, being companion animals identified on a voluntary basis by the implantation of a recognised microchip before 1 October 2001,
  - (d) *category 4 companion animals*, being companion animals identified by the implantation of a recognised microchip while in a place other than New South Wales.
- (2) A category 3 or category 4 companion animal is taken to be identified for the purposes of section 8 of the Act.
- (3) A reference in subclause (1) to a companion animal identified on a *voluntary basis* is a reference to an identified companion animal that is not required to be identified for the purposes of section 8 of the Act.
- (4) In subclause (1), *recognised microchip* means a microchip that, in the opinion of the Director-General:
  - (a) has been implanted in the companion animal concerned in accordance with the procedure set out in clause 5 (2), and
  - (b) has allocated to it a unique identification number, and
  - (c) functions properly.

### 5 Manner in which category 1 and 2 companion animals are to be identified

- (1) The identification of a category 1 or category 2 companion animal is to be by means of the implantation in the animal of a microchip of a type or specification approved by the Director-General by order published in the Gazette.
- (2) The implantation is to be subcutaneous in the dorsum between the scapulae in such a way that the microchip lies at an oblique angle to the plane of the skin. The microchip must function properly.
- (3) Different types or specifications of microchip may be approved from time to time.

Companion Animals Regulation 2008

Clause 6

Permanent identification of companion animals

Part 2

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- (4) The Director-General may, by order published in the Gazette, withdraw the approval of a type or specification of microchip.
  - (5) A microchip implanted before the publication of an order withdrawing the approval of that type or specification of microchip remains a microchip of an approved type or specification notwithstanding the withdrawal.

**6 Identification of category 1 or 2 companion animals only by authorised persons**

- (1) A person must not implant a microchip in a category 1 or category 2 companion animal unless the person:
  - (a) is an authorised identifier, or
  - (b) does so under the supervision of an authorised identifier who is a veterinary practitioner.

Maximum penalty: 15 penalty units.

- (2) A person must not advertise or otherwise represent himself or herself as being authorised to identify category 1 or category 2 companion animals unless the person is an authorised identifier under this Regulation.

Maximum penalty: 8 penalty units.

**7 Procedure for identification of category 1 and 2 companion animals**

- (1) The following procedures are to be followed by an authorised identifier when identifying a category 1 or category 2 companion animal for the purposes of clause 5:
  - (a) immediately before the microchip is implanted in the animal:
    - (i) the animal must be scanned to ensure that it does not already have a functioning microchip properly implanted, and
    - (ii) the microchip must be scanned to ensure that it is functioning properly and to check that its scanned number is as shown on the supporting documentation applicable to it as the unique identification number allocated to the microchip,
  - (b) immediately after implantation, the animal must be scanned to confirm proper implantation and functioning of the microchip,
  - (c) any guidelines issued by the Director-General under subclause (2) that apply to the authorised identifier must be complied with.

Clause 8	Companion Animals Regulation 2008
Part 2	Permanent identification of companion animals

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- (2) The Director-General may:
  - (a) issue guidelines applying to authorised identifiers with respect to the procedures to be followed by them when identifying category 1 or category 2 companion animals, and
  - (b) issue guidelines applying to authorised identifiers and councils with respect to the procedures to be followed by them when entering identification information on the Register for the purposes of section 70 (3) of the Act.
- (3) A council must comply with any guidelines issued by the Director-General under subclause (2) that apply to the council.

#### **8 Identification information in relation to all categories of companion animals**

The following information is the identification information for companion animals for the purposes of the Act:

- (a) the unique identification number allocated to the microchip implanted in the animal in connection with the identification of the animal,
- (b) in the case of a category 1 or category 2 companion animal, the name of the authorised identifier who carried out, or supervised, the implantation of the microchip and, if the authorised identifier is accredited, their authorised identifier number,
- (c) the date on which the animal was identified,
- (d) the full name and residential address of the owner of the animal together with any other available contact details for the owner,
- (e) the address of the place at which the animal is ordinarily kept,
- (f) the name of the council of the area in which the animal is ordinarily kept,
- (g) the type of animal (dog or cat), and the breed of the animal,
- (h) the animal's date of birth (known or approximate),
- (i) the animal's gender,
- (j) the animal's colour and details of any unusual or identifying marks on the animal.

#### **9 Accreditation of persons as authorised identifiers**

- (1) The Director-General may, by notice in writing given to any person, authorise the person to accredit other persons as authorised identifiers of companion animals.
- (2) However, a person authorised by the Director-General under subclause (1) must not accredit another person as an authorised identifier of

Companion Animals Regulation 2008

Clause 10

Permanent identification of companion animals

Part 2

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companion animals unless the person is satisfied, after making reasonable enquiries, that the other person:

- (a) is qualified and competent to be an authorised identifier, and
  - (b) will comply with the requirements of this Regulation with respect to the identification of companion animals.
- (3) The Director-General may withdraw a person's authorisation under subclause (1) if satisfied that the person has failed to make reasonable enquiries before accrediting a person as an authorised identifier of companion animals.
  - (4) Before withdrawing a person's authorisation under subclause (3), the Director-General must:
    - (a) notify the person of the proposed withdrawal of the authorisation, and
    - (b) give the person a reasonable opportunity to make submissions to the Director-General in respect of the proposed withdrawal, and
    - (c) have due regard to any such submissions.
  - (5) The Director-General must cause a person whose authorisation is withdrawn to be notified of the withdrawal in writing. Withdrawal of an authorisation takes effect on the date on which the notice is given to the person whose authorisation is to be withdrawn, or from a later date as specified in the notice.
  - (6) A person who is dissatisfied with the failure or refusal of a person authorised by the Director-General under subclause (1) to accredit the person as an authorised identifier of companion animals may make a written application for that accreditation to the Director-General.
  - (7) The Director-General must, after consultation with the person who failed or refused to accredit the applicant as an authorised identifier of companion animals, grant or refuse the application.
  - (8) The applicant is to be given written notice of the grant or refusal of the application within 28 days after the application is made.

#### **10 Withdrawal of accreditation**

- (1) The Director-General may withdraw the accreditation of a person as an authorised identifier of companion animals if the Director-General is satisfied that:
  - (a) the person is not qualified or competent to be an authorised identifier, or
  - (b) the person has been negligent or incompetent in connection with the exercise of the person's functions as an authorised identifier, or

Clause 11	Companion Animals Regulation 2008
Part 2	Permanent identification of companion animals

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- (c) the person has failed to comply with a requirement imposed by or under the Act with respect to the identification of companion animals, or
  - (d) it is otherwise appropriate to do so.
- (2) The accreditation of a person is withdrawn when the Director-General gives the person notice in writing that accreditation has been withdrawn.

#### **11 Withdrawal of veterinary practitioner's authorisation**

- (1) The Director-General may withdraw a veterinary practitioner's authority to identify companion animals for the purposes of the Act by notice in writing served on the veterinary practitioner concerned.
- (2) A notice under subclause (1) is not to be served unless the Director-General is satisfied that the veterinary practitioner:
  - (a) has been negligent or incompetent in connection with the exercise of the veterinary practitioner's functions as an authorised identifier, or
  - (b) has failed to comply with a requirement by or under the Act with respect to the identification of companion animals.
- (3) A notice under subclause (1) takes effect on and from the date the notice is served or such later date as is specified in the notice.
- (4) The Director-General may, at any time, reinstate a veterinary practitioner's authority to identify companion animals for the purposes of the Act by notice in writing to the veterinary practitioner concerned.

#### **12 Exemptions from identification requirements**

- (1) A companion animal is exempt from section 8 of the Act if it is exempted from section 9 (Registration required from age 6 months) of the Act by a provision of this Regulation other than clause 16 (d).
- (2) A companion animal that is less than 6 months of age is exempt from section 8 of the Act if a veterinary practitioner certified in writing, before the animal was 12 weeks of age, that identification of the animal as required by that section would constitute a serious health risk to the animal.
- (3) A companion animal is exempt from section 8 (2) of the Act in respect of its sale by a recognised breeder to a pet shop if, at the time of the sale, it is less than 12 weeks old.

Companion Animals Regulation 2008

Clause 13

Registration of companion animals

Part 3

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## Part 3 Registration of companion animals

### 13 Registration agents

- (1) Each council is a registration agent for the purposes of this Regulation.
- (2) The Director-General may appoint any person or body to be a registration agent for the purposes of this Regulation.
- (3) The Director-General may issue guidelines with respect to the procedures to be followed by registration agents in exercising their functions. Registration agents must follow any such procedures if they are required to do so by those guidelines.
- (4) The Director-General may revoke the appointment of a person or body under subclause (2) at any time by notice in writing served on the person or body.
- (5) Before a notice under subclause (4) is served, the Director-General must:
  - (a) notify the person or body of the proposed revocation, and
  - (b) give the person or body a reasonable opportunity to make submissions to the Director-General in respect of the proposed revocation, and
  - (c) have due regard to any such submissions.
- (6) A notice under subclause (4) takes effect on the date on which the notice is served or from such later date as is specified in the notice.

### 14 Application for registration

- (1) An application for registration of a companion animal must be made to the Director-General or to a registration agent.

**Note.** Applications to the Director-General can be made at Registry offices established for the purpose.
- (2) The application must be made using the form of application approved by the Director-General from time to time.
- (3) An application for registration must be accompanied by payment of the registration fee payable for registration of the animal.

### 15 Registered owner must be 18 or over

A natural person under the age of 18 years cannot be the registered owner of a companion animal.

**Note.** A registered owner of a companion animal may be a natural person at least 18 years old, a corporation or a body corporate or politic.

Clause 16 Companion Animals Regulation 2008

Part 3 Registration of companion animals

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### 16 Exemptions from registration requirement

The following companion animals are exempt from section 9 (Registration required from age 6 months):

- (a) a cat born before 1 July 1999, other than a cat whose ownership changes after that date,
- (b) an animal that is ordinarily kept outside New South Wales, but not if the animal has been in New South Wales for a continuous period of at least 3 months,
- (c) an animal in the custody of a council (including in a council pound), the Animal Welfare League NSW, The Cat Protection Society of NSW Inc. or RSPCA,
- (d) an animal in the custody of an organisation approved by the Director-General, for the purposes of this clause, by order published in the Gazette,
- (e) an animal kept at a pet shop for the purposes of sale,
- (f) an animal kept for the purposes of sale in the course of a business conducted at a booth or stall in a market or at a fair,
- (g) a greyhound registered in accordance with the rules made in relation to greyhound racing under the *Greyhound and Harness Racing Administration Act 2004*,
- (h) a dog that is ordinarily used by a police officer on official duty,
- (i) a dog used by a Commonwealth officer on official duty,
- (j) an animal in the custody of an accredited research establishment within the meaning of the *Animal Research Act 1985*, or the holder of an animal research authority or an animal supplier's licence within the meaning of that Act, for purposes in connection with animal research, as authorised under that Act,
- (k) an animal kept at a licensed animal display establishment within the meaning of the *Exhibited Animals Protection Act 1986* and lawfully exhibited in accordance with that Act,
- (l) a working dog that is ordinarily kept in a part of the Western Division of the State that is not within a local government area,
- (m) a working dog that is ordinarily kept on land categorised as farmland for the purposes of Part 3 of Chapter 15 of the *Local Government Act 1993*.

Companion Animals Regulation 2008

Clause 17

Registration of companion animals

Part 3

**17 Registration fee**

- (1) The registration fee payable for the registration of a companion animal is whichever of the following fees is applicable in the particular case:
  - (a) for a desexed animal (except an animal owned by an eligible pensioner)—\$40,
  - (b) for a desexed animal owned by an eligible pensioner—\$15,
  - (c) for an animal that is not desexed (except an animal kept by a recognised breeder for breeding purposes)—\$150,
  - (d) for an animal that is not desexed and that is kept by a recognised breeder for breeding purposes—\$40.
- (2) There is an exemption from payment of a registration fee for the registration of the following:
  - (a) any animal the Director-General is satisfied is in the service of a public authority,
  - (b) a working dog.
 

**Note.** A working dog is defined in the Act as a dog used primarily for the purpose of droving, tending, working or protecting stock (or a dog being trained as a working dog). If the dog is declared to be a dangerous dog, it ceases to be a working dog while the declaration is in force.
- (3) In this clause:
 

**eligible pensioner** means:

  - (a) a person who is a member of a class of persons prescribed by the regulations under the *Local Government Act 1993* for the purposes of the definition of **eligible pensioner** in that Act, or
  - (b) if no such class of persons is prescribed, a person who is the holder of a card issued by the Commonwealth and known as the Pensioner Concession Card, being a card that is in force.

**Note.** See clause 32 for payments to registration agents from the Companion Animals Fund.

**18 Registration fee exemption for assistance animals**

- (1) There is an exemption from payment of a registration fee for the registration of an animal that is an assistance animal or is undergoing training to be an assistance animal.
- (2) The exemption ceases to apply if the animal ceases to be an assistance animal or ceases training without becoming an assistance animal.
- (3) If the exemption ceases, the registration fee for the animal's registration must be paid within 28 days after the exemption ceases.



Clause 19 Companion Animals Regulation 2008

Part 3 Registration of companion animals

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- (4) If the registration fee is not paid within that time, the council of the area in which the animal is ordinarily kept may cancel the registration of the animal by noting the cancellation on the Register.
- (5) Before cancelling the registration of an animal under subclause (4), the council must notify the owner of the animal in writing of the proposed cancellation and of any associated action proposed to be taken (including subsequent prosecution of the owner for being the owner of an unregistered animal).
- (6) A council that cancels the registration of an animal under this clause must notify the Director-General of the cancellation within 7 days.
- (7) The council or the Director-General may reinstate the registration of an animal that was cancelled under subclause (4) by noting the reinstatement on the Register.

#### **19 Permanent identification a pre-condition to registration**

A companion animal must not be registered unless it is an identified companion animal.

#### **20 Registration information**

The following information is (to the extent that it is relevant and applicable to the animal concerned) the registration information for a companion animal:

- (a) the identification information for the animal (but not including the matters referred to in clause 8 (b) or (c) if those matters are not known to the owner of the animal),
- (b) whether or not the animal is desexed,
- (c) in the case of a dog—whether the animal is a dangerous dog and, if so, on what date the relevant order or declaration was made,
- (d) in the case of a dog—whether the animal has been declared under Division 6 of Part 5 of the Act to be a restricted dog and, if so, the date on which the declaration took effect,
- (e) the date of registration,
- (f) if the animal's registration was cancelled under clause 18 (4) at any time but subsequently reinstated—the date the reinstatement of the registration took effect.

#### **21 Exemption while registration application pending**

- (1) While an application for registration of a companion animal (including an application required by clause 22) is pending, the animal is exempt from sections 9, 10, 10A, 10B, 51 (1) (k) and 56 (1) (h) of the Act.

Companion Animals Regulation 2008

Clause 22

Registration of companion animals

Part 3

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- (2) An application is *pending* from the time the application is properly made to the Director-General or a registration agent and payment is tendered of any registration fee payable for registration of the animal until the animal is registered pursuant to the application.

## 22 Requirement for registration of nuisance and other animals

- (1) If an order is issued in respect of an animal under section 21 (Nuisance dogs) or 31 (Nuisance cats) of the Act and the animal is not otherwise required to be registered under the Act, the council of the area in which the animal is ordinarily kept may, by notice in writing given to the owner of the animal, direct that the animal must be registered under the Act before a specified date (being a date not less than 7 days after the notice is given).
- (2) If a person is convicted of an offence under the Act or pays an amount under section 92 (Penalty notices) of the Act, the council of the area in which any companion animal currently owned by the person is kept may, by notice in writing given to the person, direct that any such animal that is not otherwise required to be registered under the Act must be registered under the Act before a specified date (being a date not less than 7 days after the notice is given).
- (3) An animal to which a notice under this clause applies must be registered under the Act before the date as specified in the notice.

**Note.** Section 10 of the Act allows the regulations to require a particular class or description of companion animal (not otherwise required to be registered) to be registered, and makes the owner of such an animal guilty of an offence if it is not registered.

## 23 Requirement for registration of lost and impounded animals

A companion animal not otherwise required to be registered under the Act that is taken into the custody of a council (including in a council pound) or an approved animal welfare organisation must be registered under the Act before it is returned to its owner from that custody.

Clause 24 Companion Animals Regulation 2008

Part 4 Dangerous or restricted dogs

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## Part 4 Dangerous or restricted dogs

### 24 Enclosure requirements for dangerous or restricted dogs

- (1) For the purposes of sections 51 (1) (c) and 56 (1) (a1) of the Act, the requirements set out in subclauses (2)–(4) are prescribed as the requirements that must be complied with in relation to an enclosure for a dangerous or restricted dog.
- (2) The enclosure must:
  - (a) be fully enclosed, constructed and maintained in such a way so that the dog is not able to dig or otherwise escape under, over or through the enclosure, and
  - (b) be constructed in such a way so that a person cannot have access to it without the assistance of an occupier of the property who is above the age of 18 years, and
  - (c) be designed to prevent children from having access to the enclosure, and
  - (d) not be located on the property in such a way so that people are required to pass through the enclosure to gain access to other parts of the property, and
  - (e) have a minimum height of 1.8 m and a minimum width of 1.8 m, and
  - (f) have an area of not less than 10 square metres for each dangerous or restricted dog kept on the property, and
  - (g) have walls that are fixed to the floor and constructed to be no more than 50 mm from the floor, and
  - (h) have walls, a fixed covering and a gate that are constructed of:
    - (i) brick, timber, iron or similar solid materials, or
    - (ii) mesh that complies with subclause (4), or
    - (iii) a combination of the materials referred to in subparagraphs (i) and (ii), and
  - (i) have a floor that is constructed of sealed concrete and graded to fall to a drain for the removal of effluent, and
  - (j) provide a weatherproof sleeping area of sufficient dimensions to enable each dangerous or restricted dog kept on the property to shelter from the weather.

Companion Animals Regulation 2008

Clause 25

Dangerous or restricted dogs

Part 4

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- (3) Any gate to the enclosure must:
- (a) contain a self-closing and self-latching mechanism that enables the enclosure to be securely locked when the dog is in the enclosure, and
  - (b) be kept locked when the dog is in the enclosure, and
  - (c) display the warning sign referred to in clause 26.
- (4) Mesh used in the construction of an enclosure must be:
- (a) chain mesh manufactured from at least 3.15 mm wire to form a maximum mesh spacing of 50 mm, or
  - (b) weldmesh manufactured from at least 4 mm wire with a maximum mesh spacing of 50 mm.

**25 Maximum fee for issuing certificate of compliance in relation to prescribed enclosure**

For the purposes of section 58H (2) (b) of the Act, the fee of \$100 is prescribed.

**26 Warning signs for dangerous or restricted dogs**

- (1) For the purposes of sections 51 (1) (d) and 56 (1) (c) of the Act, a sign or signs complying with subclause (2) must be situated so that the words “Warning Dangerous Dog” are legible to any person immediately before entering the property by way of any gate, door or other entry point.
- (2) Each such sign must:
- (a) be no smaller than 40 cm × 40 cm, and
  - (b) be made of durable materials, and
  - (c) show the words “Warning Dangerous Dog” in letters that are, in any case, at least 50 mm high and 10 mm wide.

**27 Distinctive collars for dangerous or restricted dogs**

- (1) For the purposes of sections 51 (1) (d1) and 56 (1) (c1) of the Act, a collar is of the prescribed kind if:
- (a) it consists of red stripes alternatively spaced with yellow stripes, each stripe being 25 mm wide and set diagonal to the rim of the collar at an angle of 45 degrees, and
  - (b) all of the stripes of at least 1 of the 2 colours are sufficiently reflective so as to be visible in low light, and
  - (c) it is made of durable materials, and
  - (d) it is able to be securely fastened, and

Clause 28 Companion Animals Regulation 2008

Part 4 Dangerous or restricted dogs

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- (e) it has a device or other facility that enables it to be attached to a leash, and
  - (f) it has a minimum width of:
    - (i) 25 mm for a dog weighing less than 20 kg, or
    - (ii) 40 mm for a dog weighing between 20 kg and 40 kg, or
    - (iii) 50 mm for a dog weighing more than 40 kg.
- (2) A dog must not wear any such collar unless the dog is a dangerous dog or a restricted dog.
- (3) If subclause (2) is contravened:
- (a) the owner of the dog, or
  - (b) if the owner is not present at the time of the offence and another person who is of or above the age of 16 years is in charge of the dog at that time—that other person,
- is guilty of an offence.  
Maximum penalty: 8 penalty units.
- (4) A person does not commit an offence under this clause if the person does not know, or could not reasonably be expected to know, that the collar is of the kind prescribed for the purposes of section 51 (1) (d1) or 56 (1) (c1) of the Act.

**28 Breed identification or registration certificates issued by Canine Council**

Any breed identification certificate or breed registration certificate issued by the Royal New South Wales Canine Council Limited in relation to a dog is prescribed for the purposes of section 58C (3) of the Act, but only if the certificate contains the unique identification number allocated to the microchip that has been implanted in the dog in connection with its identification under this Regulation.

Companion Animals Regulation 2008

Clause 29

General

Part 5

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## Part 5 General

### 29 Local authority for certain places

- (1) Pursuant to section 6 (2) of the Act, the functions of the local authority for any of the following places specified below are, for the purposes of the provisions of the Act specified in subclause (2), to be exercised by the person specified below in relation to that place:
- (a) the Trust lands within the meaning of the *Centennial Park and Moore Park Trust Act 1983*—the Centennial Park and Moore Park Trust,
  - (b) Sydney Olympic Park within the meaning of the *Sydney Olympic Park Authority Act 2001*—the Sydney Olympic Park Authority,
  - (c) the trust lands within the meaning of the *Parramatta Park Trust Act 2001*—the Parramatta Park Trust.
- (2) The provisions of the Act are as follows:
- (a) sections 12, 13, 14, 15, 20, 29 and 30,
  - (b) sections 69E, 69F, 69G, 69H and 92 in their application in respect of the provisions referred to in paragraph (a),
  - (c) the definition of *authorised officer* in section 5, in its application in respect of the provisions referred to in paragraphs (a) and (b).

**Note.** For a place specified in subclause (1), the relevant local authority functions are to be exercised by the person specified in respect of that place (instead of by the council of the area in which the place is located).

### 30 Notification of changes and events by owners of identified companion animals

- (1) A notification for the purposes of section 11 of the Act:
- (a) in the case of the notification of the death of a companion animal—is to be given by telephone or in writing in the approved form, and
  - (b) in any other case—is to be given in writing in the approved form, and
  - (c) may be given to the Director-General by being given to a registration agent.
- (2) Section 11 (1) of the Act, in so far as it imposes an obligation to notify the Director-General of the change of ownership of an identified companion animal that is registered, does not impose that obligation on the new owner.

**Note.** Section 11 (3) of the Act provides that, in the event of a change of ownership of a registered animal, the certificate of registration showing the registration information as changed is to be provided to the new owner.

Clause 31 Companion Animals Regulation 2008

Part 5 General

- (3) Section 11 (1) of the Act does not apply to the owner of a category 3 or category 4 companion animal if the identification information for the animal has not been entered on the Register.

**31 Former owner to notify change of ownership of unregistered animal**

- (1) If the ownership of an identified companion animal that is not registered changes, the person who ceases to be the owner of the animal is to notify the Director-General of that change of ownership.  
Maximum penalty: 8 penalty units.
- (2) This clause does not affect any obligation of the owner of an identified companion animal that is not registered to notify the Director-General under section 11 (1) of the Act in respect of the change of ownership.

**32 Payments out of Companion Animals Fund**

- (1) An amount, as determined by the Director-General from time to time, is to be paid to a registration agent from the Fund, out of amounts collected as registration fees under the Act.
- (2) Different amounts may be determined under subclause (1) for different registration agents or classes of registration agent.

**Note.** The amounts payable to registration agents are paid out of the Companion Animals Fund established under the Act (into which registration fees are paid). Arrangements can be made by the Director-General under section 85 (4) of the Act for an agent to deduct an amount payable to that agent at the point of payment of registration fees.

**33 Listing of identification or registration information on databases**

For the purposes of section 89 (4) (d) of the Act, a database is of a prescribed class if it operates primarily for the purposes of the recovery of lost animals.

**34 Penalty notice offences**

- (1) For the purposes of section 92 of the Act:
- (a) each offence created by a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence, and
  - (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 1.
- (2) If the reference to a provision in Column 1 of Schedule 1 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or is committed in the circumstances so specified.

Companion Animals Regulation 2008

Clause 35

General

Part 5

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**35 Notices**

- (1) A notice that is required to be given in writing under this Regulation may be served personally or by post.
- (2) If a council is required under the Act to notify the Director-General of any matter, the notice is to be given in accordance with such arrangements as may be determined by the Director-General.

**36 Savings**

Any act, matter or thing that had effect under the *Companion Animals Regulation 1999* immediately before the repeal of that Regulation is taken to have effect under this Regulation.



## Companion Animals Regulation 2008

Schedule 1 Penalty notice offences

**Schedule 1 Penalty notice offences**

(Clause 34)

<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
<b>Offences under the Act</b>	
Section 8 (3)	\$1,320 (in the case of a dangerous or restricted dog) or \$165 (in any other case)
Section 8 (4)	\$1,320 (in the case of a dangerous or restricted dog) or \$165 (in any other case)
Section 9 (1)	\$1,320 (in the case of a dangerous or restricted dog) or \$165 (in any other case)
Section 10	\$1,320 (in the case of a dangerous or restricted dog) or \$165 (in any other case)
Section 10A	\$550 (in the case of a dangerous or restricted dog) or \$165 (in any other case)
Section 10B (2)	\$550 (in the case of a dangerous or restricted dog) or \$165 (in any other case)
Section 11 (1) (but only in relation to the matters referred to in section 11 (1) (a), (b) or (d1))	\$1,320 (in the case of a dangerous or restricted dog) or \$165 (in any other case)
Section 12 (2)	\$1,320 (in the case of a dangerous or restricted dog) or \$165 (in any other case)
Section 12A (1)	\$220
Section 13 (2)	\$1,760 (in the case of a dangerous or restricted dog) or \$220 (in any other case)
Section 14 (2)	\$1,760 (in the case of a dangerous or restricted dog) or \$330 (in any other case)
Section 15 (2)	\$165
Section 16 (1) (but only in the case of a dog that is not a dangerous or restricted dog)	\$550
Section 20 (1)	\$275
Section 21 (5)	\$275
Section 29 (3)	\$110
Section 30 (2)	\$110

## Companion Animals Regulation 2008

Penalty notice offences

Schedule 1

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<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
Section 31 (5)	\$165
Section 36 (1)	\$1,320
Section 51 (2)	\$1,320
Section 52A (1)	\$1,320
Section 52B (1)	\$1,320
Section 56 (2)	\$1,320
Section 57A (1)	\$1,320
Section 57B (1)	\$1,320
Section 57C	\$1,320
Section 58B (1)	\$1,320
Section 60 (1)	\$165
Section 61 (1)	\$165
Section 62 (1)	\$550
Section 69G (2)	\$275
Section 76 (1)	\$165
<b>Offences under this Regulation</b>	
Clause 6 (1)	\$275
Clause 6 (2)	\$165
Clause 27 (3)	\$220
Clause 31 (1)	\$165

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New South Wales

# Conveyancing (General) Regulation 2008

under the

Conveyancing Act 1919

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Conveyancing Act 1919*.

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

## Explanatory note

The object of this Regulation is to remake, with various modifications, the *Conveyancing (General) Regulation 2003*, which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation contains provisions with respect to the following matters:

- (a) the registration of instruments in the General Register of Deeds,
- (b) the register of plans, including the lodgment of plans for registration and the form in which plans are to be lodged,
- (c) the lodgment of administration sheets with the Registrar-General containing signatures required in connection with the lodgment of plans, including the electronic lodgment of plans,
- (d) requirements as to the form and content of certain documents lodged with the Registrar-General, including deposited plans affecting interests in land and section 88B instruments (relating to the creation or release of an easement, profit à prendre or restriction on the use of land by a plan),
- (e) the manner in which a requisition for a search of old system title land, or a certificate of such a search, is to be made,
- (f) the times at which information in the registers kept under the *Conveyancing Act 1919* is to be made available to the public for searches and the manner in which such information is to be provided to an applicant,
- (g) the payment of fees,
- (h) prescribing the form of certain documents required under the *Conveyancing Act 1919*,

Conveyancing (General) Regulation 2008

Explanatory note

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- (i) requirements relating to the attestation of certain instruments,
- (j) prescribing authorities for the purposes of provisions of the *Conveyancing Act 1919* dealing with the creation of certain easements and the imposition of restrictions and public positive covenants on land,
- (k) prescribing the period during which the Registrar-General may require production in electronic format or hard copy of certain documents lodged in electronic form,
- (l) prescribing documents that may be reproduced in hard copy by the Registrar-General from electronic format where the copy has the same effect as the original document,
- (m) savings and transitional matters.

This Regulation is made under the *Conveyancing Act 1919*, including section 202 (the general regulation-making power).

## Conveyancing (General) Regulation 2008

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Clause 1	Conveyancing (General) Regulation 2008
Part 1	Preliminary

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## Conveyancing (General) Regulation 2008

under the

Conveyancing Act 1919

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Conveyancing (General) Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Conveyancing (General) Regulation 2003* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**administration sheet**, in relation to a plan, means the separate document, in the approved form, required to be lodged with the plan under section 195A of the Act.

**approved** means approved for the time being by the Registrar-General.

**deeds index particulars form** means an approved form setting out the particulars of or relating to an instrument that is signed and lodged for registration under section 184D (1) of the Act.

**deposited plan** means a plan (other than a strata plan) lodged for registration or recording in the office of the Registrar-General.

**identified document** means a document specified for the purposes of section 203A of the Act in clause 57.

**plan of survey** means a formal land survey plan within the meaning of the *Surveying Act 2002*.

**register of plans** means the register of plans kept by the Registrar-General that includes plans registered under Division 3 of Part 23 of the Act and strata plans registered under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.



Conveyancing (General) Regulation 2008

Clause 3

Preliminary

Part 1

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**roads plan** means a plan prepared for the purpose of the acquisition, opening or closing of one or more roads.

**section 88B instrument** means an instrument of a kind that:

- (a) under clause 35, is required to accompany a deposited plan that creates an easement, profit à prendre, restriction or positive covenant, or
- (b) under clause 36, is required to accompany a deposited plan that releases an easement or profit à prendre,

under section 88B of the Act, and includes a section 88B instrument within the meaning of the *Strata Schemes (Freehold Development) Regulation 2007* or the *Strata Schemes (Leasehold Development) Regulation 2007*.

**strata plan** means a strata plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

**the Act** means the *Conveyancing Act 1919*.

- (2) Notes included in this Regulation do not form part of this Regulation.

Clause 4            Conveyancing (General) Regulation 2008

Part 2             The General Register of Deeds

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## **Part 2    The General Register of Deeds**

### **4    Registration of instruments generally**

- (1) An instrument that is lodged for registration in the General Register of Deeds must be accompanied by:
  - (a) a registration copy of the instrument or a request that a registration copy of the instrument be prepared by the Registrar-General, and
  - (b) a completed deeds index particulars form that includes the certificate referred to in section 184D (3) of the Act, and
  - (c) the relevant fee as set out in Schedule 1, and
  - (d) a completed statement of the title particulars in the approved form, if required by the Registrar-General, and
  - (e) a completed notice of sale in the approved form, if required by the Registrar-General.
- (2) This clause does not apply to the registration of writs, court orders or legal proceedings under section 186 of the Act, the registration of notices of resumption under section 196A of the Act or the registration of notifications of compulsory acquisition under a Commonwealth Act.

### **5    Registration of writs, court orders or legal proceedings**

- (1) An application for registration of a writ, court order or legal proceedings in the General Register of Deeds under section 186 of the Act must be in the approved form and must be accompanied by:
  - (a) the original or a copy of the writ, court order or legal proceedings, and
  - (b) a completed deeds index particulars form that includes the certificate referred to in section 184D (3) of the Act, and
  - (c) the relevant fee as set out in Schedule 1,and may also be accompanied by a registration copy of the writ, court order or legal proceedings concerned.
- (2) For the purposes of section 186 (2) of the Act, the prescribed manner in which registration of a writ, order or current legal proceedings in the General Register of Deeds is to be renewed is by means of an application in the approved form accompanied by the relevant fee as set out in Schedule 1.

Conveyancing (General) Regulation 2008

Clause 6

The General Register of Deeds

Part 2

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## 6 Registration of notices of resumption

A notice of resumption that is lodged for registration in the General Register of Deeds under section 196A (3) (a) of the Act:

- (a) must be in the form of Form 1 as set out in Schedule 2 (executed by the resuming authority or by an agent appointed by the resuming authority to execute the notice on its behalf), and
- (b) must be accompanied by:
  - (i) a completed deeds index particulars form that includes the certificate referred to in section 184D (3) of the Act, and
  - (ii) the relevant fee as set out in Schedule 1, and
  - (iii) a completed notice of sale in the approved form, if required by the Registrar-General.

## 7 Production of instrument etc and copy

- (1) An instrument that is lodged for registration in the General Register of Deeds (including any accompanying application and any registration copy of the instrument or application):
  - (a) must have endorsed on it the name, address and DX box number (if any) of the person by whom or on whose behalf it is lodged, and
  - (b) must be produced in such manner as may be approved at the office of the Registrar-General.
- (2) Documents that are lodged for registration must not be bound together except by means of a pin, staple or split pin or other similar means acceptable to the Registrar-General.

## 8 Certificate to accompany instrument for registration

For the purposes of section 184D (3) of the Act, the certificate to accompany an instrument for registration must be signed by:

- (a) the person lodging the instrument, or
- (b) a party to the instrument, or
- (c) a solicitor or agent acting for the person lodging, or a party to, the instrument.

## 9 Instruments to comply with Schedule 3 requirements

An instrument lodged for registration in the General Register of Deeds (including any accompanying application and any registration copy of the instrument or application) must comply with the requirements set out in Schedule 3.

Clause 10      Conveyancing (General) Regulation 2008

Part 2          The General Register of Deeds

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**10 Plans and diagrams to comply with Schedule 3 requirements**

The registration copy of a plan or diagram annexed to an instrument or, if no registration copy is lodged, the plan or diagram from which a registration copy is to be prepared by the Registrar-General:

- (a) must comply with the requirements set out in clauses 3, 4 (1) and (2), 6, 7 and 9–14 of Schedule 3, and
- (b) must have all line work, dimensions, hatchings and notations in dense black ink, and
- (c) must not have on it any coloured ink, and
- (d) must have margins of not less than 10 mm on the top, bottom and sides.

**11 Allocation of distinctive references to instruments**

For the purposes of section 184E (1) of the Act, the Registrar-General is to allocate a distinctive reference to an instrument by placing the distinctive reference and the Registrar-General's seal on the original instrument and on the registration copy (if any) of the instrument.

**12 Vacation of registration**

For the purposes of section 190A (3) of the Act, an application for vacation of a registration under Division 2 of Part 23 of the Act must:

- (a) be made in the approved form, and
- (b) be accompanied by the relevant fee as set out in Schedule 1.

Conveyancing (General) Regulation 2008

Clause 13

Register of plans

Part 3

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## **Part 3 Register of plans**

### **Division 1 General**

#### **13 Particulars of deposited plans to be recorded**

The Registrar-General is to record in the register of plans particulars of all deposited plans registered or recorded under Division 3 of Part 23 of the Act.

#### **14 Certain deposited plans to be plans of survey**

- (1) A deposited plan containing 5 lots or more must be in the form of a plan of survey unless the Registrar-General otherwise permits.
- (2) A deposited plan containing 4 lots or less must be in the form of a plan of survey if the Registrar-General so requires.

#### **15 Numbering of parcels**

- (1) All parcels of land (including parcels intended for public reserves and drainage reserves) must be numbered consecutively in strict numerical sequence, using no more than 4 numerals for each parcel number.
- (2) All parcels of land that are intended to be dedicated as roads must be numbered consecutively in strict numerical sequence, using no more than 4 numerals for each parcel number, if the Registrar-General has required them to be so numbered.
- (3) Parcels must not be identified by reference to a "section" or "block".
- (4) The complete dimensions (including area) of each parcel must be shown.
- (5) Each deposited plan must include (if required by the Registrar-General) a table indicating the street address of each parcel shown in the plan.

#### **16 Other information on plans**

The following matters must be shown in the relevant spaces of the information panels of a deposited plan:

- (a) the name of the surveyor who carried out the relevant survey,
- (b) the surveyor's reference,
- (c) the date of the survey,
- (d) the reduction ratio at which the plan is drawn,

Clause 17      Conveyancing (General) Regulation 2008

Part 3          Register of plans

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- (e) the plan heading,
- (f) the local government area,
- (g) the locality,
- (h) the subdivision certificate number.

**17 Technical requirements**

- (1) For the purpose of facilitating the lodgment of plans and other documents electronically:
  - (a) the Registrar-General may determine standard technical requirements with respect to the preparation and lodgment of plans and other documents lodged electronically, and
  - (b) without limiting section 195AA (5) of the Act, an approval under that subsection may require a person lodging such plans or documents electronically to do so in accordance with the requirements determined under paragraph (a).
- (2) The Registrar-General may make the requirements determined under subclause (1) available through the Registrar-General's Directions published on the internet.

**18 Plans lodged for registration as deposited plans to comply with Schedule 5 or Schedules 6 and 8 requirements**

- (1) A plan lodged by hand for registration at the office of the Registrar-General as a deposited plan must comply with the requirements set out in Schedule 5.
- (2) If the Registrar-General permits a plan to be lodged electronically for registration as a deposited plan:
  - (a) if the plan is in an image file format—the plan must comply with the requirements set out in Schedule 6, and
  - (b) if the plan is not in an image file format—the plan must comply with the requirements set out in clauses 1 (1), 2 (1), 13, 14, 15 and 16 of Schedule 6, and
  - (c) other documents lodged with the plan must also be lodged electronically and the requirements set out in Schedule 8 must be complied with, except in the case of a document referred to in clause 25 (5).

Conveyancing (General) Regulation 2008

Clause 19

Register of plans

Part 3

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**19 Particulars on a deposited plan that is a plan of survey**

A deposited plan that comprises a plan of survey must contain the following particulars:

- (a) references to any marks of former surveys used, or in respect of which connections are shown, and the recorded numbers of the plans of those surveys,
- (b) the widths of all roads indicated in the plan and of their footways and carriageways if defined by alignment,
- (c) information sufficient to indicate that the external boundaries have been properly established and do not include any part of adjoining properties or roads,
- (d) the present name of every road shown in the plan.

**20 Particulars on a deposited plan that is not a plan of survey**

A deposited plan that does not comprise a plan of survey must contain the following particulars:

- (a) sufficient connections to locate each parcel comprised in the plan,
- (b) the date of preparation of the plan,
- (c) the present name of every road shown in the plan.

**21 Cadastral record identifying locations and names of roads**

The Registrar-General is to maintain a cadastral record, being a record of mapping and titling information referenced to the Digital Cadastral Database (DCDB) in which the locations and, where appropriate, names of roads are identified for the purposes of clauses 19 and 20.

**22 Particulars regarding road name required if variance from cadastral record**

If the name of a road shown in a plan referred to in clause 19 or 20 differs from that shown on the cadastral record referred to in clause 21, the plan must be accompanied by a letter from the appropriate authority confirming the change of name and the extent of the change.

**23 Lodgment of plans by hand**

- (1) A person lodging a plan by hand for registration in the office of the Registrar-General must produce the plan at that office in such manner as may be approved.

Clause 24 Conveyancing (General) Regulation 2008

Part 3 Register of plans

- (2) The original plan must be accompanied by the following:
- (a) a completed plan lodgment form in the approved form,
  - (b) a completed statement of the title particulars in the approved form, if required by the Registrar-General,
  - (c) one print of each sheet of the plan (each sheet being a positive reproduction on a light background),
  - (d) the relevant fee as set out in Schedule 1,
  - (e) a completed plan checklist in the approved form, if required by the Registrar-General,
  - (f) such certificates of titles, and such instruments as the Registrar-General may require.

**Note.** Section 195A of the Act requires a plan to be lodged with a separate document in the approved form relating to the plan. Such a document is called an **administration sheet** in this Regulation. Division 2 makes provision for administration sheets, including by requiring compliance with Schedule 4.

- (3) If required by the Registrar-General, such geometry files (in the form of electronic data files in a format approved by the Registrar-General) relating to the original plan as are specified by the Registrar-General must be lodged in accordance with the requirements determined under clause 17.

#### **24 Replacement plan for plan lodged by hand may be lodged electronically**

- (1) This clause applies to a plan lodged by hand for registration if no signatures or seals appear on the plan drawing sheets.
- (2) The Registrar-General may permit a replacement plan to be lodged electronically in respect of a plan to which this clause applies if:
  - (a) the Registrar-General has issued a requisition or requirement to the effect that a specified thing is to be done by a registered surveyor in respect of the plan, and
  - (b) the replacement plan is lodged by a registered surveyor who is:
    - (i) authorised under the *Surveying Act 2002* or any other law to do the thing specified by the Registrar-General, and
    - (ii) an approved person, and
    - (iii) authorised, by way of the plan lodgment form or other instrument in writing, to lodge the replacement plan by the person who lodged the plan by hand.
- (3) A replacement plan permitted to be lodged electronically under this clause is to be lodged in accordance with clause 25, except that an administration sheet is not required to be lodged with the replacement plan unless the Registrar-General so directs.



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## 25 Lodgment of plans electronically

- (1) An approved person lodging a plan electronically for registration in the office of the Registrar-General must lodge the plan in accordance with the e-plan system or otherwise with the consent of the Registrar-General.

**Note.** The e-plan system is explained in section 195AA of the Act.

- (2) Plan lodgment details must be provided in the manner required by the Registrar-General.
- (3) The electronic data file containing the plan in electronic form must be accompanied by electronic data files containing in electronic form:
- (a) a completed plan checklist in the approved form, if required by the Registrar-General, and
  - (b) such other instruments and data as the Registrar-General may require.

**Note.** Section 195A of the Act requires a plan to be lodged with a separate document in the approved form relating to the plan. Such a document is called an **administration sheet** in this Regulation. Division 2 makes provision for administration sheets, including by requiring compliance with Schedule 4 and, where appropriate, Schedule 7.

- (4) The relevant fee as set out in Schedule 1 must be paid in the manner and by the time specified by the Registrar-General.
- (5) The following original documents may not be lodged electronically but must be produced and lodged by hand at the office of the Registrar-General or in some other manner (not being electronically) specified by the Registrar-General:
- (a) such certificates of title, deeds, office copies of court orders, powers of attorney and statutory declarations as the Registrar-General may require,
  - (b) a completed statement of title particulars in the approved form, if required by the Registrar-General,
  - (c) a primary application and associated documents, if required by the Registrar-General,
  - (d) such consents in writing to the registration of the plan signed by a lessee, caveator, judgment creditor or other person, as may be required by the Registrar-General,
  - (e) any other original documents that may be required by the Registrar-General.

## 26 Miscellaneous plans: section 195

For the purposes of paragraph (c) of the definition of *miscellaneous plan* in section 195 (1) of the Act, the following matters are prescribed

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as matters which, if shown on a plan, constitute the plan as a miscellaneous plan:

- (a) matter indicating the site of an easement, profit à prendre, restriction or positive covenant to be created under section 88B of the Act,
- (b) matter indicating the site of an easement or profit à prendre to be released under section 88B of the Act,
- (c) matter indicating minor adjustments to the boundaries of development lots and association property within the meaning of the *Community Land Development Act 1989* in such a manner as to constitute the plan as a boundary adjustment plan within the meaning of that Act,
- (d) matter indicating a division of land effected prior to 1 July 1920 by the erection of structures (such as buildings, walls and fences), being matter that states:
  - (i) that the various parts of the land so divided are separately rateable under the *Local Government Act 1993*, and
  - (ii) that the structures that are currently on the land are in the same position as were the structures by which the division of land was effected.

#### 27 Plans of identification: section 195

For the purposes of paragraph (i) of the definition of *plan of identification* in section 195 (1) of the Act, the following plans are plans of identification:

A plan supporting a primary application to bring land under the provisions of the *Real Property Act 1900*, being land in respect of which the applicant claims to have acquired title wholly or partly by adverse possession.

#### Division 2 Administration sheet

**Note.** Section 195A of the Act provides that, if a plan is lodged (whether by hand or electronically) the plan must be lodged with a separate document in the form approved by the Registrar-General. Such a document is called an *administration sheet* in this Regulation. Signatures are required to be endorsed on the administration sheet by section 195D of the Act.

#### 28 Content of the administration sheet

The administration sheet:

- (a) must repeat the plan heading and the surveyor's reference in the appropriate panels on each sheet of the approved form, and
- (b) must include any statement of intention to dedicate a public road (including a temporary public road) under the *Roads Act 1993* or

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to create a public reserve or drainage reserve under the *Local Government Act 1993*, and

- (c) must contain all the certificates required by the Registrar-General, endorsed in the appropriate panels on the approved form, and
- (d) in the case of an administration sheet for a deposited plan that does not comprise a plan of survey:
  - (i) must contain a statement identifying the source of the information from which the plan has been compiled, and
  - (ii) must contain the original signature of the surveyor or other person who prepared the plan, signed on the surveyor certificate on the administration sheet, and
- (e) in the case of an administration sheet for a plan of subdivision:
  - (i) must contain the particulars of the subdivision certificate under an original signature of the person who gave the certificate, and
  - (ii) if it is a plan of subdivision for lease purposes (within the meaning of Division 3B of Part 2 of the Act)—must be endorsed by a subdivision certificate that states that the plan is a plan of subdivision for lease purposes, and
  - (iii) if it is a plan of subdivision for lease purposes (within the meaning of Division 3C of Part 2 of the Act)—must be endorsed by a subdivision certificate that states that the plan is a plan of subdivision for forestry lease purposes.

**Note.** Division 3 may require further matters to be included on the administration sheet.

**29 Administration sheet to comply with Schedule 4 or Schedules 4 and 7 requirements**

- (1) An administration sheet that is lodged by hand at the office of the Registrar-General must comply with the requirements set out in Schedule 4.
- (2) An administration sheet may be lodged electronically only if:
  - (a) the plan to which it relates is also lodged electronically, and
  - (b) the administration sheet complies with the requirements set out in Schedule 4 and is lodged in accordance with the requirements set out in Schedule 7.

**30 Refusal to accept an administration sheet**

The Registrar-General may refuse to accept an administration sheet that, in the Registrar-General's opinion, is not in the approved form or does not comply with or is not lodged in accordance with this Division.

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**31 Manner of lodging administration sheet**

- (1) If a plan is lodged by hand for registration, the administration sheet must also be lodged by hand.
- (2) If a plan is lodged electronically for registration, the administration sheet must also be lodged electronically.

**32 Registration of an administration sheet**

On registration of a deposited plan that is accompanied by an administration sheet, the administration sheet is to be registered in the register of plans.

**Division 3 Deposited plans affecting interests in land**

**33 Indication of site of proposed easement or variation of site of existing easement**

- (1) A notation referring to an intention to create or release an easement or profit à prendre, or to create a restriction or positive covenant, must be entered on the administration sheet if it is intended that it is to be created or released pursuant to section 88B of the Act.
- (2) However, a deposited plan may designate the site of a proposed easement, profit à prendre, restriction or positive covenant that is intended to be created (otherwise than by registration of the plan) by an instrument of grant or reservation, or the proposed varied site of an existing easement or profit à prendre that is intended to be varied by an instrument of variation, if:
  - (a) the designation of the site of the proposed easement, profit à prendre, restriction or positive covenant, or of the proposed variation of existing easement or profit à prendre, includes the word “proposed” or an abbreviation of that word, and
  - (b) no other statement of the intention to create or vary the easement or profit à prendre, or to create the restriction or positive covenant, is entered on the administration sheet.
- (3) For the purposes of section 88B of the Act, the designation of the site of a proposed easement, profit à prendre, restriction or positive covenant in accordance with subclause (2) is not taken to indicate in the prescribed manner an intention to create an easement, profit à prendre, restriction or positive covenant.
- (4) A notation referring to the proposed varied site of an existing easement or profit à prendre must not be entered on a deposited plan unless it is intended that the easement or profit à prendre is to be varied pursuant to section 47 (5A) of the *Real Property Act 1900*.

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Part 3

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#### **34 Indication of dedication of public roads or creation of reserves**

- (1) This clause applies to a deposited plan which, on registration, is intended to dedicate a public road (including a temporary public road) under the *Roads Act 1993* or to create a public reserve or drainage reserve under the *Local Government Act 1993*.
- (2) The statement of intention to dedicate the road or to create the reserve must be legibly printed on the administration sheet lodged with the plan.

#### **35 Indication of creation of easements**

- (1) In a deposited plan which, on registration, is intended to create an easement, profit à prendre, restriction or positive covenant pursuant to section 88B of the Act:
  - (a) a statement of intention to create the easement, profit à prendre, restriction or positive covenant must be legibly printed on the administration sheet lodged with the plan, and
  - (b) the site of an easement must be indicated in the plan-drawing area of the approved form with sufficient indication of the nature of the easement to distinguish it from any other easement intended to be created on registration of the plan, and
  - (c) if an easement is limited in height or depth, the levels of the limits must be related to Australian Height Datum (AHD) as defined in the *Surveying Act 2002*.
- (2) A statement of intention referred to in subclause (1) (a) must neither incorporate the text of the easement, profit à prendre, restriction or positive covenant nor specify the lots intended to be benefited and burdened.
- (3) The deposited plan must be accompanied by a section 88B instrument that complies with Division 4.

#### **36 Indication of release of easements**

- (1) This clause applies to a deposited plan which, on registration, is intended to release an easement or profit à prendre (in respect of some or all of the land to which it formerly applied) pursuant to section 88B of the Act.
- (2) If this clause applies:
  - (a) a statement of intention to release the easement or profit à prendre must be legibly printed on the administration sheet lodged with the plan, and
  - (b) sufficient information must be shown on the plan, or included in the relevant section 88B instrument, to indicate the extent of the release, and

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- (c) the deposited plan must be accompanied by a section 88B instrument that complies with Division 4.

#### **Division 4            Section 88B instruments**

##### **37    Form and content of section 88B instruments**

- (1) A section 88B instrument is to be in the approved form.
- (2) The instrument must, in Part 1 of the approved form, repeat each (if any) statement of intention to create an easement, profit à prendre, restriction or positive covenant in the same form (and, where there is more than one statement of intention, in the same order) as set out in the administration sheet lodged with the relevant plan.
- (3) The instrument must contain in Part 1 of the approved form, after each statement of intention referred to in subclause (2), a schedule setting out the lot numbers of the lots burdened by the easement, profit à prendre, restriction or positive covenant (numbered individually and in numerical sequence) and, opposite the lot number of each lot burdened:
  - (a) the numbers of the lots intended to receive the benefit of the easement, profit à prendre, restriction or positive covenant, and
  - (b) the name of any road to which any easement, profit à prendre, restriction or positive covenant is to be appurtenant, and
  - (c) the name of any body in whose favour any easement in gross or positive covenant without a dominant tenement is to be created, and
  - (d) the name of any prescribed authority in whose favour any restriction on the use of land or positive covenant that is of the type that may be imposed under section 88E of the Act is to be created.
- (4) The instrument must, in Part 1A of the approved form, repeat each (if any) statement of intention to release an easement or profit à prendre in the same form (and, where there is more than one, in the same order) as set out in the administration sheet lodged with the relevant plan.
- (5) The instrument must contain in Part 1A of the approved form, after each statement of intention referred to in subclause (4), a schedule setting out the lot numbers of the lots burdened by each easement or profit à prendre, if any, proposed to be released and, opposite the lot number of each lot burdened:
  - (a) the numbers of the lots that receive the benefit of the easement or profit à prendre, and
  - (b) the name of any road to which the easement is appurtenant, and

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(c) the name of any prescribed authority in whose favour any easement in gross was created.

- (6) If each lot in a plan is intended to be burdened by an easement, profit à prendre, restriction or positive covenant the benefit of which is intended to be received by every other lot in the plan, it is sufficient if the words “each lot” and “every other lot”, or words to the same effect, are respectively noted in the schedule.
- (7) Subject to subclause (8), the instrument is to set out, in Part 2 of the approved form, the text of each easement, profit à prendre, restriction or positive covenant referred to in the statements of intention set out in Part 1 or 1A of the approved form.
- (8) If a statement of intention in Part 1 or 1A of the instrument uses an expression, the meaning of which is provided for in the Act by section 88A and Schedule 4A or section 181A and Schedule 8, and it is intended:
- (a) that the expression have that meaning in the instrument—no text is to be set out in Part 2 of the approved form in respect of the statement of intention, or
  - (b) that the expression have another meaning in the instrument—the text of the relevant easement is to be set out in Part 2 of the approved form in respect of the statement of intention.
- (9) No sketch, drawing or other diagram is to appear on the instrument.

**38 Section 88B instruments to comply with Schedule 9 or Schedules 9 and 10 requirements**

- (1) A section 88B instrument that is lodged by hand at the office of the Registrar-General must comply with the requirements set out in Schedule 9.
- (2) A section 88B instrument that the Registrar-General permits to be lodged electronically must comply with the requirements set out in Schedule 9 and the requirements set out in Schedule 10 must also be complied with.

**39 Refusal to accept section 88B instruments**

The Registrar-General may refuse to accept a section 88B instrument which, in the Registrar-General’s opinion, does not comply with this Division.

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#### **40 Registration of section 88B instruments**

On registration of a deposited plan that is accompanied by a section 88B instrument, the section 88B instrument is, if accepted, to be registered in the register of plans.

### **Division 5 Additional provisions with respect to land under the Real Property Act 1900**

#### **41 Application of Division**

This Division applies to deposited plans with respect to land that is subject to the provisions of the *Real Property Act 1900*.

#### **42 Deposited plan relating to a limited folio**

A deposited plan which affects land comprised in a limited folio (within the meaning of the *Real Property Act 1900*) must be a plan of survey.

#### **43 Subdivision, consolidation or acquisition of part of land in a folio**

- (1) If a proposed subdivision, consolidation or acquisition of land, or a proposed acquisition, opening or closing of a road, does not comprise the whole of a parcel of land described in a folio of the Register kept under the *Real Property Act 1900*, the relevant deposited plan or roads plan must show the residue to scale.
- (2) The residue must be numbered as a separate parcel.
- (3) If the boundaries of the residue are extensive, the part of the plan showing the residue may be compiled, and the bearings for the boundaries omitted, unless the Registrar-General otherwise requires.
- (4) The Registrar-General may dispense with the requirement to show the residue:
  - (a) in the case of a public road, a public railway, an irrigation channel or land vested in the Maritime Authority of NSW, or
  - (b) in any other case where the Registrar-General considers that compliance with the requirement would be unduly onerous.

#### **44 Alteration of boundaries of strata title common property**

- (1) A deposited plan of subdivision or consolidation lodged for the purpose of altering the external boundaries of common property:
  - (a) created under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, and
  - (b) held by an owners corporation constituted under the relevant Act, and



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- (c) comprised in a folio of the Register kept under the *Real Property Act 1900*,  
must show to scale the whole of the common property as it will subsist after the alteration.
- (2) The common property must be numbered as a separate parcel in the plan.

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Part 4                Searches

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## **Part 4    Searches**

### **45    Official searches**

- (1) A requisition under section 197 of the Act for an official search of old system title land or a request for an office copy of a certificate of the result of such a search must be made on the approved form.
- (2) A requisition is to be limited to a single chain of title.
- (3) The relevant fee as set out in Schedule 1 must, if required by the Registrar-General, be paid before delivery of the office copy of a certificate of the result of a search.
- (4) If a requisition is withdrawn after commencement but before completion of a search, such fees as the Registrar-General determines having regard to the work done up to the time of withdrawal must be paid.
- (5) The Registrar-General may require an interim payment of fees before completion of a search.

### **46    Public searches**

For the purposes of section 199 of the Act:

- (a) the prescribed times at which information in registers kept under the Act is to be made available are 8.30 am to 4.30 pm each day (other than a Saturday, Sunday or public holiday) or such other times as the Registrar-General directs, and
- (b) the prescribed manner in which such information is to be made available in response to a requisition requiring dispatch of information by post, facsimile or other approved means is by the Registrar-General furnishing a copy of the information, and
- (c) the prescribed fee is the relevant fee as set out in Schedule 1.

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Clause 47

Fees

Part 5

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## Part 5 Fees

### 47 Fees payable to the Registrar-General

- (1) The fees specified opposite the matters listed in Schedule 1 are payable to the Registrar-General in respect of those matters.
- (2) A fee is payable before the service to which the fee relates is provided or at such time and in accordance with such conditions as the Registrar-General may agree with the person paying the fee.

### 48 Fee payable to a prescribed authority for a certificate under section 88G of the Act

For the purposes of section 88G (3) of the Act, the fee payable to a prescribed authority for a certificate under that section is:

- (a) \$10, or
- (b) if the authority has inspected the relevant land for the purpose of issuing the certificate—\$35.

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Part 6 Miscellaneous

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## Part 6 Miscellaneous

### 49 Vacation of registrations

For the purposes of section 200 (2) of the Act, the prescribed form of application for vacation of a registration (other than a registration made under Division 2 of Part 23 of the Act) is the form of Form 2 as set out in Schedule 2.

### 50 Appointment of receiver by a mortgagee

An appointment of a receiver by a mortgagee under section 109 (1) (c) of the Act is not to be registered in the General Register of Deeds unless it is in the approved form.

### 51 Compliance with covenants to produce documents

- (1) A document that is deposited with the Registrar-General under section 64 of the Act for the purpose of complying with a covenant or undertaking to produce documents must be accompanied by a notice to that effect.
- (2) The notice must be in the approved form, must be lodged in duplicate and its particulars must not be handwritten.

### 52 Prescribed witnesses to deeds

For the purposes of section 38 (1A) (c) of the Act, a prescribed witness is:

- (a) in the case of a deed that is signed within Australia, any person of a class referred to in Part 1 of Schedule 11, or
- (b) in the case of a deed that is signed within a foreign country, any person of a class referred to in Part 2 of Schedule 11.

### 53 Easements in gross

- (1) For the purposes of section 88A of the Act, each of the following corporations is a prescribed authority:
  - (a) Hunter Water Corporation,
  - (b) Sydney Water Corporation,
  - (c) State Water Corporation,
  - (d) an irrigation corporation within the meaning of the *Water Management Act 2000*,
  - (e) an energy services corporation within the meaning of the *Energy Services Corporations Act 1995*,
  - (f) Rail Infrastructure Corporation,

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- (g) Australian Rail Track Corporation Ltd (ACN 081 455 754),
  - (h) The Albury Gas Co Ltd (ACN 000 001 249),
  - (i) Jemena Gas Networks (NSW) Ltd (ACN 003 004 322),
  - (j) Jemena Eastern Gas Pipeline (3) Pty Ltd (ACN 067 715 646),
  - (k) Telstra Corporation Limited (ACN 051 775 556),
  - (l) Vodafone Network Pty Limited (ACN 081 918 461),
  - (m) Integral Energy Gas Pty Limited (ACN 078 702 655),
  - (n) Actew Distribution Ltd (ACN 073 025 224),
  - (o) Jemena Networks (ACT) Pty Ltd (ACN 008 552 663),
  - (p) Rail Corporation New South Wales,
  - (q) Transport Infrastructure Development Corporation,
  - (r) Eastern Star Gas Limited (ACN 094 269 780),
  - (s) Narrabri Energy Pty Ltd (ACN 055 932 315),
  - (t) Narrabri Power Pty Ltd (ACN 104 570 943),
  - (u) Country Energy Gas Pty Limited (ACN 083 199 839),
  - (v) Directlink (No. 1) Pty Limited (ACN 085 123 468),
  - (w) Riverina Water County Council,
  - (x) Goldenfields Water County Council.

- (2) For the purposes of section 88A of the Act, a licensee is a prescribed authority, but only in respect of easements for the purpose of the construction and use of pipelines, for any purpose incidental to any such purpose and for the purpose of access to pipelines or to apparatus or works. Expressions used in this subclause have the same meanings they have in the *Pipelines Act 1967*.

**54 Imposition of restrictions or public positive covenants on certain land vested in prescribed authorities**

For the purposes of paragraph (c) of the definition of *prescribed authority* in section 88D (1) of the Act, each of the following is a prescribed authority:

- (a) Australian Postal Corporation,
- (b) Commonwealth Defence Housing Authority,
- (c) Hunter Water Corporation,
- (d) Sydney Water Corporation,
- (e) State Water Corporation,
- (f) Rail Infrastructure Corporation,

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- (g) an irrigation corporation within the meaning of the *Water Management Act 2000*,
- (h) The Uniting Church in Australia Property Trust (N.S.W.),
- (i) Rail Corporation New South Wales,
- (j) Transport Infrastructure Development Corporation,
- (k) Country Energy Gas Pty Limited (ACN 083 199 839),
- (l) an energy services corporation within the meaning of the *Energy Services Corporations Act 1995*,
- (m) Riverina Water County Council,
- (n) Goldenfields Water County Council.

**55 Regulation of use of land not held by a prescribed authority**

For the purposes of paragraph (c) of the definition of *prescribed authority* in section 88E (1) of the Act, each of the following is a prescribed authority:

- (a) Australian Postal Corporation,
- (b) Hunter Water Corporation,
- (c) Sydney Water Corporation,
- (d) Rail Infrastructure Corporation,
- (e) an irrigation corporation within the meaning of the *Water Management Act 2000*,
- (f) The Uniting Church in Australia Property Trust (N.S.W.),
- (g) Rail Corporation New South Wales,
- (h) Transport Infrastructure Development Corporation,
- (i) State Water Corporation,
- (j) Greening Australia (Capital Region) Ltd (ACN 110 484 181),
- (k) Country Energy Gas Pty Limited (ACN 083 199 839),
- (l) an energy services corporation within the meaning of the *Energy Services Corporations Act 1995*,
- (m) Riverina Water County Council,
- (n) Goldenfields Water County Council.

**56 Periods for retention of documents (section 196AB of the Act)**

For the purposes of section 196AB (2) (c) of the Act, the period prescribed is the period of 7 years commencing with the day on which the plan or other document was registered or recorded.

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Part 6

**57 Identified documents (section 203A of the Act)**

For the purposes of section 203A of the Act, each of the following is an identified document:

- (a) a section 88B instrument,
- (b) a building management statement referred to in Division 3B of Part 23 of the Act,
- (c) a statement of the by-laws referred to in section 8 (4B) of the *Strata Schemes (Freehold Development) Act 1973*,
- (d) a strata development contract referred to in Division 2A of Part 2 of the *Strata Schemes (Freehold Development) Act 1973*,
- (e) a strata management statement referred to in Division 2B of Part 2 of the *Strata Schemes (Freehold Development) Act 1973*,
- (f) a statement of the by-laws referred to in section 7 (2CC) of the *Strata Schemes (Leasehold Development) Act 1986*,
- (g) a strata development contract referred to in Division 5 of Part 2 of the *Strata Schemes (Leasehold Development) Act 1986*,
- (h) a strata management statement referred to in Division 5A of Part 2 of the *Strata Schemes (Leasehold Development) Act 1986*,
- (i) a development contract referred in section 5, 9, 13, 18 or 26 of the *Community Land Development Act 1989*,
- (j) a community, precinct or neighbourhood management statement referred to in section 5, 9, 13 or 18 of the *Community Land Development Act 1989*.

**58 Savings and transitional provisions**

- (1) Any act, matter or thing that had effect under the *Conveyancing (General) Regulation 2003* immediately before the commencement of this Regulation is taken to have effect under this Regulation.
- (2) For the removal of doubt, clause 37 (8) does not apply to an instrument lodged before 1 September 2008.

**59 Transitional provision consequent on the enactment of Environmental Planning and Assessment Amendment Act 1997**

- (1) This clause applies to:
  - (a) any plan of subdivision certified in accordance with section 327 (1) (d) or (2) (b) of the repealed Act, regardless of when the plan is certified or lodged with the Registrar-General for registration under the Act, and

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(b) any plan of the division of land (other than a plan of subdivision) lodged with the Registrar-General for registration under the Act before the appointed day.

(2) The provisions of:

(a) Division 3 of Part 23 of the Act, and

(b) the *Conveyancing (General) Regulation 1992*,

as in force immediately before the appointed day apply to and in respect of a plan to which this clause applies as if the 1997 amending Act had not been enacted, the *Conveyancing (General) Regulation 1992* had not been repealed and any regulation made under the *Conveyancing Act 1919* on or after the commencement of the 1997 amending Act had not been made.

(3) In this clause:

***appointed day*** means the day appointed under section 2 of the 1997 amending Act for the commencement of that Act.

***plan of subdivision*** has the same meaning as it had in section 327AA of the repealed Act.

***repealed Act*** means the *Local Government Act 1919*.

***the 1997 amending Act*** means the *Environmental Planning and Assessment Amendment Act 1997*.

#### **60 Amendment of Schedule 11, Part 1**

(1) Part 1 of Schedule 11 is amended on the commencement of Schedule 2 to the *Miscellaneous Acts (Local Court) Amendment Act 2007* by omitting “a Local Court” and inserting instead “the Local Court”.

(2) This clause is repealed on the day following the day on which Schedule 2 to the *Miscellaneous Acts (Local Court) Amendment Act 2007* commences.

(3) The repeal of this clause does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this clause.



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Fees

Schedule 1

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## Schedule 1 Fees

(Clauses 4, 5, 6, 12, 23, 25, 45, 46 and 47)

		\$
<b>Registration in the General Register of Deeds</b>		
1	For each registration, or renewal or vacation of registration, of any writ, order or legal proceedings made under Division 2 of Part 23 of the Act	88.00
2	For each registration of an agricultural goods mortgage or other security instrument within the meaning of the <i>Security Interests in Goods Act 2005</i> , or any other instrument relating to a registered security interest within the meaning of that Act, made under the <i>Security Interests in Goods Act 2005</i>	88.00
3	For registration under Division 5 of Part 6 of the Act of a memorandum containing provisions that are capable of being covenants that may be included in a security instrument that is registered under the <i>Security Interests in Goods Act 2005</i>	88.00
4	For recording or registering any instrument not otherwise provided for in this Schedule	88.00
5	On request for preparation of a registration copy of an instrument or part of an instrument	12.50 for up to 4 pages, and then 12.50 for each additional 4 pages or part of that number
	In addition, for preparation of the copy	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved
<b>Copies</b>		
6	For supplying a copy of a document or part of a document (other than a certified copy) in the custody of the Registrar-General:	
(a)	to any person attending an office of the Department of Lands	12.50
(b)	by electronic means to any agent licensed by the Department of Lands	6.35

## Conveyancing (General) Regulation 2008

## Schedule 1 Fees

		\$
	(c) to any person by some other means	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in providing the service
7	On lodgment of an application for a certified copy of a document or part of a document in the custody of the Registrar-General	92.00
	In addition, if a copy is prepared by a photocopying process	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in preparing the copy
8	In the case of a requisition for a copy available to any person attending an office of the Department of Lands that, in the opinion of the Registrar-General, is a request for a copy for which the above schedule of fees is not appropriate	Such reasonable fee (determined by the Registrar-General in negotiation with the requesting party) as is warranted by the cost incurred in providing the copy
9	On lodgment of an application for a copy of a document in the custody of the Registrar-General, other than a certified copy or a copy available to any person attending an office of the Department of Lands	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in preparing the copy
<b>Official searches (General Register of Deeds)</b>		
10	On requisition under section 197 of the Act:	
	(a) for an official search (including an office copy of the certificate of the result of the search)	200.00
	(b) for the continuation of an official search from the date of the prior certificate of the result of the search (including an office copy of the certificate of the result of the continuation of the search)	200.00
	In addition, for each quarter-hour or part of a quarter-hour occupied in the search or continuation of the search after the first hour	50.00

## Conveyancing (General) Regulation 2008

## Fees

## Schedule 1

	\$
11	92.00
On request for an office copy of the certificate of the result of an official search or continuation of an official search	
<b>Public searches (General Register of Deeds)</b>	
12	110.00
On requisition for a search, or the continuation of a search, of the General Register of Deeds	
	55.00
In addition, for each quarter-hour or part of a quarter-hour occupied in the search or continuation of the search after the first half-hour	
13	24.00
For supplying a copy (other than a certified copy) in response to a facsimile request for a document in the custody of the Registrar-General if no initial search is required	
	12.50
In addition, for a copy of each additional document required	
<b>Search for writs, orders or legal proceedings</b>	
14	12.50
For a search against each name (other than a search in response to a facsimile request)	
15	24.00
For a search in response to a facsimile request, in respect of a search for 1 or 2 names	
	12.50
In addition, for a search of each additional name in excess of 2	
<b>Search for security interests in goods (General Register of Deeds)</b>	
16	
For a search against each name:	
(a)	12.50
by any person attending an office of the Department of Lands	
(b)	6.35
by electronic means to any agent licensed by the Department of Lands	
(c)	
by any person by some other means	
	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in providing the service

## Conveyancing (General) Regulation 2008

## Schedule 1 Fees

		\$
<b>Plans</b>		
17	On lodgment for registration or recording of a plan (other than a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i> or a plan prepared solely for the purpose of placing survey information on public record):	
	(a) comprising no more than 2 lots	1,025.00
	(b) comprising more than 2 lots	1,230.00
	In addition, for each quarter-hour or part of a quarter-hour in excess of:	
	(a) the first 4 hours occupied in the examination of a plan referred to in paragraph (a) above	50.00
	(b) the first 6 hours occupied in the examination of a plan referred to in paragraph (b) above	50.00
	On lodgment for registration of a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i>	1,640.00
	In addition, for each quarter-hour or part of a quarter-hour in excess of the first 8 hours occupied in the examination of the plan	50.00
	In the case of land the subject of a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i> :	
	(a) for each additional sheet in excess of 4	92.00
	(b) for the management statement accompanying the community, precinct or neighbourhood plan, including any associated plans or sketches	307.50
	(c) for any development contract accompanying the community, precinct or neighbourhood plan	205.00
	In addition, for each lot, allotment or portion shown or separately defined on the plan	123.00
	And, if the plan is accompanied by a section 88B instrument, for each easement, restriction on the use of land, positive covenant or profit à prendre to be created, irrespective of the number of lots burdened or benefited, an additional	92.00

## Conveyancing (General) Regulation 2008

## Fees

## Schedule 1

	\$
And, if the plan is accompanied by a section 88B instrument, for each easement or profit à prendre to be released, irrespective of the number of lots burdened or benefited, an additional	92.00
And, if the plan is accompanied by a building management statement, an additional	307.50
And, if the plan is lodged for the purpose of consolidating 2 or more folios of the Register kept under the <i>Real Property Act 1900</i> —for each folio of the Register to be consolidated, an additional	17.00
And, if a plan lodged in connection with an application to bring land under the <i>Real Property Act 1900</i> includes land already under that Act and a consolidated folio of the Register kept under that Act is to be created—for each folio to be consolidated, an additional	17.00
18 On lodgment of an additional or replacement sheet in conjunction with an application to amend a registered community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i>	92.00
19 For recording a plan prepared solely for the purpose of placing survey information on public record	92.00
20 For examining a plan if survey information has been added to an original compiled plan as a result of a requisition	92.00
21 For pre-examination of a plan (other than a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i> ):	
(a) comprising no more than 2 lots	1,127.50
(b) comprising more than 2 lots	1,353.00
In addition, for each quarter-hour or part of a quarter-hour in excess of:	
(a) the first 4 hours occupied in the examination of the plan referred to in paragraph (a) above	55.00
(b) the first 6 hours occupied in the examination of the plan referred to in paragraph (b) above	55.00
22 For pre-examination of a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i>	1,804.00

## Conveyancing (General) Regulation 2008

## Schedule 1 Fees

	\$
	55.00
In addition, for each quarter-hour or part of a quarter-hour in excess of the first 8 hours occupied in the examination of the plan	
23 For preparation and supply of a plan	200.00
In addition, for each quarter-hour or part of a quarter-hour in excess of the first hour occupied in the preparation of the plan	50.00
24 On lodgment of an application for revival of a plan previously rejected or withdrawn	Such fee as would be appropriate to the plan as a new lodgment
25 On lodgment of a substituted plan or any sheet of such a plan or an additional sheet of a plan	92.00
26 On lodgment of a section 88B instrument in substitution for another such instrument or part of such instrument	Such fee as would be appropriate to the instrument as an original lodgment
27 On lodgment of an application to amend a plan	92.00
In addition, if the application involves the amendment of a Crown grant, a certificate of title or a folio of the Register kept under the <i>Real Property Act 1900</i> :	
(a) for the first grant, certificate or folio	92.00
(b) for each subsequent grant, certificate or folio	12.50
28 On lodgment of an application for an order terminating a neighbourhood scheme under section 72 of the <i>Community Land Development Act 1989</i>	92.00
In addition, for each quarter-hour or part of a quarter-hour occupied in examining the application	50.00
<b>Miscellaneous</b>	
29 For furnishing a certificate of ownership ( <i>Local Government Act 1993</i> —section 700 (2) or <i>Environmental Planning and Assessment Act 1979</i> —section 151 (2))	50.00
In addition, for each quarter-hour or part of a quarter-hour occupied in preparing the certificate of ownership after the first quarter-hour	50.00

## Conveyancing (General) Regulation 2008

## Fees

## Schedule 1

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		\$
30	On depositing a document or documents pursuant to section 64 of the Act	24.00
	In addition, for each document in excess of 4	4.00
31	On application for return of a document or documents deposited pursuant to section 64 of the Act	24.00
	In addition, for each document in excess of 4	4.00
32	For inspection of a packet containing a document or documents deposited pursuant to section 64 of the Act	24.00
33	For production of documents at the Office of State Revenue	22.00
34	On request for entry of a marginal note evidencing a discrepancy between an original instrument and a registered copy of the instrument	92.00

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Conveyancing (General) Regulation 2008

Schedule 2      Forms

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## Schedule 2      Forms

### Form 1      Notice of resumption of land not subject to the Real Property Act 1900

(Clause 6)

Conveyancing Act 1919, section 196A (3) (a)

Conveyancing (General) Regulation 2008, clause 6

(Extract from Government Gazette of notification of resumption)

I, [*Name and address of person signing the notice*], certify that the above matter is a true copy of the notification of resumption published in the Government Gazette on [*Date and page number*].

[*Signed and dated*]

### Form 2      Application for vacation of registration

(Clause 49)

Conveyancing Act 1919, section 200

Conveyancing (General) Regulation 2008, clause 49

I, [*Name and address of applicant*], apply for the vacation of the registration of [*Insert nature of instrument and its registration number*].

Evidence in support of my right to have the registration vacated is set out below/attached.

[*Signed and dated*]



Conveyancing (General) Regulation 2008

Requirements for instruments generally

Schedule 3

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## Schedule 3 Requirements for instruments generally

(Clauses 9 and 10)

### 1 Text

The text must be clearly printed or written:

- (a) across the width of each sheet of paper used, and
- (b) unless the Registrar-General otherwise permits, on one side only of each sheet.

### 2 Margins

The sheets used must have clear margins:

- (a) on the first sheet—of not less than 25 mm (top) and 10 mm (on each side and bottom), and
- (b) on each subsequent sheet—of not less than 10 mm (on each side and top and bottom).

### 3 Paper

The paper used must be:

- (a) archival paper of a quality approved by the Registrar-General, that is:
  - (i) white and free from discolouration and blemishes, and
  - (ii) of a paper density of not less than 80 grams per square metre (80 gsm), and
  - (iii) 297 mm in length by 210 mm in width (standard A4), or
- (b) such other paper as may be approved by the Registrar-General.

### 4 Lettering

- (1) Unless the Registrar-General otherwise approves, all words must be in the English language, and all letters, numbers and other symbols must be in a font style that is:
  - (a) at least 10 point (1.8 mm) in size, and
  - (b) dense black or dense dark blue in colour, and
  - (c) open in formation and construction, and
  - (d) in an upright style.
- (2) The lines must not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread or are liable to mark or damage an adjacent sheet, will not be accepted.

## Conveyancing (General) Regulation 2008

## Schedule 3 Requirements for instruments generally

- 
- (3) Handwriting and any imprint of a seal must be clear and legible and in dense black ink or dense dark blue ink.
- (4) Unless the Registrar-General otherwise approves or this Schedule provides otherwise, symbols may only be used for punctuation of text, and letters must be used instead of special symbols.

**5 Name and address**

The name and address of a witness who attested to the signing of an instrument is to be set out below the witness's attestation if the attestation does not include the name and address.

**6 Content must not extend into margin**

No printing, writing or other notation (other than directions or notations authorised by the Registrar-General or as otherwise provided for by this Schedule) must appear in, or extend into, the margin.

**7 Content must not extend into any seal**

No printing, writing or other notation must extend into any seal.

**8 Information to be included on registration copy**

In the top margin on the first sheet of a registration copy there must be printed or written the nature of the original instrument and a note of the stamp duty, if any, appearing on the original instrument.

**9 Alterations**

Alterations may only be made by striking through the matter intended to be altered or by interlineation and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid. An alteration must be verified by the parties to the instrument.

**10 Verification of alterations**

Signatures or initials verifying alterations must be placed in the margin as near as practicable to the alteration.

**11 No creases**

The instrument must be flat and free from creases caused by folding or otherwise.

Conveyancing (General) Regulation 2008

Requirements for instruments generally

Schedule 3

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**12 Registration copy must be true copy**

If a registration copy is made by a photographic or similar approved copying process, the image in the copy must be dense black, permanent, legible and clearly reproduce all details and notations visible on the original. The process must not affect the quality and permanence of the paper.

**13 Part lots**

A part of a lot must not be shown on a plan or diagram unless the whole of the lot is shown on another part of the plan or diagram, whether or not on the same sheet.

**14 Plans or diagrams**

Any plan or diagram included in, or annexed to, the instrument must not be in the form of a plan of survey unless the Registrar-General otherwise permits

Conveyancing (General) Regulation 2008

Schedule 4 Requirements for administration sheet

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## Schedule 4 Requirements for administration sheet

(Clause 29)

### 1 Use of approved form

Any signatures, seals or certificates that cannot satisfactorily be shown on one sheet may be shown on one or more additional sheets in the approved form. The total number of additional sheets must not be more than 5 unless the Registrar-General otherwise approves.

**Note.** An administration sheet is required by section 195A of the Act to be in the approved form. The completed administration sheet must be lodged with and in the same manner as the plan. This Schedule prescribes additional requirements.

### 2 Paper

The paper used must be:

- (a) archival paper of a quality approved by the Registrar-General, that is:
  - (i) white and free from discolouration and blemishes, and
  - (ii) of a paper density of not less than 80 grams per square metre (80 gsm), and
  - (iii) 297 mm in length by 210 mm in width (standard A4), or
- (b) such other paper as may be approved by the Registrar-General.

### 3 Margins

- (1) The sheets used must have clear margins of not less than 10 mm on each side and top and bottom.
- (2) No printing, writing or other notation (other than directions or notations authorised by the Registrar-General or as otherwise provided for by this Schedule) must appear in, or extend into, the margin.

### 4 Lettering

- (1) The text of an administration sheet must be clearly printed or written:
  - (a) across the width of each panel on the sheet of paper used, and
  - (b) on one side only of each sheet.
- (2) All text must be clear and legible and dense black or dense dark blue in colour. The lines must not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread, or are liable to mark or damage an adjacent sheet, will not be accepted.
- (3) Handwriting and any imprint of a seal must be clear and legible and in dense black ink or dense dark blue ink.

Conveyancing (General) Regulation 2008

Requirements for administration sheet

Schedule 4

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## 5 Alterations

Alterations may only be made by striking through the matter intended to be altered or by interlineation and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid. An alteration must be verified by the parties to the instrument.

## 6 Verification of alterations

Signatures or initials verifying alterations must be placed in the margin as near as practicable to the alteration.

## 7 Information to be included on multiple sheets

If the administration sheet comprises more than one sheet:

- (a) each sheet other than the first sheet must repeat the heading on the first sheet, the subdivision certificate number and date of endorsement and the surveyor's reference, and
- (b) each sheet must be numbered sequentially in the top right hand corner of each sheet as "Sheet ..... of ..... sheets".

Conveyancing (General) Regulation 2008

Schedule 5 Requirements for deposited plans lodged by hand

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## **Schedule 5 Requirements for deposited plans lodged by hand**

(Clause 18)

### **1 Material on which plan to be drawn**

- (1) Each plan sheet must consist of archival paper of a quality approved by the Registrar-General.
- (2) A plan must be drawn on one side of a plan sheet only.
- (3) Each plan sheet must be free from blemishes and creases.

### **2 Use of approved forms**

- (1) A plan intended to be lodged by hand for registration as a deposited plan must be in the approved form.
- (2) Any land that cannot satisfactorily be shown on one sheet may be shown on additional sheets in the approved form. The total number of additional sheets must not be more than 3 unless the Registrar-General otherwise approves.

### **3 Numbering**

- (1) Each plan sheet must be numbered consecutively.
- (2) Each administration sheet must be numbered consecutively, but separately from the drawing sheets.

### **4 Margins**

- (1) A margin of at least 10 millimetres must be left around the plan drawing area of each plan sheet.
- (2) No printing, writing or other notation (other than directions or notations authorised by the Registrar-General) must appear in, or extend into, the margin.

### **5 Lettering**

- (1) Unless the Registrar-General otherwise approves, all words must be in the English language, and all letters, numbers and other symbols appearing on a plan must be in a font style that is:
  - (a) dense and black in colour, and
  - (b) in upper case only (except as otherwise provided by this Schedule), and
  - (c) open in formation and construction, and
  - (d) in an upright style.

Conveyancing (General) Regulation 2008

Requirements for deposited plans lodged by hand

Schedule 5

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- (2) Unless the Registrar-General otherwise approves or this Schedule provides otherwise, symbols may only be used for punctuation of text, and letters must be used instead of special symbols.

**6 Use of colouring and edging prohibited**

Neither colouring nor edging are to be used on a plan sheet.

**7 Clarity of detail**

The plan must be drawn in a manner and to a scale that allows all details and notations to be clearly reproduced by the copying processes used by the Registrar-General.

**8 Alterations**

- (1) A plan may be altered only by striking through the matter to be altered.
- (2) In particular, a plan may not be altered by the use of correction fluid or by rubbing, scraping or cutting the surface of the plan sheet.
- (3) The Registrar-General may require a plan sheet to be replaced if, in the opinion of the Registrar-General, any alteration on the sheet will render it unsuitable for copying.

**9 Information to be included on plan sheets**

- (1) Each plan sheet in a series of plan sheets must be numbered consecutively as part of the series (for example, the first and second sheets in a plan that is made up of 4 sheets must be numbered "Sheet 1 of 4 sheets" and "Sheet 2 of 4 sheets", respectively).
- (2) Each plan sheet must contain a north point (directed towards the top of the plan sheet) and must also specify the orientation to which the north point relates.
- (3) Any separate diagrams or tabulations of dimensions or marks used in an additional sheet must be shown on the sheet.
- (4) No information (other than the plan and any separate diagrams and tabulations of dimensions and marks relating to the plan) is to appear within the plan drawing area of a plan sheet.

**10 Linear dimensions**

- (1) Linear measurements must be expressed in metres, correct to 3 decimal places, without any accompanying symbol.
- (2) If a length of less than one metre is shown, the decimal point must be preceded by the numeral "0".

## Conveyancing (General) Regulation 2008

## Schedule 5 Requirements for deposited plans lodged by hand

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**11 Area dimensions**

- (1) Area measurements must be expressed as follows:
- (a) areas of less than one hectare must be expressed in square metres, accompanied by the symbol “m<sup>2</sup>”,
  - (b) areas of one hectare or more must be expressed in hectares (using not more than 4 significant figures), accompanied by the symbol “ha”,
  - (c) areas of 10 000 hectares or more must be expressed in square kilometres, accompanied by the symbol “km<sup>2</sup>”.
- (2) The total area of a parcel:
- (a) must be shown within or related to the most significant part of the parcel, and
  - (b) must be the exact mathematical total of all the areas shown on the plan as being within that parcel.

**12 Reduction ratio**

There must be a statement on each sheet of the reduction ratio at which the plan is drawn.

**13 Identification of adjoining lands**

The identities of all adjoining lands must be shown.

**14 Identification of new or proposed easements, profits à prendre, restrictions and positive covenants**

- (1) A plan must contain sufficient information to define the site of:
- (a) any easement, profit à prendre, restriction or positive covenant that is intended to be created as a consequence of the registration of the plan, and
  - (b) any easement or profit à prendre intended to be partially released as a consequence of the registration of the plan, and
  - (c) any proposed easement (other than an easement referred to in paragraph (a) or (b)), profit à prendre, restriction or positive covenant, or proposed variation or partial release of an easement or profit à prendre,

and where necessary, must also contain sufficient information to indicate the relationship of any such easement, profit à prendre, restriction or positive covenant to the boundaries of any affected parcel or lot.



Conveyancing (General) Regulation 2008

Requirements for deposited plans lodged by hand

Schedule 5

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- (2) If a proposed easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object that is underground or is within or beneath an existing building, it is sufficient to indicate on the plan the approximate position of the easement.

**15 Identification of existing easements, profits à prendre, restrictions and positive covenants**

- (1) A plan must:
- (a) contain sufficient information to define the site, nature and origin of any existing easement, profit à prendre, restriction or positive covenant affecting a parcel, and
  - (b) wherever possible, show the relationship of the easement, profit à prendre, restriction or positive covenant to the boundaries of the parcel.
- (2) If an easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object that is underground or is within or beneath an existing building, it is sufficient to indicate on the plan the approximate position of the easement.
- (3) In this clause, *origin*, in relation to an existing easement, profit à prendre, restriction or positive covenant means the Gazette reference or registration number of the instrument or plan by which the easement, profit à prendre, restriction or positive covenant was granted, reserved, notified or otherwise created.

**16 Signatures not to appear**

No signatures, initials or seals are to appear on a plan sheet.

**Note.** All signatures and seals must be shown on the administration sheet.

Conveyancing (General) Regulation 2008

Schedule 6 Requirements for deposited plans lodged electronically

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## **Schedule 6 Requirements for deposited plans lodged electronically**

(Clause 18)

### **1 File type in which plan to be created**

- (1) The plan must be created in a format approved by the Registrar-General.
- (2) A plan comprising more than one sheet must be created as a multipage file.

### **2 Use of approved forms**

- (1) A plan intended to be lodged electronically for registration as a deposited plan must be in the approved form.
- (2) Any land that cannot satisfactorily be shown on one sheet may be shown on additional sheets in the approved form. The total number of additional sheets must not be more than 3 unless the Registrar-General otherwise approves.

### **3 Numbering**

- (1) Each plan sheet must be numbered consecutively.
- (2) Each administration sheet must be numbered consecutively, but separately from the drawing sheets.

### **4 Margins**

- (1) A margin of at least 10 millimetres must be left around the plan drawing area of each plan sheet.
- (2) No printing, writing or other notation (other than directions or notations authorised by the Registrar-General) must appear in, or extend into, the margin.

### **5 Lettering**

- (1) Unless the Registrar-General otherwise approves, all words must be in the English language, and all letters, numbers and other symbols appearing on a plan must be in a font style that is:
  - (a) dense and black in colour, and
  - (b) in upper case only (except as otherwise provided by this Schedule), and
  - (c) open in formation and construction, and
  - (d) in an upright style.

Conveyancing (General) Regulation 2008

Requirements for deposited plans lodged electronically

Schedule 6

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- (2) Unless the Registrar-General otherwise approves or this Schedule provides otherwise, symbols may only be used for punctuation of text, and letters must be used instead of special symbols.

#### **6 Use of colouring and edging prohibited**

Neither colouring nor edging are to be used on a plan sheet.

#### **7 Clarity of detail**

- (1) The plan must be drawn to a scale and the image created in a manner that allows all details and notations to be clearly reproduced by the copying processes used by the Registrar-General.
- (2) The Registrar-General may require a plan file to be resubmitted if, in the opinion of the Registrar-General, the plan image does not comply with subclause (1).

#### **8 Alterations**

- (1) A plan image must not be altered.
- (2) Any alterations must be made to the relevant Computer Aided Drafting (CAD) software plan file and a new image created.

#### **9 Information to be included on plan sheets**

- (1) Each plan sheet in a series of plan sheets must be numbered consecutively as part of the series (for example, the first and second sheets in a plan that is made up of 4 sheets must be numbered "Sheet 1 of 4 sheets" and "Sheet 2 of 4 sheets", respectively).
- (2) Each plan sheet must contain a north point (directed towards the top of the plan sheet) and must also specify the orientation to which the north point relates.
- (3) Any separate diagrams or tabulations of dimensions or marks used in an additional sheet must be shown on the sheet.
- (4) No information (other than the plan and any separate diagrams and tabulations of dimensions and marks relating to the plan) is to appear within the plan drawing area of a plan sheet.

#### **10 Linear dimensions**

- (1) Linear measurements must be expressed in metres, correct to 3 decimal places, without any accompanying symbol.
- (2) If a length of less than one metre is shown, the decimal point must be preceded by the numeral "0".

## Conveyancing (General) Regulation 2008

## Schedule 6 Requirements for deposited plans lodged electronically

**11 Area dimensions**

- (1) Area measurements must be expressed as follows:
  - (a) areas of less than one hectare must be expressed in square metres, accompanied by the symbol "m<sup>2</sup>",
  - (b) areas of one hectare or more must be expressed in hectares (using not more than 4 significant figures), accompanied by the symbol "ha",
  - (c) areas of 10,000 hectares or more must be expressed in square kilometres, accompanied by the symbol "km<sup>2</sup>".
- (2) The total area of a parcel:
  - (a) must be shown within or related to the most significant part of the parcel, and
  - (b) must be the exact mathematical total of all the areas shown on the plan as being within that parcel.

**12 Reduction ratio**

There must be a statement on each sheet of the reduction ratio at which the plan is drawn.

**13 Identification of adjoining land**

The identity of all adjoining land must be shown.

**14 Identification of new or proposed easements, profits à prendre, restrictions and positive covenants**

- (1) A plan must contain sufficient information to define the site of:
  - (a) any easement, profit à prendre, restriction or positive covenant that is intended to be created as a consequence of the registration of the plan, and
  - (b) any easement or profit à prendre intended to be partially released as a consequence of the registration of the plan, and
  - (c) any proposed easement (other than an easement referred to in paragraph (a) or (b)), profit à prendre, restriction or positive covenant, or proposed variation or partial release of an easement or profit à prendre,

and where necessary, must also contain sufficient information to indicate the relationship of any such easement, profit à prendre, restriction or positive covenant to the boundaries of any affected parcel or lot.

Conveyancing (General) Regulation 2008

Requirements for deposited plans lodged electronically

Schedule 6

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- (2) If a proposed easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object that is underground or is within or beneath an existing building, it is sufficient to indicate on the plan the approximate position of the easement.

**15 Identification of existing easements, profits à prendre, restrictions and positive covenants**

- (1) A plan must:
- (a) contain sufficient information to define the site, nature and origin of any existing easement, profit à prendre, restriction or positive covenant affecting a parcel, and
  - (b) wherever possible, show the relationship of the easement, profit à prendre, restriction or positive covenant to the boundaries of the parcel.
- (2) If an easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object that is underground or is within or beneath an existing building, it is sufficient to indicate on the plan the approximate position of the easement.
- (3) In this clause, *origin*, in relation to an existing easement, profit à prendre, restriction or positive covenant means the Gazette reference or registration number of the instrument or plan by which the easement, profit à prendre, restriction or positive covenant was granted, reserved, notified or otherwise created.

**16 Signatures not to appear**

No signatures, initials or seals are to appear on the plan drawing sheets.

**Note.** All signatures and seals must be shown on the administration sheet.

Conveyancing (General) Regulation 2008

Schedule 7 Requirements for lodging administration sheet electronically

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## Schedule 7 Requirements for lodging administration sheet electronically

(Clause 29)

### 1 File type in which image of document to be created

Each sheet of the completed paper administration sheet complying with Schedule 4 that bears original signatures and seals must be scanned by the lodging party and an image created in a format approved by the Registrar-General.

### 2 Multiple sheets

An image of an administration sheet comprising more than one sheet must be created as a multipage file.

### 3 Lodging procedure

- (1) The completed administration sheet must be lodged electronically together with the plan.
- (2) The standard of the electronic file received by the Registrar-General must be acceptable to the Registrar-General.

**Note.** The completed paper administration sheet, bearing original signatures and seals, must be retained by the lodging party for a period of at least 7 years following the date of registration of the plan (see clause 56).

Conveyancing (General) Regulation 2008

Requirements for lodging other documents electronically

Schedule 8

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## Schedule 8 Requirements for lodging other documents electronically

(Clause 18)

### 1 File type in which image of document to be created

If a document other than an administration sheet is required to be lodged electronically with a plan, such as:

- (a) a building management statement, or
- (b) a development contract or management statement as required by the *Community Land Development Act 1989*, or
- (c) any other documents required by the Registrar-General,

each sheet of the completed paper document must be scanned by the lodging party and an image created in a format approved by the Registrar-General.

### 2 Multiple sheets

A document comprising more than one sheet must be created as a multipage file.

### 3 Lodging procedure

- (1) The completed document must be lodged electronically together with the plan.
- (2) The standard of the electronic file received by the Registrar-General must be acceptable to the Registrar-General.

**Note.** The completed paper document, bearing original signatures and seals, must be retained by the lodging party for a period of at least 7 years following the date of registration of the plan (see clause 56).

Conveyancing (General) Regulation 2008

Schedule 9 Requirements for section 88B instruments

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## **Schedule 9 Requirements for section 88B instruments**

(Clause 38)

### **1 Text**

The text of a section 88B instrument must be clearly printed or written:

- (a) across the width of each sheet of paper used, and
- (b) unless the Registrar-General otherwise permits, on one side only of each sheet.

### **2 Margins**

(1) The sheets used must have clear margins:

- (a) on the first sheet—of not less than 10 mm (on the left-hand side), 10 mm (on the right-hand side), 25 mm (at the top) and 10 mm (at the bottom), and
- (b) on each subsequent sheet—of not less than 10 mm (on the sides and top and bottom).

(2) No printing, writing or other notation (other than directions or notations authorised by the Registrar-General) must appear in, or extend into, the margin.

### **3 Paper**

The paper used must be:

- (a) archival paper of a quality approved by the Registrar-General, that is:
  - (i) white and free from discolouration and blemishes, and
  - (ii) of a paper density of not less than 80 grams per square metre (80 gsm), and
  - (iii) 297 mm in length by 210 mm in width (standard A4), or
- (b) such other paper as may be approved by the Registrar-General.

### **4 Size of lettering**

All text must be at least 10 point (1.8 mm) in size and be clear and legible and dense black or dense dark blue in colour. The lines must not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread, or are liable to mark or damage an adjacent sheet, will not be accepted.



Conveyancing (General) Regulation 2008

Requirements for section 88B instruments

Schedule 9

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## 5 Legibility

Handwriting and any imprint of a seal must be clear and legible and in dense black ink or dense dark blue ink.

## 6 Alterations

Alterations may only be made by striking through the matter intended to be altered or by interlineation and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid. An alteration must be verified by the parties to the instrument.

## 7 Verification of alterations

Signatures or initials verifying alterations must be placed in the margin as near as practicable to the alteration.

## 8 Signatures

The final sheet must bear:

- (a) the attested original signatures of the persons who appear to the Registrar-General to be the owners, mortgagees, or covenant chargees of the land over which the easement, or in respect of which the restriction, covenant or profit à prendre, is intended to be created, and
- (b) in the case of the creation of a restriction on use or a positive covenant pursuant to section 88D or 88E of the Act—the attested original signature of the prescribed authority in whose favour the restriction or positive covenant is to be created, and
- (c) if the instrument is intended to impose an obligation, however described, on a prescribed authority or the owner of land outside of the plan to maintain or repair, or to contribute to the maintenance or repair of, the site of an easement—the attested original signature of the prescribed authority or owner, and
- (d) the attested original signatures of the persons who appear to the Registrar-General to be the owners, mortgagees or covenant chargees of the land that has the benefit of the easement or profit à prendre that is intended to be released or partially released, and
- (e) the attested original signature of any person whose consent is required to a release or partial release of the easement or profit à prendre, and
- (f) the capacity in which each signatory has signed.

	Conveyancing (General) Regulation 2008
Schedule 9	Requirements for section 88B instruments

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## 9 Numbering of sheets

If the instrument comprises more than one sheet:

- (a) each sheet other than the first sheet and the final sheet must repeat the heading on the first sheet and the plan identification appearing in Part 1 of the instrument, and
- (b) each sheet other than the final sheet must be signed by an attesting witness to the final sheet, and
- (c) each sheet must be numbered sequentially in the top right hand corner of each sheet as “Sheet ..... of ..... sheets”.

## 10 References to signatures

In this Schedule, a reference to a *signature* includes a reference to the affixing of a seal or any other method by which a corporation or prescribed authority executes an instrument.

Conveyancing (General) Regulation 2008

Requirements for lodging section 88B instruments electronically

Schedule 10

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## **Schedule 10 Requirements for lodging section 88B instruments electronically**

(Clause 38)

### **1 File type in which image of instrument to be created**

Each sheet of the completed paper instrument complying with Schedule 9 that bears original signatures and seals must be scanned by the lodging party and an image created in a format approved by the Registrar-General.

### **2 Multiple sheets**

An instrument comprising more than one sheet must be created as a multipage file.

### **3 Lodging procedure**

- (1) The instrument must be lodged electronically together with the plan.
- (2) The standard of the electronic file received by the Registrar-General must be acceptable to the Registrar-General.

**Note.** The completed paper section 88B instrument, bearing original signatures and seals, must be retained by the lodging party for a period of at least 7 years following the date of registration of the plan (see clause 56).

Conveyancing (General) Regulation 2008

Schedule 11 Prescribed witnesses

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## Schedule 11 Prescribed witnesses

(Clause 52)

### Part 1

accountant  
bank manager  
barrister  
chancellor, deputy chancellor or dean of a faculty of a university  
commissioned officer in the defence forces of the Commonwealth of Australia  
commissioner for taking affidavits  
dentist  
judge  
justice of the peace  
licensed conveyancer  
magistrate  
mayor or general manager of any local government council  
medical practitioner  
member of parliament of the Commonwealth or of a State or Territory  
member of the police force of the Commonwealth or of a State or Territory  
minister of religion  
notary public  
officer in charge of a police station  
pharmacist  
postal manager of a post office  
principal or deputy principal of a school or college  
registered surveyor  
registrar of a Local Court  
solicitor  
stockbroker  
veterinary practitioner

### Part 2

Australian Consular Officer, within the meaning of section 26 of the *Oaths Act 1900*  
or British Consular Officer, within the meaning of the same provision, exercising  
functions in country where the document is executed or witnessed  
commissioned officer in the defence forces of the Commonwealth of Australia

Conveyancing (General) Regulation 2008

Prescribed witnesses

Schedule 11

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commissioner for taking affidavits

judge

justice of the peace

legal practitioner

magistrate

mayor or general manager of any local government corporation

medical practitioner

notary public

officer in charge of a police station



New South Wales

# Crimes (Administration of Sentences) Regulation 2008

under the

Crimes (Administration of Sentences) Act 1999

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Crimes (Administration of Sentences) Act 1999*.

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

## Explanatory note

The object of this Regulation is to remake, with minor modifications, the *Crimes (Administration of Sentences) Regulation 2001* (to be repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*).

This Regulation deals with the following matters:

- (a) full-time imprisonment (Chapter 2), including provisions with respect to the following:
  - (i) admission procedures (Part 2.1),
  - (ii) case management and classification (Part 2.2),
  - (iii) correctional centre routine (Part 2.3),
  - (iv) visits and communications (Part 2.4),
  - (v) correctional centre discipline (Part 2.5),
  - (vi) inmates' requests and complaints (Part 2.6),
  - (vii) release procedures (Part 2.7),
  - (viii) other miscellaneous matters (Part 2.8),
- (b) periodic detention (Chapter 3), including provisions with respect to the following:
  - (i) preliminary matters (Part 3.1)
  - (ii) admission procedures (Part 3.2),
  - (iii) periodic detention routine (Part 3.3),
  - (iv) work site routine (Part 3.4),

Crimes (Administration of Sentences) Regulation 2008

Explanatory note

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- (v) leave of absence (Part 3.5),
- (vi) other miscellaneous matters (Part 3.6),
- (c) home detention (Chapter 4),
- (d) compulsory drug treatment detention (Chapter 5),
- (e) community service work (Chapter 6),
- (f) parole (Chapter 7),
- (g) revocation by the State Parole Authority of certain orders (Chapter 8),
- (h) administrative matters (Chapter 9), including provisions with respect to the following:
  - (i) correctional officers and departmental officers (Part 9.1),
  - (ii) conduct of members of correctional staff regarding alcohol and drugs (Part 9.2),
  - (iii) matters concerning the government body “Justice Health” (Part 9.3),
  - (iv) use of firearms (Part 9.4),
  - (v) bravery and meritorious service awards (Part 9.5),
  - (vi) the Serious Offenders Review Council (Part 9.6),
  - (vii) other miscellaneous matters (Part 9.7).

This Regulation adopts Australian/New Zealand Standard AS/NZS 4308:2008, *Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine*, as in force on 1 September 2008.

This Regulation is made under the *Crimes (Administration of Sentences) Act 1999*, including section 271 (the general power to make regulations) and various other provisions referred to in the Regulation.

Crimes (Administration of Sentences) Regulation 2008

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## Crimes (Administration of Sentences) Regulation 2008

under the

Crimes (Administration of Sentences) Act 1999

### Chapter 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Crimes (Administration of Sentences) Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Crimes (Administration of Sentences) Regulation 2001* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

- (1) Words and expressions that are defined in the Dictionary have the meanings set out in the Dictionary.
- (2) For the purposes of this Regulation:
  - (a) a person who has a thing in his or her custody or under his or her control is taken to have the thing in his or her possession, and
  - (b) a correctional officer who is temporarily relieving another correctional officer at a post is taken to be stationed at the post.
- (3) In this Regulation:
  - (a) a reference to a correctional centre includes a reference to a correctional complex, and
  - (b) a reference to a Form is a reference to a Form set out in Schedule 4.

#### 4 Notes

Notes in the text of this Regulation do not form part of this Regulation.

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## Chapter 2 Full-time imprisonment

### Part 2.1 Admission procedures

#### Division 1 Recording and provision of information

##### 5 Information to be recorded in relation to inmates

- (1) As soon as practicable after an inmate is received into a correctional centre, there must be recorded in relation to the inmate:
  - (a) such of the information referred to in Schedule 1 as is relevant to the inmate, and
  - (b) such other information as the Commissioner considers appropriate to be recorded.
- (2) An inmate must not furnish any information for the purposes of this clause knowing it to be false or misleading in a material particular.

**Note.** Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

##### 6 Inmates to be notified of rights and obligations

As soon as practicable after an inmate is first received into a correctional centre, the general manager must cause the inmate to be informed of:

- (a) the correctional centre rules (that is, the terms of any general directions given under Part 2 of the Act or under this Chapter), and
- (b) the inmate's obligations as to discipline and conduct, and
- (c) the inmate's rights as to legal representation and appeal in relation to proceedings under this Regulation, and
- (d) the case management process, and
- (e) the authorised methods of seeking information and making complaints, and
- (f) the role of an Official Visitor, and
- (g) the functions of the Review Council in relation to the segregation and protective custody of inmates, and
- (h) any other matter necessary to enable the inmate to understand the inmate's rights and obligations and adapt to living in the centre.

##### 7 Information for inmates who are nationals of other countries

- (1) As soon as practicable after an inmate who is a national of another country is received into a correctional centre, the general manager must

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cause the inmate to be informed that, if the inmate makes a written application for that purpose, the diplomatic or consular representative of that country will be informed of the inmate's imprisonment.

- (2) If the inmate makes such an application, the general manager must inform the consular representative without delay.

## **Division 2 Surrender of property**

### **8 Surrender of property by inmates**

On being received into a correctional centre, an inmate must surrender to an authorised officer all property that is then in the inmate's possession.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### **9 Delivery of property by police and other persons**

If, at the time of an inmate's reception into a correctional centre, any of the inmate's property is brought to the centre by:

- (a) a police officer or correctional officer, or
- (b) any other person of a class specified by the Commissioner, that property is to be delivered to the general manager.

### **10 How property surrendered on reception to be dealt with**

- (1) On receiving property surrendered or delivered in connection with an inmate's reception into a correctional centre, the general manager must determine which items of property may, and which may not, be retained at the centre.
- (2) Property that the general manager determines may be retained at a correctional centre:
  - (a) may be returned to the inmate for use in the centre unless to do so would, in the general manager's opinion, constitute a security or safety risk, or
  - (b) may be retained by the general manager for return to the inmate on the inmate's release from custody.
- (3) Property that the general manager determines may not be retained at a correctional centre is to be made available for collection by such person as the inmate nominates, and the person so nominated is to be notified that the property is available for collection and should be collected within the next 30 days.

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- (4) If the inmate fails to nominate a person to collect the property, or if the person so nominated fails to collect the property within 30 days after being notified of its availability for collection:
- (a) the property may be disposed of in such manner as the general manager considers appropriate, and
  - (b) if the property is sold, the proceeds of sale are to be held to the credit of the inmate.
- (5) Despite any other provision of this clause:
- (a) any money surrendered by an inmate is to be held to the credit of the inmate, and
  - (b) any unhygienic or infectious clothing surrendered by an inmate is to be destroyed if the general manager is satisfied that its value is less than the cost of getting it cleaned.

#### **11 Property records**

- (1) The general manager of a correctional centre must cause a record to be kept of all property surrendered or delivered in connection with an inmate's reception into the centre.
- (2) Such a record must contain the following information:
- (a) a description of the property,
  - (b) the date on which the property was received,
  - (c) whether the property was retained, collected or disposed of,
  - (d) if the property was collected:
    - (i) the date on which it was collected, and
    - (ii) the name, address and signature of the person by whom it was collected,
  - (e) if the property was disposed of:
    - (i) the date on which it was disposed of, and
    - (ii) the manner in which it was disposed of, and
    - (iii) if it was sold, the amount for which it was sold,
  - (f) any other incidental particulars.



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## **Part 2.2 Case management and classification**

### **Division 1 Case management**

#### **12 Case plans to be prepared for all inmates**

- (1) A case plan is to be prepared and adopted for each inmate in a correctional centre.
- (2) The Commissioner must ensure that the first case plan is prepared and adopted as soon as practicable after the inmate is received into the correctional centre.
- (3) Subsequent case plans are to be prepared and adopted:
  - (a) not later than 6 months after the previous case plan was adopted, and
  - (b) if the sentencing court's comments in relation to an inmate are unavailable when the first case plan is prepared, as soon as practicable after any such comments become available, and
  - (c) if a report is sent to the Commissioner under clause 18, as soon as practicable after the report is received, and
  - (d) at such other times as the Commissioner may determine.
- (4) The procedure for preparing and adopting a case plan is as set out in this Division.

#### **13 Contents of case plan**

- (1) An inmate's case plan must indicate:
  - (a) the inmate's classification for the time being, and
  - (b) the correctional centre at which the inmate is to be held for the time being, and
  - (c) the services and programs in which the inmate should be encouraged to participate.
- (2) An inmate's case plan may deal with any matter relating to the management of the inmate, including:
  - (a) the provision of health care services to the inmate, and
  - (b) in the case of an inmate who appears to be at risk of self-harm, the preparation of a strategy to minimise the likelihood of self-harm occurring, and
  - (c) in the case of an inmate who has a disability, the preparation of a strategy to minimise any disadvantage suffered by the inmate on account of the disability, particularly in relation to the inmate's suitability to carry out work, and

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- (d) in the case of an inmate who is an Aboriginal person, the implementation in relation to the inmate of the recommendations contained in the report of the Royal Commission into Aboriginal Deaths in Custody, and
  - (e) the provision of services and programs to the inmate under Division 5 of Part 2.3, and
  - (f) the provision of pre-release and post-release assistance to the inmate (such as advice on the availability within the community of financial, accommodation and employment assistance and of medical and counselling services and alcohol and other drug treatment programs).
- (3) In preparing an inmate's case plan, regard is to be had to the following matters:
- (a) the sentencing court's comments in relation to the inmate,
  - (b) any assessment that has been made as to the inmate's physical or mental health,
  - (c) whether or not the inmate is likely to be deported from Australia,
  - (d) the inmate's criminal history and correctional centre history,
  - (e) the inmate's history of behaviour while subject to supervision otherwise than as an inmate:
    - (i) pursuant to any conditions of bail, or
    - (ii) pursuant to any conditions of parole, or
    - (iii) pursuant to any conditions to which any sentence or other penalty imposed by a court is subject, or
    - (iv) pursuant to any conditions to which any extended supervision order under the *Crimes (Serious Sex Offenders) Act 2006* is subject,
  - (f) any assessment that has been made (whether by officers of the Department or of any other government department or public authority) as to:
    - (i) the level of risk that the inmate poses to good order and security, and
    - (ii) the likelihood that the inmate may try to escape from custody, and
    - (iii) any factors contributing to the inmate's criminal behaviour, and
    - (iv) the likelihood of the inmate committing further offences, whether of the same or of a different kind,
  - (g) the need to protect the community,

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- (h) the resources available to the correctional centre at which the inmate is to be held in relation to the implementation of the plan.

#### **14 Departmental officers to prepare recommendations**

- (1) Recommendations with respect to an inmate's case plan are to be prepared by one or more departmental officers nominated by the Commissioner (the *nominated officer*).
- (2) The nominated officer must take all reasonable steps to enable the inmate to participate in the development of the recommendations.
- (3) If inconsistent with the sentencing court's comments in relation to the inmate, the recommendations must draw attention to, and give reasons for, the inconsistency.
- (4) The nominated officer must take all reasonable steps to ensure that the recommendations with respect to an inmate are submitted to the nominated review officer referred to in clause 15 within 21 days after being called on to prepare them.
- (5) In the case of an inmate who is serving a sentence of more than 2 years, the functions of the nominated officer under this clause are to be exercised by a committee of 2 or more departmental officers nominated by the Commissioner.
- (6) The constitution and procedure of such a committee is to be determined by the Commissioner.

#### **15 Consideration of recommendations by departmental officers**

- (1) The recommendations prepared in accordance with clause 14 with respect to an inmate's case plan are to be reviewed by one or more departmental officers nominated by the Commissioner (the *nominated review officer*), who are to prepare a report on those recommendations.
- (2) The nominated review officer must take all reasonable steps to ensure that the report with respect to an inmate is submitted within 28 days of the recommendations being prepared:
  - (a) to the Commissioner, and
  - (b) in the case of a report that relates to a serious offender, or an inmate who has a high security or extreme high security designation, to the Review Council.

#### **16 Consideration of certain case plans by Review Council**

- (1) The Review Council is to review any report prepared in accordance with clause 15 in relation to a serious offender, or an inmate who has a high security or extreme high security designation.

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- (2) The Review Council may furnish to the Commissioner such submissions with respect to any such report as it considers appropriate.

**17 Adoption of case plan by Commissioner**

- (1) After considering:
- (a) the report prepared in accordance with clause 15 with respect to an inmate's case plan, and
  - (b) any advice by the Review Council in relation to the report, the Commissioner must adopt a case plan for the inmate.
- (2) The Commissioner is not bound to follow the recommendations in the report or the advice of the Review Council.

**18 General manager's report as to inmates' placement**

If the general manager of a correctional centre considers that an inmate in the centre, or an inmate transferred, or proposed to be transferred, to the centre, is unsuitable for placement or for continued placement in the centre, the general manager must cause a report to be sent:

- (a) to the Commissioner, and
- (b) in the case of a report that relates to a serious offender, or an inmate who has a high security or extreme high security designation, to the Review Council,

setting out the reasons why the inmate should not be placed, or continue to be placed, in the centre.

**19 Consideration of certain reports by Review Council**

- (1) The Review Council is to review any report prepared by the general manager of a correctional centre with respect to the placement, or continued placement, in the centre of an inmate who is a serious offender, or an inmate who has a high security or extreme high security designation.
- (2) The Review Council may furnish to the Commissioner such submissions with respect to any such report as it considers appropriate.

**20 Decision by Commissioner as to inmates' placement**

- (1) After considering:
- (a) any report prepared by the general manager of a correctional centre with respect to the placement, or continued placement, in the centre of an inmate who is a serious offender, or an inmate who has a high security or extreme high security designation, and

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- (b) any submissions by the Review Council in relation to the report, the Commissioner must make a decision with respect to the inmate's placement, or continued placement, in the centre.
- (2) The Commissioner is not bound to follow the recommendations in the report.
- (3) If the Commissioner is of the opinion that there are urgent reasons for doing so, the Commissioner may make a decision with respect to the transfer of an inmate who is a serious offender or an inmate who has a high security or extreme high security designation without giving the Review Council an opportunity to make submissions.
- (4) The Commissioner must notify the Review Council of any decision made under subclause (3).
- (5) After considering the report prepared by the general manager, the Review Council may recommend to the Commissioner that the Commissioner reconsider a decision made under subclause (3).

## 21 Linguistic and cultural factors to be considered

- (1) On becoming aware that an inmate who is being interviewed for the purposes of this Part may be disadvantaged by linguistic or cultural factors, an interviewer must take all reasonable steps to ensure that the inmate has the assistance of a person who can act as an appropriate interpreter or provide appropriate cultural guidance.
- (2) Such a person need not be present at the interview so long as he or she is available to the inmate by telephone, closed-circuit television or other electronic means during the interview.
- (3) If the interviewer makes a report that assesses an inmate for the purposes of this Part, the interviewer:
- must take into consideration any linguistic or cultural factors that may disadvantage the inmate, and
  - must refer in the report to the extent to which, in the interviewer's opinion, those factors are significant in relation to the assessment.

## Division 2 Classification and designation of inmates

### 22 Classification of male inmates

- (1) Each male inmate is to be classified in one of the following categories for the purposes of security and the provision of appropriate development programs:
- Category AA**, being the category of inmates who, in the opinion of the Commissioner, represent a special risk to national security (for

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example, because of a perceived risk that they may engage in, or incite other persons to engage in, terrorist activities) and should at all times be confined in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment.

**Category A1**, being the category of inmates who, in the opinion of the Commissioner, represent a special risk to good order and security and should at all times be confined in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment.

**Category A2**, being the category of inmates who, in the opinion of the Commissioner, should at all times be confined by a secure physical barrier that includes towers, other highly secure perimeter structures or electronic surveillance equipment.

**Category B**, being the category of inmates who, in the opinion of the Commissioner, should at all times be confined by a secure physical barrier.

**Category C1**, being the category of inmates who, in the opinion of the Commissioner, should be confined by a physical barrier unless in the company of a correctional officer or some other person authorised by the Commissioner.

**Category C2**, being the category of inmates who, in the opinion of the Commissioner, need not be confined by a physical barrier at all times but who need some level of supervision by a correctional officer or some other person authorised by the Commissioner.

**Category C3**, being the category of inmates who, in the opinion of the Commissioner, need not be confined by a physical barrier at all times and who need not be supervised.

- (2) Subject to clause 27, the Commissioner may at any time vary or revoke a classification under this clause.
- (3) Male inmates who are classified in Category AA are prescribed to be serious offenders, as referred to in paragraph (f) of the definition of *serious offender* in section 3 (1) of the Act.

### **23 Classification of female inmates**

- (1) Each female inmate is to be classified in one of the following categories for the purposes of security and the provision of appropriate development programs:

**Category 5**, being the category of inmates who, in the opinion of the Commissioner, represent a special risk to national security (for example, because of a perceived risk that they may engage in, or incite other persons to engage in, terrorist activities) and should at all times be confined in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment.

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**Category 4**, being the category of inmates who, in the opinion of the Commissioner, should at all times be confined by a secure physical barrier that includes electronic surveillance equipment.

**Category 3**, being the category of inmates who, in the opinion of the Commissioner, should be confined by a physical barrier unless in the company of a correctional officer or some other person authorised by the Commissioner.

**Category 2**, being the category of inmates who, in the opinion of the Commissioner, need not be confined by a physical barrier at all times but who need some level of supervision by a correctional officer or some other person authorised by the Commissioner.

**Category 1**, being the category of inmates who, in the opinion of the Commissioner, need not be confined by a physical barrier at all times and who need not be supervised.

- (2) Subject to clause 27, the Commissioner may at any time vary or revoke a classification under this clause.
- (3) Female inmates who are classified in Category 5 are prescribed to be serious offenders, as referred to in paragraph (f) of the definition of *serious offender* in section 3 (1) of the Act.

#### 24 Escape-risk classifications

- (1) Each inmate (male or female) who commits an escape offence is, for the first case plan following the commission of the offence, to be classified in one of the following categories:

**Category E1**, being the category of inmates who, in the opinion of the Commissioner, represent a special risk to security and should at all times be confined:

- (a) in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment, or
- (b) by a secure physical barrier that includes towers, other highly secure perimeter structures or electronic surveillance equipment.

**Category E2**, being the category of inmates who, in the opinion of the Commissioner, should at all times be confined by a secure physical barrier.

- (2) For the purposes of subclause (1), a person *commits an escape offence* if, in New South Wales or elsewhere, the person engages in behaviour that, whether or not the person is prosecuted, constitutes:
  - (a) an offence of escaping from lawful custody, or
  - (b) an offence of attempting or conspiring to escape from lawful custody,
 under the laws of the place where the behaviour occurs.

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- (3) An inmate's classification under this clause overrides the inmate's classification under clause 22 or 23.
  - (4) Despite subclause (3), the Commissioner may determine that an inmate not be classified under this clause if the inmate was under the age of 18 years when the escape offence was committed.
  - (5) Subject to clause 27, the Commissioner may at any time vary or revoke a classification under this clause.

#### **25 Designation of high security and extreme high security inmates**

- (1) The Commissioner may designate an inmate as a high security inmate if of the opinion that the inmate constitutes:
  - (a) a danger to other people, or
  - (b) a threat to good order and security.
- (2) The Commissioner may designate an inmate as an extreme high security inmate if of the opinion that the inmate constitutes:
  - (a) an extreme danger to other people, or
  - (b) an extreme threat to good order and security.
- (3) Subject to clause 27, the Commissioner may at any time vary or revoke a designation under this clause.

#### **26 Management of high security and extreme high security inmates**

The Commissioner may make determinations with respect to the following:

- (a) the placement in correctional centres of high security and extreme high security inmates,
- (b) the movement of high security and extreme high security inmates for any purpose,
- (c) any additional security arrangements to be imposed in respect of high security and extreme high security inmates,
- (d) case plans for high security and extreme high security inmates,
- (e) any other matter that is relevant to the management of high security and extreme high security inmates.

#### **27 Variation of classification and designation of certain inmates**

- (1) The Commissioner:
  - (a) must not cause an inmate who has an escape-risk classification to cease to have such a classification, and



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- (b) must not cause an inmate who has a high security or extreme high security designation:
    - (i) to have that designation varied to another such designation, or
    - (ii) to cease to have such a designation, and
  - (c) must not cause a serious offender to have his or her classification changed,
 

without seeking and considering the recommendations of the Review Council in that regard.
  - (2) In the case of an inmate who has an escape-risk classification, the Review Council:
    - (a) is not to make a recommendation for the purposes of subclause (1) (a) unless it is satisfied that there are special circumstances that, in the opinion of the Review Council, justify the reclassification, and
    - (b) need not entertain any application made to it by an inmate for the purposes of subclause (1) (a) if, on the face of the application and any document submitted in support of it, it appears to the Council that the application:
      - (i) is not substantially different from a previous application, made by or on behalf of the same inmate, that the Council has rejected, or
      - (ii) is frivolous or vexatious.
  - (3) If the Commissioner varies the classification or designation of an inmate under this clause in a manner that is contrary to the recommendations of the Review Council, the Commissioner must cause notice of that fact to be given to the Review Council.

**28 High security classification of inmates for purposes of interstate leave permits**

Male inmates classified as AA, A1, A2, E1 or E2, and female inmates classified as Category 5, 4, E1 or E2, are taken to have high security classifications for the purposes of section 29 of the Act.

**29 Information to be considered for classification purposes**

For the purpose of making any decision with respect to a person's classification under this Division, consideration must be given to any advice received from the NSW Police Force or from any other public authority (whether of this or any other State or Territory or of the Commonwealth) established for law enforcement, security or anti-terrorist purposes.

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Correctional centre routine

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## Part 2.3 Correctional centre routine

### Division 1 Separation and accommodation

#### 30 Separation of different classes of inmates

- (1) For the purposes of this clause, each inmate is to be included in one of the following classes:
  - (a) convicted inmate,
  - (b) unconvicted inmate,
  - (c) civil inmate.
- (2) As far as practicable inmates of any class are to be kept separate from inmates of any other class.
- (3) Within each class, the Commissioner may direct that the following inmates be kept separate from other inmates:
  - (a) those inmates who have not previously been imprisoned,
  - (b) those inmates who would be at risk if not separated from other inmates,
  - (c) those inmates who are forensic patients within the meaning of the *Mental Health Act 2007*,
  - (d) those inmates who are detained under a preventative detention order within the meaning of Part 2A of the *Terrorism (Police Powers) Act 2002*,
  - (e) those inmates who are imprisoned:
    - (i) pursuant to a warrant issued by the State Debt Recovery Office under section 87 of the *Fines Act 1996*, or
    - (ii) as fine defaulters under the laws of the Commonwealth or the Australian Capital Territory.

#### 31 Separation of sexes

Female inmates must be kept separate from male inmates except in such circumstances and under such supervision as the Commissioner determines.

#### 32 Separation for health reasons

Inmates found or suspected to be in an infectious or verminous condition may be kept separate from other inmates.

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### **33 Accommodation**

- (1) Each inmate must be housed in and occupy a cell by himself or herself, unless for medical or other sufficient reason it is necessary for inmates to be associated.
- (2) If it is necessary for inmates to be associated, the inmates required to be associated (whether in a cell or in dormitory accommodation) must be carefully selected.
- (3) Each inmate must be provided with a separate bed and sufficient clean bedding to suit the climatic conditions.

## **Division 2 Correctional centre routine**

### **34 Hours of work and general routine**

- (1) The Commissioner is to determine the hours of work and general routine for each correctional centre.
- (2) The Commissioner may determine different hours of work and different general routines for different parts of a correctional centre.

### **35 Restriction on work that civil inmates and unconvicted inmates may be required to perform**

- (1) Civil inmates and unconvicted inmates are not to be required to work otherwise than as provided by this clause.
- (2) The general manager of a correctional centre may require a civil inmate or unconvicted inmate to ensure that any yard or other section of the correctional centre that he or she uses is kept clean.
- (3) A civil inmate or unconvicted inmate must comply with any requirement under this clause.

**Note.** Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

### **36 Inmates to comply with correctional centre routine**

An inmate must comply with the hours of work and general routine for the correctional centre or part of the correctional centre in which the inmate is detained.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

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### 37 Inmates not to enter other cells

An inmate must not enter a cell that has not been allocated for use by the inmate otherwise than:

- (a) with the permission of the general manager or a correctional officer, or
- (b) in compliance with a direction given by the general manager or a correctional officer.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 38 Calls to muster

An inmate must immediately attend at any place designated by the general manager, either generally or in a particular case, as a place for mustering inmates:

- (a) when required orally to do so by the general manager or a correctional officer, or
- (b) when summoned by a bell, hooter, siren or whistle used for that purpose.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 39 Misuse of bells, hooters, sirens and whistles

An inmate must not operate a bell, hooter, siren or whistle used:

- (a) for calling to muster, or
- (b) for giving notice of a fire or other emergency, or of a fire or other emergency drill, or
- (c) for giving notice of any other correctional centre routine,

unless the inmate is authorised to do so by the general manager or a correctional officer or does so with other reasonable excuse.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 40 Avoidance of correctional centre routine

An inmate must not pretend to be ill or injured for the purpose of avoiding the inmate's obligations under the Act and this Regulation.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

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#### 41 Delivery of articles to and from inmates

- (1) Except as otherwise provided by this Part, an inmate must not deliver anything to or receive anything from any other inmate.
- (2) With the approval of an authorised officer, an inmate may deliver an article to another inmate.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

#### 42 Creation or possession of prohibited goods

An inmate must not create, or have in his or her possession, prohibited goods.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

#### 43 Searching of inmates

- (1) A correctional officer may search (including strip-search) an inmate at such times as the general manager directs and at such other times as the correctional officer considers appropriate.
- (2) Except in the case of an emergency, an inmate must not be strip-searched by or in the presence of a person of the opposite sex.
- (3) The searching of an inmate must be conducted with due regard to dignity and self-respect and in as seemly a manner as is consistent with the conduct of an effective search.
- (4) An inmate must not resist or impede the conduct of a search carried out under this clause.

**Note.** Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

- (5) In this clause, *strip-search* means a search of a person or of articles in the possession of a person that may include:
  - (a) requiring the person to remove all of his or her clothes, and
  - (b) an examination of the person's body (but not of the person's body cavities) and of those clothes.

#### 44 Property to be kept in a tidy and orderly manner

- (1) An inmate must keep his or her property in a tidy and orderly manner and so as not to impede a search of the inmate's cell.

**Note.** Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

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- (2) The quantity of property that an inmate keeps in his or her cell is not to exceed such quantity as the general manager may determine and, if it does, the general manager may confiscate such of the property as is necessary to reduce the excess.
  - (3) Anything confiscated under this clause:
    - (a) is to be dealt with as if it had been surrendered on reception into a correctional centre, or
    - (b) is to be disposed of by the general manager in such a manner as is reasonable in the circumstances (taking into account the nature of the material).

#### **45 Books and other material**

- (1) An inmate may purchase:
  - (a) any book, newspaper or magazine, and
  - (b) any record, cassette, CD or DVD.
- (2) Despite subclause (1), the general manager may refuse to allow an inmate to purchase, and may confiscate, any such book, newspaper, magazine, record, cassette, CD or DVD if of the opinion that it contains:
  - (a) anything that, in the opinion of a nominated officer, is likely to prejudice the good order and security of the correctional centre, or
  - (b) any threatening, offensive, indecent, obscene or abusive written or pictorial matter, or
  - (c) any offensive, indecent or obscene article.
- (3) Anything confiscated under this clause:
  - (a) is to be dealt with as if it had been surrendered on reception into a correctional centre, or
  - (b) is to be disposed of by the general manager in such a manner as is reasonable in the circumstances (taking into account the nature of the material).

#### **46 Transfer of property**

The property of an inmate who is transferred from one correctional centre to another is to be delivered to the general manager of the new correctional centre, together with a copy of any record kept by the general manager of the former correctional centre in relation to the property.

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### **Division 3        Food**

#### **47    Diet**

- (1) An inmate must be supplied each day with food in accordance with a diet designed to provide a dietary intake generally in accordance with the recommended dietary intakes published by the National Health and Medical Research Council.
- (2) The diet:
  - (a) must be varied, and
  - (b) must provide adequate amounts of each essential nutrient from basic foods, and
  - (c) must be planned to ensure optimal nutritional health.
- (3) The diet of an inmate having special dietary needs is to be planned having regard to those needs.

#### **48    Complaints about correctional centre food**

- (1) An inmate wishing to complain about the quantity or quality of the food supplied by a correctional centre must do so promptly.
- (2) The inmate is responsible for substantiating the complaint.

#### **49    Purchase of food by inmates**

- (1) The general manager of a correctional centre may permit an inmate:
  - (a) to purchase food available for purchase at the centre or outside the centre, or
  - (b) to arrange for the supply of food from outside the centre.
- (2) An inmate must not purchase food, or arrange for the supply of food from outside a correctional centre, unless permitted to do so as referred to in subclause (1).
- (3) An inmate must not receive or have in his or her possession any food other than food supplied by a correctional centre or food that he or she is permitted to purchase or be supplied with under this clause.
- (4) An inmate supplied with food from outside a correctional centre must ensure that none of it is received by another inmate.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

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## Division 4 Health and cleanliness

### 50 Daily exercise

- (1) Each inmate (other than one who is confined to cell under section 53 or 56 of the Act) is to be allowed at least 2 hours each day for exercise in the open air.
- (2) Each inmate who is confined to cell under section 53 or 56 of the Act is to be allowed at least 1 hour each day for exercise in the open air.
- (3) An inmate's entitlement to exercise under this clause is subject to such practical limitations as may from time to time arise in connection with the administration of the correctional centre concerned.

### 51 Dental and optical treatment and artificial medical appliances

Dental treatment, optical treatment and hearing aids and other artificial medical appliances are to be supplied to inmates in such manner and to such extent as the Chief Executive Officer, Justice Health, from time to time determines.

### 52 Destruction of unhygienic property

- (1) Any food, personal effects or articles of clothing belonging to an inmate at a correctional centre may be destroyed if the general manager considers it necessary for the maintenance of hygiene.
- (2) Before any such property is destroyed, the general manager must, if practicable, cause the inmate to be informed of the proposed destruction and the reason for its destruction.

### 53 Personal cleanliness

An inmate must obey directions given by or with the authority of the general manager, either generally or individually, in regard to washing, showering, bathing, shaving and hair cutting.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 54 Wearing of correctional centre clothing

- (1) Unless otherwise authorised by the general manager, an inmate must at all times wear the uniform clothing and footwear issued to the inmate, and must not at any time wear any other clothing.
- (2) This clause does not apply to an inmate while attending court.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.



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### 55 Cleanliness of cells and their contents

- (1) An inmate must keep the inmate's accommodation, utensils, clothing, bedding and any other issued articles clean, tidy and in good order and in accordance with any directions given by a correctional officer.
- (2) An inmate must not wilfully damage, destroy or deface any part of the correctional centre.
- (3) An inmate must not dispose of, or wilfully alter, damage or destroy, any clothing, bedding or other article issued to the inmate.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 56 Condoms and dental dams

- (1) Condoms (together with plastic disposal bags) are to be made available free of charge in each correctional centre in which there are male inmates, and disposal units are to be installed in each such correctional centre for their disposal.
- (2) Dental dams (together with plastic disposal bags) are to be made available free of charge in each correctional centre in which there are female inmates, and disposal units are to be installed in each such correctional centre for their disposal.
- (3) An inmate must not obtain possession of any condom or dental dam otherwise than:
  - (a) from a dispensing machine installed in the correctional centre for use by inmates, or
  - (b) in accordance with such other arrangements as are approved by the general manager of that correctional centre.
- (4) An inmate must not use a condom or dental dam otherwise than for the purpose of sexual activity.
- (5) As soon as practicable after using a condom or dental dam, an inmate must dispose of it:
  - (a) by placing it in a plastic disposal bag, and
  - (b) by placing the plastic disposal bag in a disposal unit.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

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## **Division 5      Inmate services and programs**

### **57    Inmate services and programs**

- (1) The Commissioner may provide an inmate with services and programs that:
  - (a) offer the inmate an opportunity to develop skills, behaviours and attitudes that lessen the likelihood of the inmate re-offending, or
  - (b) contribute to the inmate living in society after release from custody, or
  - (c) promote the health, safety and well-being of the inmate.
- (2) Without limiting subclause (1), such services and programs may include any of the following:
  - (a) welfare services,
  - (b) services for inmates who have disabilities,
  - (c) alcohol and other drug counselling services,
  - (d) psychological counselling services,
  - (e) literacy and numeracy programs,
  - (f) educational and vocational training programs, including the provision of libraries,
  - (g) pre-release and post-release programs to enable inmates to adapt to normal lawful community life,
  - (h) sports and recreational activities.
- (3) In the exercise of a function under this clause, the Commissioner must give special attention to the needs of inmates who have low literacy or numeracy.
- (4) The Commissioner must also give special attention to the needs of inmates who have a disability.
- (5) Services and programs may be provided by correctional officers or by other persons approved by the Commissioner.
- (6) A person employed or otherwise engaged in the provision of a service or program:
  - (a) is subject to the directions of the Commissioner in respect of the nature and scope of the service or program and its method of delivery, and
  - (b) is subject to the directions of the general manager in respect of any matter affecting the good order and security of the correctional centre.

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### 58 Behaviour of inmates participating in services and programs

While participating in a service or program provided under this Part, an inmate must comply with any lawful and reasonable direction of the person employed or otherwise engaged in the provision of the service or program.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

## Division 6 Spiritual welfare

### 59 Accreditation of chaplains

- (1) A minister of religion may not perform the functions of a chaplain in a correctional centre unless the minister:
  - (a) is accredited by the Commissioner in accordance with subclause (2), and
  - (b) is permitted by the appropriate authority for the religious organisation of which the minister is a member to work as a chaplain in the correctional centre.
- (2) The Commissioner may, by instrument in writing, accredit a minister of religion who has been endorsed by the Civil Chaplaincies Advisory Committee to work as a full-time, part-time or sessional chaplain to inmates, correctional officers and departmental officers at a correctional centre.
- (3) The Commissioner must not accredit a minister of religion unless the minister has undergone a criminal record check and been found by the Commissioner to be suitable to work as a chaplain in the centre.
- (4) The Commissioner may, at any time, by instrument in writing, revoke any such accreditation.
- (5) The Commissioner must give to the Civil Chaplaincies Advisory Committee written notice of any revocation.

### 60 Privileges of accredited chaplains

- (1) With the approval of the general manager, an accredited chaplain:
  - (a) may, when visiting a correctional centre, be accompanied by assistants, whether ministers of religion or lay persons who are wholly or partly engaged in duties of a religious nature, and
  - (b) may arrange for inmates to be visited by persons suitably qualified in counselling, vocational guidance or other services, and
  - (c) may authorise, in writing, another minister of religion to act in his or her place during his or her absence.

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- (2) A person who is authorised to act for an accredited chaplain is taken to be an accredited chaplain for the purposes of this Division.
  - (3) An accredited chaplain is answerable to the Commissioner for the conduct of any assistant who accompanies the accredited chaplain when visiting a correctional centre.

#### **61 Responsibilities of accredited chaplains**

- (1) An accredited chaplain is responsible for the spiritual care of inmates, correctional officers and departmental officers at the correctional centre to which he or she is accredited.
- (2) An accredited chaplain's responsibilities include:
  - (a) visiting inmates who are sick, injured, confined to cell or segregated from other inmates, and
  - (b) visiting inmates (or arranging for them to be visited by another minister of religion of the same denomination) in circumstances in which they are suffering from a potentially fatal illness or injury.

#### **62 Powers of accredited chaplains**

- (1) On Sundays or other recognised days of religious observance, and on such other days as the general manager may permit, an accredited chaplain:
  - (a) may hold or conduct such rites, services or assemblies as pertain to the accredited chaplain's denomination, or
  - (b) with the permission of the general manager, may hold or conduct combined services in association with ministers of religion of other denominations.
- (2) An accredited chaplain may minister to an inmate who is not of the accredited chaplain's denomination, but only with the consent of the inmate and, if an accredited chaplain of the inmate's denomination has been appointed to the correctional centre, that accredited chaplain.
- (3) With the approval of the general manager, an accredited chaplain may pursue such matters as the accredited chaplain considers to be in the interests of the welfare of inmates at the correctional centre to which he or she is accredited, and of their families.

#### **63 Access to inmates**

- (1) An accredited chaplain is entitled:
  - (a) to visit the correctional centre to which he or she is accredited at all reasonable times, but not so as to disturb the ordinary routine of the centre, and

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- (b) to have access to inmates of the accredited chaplain's denomination for the purpose of private and confidential religious ministrations.
  - (2) With the approval of the general manager, a minister of religion of a particular denomination who is not accredited in relation to a particular correctional centre:
    - (a) may visit the centre, and
    - (b) may have access to inmates of that denomination, if no other minister of religion of that denomination has been accredited for the centre.
  - (3) On request by an inmate belonging to a denomination for which no minister of religion has been accredited, the general manager (after consultation with accredited chaplains) may arrange for the inmate to be visited by a minister of religion of that denomination.
  - (4) A decision by the general manager to grant a request under subclause (3) does not affect the number of visits and maximum number of visitors to which the inmate may be entitled under clauses 72 and 73.
  - (5) A minister of religion is entitled to have access to an inmate under this clause beyond the hearing (but within the sight) of a correctional officer.
  - (6) An inmate's objection to being visited by a minister of religion is to be fully respected.

#### **64 Participation of inmates in religious observances**

- (1) An inmate may attend the following rites, services and assemblies conducted at the correctional centre:
  - (a) rites, services or assemblies of the inmate's denomination,
  - (b) combined rites, services or assemblies conducted by ministers of religion of the inmate's denomination in association with ministers of religion of other denominations,
  - (c) with the approval of the general manager, rites, services or assemblies of other denominations.
- (2) Religious books, recognised objects of religious devotion and similar items belonging to an inmate are to be treated as approved personal property acquired with the permission of the general manager.

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## 65 Use of chapels

- (1) A correctional centre chapel or a part of a correctional centre chapel that is used for the conduct of rites, services or assemblies may be used for such other purposes that are in keeping with the nature of the building, as may be determined by the general manager after consultation with the relevant accredited chaplains.
- (2) On request by an accredited chaplain, the general manager of a correctional centre must make available:
  - (a) a suitable part of the centre as a correctional centre chapel for the conduct of rites, services or assemblies, and
  - (b) suitable facilities for the safekeeping of books and other objects used in connection with the conduct of rites, services or assemblies,
 if no such correctional centre chapel or facilities currently exist.
- (3) The general manager of a correctional centre is to encourage inmates to use the correctional centre chapel for personal devotion, worship and meditation.
- (4) An inmate must not desecrate or abuse any books or other objects used in connection with the rites, services or assemblies of a religious denomination.
 

**Note.** Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.
- (5) A correctional officer or departmental officer must not damage any books or other objects used in connection with the rites, services and assemblies of a religious denomination, otherwise than in circumstances where the damage is:
  - (a) unavoidable, and
  - (b) in the course of a search or of carrying out the officer's duties.

## 66 Accredited chaplains may advise committees

- (1) With the approval of the general manager, an accredited chaplain:
  - (a) may attend meetings of any committee concerned with the management of the correctional centre to which he or she is accredited, and
  - (b) at any such meeting, may offer advice in relation to the welfare of inmates.
- (2) An accredited chaplain is not entitled to vote on any motion or proposal put before such a committee or otherwise to participate in its decisions.

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#### **67 Accredited chaplaincy services generally**

- (1) The accredited chaplains, in collaboration with the Commissioner and the appropriate religious authorities, may assist in:
  - (a) the development of community support for corrective services, and
  - (b) the development and extension of accredited chaplaincy services in correctional centres.
- (2) In consultation with the accredited chaplains and appropriate religious authorities, the Commissioner must from time to time review the effectiveness of the accredited chaplaincy services in correctional centres.

#### **68 Exclusion of ministers of religion on grounds of security**

The Commissioner may prohibit:

- (a) a particular minister of religion, or
  - (b) a minister of religion of a particular denomination,
- from visiting a correctional centre if of the opinion that it would be prejudicial to the good order and security of the centre to allow such a visit.

#### **69 Inmates' religious affiliation**

- (1) An inmate who wishes to become a member of a religious denomination, or who wishes to change his or her religious denomination, is to cause written notice of those wishes to be given to the general manager of the correctional centre:
  - (a) setting out the inmate's reasons for wishing to become a member of that denomination, and
  - (b) requesting any relevant records kept at the centre to be amended accordingly.
- (2) If satisfied (after consultation with the relevant accredited chaplain) that the request is made in good faith, the general manager is to cause the relevant records to be amended in accordance with the request.
- (3) For the purposes of this Part, an inmate is to be treated as belonging to the religious denomination (if any) that is for the time being shown in the relevant records in relation to the inmate.
- (4) If asked to do so by an accredited chaplain, the general manager must inform the chaplain of the names of all inmates at the correctional centre who are for the time being shown in the relevant records as belonging to the chaplain's denomination.

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## **Part 2.4 Visits and communications**

### **Division 1 Visits to inmates**

#### **70 Visits generally**

The general manager of a correctional centre may permit a person to visit the centre, either generally or for the purpose of seeing a particular inmate at the centre.

#### **71 Visiting hours**

- (1) The periods during which a person may visit a correctional centre are to be as determined by the Commissioner.
- (2) The general manager of a correctional centre is to ensure that the visiting hours are clearly displayed on a notice outside the centre.
- (3) If it is not practicable for a person to visit during visiting hours, the general manager may permit a visit outside those hours, subject to the convenience of the routine of the correctional centre.
- (4) A visit is to be permitted to continue for at least 30 minutes, unless it is terminated or unless it would otherwise extend beyond visiting hours.

#### **72 Number of visits**

- (1) An unconvicted inmate may be visited once as soon as practicable after reception into a correctional centre and afterwards twice weekly.
- (2) A convicted inmate may be visited once as soon as practicable after conviction and afterwards at such intervals as the general manager determines.
- (3) A civil inmate may be visited daily, as often and for so long as the general manager determines.
- (4) The general manager of a correctional centre may permit additional visits to an inmate, particularly in the case of an inmate who is dangerously ill.

#### **73 Maximum number of visitors**

- (1) Up to 4 visitors may be present with an inmate at the same time.
- (2) The general manager of a correctional centre may permit additional visitors to be present with an inmate at the same time, particularly in the case of an inmate who is dangerously ill.



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#### **74 Visits by Commissioner and other officials**

- (1) The Commissioner may visit and must be admitted to a correctional centre at any time.
- (2) No other person may be admitted to a correctional centre without the prior authority of the Commissioner, except for the following persons:
  - (a) a correctional officer or departmental officer employed at the centre,
  - (b) the Minister or an Official Visitor for the centre,
  - (c) a member of the Review Council or of any committee of the Review Council,
  - (d) a Judge of the Supreme Court or District Court, a Magistrate or a coroner,
  - (e) a government official engaged on official duties,
  - (f) any person in the exercise of a power conferred by or under an Act (including a Commonwealth Act).

#### **75 Inmates may refuse visits**

An inmate may refuse to receive a visitor, other than a government official engaged on official duties.

#### **76 Inmates confined to cell not entitled to visits**

- (1) An inmate who is confined to cell is not entitled to be visited except in the case of:
  - (a) a visit to discuss or transact legal business, or
  - (b) a visit by a diplomatic or consular representative, or
  - (c) a visit by a field officer of the Aboriginal Legal Service or a similar organisation approved by the Commissioner, or
  - (d) a visit by a government official on official duties, or
  - (e) a visit by an Official Visitor.
- (2) Despite subclause (1), the general manager of a correctional centre may permit an inmate who is confined to cell to receive visits from the inmate's family and friends if, in the general manager's opinion, it is appropriate to do so to avoid hardship (such as where family or friends have travelled a long way to make the visit).

#### **77 Record of visits**

- (1) The general manager of a correctional centre must cause a record to be kept of all visits to inmates at the centre.

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- (2) The record must contain the following particulars in relation to each visit:
- (a) the date of the visit,
  - (b) the name of the inmate,
  - (c) the name, address and date of birth of each visitor,
  - (d) the form of identification used by each visitor as evidence of his or her name and address,
  - (e) the relationship between each visitor and the inmate,
  - (f) the purpose of (and, where appropriate, the authority for) the visit,
  - (g) the form (contact or non-contact) in which the visit is permitted,
  - (h) the name of the correctional officer who supervised the visit,
  - (i) if the visit was terminated by a correctional officer, the fact that the visit was so terminated and the reason for its termination.
- (3) The record must also contain the following particulars as to each visit that has been refused:
- (a) the date on which the visit was refused,
  - (b) the name, address and date of birth (if known) of the visitor,
  - (c) the reason for the visit being refused.
- (4) Copies of the record are to be kept in such manner and for such period as the Commissioner determines.

## **Division 2      Special visits: legal business, foreign nationals, Aboriginal persons**

### **78    Visits to transact legal business**

In addition to any other visit authorised by this Regulation, an inmate is entitled to be visited by the inmate's legal practitioner.

### **79    Visits to foreign nationals**

In addition to any other visit authorised by this Regulation, an inmate who is a national of a foreign country may be visited by:

- (a) a diplomatic or consular representative in Australia or New South Wales of the foreign country, or
- (b) a diplomatic or consular representative in Australia or New South Wales of another foreign country that assumes responsibility for the inmate's interests, or

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- (c) if the inmate is a refugee or stateless person, a representative of a national or international organisation (such as Amnesty International) that is recognised by the Commonwealth Government as having as an object the protection of the interests of such an inmate.

#### **80 Visits to Aboriginal persons**

- (1) In addition to other visits authorised by this Regulation, an inmate who is an Aboriginal person may be visited by:
- a field officer of the Aboriginal Legal Service, or
  - a field officer of any other organisation that provides legal or other assistance to Aboriginal persons and that is approved by the Commissioner.
- (2) In this clause, *Aboriginal person* has the same meaning as in the *Aboriginal Land Rights Act 1983*.

#### **81 Prior appointment necessary**

A prior appointment for a visit under this Division must be made with the general manager.

#### **82 Time, duration and number of visits**

- (1) Visits to an inmate under this Division are not to be restricted in duration or number but must be made during normal visiting hours.
- (2) The general manager of a correctional centre may extend normal visiting hours to permit such a visit if, in the general manager's opinion:
- it is convenient and practicable to do so, and
  - the general manager is able to make satisfactory security arrangements.

### **Division 3 Permits to visit correctional centres**

#### **83 Permit for visits**

- (1) A visitor's permit may be issued authorising a person to visit a specified correctional centre for any official, scientific, religious, educational, sociological or other purpose approved by the Commissioner.
- (2) A visitor's permit:
- may be issued by the Commissioner, and
  - may be issued unconditionally or subject to conditions specified in the permit.

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- (3) An application for a visitor's permit is to be made in writing to the Commissioner, and the Commissioner's decision as to whether or not to grant the permit is final.

**84 Cancellation of permits**

The Commissioner may cancel a visitor's permit at any time.

**85 Return of expired or cancelled permits**

A person to whom a visitor's permit is issued must return it to the Commissioner as soon as the permit expires or is cancelled.

Maximum penalty: 5 penalty units.

**86 Preliminary requirements for visits**

A person to whom a visitor's permit is issued:

- (a) is not entitled to visit a correctional centre without the prior approval of an authorised officer, and
- (b) must, before the visit takes place, inform an authorised officer of the purpose of the visit.

**87 Restrictions on holders of visitors' permits**

- (1) A person to whom a visitor's permit is issued:

- (a) must not enter any part of a correctional centre to which entry is forbidden by the correctional officer supervising the visit, and
- (b) must comply with any reasonable direction given by the correctional officer supervising the visit.

- (2) While visiting a correctional centre pursuant to a visitor's permit, a person must not communicate with an inmate, or come into physical contact with an inmate, unless authorised to do so:

- (a) by the conditions of the permit, or
- (b) by an authorised officer.

Maximum penalty: 5 penalty units.

**Division 4 Control of visits to correctional centres and inmates**

**88 Application of Division**

This Division applies to all visits under Division 1, 2 or 3.

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### **89 Proof of identity of visitor and purpose of visit may be required**

- (1) An authorised officer may require a visitor:
  - (a) to produce evidence, satisfactory to the authorised officer, of the person's name and address, and
  - (b) to state the purpose of the visit.
- (2) A visitor must not produce evidence, or make a statement, in response to a requirement under subclause (1) knowing the evidence or statement to be false or misleading in a material particular.  
Maximum penalty: 10 penalty units.
- (3) An authorised officer may refuse to allow a person to visit a correctional centre if the person fails to comply with a requirement under subclause (1).

### **90 Searching of visitors**

- (1) An authorised officer or the principal security officer may require a visitor:
  - (a) to submit to an inspection and search of personal possessions, to scanning by means of an electronic scanning device and to being sniffed by a dog, and
  - (b) to empty the pockets of the visitor's clothing, and
  - (c) to make available for inspection and search any vehicle under the visitor's control that is on the premises of a correctional centre.
- (2) Except as otherwise provided by this Regulation or as permitted by an authorised officer, a visitor must, while the visit is taking place, leave anything that the visitor has brought into a correctional centre in storage facilities provided for the purpose at the centre.  
Maximum penalty: 5 penalty units.
- (3) An authorised officer or the principal security officer may confiscate, for the duration of the visit, anything that a visitor has brought into the correctional centre but not left in storage facilities as required by subclause (2).
- (4) Subclause (3) does not limit any other power that an authorised officer or principal security officer may have apart from this clause to seize or detain anything of the kind referred to in that subclause, such as a power to seize any such thing from a person following the person's lawful arrest.

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**91 Hindering or obstructing dogs**

A visitor must not hinder or obstruct a dog being used to assist in maintaining the good order and security of a correctional centre.

Maximum penalty: 5 penalty units.

**92 Smoking by visitors in non-smoking areas prohibited**

A visitor must not:

- (a) smoke in a non-smoking area, or
- (b) alter, damage or remove any sign or notice relating to a non-smoking area.

Maximum penalty: 1 penalty unit.

**93 Unauthorised use of cameras or recording equipment**

- (1) A visitor must not take photographs of, or operate video or audio recording equipment at, a correctional centre without the prior approval of the general manager.

Maximum penalty: 20 penalty units.

- (2) The general manager may confiscate any photograph, film, tape or other recording, or delete any digital recording, taken or made by a person in contravention of this clause.

- (3) The general manager may destroy any part of a confiscated photograph, film, tape or recording which the general manager is satisfied is likely to prejudice the security of a correctional centre or place anyone's personal safety at risk.

- (4) Any part of the photograph, film, tape or recording that the general manager is satisfied is not likely to prejudice the security of a correctional centre or place anyone's personal safety at risk must be returned to the person from whom it was taken.

- (5) Before returning any photograph, film, tape or recording, the general manager may charge the person for payment of any costs incurred in processing or developing it.

**94 Delivery of articles to and from visitors**

- (1) Except as otherwise provided by this Part:

- (a) a visitor must not deliver anything to or receive anything from an inmate at a correctional centre, and

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- (b) an inmate at a correctional centre must not deliver anything to or receive anything from a visitor.

Maximum penalty (for an offence committed by a visitor): 1 penalty unit.

**Note.** Failure by an inmate to comply with the requirements of subclause (1) (b) is a correctional centre offence.

- (2) With the approval of an authorised officer:
- (a) a visitor may deliver an article to a correctional officer at a correctional centre for delivery to an inmate, and
- (b) an inmate may deliver an article to a correctional officer for delivery to a visitor.

#### **95 Prevention of physical contact with inmates**

- (1) Visits to inmates may be either “contact” visits, in which the inmate and the visitor are permitted physical contact with each other, or “non-contact” visits, in which the visit takes place in an environment in which physical contact is prevented.
- (2) The general manager of a correctional centre may direct that a visit is to be, or is to continue as, a non-contact visit if of the opinion that the visitor is likely:
- (a) to introduce into the centre prohibited goods or any other property that an inmate is not authorised by this Regulation to possess, or
- (b) to act in a threatening, offensive, indecent, obscene, abusive or improper manner.
- (3) A direction under this clause has effect for such period as it may specify or, if no such period is specified, from the time it is given until it is revoked by a further direction.
- (4) Despite subclauses (1)–(3), a visit to a Category AA male inmate or Category 5 female inmate may not be a contact visit unless the Commissioner so approves.

#### **96 Visits to be within sight of correctional officer**

- (1) A visit must take place within sight of a correctional officer unless the general manager permits otherwise.
- (2) Subclause (1) does not apply to the holder of a visitor’s permit under Division 3 who is authorised by the conditions of the permit to interview or examine an inmate out of sight of a correctional officer.

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### 97 Special arrangements for legal documents

- (1) An authorised officer may inspect or examine, but not read, any document or other recorded material (including information recorded in electronic form) that is taken into a correctional centre by an inmate's legal practitioner for the purpose of discussing or transacting legal business.
- (2) The general manager of a correctional centre must ensure that arrangements are made for an inmate and the inmate's legal practitioner to have joint access to any such document or other recorded material that is taken into the centre for the purpose of discussing or transacting legal business.
- (3) Nothing in this clause limits the operation of clause 95.

### 98 Termination of visits

- (1) An authorised officer may terminate any visit (whether or not the visitor is entitled to make the visit) if of the opinion:
  - (a) that the visitor has contravened any provision of the Act or this Regulation, or
  - (b) that the visitor (or inmate being visited by the visitor) is or has been acting in a threatening, offensive, indecent, obscene, abusive or improper manner, or
  - (c) that the continuation of the visit would prejudice the good order and security of the correctional centre, or
  - (d) that it is in the interests of the visitor, being a visitor who is under the age of 18 years, to terminate the visit.
 

**Note.** For example, the Commissioner may terminate a visit by a child who is visiting an inmate convicted of a sexual offence if the Commissioner is of the opinion that it is necessary for the protection of the child.
- (2) If a visit is terminated under this clause, the authorised officer must cause notice of that fact to be given to the general manager.
- (3) The general manager must cause a copy of the notice to be sent to the Commissioner.
- (4) A person whose visit is terminated under this clause may be removed from the correctional centre if he or she fails to leave when requested.

## Division 5 General restrictions on persons who may visit

### 99 Application of Division

This Division applies to all visits under Division 1, 2 or 3.



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**100 General power of general manager or correctional officer to prevent visits**

The general manager of a correctional centre may refuse to allow a person to visit the centre or an inmate if of the opinion that such a visit would prejudice the good order and security of the centre.

**101 Visitors under the influence of alcohol or drugs**

An authorised officer may refuse to allow a person to visit a correctional centre or an inmate if of the opinion that the person is under the influence of alcohol or a drug.

**102 Commissioner may bar persons from visiting correctional centres**

- (1) The Commissioner may direct that a particular person be prevented from entering any correctional centre, or from visiting an inmate at any such centre, if of the opinion:
  - (a) that such a visit would prejudice the good order and security of any such correctional centre, or
  - (b) that the visitor has, during the current visit or during a previous visit, acted in a threatening, offensive, indecent, obscene, abusive or improper manner.
- (2) The Commissioner may direct that a person who is under the age of 18 years is to be prevented from visiting an inmate at any centre, if the Commissioner is of the opinion that it is in the interest of the person that the direction be given.
 

**Note.** For example, the Commissioner may direct that a child be prevented from visiting an inmate convicted of a sexual offence if the Commissioner is of the opinion that it is necessary for the protection of the child.
- (3) A direction under this clause has effect for such period as it may specify or, if no such period is specified, until it is revoked by a further direction.
- (4) Despite the direction, the Commissioner may permit the person to whom the direction applies to visit a particular correctional centre or particular inmate.
- (5) Permission given under subclause (4) may be given subject to any condition that the Commissioner considers appropriate.
- (6) Without limiting subclause (5), the Commissioner may impose the following conditions:
  - (a) that the visit be a non-contact visit,
  - (b) that, in the case of a visit by a child, the child be accompanied by an approved adult for the duration of the visit.

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**103 Unauthorised persons not to be admitted to correctional centres**

A person who is not otherwise authorised by this Regulation to be admitted to a correctional centre must not be admitted to the centre without the prior authority of the Commissioner.

**Division 6 Written communications with inmates**

**104 Correspondence generally**

- (1) Subject to this Division:
  - (a) an inmate may send letters or parcels to, and receive letters or parcels from, any other person, and
  - (b) a letter or parcel sent to or by an inmate is not to be censored.
- (2) An inmate must not send or receive any letter or parcel otherwise than through the hands of a nominated officer.

**Note.** Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

**105 Certain articles prohibited**

An inmate must not send from a correctional centre:

- (a) any threatening, offensive, indecent, obscene or abusive written or pictorial matter, or
- (b) any offensive, indecent or obscene article.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

**106 Opening of letters and parcels generally**

- (1) The general manager of a correctional centre or a nominated officer may open, inspect and read a letter or parcel sent to or by an inmate and, if it contains prohibited goods, may confiscate the letter or parcel and its contents and deal with them in accordance with the directions of the Commissioner.
- (2) The inmate is to be informed of the confiscation of any letter, parcel or prohibited goods.
- (3) A nominated officer may direct that any written or pictorial matter contained in a letter or parcel opened, inspected or read under this clause be copied before the letter or parcel containing the matter is delivered to the addressee.

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- (4) Such a direction may be given only if the nominated officer is of the opinion that the written or pictorial matter to be copied:
- (a) contains anything likely to prejudice the good order and security of any correctional centre, or
  - (b) is threatening, offensive, indecent, obscene or abusive.
- (5) This clause does not apply to:
- (a) any letter or parcel addressed to, or received from, an exempt body or exempt person, or
  - (b) any letter or parcel to which clause 108 applies.

**107 Certain letters and parcels privileged**

- (1) As soon as practicable after receiving from an inmate any letter or parcel addressed to an exempt body or exempt person, a nominated officer must post the letter or parcel to the addressee, without opening, inspecting or reading it.
- (2) An exempt body or exempt person may, by written notice sent to the Commissioner, direct that letters or parcels from a specified inmate, or from inmates of a specified class, are not to be posted to that body or person.
- (3) Subclause (1) does not apply to any letter or parcel from an inmate the subject of a notice under subclause (2), and any such letter or parcel may instead be confiscated.
- (4) A letter or parcel that has been confiscated under subclause (3) may, together with its contents, be dealt with in accordance with the directions of the Commissioner.
- (5) As soon as practicable after receiving from an exempt body or exempt person any letter or parcel addressed to an inmate, a nominated officer must deliver the letter or parcel to the inmate, without opening, inspecting or reading it.
- (6) Subclause (5) applies only to a letter or parcel that is contained in an envelope or package that is addressed to the general manager together with a note to the effect that the letter or parcel is to be delivered to the inmate without being opened, inspected or read by any person other than the inmate.
- (7) In the case of a letter or parcel from an exempt person, a nominated officer may require the letter or parcel to be opened by the inmate in his or her presence if of the opinion that it may contain prohibited goods and, if it does so, may confiscate the letter or parcel and its contents and deal with them in accordance with the directions of the Commissioner.

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- (8) This clause does not apply to any letter or parcel to which clause 108 applies.

**108 Correspondence with Category AA and Category 5 inmates**

- (1) This clause applies to all letters and parcels that are sent:
- (a) by a Category AA male inmate or Category 5 female inmate to any other person (including an exempt body and an exempt person), or
  - (b) to a Category AA male inmate or Category 5 female inmate from any other person (including an exempt body and an exempt person).
- (2) The general manager of a correctional centre or a nominated officer must open, inspect, read and copy:
- (a) any letter or parcel received from an inmate and addressed to a person (other than an exempt body), or
  - (b) any letter or parcel received from a person (other than an exempt body) and addressed to an inmate,
- and, if it contains prohibited goods, must confiscate the letter or parcel and its contents and deal with them in accordance with the directions of the Commissioner.
- (3) The inmate need not be informed of any action taken under subclause (2).
- (4) As soon as practicable after receiving from an inmate any letter or parcel addressed to an exempt body, a nominated officer must post the letter or parcel to the addressee, without opening, inspecting or reading it.
- (5) As soon as practicable after receiving from an exempt body any letter or parcel addressed to an inmate, a nominated officer must deliver the letter or parcel to the inmate, without opening, inspecting or reading it, but only if:
- (a) the letter or parcel is contained in an envelope or package, addressed to the general manager, together with a note to the effect that it is to be delivered to the inmate without being opened, inspected or read by any person other than the inmate, and
  - (b) a nominated officer has confirmed with the exempt body that the body has in fact sent it and addressed it to the inmate.

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- (6) A register must be kept for each correctional centre, being a register in which nominated officers are to record the following details with respect to each letter or parcel dealt with under this clause:
- (a) in the case of a letter or parcel received from an inmate to be sent to any person:
    - (i) the date on which it was received,
    - (ii) the name of the inmate from whom it was received,
    - (iii) the name of the person to whom it was addressed,
    - (iv) the name of the nominated officer by whom it was dealt with,
    - (v) in the case of a letter or parcel referred to in subclause (2) (a), the outcome of the action taken under that subclause,
  - (b) in the case of a letter or parcel received from any person to be delivered to an inmate:
    - (i) the date on which it was received,
    - (ii) the name of the person from whom it was received,
    - (iii) the name of the inmate to whom it was addressed,
    - (iv) the name of the nominated officer by whom it was dealt with,
    - (v) in the case of a letter or parcel referred to in subclause (2) (b), the outcome of the action taken under that subclause,
    - (vi) in the case of a letter or parcel received from an exempt body, the date on which a nominated officer confirmed with the exempt body that it did in fact send the letter or parcel and address it to the inmate.
- (7) On receiving any letter or parcel that has been dealt with under this clause, an inmate must sign the register to acknowledge its receipt.
- (8) The Commissioner may, on the application of an exempt person, make an order declaring that this clause is to apply (either unconditionally or subject to conditions) to letters and parcels sent to or from that person as if that person were an exempt body and, on the making of such an order, this clause so applies.
- (9) This clause applies to fax transmissions in the same way as it applies to letters and parcels.

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### 109 Correspondence with legal practitioner

Subject to clause 108, this Regulation is not to be construed so as to limit correspondence between an inmate and the inmate's legal practitioner in respect of any matters affecting the inmate's trial, conviction or imprisonment.

## Division 7 Use of telephones and fax machines by inmates

### 110 Permission required to make telephone calls or send faxes

- (1) An inmate must not make a telephone call or send a fax without the permission of an authorised officer.
- (2) An inmate must not make more telephone calls or send more faxes in any week than the maximum number fixed by the Commissioner for the inmate or the class of inmates to which the inmate belongs.
- (3) An inmate must not have telephone or fax communication with an inmate of another correctional centre without the permission of the general managers of both correctional centres.
- (4) A correctional officer may terminate an inmate's telephone call or fax communication if of the opinion that the continuation of the call or communication will prejudice good order and security of any correctional centre.
- (5) As soon as practicable after terminating an inmate's telephone call or fax communication, a correctional officer must cause details of the reason for the termination to be recorded and reported to the general manager.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 111 Cost of telephone calls and faxes

- (1) The cost of a telephone call made by an inmate (including the telephone component of the cost of sending a fax) is to be met by the inmate.
- (2) Subclause (1) does not apply to:
  - (a) the first local call made in any week by a convicted inmate, or
  - (b) the first 3 local calls made in any week by an unconvicted inmate or civil inmate, or
  - (c) any call made to the Office of the Ombudsman, the Independent Commission Against Corruption or the Legal Aid Commission, or
  - (d) any call of a kind that the Commissioner directs is to be met by the Department, or

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- (e) any call whose cost is met by the receiver.
  - (3) An inmate must pay an amount per page, to be determined by the Commissioner, for any fax sent to, and accepted by, the inmate.
  - (4) In this clause, *local call* means a telephone call that is charged for at local call rates.

#### 112 Possession of cameras, video or audio recorders

An inmate must not have a camera, or video or audio recording equipment, or a charger for any such equipment, in his or her possession.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

#### 113 Use or possession of mobile phones

An inmate must not use or have in his or her possession a mobile phone or any part of it, a mobile phone SIM card or any part of it, or a mobile phone charger or any part of it.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### Division 8 General

#### 114 Supply of information concerning offences to police

- (1) A nominated officer who finds that a letter, parcel or other article contains information or any other thing that the officer has reasonable grounds to believe:
  - (a) is likely to prejudice the good order and security of a correctional centre, or
  - (b) relates to a criminal offence which has been or may be committed,
 must as soon as practicable report the circumstances to the general manager.
- (2) If of the opinion that a letter, parcel or other article the subject of such a report contains information that may be required for the purpose of the administration of justice, the general manager:
  - (a) may furnish particulars of the information to a police officer, and
  - (b) may deliver the letter, parcel or article to a police officer.

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### 115 Property brought to correctional centre by other persons

Any property sent to an inmate, or delivered to the general manager of a correctional centre to be given to an inmate, is to be dealt with by the general manager in accordance with clause 10 as if the property had been surrendered by the inmate on being received into the centre.

### 116 Property brought into correctional centre illegally

- (1) Any property brought into a correctional centre in contravention of the Act, this Regulation or any other law may be confiscated by the general manager of the correctional centre.
- (2) Property that is confiscated under this clause becomes the property of the State, to be disposed of as the Commissioner may direct.

**Note.** Section 75 of the Act provides that the Commissioner may confiscate any property (including any money) that is unlawfully in the possession of an inmate. Property that is confiscated under the section becomes the property of the State, to be disposed of as the Commissioner may direct.

## Part 2.5 Correctional centre discipline

### Division 1 Preliminary

#### 117 Definition of “correctional centre offence”

A contravention by an inmate (whether by act or omission) of any of the following is declared to be a correctional centre offence for the purposes of Division 6 of Part 2 of the Act:

- (a) a provision of the Act,
- (b) an order or direction made under a provision of the Act,
- (c) a provision of this Regulation specified in Schedule 2.

#### 118 Attempts

An attempt by an inmate to commit a correctional centre offence is to be dealt with in the same way as that offence and, for that purpose, is itself declared to be a correctional centre offence for the purposes of Division 6 of Part 2 of the Act.

### Division 2 Maintenance of order and discipline

#### 119 Maintenance of order and discipline generally

- (1) Order and discipline in a correctional centre are to be maintained with firmness, but with no more restriction or force than is required for safe custody and well-ordered community life within the centre.



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- (2) A correctional officer must endeavour to control inmates by showing them example and leadership and by enlisting their willing co-operation.
  - (3) At all times the treatment of inmates is to be such as to encourage self-respect and a sense of personal responsibility.

#### **120 Directions relating to order or discipline**

- (1) Directions for the purpose of maintaining good order and discipline:
  - (a) may be given to inmates by the Commissioner, by the general manager of a correctional centre or by a correctional officer, and
  - (b) may be given orally or in writing.
- (2) An inmate must not refuse or fail to comply with a direction under this clause.
 

**Note.** Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

#### **121 Use of force in dealing with inmates**

- (1) In dealing with an inmate, a correctional officer may use no more force than is reasonably necessary in the circumstances, and the infliction of injury on the inmate is to be avoided if at all possible.
- (2) The nature and extent of the force that may be used in relation to an inmate are to be dictated by circumstances, but must not exceed such force as is necessary for control and protection, having due regard to the personal safety of correctional officers and others.
- (3) If an inmate is satisfactorily restrained, the only force that may be used against the inmate is such as is necessary to maintain that restraint.
- (4) Subject to subclauses (1)–(3), a correctional officer may have recourse to force for the following purposes:
  - (a) to search, where necessary, an inmate or to seize a dangerous or harmful article,
  - (b) to prevent the escape of an inmate,
  - (c) to prevent an unlawful attempt to enter a correctional centre by force or to free an inmate,
  - (d) to defend himself or herself if attacked or threatened with attack, but only if the officer cannot otherwise protect himself or herself from harm,
  - (e) to protect other persons (including correctional officers, departmental officers, inmates and members of the public) from attack or harm, but only if there are no other immediate or apparent means available for their protection,

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- (f) to avoid an imminent attack on the correctional officer or some other person, but only if there is a reasonable apprehension of such an attack,
  - (g) to prevent an inmate from injuring himself or herself,
  - (h) to ensure compliance with a proper order, or maintenance of discipline, but only if an inmate is failing to co-operate with a lawful correctional centre requirement in a manner that cannot otherwise be adequately controlled,
  - (i) to move inmates who decline or refuse to move from one location to another in accordance with a lawful order,
  - (j) to achieve the control of inmates acting in a defiant manner,
  - (k) to avoid imminent violent or destructive behaviour by inmates,
  - (l) to restrain violence directed towards the correctional officer or other persons by an uncontrollable or disturbed inmate,
  - (m) to prevent or quell a riot or other disturbance,
  - (n) to deal with any other situation that has a degree of seriousness comparable to that of the situations referred to in paragraphs (a)–(m).
- (5) Subclause (4) does not limit the operation of any law with respect to the force that may be used to effect an arrest.

#### **122 Use of equipment for restraining inmates**

- (1) With the concurrence of the general manager, a correctional officer may use handcuffs, security belts, batons, chemical aids and firearms for the purpose of restraining inmates.
- (2) With the concurrence of the Commissioner, a correctional officer may also use the following equipment for the purpose of restraining inmates:
  - (a) anklecuffs,
  - (b) such other articles (other than chains or irons) as may be approved by the Commissioner for use for that purpose.

#### **123 Report on use of force**

- (1) Any correctional officer who uses force on an inmate must immediately furnish a report about the use of force to the general manager.
- (2) The report:
  - (a) must be in writing, and
  - (b) must specify the name or names of the inmate or inmates and the name or names of the correctional officer or correctional officers involved in the use of force, and

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- (c) must specify the location where the use of force occurred, and
  - (d) must describe the nature of the force used and the circumstances requiring its use, and
  - (e) must be signed by the correctional officer involved in the use of force.
- (3) This clause does not require a correctional officer to furnish information in a report if it is impossible or impracticable for the officer to obtain the information.

### Division 3 Particular offences

#### 124 Contravention of conditions of leave

An inmate the subject of a local leave order, local leave permit or interstate leave permit must not contravene any condition to which the order or permit is subject.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

#### 125 Concealment for escape

An inmate must not conceal himself or herself for the purpose of effecting an escape or enabling any other inmate to effect an escape.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

#### 126 Concealment of certain items

An inmate must not make, conceal or have in possession anything for use for the purpose of effecting an escape or committing an offence, or enabling any other inmate to effect an escape or commit an offence.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

#### 127 Possession of offensive weapon or instrument

- (1) An inmate must not have an offensive weapon or instrument in his or her possession.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

- (2) In this clause, *offensive weapon or instrument* has the same meaning as it has in section 4 (1) of the *Crimes Act 1900*.

#### 128 Intimidation

- (1) An inmate must not use insulting, abusive or threatening language to or in the presence of another person.

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(2) An inmate must not threaten to damage or destroy any property of another person.

(3) An inmate must not otherwise behave in a threatening manner towards another person.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 129 Indecency

(1) An inmate must not act indecently, or behave in an obscene manner, in the presence of or towards any other person.

(2) An inmate must not engage in unwelcome conduct of a sexual nature in relation to any other person in circumstances that are likely to cause the other person to feel humiliated, intimidated or offended.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 130 Riots

An inmate must not participate in a riot or incite any other inmate to participate in a riot.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 131 Physical aggression

(1) An inmate must not assault any other person or incite any other inmate to assault any other person.

(2) An inmate must not engage in wrestling, sparring, fighting or other physical combat with any other inmate.

(3) An inmate must not throw an article, or operate a device from which an article is projected, so as to cause a risk of injury to any person or of damage to any property.

(4) Subclauses (2) and (3) do not prevent an inmate from engaging in any activity as a necessary incident of taking part in training or a contest or other sporting event organised for inmates by an authorised officer.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 132 General property offences

(1) An inmate must not steal the property of any other person.

(2) An inmate must not damage or destroy any property (other than property of the inmate).

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- (3) An inmate must not introduce into food or drink intended for human consumption anything liable to render it unpalatable or unwholesome.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 133 Hindering or obstructing dogs

An inmate must not hinder or obstruct a dog being used to assist in maintaining the good order and security of a correctional centre.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 134 Causing harm to animal, bird or reptile

An inmate must not cause harm to any animal, bird or reptile.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 135 Correctional centre property offences

Unless authorised to do so by the Commissioner, the general manager of the correctional centre or a correctional officer, an inmate must not alter, remove or otherwise interfere with or be in possession of:

- (a) any lock, key, bolt, bar, ventilator or other correctional centre fixture or fitting, or
- (b) any fire extinguisher, firehose, restraining equipment, electrical installation or any other appliance, equipment or property in or used in the correctional centre or the structure of the correctional centre, or
- (c) any notice exhibited at the correctional centre, or
- (d) any inmate's cell card, or
- (e) any other document or thing used by the general manager or a correctional officer for the purpose of administration of the centre,

except in so far as it is reasonably necessary to do so in observing the normal routine of the centre.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### 136 Tattooing

An inmate must not:

- (a) make a tattoo on himself or herself or any other inmate, or
- (b) consent to being tattooed by any other inmate.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

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**137 Gambling**

An inmate must not organise or participate in any form of gambling.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

**138 Alcohol**

- (1) An inmate must not consume, or have in his or her possession, any alcohol or other intoxicating substance or any substance reasonably capable of becoming (by fermentation or distillation) an intoxicating substance.
- (2) An inmate must not prepare or manufacture alcohol or any other intoxicating substance.
- (3) An inmate is not to be regarded as contravening subclause (1):
  - (a) if the inmate has the alcohol or other substance in his or her possession for consumption or use on the advice of a registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons, or
  - (b) if the inmate consumes the alcohol or other substance:
    - (i) in accordance with the instructions of the medical practitioner, dentist or nurse, or
    - (ii) as an ordinary incident of participating in a religious service conducted at a correctional centre with the consent of the general manager.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

**139 Possession of drugs**

- (1) An inmate must not have any drug in his or her possession.
- (2) An inmate is not to be regarded as having contravened this clause if the inmate has the drug in his or her possession for use on the advice of a registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

**140 Administration of drugs**

- (1) An inmate must not:
  - (a) administer any drug to himself or herself or any other person, or
  - (b) consent to being administered any drug by any other person.

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- (2) An inmate is not to be regarded as having contravened this clause if the drug has been administered by or in accordance with the instructions of a registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

#### 141 Possession of drug implements

- (1) An inmate must not have in his or her possession any needle, syringe, smoking accessory or other implement intended for use in the administration of a drug.
- (2) An inmate is not to be regarded as having contravened this clause if the implement has been in the possession of the inmate for the purposes of:
- the administration of a drug in accordance with the instructions of a registered medical practitioner or registered dentist given for medical or dental reasons, or
  - taking a drug lawfully supplied by a registered medical practitioner, registered dentist or registered nurse for medical, dental or nursing reasons.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

#### 142 Self-intoxication

An inmate must not deliberately consume or inhale any intoxicating substance.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

#### 143 Failing prescribed urine tests

- (1) An inmate contravenes this clause if the result of a prescribed urine test:
- shows the presence of a drug in the inmate's urine, and
  - indicates that the drug has been administered to the inmate (whether by the inmate or by another person) while the inmate has been an inmate.
- (2) An inmate is not to be regarded as having contravened this clause if the drug has been administered by or in accordance with the instructions of a registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons.

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- 
- (3) In this clause, *prescribed urine test* means a urine test carried out in accordance with directions given by the general manager of a correctional centre or a correctional officer holding office or acting in a rank that is of or above the rank of Assistant Superintendent.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

#### 144 Smoking

An inmate must not:

- (a) smoke in a non-smoking area, or
- (b) alter, damage or remove any sign or notice relating to a non-smoking area or to an authorised smoking area.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

#### 145 Bribery

An inmate must not:

- (a) offer, make or give to a correctional officer or departmental officer any payment, gratuity or present, or
- (b) offer to provide or provide a service to a correctional officer or departmental officer,

in consideration or for the purpose that the officer will neglect his or her duty, give preferred treatment or act in any other way that is inconsistent with the proper discharge of the person's duties.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

#### 146 Obstruction

An inmate must not wilfully hinder or obstruct a correctional officer in the performance of the officer's duties.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

### Division 4 Testing for alcohol or drugs

#### 147 Breath testing

- (1) On forming a suspicion that an inmate has recently consumed or is under the influence of alcohol or any other intoxicating substance, a correctional officer or other person having supervision of the inmate may require the inmate to undergo a breath test.



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- (2) An inmate must not refuse or fail to comply with a requirement under this clause.

**Note.** Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

#### **148 Evidence as to presence of alcohol or intoxicating substance**

- (1) In any proceedings for a correctional centre offence that are being dealt with under the Act by the general manager or a Visiting Magistrate, being proceedings in which it is alleged that an inmate has consumed alcohol or any other intoxicating substance, a certificate signed by an authorised officer to the effect that:

- (a) an inmate named in the certificate submitted to a breath test, and
- (b) the breath test was given on the day and completed at the time stated in the certificate, and
- (c) there was a measurable quantity of alcohol or any other intoxicating substance present in the inmate's breath or blood, as determined by the breath test, on the date and at the time stated in the certificate,

is admissible in evidence of the facts so certified.

- (2) In any such proceedings, evidence of:
- (a) the condition of the device by means of which the breath test was carried out, or
  - (b) the manner in which the breath test was carried out,
- is not required unless evidence that the device was not in proper condition or that the test was not properly carried out has been adduced.

#### **149 Urine sample where drug use suspected**

- (1) On forming a suspicion that an inmate:
- (a) has been administered (whether by himself or herself or otherwise) with a drug, or
  - (b) is under the influence of a drug,
- a correctional officer holding office or acting in a rank that is of or above the rank of Assistant Superintendent may require the inmate to supply a sample of urine for testing or analysis and give directions as to how the sample is to be supplied.
- (2) The directions may require the inmate to comply with directions given by a correctional officer as to how the sample is to be supplied.

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- (3) An inmate must not refuse or fail to comply with a direction under this clause.

**Note.** Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

- (4) A urine test must be carried out by a government analyst.
- (5) In any proceedings for a correctional centre offence that are being dealt with under the Act by the general manager or a Visiting Magistrate, being proceedings in which it is alleged that a requirement was made under subclause (1), a certificate signed by an authorised officer to the effect that such a requirement was made:
- (a) for a specified inmate, or
  - (b) for all inmates of a specified class,
- is admissible in evidence of the facts so certified.

#### **150 Urine sample whether or not drug use suspected**

- (1) A correctional officer holding office or acting in a rank that is of or above the rank of Assistant Superintendent may require an inmate to supply for testing or analysis a sample of urine and give directions as to how the sample is to be supplied.
- (2) The directions may require the inmate to comply with directions given by a correctional officer as to how the sample is to be supplied.
- (3) An inmate must not refuse or fail to comply with a direction under this clause.
- Note.** Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.
- (4) A urine test must be carried out by a government analyst.
- (5) A sample may be required under this clause and tested for the presence of a drug even though the inmate concerned may not be reasonably suspected of having administered a drug to himself or herself or of being under the influence of a drug.

#### **151 Evidence as to use of drugs**

- (1) In any proceedings for a correctional centre offence that are being dealt with under the Act by the general manager or a Visiting Magistrate, being proceedings in which it is alleged that an inmate has been under the influence of a drug or that a drug has been present in the inmate's urine, a certificate signed by an authorised officer to the effect that:
- (a) the correctional officer received a sample of urine obtained in a specified manner, or

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- 
- (b) the correctional officer arranged for the sample to be submitted for analysis by a government analyst to determine the presence of any drugs in the inmate's body or urine, or
- (c) the container was sealed, and marked or labelled, in a specified manner,
- is admissible in evidence of the facts so certified.
- (2) In any such proceedings, a certificate signed by a government analyst to the effect that, on a specified day:
- (a) the analyst received for analysis a container holding a sample of urine, or
- (b) the container, when received, was sealed with an unbroken seal, and was marked or labelled in a specified manner, or
- (c) the analyst carried out an analysis of the sample to determine the presence of drugs in the urine, or
- (d) the analyst determined that a specified drug was present or was present to a specified extent in the urine, or
- (e) the analyst was, at the time of the analysis, a government analyst, is admissible in evidence of the facts so certified.
- (3) In any such proceedings:
- (a) evidence that a government analyst received a container holding a sample of urine, being a container that was marked or labelled to indicate that it held a sample of urine obtained from a specified inmate on a specified day, is evidence that the sample was a sample of urine obtained from that inmate on that day, and
- (b) evidence that the container, when received, was sealed with an unbroken seal is evidence that the sample had not been tampered with before it was received by the government analyst.

#### **152 Supply of test results to Justice Health**

The Commissioner may provide results of positive urine tests to:

- (a) the Chief Executive Officer, Justice Health, and
- (b) in the case of tests on serious offenders, the Review Council.

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## **Division 5      Punishments**

### **153    Definition of “withdrawable privilege”**

The following privileges or amenities are declared to be withdrawable privileges for the purposes of Division 6 of Part 2 of the Act:

- (a) attendance at the showing of films or videos or at concerts or other performances,
- (b) participation in or attendance at any other organised leisure time activity,
- (c) use of, or access to, films, video tapes, records, cassettes, CDs or DVDs,
- (d) use of, or access to, television, radio or video, cassette, CD or DVD players, whether for personal use or for use as a member of a group,
- (e) use of, or access to, a musical instrument, whether for personal use or for use as a member of a group,
- (f) use of library facilities, except in so far as their use is necessary to enable study or research to be undertaken by an inmate in the inmate’s capacity as a student who is enrolled in a course of study or training,
- (g) ability to purchase goods,
- (h) keeping of approved personal property,
- (i) pursuit of a hobby,
- (j) use of telephone, except for calls to legal practitioners and exempt bodies,
- (k) participation in contact visits,
- (l) permission to be absent from a correctional centre under a local leave permit or interstate leave permit.

### **154    Prohibited punishments**

- (1) An inmate must not:
  - (a) be put in a dark cell, or under mechanical restraint, as a punishment, or
  - (b) be subjected to:
    - (i) solitary confinement, or
    - (ii) corporal punishment, or
    - (iii) torture, or
    - (iv) cruel, inhumane or degrading treatment, or

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- 
- (c) be subjected to any other punishment or treatment that may reasonably be expected to adversely affect the inmate's physical or mental health.
  - (2) For the purposes of subclause (1) (b) (i):
    - (a) segregating an inmate from other inmates under section 10 of the Act, and
    - (b) confining an inmate to cell in accordance with an order under section 53 or 56 of the Act, and
    - (c) keeping an inmate separate from other inmates under this Regulation, and
    - (d) keeping an inmate alone in a cell, where a nursing officer considers that it is desirable in the interest of the inmate's health to do so,
 are not solitary confinement.

## **Part 2.6 Inmates' requests and complaints**

### **Division 1 Official Visitors**

#### **155 Notice of availability of Official Visitors**

- (1) The general manager of a correctional centre must notify:
  - (a) all correctional centre officers and departmental officers at the centre, and
  - (b) all inmates at the centre,
 of the date and time when an Official Visitor to the centre will be at the centre and available for interviews.
- (2) If aware that an inmate considers a complaint or inquiry made by the inmate has not been dealt with satisfactorily by a correctional centre officer or departmental officer, the general manager must advise the inmate that the inmate may request an Official Visitor to deal with it.
- (3) This clause does not apply in relation to any Category AA male inmate or Category 5 female inmate.

#### **156 Complaints and inquiries**

- (1) An Official Visitor who receives a complaint or inquiry:
  - (a) may clarify details of the complaint or inquiry:
    - (i) with a correctional officer, departmental officer, medical officer or nursing officer, or
    - (ii) with the inmate concerned, and

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- 
- (b) must record details of the complaint or inquiry in the Official Visitor's official diary, and
  - (c) must ascertain:
    - (i) from a correctional officer, departmental officer, medical officer or nursing officer, or
    - (ii) from the inmate concerned,what action has been taken or information provided in response to the complaint or inquiry, and
  - (d) must complete and send to the Commissioner an Official Visitor's record form (containing particulars of action taken in relation to the complaint or inquiry) for statistical purposes.
- (2) An Official Visitor must deal with a complaint or inquiry as follows:
- (a) if of the opinion that the complaint or inquiry can be resolved quickly by bringing it to the attention of the general manager, the Official Visitor may inform the general manager of that fact and attempt to have it resolved at that level, or
  - (b) the Official Visitor may advise:
    - (i) a correctional officer, departmental officer, medical officer or nursing officer, or
    - (ii) the inmate concerned,of any other action that the Official Visitor thinks could be taken in relation to the complaint or inquiry, or
  - (c) with the consent of the officer or inmate concerned, the Official Visitor may refer the complaint or inquiry on behalf of the officer or inmate to such person as the Official Visitor considers appropriate.
- (3) In dealing with a complaint or inquiry at any level, an Official Visitor:
- (a) must not interfere with the management or discipline of a correctional centre, and
  - (b) must not give any instructions to any correctional officer, departmental officer, medical officer, nursing officer or inmate.
- (4) If more than one Official Visitor is appointed to a correctional centre, each Official Visitor must inform the other Official Visitors of the persons they have interviewed at the centre and of the nature and substance of any complaints or inquiries received.
- (5) Nothing in this clause permits an Official Visitor to deal with a complaint or inquiry received from a Category AA male inmate or Category 5 female inmate.

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### **157 Reports by Official Visitors**

- (1) An Official Visitor's periodic report to the Minister under section 228 (5) (d) of the Act must be in writing.
- (2) An Official Visitor may report to the Minister at any time if of the opinion that a complaint or inquiry received by the Official Visitor requires the immediate attention of the Minister.

## **Division 2 General**

### **158 Requests to general manager**

- (1) A correctional officer to whom an oral or written request by an inmate for permission to speak with the general manager is addressed or delivered must, without unreasonable delay, convey it to the general manager.
- (2) The general manager of a correctional centre:
  - (a) to whom such a request is conveyed, or
  - (b) to whom an oral or written request by an inmate for permission to speak with the general manager is addressed or delivered directly,must give the inmate an opportunity to speak with the general manager on the day on which the request is conveyed or made or as soon as is practicable after that day.
- (3) The general manager must consider what the inmate has to say and, having done so, must orally inform the inmate of any action that the general manager has taken or proposes to take or that the general manager does not propose to take any action, as the case may be.

### **159 Requests to Minister, Commissioner or Official Visitors**

- (1) On receiving an oral or written request by an inmate for permission to speak with the Minister, the Commissioner or the Official Visitor about a specific matter, a correctional officer must refer the request to the general manager without unnecessary delay.
- (2) On receiving an oral or written request by an inmate for permission to speak with the Minister, the Commissioner or the Official Visitor about a specific matter, whether directly from the inmate or referred by a correctional officer, the general manager must make a written record of the fact that the request has been made.

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- 
- (3) If the request relates to a matter that the general manager can dispose of personally, the general manager:
    - (a) must dispose of the matter, as soon as practicable, by taking such action as the general manager considers appropriate (which action may consist of or include making a recommendation to the Commissioner), and
    - (b) must make a written record of the action taken (which record must include particulars of any such recommendation), and
    - (c) must cause the record to be made available for inspection by the person with whom the inmate wished to speak when that person next attends the correctional centre (if that person so requires).
  - (4) If the request relates to a matter which the general manager cannot dispose of personally, the general manager must cause the person with whom the inmate wished to speak to be informed of the request when that person next attends the correctional centre.
  - (5) Despite any other provision of this Regulation, a Category AA male inmate or Category 5 female inmate is not entitled, and is not to be permitted, to speak with an Official Visitor.

#### **160 Complaints to Minister or Commissioner**

- (1) An inmate at a correctional centre may make a written complaint to the Minister or the Commissioner about:
  - (a) the inmate's treatment in the centre, or
  - (b) the administration or management of the centre.
- (2) An inmate who wishes to complain about a matter that the general manager can dispose of personally must first make a request for permission to speak with the general manager regarding the matter.
- (3) An inmate may place a complaint in a sealed envelope addressed to the Minister or the Commissioner and deliver it to a correctional officer or the general manager.
- (4) The person to whom an inmate delivers such an envelope must, without opening it, send it to the addressee.

#### **161 Mischievous complaints**

An inmate must not:

- (a) make a complaint knowing that the complaint is baseless, or



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- (b) in or in connection with such a complaint, make any statement (whether orally or in writing) that the inmate knows to be false or misleading in a material particular.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

## Part 2.7 Release procedures

### 162 Inmates to check personal property and records

- (1) Before an inmate is released from a correctional centre, the general manager must cause the inmate to be given an opportunity to inspect, in the presence of a correctional officer:
  - (a) such of the inmate's personal property as is in the general manager's custody, and
  - (b) such official correctional centre records as relate to money belonging to the inmate.
- (2) The inmate may lodge a written complaint with the correctional officer as to:
  - (a) the condition of, or any deficiency in, the property, or
  - (b) any mistake in the records.
- (3) A correctional officer who receives such a complaint must immediately refer it to the general manager.
- (4) The general manager must cause the complaint to be investigated, and must cause the result of the investigation to be reported to the inmate at the inmate's pre-release interview.
- (5) If it is brought to the attention of the general manager:
  - (a) that the result of any such investigation is not to the satisfaction of the inmate, or
  - (b) that any such investigation has not been completed before the release of the inmate,
 the general manager must, without delay, notify the Commissioner of the complaint and the result of the investigation, or the fact that the investigation has not been completed.
- (6) An inmate must sign a receipt for any personal property or money delivered to the inmate immediately before release from a correctional centre.

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Miscellaneous

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### 163 Pre-release interviews

When an inmate is about to be released from a correctional centre, an authorised officer:

- (a) must interview the inmate, and
- (b) must report to the inmate on the results of any investigation by the general manager of a complaint made by the inmate under clause 162, and
- (c) if the inmate is being released on parole, good behaviour bond or bail undertaking, must explain to the inmate the terms on which the inmate is being released, and the result that may follow if any of those terms is breached by the inmate.

**Note.** Clause 227 contains specific provisions with respect to the information to be given to a person who is being released on parole.

## Part 2.8 Miscellaneous

### 164 Preservation of scenes of serious indictable offences and serious incidents

- (1) The general manager of a correctional centre must take all reasonable steps to preserve from interference:
  - (a) any place within the centre:
    - (i) where a serious indictable offence has been, or appears to have been, committed, or
    - (ii) where a serious incident (that is, an incident involving serious personal injury or major property damage) has, or appears to have, occurred, and
  - (b) any article found at or in the vicinity of that place, regardless of whether or not it is, or appears to be, connected with the commission of such an offence or occurrence of such an incident, for so long as is necessary to enable any investigation into the circumstances of the offence or incident to be carried out by police officers or other persons authorised to conduct such an investigation.
- (2) The general manager's obligations under this clause are subject to such practical limitations as may from time to time arise in connection with the administration of the correctional centre.

**Note.** Section 21 of the *Interpretation Act 1987* defines a serious indictable offence to mean an offence that is punishable by imprisonment for life or for a term of 5 years or more.

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**165 Payment for work done by inmates**

- (1) An inmate who complies with conditions set by the Commissioner may be paid for work done in accordance with scales determined from time to time by the Commissioner.
- (2) Any such payment is to be held to the credit of the inmate.

**166 Prohibited work**

- (1) An inmate must not be employed in a disciplinary capacity.
- (2) An inmate must not be employed to perform work for the benefit of the Commissioner or any correctional officer or departmental officer.

**167 General manager as informant in proceedings before Visiting Magistrates**

In proceedings before a Visiting Magistrate under Division 6 of Part 2 of the Act, the general manager of a correctional centre may act as the informant.

**168 Monthly returns of punishments imposed by general managers or Visiting Magistrates**

The general manager of a correctional centre must send to the Commissioner at least once a month a copy of the entries in the record kept under section 61 of the Act in relation to any punishment imposed during the previous month.

**169 Lodging of appeals to District Court from decision of Visiting Magistrate**

- (1) An inmate must cause any notice of appeal, or application for leave to appeal, pursuant to section 62 of the Act to be lodged with the general manager.
- (2) On receiving such a notice or application from an inmate, the general manager must immediately forward a copy of it to the Visiting Magistrate by whom the relevant penalty was imposed on the inmate.
- (3) On receiving the notice or application from the general manager, the Visiting Magistrate must send it, together with all other relevant papers held by the Visiting Magistrate, to a registrar of the District Court.
- (4) Section 14 of the *Crimes (Appeal and Review) Act 2001* does not apply to the notice or application.

**170 Applications for leave of absence**

- (1) An application under section 26 or 29 of the Act for a local or interstate leave permit is to be made in a form approved by the Commissioner.

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Full-time imprisonment  
Miscellaneous

Clause 171  
Chapter 2  
Part 2.8

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- (2) The Commissioner may require that an application be accompanied by a declaration (in a form approved by the Commissioner) by the person in whose company the inmate is to remain while on leave.

#### **171 Establishment of Ethics Committee**

- (1) The Commissioner may establish an Ethics Committee comprising at least 6 members appointed by the Commissioner, of whom:
- (a) at least 3 are to be departmental officers, and
  - (b) at least one is to be a member of the public appointed to represent the community, and
  - (c) at least one is to be an accredited chaplain, and
  - (d) at least one is to be a person with experience in post-graduate medical research.
- (2) One of the departmental officers referred to in subclause (1) (a) is to be appointed as chairperson of the Ethics Committee.
- (3) Three members of the Ethics Committee, of whom one is the chairperson, constitute a quorum of the Committee.
- (4) A decision supported by a majority of the votes at a meeting of the Ethics Committee at which a quorum is present is the decision of the Committee.
- (5) Subject to subclauses (3) and (4), the procedure of the Ethics Committee is to be as determined by the chairperson.

#### **172 Functions of Ethics Committee**

The functions of the Ethics Committee are as follows:

- (a) to consider applications for approval to undertake research and make recommendations to the Commissioner as to whether or not such applications should be approved and, if so, on what conditions,
- (b) to advise the Commissioner on the records and information that may be provided to persons undertaking research, as referred to in section 267 of the Act, and the conditions on which any such records and information are to be so provided,
- (c) to advise the Commissioner on the conditions on which such a person may be issued with a visitor's permit under Division 3 of Part 2.4,
- (d) to advise the Commissioner on ethical issues,
- (e) to advise the Commissioner on such other matters as the Commissioner may refer to the Committee for advice.

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**173 False or misleading information**

An inmate must not, in or in connection with a notice or application under this Chapter or under Part 2 of the Act, make any statement (whether orally or in writing) that the inmate knows to be false or misleading in a material particular.

**Note.** Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

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Periodic detention  
Preliminary

Clause 174  
Chapter 3  
Part 3.1

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## Chapter 3 Periodic detention

### Part 3.1 Preliminary

#### 174 Application of Chapter

- (1) This Chapter applies to and in respect of a periodic detainee:
  - (a) while detained in a periodic detention centre for the purpose of serving the detainee's sentence of imprisonment, or
  - (b) while working, in accordance with a work order under the Act, at a place outside a periodic detention centre (a *work site*), or
  - (c) while attending, in accordance with an attendance order under the Act, at a place outside a periodic detention centre (an *attendance site*), or
  - (d) while travelling between a periodic detention centre and a work site or attendance site outside a periodic detention centre, or
  - (e) while travelling between different work sites or attendance sites outside a periodic detention centre.
- (2) In its application to a periodic detainee who is:
  - (a) working, in accordance with a work order under the Act, at a work site, or
  - (b) attending, in accordance with an attendance order under the Act, at an attendance site,

a reference in this Chapter to a periodic detention centre includes a reference to a work site or attendance site.

### Part 3.2 Admission procedures

#### 175 Information to be recorded in relation to periodic detainees

When a periodic detainee first reports for periodic detention, there must be recorded in relation to the detainee:

- (a) such of the information referred to in Schedule 1 as is relevant to the detainee, and
- (b) such other information as the Commissioner considers appropriate to be recorded.

**Note.** It is an offence under clause 199 for a periodic detainee to furnish false or misleading information for the purposes of this clause.

Clause 176	Crimes (Administration of Sentences) Regulation 2008
Chapter 3	Periodic detention
Part 3.2	Admission procedures

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### 176 Periodic detainees to be notified of rights and obligations

As soon as practicable after a periodic detainee first reports for periodic detention, the general manager responsible for the periodic detention centre must cause the detainee to be informed of:

- (a) the periodic detention centre rules (that is, the terms of any general directions given under Part 3 of the Act or under this Chapter), and
- (b) the detainee's obligations as to discipline and conduct, and
- (c) the detainee's rights as to legal representation and appeal in relation to proceedings under this Regulation, and
- (d) the authorised methods of seeking information and making requests, complaints and applications, and
- (e) the role of an Official Visitor, and
- (f) any other matter necessary to enable the detainee to understand the detainee's rights and obligations and adapt to living in the periodic detention centre.

### 177 Personal property

- (1) A periodic detainee must not bring to a periodic detention centre any item of personal property unless it is approved by the general manager responsible for the periodic detention centre.
- (2) Each time a periodic detainee reports for periodic detention, the general manager responsible for the periodic detention centre may cause the detainee's personal property to be inspected by a correctional officer.
- (3) A correctional officer may at any time inspect any personal property that a periodic detainee has brought to a periodic detention centre.
- (4) On leaving a periodic detention centre at the end of a detention period, a periodic detainee must take away all personal property that he or she has brought to the periodic detention centre.
- (5) A periodic detainee must not conceal anything for the purpose of unlawfully bringing it into a periodic detention centre.

**Note.** Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

### 178 Medication

- (1) A periodic detainee who brings to a periodic detention centre any medication prescribed or lawfully supplied for the detainee's use by a registered medical practitioner, registered dentist or registered nurse (being medication required to be taken during a detention period):

Crimes (Administration of Sentences) Regulation 2008  
Periodic detention  
Periodic detention routine

Clause 179  
Chapter 3  
Part 3.3

- 
- (a) must so inform the general manager responsible for the periodic detention centre, and
    - (b) if the general manager so requires, must surrender the medication to the general manager.
  - (2) The general manager must ensure that any surrendered medication is made available to the detainee in accordance with the relevant prescription.
  - (3) At the end of a detention period, the general manager must cause any unused medication to be returned to the detainee.

### **Part 3.3 Periodic detention routine**

#### **179 Periodic detainees to be sober**

- (1) When reporting for periodic detention, a periodic detainee must not be under the influence of a drug, alcohol or any other intoxicating substance.
- (2) Without affecting the generality of subclause (1), a periodic detainee is taken to be under the influence of alcohol if a breath test indicates that the concentration of alcohol present in the detainee's breath exceeds 0.02 grams or more per 210 litres of breath.
- (3) This clause does not apply to a periodic detainee if the drug, alcohol or other intoxicating substance concerned has been consumed or administered:
  - (a) on the advice of a registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons, and
  - (b) in accordance with the instructions of the medical practitioner, dentist or nurse.
- (4) The standards prescribed by this clause are prescribed for the purposes of section 83 of the Act.

**Note.** Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline. As a consequence of subclause (4), such a failure also constitutes a failure to comply with section 83 of the Act.

#### **180 Periodic detainees to bring suitable clothing and toiletries**

When reporting for periodic detention, a periodic detainee must bring:

- (a) clothing and footwear suitable to outdoor work, and
- (b) a change of clothing, and



Clause 181	Crimes (Administration of Sentences) Regulation 2008
Chapter 3	Periodic detention
Part 3.3	Periodic detention routine

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(c) appropriate personal toiletries.

**Note.** Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

**181 Accommodation**

- (1) The general manager responsible for a periodic detention centre must ensure that each periodic detainee at the periodic detention centre is housed in accommodation that is adequate for the purpose.
- (2) The general manager must ensure that each periodic detainee is provided with a separate bed and sufficient clean bedding to suit the climatic conditions.

**182 Separation of sexes**

The general manager responsible for a periodic detention centre must ensure that female periodic detainees are kept separate from male periodic detainees except in such circumstances and under such supervision as the Commissioner may determine.

**183 Visitors**

A periodic detainee must not receive visitors at a periodic detention centre except with the approval of the general manager responsible for the periodic detention centre.

**Note.** Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

**184 Telephone calls**

- (1) A periodic detainee must not make a telephone call from a periodic detention centre without the approval of the general manager responsible for the periodic detention centre.
- (2) A periodic detainee must pay for any call made unless the general manager otherwise approves.

**Note.** Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

**185 Medical examinations**

A periodic detainee must submit to a medical examination by a medical practitioner nominated by the general manager responsible for the periodic detention centre to which he or she is currently required to report if at any time the general manager so directs.

**Note.** Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

Crimes (Administration of Sentences) Regulation 2008  
 Periodic detention  
 Work site routine

Clause 186  
 Chapter 3  
 Part 3.4

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### 186 Application of Part 2 of Act

- (1) For the purposes of section 98 (2) of the Act, the following provisions of Part 2 of the Act apply to a periodic detainee to whom this Chapter applies in the same way as they apply to an inmate:
  - (a) sections 5–7,
  - (b) sections 9–26,
  - (c) sections 51–65,
  - (d) sections 72–78.
- (2) The following provisions of this Regulation apply to periodic detainees in the same way as they apply to inmates, namely:
  - (a) clauses 36–44,
  - (b) clauses 47–50,
  - (c) clauses 52, 53 and 55,
  - (d) clauses 119–123,
  - (e) clauses 125–152.
- (3) The other provisions of this Chapter prevail to the extent of any inconsistency between them and the provisions applied by subclauses (1) and (2).

**Note.** Failure by a periodic detainee to comply with the requirements of any provision that is applied to periodic detainees is an offence against discipline.

## Part 3.4 Work site routine

### 187 Working hours

- (1) The maximum number of hours of work that a periodic detainee may be directed, by a work order, to perform in any one day is 8 hours (inclusive of any tea break or meal break).
- (2) A periodic detainee is entitled to one tea break of 10 minutes in each period of 3 hours work.
- (3) A periodic detainee who has worked continuously for 4 hours (inclusive of any tea break) is entitled to a meal break of 45 minutes.
- (4) The period of 8 hours prescribed by subclause (1) may be extended by an amount of time equal to any extra time necessary to be served in accordance with a direction given under section 88 (3) of the Act in respect of an occasion on which the detainee was late in reporting for periodic detention.

Clause 188	Crimes (Administration of Sentences) Regulation 2008
Chapter 3	Periodic detention
Part 3.5	Leave of absence

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#### **188 Conduct at work sites**

While at a work site, a periodic detainee:

- (a) must remain under the supervision of a correctional officer or (if the work order specifies some other person) that other person, and
- (b) must perform work in accordance with the directions of, and to the standard specified by, the detainee's community service field officer, and
- (c) must conform to the standards of dress, cleanliness and conduct required by the detainee's community service field officer, and
- (d) must keep in good order and condition any working clothes, tools or safety equipment issued to the detainee, and
- (e) must not damage or deface any property, otherwise than in the course of performing work in accordance with the directions of the detainee's community service field officer.

**Note.** Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

#### **189 Prohibited work**

- (1) A periodic detainee must not be employed in a disciplinary capacity.
- (2) A periodic detainee must not be employed to perform work for the benefit of the Commissioner or any correctional officer or departmental officer.

### **Part 3.5 Leave of absence**

#### **190 Applications for leave of absence**

- (1) An application by a periodic detainee for leave of absence under section 87 or 88 of the Act:
  - (a) must be made in writing by the detainee (or by some other person for or on behalf of the detainee), and
  - (b) must be accompanied by written particulars of the facts on which the application is based, and
  - (c) must be lodged with the general manager responsible for the relevant periodic detention centre.
- (2) The general manager must send the application to the Commissioner as soon as practicable after it is lodged.

Crimes (Administration of Sentences) Regulation 2008  
Periodic detention  
Miscellaneous

Clause 191  
Chapter 3  
Part 3.6

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### 191 Inquiries into applications for leave of absence

- (1) Before determining an application for leave of absence under section 87 or 88 of the Act, the Commissioner:
  - (a) may cause such inquiries to be made as the Commissioner thinks fit into the facts on which the application is based, and
  - (b) may direct the applicant to furnish a statement of further particulars in support of the application.
- (2) The Commissioner is to cause written notice of the granting of leave of absence to a periodic detainee to be given to the detainee.

## Part 3.6 Miscellaneous

### 192 Transmission of certain notices

A notice under Part 3 of the Act, or under this Chapter, may be given to a periodic detainee:

- (a) by serving it or causing it to be served on the detainee personally, or
- (b) by sending it or causing it to be sent by post to the detainee's address as last known to the Commissioner.

### 193 Offences against discipline

A contravention by a periodic detainee (whether by act or omission) of a provision of the Act or this Regulation specified in Schedule 3 is declared to be an offence against discipline for the purposes of Division 3 of Part 3 of the Act.

**Note.** The provisions set out in Schedule 3 include a number of provisions from Chapter 2 (relating to inmates). These provisions are applied to periodic detainees by clause 186.

### 194 Notices of appeal

- (1) Written notice of the lodgment of an appeal by a periodic detainee against the sentence of imprisonment in respect of which the order for periodic detention is in force must be given to the Commissioner:
  - (a) in the case of an appeal under Part 3 of the *Crimes (Appeal and Review) Act 2001*, by the registrar of the court in which the periodic detainee was convicted and the sentence imposed, or
  - (b) in any other case, by the registrar of the court in which the appeal is lodged.

Clause 195	Crimes (Administration of Sentences) Regulation 2008
Chapter 3	Periodic detention
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- (2) In this clause, *registrar* means:
- (a) in relation to the Court of Criminal Appeal, the registrar of that court, and
  - (b) in relation to the Supreme Court, the Prothonotary, and
  - (c) in relation to the District Court, the registrar of that court for the place at which that court is sitting, and
  - (d) in relation to a Local Court, the registrar of the Local Court.

#### **195 Orders transferring unruly periodic detainees**

- (1) The general manager responsible for a periodic detention centre must not make an order under section 86 of the Act that a periodic detainee be transferred to a correctional centre unless the general manager of the correctional centre advises that accommodation (separate from accommodation for inmates other than those serving sentences by way of periodic detention) is available at the centre for the detainee.
- (2) The general manager responsible for a periodic detention centre who makes an order under section 86 of the Act that a periodic detainee be transferred to a correctional centre:
- (a) must send a copy of the order to the general manager of the correctional centre, and
  - (b) must arrange for the transfer of the detainee to the centre.

#### **196 Requests, complaints or applications**

- (1) A request, complaint or application by a periodic detainee to the general manager responsible for a periodic detention centre may be made orally or in writing.
- (2) A complaint:
- (a) must specify the grounds on which it is made, and
  - (b) must be made as soon as practicable after the occurrence of the circumstances in respect of which it is made.
- (3) The general manager responsible for a periodic detention centre:
- (a) must ensure that all periodic detainees at the periodic detention centre are given a daily opportunity to make requests, complaints and applications to the general manager, and
  - (b) must consider and determine any such request, complaint or application (if practicable, on the day on which it is made) and inform the detainee of the determination made.

Crimes (Administration of Sentences) Regulation 2008  
Periodic detention  
Miscellaneous

Clause 197  
Chapter 3  
Part 3.6

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**197 General manager to report certain matters**

As soon as practicable after receiving from a periodic detainee, or from a person acting on behalf of a periodic detainee, a certificate issued by a registered medical practitioner to the effect that the physical or mental health of the detainee is or may be adversely affected by the detainee's continuing:

- (a) to comply with a work order or attendance order, or
- (b) to serve a sentence by way of periodic detention,

the general manager of a periodic detention centre must send the certificate to the Commissioner.

**198 Periodic Detention Review Committee**

- (1) The Commissioner may establish a committee, to be known as the Periodic Detention Review Committee, to advise the Commissioner on such of the following matters as the Commissioner may from time to time direct:
  - (a) the classification of periodic detainees in accordance with categories established by the Commissioner,
  - (b) the management of the different categories of periodic detainees,
  - (c) the management of long-term absentees (that is, periodic detainees who for long periods have been unable to start or complete their periodic detention for health, compassionate or other reasons).
- (2) The Committee is to consist of such number of members as the Commissioner determines.
- (3) The Commissioner is to ensure that the persons appointed as members have expertise or qualifications appropriate to the functions of the Committee.
- (4) The Committee is to function in accordance with procedures determined by the Commissioner.

**199 False or misleading information**

A periodic detainee must not, in or in connection with a notice or application under this Chapter or under Part 3 of the Act, make any statement (whether orally or in writing) that the detainee knows to be false or misleading in a material particular.

**Note.** Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

Clause 200      Crimes (Administration of Sentences) Regulation 2008  
Chapter 4      Home detention  
Part 3.6      Miscellaneous

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## Chapter 4 Home detention

### 200 Standard conditions applying to home detention

For the purposes of section 103 (1) (a) of the Act, the following are standard conditions of home detention:

- (a) the home detainee must be of good behaviour and must not commit any offence,
- (b) the home detainee must advise a supervisor departmental if he or she is arrested or detained by a police officer,
- (c) the home detainee must reside only at premises approved by a supervisor,
- (d) the home detainee must remain at the approved residence at all times otherwise than:
  - (i) when engaged in activities approved or arranged by a supervisor, or
  - (ii) when faced with immediate danger (such as in a fire or medical emergency),
- (e) the home detainee must adhere to an approved activity plan during approved absences from the approved residence,
- (f) the home detainee must advise a supervisor as soon as practicable after leaving the approved residence due to immediate danger,
- (g) the home detainee must submit to searches of places or things under his or her immediate control, as directed by a supervisor,
- (h) the home detainee must submit to electronic monitoring of his or her compliance with the home detention order, and must comply with all instructions given by a supervisor in relation to the operation of monitoring systems,
  - (i) the home detainee must not tamper with, damage or disable monitoring equipment,
  - (j) the home detainee must comply with any direction of the supervisor in relation to association with specified persons,
  - (k) the home detainee must not consume alcohol,
  - (l) the home detainee must not use prohibited drugs, obtain drugs unlawfully or abuse drugs lawfully obtained,
- (m) the home detainee must submit to breath testing, urinalysis or other medically approved test procedures for detecting alcohol or drug use, as directed by a supervisor,
- (n) the home detainee must authorise his or her medical practitioner, therapist or counsellor to provide information about the home detainee to a supervisor,

Crimes (Administration of Sentences) Regulation 2008  
Home detention  
Miscellaneous

Clause 201  
Chapter 4  
Part 3.6

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- (o) the home detainee must accept any direction of a supervisor in relation to the maintenance of or obtaining of employment,
  - (p) the home detainee must inform any employer of the home detention order and, if so directed by a supervisor, of the nature of the offence that occasioned it,
  - (q) the home detainee must authorise contact between any employer of the home detainee and a supervisor,
  - (r) the home detainee must engage in personal development activities or in counselling or treatment programs, as directed by a supervisor,
  - (s) when not otherwise employed, the home detainee must undertake community service work (not exceeding 20 hours per week), as directed by a supervisor,
  - (t) the home detainee must not possess or have in his or her control any firearm or other offensive weapon,
  - (u) the home detainee must comply with all reasonable directions of a supervisor.

#### **201 Information to be recorded in relation to home detainees**

- (1) As soon as practicable after a person becomes a home detainee, there must be recorded in relation to the detainee:
  - (a) such of the information referred to in Schedule 1 as is relevant to the detainee, and
  - (b) such other information as the Commissioner considers appropriate to be recorded.
- (2) A home detainee must not furnish any information for the purposes of this clause knowing it to be false or misleading in a material particular.  
Maximum penalty: 5 penalty units.

#### **202 Sanctions for breach of home detention order**

For the purposes of section 106 (b) of the Act, an offender's failure to comply with his or her obligations under a home detention order may be dealt with by a supervisor imposing any of the following sanctions:

- (a) a formal warning,
- (b) a more stringent application of the conditions of home detention in accordance with the terms of those conditions, such as:
  - (i) a reduction in the extent of planned or previously permitted out-of-residence activities,
  - (ii) further restrictions on association with other persons.



Clause 203      Crimes (Administration of Sentences) Regulation 2008  
Chapter 4        Home detention  
Part 3.6         Miscellaneous

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**203 Preparation and adoption of case plans**

- (1) The Commissioner may require a case plan to be prepared in relation to any offender or class of offenders, and may adopt any case plan so prepared.
- (2) A case plan is to be prepared in accordance with such guidelines as may be established from time to time by the Commissioner.
- (3) Subject to subclause (4), any decision under this Chapter that is made in relation to an offender for whom a case plan has been adopted under this clause is to be made in accordance with that plan.
- (4) Nothing in this clause authorises any such decision to limit any conditions that apply to an offender's home detention.

Crimes (Administration of Sentences) Regulation 2008  
Compulsory drug treatment detention  
Miscellaneous

Clause 204  
Chapter 5  
Part 3.6

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## Chapter 5 Compulsory drug treatment detention

### 204 Regulations relating to parole of offenders serving sentences by way of compulsory drug treatment detention

Chapter 7 applies to an offender who is serving a sentence by way of compulsory drug treatment detention, subject to the following:

- (a) references to the Parole Authority are taken to be references to the Drug Court,
- (b) references to the Secretary of the Parole Authority are taken to be references to the registrar of the Drug Court.

**Note.** Section 106T of the Act provides that the Drug Court is the parole authority for offenders in compulsory drug treatment detention. That section provides that Part 6 of the Act (Parole) applies to an offender who is serving a sentence by way of compulsory drug treatment detention, subject to certain modifications.

### 205 Application of Part 2 to Stages 1 and 2 compulsory drug treatment detention

- (1) For the purposes of section 106V (1) of the Act, the modifications set out in Schedule 6 are prescribed.
- (2) For the avoidance of doubt, a reference in Part 2 of the Act (and the provisions of any regulations made under that Part) as applied by section 106V of the Act to an *inmate* or *convicted inmate* is taken to be a reference to an offender who is in closed detention (Stage 1) or semi-open detention (Stage 2).

**Note.** Section 106V of the Act provides that Part 2 of the Act (and the provisions of any regulations made under that Part), subject to any modifications prescribed by the regulations, apply to and in respect of an offender who is in closed detention (Stage 1) or semi-open detention (Stage 2).

### 206 Provision of information relating to offenders

- (1) For the purposes of section 106Y (1) of the Act, the following persons are prescribed, but only if they are involved in the administration of, or provide services in connection with, an offender's drug treatment under Part 4A of the Act:
  - (a) persons acting for or on behalf of any area health service within the meaning of the *Health Services Act 1997*,
  - (b) persons acting for or on behalf of an organisation providing treatment to an offender in connection with the offender's program,
  - (c) any medical practitioner, therapist, counsellor or psychologist.

Clause 207	Crimes (Administration of Sentences) Regulation 2008
Chapter 5	Compulsory drug treatment detention
Part 3.6	Miscellaneous

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- (2) For the purposes of section 106Y (2) of the Act:
- (a) the information must be provided to the registrar of the Drug Court or the Commissioner as soon as practicable, but in any case, within 48 hours of the person becoming aware of the information, and
  - (b) the information may be provided to the registrar of the Drug Court or the Commissioner:
    - (i) personally, or
    - (ii) by letter sent by post or otherwise delivered to the offices of the registrar or the Commissioner, or
    - (iii) by letter sent to the registrar by means of document exchange facilities, or
    - (iv) by fax or other electronic transmission, and
  - (c) the information provided to the registrar or the Commissioner otherwise than in writing must be confirmed in writing within 24 hours unless the person to whom the information has been provided indicates otherwise.

#### **207 Periodic drug testing**

- (1) The Commissioner is to ensure that each offender is to undergo periodic drug testing in accordance with this clause:
  - (a) in relation to an offender in closed detention (Stage 1), twice a week, and
  - (b) in relation to an offender in semi-open detention (Stage 2) or community custody (Stage 3), 3 times a week.
- (2) A person authorised by the Commissioner may, in accordance with the instructions of the Commissioner, require an offender to supply for testing or analysis one or more of the following as a sample and give directions as to how the sample is to be supplied:
  - (a) breath,
  - (b) urine,
  - (c) oral fluid,
  - (d) hair.
- (3) The directions may require the offender to comply with directions given by another person as to how the sample is to be supplied.
- (4) A drug test must be carried out by a government analyst.

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Compulsory drug treatment detention  
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Chapter 5  
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- (5) A sample may be required under this clause and tested for the presence of a drug even though the offender concerned may not be reasonably suspected of having administered a drug to himself or herself or of being under the influence of a drug.

#### **208 Random drug testing**

- (1) The Commissioner is to ensure that offenders in compulsory drug treatment detention are required to undergo random drug testing in accordance with this clause at such times as the Commissioner sees fit.
- (2) A person authorised by the Commissioner may, in accordance with the instructions of the Commissioner, require an offender to supply for testing or analysis one or more of the following as a sample and give directions as to how the sample is to be supplied:
- (a) breath,
  - (b) urine,
  - (c) oral fluid,
  - (d) hair.
- (3) The directions may require the offender to comply with directions given by another person as to how the sample is to be supplied.
- (4) A drug test must be carried out by a government analyst.
- (5) A sample may be required under this clause and tested for the presence of a drug even though the offender concerned may not be reasonably suspected of having administered a drug to himself or herself or of being under the influence of a drug.

#### **209 Evidence as to use of drugs**

- (1) In any proceedings before the Drug Court, a certificate signed by an authorised officer to the effect that:
- (a) a person received a sample obtained in a specified manner, or
  - (b) the person arranged for the sample to be submitted for analysis by a government analyst to determine the presence of any drugs in an offender's body or the sample, or
  - (c) the container was sealed, and marked or labelled, in a specified manner,
- is admissible in evidence of the facts so certified.
- (2) In any such proceedings, a certificate signed by a government analyst to the effect that, on a specified day:
- (a) the analyst received for analysis a container holding a specified sample, or

Clause 210 Crimes (Administration of Sentences) Regulation 2008  
 Chapter 5 Compulsory drug treatment detention  
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- (b) the container, when received, was sealed with an unbroken seal, and was marked or labelled in a specified manner, or
  - (c) the analyst carried out an analysis of the sample to determine the presence of drugs in the sample, or
  - (d) the analyst determined that a specified drug was present or was present to a specified extent in the sample, or
  - (e) the analyst was, at the time of the analysis, a government analyst, is admissible in evidence of the facts so certified.
- (3) In any such proceedings:
- (a) evidence that a government analyst received a container holding a sample, being a container that was marked or labelled to indicate that it held a sample obtained from a specified offender on a specified day, is evidence that the sample was a sample obtained from that offender on that day, and
  - (b) evidence that the container, when received, was sealed with an unbroken seal is evidence that the sample had not been tampered with before it was received by the government analyst.

**210 Conditions that may be imposed as part of community supervision orders for Stage 2 and Stage 3 offenders**

The following are conditions that may be imposed as part of a community supervision order on an offender in semi-open detention (Stage 2) and community custody (Stage 3):

- (a) the offender must advise the Director departmental if he or she is arrested or detained by a police officer,
- (b) the offender must submit to searches of places or things under his or her immediate control, as directed by the Director,
- (c) the offender must submit to electronic monitoring of his or her compliance with the community supervision order, and must comply with all instructions given by the Director in relation to the operation of monitoring systems,
- (d) the offender must not tamper with, damage or disable monitoring equipment,
- (e) the offender must inform any employer of the compulsory drug treatment order and, if so directed by the Director, of the nature of the offence that occasioned it,
- (f) the offender must authorise contact between any employer of the offender and the Director,
- (g) when not otherwise employed, the offender must undertake community service work if directed by the Director,

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Compulsory drug treatment detention  
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- (h) the offender must comply with any reasonable direction of the Director in relation to association with specified persons,
  - (i) the offender must comply with any reasonable direction of the Director in relation to the maintenance of or obtaining of employment,
  - (j) the offender must comply with all other reasonable directions of the Director,
  - (k) the offender must reside only at accommodation approved by the Drug Court,
  - (l) the offender must remain at the approved accommodation at all times otherwise than:
    - (i) when engaged in activities approved or arranged by the Director, or
    - (ii) when faced with immediate danger (such as in a fire or medical emergency),
  - (m) the offender must adhere to an approved program of activities during approved absences from the approved accommodation,
  - (n) the offender must advise the Director as soon as practicable after leaving the approved accommodation due to immediate danger,
  - (o) the offender must allow any visit to the approved accommodation by the Director, and any person approved by the Director, at any time.

Clause 211      Crimes (Administration of Sentences) Regulation 2008  
Chapter 6        Community service work  
Part 3.6         Miscellaneous

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## Chapter 6    Community service work

### 211    Standard conditions applying to community service work

- (1) For the purposes of section 108 (a) of the Act, the following are standard conditions in respect of each community service order:
  - (a) as soon as practicable after the order is made, the offender must report to such local office of the Department as may be advised by the Commissioner,
  - (b) the offender must not report for, or perform, community service work while under the influence of drugs or alcohol,
  - (c) the offender must participate in any activities connected with the administration of the order in which the offender is directed by the assigned officer or supervisor to participate,
  - (d) the offender must perform community service work in accordance with the directions of, and to the standard specified by, his or her assigned officer or supervisor,
  - (e) the offender must furnish his or her assigned officer with written notice of the reasons for any failure by the offender to report to a work site or attendance site in accordance with his or her obligations,
  - (f) the offender must submit to a medical examination by a medical practitioner nominated by his or her assigned officer if at any time the assigned officer so directs,
  - (g) the offender must receive visits at the offender's home within reasonable hours by the assigned officer or supervisor for any purpose connected with the administration of the order,
  - (h) the offender must comply with such standards of dress, cleanliness and conduct as the assigned officer or supervisor may from time to time determine,
  - (i) the offender must keep in good order and condition such clothing and equipment as may be issued to the offender for the purpose of performing community service work,
  - (j) the offender must observe such standards of safety with respect to his or her performance of community service work as the assigned officer or supervisor may from time to time determine,
  - (k) the offender must sign an attendance register on arrival at and on departure from any work site or attendance site,
  - (l) the offender must not damage or deface property that is on or forms part of a work site or attendance site, otherwise than in the course of performing community service work in accordance with the directions of the assigned officer or supervisor,

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- (m) the offender must not have possession of or consume any alcohol or other intoxicating substance while at a work site or attendance site,
  - (n) the offender must comply with any reasonable direction given orally or in writing to the offender by the assigned officer or supervisor,
  - (o) if the offender is directed to do anything that he or she is incapable of doing, the offender must immediately advise the assigned officer or supervisor of that fact.
- (2) If illness or injury is the reason for an offender's failure to report, as referred to in subclause (1) (e), the written notice referred to in that paragraph must be accompanied by a certificate, issued by a medical practitioner, stating the nature of the illness or injury and indicating that its nature or extent is such as to justify the offender's failure to report.

#### **212 Information to be recorded in relation to offenders**

- (1) When an offender reports to a local office of the Department, as referred to in clause 211 (1) (a), there must be recorded in relation to the offender:
  - (a) such of the information referred to in Schedule 1 as is relevant to the offender, and
  - (b) such other information as the Commissioner considers appropriate to be recorded.
- (2) An offender must not furnish any information for the purposes of this clause knowing it to be false or misleading in a material particular.  
 Maximum penalty: 5 penalty units.

#### **213 Hours of work**

An offender must not be directed:

- (a) to perform more than 8 hours of community service work (including time spent participating in a development program) in any one day, or
- (b) to participate in a development program for more than 5 hours in any one day,

except by agreement between the offender and the assigned officer.

#### **214 Meal breaks and tea breaks**

An offender is entitled to:

- (a) a 10-minute tea break during each 3-hour period of community service work, and



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- (b) a 45-minute meal break at the end of each 4-hour period of community service work (inclusive of any tea break).

### **215 Computation of hours**

- (1) The following periods are to be taken to form part of the time spent by an offender in performing community service work:
- (a) the time spent by the offender at a work site or attendance site in actually carrying out community service work,
  - (b) the time spent by the offender at a work site or attendance site in having any tea break or meal break to which an offender is entitled,
  - (c) the time spent by the offender at a work site or attendance site (otherwise than as referred to in paragraph (a) or (b)) in accordance with a direction of the assigned officer,
  - (d) such of the time spent by the offender in travelling between the offender's residence and work site or attendance site as the assigned officer thinks fit,
  - (e) such part of the period between:
    - (i) the offender's early release from community service work on any day, and
    - (ii) the time when the offender would (but for the early release) have been released,
 as the assigned officer thinks fit.
- (2) If, while at the work site or attendance site, an offender:
- (a) is under the influence of drugs or alcohol, or
  - (b) conducts himself or herself in an offensive manner,
- the offender's assigned officer may deduct the whole or any part of the time spent by the offender at a work site or attendance site from any calculation of time spent by the offender in performing community service work.
- (3) The periods of time referred to in subclause (1) (d) and (e) and subclause (2) are to be determined by the offender's assigned officer in accordance with any relevant directions given by the Commissioner.

### **216 Testing for alcohol and drugs**

- (1) On forming a suspicion that an offender who is in attendance at a work site or attendance site has recently consumed or is under the influence of alcohol or any other intoxicating substance, an authorised testing officer may require the offender to undergo a breath test.

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- (2) On forming a suspicion that an offender who is in attendance at a work site or attendance site:
- (a) has been administered (whether by himself or herself or otherwise) with a drug, or
  - (b) is under the influence of a drug,
- an authorised testing officer may require the offender to supply a sample of urine for testing or analysis and give directions as to how the sample is to be supplied.
- (3) An offender must not refuse or fail to comply with a requirement under this clause.  
 Maximum penalty: 5 penalty units.
- (4) In this clause, *authorised testing officer* means a person who is authorised by the Commissioner to exercise the functions of an authorised testing officer for the purposes of this clause.

**217 Exemption of offenders from certain directions on grounds of incapacity**

- (1) If satisfied that an offender is incapable of doing something that he or she has been directed to do, the offender's assigned officer or supervisor may exempt the offender from the direction, even if the direction was given by some other assigned officer or supervisor.
- (2) Before exempting an offender from a direction, or as a condition of giving such an exemption, the assigned officer or supervisor may require the offender to furnish a certificate issued by a registered medical practitioner to the effect that the offender is incapable of doing the thing concerned.

**218 Transport arrangements**

The Commissioner may make arrangements for the provision of transport of offenders to and from any work site or attendance site.

**219 Appointment of assigned officers**

- (1) The Commissioner may appoint any person who, in the Commissioner's opinion, is suitably qualified and of suitable character to exercise the functions of an assigned officer under Division 1 of Part 5 of the Act.
- (2) A person appointed under this clause is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Commissioner may determine in respect of the person, unless the person is an officer or temporary employee of the Public Service.

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**220 Appointment of community service field officers**

- (1) The Commissioner may appoint any person who, in the Commissioner's opinion, is suitably qualified and of suitable character to exercise the functions of a community service field officer under Division 1 of Part 5 of the Act.
- (2) A person appointed under this clause is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Commissioner may determine in respect of the person, unless the person is an officer or temporary employee of the Public Service.

**221 Community service field officer to report to assigned officer**

A community service field officer must, when required by an assigned officer to do so, report to the assigned officer on any matter relating to an offender under his or her supervision.

**222 Application for extension or revocation of order made by court**

- (1) The following applications must be in writing in such form as the Commissioner may from time to time determine:
  - (a) an application under section 114 of the Act for an extension of the period for which a community service order is in force,
  - (b) an application under section 115 of the Act for the revocation of a community service order.
- (2) The court to which such an application is made is to fix a date for the hearing of the application, being a date not earlier than 14 days after, and not later than 3 months after, the date of filing of the application.
- (3) A copy of the application must be given not later than 5 days before the date fixed for hearing of the application:
  - (a) to the offender, if the applicant is an assigned officer, or
  - (b) to the assigned officer, if the applicant is an offender.
- (4) For the purposes of subclause (3), the application may be given to a person by the court or by the applicant:
  - (a) by serving it or causing it to be served on the person personally, or
  - (b) by sending it or causing it to be sent by post to the person's address as last known to the applicant.
- (5) The court may vary or waive the requirements of subclause (2) or (3) with the consent of the offender.

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**223 Preparation and adoption of case plans**

- (1) The Commissioner may require a case plan to be prepared in relation to any offender or class of offenders, and may adopt any case plan so prepared.
- (2) A case plan is to be prepared in accordance with such guidelines as may be established from time to time by the Commissioner.
- (3) Subject to subclause (4):
  - (a) any direction to perform community service work that is given to an offender for whom a case plan has been adopted under this clause, and
  - (b) any direction under clause 211 that is given to such an offender, and
  - (c) any determination under clause 211 that is made in relation to such an offender,is to be given or made in accordance with that plan.
- (4) Nothing in this clause authorises any such direction or determination to limit any conditions that apply to an offender's community service work.

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## Chapter 7 Parole

### 224 Standard conditions applying to parole

For the purposes of section 128 (1) (a) of the Act, the following are standard conditions of parole:

- (a) the offender must, while on release on parole, be of good behaviour,
- (b) the offender must not, while on release on parole, commit any offence,
- (c) the offender must, while on release on parole, adapt to normal lawful community life.

**Note.** Contravention of these conditions may result in parole being revoked under section 170 of the Act.

### 225 Consultation required before conditions as to residence or treatment imposed on parole

- (1) Before the Parole Authority makes a parole order containing terms or conditions relating to residence or treatment:
  - (a) it must consider a report from a probation and parole officer as to the offender's circumstances, and
  - (b) it must satisfy itself, having regard to the probation and parole officer's report, that it is feasible to secure compliance with the terms or conditions.
- (2) Before the Parole Authority makes a parole order containing terms or conditions requiring the co-operation of a person other than the offender or a probation and parole officer, it must obtain the consent of the person to the specification of those terms and conditions in so far as they require the person's co-operation.

### 226 Parole orders

- (1) A parole order made by the Parole Authority must be reduced to writing using the approved form.
- (2) A copy of the order must be given to the offender, and further copies are to be sent to the following persons:
  - (a) the general manager of the correctional centre, or the general manager responsible for the periodic detention centre, in which the offender is kept,
  - (b) the Commissioner.

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**227 Parole orders to be explained to offenders**

- (1) On the offender's day of release from a correctional centre or periodic detention centre, the general manager must ensure that:
  - (a) the order is read to the offender, and
  - (b) the effect of the order is explained to the offender in language that is capable of being readily understood by the offender, and
  - (c) the offender indicates that the offender understands the terms and conditions on which the offender is to be released by signing a statement to that effect on a copy of the order, and
  - (d) all copies of the order are endorsed with the offender's date of release, and
  - (e) a copy of the order is given to the offender, and
  - (f) the copy of the order containing the signed statement referred to in paragraph (c) is retained at the centre.
- (2) If an offender is subject to more than one parole order, this clause does not require common provisions in the orders to be read to the offender more than once.
- (3) The requirements of this clause do not apply in circumstances (such as when the offender is seriously ill) in which compliance with them would be obviously ineffectual.

**228 Imposition and extension of supervision conditions**

- (1) A condition of a parole order may require the offender to be subject to supervision for up to 3 years from the date on which the offender is released in accordance with the order.
- (2) In the case of a serious offender, the Parole Authority may while the parole order is in force extend the period of supervision by, or impose a further period of supervision of, up to 3 years at a time.
- (3) Nothing in this clause enables the Parole Authority to extend the period of supervision beyond the expiry date of the sentence.
- (4) Subclauses (1)–(3) do not apply to an offender to whom section 128B of the Act applies.
- (5) For the purposes of section 128 (3) of the Act:
  - (a) the prescribed supervision for an offender (other than an offender to whom section 128B of the Act applies) is supervision by a probation and parole officer, and
  - (b) the prescribed supervision for an offender to whom section 128B of the Act applies is supervision by a probation and parole officer or by some other departmental officer.

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- (6) The supervision referred to in subclause (5) (b) is also prescribed for the purposes of section 128B (2) (a) of the Act.

**229 Supervision conditions generally**

- (1) This clause applies to an offender whose parole order includes a condition requiring that the offender be subject to supervision.
- (2) While the offender is subject to supervision by a probation and parole officer under such a condition, the offender has the following obligations:
- (a) to obey all reasonable directions of the officer,
  - (b) to report to the officer (or to another person nominated by the officer) at such times and places as the officer may from time to time direct,
  - (c) to be available for interview at such times and places as the officer (or the officer's nominee) may from time to time direct,
  - (d) to reside at an address approved by the officer,
  - (e) to permit the officer to visit the offender at the offender's residential address at any time and, for that purpose, to enter the premises at that address,
  - (f) not to leave New South Wales without the permission of the officer's District Manager,
  - (g) not to leave Australia without the permission of the Parole Authority,
  - (h) if unemployed, to enter into employment arranged or agreed on by the officer, or make himself or herself available for employment, training or participation in a personal development program as instructed by the officer,
  - (i) to notify the officer of any intention to change his or her employment:
    - (i) if practicable, before the change occurs, or
    - (ii) otherwise, at his or her next interview with the officer,
  - (j) not to associate with any person or persons specified by the officer,
  - (k) not to frequent or visit any place or district designated by the officer,
  - (l) not to use prohibited drugs, obtain drugs unlawfully or abuse drugs lawfully obtained.
- (3) An offender's probation and parole officer may, with the concurrence of the officer's District Manager, direct that the conditions of the offender's parole order in relation to supervision are suspended.

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- (4) Such a direction takes effect when notice of the direction is given to the offender.
- (5) Subclauses (3) and (4) do not apply to an offender to whom section 128B of the Act applies.

**230 Variation of conditions so as to require supervision**

- (1) If the Parole Authority varies the conditions of a parole order so as to make the offender subject to supervision under the order, or so as to affect the supervision of the offender, it must send notice of the variation to the Commissioner.
- (2) This clause does not apply to an offender to whom section 128B of the Act applies.

**231 Commissioner to review supervision obligations for offenders serving existing life sentences**

- (1) This clause applies to an offender to whom section 128B of the Act applies.
- (2) An offender's section 128B obligations must be reviewed by the Commissioner at intervals of not more than 12 months.
- (3) As soon as practicable after imposing any section 128B obligations on an offender, the Commissioner must notify the Parole Authority of that fact.
- (4) In this clause, *section 128B obligation* means an obligation to which an offender is subject under section 128B (2) (b) of the Act.

**232 Revocation of parole orders before release**

- (1) For the purposes of section 130 of the Act, the following circumstances are prescribed as circumstances in which the Parole Authority may revoke a parole order:
  - (a) circumstances in which the offender requests that the order be revoked,
  - (b) circumstances in which the Parole Authority decides, before releasing the offender, that the offender is unable to adapt to normal lawful community life,
  - (c) circumstances in which the Parole Authority decides that satisfactory accommodation arrangements or post-release plans have not been made or are not able to be made,



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- (d) circumstances in which:
    - (i) a request is made under section 172 of the Act, or a direction is given by a court (whether or not under the Act), for the Parole Authority to consider whether the order should be revoked on a specified ground, and
    - (ii) the Parole Authority decides that the order should be revoked on that ground.
  - (2) The Parole Authority must send copies of an order under section 130 of the Act to the general manager of the correctional centre, or the general manager responsible for the periodic detention centre, in which the offender is kept.
  - (3) As soon as practicable after receiving the order, the general manager must ensure that:
    - (a) the order is read to the offender, and
    - (b) the effect of the order is explained to the offender in language that is capable of being readily understood by the offender, and
    - (c) the offender's rights to a review of the revocation are explained to the offender in language that is capable of being readily understood by the offender, and
    - (d) a copy of the order is handed to the offender.
  - (4) The Parole Authority must send notice of the revocation of a parole order under section 130 of the Act to the Commissioner.

### **233 Circumstances constituting manifest injustice**

- (1) For the purpose of section 137B of the Act, the following circumstances are prescribed as circumstances which constitute manifest injustice:
  - (a) where parole has previously been refused, and it subsequently becomes apparent that it has been refused on the basis of false, misleading or irrelevant information,
  - (b) where parole has previously been refused because (for reasons beyond the offender's control) the offender has not satisfactorily completed a program, and the offender subsequently completes the program satisfactorily,
  - (c) where the Parole Authority:
    - (i) has previously refused to grant parole, or
    - (ii) has revoked parole under section 130 of the Act, because (for reasons beyond the offender's control) suitable post-release accommodation for the offender has not been available, and such accommodation subsequently becomes available,

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- (d) where the Parole Authority has previously refused to grant parole because (for reasons beyond the offender's control) the offender has not satisfactorily completed a period of external leave, and the offender subsequently completes that period of external leave satisfactorily,
  - (e) where the Parole Authority has previously refused to grant parole because (for reasons beyond the offender's control) a medical, psychiatric, or psychological report required by the Parole Authority to consider whether the offender should be released on parole has not been available, and a report that indicates that it is appropriate for the Parole Authority to consider granting parole subsequently becomes available,
  - (f) where the Parole Authority has previously refused to grant parole because (for reasons beyond the offender's control) information or material reasonably required by the Parole Authority to consider whether the offender should be released on parole has not been available, and such information or material subsequently becomes available,
  - (g) where the Parole Authority has previously refused to grant parole because (for reasons beyond the offender's control) an appropriate community health service required by the offender has not been available, and the appropriate service subsequently becomes available,
  - (h) where the Parole Authority has previously refused to grant parole because the offender has been charged with an offence and the charge is subsequently withdrawn or dismissed.
- (2) For the purpose of section 143B of the Act, the circumstances specified in subclause (1) are prescribed as circumstances which constitute manifest injustice in relation to a serious offender if the Review Council has advised the Parole Authority that it is appropriate for the offender to be considered for release on parole.
  - (3) For the purposes of section 175 (1A) of the Act, circumstances in which it becomes apparent that the relevant periodic detention order or home detention order has been revoked on the basis of false, misleading or irrelevant information are prescribed as circumstances which constitute manifest injustice.

**234 Notice of initial intention to refuse release on parole**

- (1) A notice under section 139 (1) (a) of the Act must be sent to the general manager of the correctional centre, or the general manager responsible for the periodic detention centre, in which the offender is kept.

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- (2) As soon as practicable after receiving the notice, the general manager must ensure that:
- (a) the notice is read to the offender, and
  - (b) the effect of the notice is explained to the offender in language that is capable of being readily understood by the offender, and
  - (c) the notice is handed to the offender.

### **235 Decision on review of parole refusal**

- (1) A notice under section 141 (4) (b) of the Act must be sent to the general manager of the correctional centre, or the general manager responsible for the periodic detention centre, in which the offender is kept.
- (2) As soon as practicable after receiving the notice, the general manager must ensure that:
  - (a) the notice is read to the offender, and
  - (b) the effect of the notice is explained to the offender in language that is capable of being readily understood by the offender, and
  - (c) the offender's rights concerning the Parole Authority's decision are explained to the offender in language that is capable of being readily understood by the offender, and
  - (d) the notice is handed to the offender.
- (3) The general manager must keep a copy of the notice.
- (4) The Parole Authority must send a copy of the notice to the Commissioner.

### **236 Submissions by Commissioner**

- (1) If the Commissioner notifies the Parole Authority that he or she may wish to make a submission under section 141A of the Act concerning the release on parole of an offender, the Parole Authority must give the Commissioner copies of the reports and other documents intended to be used by the Parole Authority in deciding whether the offender should be released on parole.
- (2) For the purposes of making a submission under section 141A of the Act, the Commissioner:
  - (a) may be represented by a legal practitioner or, with the consent of the Parole Authority, by any other person, and
  - (b) may call and examine any witness who attends, including any witness called by the Parole Authority, and
  - (c) may give evidence on oath, and
  - (d) may produce documents and exhibits to the Parole Authority, and

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- (e) may otherwise adduce, orally and in writing, to the Parole Authority such matters, and address the Parole Authority on such matters, as are relevant to the proceedings before the Parole Authority.

### **237 Notices to victims**

- (1) The notice to a victim of a serious offender to be given under section 145 (1) of the Act:
- (a) is to be in writing and sent by post to the last postal address that has been recorded in the Victims Register for the victim, or
  - (b) is to be given by telephone if only a telephone number has been recorded in the Victims Register, or if the Parole Authority has reason to believe that any telephone number that has been so recorded is more up to date than the last postal address so recorded.
- (2) Notice under section 146 (5) (b) of the Act is to be given to each victim of the serious offender, and subclause (1) applies to any such notice in the same way as it applies to a notice under section 145 (1) of the Act.
- (3) The Parole Authority is to keep a record of the giving of any notice under this clause.

### **238 Submissions by the State**

- (1) If the State notifies the Parole Authority that it may wish to make a submission under section 153 of the Act concerning the release on parole of a serious offender, the Parole Authority must give the State copies of the reports and other documents intended to be used by the Parole Authority in deciding whether the offender should be released on parole.
- (2) For the purposes of making a submission under section 153 of the Act, the State:
- (a) may be represented by a legal practitioner or, with the consent of the Parole Authority, by any other person, and
  - (b) may call and examine any witness who attends, including any witness called by the Parole Authority, and
  - (c) may give evidence on oath, and
  - (d) may produce documents and exhibits to the Parole Authority, and
  - (e) may otherwise adduce, orally and in writing, to the Parole Authority such matters, and address the Parole Authority on such matters, as are relevant to the proceedings before the Parole Authority.

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- (3) A reference in this clause to the State includes a reference to any agent of the State.

**239 Instrument requiring attendance**

For the purposes of section 186 (1) of the Act, an instrument in writing referred to in that subsection must be in the approved form.

**240 Records of proceedings**

The Parole Authority must keep a record (in writing or otherwise) of the proceedings of the Parole Authority, including a record of:

- (a) whether the State has appeared or been represented before the Parole Authority, and
- (b) the persons appearing or represented before the Parole Authority, and
- (c) the submissions (if any) made by the State or any such person, and
- (d) the reasons (if any) stated in support of those submissions.

**241 Preparation and adoption of case plans**

- (1) The Commissioner may require a case plan to be prepared in relation to any offender or class of offenders, and may adopt any case plan so prepared.
- (2) A case plan is to be prepared in accordance with such guidelines as may be established from time to time by the Commissioner.
- (3) Subject to subclause (4), any decision under this Chapter that is made in relation to an offender for whom a case plan has been adopted under this clause is to be made in accordance with that plan.
- (4) Nothing in this clause authorises any such decision to limit any conditions that apply to an offender's parole.

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## Chapter 8 Revocation by Parole Authority of certain orders

### 242 Supervision during home detention assessment

- (1) This clause applies where the Parole Authority has released an offender under section 165AA (1) of the Act pending a decision whether or not to make a home detention order.
- (2) The prescribed supervision, for the purposes of section 165AA (1) of the Act, is the supervision of a probation and parole officer, with the following supervision conditions:
  - (a) the offender is to be of good behaviour and not commit any new offence,
  - (b) the offender is to permit visits by the officer to the offender's proposed place of residence at such times as the officer considers necessary,
  - (c) the offender is to submit to breath testing and urinalysis for detecting of drug use as and when directed by the officer,
  - (d) the offender is to authorise the following persons to provide information about him or her to the officer:
    - (i) the offender's medical practitioners,
    - (ii) the offender's therapist (if any),
    - (iii) the offender's counsellor (if any),
  - (e) the offender is to obey all reasonable directions of the officer.

### 243 Withdrawal of consent to operation of home detention order

For the purposes of section 167 (1) (d) of the Act, the prescribed form of withdrawal of consent is as set out in Form 1.

### 244 Revocation of order and review of revocation

- (1) For the purposes of section 173 (2) (a) of the Act, the prescribed form for a notice of revocation of a periodic detention order, home detention order or parole order is Form 2.
- (2) The notice must be sent to the general manager of the correctional centre in which the offender is, or is to be, held in custody.
- (3) As soon as practicable after receiving the notice, the general manager must ensure that:
  - (a) the notice is read to the offender, and
  - (b) the effect of the notice is explained to the offender in language that is capable of being readily understood by the offender, and

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- (c) the notice is handed to the offender.
- (4) Notice of an offender's intention to make representations to the Parole Authority concerning the revocation of a parole order:
  - (a) must be given by the offender to the general manager, or the general manager responsible for the periodic detention centre, in which the offender is kept, and
  - (b) must be sent by the general manager to the Secretary of the Parole Authority.

**245 Decision on review of revocation**

- (1) The Parole Authority must send written notice of its decision following a review under section 175 of the Act to the following persons:
  - (a) the general manager of the correctional centre in which the offender is, or is to be, held in custody, and
  - (b) the Commissioner.
- (2) As soon as practicable after receiving the notice, the general manager must ensure that:
  - (a) the notice is read to the offender, and
  - (b) the effect of the notice is explained to the offender in language that is capable of being readily understood by the offender, and
  - (c) the offender's rights concerning the decision are explained to the offender in language that is capable of being readily understood by the offender.

**246 Notice of revocation of order**

- (1) If the Parole Authority revokes a periodic detention order, home detention order or parole order under section 179 (1) of the Act, the Secretary of the Parole Authority must send written notice of that fact to the Commissioner.
- (2) The notice must be in the approved form and must specify any direction of the Parole Authority as to the day on which the order is to be treated as having been revoked.

**247 Inquiry into suspected breach of order**

- (1) A notice under section 180 (1) (a) of the Act by which an offender is called on to appear before the Parole Authority must be served on the offender at least 7 days before the date set for the inquiry referred to in the notice.
- (2) The Parole Authority must send a copy of each such notice to the Commissioner.

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**248 Arrest warrants**

A warrant for the arrest of a person under section 180 of the Act must be in the approved form.

**249 Warrants of commitment**

A warrant for the commitment of an offender to a correctional centre under section 181 of the Act must be in the approved form.



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## Chapter 9 Administration

### Part 9.1 Correctional officers and departmental officers

#### 250 Oath or affirmation of office

- (1) For the purposes of section 236 of the Act, the form for the oath of office as a correctional officer is as follows:

“I, (*name of person making oath*), do swear that I will well and truly serve our Sovereign Lady Queen Elizabeth the Second as a correctional officer without fear or favour, malice or ill-will until I am legally discharged, and that while I continue to be a correctional officer I will to the best of my skill and knowledge discharge all my duties faithfully according to law. So help me God.”

- (2) For the purposes of section 236 of the Act, the form for the affirmation of office as a correctional officer is as follows:

“I, (*name of person making affirmation*), do solemnly, sincerely and truly declare and affirm that I will well and truly serve our Sovereign Lady Queen Elizabeth the Second as a correctional officer without fear or favour, malice or ill-will until I am legally discharged, and that while I continue to be a correctional officer I will to the best of my skill and knowledge discharge all my duties faithfully according to law.”

#### 251 Compliance with Commissioner’s instructions and general manager’s directions

- (1) The general manager of a correctional centre may give directions (not inconsistent with the Commissioner’s instructions) with respect to the administration of the Act in relation to the centre, and must ensure that a record is kept of each such direction.
- (2) A correctional officer or departmental officer must comply with the Commissioner’s instructions.
- (3) While employed within a correctional centre, a correctional officer must obey all lawful directions given by the general manager of the centre, whether given under this clause or otherwise.
- (4) While on the premises of a correctional centre, a departmental officer must obey all lawful directions given by the general manager of the centre, whether given under this clause or otherwise.

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- (5) For the purposes of any disciplinary proceedings, a correctional officer or departmental officer is to be presumed to be aware of the officer's obligations under the Act and this Regulation.

**Note.** Correctional officers and departmental officers are employed under, and so subject to the disciplinary provisions of, the *Public Sector Employment and Management Act 2002*.

### 252 Declaration about associations with inmates

- (1) A correctional officer or departmental officer must give written notice to the Commissioner as to any offender:
- (a) to whom the officer is related, whether by blood or by marriage, or
  - (b) of whom the officer is an associate, whether as a neighbour, friend or acquaintance or through business, sporting or social contact.
- (2) Such a notice must show the nature and duration of the officer's relationship or association with any such offender.
- (3) Such a notice must be given before the officer first starts duty as a correctional officer or departmental officer, and subsequently as circumstances require.
- (4) A correctional officer or departmental officer must not make a declaration under this clause that the officer knows, or ought reasonably to know, is false or misleading in a material particular.
- (5) This clause does not apply if the association between an officer and offender is through unintentional business, sporting or social contact in a public place.
- (6) In this clause, *offender* means any inmate, periodic detainee or home detainee or any person in respect of whom a community service order or parole order is in force.

### 253 Suspected offences by inmates

- (1) A correctional officer or departmental officer who suspects that an inmate has committed, or is about to commit, an offence must report that fact to the general manager immediately.
- (2) A correctional officer may confine any such inmate to the inmate's cell, or in some other appropriate place of confinement, pending instructions as to how the inmate should be dealt with.
- (3) An inmate in respect of whom one or more offences have been reported may be confined under this clause, whether for one or more periods of confinement, for no more than 48 hours in total in respect of those offences.

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#### **254 Uniforms**

- (1) Unless exempted by the Commissioner, a correctional officer must wear the uniform appropriate to the officer's rank at all times while on duty.
- (2) On ceasing to be a correctional officer, a person must return his or her uniform to the Department or must satisfactorily account for it to the Commissioner.

#### **255 Keys and access cards**

- (1) The general manager of a correctional centre is to ensure that the keys and access cards of the centre are duly issued and accounted for.
- (2) A correctional officer, departmental officer, medical officer or nursing officer to whom a key or access card is issued must keep it on his or her person at all times until it is returned.
- (3) The officer must not leave a correctional centre while a key of the centre is in his or her possession.

#### **256 Officers may be searched**

The general manager of a correctional centre or the principal security officer may require a correctional officer or departmental officer who is on the premises of the centre:

- (a) to submit to an inspection and search of personal possessions, to scanning by means of an electronic scanning device and to being sniffed by a dog, and
- (b) to empty the pockets of the officer's clothing, and
- (c) to make available for inspection and search any room, locker or vehicle that is under the officer's control at the centre.

#### **257 Visitors**

A correctional officer is not to receive visitors at any time while on duty at a correctional centre except with the permission of the general manager of the centre.

#### **258 Insulting or abusive language**

- (1) A correctional officer, departmental officer, medical officer or nursing officer must not use insulting or abusive language to any other officer, to any inmate or to any person visiting a correctional centre.
- (2) A correctional officer, departmental officer, medical officer or nursing officer must not say or do anything that is calculated to undermine discipline at a correctional centre or to prejudice the efficiency of, or to bring discredit on, the Department.

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- (3) A correctional officer, departmental officer, medical officer or nursing officer must not act deliberately in a manner calculated to provoke an inmate.

**259 Smoking in non-smoking areas of correctional centres prohibited**

A correctional officer, departmental officer, medical officer or nursing officer must not:

- (a) smoke in a non-smoking area, or
- (b) alter, damage or remove any sign or notice relating to a non-smoking area.

**260 Honesty**

- (1) A correctional officer, departmental officer, medical officer or nursing officer must at all times be honest and truthful.
- (2) A correctional officer, departmental officer, medical officer or nursing officer:
  - (a) must not make any statement that the officer knows, or ought reasonably to know, to be false or misleading in a material particular, and
  - (b) must not destroy or mutilate, or alter or erase any entry in, an official document.

**261 Vigilance**

- (1) A correctional officer on duty must at all times devote the whole of his or her attention to the performance of his or her duties.
- (2) A correctional officer must not do anything that is calculated to distract another correctional officer from the performance of the officer's duties.
- (3) A correctional officer must not cease duty until permitted to do so by the general manager.

**262 Reporting of misconduct by correctional officers**

- (1) If:
  - (a) an allegation is made to a correctional officer that another correctional officer has, while carrying out his or her duties as such an officer, engaged in conduct which, in the opinion of the officer to whom the allegation is made, constitutes a criminal offence or other misconduct, or

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- (b) a correctional officer sincerely believes that another correctional officer has engaged in conduct of that kind,  
the correctional officer must report the conduct (or alleged conduct) to a correctional officer who is more senior in rank than the officer making the report.
- (2) The senior correctional officer must report the conduct (or alleged conduct) promptly to the Commissioner if the senior correctional officer believes that it:
- (a) constitutes (or would constitute) a criminal offence by the correctional officer, or
  - (b) would provide sufficient grounds for preferring a departmental charge against the correctional officer.
- (3) Subclause (1) does not apply to conduct or alleged conduct:
- (a) that has been made the subject of a departmental charge, or
  - (b) that has been the subject of evidence or other material given, or submissions made, in the course of criminal proceedings, or
  - (c) that has already been reported under this clause to a more senior correctional officer.
- (4) A correctional officer must not, in relation to any other correctional officer:
- (a) fail to approve or recommend the promotion of the other officer, or
  - (b) take, approve or recommend disciplinary action against the other officer, or
  - (c) direct, approve or recommend the transfer of the other officer to another position in the Department, or
  - (d) make, approve or recommend a decision which detrimentally affects the benefits or awards of the other officer, or
  - (e) fail to approve or recommend that the other officer receive education or training which could reasonably be expected to improve the officer's opportunities for promotion or to confer some other advantage on the officer, or
  - (f) change the duties of the other officer so that they are not appropriate to the officer's salary or position or approve or recommend such a change, or
  - (g) otherwise act to the detriment of the other officer,
- in retaliation against the other officer because he or she has acted in accordance with this clause or has disclosed information relating to conduct contrary to law to any other correctional officer.

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- (5) In this clause, *departmental charge* means a charge of misconduct under Part 2.7 of the *Public Sector Employment and Management Act 2002* committed or alleged to have been committed by the correctional officer to whom the charge relates.

### 263 Certain contraventions to be dealt with as misconduct

A correctional officer, departmental officer or casual employee who contravenes a provision of this Regulation is not guilty of an offence but any such contravention may be dealt with as misconduct, under Part 2.7 of the *Public Sector Employment and Management Act 2002*, or any other applicable provision of that Act.

**Note.** The services of a temporary employee or a casual employee may be dispensed with at any time under section 30 or 39 of the *Public Sector Employment and Management Act 2002*.

### 264 Confidentiality of records

- (1) A person involved in the administration of the Act is not authorised to furnish to any other person:
- (a) a photograph, film or video or audio recording of an inmate, or
  - (b) an impression of an inmate's handprints, fingerprints, footprints or toeprints, or
  - (c) any other forensic material (within the meaning of the *Crimes (Forensic Procedures) Act 2000*) relating to an inmate.
- (2) This clause does not apply in the circumstances referred to in section 257 (1) (a)–(e) of the Act.

**Note.** The circumstances referred to in subclause (2) are the circumstances in which a person is authorised to divulge information obtained in connection with the administration of the Act.

## Part 9.2 Conduct of members of correctional staff regarding alcohol and drugs

### Division 1 Preliminary

#### 265 Interpretation

- (1) In this Part:
- analyst* means:
- (a) an analyst within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*, or
  - (b) a person employed by the owner or operator of an approved laboratory as an analyst.

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**approved counsellor** means a counsellor approved for the purposes of this Part by the Commissioner.

**approved laboratory** means a laboratory accredited by the New South Wales Department of Health and approved for the purposes of this Part by the Commissioner.

**AS/NZS 4308** means Australian/New Zealand Standard AS/NZS 4308:2008, *Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine* as in force on 1 September 2008.

**disciplinary procedure** means any procedure of a disciplinary nature or other related proceedings relating to a contravention of a provision of this Part and includes, but is not limited to, disciplinary action referred to in Part 2.7 of the *Public Sector Employment and Management Act 2002*.

**member of correctional staff** has the same meaning as it has in Division 5 of Part 11 of the Act.

**misbehaviour with alcohol** means misbehaviour with a contravention of clause 268.

**misbehaviour with drugs** means misbehaviour with a contravention of clause 269.

**sample**, in relation to a non-invasive sample, includes, if the sample is divided into portions, a portion of the sample.

**the 0.02 level**, in relation to alcohol, means a concentration of 0.02 grams or more of alcohol per 210 litres of breath (when tested by breath test or breath analysis) or per 100 millilitres of blood (when tested by blood analysis).

- (2) In this Part, a member of correctional staff **presents for duty** when the member of staff is present at the staff member's place of work and about to go on duty.
- (3) In this Part, a member of correctional staff **tests positive for alcohol** if a test conducted under Division 5 of Part 11 of the Act indicates that the concentration of alcohol in his or her breath or blood exceeded the 0.02 level:
  - (a) when the staff member presented for duty, or
  - (b) while the staff member was on duty.
- (4) In this Part, a member of correctional staff **tests positive for prohibited drugs** if a test conducted under Division 5 of Part 11 of the Act indicates that the staff member had a prohibited drug present in any of his or her biological material:
  - (a) when the staff member presented for duty, or
  - (b) while the staff member was on duty.

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- (5) In this Part, a reference to a non-invasive sample does not include a reference to a sample of breath taken by breath test or breath analysis.

**266 Appointment of authorised persons**

- (1) The Commissioner may, by instrument in writing, appoint any person to be an authorised person for the purposes of Division 5 of Part 11 of the Act.
- (2) The Commissioner may appoint as an authorised person:
- (a) a person by name, or
  - (b) a person holding office or acting in a particular rank or office, from time to time, by reference to the title of the rank or office concerned.
- (3) The Commissioner must furnish persons appointed under subclause (2) (a) with certificates of their appointment as authorised persons.
- (4) An authorised person appointed under subclause (2) (a) must, if requested to do so, produce the certificate of appointment to any member of correctional staff required by the authorised person to do any thing under Division 5 of Part 11 of the Act.
- (5) The Commissioner must maintain a list of the titles of the ranks or offices referred to in subclause (2) (b).
- (6) An authorised person appointed under subclause (2) (b) must, if requested to do so, furnish proof that the person holds, or is acting in, the relevant rank or office to any member of correctional staff required by the authorised person to do any thing under Division 5 of Part 11 of the Act. Such proof may include, but is not limited to, a departmental identification card.

**267 Hospitals**

For the purposes of Division 5 of Part 11 of the Act, the following premises, institutions or establishments are prescribed as a hospital:

- (a) any clinic or other premises operated by Justice Health,
- (b) any premises, institution or establishment that is a hospital for the purposes of section 19 of the *Road Transport (Safety and Traffic Management) Act 1999*.



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## **Division 2      Obligations of members of correctional staff**

### **268      Correctional staff's breath or blood must not have a concentration of alcohol exceeding the 0.02 level**

A member of correctional staff must not have a concentration of alcohol exceeding the 0.02 level in his or her breath or blood:

- (a) when the staff member presents for duty, or
- (b) while the staff member is on duty.

### **269      Correctional staff must not have prohibited drug present in biological material**

A member of correctional staff must not have a prohibited drug present in any of his or her biological material:

- (a) when the staff member presents for duty, or
- (b) while the staff member is on duty.

## **Division 3      Testing of members of correctional staff**

### **270      Testing correctional staff**

- (1) A member of correctional staff may be tested under Division 5 of Part 11 of the Act whether or not there is any suspicion that the staff member has recently consumed alcohol or used a prohibited drug.
- (2) The result of any such test may be used for the purposes of any disciplinary procedure.

### **271      General rules for the provision or taking of certain samples**

- (1) In this clause, a reference to a non-invasive sample includes a reference to a sample of breath taken by breath test or breath analysis.
- (2) An authorised person who requires a member of correctional staff to provide, or enable to be taken, a non-invasive sample from the staff member under Division 5 of Part 11 of the Act must specify the type of non-invasive sample to be provided or taken.
- (3) The non-invasive sample so provided or taken must be of the type of non-invasive sample required by the authorised person.
- (4) The staff member may not elect which type of non-invasive sample is provided, or enabled to be taken.

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- (5) A non-invasive sample provided by or taken from a member of correctional staff under Division 5 of Part 11 of the Act:
- (a) must be provided or taken in circumstances affording reasonable privacy to the staff member, except as permitted (expressly or impliedly) by any other provision of the Act or this Regulation, and
  - (b) must not be provided or taken in the presence or view of a person whose presence is not necessary for the purposes of the provision or taking of the non-invasive sample or required or permitted by another provision of the Act or this Regulation, and
  - (c) must not involve the removal of more clothing than is necessary for providing or taking the non-invasive sample, and
  - (d) must not involve more visual inspection than is necessary for providing or taking the non-invasive sample.
- (6) All non-invasive samples provided by or taken from a member of correctional staff under Division 5 of Part 11 of the Act are to be provided or taken in a manner consistent with appropriate medical or other relevant professional standards, with due regard to the dignity and self-respect of the staff member and in as seemly a manner as is consistent with the effective provision or taking of the non-invasive sample.
- (7) An authorised person is authorised to take a sample of hair of a member of correctional staff by removing the root of the hair only if:
- (a) the authorised person takes only so much hair as the person believes is necessary for analysis of the sample to be carried out for the purposes of Division 5 of Part 11 of the Act, and
  - (b) strands of hair are taken using the least painful technique known and available to the authorised person.

**272 Breath testing and breath analysis of members of correctional staff**

- (1) As soon as practicable after a member of correctional staff has undergone a breath test under Division 5 of Part 11 of the Act, the authorised person who conducted the breath test must deliver to the staff member a statement in writing signed by the authorised person specifying:
- (a) the concentration of alcohol determined by the breath test to be present in the staff member's breath and expressed in grams of alcohol per 210 litres of breath (or its equivalent in grams of alcohol per 100 millilitres of blood), and
  - (b) the day on which and time of the day at which the breath test was completed.

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- (2) An authorised person may require a member of correctional staff to submit to a breath analysis in accordance with the directions of the authorised person, if:
- (a) it appears to the authorised person as a result of a breath test under Division 5 of Part 11 of the Act that the concentration of alcohol in the staff member's breath may exceed the 0.02 level, or
  - (b) the staff member refuses or fails to undergo a breath test under Division 5 of Part 11 of the Act in accordance with the directions of the authorised person when requested to do so by the authorised person.
- (3) As soon as practicable after a member of correctional staff has submitted to a breath analysis the authorised person operating the breath analysing instrument must deliver to the staff member a statement in writing signed by the authorised person specifying:
- (a) the concentration of alcohol determined by the analysis to be present in the staff member's breath and expressed in grams of alcohol per 210 litres of breath (or its equivalent in grams of alcohol per 100 millilitres of blood), and
  - (b) the day on which and time of the day at which the breath analysis was completed.
- (4) A member of correctional staff who is required to undergo a breath test or submit to a breath analysis may request the authorised person making the requisition to arrange for the taking (in the presence of an authorised person) of a sample of the staff member's blood for analysis, at the staff member's own expense, by:
- (a) a medical practitioner nominated by the staff member, or
  - (b) a medical practitioner nominated by the authorised person at the staff member's request, or
  - (c) a pathology specimen collector at a collection centre nominated by the staff member, or
  - (d) a pathology specimen collector at a collection centre nominated by the authorised person at the staff member's request.
- (5) The making of any such request or the taking of a sample of a member of correctional staff's blood does not absolve the staff member from the obligation imposed on the staff member to undergo a breath test or submit to a breath analysis in accordance with this clause.
- (6) In this clause, *collection centre* means a pathology collection centre that is operated by, or in connection with, a pathology laboratory that is accredited by the National Association of Testing Authorities.

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**273 Restrictions on requiring breath test, breath analysis or non-invasive sample**

An authorised person must not require a member of correctional staff to undergo a test under Division 5 of Part 11 of the Act:

- (a) if the staff member has been admitted to a hospital for medical treatment, unless the medical practitioner who attends the staff member at the hospital (or, if no medical practitioner is present to attend the staff member, a registered nurse who is accredited by a hospital as competent to perform the sampling procedures) has been notified of the intention to make the requisition and the medical practitioner or registered nurse does not object on the ground that compliance would be prejudicial to the proper care or treatment of the staff member, or
- (b) if it appears to the authorised person that it would (because of injuries sustained by the staff member) be dangerous to the staff member's medical condition if the staff member complied with the requisition, or
- (c) in the case of a requirement for a test for the purpose of testing for the presence or concentration of alcohol, at any time after the expiration of 3 hours from the latest of the time the staff member last presented for duty, the staff member was last involved in an incident referred to in section 236F (3) of the Act (if such an incident occurred) or the staff member last ceased to be on duty, or
- (d) in the case of a requirement for a test for the purpose of testing for the presence of a prohibited drug, at any time after the expiration of 24 hours from the latest of the time the staff member last presented for duty, the staff member was last involved in an incident referred to in section 236F (3) of the Act (if such an incident occurred) or the staff member last ceased to be on duty, or
- (e) at the staff member's home.

**274 Action to be taken with respect to blood samples**

- (1) A medical practitioner or registered nurse by whom a sample of a member of correctional staff's blood is taken under Division 5 of Part 11 of the Act must:
  - (a) if the staff member requests a part of the sample or if the staff member is not capable of requesting a part of the sample, divide the sample into 2 approximately equal portions, and
  - (b) place the sample or each portion of the sample into a separate container, and

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- (c) fasten and seal each container, and
  - (d) mark or label each container for future identification.
- (2) Of the sealed containers:
- (a) one container must, as soon as reasonably practicable thereafter, be transported to an approved laboratory for analysis by an analyst in accordance with subclause (4), and must be stored at that laboratory on behalf of the Commissioner, and
  - (b) the other container must:
    - (i) if the staff member has requested a part of the sample, be given to the staff member, or
    - (ii) if the staff member is not capable of requesting a part of the sample as referred to in subclause (1), as soon as reasonably practicable thereafter, be transported to the approved laboratory to which the container referred to in paragraph (a) was sent and must be stored at that laboratory on behalf of the Commissioner.
- (3) If a staff member was not capable of requesting a part of the sample as referred to in subclause (1), the staff member may, within 12 months after the taking of the sample, apply to the laboratory referred to in subclause (2) for the container referred to in subclause (2) (b) (ii) to be sent, for analysis (at the staff member's own expense) of the portion of the sample in that container, to a medical practitioner or laboratory nominated by the staff member.
- (4) The authorised person may arrange for the analyst to:
- (a) determine whether the sample contains alcohol, and if so, the concentration of alcohol, or
  - (b) determine whether the sample contains a prohibited drug, or
  - (c) determine whether the sample contains alcohol, and if so, the concentration of alcohol and determine whether the sample also contains a prohibited drug.

**275 Action to be taken with respect to non-invasive samples**

- (1) A person who is provided with a non-invasive sample under Division 5 of Part 11 of the Act from a member of correctional staff or who takes a non-invasive sample from a member of correctional staff must:
- (a) if the staff member requests a part of the sample or if the staff member is not capable of requesting a part of the sample, divide the sample into 2 approximately equal portions or, if the sample cannot be so divided, immediately require and immediately be provided with or take, a further sample of the same type of biological material, and

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- (b) place each portion (or if 2 samples of the same type of biological material were provided or taken, each sample) into a container, and
  - (c) fasten and seal each container, and
  - (d) mark or label each container for future identification.
- (2) Of the sealed containers:
- (a) one container must, as soon as reasonably practicable thereafter, be transported to an approved laboratory for analysis by an analyst in accordance with subclause (4), and must be stored at that laboratory on behalf of the Commissioner, and
  - (b) the other container must:
    - (i) if the staff member has requested a part of the sample, be given to the staff member, or
    - (ii) if the staff member is not capable of requesting a part of the sample, as soon as reasonably practicable thereafter, be transported to the approved laboratory to which the container referred to in paragraph (a) was sent and must be stored at that laboratory on behalf of the Commissioner.
- (3) If a staff member was not capable of requesting a part of the sample as referred to in subclause (1), the staff member may, within 12 months after the taking of the sample, apply to the laboratory referred to in subclause (2) for the container referred to in subclause (2) (b) (ii) to be sent, for analysis (at the staff member's own expense) of the sample, or the portion of the sample, in that container, to a medical practitioner or laboratory nominated by the staff member.
- (4) The authorised person may arrange for the analyst:
- (a) if the non-invasive sample was provided or taken under section 236G of the Act, to determine whether the sample indicates that the staff member's blood, by whom the sample was provided or from whom the sample was taken, contained alcohol, and if so, the concentration of alcohol in the staff member's blood or determine whether the sample contains a prohibited drug, or
  - (b) if the non-invasive sample was provided or taken under section 236F of the Act, to determine whether the sample contains a prohibited drug.
- (5) In the case of samples of urine, any sealed containers referred to in subclause (2) must be handled in accordance with the procedure set out in AS/NZS 4308 or any other procedure approved by the Commissioner in that regard.

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## 276 Analysis of samples

- (1) An analyst to whom a portion of a sample of blood or a non-invasive sample is submitted for analysis under clause 274 or 275 may carry out an analysis in accordance with the arrangement made by the authorised person under clause 274 (4) or clause 275 (4), as the case may be.
- (2) The analysis must be carried out, and a report provided, in accordance with:
  - (a) AS/NZS 4308, except as provided by paragraph (b), or
  - (b) such other procedure as may be directed by the Commissioner.

## Division 4 Evidence

### 277 Certificate evidence of concentration of alcohol in breath or blood determined by breath test or breath analysis

- (1) For the purposes of any disciplinary procedure relating to misbehaviour with alcohol, a certificate purporting to be signed by an authorised person and certifying that:
  - (a) the authorised person is a duly appointed authorised person, and
  - (b) the person named in the certificate underwent a breath test, and
  - (c) the breath test was carried out on the person's breath by means of a device (not being a breath analysing instrument) of a type approved by the Governor for the conduct of breath tests under the *Road Transport (Safety and Traffic Management) Act 1999*, and
  - (d) the breath test was carried out on the day and completed at the time stated in the certificate, and
  - (e) a concentration of alcohol, determined by the breath test and expressed in grams of alcohol per 210 litres of breath (or its equivalent in grams of alcohol per 100 millilitres of blood), was present in the breath of that person on the day and at the time stated in the certificate, and
  - (f) a statement in writing required by clause 272 (1) was delivered in accordance with that subclause,
 is prima facie evidence of the particulars certified in and by the certificate.
- (2) For the purposes of any disciplinary procedure relating to misbehaviour with alcohol, a certificate purporting to be signed by an authorised person and certifying that:
  - (a) the authorised person is a duly appointed authorised person, and

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- (b) the person named in the certificate submitted to a breath analysis, and
  - (c) the breath analysis was carried out by a breath analysing instrument within the meaning of Division 5 of Part 11 of the Act, and
  - (d) the analysis was made on the day and completed at the time stated in the certificate, and
  - (e) a concentration of alcohol, determined by the breath analysing instrument and expressed in grams of alcohol per 210 litres of breath (or its equivalent in grams of alcohol per 100 millilitres of blood), was present in the breath of that person on the day and at the time stated in the certificate, and
  - (f) a statement in writing required by clause 272 (3) was delivered in accordance with that subclause,
- is prima facie evidence of the particulars certified in and by the certificate.
- (3) For the purposes of any disciplinary procedure relating to misbehaviour with alcohol, evidence of the condition of a device by means of which a breath test was carried out or of a breath analysing instrument or the manner in which the device or instrument was operated is not to be required unless evidence that the device or instrument was not in proper condition or was not properly operated has been adduced.
  - (4) For the purposes of any disciplinary procedure relating to misbehaviour with alcohol, evidence may be given of the concentration of alcohol present in the staff member's breath, as determined by a device by which a breath test was carried out or by a breath analysing instrument operated by an authorised person.
  - (5) The concentration of alcohol so determined is taken to be the concentration of alcohol in the staff member's breath when the staff member presented for duty if the breath analysis was made within 3 hours of the staff member presenting for duty on the particular day, unless the staff member proves that the concentration of alcohol in the staff member's breath at that time did not exceed the 0.02 level.
  - (6) The concentration of alcohol so determined is taken to be the concentration of alcohol in the staff member's breath while the staff member was on duty if the breath analysis was made within 3 hours of the staff member ceasing to be on duty on the particular day, unless the staff member proves that the concentration of alcohol in the staff member's breath at that time did not exceed the 0.02 level.



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**278 Certificate evidence of concentration of alcohol in blood otherwise than in relation to a breath test or breath analysis**

- (1) For the purposes of any disciplinary procedure relating to misbehaviour with alcohol, a certificate purporting to be signed by a medical practitioner or registered nurse and certifying any one or more of the following matters:
- (a) that the practitioner or nurse was a medical practitioner or registered nurse who attended a specified person at a hospital,
  - (b) that the practitioner or nurse took a sample of the person's blood or took from, or was provided with, a non-invasive sample in accordance with Division 5 of Part 11 of the Act on the day and at the time stated in the certificate,
  - (c) that the practitioner or nurse dealt with the sample in accordance with Division 5 of Part 11 of the Act and this Part,
  - (d) that the practitioner or nurse used equipment of a specified description in so taking and dealing with the sample,
  - (e) that the container into which the sample was placed was sealed, and marked or labelled, in a specified manner,
- is prima facie evidence of the particulars certified in and by the certificate.
- (2) For the purposes of any disciplinary procedure relating to misbehaviour with alcohol, a certificate purporting to be signed by an authorised person and certifying any one or more of the following matters:
- (a) that the authorised person received a portion of a sample of a specified person's blood or a non-invasive sample provided by or taken from the specified person and taken in accordance with Division 5 of Part 11 of the Act and this Part,
  - (b) that the authorised person arranged for the portion to be submitted for analysis by an analyst to determine whether the sample indicated that the blood of the staff member by whom the sample was provided or from whom the sample was taken contained alcohol, and if so, the concentration of alcohol in the staff member's blood,
  - (c) that the container into which the sample was placed was sealed, and marked or labelled, in a specified manner,
- is prima facie evidence of the particulars certified in and by the certificate.
- (3) For the purposes of any disciplinary procedure relating to misbehaviour with alcohol, a certificate purporting to be signed by an analyst and certifying any one or more of the following matters:

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- (a) that the analyst received, on a specified day, a portion of a sample of a specified person's blood or a non-invasive sample provided by or taken from the specified person in a container submitted for analysis under Division 5 of Part 11 of the Act and this Part,
  - (b) that the container, as received by the analyst, was sealed, and marked or labelled, in a specified manner,
  - (c) that, on receipt by the analyst of the container, the seal was unbroken,
  - (d) that the analyst carried out an analysis of the portion to determine whether the sample indicated that the blood of the staff member by whom the sample was provided or from whom the sample was taken contained alcohol, and if so, the concentration of alcohol in the staff member's blood,
  - (e) that the concentration of alcohol in the staff member's blood determined pursuant to the analysis and expressed in grams of alcohol in 100 millilitres of blood was present in that sample,
  - (f) that the analyst was, at the time of the analysis, an analyst within the meaning of this Part,
- is prima facie evidence of the matters set out in subclause (4).
- (4) A certificate under subclause (3) is prima facie evidence:
    - (a) of the particulars certified in and by the certificate, and
    - (b) that the sample was a portion of the sample of the blood of that specified person or a non-invasive sample provided by or taken from the specified person, and
    - (c) that the portion had not been tampered with before it was received by the analyst.
  - (5) For the purposes of any disciplinary procedure relating to misbehaviour with alcohol, evidence may be given of the concentration of alcohol present in the blood or other biological material of the staff member, as determined by an analysis under Division 5 of Part 11 of the Act of a portion of a sample of the staff member's blood or a non-invasive sample provided by or taken from the staff member, as the case may be.
  - (6) The concentration of alcohol so determined is taken to be the concentration of alcohol in the staff member's blood when the staff member presented for duty if that sample of blood or non-invasive sample was taken within 3 hours of the staff member presenting for duty, unless the staff member proves that the concentration of alcohol in the staff member's blood at that time did not exceed the 0.02 level.
  - (7) The concentration of alcohol so determined is taken to be the concentration of alcohol in the staff member's blood while the staff member was on duty if that sample of blood or non-invasive sample was

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taken while the staff member was on duty or within 3 hours of the staff member ceasing to be on duty on the particular day, unless the staff member proves that the concentration of alcohol in the staff member's blood at that time did not exceed the 0.02 level.

**279 Certificate evidence of presence of a prohibited drug**

- (1) For the purposes of any disciplinary procedure relating to misbehaviour with drugs, a certificate purporting to be signed by a medical practitioner or registered nurse and certifying any one or more of the following matters:
- (a) that the practitioner or nurse was a medical practitioner or registered nurse who attended a specified person at a hospital,
  - (b) that the practitioner or nurse took a sample of the staff member's blood or was provided with or took a non-invasive sample from the staff member in accordance with Division 5 of Part 11 of the Act and this Part on the day and at the time stated in the certificate,
  - (c) that the practitioner or nurse dealt with the sample in accordance with clause 274 or 275,
- is prima facie evidence of the particulars certified in and by the certificate.
- (2) For the purposes of any disciplinary procedure relating to misbehaviour with drugs, a certificate purporting to be signed by a person and certifying any one or more of the following matters:
- (a) that the person was provided with or took a non-invasive sample from a specified person in accordance with Division 5 of Part 11 of the Act and this Part on the day and at the time stated in the certificate,
  - (b) that the person dealt with the sample in accordance with clause 276,
- is prima facie evidence of the particulars certified in and by the certificate.
- (3) For the purposes of any disciplinary procedure relating to misbehaviour with drugs, a certificate purporting to be signed by an analyst and certifying any one or more of the following matters:
- (a) that the analyst received, on a specified day, a portion of a sample of a specified person's blood or a non-invasive sample provided by or taken from a specified person in a container submitted for analysis under Division 5 of Part 11 of the Act and this Part,
  - (b) that the container, as received by the analyst, was sealed, and marked or labelled, in a specified manner,

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- (c) that, on receipt by the analyst of the container, the seal was unbroken,
  - (d) that the analyst carried out an analysis of the portion to determine whether any prohibited drug was present in the sample,
  - (e) that a specified prohibited drug ascertained pursuant to the analysis was present in that portion,
  - (f) that the analyst was, at the time of the analysis, an analyst within the meaning of this Part,
- is prima facie evidence of the matters set out in subclause (4).
- (4) A certificate under subclause (3) is prima facie evidence:
    - (a) of the particulars certified in and by the certificate, and
    - (b) that the portion was a portion of the sample of that specified person's blood or a non-invasive sample provided by, or taken from, that specified person, and
    - (c) that the portion had not been tampered with before it was received by the analyst.
  - (5) For the purposes of any disciplinary procedure relating to misbehaviour with drugs, evidence may be given of the presence of a prohibited drug in the blood or other biological material of the staff member, as determined pursuant to an analysis under Division 5 of Part 11 of the Act of a portion of a sample of the person's blood or a non-invasive sample provided by or taken from the staff member.
  - (6) The prohibited drug the presence of which is so determined, is taken to have been present in the blood or other biological material of the staff member when the staff member presented for duty, if the sample was taken or provided within 24 hours of the time the staff member last presented for duty, unless the staff member proves the absence, at that time, of the drug.
  - (7) The prohibited drug the presence of which is so determined, is taken to have been present in the blood or other biological material of the staff member while the staff member was on duty if the sample was taken or provided within 24 hours of the later of the time the staff member last was involved in an incident referred to in section 236F (3) of the Act (if such an incident occurred) or the staff member last ceased to be on duty, unless the staff member proves the absence, at that time, of the drug.

**280 Certificate evidence of appointment of authorised person**

For the purposes of any disciplinary procedure involving a contravention of a provision of this Part or in proceedings for an offence under this Part, a certificate purporting to be signed by the

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Commissioner and certifying that the person named in the certificate was an authorised person at a particular time is prima facie evidence of the particulars certified in and by the certificate.

## **Division 5      Consequences**

### **281    Refusing to comply with a requirement under Division 5 of Part 11 of the Act**

- (1) A member of correctional staff must not refuse:
  - (a) to undergo a breath test, or
  - (b) to submit to a breath analysis, or
  - (c) to provide, or enable to be taken, a non-invasive sample from the staff member, or
  - (d) to comply with any other requirement of or under Division 5 of Part 11 of the Act,
 in accordance with a direction given under Division 5 of Part 11 of the Act by an authorised person.
- (2) This clause does not prevent a member of correctional staff so refusing if the staff member is unable on medical grounds to do otherwise.

### **282    Immediate action: staff member relieved from duty**

- (1) If a member of correctional staff tests positive for alcohol or a member of correctional staff tests positive for a prohibited drug, the staff member, if the staff member remains on duty, is to be immediately relieved of duty and is not to carry out any duty for the duration of the staff member's shift.
- (2) The Commissioner may decide that a member of correctional staff who is relieved from duty because of the operation of this clause is not entitled to be paid (whether in wages or salary, paid sick leave or any other type of payment) for that part of the relevant shift that the staff member did not work.

### **283    Consequences for staff members having prescribed concentration of alcohol in breath or blood**

- (1) This clause applies if:
  - (a) a member of correctional staff (other than a staff member appointed on probation, a temporary employee or a casual employee) tests positive for alcohol, and
  - (b) the staff member has not tested positive for alcohol in the 3 years immediately preceding the test referred to in paragraph (a).

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- (2) In such a case, the Commissioner may ask the staff member to elect to undergo counselling and rehabilitation or to elect not to undergo counselling and rehabilitation and face the possibility that the Commissioner may deal with the matter under Part 2.7 of the *Public Sector Employment and Management Act 2002*.
- (3) If the staff member elects to undergo counselling and rehabilitation, the Commissioner may direct the staff member:
- (a) to attend any interview organised with a person nominated by the Commissioner, and
  - (b) to attend an interview with an approved counsellor for assessment, and
  - (c) to participate in any rehabilitation program recommended by the counsellor.
- (4) If the staff member:
- (a) elects not to undergo counselling or rehabilitation, or
  - (b) without reasonable excuse, fails to attend an interview or counselling session after electing to do so, or
  - (c) without reasonable excuse, fails to participate in a rehabilitation program recommended by the approved counsellor,
- the Commissioner may deal with the matter under Part 2.7 of the *Public Sector Employment and Management Act 2002*.
- (5) The Commissioner is not required to ask the staff member to elect to undergo counselling and rehabilitation or to elect not to undergo counselling and rehabilitation if the Commissioner, having regard to all the circumstances, considers that it would be more appropriate to deal with the matter under Part 2.7 of the *Public Sector Employment and Management Act 2002*.

**284 Consequences for staff members testing positive at least twice in 3 years**

- (1) This clause applies if:
- (a) a member of correctional staff (other than a staff member appointed on probation, a temporary employee or a casual employee) tests positive for alcohol, and
  - (b) the staff member has tested positive for alcohol in the 3 years immediately preceding the test referred to in paragraph (a).
- (2) In such a case, the Commissioner may deal with the matter under Part 2.7 of the *Public Sector Employment and Management Act 2002*.

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- (3) The Commissioner may refer the staff member to a medical practitioner for the purpose of the medical practitioner determining the staff member's fitness to remain a staff member.
  - (4) The Commissioner is to have regard to any report made by the medical practitioner in relation to such a staff member.

**285 Consequences for staff members testing positive for prohibited drugs**

- (1) This clause applies if:
  - (a) a member of correctional staff (other than a staff member appointed on probation, a temporary employee or a casual employee) tests positive for a prohibited drug, and
  - (b) the staff member has not tested positive for a prohibited drug in the 3 years immediately preceding the test referred to in paragraph (a).
- (2) In such a case, the Commissioner may ask the staff member to elect to undergo counselling and rehabilitation with an approved counsellor or to elect not to undergo counselling and rehabilitation and face the possibility that the Commissioner may deal with the matter under Part 2.7 of the *Public Sector Employment and Management Act 2002*.
- (3) If the staff member elects to undergo counselling and rehabilitation, the Commissioner may direct the staff member:
  - (a) to attend any interview organised with a person nominated by the Commissioner, and
  - (b) to attend an interview with an approved counsellor for assessment, and
  - (c) to participate in any rehabilitation program recommended by that counsellor.
- (4) If the staff member:
  - (a) elects not to undergo counselling or rehabilitation, or
  - (b) without reasonable excuse, fails to attend an interview or counselling session after electing to do so, or
  - (c) without reasonable excuse, fails to participate in a rehabilitation program recommended by the approved counsellor referred to in subclause (3) (c),
 the Commissioner may deal with the matter under Part 2.7 of the *Public Sector Employment and Management Act 2002*.
- (5) The Commissioner is not required to ask the staff member to elect to undergo counselling and rehabilitation or to elect not to undergo counselling and rehabilitation if the Commissioner, having regard to all

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the circumstances, considers that it would be more appropriate to deal with the matter under Part 2.7 of the *Public Sector Employment and Management Act 2002*.

**286 Consequences for staff members testing positive for a prohibited drug more than once in 3 years**

- (1) This clause applies if:
  - (a) a member of correctional staff (other than a staff member appointed on probation, a temporary employee or a casual employee) tests positive for a prohibited drug, and
  - (b) the staff member has tested positive for a prohibited drug in the 3 years immediately preceding the test referred to in paragraph (a).
- (2) In such a case, the Commissioner may deal with the matter under Part 2.7 of the *Public Sector Employment and Management Act 2002*.
- (3) The Commissioner may refer the staff member to a medical practitioner for the purpose of the medical practitioner determining the staff member's fitness to remain a staff member.
- (4) The Commissioner is to have regard to any report made by the medical practitioner in relation to such a staff member.

**287 Probationary staff members**

- (1) If a member of correctional staff appointed on probation tests positive for alcohol or tests positive for a prohibited drug, the Commissioner may:
  - (a) direct the staff member to attend an interview with an approved counsellor for assessment and to participate in any rehabilitation program recommended by that counsellor, or
  - (b) annul his or her appointment under section 23 of the *Public Sector Employment and Management Act 2002*.
- (2) If such a staff member fails, without reasonable excuse, to attend an interview or counselling session after being directed to do so or, without reasonable excuse, fails to participate in any rehabilitation program recommended by an approved counsellor referred to in subclause (1) (a), the Commissioner may annul his or her appointment under section 23 of the *Public Sector Employment and Management Act 2002*.
- (3) The Commissioner may at any time refer the staff member to a medical practitioner for the purpose of the medical practitioner determining the staff member's fitness for duty.



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- (4) The Commissioner is to have regard to any report made by the medical practitioner in relation to such a staff member.

### **288 Temporary or casual staff members**

- (1) If a member of correctional staff who is a temporary employee or a casual employee tests positive for alcohol or tests positive for a prohibited drug, the Commissioner may:
- (a) direct the staff member to attend an interview with an approved counsellor for assessment and to participate in any rehabilitation program recommended by that counsellor, or
  - (b) dispense with his or her services under section 30 or 39 of the *Public Sector Employment and Management Act 2002*, as the case may be.
- (2) If such a staff member fails, without reasonable excuse, to attend an interview or counselling session after being directed to do so or, without reasonable excuse, fails to participate in any rehabilitation program recommended by an approved counsellor referred to in subclause (1) (a), the Commissioner may dispense with his or her services under section 30 or 39 of the *Public Sector Employment and Management Act 2002*, as the case may be.
- (3) The Commissioner may at any time refer the staff member to a medical practitioner for the purpose of the medical practitioner determining the staff member's fitness for duty.
- (4) The Commissioner is to have regard to any report made by the medical practitioner in relation to such a staff member.

### **289 Double jeopardy**

A member of correctional staff is not liable to be punished or disciplined under this Division for both:

- (a) testing positive for alcohol or testing positive for a prohibited drug, and
- (b) contravening clause 281 (1).

### **290 Disciplinary action**

Nothing in this Part limits any disciplinary action that may be taken under the *Public Sector Employment and Management Act 2002* in respect of a member of correctional staff.

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## **Division 6      Offences**

### **291    Interfering with results of test**

A person who does anything to introduce, or alter the concentration of, alcohol or any prohibited drug in a member of correctional staff's breath, blood or other biological material, before the staff member undergoes a test under Division 5 of Part 11 of the Act, is guilty of an offence if the person does so for the purpose of preventing or restricting the use of the results of the test in any disciplinary procedure involving a contravention of this Part.

Maximum penalty: 20 penalty units.

### **292    Interfering or tampering with, or destroying, samples**

A person must not interfere or tamper with, or destroy, a sample of blood or a non-invasive sample provided by or taken from a member of correctional staff under Division 5 of Part 11 of the Act unless the sample is destroyed:

- (a) by or at the direction of an analyst in the course of or on completion of analysis, or
- (b) in the case of a sample handed to a person on behalf of a member of correctional staff, by or at the direction of the person, or
- (c) after the expiration of 12 months commencing on the day on which the sample was taken or provided, or a longer period (being no more than 5 years) as directed by the Commissioner in respect of the sample in a direction made before such an expiration.

Maximum penalty: 20 penalty units.

## **Part 9.3      Justice Health matters**

### **293    Examination of inmates**

- (1) An inmate is to be examined by a prescribed Justice Health officer as soon as practicable after being received into a correctional centre.
- (2) Without limiting subclause (1), a prescribed Justice Health officer may at any time carry out an examination of an inmate (but only with the consent of the inmate) if of the opinion that it is necessary for such an examination to be carried out.

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#### **294 Inmates risk to self or others**

As soon as practicable after forming an opinion:

- (a) that the mental or physical condition of an inmate constitutes a risk to the life of the inmate or to the life, health or welfare of any other person, or
- (b) that the life of an inmate will be at risk if the inmate continues to be detained in a correctional centre, or
- (c) that, because of illness, an inmate will not survive sentence or is totally and permanently unfit for correctional centre discipline, or
- (d) that an inmate should not, on medical grounds, be employed at work of a particular nature, or
- (e) that an inmate's medical condition is such that the inmate is unfit to travel, or should only travel by particular means,

a prescribed Justice Health officer must report that he or she has formed the opinion, and the grounds for the opinion, to a prescribed DCS officer.

#### **295 Mental illness**

- (1) As soon as practicable after forming an opinion that the mental state of an inmate requires special observation, a prescribed Justice Health officer must report that he or she has formed the opinion, and the grounds for the opinion, to a prescribed DCS officer.
- (2) On receiving such a report, the prescribed DCS officer:
  - (a) must cause the inmate to be placed under special observation, and
  - (b) in the case of a report with respect to a serious offender, must send written notice of the report to the Review Council.

#### **296 Inmates' diet, exercise and treatment**

- (1) As soon as practicable after forming an opinion that an inmate's diet, exercise or other treatment should be varied or modified for reasons of health, a prescribed Justice Health officer must report that he or she has formed the opinion, and the grounds for the opinion, to a prescribed DCS officer.
- (2) On receiving such a report, the prescribed DCS officer:
  - (a) must take such steps as are reasonable to carry into effect any recommendation contained in the report, and
  - (b) in the case of a report with respect to a serious offender, must ensure that written particulars of the report are kept available for reference by the Review Council.

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- (3) If it is impracticable to carry a recommendation into effect, the prescribed DCS officer must report that fact to the Chief Executive Officer, Justice Health.

**297 Medical records**

- (1) Proper medical records are to be kept in respect of each inmate, with entries as to each examination that is carried out on an inmate by a prescribed Justice Health officer.
- (2) The medical records for inmates at a correctional centre are to be kept at the centre in the custody of a prescribed Justice Health officer, and their contents are not to be divulged to any person outside Justice Health (including the inmate) except in accordance with guidelines established by the Chief Executive Officer, Justice Health.
- (3) Subclause (2) does not prevent information in an inmate's medical records from being used to prepare general reports on the inmate's health for submission to the general manager of a correctional centre, and such a report must be prepared and submitted whenever the general manager so requests.
- (4) As soon as practicable after an inmate is transferred from one correctional centre to another, the inmate's medical records are to be given into the custody of a prescribed Justice Health officer at the centre to which the inmate is transferred.
- (5) Subclause (4) does not apply if the inmate is temporarily transferred to a police station or court cell complex.

**298 Provision of medical care to inmates confined to cell**

An inmate who is confined to cell for the purposes of punishment, or under a segregated or protective custody direction, must be kept under daily observation by a prescribed Justice Health officer and have access to essential medical care.

**299 Infectious diseases**

- (1) As soon as practicable after forming an opinion that an inmate has, or appears to have, a serious infectious disease, a prescribed Justice Health officer must report that he or she has formed the opinion, and the grounds for the opinion, to a prescribed DCS officer.
- (2) In the case of a report from the Chief Executive Officer, Justice Health, the prescribed DCS officer must carry into effect any recommendation contained in such a report in so far as it is practicable to do so.
- (3) If it is impracticable to carry a recommendation into effect, the prescribed DCS officer must report that fact to the Chief Executive Officer, Justice Health.

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- (4) In this clause, *serious infectious disease* means an infectious disease that is also a notifiable disease by virtue of its inclusion in Schedule 3 to the *Public Health Act 1991*.

### 300 Death of inmates

On becoming aware that an inmate has died, a prescribed Justice Health officer must report the death to the Commissioner.

## Part 9.4 Use of firearms

### 301 Authority to carry firearms

- (1) A correctional officer must not carry firearms while on duty except as authorised by or under this Part.
- (2) A correctional officer to whom firearms have been issued under this Part is authorised to carry them for the purpose only for which they were issued.
- (3) A correctional officer is authorised to carry firearms:
  - (a) while handling firearms in the course of duties carried out in a correctional centre armoury, or
  - (b) while taking part in, or in an activity necessarily carried out in connection with, an approved training course.

### 302 Armed posts

- (1) There are to be such armed posts at a correctional centre as may be approved in respect of the centre.
- (2) A correctional officer, while stationed at an armed post, may carry such firearms as the general manager directs.

### 303 Issue of firearms to correctional officers not at armed posts

- (1) The general manager of a correctional centre or the principal security officer may (by a direction given generally or in any particular case) authorise the issue of firearms to correctional officers who are not stationed at armed posts for use in connection with:
  - (a) the escorting of inmates, or
  - (b) the maintenance of a guard outside a correctional centre.
- (2) The Commissioner may (by a direction given in a particular case) authorise the issue of firearms to correctional officers for use in connection with patrols of the perimeter of a correctional centre.

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- (3) The general manager of a correctional centre may (by a direction given in a particular case) authorise the issue of firearms to correctional officers who are not stationed at armed posts:
- (a) for use in connection with the quelling or control of a correctional centre disturbance or riot, or
  - (b) for any other purpose for which the general manager considers it necessary that firearms be issued.
- (4) The following persons may (by a direction given in a particular case) authorise the issue of firearms to correctional officers who are not stationed at armed posts for use in connection with the conveyance of money or other property within a correctional centre or between a correctional centre and other places:
- (a) the Commissioner,
  - (b) the principal security officer,
  - (c) the general manager of a correctional centre.

#### **304 Officers handling firearms to undergo training courses**

- (1) A correctional officer must not:
- (a) authorise or direct the issue of a firearm to another correctional officer, or
  - (b) issue a firearm to another correctional officer,  
for use by the other officer unless the other officer has undergone an approved training course in the use of that firearm.
- (2) A correctional officer must ensure that a correctional officer under his or her control does not perform any duty involving the carrying or use of a firearm unless the officer has undergone an approved training course in the use of the firearm.
- (3) This clause does not prevent the performance by a correctional officer of a duty in connection with an approved training course or the issue to the officer of a firearm for that purpose.

#### **305 Safety procedures on issue or receipt of firearms**

- (1) On commencing a duty which involves the carrying of a firearm, a correctional officer must examine the firearm (and any accompanying ammunition) in the presence of the person from whom the officer receives them.
- (2) An examination must include such procedures as are approved.
- (3) A correctional officer who, on an examination, discovers:
- (a) a defect in any firearm or ammunition, or

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- (b) an incorrect number of rounds of ammunition, must report the fact to the officer in charge of the correctional centre armoury from which the firearm was drawn.
- (4) The officer in charge of the correctional centre armoury must substitute another firearm or new ammunition, or supplement the number of rounds, as the case requires.

**306 Safety procedures on return of firearms**

- (1) On ceasing a duty involving the carrying of a firearm, a correctional officer must deliver the firearm (and any accompanying ammunition) to the officer in charge of the correctional centre armoury from which the firearm was drawn (unless the correctional officer has delivered it to another correctional officer by whom he or she has been relieved).
- (2) An officer to whom a firearm is delivered must examine it, and any accompanying ammunition, in the presence of the person from whom they are received.
- (3) The examination must include such procedures as are approved.

**307 Duties of correctional officers generally**

While carrying a firearm on duty, a correctional officer:

- (a) must at all times be alert, and
- (b) must maintain the firearm and its ammunition in such a condition, and with such safety precautions regarding its carriage, use and readiness to fire, as are approved, and
- (c) must not deface the firearm or any of its accessories or ammunition, and
- (d) must not make modifications to the firearm or to its ammunition.

**308 Maintenance of safe distances**

- (1) While stationed at an armed post, a correctional officer must take all reasonable precautions to prevent any inmate from approaching within 10 metres of the officer or any firearm or ammunition that is in the officer's custody or at the post.
- (2) While carrying a firearm, a correctional officer must not:
- (a) place himself or herself in a position where he or she is liable to be attacked, or
- (b) except when outside a correctional centre or where the general manager otherwise directs, approach to within reach of an inmate or allow an inmate to approach to within reach of him or her.

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Use of firearms

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**309 Transfer of firearms**

- (1) A correctional officer who parts with possession of a firearm issued to the officer:
  - (a) must deliver it to another correctional officer or some other suitable person, or
  - (b) if the officer cannot so deliver it, must deposit it in the most secure place available in the circumstances.
- (2) Subclause (1) does not apply to an officer on duty at an armed post or to an officer returning or transferring a firearm on ceasing duty.

**310 Use of armed posts**

- (1) While stationed at an armed post, a correctional officer:
  - (a) must keep a lookout over the correctional centre generally, and
  - (b) if the officer observes any irregularity likely to affect the security of the correctional centre, must notify such other correctional officers as may be appropriate in the circumstances, and
  - (c) must assist other correctional officers in the performance of their duties, but (unless the officer is a senior officer, or is ordered to do otherwise by a senior officer) without leaving the post.
- (2) A correctional officer stationed at a correctional centre tower who is temporarily unable to keep a lookout must indicate that fact to:
  - (a) any correctional officers stationed at adjacent towers, and
  - (b) any correctional officers stationed at ground posts within range of observation.
- (3) When approaching an armed post, a correctional officer must give warning of that approach to any correctional officer stationed at the post.

**311 Discharge of firearms**

A correctional officer must not discharge a firearm while on duty except in the performance of that duty.

**312 Authority to discharge firearms**

- (1) A correctional officer may discharge a firearm:
  - (a) to protect the officer or any other person if the officer believes on reasonable grounds that there is a substantial probability that the officer or other person will be killed or seriously injured if the officer does not discharge the firearm, or



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- (b) if the officer believes on reasonable grounds that it is necessary to do so in order:
    - (i) to prevent the escape of an inmate, or
    - (ii) to prevent an unlawful attempt to enter a correctional centre or to free an inmate, or
    - (iii) to attract the immediate attention of correctional officers or other persons to a serious breach of correctional centre security that has arisen or is likely to arise, or
  - (c) to give a warning in accordance with this Regulation.
- (2) Despite subclause (1), a correctional officer must not discharge a firearm at a person if the officer has reasonable grounds to believe that the shot may hit a person other than the person at whom it is directed.

### **313 Warnings**

- (1) A correctional officer must not discharge a firearm in the direction of a person unless the officer has first given a warning to that person of the intention to fire.
- (2) For the purposes of subclause (1), and without prejudice to any other manner in which a warning may be given, a warning shot is a warning.
- (3) A warning shot must be fired in such a direction that no one is likely to be hit by it.
- (4) A correctional officer may, without giving a warning, discharge a firearm in order to protect the officer or any other person if of the opinion that:
  - (a) there is a substantial probability that the officer or other person will be killed or seriously injured if the officer does not do so, and
  - (b) a warning would only increase that probability.

### **314 Notice of discharge**

- (1) A correctional officer who discharges a firearm while on duty at a correctional centre, otherwise than while taking part in:
  - (a) an approved training course, or
  - (b) a firearms practice exercise authorised by the general manager, or
  - (c) an activity connected with such a training course or practice exercise,
 must notify the general manager of the circumstances in which it was discharged.

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- (2) A correctional officer who discharges a firearm while on escort duty must notify a police officer and:
    - (a) the general manager at which the correctional officer is usually on duty, or
    - (b) if the correctional officer is a member of a Security Unit, the officer in charge of that Unit,  
of the circumstances in which it was discharged.
  - (3) On being so notified, the general manager or the officer in charge of the Security Unit is to report to the Commissioner the circumstances of the discharge.
  - (4) On receipt of such a report the Commissioner may hold an inquiry into the discharge.
  - (5) The Commissioner must submit to the Minister a full report of the findings of any inquiry.

**315 Use of correctional centre armouries for storage of private firearms**

Nothing in this Part prevents a correctional centre armoury from being used for the storage of any firearm in respect of which a correctional officer holds a licence under the *Firearms Act 1996*.

## **Part 9.5 Bravery and meritorious service awards**

**316 Awards**

- (1) The various awards specified in Schedule 5 may be given to correctional officers and departmental officers by the Commissioner in the circumstances specified in the Schedule in relation to those awards.
- (2) Awards may be given posthumously.
- (3) A Bravery Medal takes precedence over all other awards.

**317 Cancellation of awards**

- (1) The Commissioner may cancel an award or restore a cancelled award.
- (2) A person who is notified that an award has been cancelled must return it, together with any associated ribbons or bars, to the Commissioner.

**318 Register of awards**

The Commissioner is to maintain a register of awards.

**319 Wearing of awards**

- (1) Awards may be worn on ceremonial occasions.

Clause 320      Crimes (Administration of Sentences) Regulation 2008  
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 Part 9.6      The Review Council

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- (2) The ribbon indicating the giving of an award:
  - (a) may be worn by a correctional officer on duty, and
  - (b) must be worn on the left breast of the correctional officer's uniform.
- (3) A correctional officer or departmental officer must not wear an award, or the ribbon indicating the giving of an award, to which the officer is not entitled.

## Part 9.6 The Review Council

### 320 Additional functions of Review Council

- (1) For the purposes of section 197 of the Act, the functions of the Review Council include the provision, at the request of the Commissioner, of reports, advice and recommendations to the Commissioner with respect to:
  - (a) the management of serious offenders, and
  - (b) the probability that a serious offender:
    - (i) who is serving an existing life sentence, and
    - (ii) who has applied for a local leave permit, will be fit to be released on parole at the time the Council expects to advise the Parole Authority about release on parole (assuming the serious offender satisfactorily completes a pre-release development program to which the application relates of at least 12 months or other relevant period), and
  - (c) the designation of inmates as high security and extreme high security inmates (including the revocation or variation of any such designation), and
  - (d) the management of high security and extreme high security inmates (including the periodic review of that management), and
  - (e) such other matters as are specified by the Commissioner.
- (2) For the purposes of section 197 of the Act, the functions of the Review Council also include the carrying out of such investigations (which may include the interviewing of correctional centre staff and inmates) as are necessary to enable it to provide reports, advice and recommendations as referred to in subclause (1).
- (3) In accordance with clause 10 (2) (c) of Schedule 2 to the Act:
  - (a) the provision of reports, advice and recommendations as referred to in subclause (1), and

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(b) the conduct of investigations as referred to in subclause (2), are prescribed as functions that the Council may delegate to a committee of the Council.

(4) In this clause, *existing life sentence* has the same meaning as it has in Schedule 1 to the *Crimes (Sentencing Procedure) Act 1999*.

### **321 Matters to be considered concerning certain serious offenders**

Pursuant to section 199 (2) of the Act, the following provisions are prescribed:

- (a) section 197 (2) (a), (e) and (f) of the Act,
- (b) clauses 16, 19, 27, and 320.

### **322 Records of proceedings**

The Review Council must keep a record (in writing or otherwise) of the proceedings of the Review Council, including a record of:

- (a) the persons appearing or represented before the Review Council, and
- (b) the submissions (if any) made by any such person, and
- (c) the reasons (if any) stated in support of those submissions.

## **Part 9.7 General**

### **323 Correctional centre records**

- (1) The general manager of a correctional centre must ensure that a record is kept at the centre:
  - (a) of each correctional officer, departmental officer, medical officer or nursing officer employed within the centre (including that person's position and position description), and
  - (b) of each Commissioner's instruction issued in connection with the administration of the centre or of correctional centres generally, and
  - (c) of each direction given by the general manager in connection with the administration of the centre, and
  - (d) of each inmate who is confined to cell (including the reason for his or her confinement), and
  - (e) of each inmate who is kept in segregated or protective custody (including the reason for his or her being so kept and of any deprivation of rights or privileges to which the inmate is subject as referred to in section 12 (2) (b) of the Act), and

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- (f) of the death of any inmate that occurs while the inmate is in the general manager's custody (whether at the centre or elsewhere), and
  - (g) of any escape or attempted escape by an inmate that occurs while the inmate is in the general manager's custody (whether at the centre or elsewhere), and
  - (h) of such other information as the Commissioner may require a record to be kept.
- (2) The general manager of a correctional centre must conduct a daily inspection of all inmates who are confined to cell.

**324 Order of ranking of correctional and other officers**

- (1) The order of ranking of correctional officers, in descending order, is as follows:
- Deputy Commissioner
  - Assistant Commissioner
  - Chief Superintendent
  - General Manager
  - Superintendent
  - Manager of Security
  - Deputy Superintendent
  - Senior Assistant Superintendent
  - Principal Correctional Officer
  - Assistant Superintendent
  - Chief Correctional Officer
  - Senior Correctional Officer
  - Correctional Officer
  - Probationary Correctional Officer
- (2) The order of ranking of departmental officers employed in the Corrective Services Industries Branch of the Department, in descending order, is as follows:
- Manager of Industries (Level 1)
  - Manager of Industries (Level 2)
  - Manager, Centre Services and Employment
  - Manager, Business Unit

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Senior Overseer  
Overseer

**325 Attendance of inmates before courts and court officers**

- (1) For the purposes of the definition of *appropriate authority* in section 77 (5) of the Act, a conference convenor, acting with the written authority of a conference administrator, under the *Young Offenders Act 1997* is prescribed.
- (2) For the purposes of the definition of *court* in section 77 (5) of the Act, the following courts and bodies are prescribed:
  - (a) the Compensation Court,
  - (b) the Administrative Decisions Tribunal,
  - (c) the Administrative Appeals Tribunal of the Commonwealth,
  - (d) the Migration Review Tribunal of the Commonwealth,
  - (e) the Refugee Review Tribunal of the Commonwealth.

**326 Commissioner may exercise other functions**

If the Commissioner considers it necessary to do so, the Commissioner may exercise any function that, under this Regulation, may be exercised by an officer of the Department.

**327 Powers of correctional officers**

For the purpose of performing the duties of a custodian of offenders at a correctional centre managed in accordance with Part 12 of the Act, a person authorised under section 240 of the Act to perform those duties has and may exercise (subject to any directions of the Commissioner under section 241 (2) of the Act) all the powers of a correctional officer.

**328 Operation of biometric identification system in correctional centres**

- (1) The Commissioner may authorise the operation in:
  - (a) any correctional centre in which high security or extreme high security inmates are accommodated, and
  - (b) any correctional centre in which inmates are received before they are classified,of a biometric identification system for the purposes of controlling access to the centre by all persons (including correctional officers).
- (2) The system is to be designed to ensure that each person who enters a correctional centre for the purposes of:
  - (a) conducting a visit, or

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- (b) carrying out duties or activities requiring access to the centre, is the same person who leaves the centre after conducting that visit or carrying out those duties or activities.
- (3) In order to gain access to a correctional centre, a person may be required to comply with the requirements relating to the operation of the system and may be denied access to a correctional centre if the person refuses to comply with any such requirement.
- (4) The requirements relating to the operation of the system include:
  - (a) the recording of a person's biometric algorithm in the system's database, along with the person's photo image and personal details, and
  - (b) the scanning of a person's fingerprints each time the person enters or leaves a correctional centre.
- (5) This clause does not apply in respect of any person who is under the age of 18 years unless:
  - (a) the person has previously been the subject of a direction by the Commissioner under clause 102, or
  - (b) the person has been convicted of an offence in relation to a previous visit by the person to a correctional centre, or
  - (c) the correctional officer in charge of the visiting area of the correctional centre being visited by the person is of the opinion that the person's physical appearance is similar to that of an inmate of the centre.

### **329 Privacy and security safeguards**

- (1) The Commissioner is to ensure that the following requirements are complied with in relation to the operation of an authorised biometric identification system in any correctional centre:
  - (a) any image or recording of a person's features (other than the person's photograph) must not be retained on the system, and must be deleted as soon as the person's biometric algorithm is made,
  - (b) a person's biometric algorithm must not be made, stored or kept as part of any other database that is maintained by or on behalf of the Department,
  - (c) the system must not be used to reconstruct a person's features from a person's biometric algorithm,

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- (d) the photograph of each visitor to a correctional centre must be eliminated from the system:
    - (i) within 6 months of the person's last recorded visit to a correctional centre, or
    - (ii) departmental at the request of the person,
  - (e) a person's biometric algorithm must not be stored in the system's database in such a way that would enable unauthorised access to the information,
  - (f) permission must not be given to any person or agency that would enable any person (other than a correctional officer or departmental officer) to gain access to a person's biometric algorithm stored in the system's database.
- (2) Any person who is involved in the operation of an authorised biometric identification system must not knowingly or negligently:
- (a) permit any person to gain access to any information in the system's database, or
  - (b) provide such a person with any information in the system's database, or
  - (c) use the system to reconstruct a person's features from the person's biometric algorithm.
- (3) This clause does not prevent access to a person's photograph or personal details from being given to:
- (a) the Commissioner, or
  - (b) the principal officer (however described) of a law enforcement agency, or
  - (c) any person involved in the operation, maintenance, repair or replacement of the system.
- (4) For the purposes of this clause, a person's *features* are taken to include all aspects of the person's physical characteristics (such as fingerprints and iris scans) and all aspects of a person's behavioural characteristics (such as tone of voice and style of handwriting).

**330 Non-smoking areas in correctional centres**

- (1) The Commissioner or the general manager of a correctional centre may designate an enclosed area of the centre as an area in which smoking is prohibited.
- (2) Any such area is to be designated by means of signs or notices displayed within the area.



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### **331 Victims Register**

The Minister may require the provision of such evidence as the Minister considers appropriate as proof of any alleged relationship through which a person claims to be the victim of an offender or a member of the family of a victim of an offender.

### **332 Notice to victims about proposed change in security classification**

- (1) Notice under section 67 (1) of the Act:
  - (a) is to be in writing and sent by post to the last postal address that has been recorded on the Victims Register for the relevant victim, unless paragraph (b) applies, or
  - (b) is to be given by telephone if only a telephone number has been so recorded or if the Review Council believes that any telephone number that has been so recorded is more up to date than the last postal address so recorded.
- (2) The notice:
  - (a) must set out the reasons for the consideration by the Review Council of a change in the security classification of the relevant offender, and
  - (b) must indicate that a submission made by a victim must be made in writing, and
  - (c) must specify the relevant 14-day period for the lodgment of any such submission and the address for its lodgment.
- (3) The Council is to keep a record of the giving of any notice in accordance with this clause.

### **333 Submissions by Commissioner**

- (1) If the Commissioner notifies the Parole Authority that he or she may wish to make a submission under section 185 of the Act concerning any matter, the Parole Authority must give the Commissioner copies of the reports and other documents intended to be used by the Parole Authority in making a decision with respect to that matter.
- (2) For the purposes of making a submission under section 185 of the Act, the Commissioner:
  - (a) may be represented by a legal practitioner or, with the consent of the Parole Authority, by any other person, and
  - (b) may call and examine any witness who attends, including any witness called by the Parole Authority, and
  - (c) may give evidence on oath, and
  - (d) may produce documents and exhibits to the Parole Authority, and

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- (e) may otherwise adduce, orally and in writing, to the Parole Authority such matters, and address the Parole Authority on such matters, as are relevant to the proceedings before the Parole Authority.

**334 Saving**

Any act, matter or thing that, immediately before the commencement of this Regulation, had effect under the *Crimes (Administration of Sentences) Regulation 2001* continues to have effect under this Regulation.

## Crimes (Administration of Sentences) Regulation 2008

Schedule 1 Information to be recorded in relation to inmates

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**Schedule 1 Information to be recorded in relation to inmates**

(Clauses 5, 175, 201 and 212)

- 1 The inmate's full name, together with any other names by which he or she is known
- 2 The address of the inmate's usual place of residence, together with the telephone number for that address
- 3 The name, address and telephone number of the inmate's next of kin
- 4 The inmate's age and date of birth
- 5 A head-and-shoulders photograph of the inmate
- 6 A full set of the inmate's fingerprints
- 7 The inmate's biometric characteristics
- 8 Video or closed-circuit television footage of the inmate
- 9 The serial number or other identifier of the inmate's passport (if any)
- 10 A description of the inmate's general appearance, including height, weight, build, hair colour and eye colour and (if appropriate) the shape and colour of any sideburns, beard or moustache
- 11 Particulars of any distinguishing features of the inmate's appearance, including the nature and location of any tattoos
- 12 Particulars of the language or languages spoken by the inmate
- 13 Particulars of any exceptional circumstances in the inmate's family history (such as incidents of physical or sexual abuse committed by or against the inmate)
- 14 Particulars of the state of the inmate's physical and mental health, including any medical, psychiatric or psychological reports and the results of any psychological tests, together with details of any known tendency of the inmate to attempt suicide or inflict self-harm
- 15 Particulars of any involvement by the inmate in the abuse of drugs or other intoxicating substances, including the results of any drug tests
- 16 Particulars of any ethnic or racial group to which the inmate belongs, with particular reference to whether the inmate is an Aboriginal person or Torres Strait Islander
- 17 Particulars of any religious denomination to which the inmate claims affiliation
- 18 Particulars as to the inmate's trade or vocation, including the inmate's employment history
- 19 Particulars as to the inmate's financial circumstances

## Crimes (Administration of Sentences) Regulation 2008

Information to be recorded in relation to inmates

Schedule 1

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- 20 Particulars of the inmate's domestic circumstances (that is, whether the inmate is single, married, widowed or divorced, whether the inmate is living with another person in a de facto relationship and whether the inmate has children or other dependants)
  - 21 Particulars of the inmate's criminal history, both in New South Wales and elsewhere, including particulars of any period during which the inmate has been under the supervision of the Probation and Parole Service
  - 22 Particulars of any period during which the inmate has been on release on bail
  - 23 Particulars as to the inmate's criminal associates

## Crimes (Administration of Sentences) Regulation 2008

## Schedule 2 Correctional centre offences

**Schedule 2 Correctional centre offences**

(Clause 117)

<b>Provision</b>	<b>Subject</b>
Clause 5	Supply false or misleading particulars
Clause 8	Fail to surrender property on reception
Clause 35	Fail to clean yards
Clause 36	Fail to comply with correctional centre routine
Clause 37	Enter other cells
Clause 38	Fail to attend musters
Clause 39	Misuse of bell, hooter, siren or whistle
Clause 40	Avoid correctional centre routine
Clause 41	Unlawfully deliver or receive article to or from inmate
Clause 42	Create or possess prohibited goods
Clause 43	Resist or impede search
Clause 44	Fail to keep property in a tidy and orderly manner
Clause 49	Unlawfully purchase food
Clause 49	Possess unauthorised food
Clause 49	Unlawfully trade in food
Clause 53	Fail to maintain personal cleanliness
Clause 54	Wear improper clothing
Clause 55	Fail to keep clean cells and issued articles
Clause 55	Damage, destroy or deface cell
Clause 55	Fail to look after clothing, bedding and other issued articles
Clause 56	Unlawfully possess condom or dental dam
Clause 56	Unlawfully use condom or dental dam
Clause 56	Unlawfully dispose of condom or dental dam
Clause 58	Misbehave while attending services and programs
Clause 65	Desecrate or abuse religious objects
Clause 94	Convey or deliver to, or receive from, visitors unauthorised articles
Clause 104	Send or receive unauthorised letters or parcels

## Crimes (Administration of Sentences) Regulation 2008

## Correctional centre offences

## Schedule 2

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<b>Provision</b>	<b>Subject</b>
Clause 105	Send prohibited letters or articles
Clause 110	Unlawfully use telephone or fax
Clause 112	Possess camera or video or audio recording equipment or charger
Clause 113	Use or possess mobile phone, mobile phone SIM card or mobile phone charger
Clause 120	Disobey direction
Clause 124	Contravene condition of local leave order or permit or interstate leave permit
Clause 125	Conceal for purpose of escape
Clause 126	Conceal item for use in escape or other offence
Clause 127	Possess offensive weapon or instrument
Clause 128	Intimidation
Clause 129	Indecency
Clause 130	Participate, or incite other inmates to participate, in riot
Clause 131	Assault
Clause 131	Fight or engage in other physical combat
Clause 131	Throw article
Clause 132	Steal
Clause 132	Damage or destroy property
Clause 132	Tamper with food or drink
Clause 133	Hinder or obstruct dog
Clause 134	Cause harm to animal, bird or reptile
Clause 135	Interfere with correctional centre property
Clause 136	Tattoo
Clause 137	Gamble
Clause 138	Possess or consume alcohol
Clause 138	Prepare or manufacture alcohol
Clause 139	Possess drug
Clause 140	Administer drug
Clause 141	Possess drug implement
Clause 142	Self-intoxication

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## Crimes (Administration of Sentences) Regulation 2008

Schedule 2 Correctional centre offences

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<b>Provision</b>	<b>Subject</b>
Clause 143	Fail prescribed urine test
Clause 144	Smoke in non-smoking area
Clause 144	Alter, damage or remove non-smoking sign or smoking sign
Clause 145	Bribery
Clause 146	Obstruct correctional officer
Clause 147	Refuse breath testing
Clause 149	Refuse or fail to supply urine sample
Clause 150	Refuse or fail to supply urine sample
Clause 161	Make mischievous complaint
Clause 173	Give false or misleading information

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Crimes (Administration of Sentences) Regulation 2008

Offences against periodic detention discipline

Schedule 3

### Schedule 3 Offences against periodic detention discipline

(Clause 193)

Provision	Subject
Section 81 (c)	Fail to notify change of address
Section 95 (1) (a)	Fail to comply with an attendance order or work order
Section 95 (1) (b)	Fail to report to varied periodic detention centre
Section 95 (1) (c)	Disobey a direction under section 84 (1) or (3) or 94 (1) of the Act
Clause 36 (as applied by clause 186)	Fail to comply with periodic detention routine
Clause 37 (as applied by clause 186)	Enter other cells
Clause 38 (as applied by clause 186)	Fail to attend musters
Clause 39 (as applied by clause 186)	Misuse of bell, hooter, siren or whistle
Clause 40 (as applied by clause 186)	Avoid periodic centre routine
Clause 41 (as applied by clause 186)	Unlawfully deliver or receive article to or from detainee
Clause 42 (as applied by clause 186)	Create or possess prohibited goods
Clause 43 (as applied by clause 186)	Resist or impede search
Clause 44 (as applied by clause 186)	Fail to keep property in a tidy and orderly manner
Clause 49 (as applied by clause 186)	Unlawfully purchase food
Clause 49 (as applied by clause 186)	Possess unauthorised food
Clause 49 (as applied by clause 186)	Unlawfully trade in food
Clause 53 (as applied by clause 186)	Fail to maintain personal cleanliness
Clause 55 (as applied by clause 186)	Fail to keep clean cells and issued articles
Clause 55 (as applied by clause 186)	Damage, destroy or deface cell
Clause 55 (as applied by clause 186)	Fail to look after clothing, bedding and other issued articles
Clause 120 (as applied by clause 186)	Disobey direction
Clause 127 (as applied by clause 186)	Possess offensive weapon or instrument



## Crimes (Administration of Sentences) Regulation 2008

## Schedule 3 Offences against periodic detention discipline

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<b>Provision</b>	<b>Subject</b>
Clause 128 (as applied by clause 186)	Intimidation
Clause 129 (as applied by clause 186)	Indecency
Clause 130 (as applied by clause 186)	Participate in, or incite other periodic detainees to participate in, riot
Clause 131 (as applied by clause 186)	Assault
Clause 131 (as applied by clause 186)	Fight or engage in other physical combat
Clause 131 (as applied by clause 186)	Throw article
Clause 132 (as applied by clause 186)	Steal
Clause 132 (as applied by clause 186)	Damage or destroy property
Clause 132 (as applied by clause 186)	Tamper with food or drink
Clause 133 (as applied by clause 186)	Hinder or obstruct dog
Clause 134 (as applied by clause 186)	Cause harm to animal, bird or reptile
Clause 135 (as applied by clause 186)	Interfere with periodic detention centre property
Clause 136 (as applied by clause 186)	Tattoo
Clause 137 (as applied by clause 186)	Gamble
Clause 138 (as applied by clause 186)	Possess or consume alcohol
Clause 138 (as applied by clause 186)	Prepare or manufacture alcohol
Clause 139 (as applied by clause 186)	Possess drug
Clause 140 (as applied by clause 186)	Administer drug
Clause 141 (as applied by clause 186)	Possess drug implement
Clause 142 (as applied by clause 186)	Self-intoxication
Clause 143 (as applied by clause 186)	Fail prescribed urine test
Clause 144 (as applied by clause 186)	Smoke in non-smoking area
Clause 144 (as applied by clause 186)	Alter, damage or remove non-smoking sign or smoking sign
Clause 145 (as applied by clause 186)	Bribery
Clause 146 (as applied by clause 186)	Obstruct correctional officer
Clause 147 (as applied by clause 186)	Refuse breath testing
Clause 149 (as applied by clause 186)	Refuse or fail to supply urine sample
Clause 150 (as applied by clause 186)	Refuse or fail to supply urine sample

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## Crimes (Administration of Sentences) Regulation 2008

## Offences against periodic detention discipline

## Schedule 3

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<b>Provision</b>	<b>Subject</b>
Clause 177	Conceal anything for the purpose of unlawfully bringing it into periodic detention centre
Clause 179	Attend while not sober
Clause 180	Fail to bring suitable clothing, footwear or toiletries
Clause 183	Unlawfully receive visitors
Clause 184	Unlawfully make telephone call
Clause 185	Fail to submit to medical examination
Clause 188	Fail to remain under proper supervision
Clause 188	Fail to perform work according to directions
Clause 188	Fail to conform to the standards of dress, cleanliness and conduct
Clause 188	Fail to keep clothes, tools or safety equipment in good order
Clause 188	Unlawfully damage or deface property
Clause 199	Give false or misleading information

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## Crimes (Administration of Sentences) Regulation 2008

Schedule 4 Forms

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**Schedule 4 Forms**

(Clause 3)

**Form 1 Withdrawal of consent to continued operation of home detention order**

(Clause 243)

(Crimes (Administration of Sentences) Act 1999, section 167)

To the State Parole Authority

I, (*name of co-resident*), withdraw my consent as co-resident to the continued operation of the home detention order of (*name of offender*).Signed: (*co-resident*)Date: (*dd/mm/yyyy*)**Form 2 Notice of revocation of periodic detention order/home detention order/parole order**

(Clause 244)

(Crimes (Administration of Sentences) Act 1999, section 173)

To: (*name of offender*)TAKE NOTICE that the State Parole Authority, on (*date on which order made*), made an order for revocation of your \*periodic detention order/\*home detention order/\*parole order to date from (*date of revocation specified in order*).The State Parole Authority will reconvene on (*date*) at (*address*) in order to reconsider the revocation of the order concerned.

A copy of the revocation order is attached.

\* Copies are attached of reports and other documents used by the State Parole Authority in reaching its decision to revoke the order concerned.

You may make submissions to the State Parole Authority with respect to \*the revocation of the order concerned/\*the date of revocation of the order concerned. If you wish to do so, you must notify the Secretary of the State Parole Authority not later than (*date*).Signed: (*Secretary of State Parole Authority*)Date: (*dd/mm/yyyy*)

\*Delete if not applicable

Crimes (Administration of Sentences) Regulation 2008

Awards

Schedule 5

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## Schedule 5 Awards

(Clause 316)

### Bravery Medal

A Bravery Medal of gold plated sterling silver with dark blue and red striped ribbon may be awarded to an officer for conduct of conspicuous merit involving an act of exceptional bravery.

In the event of any further such conduct a plain gold plated bar may be awarded to the officer. The bar is to be attached to the ribbon.

### Commendation for Brave Conduct

A Commendation for Brave Conduct (comprising two vertical royal blue stripes separated by a white stripe and with white edging, to which is attached a bronze lion's head) may be awarded to an officer for an act of bravery.

### Exemplary Conduct Cross

An Exemplary Conduct Cross of sterling silver with blue ribbon having a central yellow stripe may be awarded to an officer for conduct or service characterised by initiative, leadership or distinctive devotion to duty.

### Unit Citation

A Unit Citation (comprising a dark blue ribbon, with a white central band, set in a gilt metal frame) may be awarded to members of a unit who have performed outstanding service.

### Meritorious Service Medal

A Meritorious Service Medal of bronze with red ribbon having a central yellow stripe may be awarded to an officer for 20 years of meritorious service to the Department. For the completion of each additional 5 years of service a clasp lettered with the total number of years of meritorious service may be awarded to the officer, as follows:

- (a) after 25 years of service—a clasp of bronze colour,
- (b) after 30 years of service—a clasp of silver colour,
- (c) after 35 years of service—a clasp of gold colour,
- (d) after 40 years of service—a further clasp of gold colour.

In addition, for the completion of each additional 5 years of service (beyond 20 years) a rosette may be awarded to the officer, as follows:

- (a) after 25 years of service—a rosette of bronze colour,
- (b) after 30 years of service—a rosette of silver colour,
- (c) after 35 years of service—a rosette of gold colour,
- (d) after 40 years of service—a further rosette of gold colour.

## Crimes (Administration of Sentences) Regulation 2008

Schedule 5 Awards

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**Service Medal**

A Service Medal of bronze with ribbon having equal stripes of dark blue and white (with blue being the outer and central stripes) may be awarded to an officer for 15 years of satisfactory service to the Department.

Crimes (Administration of Sentences) Regulation 2008

Modifications applicable to offenders in compulsory drug treatment  
detention

Schedule 6

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## **Schedule 6 Modifications applicable to offenders in compulsory drug treatment detention**

(Clause 205 (1))

### **1 Definitions**

In this Schedule:

**Stage 1** compulsory drug treatment detention means closed detention (Stage 1) within the meaning of section 106D of the Act.

**Stage 2** compulsory drug treatment detention means semi-open detention (Stage 2) within the meaning of section 106D of the Act.

### **2 Provisions of Act and Regulation that do not apply**

The following do not apply to or in respect of an offender serving a sentence in Stage 1 or Stage 2 compulsory drug treatment detention:

- (a) Divisions 1 (except sections 6 and 7), 2, 3A, 4, 5 and 7 of Part 2 of the Act,
- (b) sections 52–65, 78 (3) and (6) and 79 (v) and (v1) of the Act,
- (c) Part 2.2 of this Regulation,
- (d) clauses 30–32, 35, 58, 72, 73, 82 (1), 95, 108, 111 (2) (b), 143, 149–151, 152 (b) and 169 of this Regulation,
- (e) the words “Subject to clause 108,” in clause 109 of this Regulation.

### **3 Additional provision**

The following provision is taken to apply to or in respect of an offender serving a sentence in Stage 1 or Stage 2 compulsory drug treatment detention as if the provision were included after section 51 of the Act:

#### **51A Correctional centre offences are conditions of personal plans**

Provisions of this Act and the regulations that are declared by the regulations to be correctional centre offences are taken to be conditions of each offender’s personal plan.

Crimes (Administration of Sentences) Regulation 2008

Dictionary

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## Dictionary

(Clause 3)

**accredited chaplain** means a minister of religion for the time being accredited as a chaplain under clause 59.

**approved** means approved for the time being by the Minister (in relation to an approved form) or by the Commissioner (in relation to anything else that requires approval).

**armed post** means an area, within a correctional centre, at which an armed correctional officer is regularly stationed.

**attendance site** means:

- (a) in relation to a periodic detainee, a place at which the detainee is, by an attendance order under the Act, required to attend, and
- (b) in relation to an offender under Chapter 6, a place where the offender performs, or is required to perform, community service work involving participation in personal development, educational or other programs.

**authorised officer**, in relation to a function of the general manager of a correctional centre, means the general manager or a correctional officer authorised by the general manager to exercise the function.

**breath test** means a test for the purpose of indicating the concentration of alcohol present in a person's breath or blood.

**case plan**, in relation to an offender, means a plan for the management of the offender, being a plan that includes provisions that indicate the development programs in which the offender should be encouraged to participate and the services that the offender should be encouraged to make use of, and the offender's obligations in that regard.

**cell** includes any room or enclosed space in which an inmate is accommodated.

**Civil Chaplaincies Advisory Committee** means the committee, made up of representatives from various religious organisations, that liaises between those religious organisations and government departments in matters of chaplaincy in correctional centres.

**civil inmate** means an inmate who is being held in custody otherwise than because of a criminal offence.

**Commissioner's instructions** means instructions issued by the Commissioner under section 235B of the Act.

**Commonwealth Ombudsman** means the Commonwealth Ombudsman appointed under section 21 (1) of the *Ombudsman Act 1976* of the Commonwealth.

**contact visit** means a visit to an inmate in which the inmate and the visitor are permitted physical contact with each other.

**correctional centre armoury** means an armoury for the storage of firearms.

Crimes (Administration of Sentences) Regulation 2008

Dictionary

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**correctional centre offence** has the same meaning as it has in Division 6 of Part 2 of the Act.

**departmental officer** means an officer or temporary employee (other than a correctional officer) employed in the Department.

**development program** has the same meaning as it has in Part 7 of the *Crimes (Sentencing Procedure) Act 1999*.

**drug** means:

- (a) a prohibited drug or prohibited plant within the meaning of the *Drug Misuse and Trafficking Act 1985*, or
- (b) a substance listed in Schedule 2, 3 or 4 to the Poisons List under the *Poisons and Therapeutic Goods Act 1966*, or
- (c) any derivative of a substance referred to in paragraph (a) or (b), or
- (d) any mixture containing such a substance or derivative.

**escape-risk classification** means a classification under clause 24.

**Ethics Committee** means the Ethics Committee established under clause 171.

**exempt body** means:

- (a) the Ombudsman, the Judicial Commission, the New South Wales Crime Commission, the Police Integrity Commission, the Anti-Discrimination Board, the Administrative Decisions Tribunal, the Independent Commission Against Corruption, the Privacy Commissioner, the Legal Aid Commission, the Legal Services Commissioner or the Legal Services Tribunal, or
- (b) the Commonwealth Ombudsman, the Commonwealth Human Rights and Equal Opportunity Commission or the Australian Crime Commission.

**exempt person** means a Member of Parliament, a legal practitioner or a police officer.

**extreme high security inmate** means an inmate who is designated as an extreme high security inmate as referred to in clause 25.

**force** includes the threat to use force and the carriage and use of restraining equipment.

**government analyst** has the same meaning as **analyst** has in the *Poisons and Therapeutic Goods Act 1966*.

**government official** means an officer of the Crown, and includes a police officer.

**high security inmate** means an inmate who is designated as a high security inmate as referred to in clause 25.

**high security or extreme high security designation** means a designation under clause 25.

**home detainee** has the same meaning as **offender** has in Part 4 of the Act.

**legal practitioner** means an Australian legal practitioner within the meaning of the *Legal Profession Act 2004*.



## Crimes (Administration of Sentences) Regulation 2008

## Dictionary

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**letter** includes any card, telegram, document or other similar form of written communication, whether or not contained in a parcel, and includes an envelope containing any of those things, but does not include a fax transmission.

**minister of religion**, in relation to a religious organisation, means a priest, rabbi, imam or other person appointed or authorised by the appropriate authority for the organisation to minister to its members and to carry out other religious duties.

**nominated officer**, in relation to a correctional centre, means:

- (a) the principal security officer, or
- (b) the general manager of the centre, or
- (c) any correctional officer or departmental officer appointed by the principal security officer or by the general manager of the centre.

**non-contact visit** means a visit to an inmate in which the visit takes place in an environment in which physical contact between the visitor and the inmate is not permitted.

**non-smoking area** means a non-smoking area designated under clause 330.

**nursing officer** means a registered nurse (within the meaning of the *Nurses and Midwives Act 1991*) employed by Justice Health.

**offence against discipline** has the same meaning as it has in section 95 of the Act.

**offender**, where used in Chapter 6, means a person in respect of whom a community service order is in force.

**parcel** means any parcel, package or other similar article, and includes any parcel or package containing any book, newspaper, magazine or other similar printed material.

**periodic detainee** has the same meaning as **offender** has in Part 3 of the Act.

**prescribed DCS officer**, in relation to a provision of this Regulation, means:

- (a) the Commissioner, or
- (b) a correctional officer or departmental officer authorised by the Commissioner to exercise the functions of a prescribed DCS officer for the purposes of that provision.

**prescribed Justice Health officer**, in relation to a provision of this Regulation, means:

- (a) the Chief Executive Officer, Justice Health, or
- (b) a medical officer or other member of staff of Justice Health authorised by the Chief Executive Officer, Justice Health, to exercise the functions of a prescribed Justice Health officer for the purposes of that provision.

**principal security officer** means the person appointed by the Commissioner to be the principal security officer for the purposes of this Regulation.

## Crimes (Administration of Sentences) Regulation 2008

## Dictionary

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***prohibited goods*** means:

- (a) money, or
- (b) anything that, in the opinion of a nominated officer, is likely to prejudice the good order and security of a correctional centre, or
- (c) any threatening, offensive, indecent, obscene or abusive written or pictorial matter, or
- (d) any offensive, indecent or obscene article, or
- (e) anything that could constitute a risk to national security (for example, because of a perceived risk that it may be used in connection with terrorist activities).

***restraining equipment*** means equipment of the kind referred to in clause 122.

***senior officer***, where used in Part 9.4, means a correctional officer who is holding office or acting in a rank that is of or above the rank of Senior Correctional Officer.

***sentencing court's comments***, in relation to an inmate, means any recommendation, observation or expression of opinion made by the sentencing court in relation to the inmate's sentence when sentence is originally or finally imposed.

***supervisor*** means:

- (a) in relation to a periodic detainee at a work site or attendance site, the person supervising the detainee in accordance with clause 188 (a), and
- (b) in relation to a home detainee, such person as the Commissioner may appoint to supervise the home detainee.

***the Act*** means the *Crimes (Administration of Sentences) Act 1999*.

***unconvicted inmate*** means an inmate who is not a convicted inmate or a civil inmate.

***visitor*** means a visitor to a correctional centre or to a particular person within a correctional centre, and includes any person who comes onto the premises of a correctional centre, whether by request or otherwise, otherwise than in the performance of his or her functions under the Act or this Regulation.

**Note.** This definition extends to persons such as tradespersons and media personnel.

***work site*** means:

- (a) in relation to a periodic detainee, a place at which the detainee is, by a work order under the Act, directed to perform work, and
- (b) in relation to an offender under Chapter 6, a place where the offender performs, or is required to perform, community service work (not involving participation in personal development, educational or other programs).



New South Wales

# Disability Services Regulation 2008

under the

Disability Services Act 1993

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Disability Services Act 1993*.

KRISTINA KENNEALLY, M.P.,  
Minister for Disability Services

## Explanatory note

The object of this Regulation is to remake, with minor amendments, until 1 September 2009, the provisions of the *Disability Services Regulation 2003* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation prescribes a class of services for the purposes of the definition of *designated service* in section 4 of the *Disability Services Act 1993*.

This Regulation is made under the *Disability Services Act 1993*, including the definition of *designated service* in section 4 and section 26 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory.

Clause 1            Disability Services Regulation 2008

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## Disability Services Regulation 2008

under the

Disability Services Act 1993

### 1 Name of Regulation

This Regulation is the *Disability Services Regulation 2008*.

### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Disability Services Regulation 2003* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Interpretation

- (1) In this Regulation:  
*the Act* means the *Disability Services Act 1993*.
- (2) Notes in this Regulation do not form part of this Regulation.

### 4 Definition of “designated service”: section 4

- (1) The class of services that consists of all services provided or funded by the Minister (including co-funded services provided or funded through the Home Care Service, but not including any other co-funded services) is prescribed for the purposes of the definition of *designated service* in section 4 of the Act.
- (2) In this clause, *co-funded service* means a service that is provided or funded by the Minister in accordance with an agreement in force between the State and the Commonwealth under the *Home and Community Care Act 1985* of the Commonwealth.

### 5 Saving

Any act, matter or thing that, immediately before the repeal of the *Disability Services Regulation 2003*, had effect under that Regulation continues to have effect under this Regulation.

### 6 Repeal

This Regulation is repealed on 1 September 2009.



New South Wales

# Election Funding and Disclosures Amendment (Silent Electors) Regulation 2008

under the

Election Funding and Disclosures Act 1981

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Election Funding and Disclosures Act 1981*.

MORRIS IEMMA, M.P.,  
Premier

## Explanatory note

The object of this Regulation is to exempt the Election Funding Authority of New South Wales from the obligation to publish the residential address of any donor who is a silent elector (that is an elector whose residential address is not shown on the electoral roll) when it publishes disclosures of donations, if it is aware that the donor is a silent elector.

This Regulation is made under section 117 of the *Election Funding and Disclosures Act 1981*.

Clause 1 Election Funding and Disclosures Amendment (Silent Electors) Regulation 2008

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## **Election Funding and Disclosures Amendment (Silent Electors) Regulation 2008**

under the

Election Funding and Disclosures Act 1981

### **1 Name of Regulation**

This Regulation is the *Election Funding and Disclosures Amendment (Silent Electors) Regulation 2008*.

### **2 Amendment of Election Funding and Disclosures Regulation 2004**

The *Election Funding and Disclosures Regulation 2004* is amended as set out in Schedule 1.

Election Funding and Disclosures Amendment (Silent Electors) Regulation  
2008

Amendment

Schedule 1

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## Schedule 1 Amendment

(Clause 2)

### Clause 28F

Insert after clause 28E:

#### **28F Exemption from requirements to publish residential address of donors who are silent electors**

- (1) The Authority is exempt from any requirement under section 95 of the Act to publish the residential address of a donor who is a silent elector that is contained in a disclosure of reportable political donations, if the Authority is aware that the donor is a silent elector.
- (2) In this clause, a *silent elector* means a person whose address is not entered on, or is deleted from, the Electoral Roll under section 104 of the *Commonwealth Electoral Act 1918* of the Commonwealth.



New South Wales

# Electricity Supply (Corrosion Protection) Regulation 2008

under the

Electricity Supply Act 1995

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Electricity Supply Act 1995*.

IAN MACDONALD, M.L.C.,  
Minister for Energy

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Electricity Safety (Corrosion Protection) Regulation 2003* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This regulation makes provision with respect to the following:

- (a) the approval of corrosion protection systems,
- (b) the requirements of owners of corrosion protection systems to give notice of the occurrence of certain events,
- (c) the examination and testing of corrosion protection systems,
- (d) the payment of fees in relation to approvals,
- (e) the approval of guidelines by the Director-General of the Department of Water and Energy (the *Director-General*),
- (f) the keeping of a register relating to the approval of corrosion protection systems,
- (g) the delegation of certain functions of the Director-General under the Regulation,
- (h) savings and formal matters.

This Regulation is made under the *Electricity Supply Act 1995*, including section 106 (the general regulation-making power) and in particular section 106 (1A) (a).



## Electricity Supply (Corrosion Protection) Regulation 2008

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Electricity Supply (Corrosion Protection) Regulation 2008

Clause 1

Preliminary

Part 1

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## Electricity Supply (Corrosion Protection) Regulation 2008

under the

Electricity Supply Act 1995

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Electricity Supply (Corrosion Protection) Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Electricity Safety (Corrosion Protection) Regulation 2003* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**approval** means an approval in force under Part 2.

**approved system** means a corrosion protection system the subject of an approval.

**Department** means the Department of Water and Energy.

**Director-General** means the Director-General of the Department.

**Director-General's guidelines** means the guidelines for the time being approved by the Director-General under clause 13.

**foreign structure**, in relation to a corrosion protection system, means any metallic structure (other than the primary structure for that system) that is situated in the vicinity of the system, whether in or on the ground or in or on water.

**interference test** means an electrical test that indicates the risk of corrosion to a foreign structure by a corrosion protection system.

**primary structure**, in relation to a corrosion protection system, means the structure that the corrosion protection system is installed to protect.

**the Act** means the *Electricity Supply Act 1995*.

Clause 4 Electricity Supply (Corrosion Protection) Regulation 2008

Part 1 Preliminary

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- (2) A person is taken to operate a corrosion protection system for the purposes of this Regulation if:
- (a) the person has control over a corrosion protection system that has been installed to protect a structure, and
  - (b) current flows between the system and the structure.
- (3) Notes in this Regulation do not form part of this Regulation.

#### 4 Application of Regulation

- (1) This Regulation does not apply to:
- (a) a galvanic anode system that has been installed to protect:
    - (i) a compact structure, but only so long as the maximum current flowing through the system does not exceed 150 milliamperes, or
    - (ii) any other primary structure, but only so long as the maximum current flowing through the system does not exceed 150 milliamperes for each 500 metres of the length of the structure along its greatest dimension, or
  - (b) any corrosion protection system that has been installed to protect:
    - (i) the internal surface of a water storage tank, reservoir or other similar structure for storing water where the structure isolates the system current from the external environment, or
    - (ii) marine vessels that are not permanently moored.
- (2) This Regulation applies to all other corrosion protection systems.
- (3) In this clause:
- compact structure*** means a structure (such as a storage tank) the greatest dimension of which, being a dimension of height, length or breadth, is no greater than 5 times the size of the smallest of those dimensions.
- galvanic anode system*** means a corrosion protection system that operates by means of an electrochemical reaction in which a metallic anode corrodes.

Electricity Supply (Corrosion Protection) Regulation 2008

Clause 5

Approvals

Part 2

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## Part 2 Approvals

### 5 Operation of corrosion protection systems requires approval

- (1) A person must not operate a corrosion protection system to which this Regulation applies unless the system is the subject of an approval.  
Maximum penalty: 200 penalty units, in the case of a body corporate, or 50 penalty units in any other case.
- (2) A person must not operate a corrosion protection system to which this Regulation applies otherwise than in accordance with the conditions of an approval to which the system is subject.  
Maximum penalty: 200 penalty units, in the case of a body corporate, or 50 penalty units in any other case.
- (3) This clause does not apply to a person operating a corrosion protection system:
  - (a) for the purpose of testing it, but only for not more than a total of 24 hours after completion of:
    - (i) the installation or extension of the system, or
    - (ii) any maintenance or repairs carried out on the system, or
  - (b) with the written consent of the Director-General.

### 6 Approvals for corrosion protection systems

- (1) An application for an approval must:
  - (a) be in the form approved by the Director-General, and
  - (b) be accompanied by the fee determined by the Director-General with respect to the application, and
  - (c) indicate any conditions that the applicant proposes be imposed on the operation of the corrosion protection system, and
  - (d) be accompanied by the results of interference tests that have been conducted by a tester appointed by the owner of the corrosion protection system concerned for the purpose of the application, and
  - (e) be accompanied by a certificate from the applicant stating that there are no foreign structures in the vicinity of the system concerned, or a certificate from the applicant identifying, as far as is reasonably practicable, all foreign structures that appear to be in the vicinity of the system concerned together with:
    - (i) statements from the owners of each foreign structure identified in the certificate to the effect that they do not object to the operation of the system, or

Clause 7 Electricity Supply (Corrosion Protection) Regulation 2008

Part 2 Approvals

- 
- (ii) a declaration by the applicant that each owner of a foreign structure identified in the certificate was given an opportunity to object to the operation of the system and no such objection was made, and
  - (f) be accompanied by such other documentation as the approved form requires, and
  - (g) be lodged at the head office of the Department.
- (2) The Director-General:
- (a) may require an applicant to provide additional information within a specified time if of the opinion that the additional information would be relevant to consideration of the application, and
  - (b) may delay consideration of the application until the information is provided and, if the information is not provided within the time specified, may refuse to consider the application, and
  - (c) may require the applicant to further examine or test the system and to provide the results of the examination or test.
- (3) After considering an application for an approval and the results of any examination and test of the system, the Director-General is to determine the application:
- (a) by granting the approval, either unconditionally or subject to conditions determined by the Director-General, or
  - (b) by refusing the application.
- (4) An approval remains in force (unless sooner cancelled) for the period (not exceeding 7 years) specified in the approval. An approval is not in force during any period it is suspended.
- Note.** When an approval for a corrosion protection system expires, a new approval must be applied for and obtained to operate the corrosion protection system.
- (5) If the Director-General refuses the application, the Director-General must cause notice of the refusal, and of the reasons for the refusal, to be given to the applicant.
- (6) An approval is to be in the form approved by the Director-General and is to be subject to such conditions as are prescribed by this Regulation and to such other conditions as the Director-General imposes on the approval at the time it is granted or under clause 7.

## 7 Addition, variation and revocation of conditions

- (1) The Director-General may vary or revoke any condition imposed by the Director-General on an approval or may impose further conditions on an approval.

Electricity Supply (Corrosion Protection) Regulation 2008

Clause 8

Approvals

Part 2

- 
- (2) Before taking action under this clause, the Director-General must ensure that:
- (a) notice of the proposed action is given to the holder of the approval, and
  - (b) the holder of the approval is given a reasonable opportunity to make submissions to the Director-General with respect to the proposed action, and
  - (c) any representations duly made by the holder of the approval are taken into consideration.

### **8 Suspension and cancellation of approvals**

- (1) The Director-General may suspend or cancel an approval for a corrosion protection system on any one or more of the following grounds:
- (a) that the corrosion protection system has been operated otherwise than in accordance with the approval or any condition to which the approval is subject,
  - (b) that the system has permanently ceased to operate,
  - (c) that the Director-General is of the opinion that the system is, or has been, causing unreasonable interference to a foreign structure,
  - (d) that the holder of the approval:
    - (i) has failed to provide access to the system or any supporting equipment, or
    - (ii) has failed to assist in the testing of the system as reasonably required,
  - (e) that any amount due and payable under this Regulation by the holder of the approval has not been paid.
- (2) Before taking action under this clause, the Director-General must ensure that:
- (a) notice of the proposed action is given to the holder of the approval, and
  - (b) the holder of the approval is given a reasonable opportunity to make submissions to the Director-General with respect to the proposed action, and
  - (c) any representations duly made by the holder of the approval are taken into consideration.
- (3) Subclause (2) does not apply to the cancellation of an approval as a result of the system concerned having ceased to operate.

Clause 9	Electricity Supply (Corrosion Protection) Regulation 2008
Part 2	Approvals

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## 9 Notice of certain occurrences

- (1) The owner of an approved system must cause written notice to be given to the Director-General within 28 days after:
  - (a) the system is sold or disposed of to any other person, or
  - (b) the system permanently ceases to operate.Maximum penalty: 25 penalty units.
- (2) In the case of a system that is sold or disposed of to some other person, the notice must indicate the name and address of that other person and the date on which it was sold or disposed of.

## 10 Examination and testing of corrosion protection systems

- (1) The Director-General may cause an authorised officer to undertake or arrange for the undertaking of the examination or testing, or both, of a corrosion protection system.
- (2) The examination or test may be carried out for the purpose of determining whether the corrosion protection system is operating in accordance with its approval and any conditions of its approval, whether the operation of the system is causing any unreasonable interference with any foreign structures and for any other purpose determined by the Director-General.
- (3) An authorised officer may require the holder of an approval for a corrosion protection system to carry out an examination or test on the system for the purposes of this clause or assist in the carrying out of such an examination or test.
- (4) An authorised officer may oversee the examination or testing of a corrosion protection system under this clause.
- (5) It is a condition of an approval that the holder of the approval for a corrosion protection system:
  - (a) must provide access to the system and to any supporting equipment for the purposes of enabling the system to be examined or tested under this clause, and
  - (b) must comply with any requirement of an authorised officer under subclause (3) to carry out an examination or test under this clause or assist in the carrying out of such an examination or test, and
  - (c) must cause to be installed in the system equipment that would enable an interference test of that system to be conducted.
- (6) In this clause, *authorised officer* means a member of staff of the Department appointed by the Director-General as an authorised officer for the purposes of this Regulation. An authorisation of such a person as

Electricity Supply (Corrosion Protection) Regulation 2008

Clause 11

Approvals

Part 2

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an authorised officer may be given generally or subject to conditions and restrictions or only for limited purposes.

#### **11 Fees**

- (1) The Director-General may determine the following fees that are payable to the Director-General:
  - (a) an application fee for an approval,
  - (b) an annual fee for an approval,
  - (c) a fee for the examination or testing, or the examination and testing, of a corrosion protection system by an authorised officer in accordance with clause 10.
- (2) The fee referred to in subclause (1) (c) is payable by the holder of the approval for the corrosion protection system that is examined or tested.
- (3) The Director-General may determine different fees for different classes of systems and different fees for different examinations or tests.
- (4) The Director-General may, in any case, waive or remit the whole or part of a fee.



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Part 3 Miscellaneous

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## Part 3 Miscellaneous

### 12 Regulation binds Crown

- (1) This Regulation binds the Crown.
- (2) Nothing in this Regulation renders the Crown liable to be prosecuted for an offence against this Regulation.

### 13 Director-General's guidelines

- (1) The Director-General may from time to time approve guidelines in relation to the following:
  - (a) the carrying out of an interference test,
  - (b) the form in which the results of an interference test are to be presented,
  - (c) the form of a certificate referred to in clause 6 (1) (e),
  - (d) the qualifications, training and competency of testers appointed to carry out tests for the purposes of this Regulation.
- (2) A copy of the Director-General's guidelines (if any) is to be available for inspection by members of the public, free of charge, and for purchase, at the head office of the Department during its ordinary hours of business.
- (3) If relevant guidelines are approved under this clause:
  - (a) any interference test carried out for the purposes of this Regulation is to be carried out in accordance with the guidelines, and
  - (b) the results of any such interference test are to be presented in a form set out in the guidelines, and
  - (c) any certificate given for the purposes of clause 6 (1) (e) is to be in the form set out in the guidelines, and
  - (d) a person is not to be appointed as a tester to carry out tests for the purposes of this Regulation unless the person has the qualifications, training and competency set out in the guidelines.

### 14 Register

- (1) The Director-General is to keep a register containing the following particulars:
  - (a) particulars of each application for an approval received by the Director-General, including the determination of the application, particulars of the owner of the corrosion protection system concerned and a description of the system and its location,

Electricity Supply (Corrosion Protection) Regulation 2008

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- (b) particulars of each approval granted by the Director-General, including any subsequent suspension or cancellation of the approval,
  - (c) the particulars of any condition imposed on an approval, including any subsequent variation or revocation of those conditions.
- (2) The register may be inspected by members of the public, free of charge, at the head office of the Department during its ordinary hours of business.

**15 Delegation**

The Director-General may delegate to any person the exercise of all or any of the Director-General's functions under this Regulation other than this power of delegation and the determination of fees.

**16 Savings**

Any act, matter or thing that, immediately before the repeal of the *Electricity Safety (Corrosion Protection) Regulation 2003*, had effect under that Regulation continues to have effect under this Regulation.



New South Wales

# Electricity Supply (Safety and Network Management) Regulation 2008

under the

Electricity Supply Act 1995

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Electricity Supply Act 1995*.

IAN MACDONALD, M.L.C.,  
Minister for Energy

## Explanatory note

The object of this Regulation is to remake, with some changes, the provisions of the *Electricity Supply (Safety and Network Management) Regulation 2002 (the former Regulation)* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation now provides that the 4 plans, that may previously have been required from a network operator under the former Regulation, are now to be chapters of a single network management plan. Each chapter of that plan is now to be audited at the times required by the Director-General of the Department of Water and Energy (*the Director-General*). This Regulation also sets out the circumstances in which a distribution network service provider may disconnect premises from, or refuse to connect premises to, its distribution system.

This Regulation also makes provision with respect to the following:

- (a) the matters that must be included in a network operator's network management plan,
- (b) the auditing of that plan by an independent auditor,
- (c) the compliance of a network operator with its plan, including making the plan publicly available and reporting to the Director-General,
- (d) the power of the Director-General to exempt a network operator from the requirements of this Regulation,
- (e) savings, transitional and formal matters.

This Regulation is made under the *Electricity Supply Act 1995*, including sections 15 (3) and 106 (the general regulation-making power), in particular section 106 (1) (g1) and (g2).

## Electricity Supply (Safety and Network Management) Regulation 2008

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## Electricity Supply (Safety and Network Management) Regulation 2008

under the

Electricity Supply Act 1995

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Electricity Supply (Safety and Network Management) Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Electricity Supply (Safety and Network Management) Regulation 2002* which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Interpretation

(1) In this Regulation:

**chapter** of a plan means a chapter of a plan as referred to in clause 8 (2).

**Director-General** means the Director-General of the Department of Water and Energy.

**plan** means a network management plan referred to in clause 8 (1).

**the Act** means the *Electricity Supply Act 1995*.

(2) Notes in this Regulation do not form part of this Regulation.

#### 4 Application

Parts 3, 4 and 5 of this Regulation apply in respect of a network operator only if the network operator is required to lodge a plan under clause 8.

Electricity Supply (Safety and Network Management) Regulation 2008

Clause 5

Disconnection from distribution system

Part 2

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## **Part 2 Disconnection from distribution system**

### **5 Refusal to connect and disconnection of unsafe electrical installations**

- (1) For the purposes of section 15 (3) of the Act, a distribution network service provider may disconnect premises from, or refuse to connect premises to, its distribution system if the provider reasonably considers that the electrical installation on the premises is, or is likely to become unsafe if the premises are, or continue to be, connected to the distribution system.
- (2) A distribution network service provider that refuses to connect premises to the distribution system under subclause (1) must, if reasonable to do so, notify the person seeking to have the premises connected of the steps that need to be taken to enable that connection to occur.
- (3) Before a distribution network service provider disconnects premises from the distribution system under subclause (1), it must, if reasonable to do so, notify each customer in respect of the premises of the proposed disconnection and the steps (if any) that can be taken to avoid the premises being disconnected.

### **6 Disconnection where immediate danger**

Despite clause 5 (3), a distribution network service provider may immediately disconnect premises from its distribution system if the provider reasonably considers that there is an immediate danger to life or property or an immediate risk of starting a fire if the premises continue to be connected to the distribution system.

### **7 Persons on life support systems**

Before a distribution network service provider takes action under this Part to disconnect premises from the distribution system, it must ensure that provision is made for the safety of any person on those premises whose life may be endangered if electricity is no longer available for the operation of a medical device used by the person.

Clause 8	Electricity Supply (Safety and Network Management) Regulation 2008
Part 3	Plan to be lodged and implemented by network operator

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## **Part 3 Plan to be lodged and implemented by network operator**

### **8 Network operators may be required to lodge plan**

- (1) A network operator must, if notified in writing to do so by the Director-General, lodge a network management plan with the Director-General, within such period as may be specified in the notice.  
Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).
- (2) The network management plan is to consist of the following:
  - (a) chapter 1 dealing with network safety and reliability,
  - (b) chapter 2 dealing with customer installation safety,
  - (c) chapter 3 dealing with public electrical safety awareness,
  - (d) chapter 4 dealing with bush fire risk management.
- (3) A network operator that is a distribution network service provider does not comply with a requirement under subclause (1) in respect of a network management plan unless the plan complies with any requirements imposed on the network operator by any relevant conditions of the network operator's distribution network service provider's licence.
- (4) A network operator must implement the plan it lodges under this clause.  
Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).
- (5) The Director-General, when exercising functions under this clause, is to have regard to the following:
  - (a) the size, nature and complexity of the network operator's transmission or distribution system,
  - (b) any inadequacy in the planning, design, construction, operation or maintenance of that system that has given rise to, or may give rise to, a failure to provide an adequate, reliable or safe supply of electricity of appropriate quality.

### **9 Chapter 1 of plan—network safety and reliability**

- (1) The object of chapter 1 of a network management plan is to ensure that the transmission system or distribution system to which it relates provides an adequate, reliable and safe supply of electricity of appropriate quality.



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- (2) Chapter 1 of a plan must include (but is not limited to) the following:
- (a) a commitment by the network operator to ensuring the safe operation of its transmission or distribution system, and to giving safety the highest priority over all other aspects of network management,
  - (b) a description of the transmission or distribution system and its design, construction, operation and maintenance,
  - (c) a description of the planning process employed for the purpose of assessing the adequacy of the transmission or distribution system and the need for development of the transmission or distribution system, including if appropriate:
    - (i) demand management methodologies, and
    - (ii) system reliability planning standards on a customer class or group, or geographic basis, for each distinct voltage level,
  - (d) a description of the asset management strategies employed for the purposes of the design, construction, operation and maintenance of the transmission or distribution system, including:
    - (i) risk management and public liability insurance arrangements, and
    - (ii) planned customer technical service standards for quality and reliability of supply,
  - (e) a description of the safety management strategy employed for the purpose of ensuring the safe operation of the transmission or distribution system, including:
    - (i) an analysis of hazardous events, and
    - (ii) the procedures to be implemented in the event of an emergency, and
    - (iii) the procedures and standards designed to ensure that the network operator's employees, contractors to the network operator and their employees and any other persons working on or near the system's electricity works have the competencies required to undertake the work safely, and
    - (iv) a strategy to ensure adherence to safe working procedures,
  - (f) if the network operator is a distribution network service provider, references to documents outlining the strategies employed to ensure compliance with licence conditions relating to the design, reliability and performance criteria of the distribution network,
  - (g) a description of the plan's objectives and of appropriate performance indicators,

Clause 10 Electricity Supply (Safety and Network Management) Regulation 2008

Part 3 Plan to be lodged and implemented by network operator

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- (h) a description of the reports to be made to the Director-General in relation to the management and performance of the transmission or distribution system (*the schedule of reports*),
  - (i) a description of the codes, standards and guidelines that the network operator intends to follow in the design, installation, operation and maintenance of the transmission or distribution system.
- (3) Chapter 1 of a plan must comply with Schedule 1.
  - (4) The schedule of reports must include such reports in relation to the management and performance of the network operator's transmission or distribution system as the Director-General, by notice in writing to the network operator, directs to be included.
  - (5) A network operator must lodge with the Director-General, in accordance with the plan, the reports specified in the schedule of reports.  
Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

#### 10 Chapter 2 of plan—customer installation safety

- (1) The object of chapter 2 of a plan is to ensure the provision of safe electrical installations for connection to the transmission or distribution system to which they relate and the safe connection of such installations to that system.
- (2) Chapter 2 of a plan must include (but is not limited to) the following:
  - (a) design, construction and maintenance standards required of customers for their electrical installations,
  - (b) testing, connection and notification criteria for contractors installing electrical installations,
  - (c) an inspection regime and procedures for directions to remedy faulty work and the disconnection of unsafe installations by the network operator,
  - (d) procedures for notifying the Director-General (within the meaning of the *Fair Trading Act 1987*) of defective installation work.  
**Note.** The *Fair Trading Act 1987* defines Director-General as the Commissioner for Fair Trading, Department of Commerce or if there is no such position in that Department, the Director-General of that Department.
- (3) This clause does not apply to electrical installations that take a supply at or above 132,000 volts (nominal).

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### 11 Chapter 3 of plan—public electrical safety awareness

The object of chapter 3 of a plan is to warn the public of the hazards associated with electricity in relation to a network operator's transmission or distribution system. The chapter must be based on an assessment of the risks associated with the system and an analysis of any accidents or incidents.

### 12 Chapter 4 of plan—bush fire risk management

- (1) The objects of chapter 4 of a plan are as follows:
  - (a) to ensure public safety,
  - (b) to establish standards that must be observed when electricity lines operate near vegetation,
  - (c) to reduce interruptions to electricity supply that are related to vegetation,
  - (d) to minimise the possibility of fire ignition by electricity lines.
- (2) Chapter 4 of a plan is to include (but is not limited to) the following:
  - (a) provisions that identify bush fire prone areas and that set out a process for identifying network assets capable of initiating bush fires and a system for ensuring that all such information is kept up-to-date,
  - (b) provisions that ensure that network assets located in bush fire prone areas and capable of initiating bush fires are inspected, tested and maintained in accordance with the maintenance schedule set out in analysis of hazardous events in the plan,
  - (c) provision for the review of equipment types or construction methods known in their operation or design to have bush fire ignition potential and a mitigation strategy in relation to their use,
  - (d) information relating to rights and duties of the customers with private lines and the dangers of trees coming into contact with those lines,
  - (e) provisions that ensure that any private overhead electricity lines located in bush fire prone areas and capable of initiating a bush fire are inspected, tested and maintained in accordance with the maintenance schedule set out in the analysis of hazardous events in the plan, and that standards are enforced by the network operator,
  - (f) provision for a complaints recording system in relation to bush fire risk management and provisions that ensure that appropriate investigations and remedial actions are undertaken as required,

Clause 13 Electricity Supply (Safety and Network Management) Regulation 2008

Part 3 Plan to be lodged and implemented by network operator

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- (g) provision for liaison and consultation with the NSW Rural Fire Service, New South Wales Fire Brigades, councils for relevant local government areas and any other relevant government departments,
  - (h) information for the general public about the fire hazards associated with overhead power lines and vegetation, particularly during storms and conditions of high fire hazard,
  - (i) a description of any special procedures or precautions proposed to be taken during conditions of very high fire danger, including work practices by staff, fault location procedures, automatic and manual reclosing of lines and protection settings,
  - (j) a description of the reports to be made to the Director-General in relation to the control of the risk of bush fire resulting from the network operator's transmission or distribution system (*the schedule of reports*).
- (3) The schedule of reports must include such reports in relation to the control of the risk of bush fire resulting from the network operator's transmission or distribution system as the Director-General, by notice in writing to the network operator, directs to be included.
  - (4) A network operator must lodge with the Director-General, in accordance with the plan, the reports specified in the schedule of reports.  
Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

**13 Director-General may direct network operators to take into account codes, standards or guidelines**

- (1) In developing and implementing a chapter of its plan, a network operator must take into account such codes, standards or guidelines as the Director-General, by notice in writing to the network operator, requires to be taken into account in the development and implementation of the chapter.
- (2) A chapter of a plan must specify where it or its implementation departs from the provisions of any such code, standard or guideline and what arrangements are in place to ensure an equal or better outcome.

**14 Network operators to review plans**

- (1) A network operator is to review and, if necessary, revise its network management plan:
  - (a) as soon as practicable after any significant change (including any significant incremental change) occurs in relation to the operation or maintenance of the electricity network, and

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(b) in any case, at least once every 2 years (starting from the date of lodgment of the network management plan under clause 8).

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

- (2) For the purposes of subclause (1) (a), a significant change includes (but is not limited to):
- (a) any upgrade or modification in the engineering design of the electricity network, and
  - (b) any other change in the risks to be managed by the network operator in relation to the electricity network or in relation to the measures to be taken to manage such risks.

Clause 15 Electricity Supply (Safety and Network Management) Regulation 2008

Part 4 Audit requirements

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## **Part 4 Audit requirements**

### **15 Plan to be audited**

- (1) A network operator must ensure that its plan is audited in accordance with this Regulation at such times as the Director-General may specify by notice in writing to the network operator.
- (2) A network operator must lodge with the Director-General a report prepared by the auditor in relation to that audit, as soon as practicable after the completion of the audit or within such other time as may be specified by the Director-General by notice in writing to the network operator.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units in any other case.

### **16 Nomination of auditor to conduct audit**

- (1) An audit of a plan is to be carried out by a person who has been nominated by the network operator by notice in writing to the Director-General.
- (2) The nominated auditor is to be a person who:
  - (a) is independent of the network operator, and
  - (b) is competent to exercise the functions of an auditor under this Regulation in respect of the plan.
- (3) The nomination of an auditor by a network operator ceases to have effect for the purposes of this Regulation if the Director-General advises the network operator, by notice in writing, that the nomination is not acceptable or has ceased to be acceptable.
- (4) The Director-General may nominate an auditor to carry out an audit of a network operator's plan, and the person so nominated is taken to have been nominated by the network operator, if:
  - (a) the nomination of an auditor by the network operator ceases to have effect, or
  - (b) the network operator fails to nominate an auditor to carry out the audit in accordance with any requirements specified by the Director-General by notice in writing to the network operator.

### **17 Requirements of audit**

- (1) The report prepared by an auditor in relation to an audit of a plan is to include an audit certificate.

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Clause 18

Audit requirements

Part 4

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- (2) An *audit certificate* is a certificate that certifies the auditor's opinion as to the following matters:
- (a) whether the plan complies with this Regulation,
  - (b) whether the plan is appropriate having regard to the size and complexity of the transmission or distribution system (subject to any exemptions given under this Regulation),
  - (c) whether the plan is being properly implemented and whether the safeguards proposed or implemented in the plan, that are intended to protect operating personnel, plant, equipment, the community and the environment, are being implemented,
  - (d) whether properly trained and equipped personnel are available to implement the policies and procedures set out in the plan,
  - (e) whether any measures to rectify non-compliance with the plan detected in any previous audit have been undertaken and are effective.
- (3) The audit certificate must also include a summary of the standards, procedures, policies, tests, inspections and maintenance measures contained in the plan.

#### **18 Additional report requirements—network safety and reliability**

The report prepared by an auditor in relation to an audit of chapter 1 of a plan must also include the following:

- (a) a review of the plan for adequacy and appropriateness having regard to any changes in the network operator's transmission or distribution system since the previous audit,
- (b) an appraisal of the organisational quality management arrangements intended to ensure that the transmission or distribution system is planned, designed, constructed, operated and maintained in accordance with the plan,
- (c) an appraisal of the reliability and integrity of information reported under the plan, including an analysis of the following:
  - (i) the documented procedures for measuring, processing and reporting data, measurement systems, information systems and quality controls,
  - (ii) the extent to which relevant staff demonstrate an understanding of those documented procedures, measurement systems, information systems and quality controls,
  - (iii) evidence that those documented procedures, measurement systems, information systems and quality controls are being observed or properly implemented,

Clause 19	Electricity Supply (Safety and Network Management) Regulation 2008
Part 4	Audit requirements

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- (iv) the extent to which any reported data have been estimated or extrapolated rather than measured directly,
- (d) an appraisal of the involvement by senior management and the board of the network operator in approving the plan.

**19 Additional audits may be required**

- (1) Without limiting clause 15, the Director-General may, by notice in writing to a network operator, require the network operator to carry out, or to provide such assistance and cooperation as is reasonable for the purposes of carrying out, a further audit of a chapter of its plan if:
  - (a) the Director-General is not satisfied as to any aspect of an audit carried out by an auditor nominated by the network operator, or
  - (b) the Director-General is satisfied that a further audit is required in order to verify that the relevant chapter is being implemented.
- (2) The Director-General may require such a further audit to be carried out by an auditor nominated or appointed by the Director-General.
- (3) The audit may relate to any or all of the matters referred to in clause 17 or 18.
- (4) A network operator must not fail to comply with a requirement made by the Director-General under this clause.  
Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).



Electricity Supply (Safety and Network Management) Regulation 2008

Clause 20

Compliance with plan

Part 5

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## Part 5 Compliance with plan

### 20 Availability of plan

A network operator:

- (a) must cause a copy of its plan to be kept at its principal office, and
- (b) must cause a copy of its plan to be made available for inspection on the website (if any) of the network operator, and
- (c) must cause copies of its plan to be made available in such a way that, as far as practicable, the provisions are brought to the notice of the persons likely to be involved in its implementation.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

### 21 Network operators to measure and report on network performance

- (1) A network operator must measure its performance against its plan, and against such standards applicable to the network operator as are required by the Director-General after consultation with the network operator.
- (2) A network operator must:
  - (a) publish the results of its performance measurements annually, and
  - (b) cause copies of those results:
    - (i) to be kept at its principal office, and
    - (ii) to be made available for inspection on the website (if any) of the network operator, and
    - (iii) to be made available in such a way that, as far as practicable, the results are brought to the notice of customers and the public.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

- (3) A network operator must, before publishing the results of its performance measurements, give the Director-General notice in writing of its intention to publish those results and of the date from which it proposes to make those performance measurements available under subclause (2) (b).

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

Clause 22 Electricity Supply (Safety and Network Management) Regulation 2008

Part 5 Compliance with plan

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**22 Further reports to be submitted to Director-General**

- (1) The Director-General may, by notice in writing to a network operator, require the network operator to lodge with the Director-General, within the time specified in the notice, a report relating to any injury, incident, system failure or other matter relating to the network operator's transmission or distribution system.
- (2) A network operator must not fail to comply with a requirement made by the Director-General under this clause.  
Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

**23 Certain work to be carried out in accordance with plan**

A person must not carry out work on or near a network operator's transmission or distribution system and a network operator must not allow a person to carry out work on or near its transmission or distribution system unless:

- (a) the person is qualified, under the relevant requirements set out in chapter 1 of the network operator's plan, to carry out the work, and
- (b) the work is carried out in accordance with the relevant requirements of that chapter.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

**24 Director-General may direct compliance with plan**

- (1) If the Director-General is of the opinion that a network operator is not:
  - (a) complying with the requirements of the network operator's plan or any codes, standards or guidelines set out or referred to in the plan, or
  - (b) following any procedures set out or referred to in the plan,the Director-General may, by order in writing, direct the network operator to take such action as is specified in the order to comply with those requirements, codes, standards or guidelines or follow those procedures.
- (2) A network operator must not fail to comply with any direction made by the Director-General under this clause.  
Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

Electricity Supply (Safety and Network Management) Regulation 2008

Clause 25

Compliance with plan

Part 5

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**25 Director-General may direct amendment of plans**

- (1) If the Director-General is of the opinion:
- (a) that a network operator's plan will not produce a satisfactory outcome in terms of providing an adequate, reliable and safe supply of electricity of appropriate quality, or
  - (b) that its implementation has given rise to, or may give rise to, a situation that is unsafe or where the adequacy of the network is unsatisfactory,
- the Director-General may, by order in writing, direct the network operator to amend the plan in such manner as is specified in the order, or to lodge with the Director-General an action plan in relation to the matters specified in the order.
- (2) A network operator must not fail to comply with any direction made by the Director-General under this clause.  
Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).
- (3) The Director-General must not direct that an amendment to a plan be made if the amendment would make it inconsistent with the National Electricity Rules.

Clause 26 Electricity Supply (Safety and Network Management) Regulation 2008

Part 6 Miscellaneous

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## Part 6 Miscellaneous

### 26 Exemptions

- (1) The Director-General may exempt a network operator from any requirement of this Regulation if of the opinion that the requirement is inappropriate having regard to:
  - (a) the nature, size and complexity of the network operator's transmission or distribution system, or
  - (b) in the case of a network operator that is a distribution network service provider, the requirements imposed on the network operator by the conditions of its distribution network service provider's licence.
- (2) The Director-General may revoke any such exemption.

### 27 Savings and transitional

- (1) Any act, matter or thing that, immediately before the repeal of the *Electricity Supply (Safety and Network Management) Regulation 2002*, (***the former Regulation***) had effect under that Regulation continues to have effect under this Regulation.
- (2) A reference in this Regulation to:
  - (a) Chapter 1, 2, 3 or 4 of a network management plan is taken to include a reference to the network operator's network management plan, customer installation safety plan, public electrical safety awareness plan or bush fire risk management plan, respectively, under the former Regulation, and
  - (b) a network management plan is taken to include a reference to the network operator's network management plan, customer installation safety plan, public electrical safety awareness plan and bush fire risk management plan, under the former Regulation.
- (3) A network operator that was required to lodge a plan (***the former plan***) under the former Regulation must, by 1 March 2009, lodge under clause 8 the chapter of the network management plan that corresponds to that former plan.

Electricity Supply (Safety and Network Management) Regulation 2008

Chapter 1 of network management plan—network safety and reliability

Schedule 1

---

## **Schedule 1 Chapter 1 of network management plan—network safety and reliability**

(Clause 9 (3))

### **1 Description of transmission or distribution system**

A description of a transmission or distribution system and its planning, design, construction, operation and maintenance must include references to the following:

- (a) maps showing the location of the system's electricity works and the procedures for gaining access to those maps,
- (b) design and construction standards and procedures for the system's electricity works,
- (c) system reliability planning standards,
- (d) technical customer service standards for quality and reliability of supply,
- (e) maintenance standards and procedures for the system's electricity works,
- (f) operation and work procedures for the system (including procedures for work on or near both de-energised and live electricity works),
- (g) safety equipment design, use and maintenance standards and procedures for the system,
- (h) a description of the engineering records, drawings and maps that the network operator maintains relating to the system.

### **2 Description of planning process**

A description of the planning process employed for the purpose of assessing the adequacy of the transmission or distribution system and the need for development of the transmission or distribution system must include the following:

- (a) the process used for setting system reliability planning standards and identifying development needs and demand management opportunities,
- (b) strategies for managing and complying with that process and those standards.

### **3 Description of asset management strategies**

A description of the asset management strategies employed for the purposes of the design, construction, operation and maintenance of the transmission or distribution system must include the following:

## Electricity Supply (Safety and Network Management) Regulation 2008

Schedule 1 Chapter 1 of network management plan—network safety and reliability

- 
- (a) the process used for setting design, construction, operation and maintenance standards and customer technical service standards for quality and reliability of supply,
  - (b) strategies for managing and complying with that process and those standards.

**4 Analysis of hazardous events**

- (1) An analysis of hazardous events must, consistent with the size and complexity of the transmission or distribution system:
  - (a) systematically identify hazardous events that might be expected to occur, and
  - (b) identify the potential causes of those events, and
  - (c) state the possible consequences of those events, and
  - (d) specify operational, maintenance and organisational safeguards intended to prevent those events from occurring or, should they occur, intended to protect operating personnel, plant, equipment, the community and the environment.
- (2) The operational and maintenance safeguards must include a maintenance schedule indicating, among other things, the type and frequency of inspections and tests of the transmission or distribution system (including checks on protection devices).
- (3) In the case of new transmission or distribution systems, an analysis of hazardous events should also take into account hazardous events occurring during construction.

**5 Emergencies**

- (1) The types of emergencies in respect of which procedures are to be implemented include:
  - (a) fires, explosions and impacts (with particular reference to those caused by the activities of other parties), and
  - (b) natural disasters, and
  - (c) civil disturbances.
- (2) A plan must demonstrate that the network operator regularly tests and, as far as practicable, has proved the emergency procedures.



New South Wales

# Exotic Diseases of Animals Amendment Regulation 2008

under the

Animal Diseases (Emergency Outbreaks) Act 1991

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Animal Diseases (Emergency Outbreaks) Act 1991*.

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

## Explanatory note

The objects of this Regulation are as follows:

- (a) to change the name of the *Exotic Diseases of Animals Regulation 2008* to the *Animal Diseases (Emergency Outbreaks) Regulation 2008* and to replace the terms “exotic disease” and “exotic disease agent” with the terms “emergency animal disease” and “animal disease agent”, respectively, as a consequence of recent amendments to the *Animal Diseases (Emergency Outbreaks) Act 1991 (the Act)*,
- (b) to prescribe certain offences under the Act as penalty notice offences and to prescribe the penalties payable for those offences when dealt with by way of penalty notice,
- (c) to prescribe inspectors, who are authorised in writing by the Chief Veterinary Officer, as authorised officers who may issue penalty notices,
- (d) to modify the particulars that must be included in a claim for compensation made under section 61 of the Act by an owner of an animal that has died or been destroyed,
- (e) to amend the titles of certain positions within the Department of Primary Industries to whom the functions of the Minister under the Act may be delegated.

This Regulation is made under the *Animal Diseases (Emergency Outbreaks) Act 1991*, including sections 61, 67, 71A and 78 (the general regulation-making power).

Clause 1            Exotic Diseases of Animals Amendment Regulation 2008

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## **Exotic Diseases of Animals Amendment Regulation 2008**

under the

Animal Diseases (Emergency Outbreaks) Act 1991

### **1 Name of Regulation**

This Regulation is the *Exotic Diseases of Animals Amendment Regulation 2008*.

### **2 Commencement**

This Regulation commences on 1 September 2008.

### **3 Amendment of Exotic Diseases of Animals Regulation 2008**

The *Exotic Diseases of Animals Regulation 2008* is amended as set out in Schedule 1.



Exotic Diseases of Animals Amendment Regulation 2008

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 3)

**[1] Clause 1 Name of Regulation**

Omit “*Exotic Diseases of Animals Regulation 2008*”.

Insert instead “*Animal Diseases (Emergency Outbreaks) Regulation 2008*”.

**[2] Clause 3 Definition**

Omit the definition of *the Act* in clause 3 (1). Insert instead:

*the Act* means the *Animal Diseases (Emergency Outbreaks) Act 1991*.

**[3] Clause 4 Possession of animal disease agent**

Omit “exotic disease agent”. Insert instead “animal disease agent”.

**[4] Clause 6 Delegation**

Omit clause 6 (f) and (g). Insert instead:

(f) Director, Extensive Industries Development and Education,

(g) Director, Intensive Industries Development,

**[5] Clause 6A**

Insert after clause 6:

**6A Penalty notices**

- (1) For the purposes of section 71A of the Act:
  - (a) each offence created by a provision of the Act specified in Column 1 of Schedule 2 is prescribed, and
  - (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 2 opposite the relevant provision.
- (2) For the purposes of paragraph (b) of the definition of *authorised officer* in section 71A (10) of the Act, inspectors who are authorised in writing by the Chief Veterinary Officer to issue penalty notices under that section are prescribed.

## Exotic Diseases of Animals Amendment Regulation 2008

## Schedule 1 Amendments

**[6] Schedule 1 Claims for compensation**

Omit “exotic disease” wherever occurring in the matter relating to “**Details of animals in respect of which the claim is made**”.

Insert instead “emergency animal disease”.

**[7] Schedule 1**

Omit the matter relating to “**Details of inspector who certified the death of an animal**”.

Insert instead:

**Details of certification of the death of the animal**

- (a) Name of the inspector, authorised by the Chief Veterinary Officer, who certified that the animal died of an emergency animal disease
- (b) Whether the inspector certified that the animal died of a class A compensable disease or class B compensable disease
- (c) Date of the certification

**[8] Schedule 2**

Insert after Schedule 1:

**Schedule 2 Penalty notice offences**

(Clause 6A)

<b>Column 1</b>	<b>Column 2</b>
<b>Provision of the Act</b>	<b>Penalty</b>
Section 9 (1)	\$1,100
Section 12 (1)	\$1,100
Section 16 (1)	\$1,100
Section 20 (3)	\$1,100
Section 22 (2)	\$1,100
Section 24 (4)	\$220
Section 26	\$220
Section 31	\$1,100
Section 38	\$1,100

## Exotic Diseases of Animals Amendment Regulation 2008

Amendments

Schedule 1

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<b>Column 1</b>	<b>Column 2</b>
<b>Provision of the Act</b>	<b>Penalty</b>
Section 38A (4)	\$1,100
Section 40	\$1,100
Section 46 (4)	\$1,100
Section 69 (3)	\$220

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New South Wales

# First State Superannuation Amendment Regulation 2008

under the

First State Superannuation Act 1992

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *First State Superannuation Act 1992*.

JOHN WATKINS, M.P.,  
Minister for Finance

## Explanatory note

The object of this Regulation is to amend the *First State Superannuation Regulation 2008* so as to prescribe certain employment for the purposes of section 8 (5) (a) of the *First State Superannuation Act 1992*. That section exempts employers from having to make superannuation contributions for certain employees in relation to employment of a kind prescribed by the regulations. In lieu of superannuation such employees receive a payment in addition to their salary or wages equivalent to what they would have received in superannuation.

This Regulation is made under the *First State Superannuation Act 1992*, including sections 8 (5) (a) and 15 (the general regulation-making power).

Clause 1 First State Superannuation Amendment Regulation 2008

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## First State Superannuation Amendment Regulation 2008

under the

First State Superannuation Act 1992

### 1 Name of Regulation

This Regulation is the *First State Superannuation Amendment Regulation 2008*.

### 2 Commencement

This Regulation commences on 5 September 2008.

### 3 Amendment of First State Superannuation Regulation 2008

The *First State Superannuation Regulation 2008* is amended by inserting after clause 4:

#### 4A Exempted employment

(1) The following employment is prescribed for the purposes of section 8 (5) (a) of the Act:

- (a) employment as an election official under the *Parliamentary Electorates and Elections Act 1912*,
- (b) employment as an electoral official under the *Local Government Act 1993*,

but only if the person's appointment under the Act concerned is limited to employment at a polling place on a polling day for an election conducted under that Act.

(2) In this clause:

***polling day*** means the day on which an election under the *Parliamentary Electorates and Elections Act 1912* or the *Local Government Act 1993* is conducted.

***polling place*** means a place appointed by the Electoral Commissioner to be a polling place for the purpose of taking a poll at an election under the *Parliamentary Electorates and Elections Act 1912* or the *Local Government Act 1993*.



New South Wales

# Fire Brigades Regulation 2008

under the

Fire Brigades Act 1989

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fire Brigades Act 1989*.

NATHAN REES, M.P.,  
Minister for Emergency Services

## Explanatory note

The object of this Regulation is to remake, with some amendments, the *Fire Brigades Regulation 2003* which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The Regulation makes provision for the following matters:

- (a) the appointment and conditions of service of firefighters,
- (b) the functions and duties of firefighters,
- (c) misconduct by firefighters,
- (d) disciplinary action against firefighters,
- (e) the awarding of bravery and service awards by the Commissioner,
- (f) the charges payable for certain services performed by firefighters, including attending at hazardous material incidents and false fire alarms,
- (g) other matters relating to the administration of New South Wales Fire Brigades.

New provisions in this Regulation provide:

- (a) for remedial action to be taken against a firefighter who is guilty of misconduct, as an alternative to disciplinary action, and
- (b) that a firefighter who makes a false or misleading statement in an application for appointment as a firefighter is guilty of misconduct, and
- (c) for the recovery of additional costs incurred by the New South Wales Fire Brigades in the performance of certain services, including providing fire safety reports.

This Regulation is made under the *Fire Brigades Act 1989*, including sections 74 and 85 (the general regulation-making power).

Fire Brigades Regulation 2008

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## Fire Brigades Regulation 2008

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Fire Brigades Regulation 2008

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Fire Brigades Regulation 2008

Clause 1

Preliminary

Part 1

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## Fire Brigades Regulation 2008

under the

Fire Brigades Act 1989

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Fire Brigades Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Fire Brigades Regulation 2003* which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

In this Regulation:

***approved*** means approved by the Commissioner.

***Commissioner's Orders*** means the written instructions in force under clause 4.

***corrupt conduct*** has the same meaning as it has in Part 3 of the *Independent Commission Against Corruption Act 1988*.

***departmental premises*** means a fire station or other premises leased or operated by NSW Fire Brigades.

***departmental property*** includes property used by or for the purposes of NSW Fire Brigades.

***fire appliance*** means any vehicle that forms part of the equipment of NSW Fire Brigades and that is equipped with an audible warning device and flashing lights.

***firefighter*** means a permanent firefighter or a retained firefighter.

***NSW Fire Brigades*** means New South Wales Fire Brigades established by the Act as a Department of the Government.

***officer*** means a firefighter of a rank that, by operation of clause 7 (2), is an officer rank for the purposes of this Regulation.

***permanent firefighter*** means a member of a permanent fire brigade.

Clause 4 Fire Brigades Regulation 2008

Part 1 Preliminary

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*record* means any document or other source of information compiled, recorded or stored in written form, on film, by electronic process or in any other manner or by any other means.

*retained firefighter* means a person who is classified by NSW Fire Brigades as a retained firefighter.

*the Act* means the *Fire Brigades Act 1989*.

#### **4 Commissioner's Orders**

- (1) The Commissioner may, by order in writing, issue instructions with respect to the efficiency, discipline and good conduct of firefighters.
- (2) The instructions may be published under the title of "In Orders" or "Standing Orders".
- (3) The Commissioner must take steps to ensure that all current In Orders and Standing Orders are brought to the attention of all firefighters.

#### **5 Areas of operation**

- (1) The Commissioner is to assign to each fire brigade a fire district or part of a fire district within which the brigade is responsible for preventing and extinguishing fires.
- (2) A brigade may operate beyond the area assigned to it, and must do so in accordance with the Commissioner's Orders.

#### **6 Notes**

Notes included in this Regulation do not form part of this Regulation.

Fire Brigades Regulation 2008

Clause 7

Appointments and conditions of service

Part 2

---

## Part 2 Appointments and conditions of service

### 7 Ranks of firefighter

- (1) The Commissioner may establish such ranks of firefighters as the Commissioner considers appropriate.
- (2) Any rank declared by the Commissioner to be an officer rank is an officer rank for the purposes of this Regulation.

### 8 Firefighters' positions

The Commissioner may create, abolish or otherwise deal with any firefighter's position.

### 9 Appointment as a permanent firefighter

- (1) An application for appointment as a permanent firefighter must be in the approved form.
- (2) Before appointing an applicant as a permanent firefighter, the Commissioner must be satisfied that the applicant:
  - (a) is medically and psychologically fit to exercise the functions of a firefighter, and
  - (b) has passed examinations and assessments set or nominated by the Commissioner for appointment as a permanent firefighter, and
  - (c) holds a current driver licence under the *Road Transport (Driver Licensing) Act 1998*, and
  - (d) is of good character, and
  - (e) is an Australian citizen or a person resident in Australia whose continued presence in Australia is not subject to any limitation as to time imposed by or in accordance with law, and
  - (f) is otherwise suitable for employment as a permanent firefighter.
- (3) An applicant for appointment as a permanent firefighter must produce any evidence with respect to the applicant's driving qualifications, citizenship or entitlement to reside in Australia that the Commissioner requires.
- (4) A successful applicant is to be appointed:
  - (a) except in the case of a former permanent firefighter—as a recruit firefighter, or
  - (b) in the case of a former permanent firefighter—to the rank that the Commissioner considers appropriate to the applicant's skill and experience.

Clause 10 Fire Brigades Regulation 2008

Part 2 Appointments and conditions of service

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#### **10 Appointment as a retained firefighter**

- (1) An application for appointment as a retained firefighter must be in the approved form.
- (2) Before appointing an applicant as a retained firefighter, the Commissioner must be satisfied that the applicant:
  - (a) is medically and psychologically fit to exercise the functions of a firefighter, and
  - (b) has passed examinations and assessments set or nominated by the Commissioner for appointment as a retained firefighter, and
  - (c) holds a current driver licence under the *Road Transport (Driver Licensing) Act 1998*, and
  - (d) is of good character, and
  - (e) is an Australian citizen or a person resident in Australia whose continued presence in Australia is not subject to any limitation as to time imposed by or in accordance with law, and
  - (f) is otherwise suitable to be a retained firefighter.
- (3) An applicant for appointment as a retained firefighter must produce any evidence with respect to the applicant's driving qualifications, citizenship or entitlement to reside in Australia that the Commissioner requires.

#### **11 Examinations and assessments**

The Commissioner may set or nominate any examinations or assessments that the Commissioner considers appropriate as a requirement for promotion, transfer or appointment to a position.

#### **12 Termination of appointment**

- (1) The Commissioner may terminate a firefighter's appointment as a firefighter:
  - (a) if the firefighter is no longer medically or psychologically fit to exercise the functions of a firefighter, or
  - (b) if the firefighter is no longer a suitable person to exercise the functions of a firefighter.
- (2) The Commissioner may, without limiting subclause (1), terminate a firefighter's appointment as a firefighter of a particular rank:
  - (a) if the firefighter is no longer medically or psychologically fit to exercise the functions of a firefighter of that rank, or

Fire Brigades Regulation 2008

Clause 12

Appointments and conditions of service

Part 2

- 
- (b) if the firefighter is no longer a suitable person to exercise the functions of a firefighter of that rank, or
  - (c) at the firefighter's own request.
- (3) The Commissioner may, without limiting subclause (1), terminate a firefighter's appointment as a firefighter of a particular position:
- (a) if the firefighter is no longer medically or psychologically fit to exercise the functions of a firefighter of that position, or
  - (b) if the firefighter is no longer a suitable person to exercise the functions of a firefighter of that position, or
  - (c) at the firefighter's own request.
- (4) The Commissioner may also terminate the services of any retained firefighter who, except when on approved leave or other authorised absence:
- (a) for 3 consecutive months fails to attend drills appointed by the Commissioner or the officer in charge of the firefighter, or
  - (b) fails to attend the approved number or proportion of drills, fires or other incidents in any period of 6 months.
- (5) The Commissioner must terminate the appointment of a firefighter who is not an Australian citizen or who ceases to satisfy or does not satisfy the requirements of clause 9 (2) (e) or 10 (2) (e).
- (6) The termination of a firefighter's appointment to a particular rank operates to demote the firefighter to a rank determined by the Commissioner.
- (7) The Commissioner must cause notice of a proposed termination of appointment:
- (a) as a firefighter, or
  - (b) to a particular rank, or
  - (c) to a particular position,
- to be given to the firefighter. That notice must specify the reasons for the proposed termination.
- (8) The Commissioner must:
- (a) allow the firefighter to respond to the reasons for the proposed termination within a reasonable time specified in the notice of proposed termination, and
  - (b) consider any response by the firefighter before determining whether to terminate any appointment.

Clause 13      Fire Brigades Regulation 2008  
Part 2          Appointments and conditions of service

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- (9) The Commissioner must cause notice of the final reasons for a termination of appointment:
- (a) as a firefighter, or
  - (b) to a particular rank, or
  - (c) to a particular position,  
to be given to the firefighter.

**13 Leave**

The granting of all leave is subject to the approval of the Commissioner.

Fire Brigades Regulation 2008

Clause 14

Functions of firefighters

Part 3

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## **Part 3 Functions of firefighters**

### **14 Contraventions of Part 3**

A contravention of this Part does not give rise to an offence but may be the subject of disciplinary proceedings under Part 4.

### **15 Firefighters to acquire and maintain knowledge of legislation, orders and functions**

- (1) A firefighter must acquire and maintain a thorough knowledge of, and must comply with the requirements of, the Act, this Regulation and the Commissioner's Orders.
- (2) A firefighter must acquire and maintain the knowledge and skills that are relevant to the performance of the firefighter's functions.

### **16 Honesty and truthfulness**

- (1) A firefighter must act honestly and truthfully in the performance of the firefighter's functions.
- (2) In particular, a firefighter must not in the capacity of a firefighter:
  - (a) wilfully or negligently make a false or misleading statement to a person, or
  - (b) knowingly make a false or misleading statement in any official record, or
  - (c) without good or sufficient cause, destroy or mutilate any official record or alter or erase any entry in it, or
  - (d) fail to account promptly for any money or property that comes into the firefighter's possession during the course of the firefighter's functions, or
  - (e) otherwise be concerned, whether directly or indirectly, in corrupt conduct.

### **17 Duty to obey orders and act fairly and responsibly**

A firefighter must not:

- (a) disobey or disregard any lawful order made or given by a person having the authority to make or give the order, or
- (b) be disrespectful or insolent to a person in authority over the firefighter, or
- (c) abuse the firefighter's authority by acting oppressively towards a subordinate, or
- (d) without good or sufficient reason, be absent from duty or be late for any parade, drill or other required attendance, or



Clause 18 Fire Brigades Regulation 2008

Part 3 Functions of firefighters

- 
- (e) through negligence, carelessness or malice, allow any loss, damage or injury to occur to any person or property, or
  - (f) fail to report any matter, or make an entry in an official record, that it is the firefighter's duty to report or make.

### 18 Unacceptable behaviour

- (1) A firefighter must not:
  - (a) come on duty while under the influence of alcohol or a drug, or
  - (b) while on duty, consume, use or possess any alcohol or drug, or
  - (c) while on duty, gamble in circumstances that adversely affect the discipline or efficiency of NSW Fire Brigades, or
  - (d) smoke at a fire or drill, in any departmental premises or in any departmental vehicle, or
  - (e) smoke in any public place while in uniform, or
  - (f) while off duty, enter or remain on departmental premises without authority, or
  - (g) while on or off duty, by words or action, behave in a manner that is subversive of discipline or calculated to bring discredit on NSW Fire Brigades, or
  - (h) while on duty, by words or action, harass, intimidate or threaten another firefighter, or
  - (i) while on duty, by words or action, harass or discriminate against any person on the grounds of sex, marital status, pregnancy, age, ethnic or national origin, physical or intellectual impairment, sexual preference, transgender status, carer's responsibilities or any other ground in respect of which discrimination is prohibited by the *Anti-Discrimination Act 1977*.
- (2) The officer in charge of any departmental premises must refuse to permit a firefighter to come on duty if of the opinion that the firefighter is under the influence of alcohol or a drug to the extent that the firefighter is unable to exercise the functions of a firefighter.
- (3) In this clause:
 

**drug** has the same meaning as in the *Road Transport (Safety and Traffic Management) Act 1999* (paragraph (a) of the definition of **drug** in the Dictionary to that Act excepted).

### 19 Damage or misuse of departmental property

- (1) A firefighter must not wilfully or negligently damage any departmental property or fail to report promptly any such damage, however caused.

Fire Brigades Regulation 2008

Clause 20

Functions of firefighters

Part 3

- 
- (2) A firefighter must not use departmental property for an unauthorised purpose or be concerned, whether directly or indirectly, in unauthorised use of departmental property.

## **20 Uniforms**

Uniform may be worn by a firefighter only in accordance with the Commissioner's Orders.

## **21 Loss or damage to uniform or personal equipment**

- (1) A firefighter:
- (a) must take care of all articles of uniform and personal equipment issued to the firefighter, and
  - (b) may be required to meet the replacement cost of any article of uniform or equipment damaged or lost through the firefighter's negligence.
- (2) Before a firefighter leaves his or her employment or service, the firefighter must return all departmental property, uniform and equipment that is in the firefighter's possession, other than any article of uniform or equipment that the Commissioner permits the firefighter to retain.
- (3) The Commissioner may require a firefighter who fails to return any such property or who returns it in a damaged condition (other than damage due to fair wear and tear) to pay compensation for the loss or damage.
- (4) The amount of any such loss or damage may be offset from any money due to the firefighter with respect to the firefighter's service.

## **22 Solicitation, acceptance or retention of rewards or other benefits**

A firefighter must not:

- (a) directly or indirectly solicit or accept a reward (whether the reward involves pecuniary gain, material gain, the provision of services, the provision of training or any other benefit) in connection with the exercise of the firefighter's functions, or
  - (b) retain any money received as a gratuity or payment from any person, or accept any address, presentation or testimonial, in connection with the firefighter's official position,
- without the prior written permission of the Commissioner.

## **23 Disclosure of information**

A firefighter must not disclose any information obtained in the firefighter's capacity as a firefighter unless the disclosure is made:

Clause 24 Fire Brigades Regulation 2008

Part 3 Functions of firefighters

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- (a) in the exercise of the firefighter's functions, or
- (b) about factual matters that are generally available to the public, or
- (c) by an approved firefighter to media representatives concerning operations at a fire or other incident, or
- (d) at the direction or with the permission of the Commissioner, or
- (e) with other lawful excuse.

**24 Public comment on administration**

A firefighter must not comment publicly on the administration of NSW Fire Brigades, except with the approval of the Commissioner.

**25 Incompatible activities**

A firefighter must not engage in any activity outside the firefighter's functions as a firefighter if to do so would be incompatible with the performance of those functions.

**26 Functions of firefighters**

The functions of each rank and position of firefighter are those determined for the time being by the Commissioner.

**27 Performance of functions**

- (1) A firefighter must attend such drills as may be appointed by the Commissioner or the officer in charge of the firefighter.
- (2) A firefighter must perform all firefighting or other functions that the firefighter is lawfully directed to perform.
- (3) A firefighter must serve wherever the firefighter is directed by the Commissioner.

**28 Recall of off-duty firefighters**

- (1) A firefighter who is off-duty (including a firefighter who is on leave) may be recalled to duty in an emergency unless the firefighter is on sick leave, in court or subject to a subpoena to appear in court.
- (2) A firefighter must ensure that the Commissioner is kept aware of where and how the firefighter may be contacted in an emergency.

**29 Calls to fires, hazardous material incidents or other emergencies**

A firefighter receiving a call to a fire, hazardous material incident or other emergency is responsible for recording the details of the call and must make every effort to ensure an immediate response in accordance with the Commissioner's Orders.

Fire Brigades Regulation 2008

Clause 30

Functions of firefighters

Part 3

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### **30 Occurrence book**

The officer in charge of a fire station must ensure that:

- (a) all events of significance relating to the operation of the fire station, and
  - (b) all other matters required by this Regulation or the Commissioner's Orders to be so recorded,
- are recorded in an occurrence book maintained at the fire station.

### **31 Absence of firefighter from fire station**

- (1) A firefighter who is on duty at a fire station must not leave the fire station without the permission of the officer in charge of the fire station or, if the firefighter is an officer, a more senior officer.
- (2) A firefighter who leaves a fire station must record in the occurrence book the fact of the absence, the reason for the absence and the name of the person giving permission to leave the fire station.
- (3) This clause does not apply to a firefighter who leaves the fire station to attend to a fire call or other incident or to engage in official functions away from the fire station.

### **32 Operation of fire appliances**

When responding to a call to a fire, hazardous material incident or other emergency the driver of a fire appliance must ensure that the appliance's lights and audible warning devices are operated to give the best practicable warning to the public.

### **33 Security on fire duty and watch duty**

A firefighter on fire duty or watch duty at the site of a fire, hazardous material incident or other emergency must:

- (a) ensure that:
  - (i) any premises at the site are not entered, and
  - (ii) goods are not interfered with or removed from any such premises,otherwise than by persons who can establish their identity and authority to do so, and
- (b) report any breach of security to the officer in charge at the site.

Clause 34 Fire Brigades Regulation 2008

Part 4 Disciplinary provisions

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## Part 4 Disciplinary provisions

### Division 1 Misconduct

#### 34 Definitions

In this Part:

*nominated officer* means the officer nominated by the Commissioner for the purposes of this Part.

*remedial action*, in relation to a firefighter, means any one or more of the following:

- (a) counselling,
- (b) training and development,
- (c) monitoring the firefighter's conduct or performance,
- (d) implementing a performance improvement plan,
- (e) the issuing of a warning to the firefighter that certain conduct is unacceptable or that the firefighter's performance is not satisfactory,
- (f) any other action of a similar nature.

#### 35 Misconduct

- (1) A firefighter is guilty of misconduct if the firefighter:
  - (a) contravenes a provision of Part 3, or
  - (b) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more, or is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be an offence so punishable, or
  - (c) is found to have made a statement in connection with an application for appointment as a firefighter that is false or misleading in a material particular.
- (2) A reference in subclause (1) (b) to the conviction of a firefighter for an offence punishable by imprisonment for 12 months or more includes a reference to the firefighter having been found guilty by a court of such an offence but where no conviction is recorded.

#### 36 Complaints of misconduct

- (1) A firefighter may make a complaint in writing to the Commissioner that another firefighter is guilty of misconduct.

Fire Brigades Regulation 2008

Clause 37

Disciplinary provisions

Part 4

- 
- (2) A complaint that does not concern corrupt conduct must be lodged:
    - (a) through the chain of command, or
    - (b) if the complaint relates to the officer in charge of the firefighter, with the officer in charge's immediate superior.
  - (3) If the nominated officer decides to act on a complaint, the firefighter against whom the complaint is made must be given a copy of it.
  - (4) Any firefighter dealing with a complaint:
    - (a) must treat the information as strictly confidential, and
    - (b) must deal with any personal information within the meaning of the *Privacy and Personal Information Protection Act 1998* in relation to that complaint in accordance with that Act,unless this Part authorises the information to be dealt with in another way or unless the Commissioner authorises the information to be dealt with in another way.

## **Division 2      Suspension of firefighters**

### **37      Suspension of firefighter**

- (1) An officer authorised by the Commissioner for the purposes of this clause may suspend a firefighter from duty if:
  - (a) the officer is of the opinion that the firefighter is guilty of misconduct, or
  - (b) the firefighter is taken into lawful custody.
- (2) A firefighter may be suspended under subclause (1) whether or not a complaint of misconduct has been made against the firefighter.
- (3) A firefighter may not be suspended unless all reasonable steps have been taken to ensure that the firefighter has been informed of the reason for the suspension and has been given an opportunity to respond.
- (4) A suspension under this clause has effect for the period (not exceeding 14 days) specified by the authorised officer and may be terminated at any time by the Commissioner.
- (5) If a suspension relates to the absence from duty of a firefighter without authority, the suspension is taken to have commenced when the unauthorised absence began, unless the Commissioner determines otherwise.
- (6) An officer who suspends a firefighter must, as soon as practicable, report the suspension and the reason for it to the Commissioner.

Clause 38 Fire Brigades Regulation 2008

Part 4 Disciplinary provisions

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**38 Commissioner to deal with suspension**

- (1) After considering the report submitted by an officer who has suspended a firefighter and any submission made by or on behalf of the firefighter, the Commissioner may, by order, confirm or terminate the suspension.
- (2) The Commissioner may not confirm a suspension unless proceedings have been initiated (whether under this Part or otherwise) in respect of the matters giving rise to the suspension.
- (3) Any suspension confirmed under this clause has effect for the period specified in the relevant order and may be terminated at any time by the Commissioner.

**39 Payment during suspension under clause 37 (1) (a)**

- (1) Payment of a firefighter is not to be stopped during a suspension under clause 37 (1) (a) that has not been confirmed, but is to be stopped during such a suspension that has been confirmed, unless otherwise determined by the Commissioner.
- (2) If satisfied that the circumstances so warrant, the Commissioner may approve a maintenance payment to a firefighter under a suspension that has been confirmed of such amount and for such period as the Commissioner may direct.
- (3) A firefighter in respect of whom a complaint of misconduct is dismissed is to be reimbursed for any pay (including any retainer) lost during any period of suspension less any maintenance paid during that period.
- (4) If a firefighter under suspension is found guilty of misconduct, the Commissioner may approve the reimbursement of such part of any pay (including any retainer) lost during the suspension as the Commissioner may direct.

**40 Payment of firefighter in custody**

A firefighter who is in lawful custody is not eligible for payment while suspended, unless otherwise determined by the Commissioner.

**Division 3 Remedial action**

**41 Remedial action**

- (1) The nominated officer may take remedial action with respect to a firefighter against whom a complaint of misconduct has been made if:
  - (a) the firefighter admits the misconduct, and
  - (b) the firefighter agrees to the remedial action, and

Fire Brigades Regulation 2008

Clause 42

Disciplinary provisions

Part 4

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- (c) the nominated officer thinks it is appropriate in the circumstances to take remedial action.
- (2) The nominated officer may take remedial action in accordance with this clause at any time after a complaint of misconduct has been made, including after any of the proceedings set out in Division 4 have commenced.
- (3) However, if remedial action is taken, proceedings commenced under Division 4 are to be suspended pending the satisfactory completion of the remedial action by the firefighter.
- (4) If a firefighter fails to do anything that is required of the firefighter by the remedial action, the nominated officer may deal with the firefighter according to the provisions of Division 4 or recommence any proceedings commenced under that Division that had been suspended.

## **Division 4      Inquiries into misconduct**

### **42      Preliminary inquiry into conduct of firefighter**

- (1) The nominated officer may conduct, or may direct another officer to conduct, a preliminary inquiry into a complaint of misconduct against a firefighter.
- (2) A preliminary inquiry may not be conducted by the officer in charge of the firefighter against whom a complaint of misconduct has been made.
- (3) A preliminary inquiry is to be conducted in accordance with the Commissioner's Orders or, with respect to any matter for which those Orders do not provide, in such manner as the nominated officer may direct or, subject to any such direction, as the officer conducting the inquiry thinks fit.
- (4) A formal hearing is not to be held and witnesses are not to be called for examination.
- (5) The firefighter to whom the complaint relates may make written representations or, if the officer conducting the inquiry so permits, oral representations on any matter relevant to the inquiry.
- (6) A firefighter who is permitted to make oral representations is entitled to be accompanied by an observer, chosen by the firefighter, while the representations are made.
- (7) An officer conducting a preliminary inquiry at the direction of the nominated officer must report the result of the inquiry to the nominated officer in writing within the time set by the nominated officer.



Clause 43 Fire Brigades Regulation 2008

Part 4 Disciplinary provisions

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#### **43 Charges against firefighter**

- (1) If the nominated officer considers (as a result of a preliminary inquiry or otherwise) that action should be taken against a firefighter in respect of a complaint of misconduct, the nominated officer may charge the firefighter with the alleged misconduct.
- (2) Any such charge is to be prepared in writing setting out the grounds of the alleged misconduct and a copy is to be served on the firefighter against whom the charge is made.
- (3) The firefighter, or a duly authorised representative of the firefighter, is to be allowed to read, and to take copies or extracts of, the relevant portions of the departmental file or preliminary inquiry report and any other papers held by NSW Fire Brigades in relation to the charge.
- (4) The firefighter must, within 10 calendar days after being served with a copy of the charge, report to the nominated officer in writing whether the firefighter admits or denies the charge.
- (5) If the charge is admitted by the firefighter, submissions may be made to the nominated officer by or on behalf of the firefighter (either orally or in writing) in mitigation of penalty.
- (6) The nominated officer must send any such submissions to the Commissioner.

#### **44 Formal inquiry**

- (1) If the firefighter denies the charge or does not admit or deny the charge within 10 calendar days after being served with a copy of it, the nominated officer is to conduct, or direct another officer to conduct, a formal inquiry under this clause.
- (2) The defendant may appear at the inquiry in person or be represented by a barrister, solicitor or agent.
- (3) The inquiry may be conducted in the absence of the defendant if the defendant fails to attend the inquiry and if the officer conducting the inquiry is satisfied that the defendant has been served with reasonable notice of the time and place for the inquiry.
- (4) Service of any such notice may be proved by the oath of the person who served the notice or by affidavit.
- (5) The officer conducting the inquiry:
  - (a) is to conduct the inquiry in accordance with the Commissioner's Orders or, with respect to any matter for which those Orders do not provide, in such manner as the nominated officer may direct or, subject to any such direction, as the officer conducting the inquiry thinks fit, and

Fire Brigades Regulation 2008

Clause 45

Disciplinary provisions

Part 4

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- (b) is not bound by any law, rules or practice of evidence, and
  - (c) may be informed of any matter in such manner as he or she thinks fit, and
  - (d) must cause a transcript to be prepared of the proceedings of the inquiry.
- (6) The officer conducting the inquiry:
- (a) may require any firefighter or member of staff of NSW Fire Brigades to appear before the officer and to give evidence, and
  - (b) may require any firefighter or member of staff of NSW Fire Brigades to produce to the officer any document or thing relevant to the inquiry.
- (7) A person who fails to comply with a requirement under subclause (6) without reasonable excuse is guilty of an offence.  
Maximum penalty: 5 penalty units.
- (8) The defendant is entitled to inspect any document or thing furnished under this clause.

#### **45 Formal inquiry report**

- (1) An officer conducting an inquiry at the direction of the nominated officer must cause a report of the officer's findings and recommendations, together with the transcript of the proceedings and any document or thing admitted in evidence, to be sent to the nominated officer.
- (2) The nominated officer may make further recommendations concerning the findings of the inquiry and must inform the defendant of all recommendations made.
- (3) The nominated officer must cause the report of the findings of a formal inquiry, together with any associated recommendations, transcripts or evidence, to be sent to the Commissioner.
- (4) Written submissions (including submissions in mitigation of penalty) may be made to the Commissioner, by or on behalf of the defendant, within such time as the Commissioner allows.
- (5) If the defendant is found not guilty of misconduct, the nominated officer must terminate any suspension of the defendant immediately.

Clause 46 Fire Brigades Regulation 2008

Part 4 Disciplinary provisions

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## **Division 5 Disciplinary action by Commissioner**

### **46 Disciplinary action by Commissioner**

- (1) The Commissioner, after considering a report in which a firefighter is found guilty of misconduct and any submission made by or on behalf of the firefighter, may deal with the matter in any one or more of the following ways:
  - (a) by taking remedial action against the firefighter,
  - (b) by giving the firefighter a caution or reprimand,
  - (c) by imposing on the firefighter a fine not exceeding 10 penalty units,
  - (d) by revoking the firefighter's appointment to a position,
  - (e) by demoting the firefighter,
  - (f) by terminating the employment or service of the firefighter.
- (2) The Commissioner must remove any record of disciplinary action taken under subclause (1) (a), (b) or (c) from a firefighter's personal record if the firefighter has been of good behaviour for at least 2 years since the taking of the action.
- (3) The Commissioner may suspend disciplinary action taken against a firefighter under subclause (1) (b), (c), (d) or (e) for a period not exceeding 2 years on condition that the firefighter is of good behaviour during that period.
- (4) If a firefighter fails to do anything that is required of the firefighter by the remedial action taken under subclause (1) (a), the Commissioner may deal with the firefighter in any other manner referred to in subclause (1).
- (5) The Commissioner may permit a firefighter to resign instead of taking disciplinary action under subclause (1) (f).

### **47 Fines**

- (1) The amount of any fine imposed on a firefighter under this Division may, subject to this clause, be deducted from any money (including wages) due to the firefighter with respect to the firefighter's employment or service.
- (2) A fine is not to be deducted from the firefighter's pay until 30 days after the Commissioner's decision to impose the fine has been made known to the firefighter.

Fire Brigades Regulation 2008

Clause 48

Disciplinary provisions

Part 4

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- (3) Any application made after that period for time to pay is to be considered and, if an appeal is lodged with the Government and Related Employees Appeal Tribunal against the imposition of a fine, deductions from the firefighter's pay or retainer towards payment of the fine are not to be made pending determination of the appeal.

**48 Action following court appearance**

If a firefighter is found guilty of an offence referred to in clause 35 (1) (b), the Commissioner may take action against the firefighter as if the firefighter had been found guilty of misconduct by an inquiry under this Part.

Clause 49 Fire Brigades Regulation 2008

Part 5 General

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## Part 5 General

### 49 Medal for Conspicuous Bravery

- (1) The Commissioner may award the New South Wales Fire Brigades Medal for Conspicuous Bravery to any firefighter who, while performing firefighting or emergency duty, exhibits exceptional bravery.
- (2) A firefighter who has previously been awarded the Medal may, for each additional act of exceptional bravery, be awarded a Bar to be attached to the ribbon from which the Medal is hung.
- (3) An award of the Medal or Bar may be made only on the recommendation of a committee appointed by the Commissioner to consider the merit of any such action.
- (4) The names of firefighters who receive awards, and details of the awards, are to be published in the In Orders publication and a record of awards is to be kept by the Commissioner.

### 50 Commendations

- (1) The Commissioner may award commendations for courageous action or for meritorious or long service.
- (2) The names of recipients of awards and details of the awards are to be published in the In Orders publication and a record of awards is to be kept by the Commissioner.

### 51 Honorary list

The Commissioner may place on an honorary list the names of former firefighters who have had long and meritorious service.

### 52 Saving

- (1) Any act, matter or thing that, immediately before the repeal of the *Fire Brigades Regulation 2003*, had effect under that Regulation continues to have effect under this Regulation.
- (2) Without limiting subclause (1), any In Orders or Standing Orders in force under clause 4 of the *Fire Brigades Regulation 2003* immediately before its repeal continue to have effect as Commissioner's Orders under this Regulation.

Fire Brigades Regulation 2008

Clause 53

Charges

Part 6

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## Part 6 Charges

### 53 Hazardous material incidents

- (1) For the purposes of section 40 (4A) of the Act, the charges prescribed for services performed in respect of a hazardous material incident are:
  - (a) in relation to an item in Column 1 of Part 1 of Schedule 1 that is used (or made available for use), the charge per hour specified in Column 2 of Part 1 of that Schedule opposite that item, and
  - (b) in relation to an item in Column 1 of Part 2 of Schedule 1 that is hired or purchased, the charge specified in Column 2 of Part 2 of that Schedule opposite that item, and
  - (c) in relation to consumables, the charge specified in Column 2 of Part 3 of that Schedule.
- (2) If an item referred to in Part 1 of Schedule 1 is used on an hourly basis, half of the charges specified is prescribed in respect of each half hour, or part of a half hour, during which the item is used (or made available for use).
- (3) If any fully encapsulated gas suit or spillage suit is damaged or contaminated to the extent that it cannot be reused, the prescribed charge in respect of the suit concerned is the cost of replacing the suit.
- (4) If an item is purchased for use in respect of a particular hazardous material incident and the Commissioner is of the opinion that the item can be reused, the prescribed charge in respect of that item under Part 2 of Schedule 1 is to be reduced by such amount as the Commissioner considers reasonable having regard to the extent to which the item can be reused.

### 54 Services performed in connection with statutory fire safety

- (1) The charge prescribed for the provision of an initial fire safety report in respect of a development is the amount specified in Column 2 of Schedule 2 opposite the estimated cost of the development specified in Column 1 of that Schedule.
- (2) The charges prescribed for the inspection of premises for the purposes of the provision of a final fire safety report for the premises are:
  - (a) in the case of an initial inspection, \$215 plus, if the inspection takes more than 2 hours (including time spent travelling to and from the premises), \$200 for each additional hour, or part of an hour, of the inspection, and

Clause 55 Fire Brigades Regulation 2008

Part 6 Charges

- 
- (b) in the case of a re-inspection, \$430 plus, if the re-inspection takes more than 2 hours (including time spent travelling to and from the premises), \$200 for each additional hour, or part of an hour, of the re-inspection.
- (3) The charge prescribed for each assessment of a Building Code of Australia Category 2 fire safety provision by the Commissioner or a fire brigade member is \$180.
- (4) The charge prescribed for attendance by the Commissioner or a fire brigade member at a fire safety meeting in connection with a development or proposed development is \$200 for each hour, or part of an hour, of the meeting.
- (5) The amount of \$2,600 is the charge prescribed for each day (or part of a day) spent by the Commissioner or a fire brigade member providing advisory, assessment or consultancy services (for which a fee is not otherwise prescribed by this clause) in respect of:
- major infrastructure development (within the meaning of Part 3A of the *Environmental Planning and Assessment Act 1979*), or
  - Crown building work (within the meaning of section 116G of the *Environmental Planning and Assessment Act 1979*), or
  - other development.
- (6) This clause has effect for the purposes of section 42 (1) of the Act.
- (7) In this clause:
- Building Code of Australia** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.
- Category 2 fire safety provision** has the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.
- development** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.
- final fire safety report** has the same meaning as in clause 152 of the *Environmental Planning and Assessment Regulation 2000*.
- initial fire safety report** has the same meaning as in clause 144 of the *Environmental Planning and Assessment Regulation 2000*.
- premises** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

#### 55 False alarms

The amount of \$250 is the charge prescribed for the performance of the service specified in section 42 (1) (e) of the Act (that is, the service of responding to an alarm that is afterwards discovered to have been a false alarm) if:

Fire Brigades Regulation 2008

Clause 56

Charges

Part 6

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- (a) the false alarm resulted from any activation of the alarm except in the course of a test of which prior notice was given to a fire brigade officer and that the Commissioner is satisfied was properly carried out, and
  - (b) it is the second or subsequent occasion of any such false alarm by the alarm during any period of 60 days.

**56 Other services**

- (1) The charges prescribed for the performance of any other service specified in section 42 (1) of the Act (not being a service for which a charge is otherwise prescribed by this Part) are:
  - (a) in relation to each fire brigade member performing the service, the charge per hour specified in Column 2 of Part 1 of Schedule 3 opposite the rank of the member concerned, and
  - (b) in relation to an item in Column 1 of Part 2 of Schedule 3 that is hired or purchased, the charge specified in Column 2 of Part 2 of that Schedule opposite that item, and
  - (c) in relation to consumables, the charge specified in Column 2 of Part 3 of that Schedule.
- (2) If an item is purchased for the purpose of performing services specified in section 42 (1) of the Act and the Commissioner is of the opinion that the item can be reused, the prescribed charge in respect of that item under Part 2 of Schedule 3 is to be reduced by such amount as the Commissioner considers reasonable having regard to the extent to which it can be reused.



## Fire Brigades Regulation 2008

Schedule 1 Charges for performing services in relation to hazardous material incidents

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## Schedule 1 Charges for performing services in relation to hazardous material incidents

(Clause 53 (1))

### Part 1 Standard equipment

Column 1	Column 2
Item	Amount per hour
Each standard pumper	\$423
Each hazmat pumper	\$423
Each hazmat vehicle other than a hazmat pumper	\$286
Each hazmat delta decontamination shelter	\$286
Each special operations response vehicle	\$286
Each boat (including a trailer and vehicle to tow it)	\$286
Each helicopter	\$3,300
Each incident command vehicle	\$275
Each hose	\$55
Each fully encapsulated gas suit	\$275
Each spillage suit	\$55
Each self-contained breathing apparatus	\$55
Each standard gas detector	\$55
Each unit of specialised detection equipment	\$110

### Part 2 Special items

Column 1	Column 2
Item	Amount
Goods or services hired or purchased by the Commissioner for the purpose of performing services referred to in section 40 (4A) of the Act in respect of a particular hazardous material incident (not being items referred to in Part 1 of this Schedule)	Such amount as is certified by the Commissioner to be the cost to the Commissioner of hiring or purchasing the goods or services

## Fire Brigades Regulation 2008

Charges for performing services in relation to hazardous material incidents Schedule 1

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<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Amount</b>
Premises hired by the Commissioner for the purpose of performing services referred to in section 40 (4A) of the Act in respect of a particular hazardous material incident (not being items referred to in Part 1 of this Schedule)	Such amount as is certified by the Commissioner to be the cost to the Commissioner of hiring the premises

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**Part 3 Consumables**

<b>Column 1</b>	<b>Column 2</b>
<b>Consumables</b>	<b>Amount</b>
Consumables	Such amount as is certified by the Commissioner to be the cost to the Commissioner of the consumables, plus 10% for handling costs

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## Fire Brigades Regulation 2008

Schedule 2 Charges for providing initial fire safety reports

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**Schedule 2 Charges for providing initial fire safety reports**

(Clause 54 (1))

<b>Column 1</b>	<b>Column 2</b>
<b>Estimated cost of development</b>	<b>Amount</b>
Up to \$250,000	\$500
\$250,001–\$500,000	\$500, plus an additional \$0.40 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$250,000
\$500,001–\$1,000,000	\$600, plus an additional \$0.30 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$500,000
\$1,000,001–\$10,000,000	\$750, plus an additional \$0.20 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$1,000,000
More than \$10,000,000	\$2,550, plus an additional \$0.10 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$10,000,000

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Fire Brigades Regulation 2008

Charges for performing other services

Schedule 3

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## Schedule 3 Charges for performing other services

(Clause 56 (1))

### Part 1 Fire brigade members

Column 1	Column 2
Rank of member of fire brigade	Amount per hour per member
Fire safety engineer	\$200
Chief superintendent or above	\$132
Building surveyor	\$130
Engineer	\$130
Fire safety manager	\$125
Superintendent	\$121
Fire safety team leader	\$110
Inspector	\$99
Fire safety officer	\$90
Station commander or captain	\$83
Firefighter	\$66

### Part 2 Special items

Column 1	Column 2
Items	Amount
Goods or services hired or purchased by the Commissioner for the purpose of performing the services referred to in section 42 (1) of the Act	Such amount as is certified by the Commissioner to be the cost to the Commissioner of hiring or purchasing the goods or services
Premises hired by the Commissioner for the purpose of performing the services referred to in section 42 (1) of the Act	Such amount as is certified by the Commissioner to be the cost to the Commissioner of hiring the premises

## Fire Brigades Regulation 2008

Schedule 3 Charges for performing other services

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**Part 3 Consumables**

<b>Column 1</b>	<b>Column 2</b>
<b>Consumables</b>	<b>Amount</b>
Consumables	Such amount as is certified by the Commissioner to be the cost to the Commissioner of the consumables, plus 10% for handling costs

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New South Wales

# Gas Supply (Safety and Network Management) Regulation 2008

under the

Gas Supply Act 1996

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Gas Supply Act 1996*.

IAN MACDONALD, M.L.C.,  
Minister for Energy

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Gas Supply (Safety Management) Regulation 2002 (the 2002 Regulation)* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the safety of gas networks,
- (b) the safety and operating plans for gas networks,
- (c) the standards for natural gas,
- (d) the carrying out of gasfitting work,
- (e) the reports to be given to the Director-General of the Department of Water and Energy (*the Director-General*) in relation to the maintenance and safety aspects of the operation of a gas network,
- (f) the power of the Director-General to delegate functions,
- (g) the repeal of the *Gas Supply (Savings and Transitional) Regulation 1991*,
- (h) savings and formal matters.

This Regulation is made under the *Gas Supply Act 1996*, including section 83 (the general regulation-making power).

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 Gas Supply (Safety and Network Management) Regulation 2008
 

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Clause 1	Gas Supply (Safety and Network Management) Regulation 2008
Part 1	Preliminary

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## Gas Supply (Safety and Network Management) Regulation 2008

under the

Gas Supply Act 1996

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Gas Supply (Safety and Network Management) Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Gas Supply (Safety Management) Regulation 2002* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**AS 1697** means the Australian Standard entitled AS 1697—2005, *Installation and maintenance of steel pipe systems for gas*.

**AS 2885** means the Australian Standards entitled as follows:

- (a) AS 2885.1—2007, *Pipelines—Gas and liquid petroleum, Part 1: Design and construction*,
- (b) AS 2885.2—2007, *Pipelines—Gas and liquid petroleum, Part 2: Welding*,
- (c) AS 2885.3—2001, *Pipelines—Gas and liquid petroleum, Part 3: Operation and maintenance*,
- (d) AS/NZS 2885.5—2002, *Pipelines—Gas and liquid petroleum, Part 5: Field pressure testing*.

**AS 3723** means the Australian Standard entitled AS 3723—1989, *Installation and maintenance of plastics pipe systems for gas*.

**AS 4041** means the Australian Standard entitled AS 4041—2006, *Pressure piping*.

**AS 4564** means the Australian Standard entitled AS 4564—2005, *Specification for general purpose natural gas*.

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**AS 4645** means the Australian Standard entitled AS 4645—2005, *Gas distribution network management*.

**AS 5601** means the Australian Standard entitled AS 5601—2004, *Gas installations*.

**AS/NZS 1596** means the Australian and New Zealand Standard entitled AS/NZS 1596:2008, *The storage and handling of LP Gas*.

**Australian Standard** or **Australian and New Zealand Standard** means such a standard published by Standards Australia as in force for the time being.

**basic metering equipment** has the same meaning as in clause 11 of Schedule 1.

**consumer service** means that part of a gas installation that conveys, or controls the conveyance of, gas from a gas network up to and including the first isolation valve of the basic metering equipment.

**Director-General** means the Director-General of the Department of Water and Energy.

**gas network** means a distribution pipeline or a distribution system.

**gasfitting rules** means gasfitting rules established by the network operator in accordance with clause 12 of Schedule 1.

**Note.** The Act defines **gas installation** as the gas pipes and associated equipment that are used to convey and control the conveyance of gas within premises to which gas is supplied, whether from distribution pipeline or a distribution system or otherwise, but does not include anything connected to and extending or situated beyond a gas outlet socket.

**hazardous event** means an event that causes, or has the potential to cause, physical injury to, or damage to the health of, a person or damage to property or the environment.

**nominated auditor**, in relation to a network operator's safety and operating plan, means a person who is, for the time being, a person nominated by the network operator under clause 13 in respect of the plan.

**safety and operating plan** means a safety and operating plan referred to in clause 10 (1).

**the Act** means the *Gas Supply Act 1996*.

- (2) Notes in this Regulation do not form part of this Regulation.

Clause 4	Gas Supply (Safety and Network Management) Regulation 2008
Part 2	Network safety

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## **Part 2 Network safety**

### **4 Network operators to ensure safe gas supply**

- (1) A network operator must develop, maintain and operate a safe gas network.
- (2) A network operator is to ensure that matters concerning the design, construction or operation of, or extension to, a gas network are carried out in accordance with:
  - (a) the requirements of AS/NZS 1596, AS 1697, AS 2885, AS 3723, AS 4041 and AS 4645 (as appropriate), or
  - (b) the requirements of other standards (as appropriate) identified in the safety and operating plan that are no less stringent than the standards referred to in paragraph (a).

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

### **5 Emergency services**

- (1) A network operator must:
  - (a) provide the public with an emergency telephone number, accessible 24 hours a day every day, for reporting any escape of gas from the operator's gas network or from gas pipe work within premises directly connected to the network, and
  - (b) provide the public with a means of making such reports in person, during normal business hours, at the network operator's business premises, and
  - (c) provide an effective system for receiving and dealing with such reports, and
  - (d) cause every such report to be promptly acted on, and ensure that, as far as possible, everything is done that needs to be done to stop the escape of, and to disperse, any gas that is at risk of igniting or exploding, or that risks suffocating or otherwise harming any person, and
  - (e) ensure that adequate publicity is given of the ways in which the network operator can be contacted for the purpose of reporting any escape of gas, and
  - (f) make available to any person on request the details of the network operator's emergency services.

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Clause 6

Network safety

Part 2

- (2) The details of a network operator's emergency services referred to in subclause (1) (f) must include a statement:

- (a) to the effect that the operator will make safe any escape of gas from its gas network, and from that part of a gas installation directly connected to its gas network up to and including the gas meter outlet, and
- (b) of the circumstances in which a gas user may be liable for the cost of repairs associated with a gas escape.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

## 6 Gasfitting work

- (1) This clause applies to the following kinds of gasfitting work:
- (a) the connection or disconnection of gas supply to or from a gas installation,
  - (b) the installation or maintenance of any part of a gas installation up to the gas meter outlet,
  - (c) the installation or replacement of a gas meter or any part of the basic metering equipment.

**Note.** See Part 5 for requirements in relation to other gasfitting work.

- (2) A person must not carry out gasfitting work to which this clause applies otherwise than in accordance with the requirements of the gasfitting rules of the network operator for the gas network to which the gasfitting work relates.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

- (3) A person who carries out any gasfitting work to which this clause applies that is not done on behalf of a network operator:

- (a) must be the holder of a licence under the *Home Building Act 1989* authorising its holder to contract to do that work, or must be carrying out the work on behalf of an individual, partnership or corporation that is the holder of such a licence, and
- (b) must be authorised by the network operator for the gas network to which the gasfitting work relates to conduct such work in accordance with the requirements of the network operator's gasfitting rules.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

Clause 7 Gas Supply (Safety and Network Management) Regulation 2008

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(4) To ensure that a gas installation is safe to be supplied with gas from a gas network, a person carrying out gasfitting work to which this clause applies must, immediately before completing the gasfitting work, conduct a leak test of:

- (a) that part of the gas installation that extends from the basic metering equipment, and
- (b) if the gasfitting work involves the installation or maintenance of a consumer service, the consumer service.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

#### **7 Notice to network operator and consumer after leak test**

(1) After testing the gas installation as required under clause 6, the person conducting the test must give a notice, in accordance with this clause, to the network operator and the consumer concerned specifying:

- (a) if the test demonstrates the gas installation is safe to connect to the gas network—that the gas installation has been tested and the gas supply to the premises has been established or re-established or is ready to be established or re-established, or
- (b) if the test demonstrates that the gas installation is unsafe to connect to the gas network—that the gas installation is defective and unsafe to connect to the gas network.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

(2) A notice issued under subclause (1):

- (a) must include, but is not limited to, the following:
  - (i) the name of the consumer concerned,
  - (ii) the full address of the location,
  - (iii) the date and results of the test,
  - (iv) the name of the person who conducted the test and the name of the person's employer (if any),
  - (v) the person's, or the person's employer's, licence number and details,
  - (vi) if the notice is given under subclause (1) (b)—details of the faults identified, and
- (b) must be given to the network operator and consumer:
  - (i) for a notice given under subclause (1) (a)—within 7 days after the test is carried out, and
  - (ii) for a notice given under subclause (1) (b)—as soon as practicable after the test is carried out.

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- (3) The person who conducted the test must keep a copy of the notice given to the network operator and consumer for 5 years from the date on which it was issued.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

- (4) Upon receipt of a notice, the network operator must:

- (a) for a notice given under subclause (1) (a)—record details of the notice and keep the record for at least 10 years from the date of the test or until another notice is received under that subclause in relation to the gas installation concerned, whichever is the sooner, and
- (b) for a notice given under subclause (1) (b)—record details of the notice and keep the notice until receipt of a further notice indicating that the installation has been retested and that the gas installation is safe to connect to the gas network and the gas supply has been established or re-established, or is ready to be established or re-established.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

#### **8 Network operator to notify of defective workmanship or unsafe appliance**

If at any time a network operator becomes aware that the workmanship of a gas installation does not comply with the appropriate codes and standards, or that any gas appliance on the premises concerned is in an unsafe condition, the network operator must give a written report, providing full details of the matter, to the Director-General (within the meaning of the *Fair Trading Act 1987*).

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

**Note.** The *Fair Trading Act 1987* defines Director-General as the Commissioner for Fair Trading, Department of Commerce or if there is no such position in that Department, the Director-General of that Department.

#### **9 Refusal or discontinuance of supply**

- (1) A network operator may refuse or discontinue the supply of gas to a person if, in the opinion of the operator:
- (a) the supply or continued supply of gas is dangerous to life, health or property, or
- (b) the person's gas installation, or any gas appliance connected to it, is not installed in accordance with the relevant Australian Standard.

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Part 2 Network safety

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- (2) A network operator may discontinue a supply of gas to a person:
- (a) by disconnecting the person's gas installation from its gas network, or
  - (b) by disconnecting any gas appliances from the person's gas installation, or
  - (c) by otherwise rendering the person's gas installation or any such gas appliances inoperable.
- (3) A network operator that refuses or discontinues the supply of gas to a person under this clause must cause written notice of the reasons for the refusal or discontinuance of supply to be given:
- (a) to the person and any relevant supplier, and
  - (b) to the Director-General.

Gas Supply (Safety and Network Management) Regulation 2008

Clause 10

Safety and operating plans

Part 3

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## Part 3 Safety and operating plans

### 10 Network operators to lodge and implement safety and operating plans

- (1) A network operator must:
  - (a) lodge with the Director-General a safety and operating plan for its gas network that complies with the requirements of this Regulation, and
  - (b) implement that plan.Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).
- (2) The safety and operating plan must be lodged:
  - (a) within 6 months from the date of the grant of the authorisation or licence to operate the gas network to which the plan relates, or
  - (b) within such further period as may be approved by the Director-General in writing.
- (3) The safety and operating plan:
  - (a) must be in writing (but may include diagrams), and
  - (b) must be approved of in writing by an officer of the network operator who is competent and specifically authorised by the network operator to do so.
- (4) A network operator must not construct, alter, extend, maintain, repair or operate a gas network except in accordance with:
  - (a) a safety and operating plan, or
  - (b) a draft safety and operating plan (being a plan that complies with the requirements of this Regulation relating to the form and content, and review and availability, of safety and operating plans but which has not yet been audited in accordance with clause 14) that has been lodged with the Director-General.
- (5) Nothing in subclause (4) affects the requirement made by subclause (2).
- (6) The Director-General has the same powers under this Part in relation to a draft safety and operating plan as the Director-General has in relation to a safety and operating plan.

### 11 Network operators to review safety and operating plans

- (1) The network operator is to review and, if necessary, revise the safety and operating plan:
  - (a) as soon as practicable after any significant change (including significant incremental change) occurs in relation to the operation or maintenance of the gas network, and



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Part 3 Safety and operating plans

(b) in any case, at least once every 2 years (starting from the date of lodgment of the safety and operating plan under clause 10).

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

(2) For the purposes of subclause (1) (a), significant change includes (but is not limited to):

(a) any upgrade or modification in the engineering design of the gas network, and

(b) any other change in the risks to be managed by the network operator in relation to the gas network or in relation to the measures to be taken to manage such risks.

## 12 Matters to be included in safety and operating plans

(1) The object of a safety and operating plan is to ensure the safe operation of the gas network to which it relates, having regard to a range of matters including gas quality, operating personnel, plant, equipment, the community and the environment.

(2) A safety and operating plan must include (but is not limited to) the following matters in relation to each distribution district of the network operator:

(a) a description of the gas network operation and an outline of operating and maintenance procedures,

(b) an analysis of hazardous events that might be expected to occur and the measures to be taken to prevent any such occurrence,

(c) the procedures to be implemented in case of emergencies,

(d) the gas quality standards to be applied and the procedures to be implemented to ensure that the gas conveyed or supplied meets those standards,

(e) specification of the plan's objectives and of appropriate performance indicators developed by the network operator.

(3) If the Director-General so approves in writing, any matter that under this Regulation is to be included in a safety and operating plan in relation to each distribution district of a network operator may instead be included in relation to distribution districts of the network operator as a group.

(4) A safety and operating plan must comply with Schedule 1.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

Gas Supply (Safety and Network Management) Regulation 2008

Clause 13

Safety and operating plans

Part 3

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### **13 Nomination of persons to audit safety and operating plans**

- (1) A network operator must give the Director-General a nomination in writing of a person as an auditor of its safety and operating plan at least one month before the person is first required to give a certificate in relation to the plan under this Part.  
Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).
- (2) A person may not be nominated as an auditor under this clause unless the person is:
  - (a) independent of the network operator, and
  - (b) competent to exercise the functions of an auditor under this Regulation in respect of the network operator's safety and operating plan.
- (3) If the Director-General advises a network operator in writing that a nomination is not accepted or is no longer acceptable, the nomination ceases to have effect for the purposes of this Regulation.

### **14 Initial audit of safety and operating plans**

- (1) A safety and operating plan must, when lodged, be accompanied by a report on the plan from a nominated auditor that includes a certificate by the auditor that:
  - (a) the plan complies with this Regulation, and
  - (b) the plan is appropriate having regard to the size and complexity of the gas network (subject to any exemptions granted by the Director-General), and
  - (c) all measures intended to prevent hazardous events identified in the plan from occurring, and intended to protect operating personnel, plant, equipment, the community and the environment should they occur, are in place, and
  - (d) there are properly trained and equipped personnel available to implement the plan.
- (2) The Director-General may, before the expiration of the period within which a safety and operating plan must be lodged by a network operator under clause 10, extend that period by notice in writing if the network operator provides the Director-General with a report from a nominated auditor indicating:
  - (a) an audit has been carried out, and
  - (b) any failure to comply with subclause (1) (a), (b), (c) or (d), and
  - (c) the measures that the network operator proposes to take to rectify any such non-compliance, and

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Part 3	Safety and operating plans

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- (d) the time within which the network operator has undertaken to rectify any such non-compliance.

#### **15 Periodical audits of safety and operating plans**

- (1) A network operator must lodge with the Director-General in respect of its safety and operating plan a report on the plan from a nominated auditor that complies with subclause (2):
  - (a) within the period of 28 days after each anniversary of the date of lodgment of the safety and operating plan under clause 10, or
  - (b) within such other periods, of a lesser frequency, as the Director-General approves in writing in relation to the particular network operator.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).
- (2) The report must include a certificate by the nominated auditor that:
  - (a) the safety and operating plan complies with Schedule 1, and
  - (b) the measures implemented to prevent hazardous events identified in the plan from occurring, and intended to protect operating personnel, plant, equipment, the community and the environment should they occur, are being maintained, and
  - (c) there are properly trained and equipped personnel available to maintain the plan, and
  - (d) the plan is adequate and appropriate having regard to any changes in the gas network since a certificate was last issued by a nominated auditor in accordance with this clause or clause 14, and
  - (e) any measures to rectify non-compliance with the plan detected in any previous audit have been undertaken and are effective.
- (3) The Director-General may, before the expiration of a period within which a certificate must be lodged by a network operator under subclause (1), extend that period by notice in writing if the network operator provides the Director-General with a report from a nominated auditor indicating:
  - (a) the reasons why the network operator requires the period to be extended, and
  - (b) whether an audit has been carried out, and
  - (c) any failure to comply with the safety and operating plan, and
  - (d) the measures that the network operator proposes to take to rectify any such non-compliance, and

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Safety and operating plans

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- (e) the time within which the network operator has undertaken to rectify any such non-compliance.

**16 Additional audits may be required**

- (1) The Director-General may, by notice in writing to a network operator, require the network operator to carry out, or to provide such assistance and co-operation as is reasonable for the purposes of carrying out, a further audit of its safety and operating plan.
- (2) Such a requirement may be made if:
- (a) the Director-General is satisfied that the further audit is required in order to verify that the safety and operating plan is being properly implemented, or
- (b) the Director-General is not satisfied as to any aspect of an audit carried out by an auditor nominated by a network operator.
- (3) The Director-General may require such a further audit to be carried out by an auditor nominated or appointed by the Director-General.
- (4) The audit may relate to any or all of the matters to which an initial audit under clause 14 or a periodical audit under clause 15 may relate.
- (5) A network operator must comply, as soon as practicable, with a requirement made by the Director-General under this clause.
- Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

**17 Availability of safety and operating plans**

- (1) A network operator:
- (a) must cause the following to be kept at its principal office and to be made available to the Director-General:
- (i) a complete and up-to-date copy of its safety and operating plan, and
- (ii) details of any incremental change (other than that requiring the plan to be revised under clause 11) that has occurred in relation to the operation or maintenance of the gas network and that is not yet reflected in the plan, and
- (b) must cause the following to be made available to persons likely to be involved in the implementation of the plan:
- (i) complete and up-to-date copies of the provisions of the plan that relate to safety, and

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Part 3	Safety and operating plans

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- (ii) details of any incremental change (as referred to in paragraph (a) (ii)) but only to the extent that such change relates to safety.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

- (2) In subclause (1), a reference to a complete and up-to-date copy of a safety and operating plan (or the provisions of a safety and operating plan) is a reference to a complete copy of the most recent version of the plan (or the relevant provisions) including any revisions required to be made under clause 11 and any amendments required to be made under clause 18.

#### **18 Director-General may direct amendment of safety and operating plans**

- (1) If the Director-General is of the opinion:
  - (a) that a network operator's safety and operating plan will not produce a safe outcome, or
  - (b) that its implementation has given rise to, or will give rise to, an unsafe situation,

the Director-General may, by order in writing, direct the network operator to amend the plan in such manner, and within such period of time, as is specified in the order.

- (2) A network operator must, as soon as practicable, comply with any direction under this clause and must furnish a copy of the amended safety and operating plan to the Director-General within 7 days after complying with the direction.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

#### **19 Director-General may direct compliance with safety and operating plans**

- (1) If the Director-General is of the opinion that a network operator is not:
  - (a) complying with the requirements of its safety and operating plan or any codes, standards or specifications set out or referred to in that plan, or

(b) following any procedures set out or referred to in that plan, the Director-General may, by order in writing, direct the network operator to take such action as is specified in the order to comply with those requirements, codes, standards or specifications, or to follow those procedures.

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- (2) A network operator must, as soon as practicable, comply with any direction under this clause.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

## **20 Exemptions**

- (1) The Director-General may, by notice in writing, exempt a network operator from any requirement as to the content of a safety and operating plan if the Director-General is of the opinion that the requirement is inappropriate having regard to the size or complexity of the network operator's gas network.
- (2) An exemption under this clause may be given unconditionally or subject to conditions.
- (3) The Director-General may, by further notice in writing, vary or revoke any such exemption.

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Part 4	Natural gas standards

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## Part 4 Natural gas standards

### 21 Definitions

In this Part:

*compliant natural gas* means natural gas that complies with the standards set out under AS 4564.

*non-compliant natural gas* means natural gas that is not compliant natural gas.

*reticulator* means an authorised reticulator.

*supplier* means an authorised supplier.

*testing agency* means a reticulator or other person who tests natural gas for the purpose of compliance by the reticulator with clause 25.

### 22 Natural gas in pipelines to comply with standards

- (1) A reticulator must not convey non-compliant natural gas through a distribution pipeline.
- (2) A supplier must not supply non-compliant natural gas to an end user customer through a distribution pipeline.
- (3) A person must not inject non-compliant natural gas, or cause such gas to be injected, into a distribution pipeline.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

### 23 Exception from natural gas standards in special cases

- (1) A reticulator does not commit an offence under clause 22 (1) by conveying non-compliant natural gas through a distribution pipeline if the gas is conveyed in accordance with this clause.
- (2) Non-compliant natural gas is conveyed by a reticulator in accordance with this clause if:
  - (a) the reticulator reasonably believes that the conveyance of the gas is necessary to ensure the safety of the public or the security of the reticulator's distribution pipeline, or
  - (b) the reticulator reasonably believes that the gas that is, or is to be, delivered to the end user customer is compliant natural gas.
- (3) A reticulator conveying non-compliant natural gas in accordance with this clause must notify the Director-General of the point of injection of the non-compliant natural gas:
  - (a) by telephone, facsimile or email as soon as practicable after the time when the non-compliant natural gas began to be conveyed in the reticulator's distribution pipeline, and

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Natural gas standards

Part 4

(b) in writing within 14 days after that time.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

- (4) A supplier does not commit an offence under clause 22 (2) if the non-compliant natural gas has been conveyed through the distribution pipeline by a reticulator in accordance with this clause.

#### **24 Reticulator may obtain information and documents regarding natural gas standards**

- (1) If a reticulator has reason to believe that a person has information or a document that may assist the reticulator in determining whether natural gas being injected into, or conveyed through, the reticulator's distribution pipeline is compliant natural gas, the reticulator may by notice in writing served on the person require the person to give the reticulator the information or a copy of the document.
- (2) The notice must:
- (a) identify the type of information or document that is being sought, and
  - (b) specify:
    - (i) a reasonable time by which the requirement must be complied with, and
    - (ii) the form in which the information or copy of the document is to be given to the reticulator, and
  - (c) state that the requirement is made under this clause.
- (3) A person must not, in purported compliance with a requirement under this clause, give a reticulator information that the person knows, or ought to know, is false or misleading.
- (4) A person must not, without reasonable excuse, fail to comply with any requirement under this clause.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

#### **25 Testing of natural gas**

- (1) A reticulator must not convey natural gas through a distribution pipeline unless the reticulator has tested the gas, or caused the gas to be tested, in accordance with the reticulator's safety and operating plan, to ascertain whether the gas is compliant natural gas.

**Note.** If the reticulator does not itself test the gas, the person actually testing the gas is referred to in this Part as the **testing agency**. See clause 21.



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Part 4 Natural gas standards

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- (2) A testing agency must keep a register at the agency's main office containing copies of all test results.
- (3) If a test has been made to determine a derived value (such as a Wobbe Index value), the test results required to be kept in the register include the raw measurements used to determine that derived value.
- (4) The testing agency must ensure that the register of test results is open for public inspection during ordinary business hours, and copies of or extracts from the register are to be made available:
  - (a) to the Director-General—on request and at no cost, and
  - (b) to any other person—on request and on payment of a reasonable fee fixed by the testing agency.
- (5) A testing agency must maintain all testing equipment used to test natural gas, or cause that testing equipment to be maintained, in accordance with the reticulator's safety and operating plan.  
Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

**26 Testing agencies and suppliers to report non-compliant natural gas**

- (1) A testing agency must notify the Director-General without delay if the testing agency becomes aware of any test result that shows that natural gas in a reticulator's distribution pipeline is non-compliant.
- (2) A supplier who knows or becomes aware that any non-compliant natural gas is being, or is to be, conveyed through a reticulator's distribution pipeline must notify the Director-General without delay.
- (3) Notice under this clause may be given by telephone, facsimile or email.
- (4) A testing agency or supplier who gives notice of any matter under this clause by telephone must, within 7 days after doing so, send written notice of that matter to the Director-General.
- (5) A testing agency or supplier must not send to the Director-General a copy of, or notice of, any test result that the testing agency or supplier knows, or ought to know, is false or misleading.  
Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

**27 Director-General may obtain information regarding non-compliant natural gas**

- (1) If the Director-General believes that non-compliant natural gas is being, or is to be, injected into or conveyed through a reticulator's distribution pipeline, the Director-General may by notice in writing served on any

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Clause 28

Natural gas standards

Part 4

person require that person to give the Director-General such information regarding the injection or conveyance of the non-compliant natural gas as the Director-General specifies.

- (2) The notice must:
  - (a) specify:
    - (i) a reasonable time by which the requirement must be complied with, and
    - (ii) the form in which the information is to be given to the Director-General, and
  - (b) state that the requirement is made under this clause.
- (3) A person must not, in purported compliance with a requirement made by a notice under this clause, give the Director-General information that the person knows, or ought to know, is false or misleading.
- (4) A person must not, without reasonable excuse, fail to comply with any requirement made by a notice issued by the Director-General under this clause.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

**28 Director-General may issue directions and take other measures regarding non-compliant natural gas**

- (1) If the Director-General believes that non-compliant natural gas is being, or is to be, injected into or conveyed through a reticulator's distribution pipeline, the Director-General may issue directions to a reticulator or supplier regarding the injection or conveyance of the non-compliant natural gas.
- (2) Without limiting subclause (1), the directions issued by the Director-General in accordance with this clause may require a reticulator or supplier to notify end user customers who may be supplied with the non-compliant natural gas that such gas is being, or is to be, injected into or conveyed through the distribution pipeline concerned.
- (3) A person must not, without reasonable excuse, fail to comply with any direction issued by the Director-General under this clause.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

Clause 29	Gas Supply (Safety and Network Management) Regulation 2008
Part 4	Natural gas standards

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### **29 Natural gas must have odour**

A reticulator must ensure that natural gas being conveyed, or to be conveyed, through the reticulator's distribution pipeline has a distinctive and unpleasant odour that is discernible at a level specified in the reticulator's safety and operating plan.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

### **30 Exemptions**

- (1) The Director-General may, by notice in writing, exempt a reticulator from any or all of the requirements of this Part.
- (2) The Director-General may, by a further notice in writing, revoke any such exemption.
- (3) If the Director-General grants an exemption to a reticulator under this clause, the Director-General may issue directions to the reticulator regarding the conveyance of natural gas through the reticulator's distribution pipeline.
- (4) A person must not, without reasonable excuse, fail to comply with any direction issued by the Director-General under subclause (3).

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

Gas Supply (Safety and Network Management) Regulation 2008

Clause 31

Gasfitting work

Part 5

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## Part 5 Gasfitting work

### 31 Application of Part

- (1) This Part applies to gasfitting work carried out:
  - (a) on a gas installation to which gas is supplied from a gas network, or
  - (b) for the purpose of connecting a gas appliance to, or disconnecting a gas appliance from, such a gas installation.
- (2) This Part does not apply to:
  - (a) gasfitting work to which clause 6 applies, or
  - (b) gasfitting work carried out on a gas installation to which gas is supplied otherwise than from a gas network.

### 32 Gasfitting work to be carried out by, or under the supervision of, suitably qualified gasfitters

- (1) A person must not carry out gasfitting work to which this Part applies, or employ any other person to carry out any such work, unless the person by whom the work is carried out does so:
  - (a) under the authority of an appropriate supervisor certificate, or
  - (b) under the authority of an appropriate tradesperson certificate and under the general supervision of the holder of an appropriate supervisor certificate, or
  - (c) under the immediate supervision of the holder of an appropriate supervisor certificate.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

- (2) In this clause:

***supervisor certificate***, in relation to a particular kind of gasfitting work, means a supervisor certificate in force under the *Home Building Act 1989* authorising the holder to carry out, and to supervise, that kind of work, and includes a licence endorsed under that Act to show that it is the equivalent of such a certificate.

***tradesperson certificate***, in relation to a particular kind of gasfitting work, means a tradesperson certificate in force under the *Home Building Act 1989* authorising the holder to carry out that kind of work under general supervision.

Clause 33	Gas Supply (Safety and Network Management) Regulation 2008
Part 5	Gasfitting work

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### 33 Gasfitting work to comply with certain standards

- (1) A person must not carry out gasfitting work to which this Part applies otherwise than in accordance with:
  - (a) in the case of all gasfitting work:
    - (i) AS 5601, or
    - (ii) if that standard is not applicable to the work, AS 4041, and
  - (b) in the case of gasfitting work involving installations or systems that convey liquefied petroleum gas, AS/NZS 1596.Maximum penalty: 20 penalty units.
- (2) Without affecting the generality of subclause (1), a person must not connect a gas appliance to a gas installation or modify a gas appliance connected to a gas installation unless the appliance (or appliance as modified) is a certified gas appliance within the meaning of the *Gas Supply (Gas Appliances) Regulation 2004*.  
Maximum penalty: 20 penalty units.

### 34 Testing for defects and certificates of compliance

- (1) Immediately after completing gasfitting work on a gas installation, the person responsible for the carrying out of the gasfitting work:
  - (a) must test the installation for defects, and
  - (b) must inspect all gas appliances connected to the installation.Maximum penalty: 20 penalty units.
- (2) Immediately after testing a gas installation following the completion of gasfitting work, the person responsible for the carrying out of the gasfitting work must issue a certificate of compliance with respect to that work:
  - (a) to the owner of the installation, or
  - (b) to a person having the control or management of the installation.Maximum penalty: 20 penalty units.
- (3) The person responsible for the carrying out of the gasfitting work must, within 7 days after completing the gasfitting work, send a copy of the certificate of compliance to the relevant network operator.  
Maximum penalty: 20 penalty units.
- (4) A certificate of compliance:
  - (a) must be in a form approved by the Director-General, and
  - (b) must indicate the nature of the gasfitting work that has been carried out, and

Gas Supply (Safety and Network Management) Regulation 2008

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Part 5

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- (c) must state that the gasfitting work has been carried out in accordance with any relevant gasfitting rules, AS 5601 or AS/NZS 1596, whichever is appropriate, and
- (d) must indicate whether or not the gas installation is in safe working order.
- (5) A person who issues a certificate of compliance must retain a copy of the certificate for 5 years from the date on which it was issued.  
Maximum penalty: 20 penalty units.
- (6) This clause does not apply to gasfitting work involving the disconnection of a gas appliance from a gas installation.
- (7) In this clause:  
*person responsible*, in relation to the carrying out of gasfitting work means the person who carries out the gasfitting work, or who supervises the carrying out of the gasfitting work, under the authority of an appropriate supervisor certificate referred to in clause 32 (1).

Clause 35	Gas Supply (Safety and Network Management) Regulation 2008
Part 6	Miscellaneous

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## Part 6 Miscellaneous

### 35 Reports to the Director-General

- (1) A safety and operating plan must include a schedule of reports to be made to the Director-General in relation to the maintenance and safety aspects of the operation of the gas network.
- (2) If the Director-General directs that the schedule should provide for:
  - (a) reports in respect of particular maintenance or safety aspects of the operation of the gas network, or
  - (b) all or any of the reports referred to in subclause (3),the network operator must comply with that direction.
- (3) The Director-General may direct a network operator to prepare reports, and the network operator must comply with any such direction, in relation to all or any of the following matters:
  - (a) gas network assets (for example, reports concerning the total length of the gas network, or descriptions of the gas network),
  - (b) the safety and integrity of the gas network (for example, reports on the number of incidents of mechanical damage occurring in network operations, or the number of emergency exercises conducted),
  - (c) the reliability of the gas network and consumer-related matters (for example, reports concerning incidents of poor pressure supply, deviations from gas quality specifications, or unaccounted for gas),
  - (d) any matter relating to high-pressure gas operations, that is, gas operations involving pressure exceeding 1050 kilopascals (for example, reports concerning corrosion inspections, or third-party activities impacting on high-pressure gas operations),
  - (e) any matters which, under this Regulation or the safety and operating plan, require immediate reporting (for example, reports concerning the reporting of emergencies, accidents, non-compliant gas, or any other incident that the plan requires to be reported as soon as practicable after the incident occurs).

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

### 36 Delegations

The Director-General may delegate to any person the exercise of all or any of the Director-General's functions (other than this power of delegation) under this Regulation.

Gas Supply (Safety and Network Management) Regulation 2008

Clause 37

Miscellaneous

Part 6

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**37 Repeal**

The *Gas Supply (Savings and Transitional) Regulation 1991* is repealed.

**38 Savings**

Any act, matter or thing that, immediately before the repeal of the *Gas Supply (Safety Management) Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.



## Gas Supply (Safety and Network Management) Regulation 2008

## Schedule 1 Safety and operating plans

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**Schedule 1 Safety and operating plans**

(Clause 12 (4))

**1 General provisions of safety and operating plan**

The general matters that must be included in a safety and operating plan are as follows:

- (a) a statement that sets out the objectives of the plan,
- (b) a description of the management structure of the network operator and a schedule identifying each person designated by the network operator as being responsible for the development, approval and implementation of the plan,
- (c) identification of the distribution districts to which the plan applies and of those procedures set out or referred to in the plan that apply only in relation to a particular distribution district,
- (d) a description of the gas network within each distribution district, and of its operation and maintenance,
- (e) a statement to the effect that all procedures set out or referred to in the plan are in place and have been tested and proved,
- (f) if the plan sets out requirements relating to high-pressure gas operations (that is, gas operations involving pressure exceeding 1050 kilopascals), a statement to the effect that such requirements are consistent with the requirements of AS 2885.

**2 Description of gas network**

A description of a gas network, and its operation and maintenance, within each distribution district of the network operator must include all of the following:

- (a) the range of supply pressures applied within each distribution district,
- (b) references to maps showing the location of the gas works of each distribution district and the procedures for gaining access to those maps,
- (c) a description of the gas works within each distribution district,
- (d) a description of the engineering records that the network operator maintains, the location of those records, and the procedures for maintaining, filing and gaining access to those records.

**3 Analysis of hazardous events**

- (1) An analysis of hazardous events must be prepared in relation to each distribution district of the network operator unless subclause (2) applies.

## Gas Supply (Safety and Network Management) Regulation 2008

## Safety and operating plans

## Schedule 1

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- (2) A common analysis of hazardous events may be prepared in relation to those distribution districts of the network operator that possess the same characteristics from which the risk of hazardous events may be identified.
  - (3) If a new gas network is to be constructed or an existing gas network extended, an analysis of hazardous events must be prepared in relation to the construction or extension before its construction is commenced.
  - (4) An analysis of hazardous events must, consistent with the size and complexity of each distribution district or proposed distribution district, concerned:
    - (a) identify the range of supply pressures applied within each distribution district (or to be applied within each proposed distribution district, as the case may be), and
    - (b) systematically identify hazardous events that might be expected to occur, and
    - (c) identify the potential causes of those events, and
    - (d) identify the possible consequences of those events, and
    - (e) specify operational, maintenance and organisational measures intended to prevent those events from occurring or, should they occur, intended to protect operating personnel, plant, equipment, the community and the environment.
  - (5) The operational and maintenance measures must include a maintenance schedule indicating, among other things, the type and frequency of inspections, coating surveys and checks on cathodic protection devices (if such coatings or devices are used).
  - (6) In the case of new gas networks or extensions to existing networks, an analysis of hazardous events should also take into account hazardous events that may occur during construction.
  - (7) A safety and operating plan must include a description of the methodology to be used to conduct an analysis of hazardous events.
  - (8) An analysis of hazardous events in relation to any section of a distribution district that may operate at pressures exceeding 1050 kilopascals must comply with the requirements for risk assessment provided for in AS 2885.

**4 Emergencies**

- (1) A safety and operating plan is to identify the emergency procedures to be implemented by the network operator to ensure an effective response to emergencies.

## Gas Supply (Safety and Network Management) Regulation 2008

Schedule 1 Safety and operating plans

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- (2) The types of emergencies in respect of which procedures must be implemented include (as a minimum):
- (a) fires, explosions, leaks and impacts (with particular reference to those caused by the activities of other parties), and
  - (b) natural disasters, and
  - (c) civil disturbances.
- (3) A safety and operating plan must identify the procedures implemented by the network operator that ensure:
- (a) all emergency procedures have been tested and proved, and
  - (b) all emergency procedures are reviewed and tested on a regular basis.

**5 Gas quality**

The gas quality standards to be applied must include standards relating to the following:

- (a) heating value,
- (b) relative density,
- (c) composition and purity.

**6 Procedures for ensuring that gas is malodorous**

A safety and operating plan must:

- (a) identify the procedures to be implemented by the network operator to ensure that gas conveyed or supplied has a distinctive and unpleasant odour, and
- (b) specify the odoriferous substances to be used, and
- (c) specify the odour intensities.

**7 Procedures for testing gas**

- (1) A safety and operating plan must identify the procedures to be implemented by the network operator to ensure that gas conveyed or supplied:
- (a) meets the relevant gas quality and pressure standards, and
  - (b) complies with the relevant gas specification.
- (2) A safety and operating plan must specify:
- (a) the equipment to be provided and maintained by or on behalf of the network operator for the testing of gas (including the order of accuracy of results the equipment delivers), and
  - (b) the place or places at which the equipment is to be kept, and

## Gas Supply (Safety and Network Management) Regulation 2008

## Safety and operating plans

## Schedule 1

- 
- (c) how often calibration tests are to be conducted on the equipment to ensure its accuracy, and
  - (d) how often gas testing is to be carried out.

**8 Procedures for connection of gas supply to a gas installation**

A safety and operating plan is to identify the procedures to be implemented by the network operator to ensure that gas installations are safe for the connection or reconnection of the supply of gas.

**9 Plan must incorporate any relevant management system standards**

A safety and operating plan is to incorporate any management system standards that are relevant to the management of a gas network (for example, standards relating to document control, record management, and procedures for conducting audits and management reviews).

**10 Codes and standards**

A safety and operating plan must specify the codes and standards that the network operator intends to follow in the design, installation, operation and maintenance of the gas network, and the year of publication of those codes and standards.

**11 Meters, regulators and other basic metering equipment**

- (1) A safety and operating plan must require any device or equipment used in the gas network (including any basic metering equipment):
  - (a) to be suitable for the design working pressure of the part or parts of the network in which it is used, and
  - (b) if installed, to be installed so as not to interfere with metering accuracy.
- (2) A safety and operating plan must require pressure regulators operating with an outlet pressure of more than 35 kilopascals and any compensating devices to be sealed.
- (3) In this clause:

***basic metering equipment*** means a gas meter and any one or more of the following used in conjunction with gas meters:

  - (a) valves to isolate gas supply,
  - (b) pipework (including a combination of pipes, flanges, tees, elbows and other pipe-connecting equipment designed to convey gas),
  - (c) fittings, smaller instruments used in connection with fittings, pressure sensing tubing and tube fittings, instrument valves and associated equipment,

## Gas Supply (Safety and Network Management) Regulation 2008

## Schedule 1 Safety and operating plans

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- (d) filters (being devices designed to trap and remove foreign matter from gas streams),
  - (e) pressure regulators (being devices designed to reduce and control pressure),
  - (f) over-pressure protection devices (being devices designed to protect downstream equipment from exposure to excessive pressure if upstream equipment fails),
  - (g) non-return valves (being devices designed to ensure that gas flow travels in one direction and to prevent reverse flow),
  - (h) mechanical indexes (being devices designed to indicate consumption of raw metered gas),
  - (i) meter bars and other equipment designed to support a gas meter, and associated equipment that forms part of the meter installation,
  - (j) electrical connections and wiring designed to convey electrical signals for gas meters, flow correction devices, alarms and metering communications equipment,
  - (k) flow correction devices or software designed to enable raw metering data to be adjusted for the effects of temperature, pressure and gas quality (or any of these) and to be referenced to standard pressure and temperature conditions,
  - (l) temperature and pressure correction devices or software designed to enable raw metering data to be adjusted for the effects of temperature and pressure,
  - (m) devices and equipment designed to analyse and calculate the heating value of a gas stream (for example, chromatography equipment and calorimeters).

**12 Gasfitting rules**

- (1) A safety and operating plan must establish rules concerning the manner in which any work to which clause 6 of this Regulation applies is to be carried out.
- (2) Any rules so established must be no less stringent than any code of practice or standard that is applied to any such work by any regulations under the Act.
- (3) A safety and operating plan must identify procedures that provide for the authorising of persons to:
  - (a) connect or disconnect gas supply to or from a gas installation,
  - (b) install or maintain a consumer service,

Gas Supply (Safety and Network Management) Regulation 2008

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- (c) install or replace a gas meter or any part of the basic metering equipment.

**13 Identification of ownership of pipes**

A safety and operating plan must identify procedures to be implemented by the network operator to ensure that the network operator can identify its pipes as such if necessary (for example, in the case of an emergency).



New South Wales

# Health Services Regulation 2008

under the

Health Services Act 1997

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Health Services Act 1997*.

REBA MEAGHER, M.P.,  
Minister for Health

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Health Services Regulation 2003* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the appointment of visiting practitioners,
- (b) the transfer of accrued leave entitlements of persons transferring employment between the NSW Health Service and affiliated health organisations,
- (c) administrators of board governed health corporations,
- (d) the persons that are permitted to provide ambulance transport,
- (e) appeals to the Minister for Health in respect of certain decisions of public health organisations,
- (f) the management of Samaritan Funds,
- (g) the description of certain area health services,
- (h) savings and formal matters.

This Regulation is made under the *Health Services Act 1997*, including sections 18 (2), 52 (5), 64A (2) and (3), 67E (3) (e), 133 (3) and 140 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Health Services Regulation 2008

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Health Services Regulation 2008

Clause 1

Preliminary

Part 1

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## Health Services Regulation 2008

under the

Health Services Act 1997

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Health Services Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Health Services Regulation 2003* which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Interpretation

(1) In this Regulation:

*the Act* means the *Health Services Act 1997*.

(2) Notes in this Regulation do not form part of this Regulation.

Clause 4 Health Services Regulation 2008

Part 2 Visiting practitioners

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## Part 2 Visiting practitioners

### 4 Definitions

In this Part:

*clinical privileges* has the same meaning as it has in section 105 (2) of the Act.

*medical and dental appointments advisory committee* or *advisory committee*, in relation to a public health organisation, means a committee:

- (a) established by the public health organisation, and
- (b) having the function of advising the public health organisation in relation to the appointment of persons as visiting practitioners to the public health organisation and the clinical privileges that should be granted to those persons.

### 5 Advertising of available appointments as visiting practitioners

- (1) A public health organisation that decides to make available an appointment as a visiting practitioner must advertise the availability of the appointment in at least one newspaper circulating generally in New South Wales. The public health organisation may, in addition, advertise the availability in other ways.
- (2) An application for appointment as a visiting practitioner is to be made in writing to the public health organisation concerned and is to include:
  - (a) a statement setting out, in a manner that satisfies the public health organisation, the clinical privileges sought by the applicant, and
  - (b) an authority for the medical and dental appointments advisory committee of the public health organisation to obtain information as to the applicant's past performance as a medical practitioner or dentist, as the case may be.
- (3) On receipt of the application, the public health organisation is to refer the application to the advisory committee for advice.
- (4) Subclauses (1)–(3) do not apply:
  - (a) to an appointment as a visiting practitioner that is to be held as part of the duties of a person who is to be or has been appointed to a teaching position at a tertiary institution, or
  - (b) to an appointment as a visiting practitioner that is to be held by a person for a period of not more than 6 months, or
  - (c) to any appointment as a visiting practitioner, to the extent that the Director-General determines that the provisions of those subclauses are not to apply.

Health Services Regulation 2008

Clause 6

Visiting practitioners

Part 2

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- (5) A determination under subclause (4) (c):
- (a) may be made in respect of a particular appointment or in respect of appointments of any specified kind or description, and
  - (b) must be made in writing.

#### **6 Appointment and conditions to be in written agreement**

- (1) A person is to be appointed as a visiting practitioner to a public health organisation by written agreement between the person and the public health organisation.
- (2) The written agreement must specify the conditions to which the appointment is subject, including the clinical privileges of the visiting practitioner.
- (3) However, subclause (2) does not require conditions prescribed by or under the Act to be included in the written agreement.

#### **7 Term of appointment**

- (1) The period for which a person may be appointed as a visiting practitioner is such period (not exceeding 5 years) as the public health organisation determines.
- (2) A person is, if otherwise qualified, eligible for re-appointment from time to time.
- (3) Despite subclause (1), a person may be appointed as a visiting practitioner for the duration of the person's appointment to a teaching position at a tertiary institution (or for such lesser period as the public health organisation may determine) if the public health organisation has first obtained the advice of the medical and dental appointments advisory committee about the length of the appointment.
- (4) Despite subclause (1), a person may be appointed as a visiting practitioner for a period exceeding 5 years, but not exceeding 10 years, if the Director-General, in the particular circumstances of the case, approves the additional period of appointment.

#### **8 Resignation**

- (1) A person may resign an appointment as a visiting practitioner by giving 3 months' written notice of resignation to the public health organisation concerned.
- (2) However, a public health organisation may waive that requirement for notice or accept a lesser period of time for the giving of such notice if, in the opinion of the public health organisation, it is reasonable to do so.

Clause 9	Health Services Regulation 2008
Part 3	Transfer of accrued leave entitlements

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## Part 3 Transfer of accrued leave entitlements

### 9 Definitions

In this Part:

*accrued leave* means leave of any description that is owing to a person (but not taken), and includes any leave to which a person would have been entitled in the event of illness.

*non-declared AHO* means an affiliated health organisation that is not a declared affiliated health organisation within the meaning of section 62A of the Act.

### 10 Transfer of accrued leave—moving from non-declared AHO to NSW Health Service

#### (1) Period between employment must be continuous

This clause applies in relation to a person only if the person's employment in the NSW Health Service immediately follows the person's employment with a non-declared AHO. However, this clause does apply in relation to a person's accrued long service leave entitlement if the break in employment is no longer than 2 months.

#### (2) Transfer of existing leave balance

If a person:

- (a) ceases to be employed by a non-declared AHO, and
- (b) commences employment in the NSW Health Service in connection with a public health organisation,

the person is taken to have the amount of any accrued leave to which the person was entitled immediately before ceasing to be employed by the non-declared AHO.

#### (3) Election to cash-out accrued annual or long service leave

In the case of any such accrued leave that comprises annual leave or long service leave, the person may, instead of retaining the entitlement to that accrued leave, elect to be paid the money value of that accrued leave.

#### (4) Limit on how much accrued annual leave can be retained

The amount of any accrued annual leave that a person may retain under this clause cannot, except with the approval of the Director-General, exceed the amount of annual leave that the person was entitled to over a 2-year period as an employee of the non-declared AHO.

Health Services Regulation 2008

Clause 11

Transfer of accrued leave entitlements

Part 3

**(5) Liability for cost of existing annual or long service leave**

The non-declared AHO is liable for the cost of any annual or long service leave entitlements in respect of the person concerned that have accrued up until the date on which the person ceases to be employed by the non-declared AHO.

**(6) Orders under section 64 of the Act**

This clause does not apply in relation to a person who ceases to be employed by a non-declared AHO by the operation of an order under section 64 of the Act.

**11 Transfer of accrued leave—moving from NSW Health Service to non-declared AHO****(1) Period between employment must be continuous**

This clause applies in relation to a person only if the person's employment with a non-declared AHO immediately follows the person's employment in the NSW Health Service. However, this clause does apply in relation to a person's accrued long service leave entitlement if the break in employment is no longer than 2 months.

**(2) Transfer of existing leave balance**

If a person:

- (a) ceases to be employed in the NSW Health Service in connection with a public health organisation, and
- (b) commences employment with a non-declared AHO,

the person is taken to have the amount of any accrued leave to which the person was entitled immediately before ceasing to be employed in the NSW Health Service.

**(3) Election to cash-out accrued annual or long service leave**

In the case of any such accrued leave that comprises annual leave or long service leave, the person may, instead of retaining the entitlement to that accrued leave, elect to be paid the money value of that accrued leave.

**(4) Limit on how much accrued annual leave can be retained**

The amount of any accrued annual leave that a person may retain under this clause cannot, except with the approval of the non-declared AHO, exceed the amount of annual leave that the person was entitled to over a 2-year period as a member of the NSW Health Service.

Clause 11 Health Services Regulation 2008

Part 3 Transfer of accrued leave entitlements

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(5) **Liability for cost of existing annual or long service leave**

The Government of New South Wales is liable for the cost of any annual or extended leave entitlements in respect of the person concerned that have accrued up until the date on which the person ceases to be employed in the NSW Health Service.

Health Services Regulation 2008

Clause 12

Miscellaneous

Part 4

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## Part 4 Miscellaneous

### 12 Area health service descriptions

- (1) A reference in Column 2 of Schedule 1 to the Act to *Sydney (part)*, in relation to the Sydney South West Area Health Service, is a reference to all that western sector of the local government area of Sydney created by a boundary which commences at the most northerly point where the eastern boundary of CCD 1 402 003 intersects with the western boundary of CCD 1 400 114 and which then follows in a generally southerly direction the eastern boundaries of CCDs 1 400 205, 1 402 006, 1 402 013, 1 400 801, 1 400 810, 1 400 811, 1 400 901, 1 400 904, 1 400 905, 1 400 906, 1 400 907, 1 400 908, 1 400 914, 1 400 915, 1 400 706, 1 400 607 and 1 400 615 and ending where CCD 1 400 613 intersects with the boundary of the local government area of Marrickville.
- (2) A reference in Column 2 of Schedule 1 to the Act to *Sydney (part)*, in relation to the South Eastern Sydney and Illawarra Area Health Service, is a reference to all that eastern sector of the local government area of Sydney created by a boundary which commences at the most northerly point where the western boundary of CCD 1 400 114 intersects with the eastern boundary of CCD 1 402 003 and which then follows in a generally southerly direction the western boundaries of CCDs 1 402 018, 1 402 010, 1 402 017, 1 402 016, 1 402 008, 1 402 020, 1 401 212, 1 401 217, 1 401 215, 1 401 214, 1 401 211, 1 401 112, 1 401 113, 1 401 114 and 1 401 008 until it meets the boundary of the local government area of Randwick, then generally westerly following the northern boundaries of CCDs 1 400 715, 1 400 606 and 1 400 608, ending at the most south westerly point of CCD 1 400 608 where it intersects with the boundary of the local government area of Botany Bay.
- (3) In this clause:  
**CCD** means a Census Collection District determined by the Australian Bureau of Statistics for the 2001 Census of Population and Housing.

### 13 Provisions with respect to administrators

- (1) In this clause:  
**administrator** means an administrator of a statutory health corporation appointed under section 52 of the Act.
- (2) On the expiration of a person's appointment or reappointment as administrator, the Governor may, by order published in the Gazette, reappoint the person as administrator for a further period or appoint another person as administrator.

Clause 14 Health Services Regulation 2008

Part 4 Miscellaneous

- (3) The Governor may, by order published in the Gazette:
  - (a) remove from the office of administrator any person appointed to that office, or
  - (b) appoint a person to fill a vacancy in the office of administrator.
- (4) The Minister may appoint a person to act in the office of an administrator during the illness or absence of the administrator, and the person, while so acting, has and may exercise all the functions of the administrator and is taken to be administrator.
- (5) The Minister may remove from the office of administrator any person appointed to act in that office under subclause (4).
- (6) If the administrator of a statutory health corporation was, immediately before his or her appointment under section 52 (1) (c) of the Act, the chief executive of the corporation, the person is declared to be an unattached officer of the corporation.
- (7) An unattached officer of a statutory health corporation continues to be employed by the corporation, in accordance with section 51 (6) of the Act, until the person ceases to be the administrator of the corporation.

#### **14 Provision of ambulance transport**

For the purposes of section 67E (3) (e) of the Act, the Sydney West Area Health Service, in respect of services provided or operations conducted by the NSW newborn & paediatric Emergency Transport Service (*NETS*), is a person to whom section 67E does not apply.

#### **15 Appeals concerning appointment decisions**

- (1) An appeal under section 106 of the Act may be withdrawn at any time before the determination of the appeal by the appellant giving written notice of the withdrawal to the Minister in the form and manner approved by the Minister from time to time.
- (2) The Committee is not required to determine an appeal that has been withdrawn.

#### **16 Samaritan Funds**

- (1) In this clause:
 

*Samaritan Fund* of a public health organisation means the Samaritan Fund of the organisation referred to in section 133 (2) of the Act.

*Special Purposes and Trust Fund*, in relation to a public health organisation, means the fund of that name established by the public health organisation.



Health Services Regulation 2008

Clause 17

Miscellaneous

Part 4

- 
- (2) The Samaritan Fund of a public health organisation is to be kept as a separate account in its Special Purposes and Trust Fund.
  - (3) The Minister may determine the manner in which the accounts for a Samaritan Fund are to be kept and the circumstances in which those accounts are to be audited.
  - (4) Money is not to be withdrawn from the Samaritan Fund of a public health organisation except by, or with the written approval of, the chief executive (or person authorised in writing by the chief executive) of the public health organisation.
  - (5) Money is not to be withdrawn from the Samaritan Fund of a public health organisation except for payment to, or for the purchase of items for, a necessitous patient or necessitous outgoing patient. The payment or purchase may be made only if it is essential to the well-being of the patient.

#### **17 Savings**

Any act, matter or thing that, immediately before the repeal of the *Health Services Regulation 2003*, had effect under that Regulation continues to have effect under this Regulation.



New South Wales

# Higher Education Regulation 2008

under the

Higher Education Act 2001

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Higher Education Act 2001*.

JOHN HATZISTERGOS, M.L.C.,  
Acting Minister for Education and Training

## Explanatory note

The object of this Regulation is to remake, with some amendments, the provisions of the *Higher Education Regulation 2003* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation includes a number of new fees payable under the *Higher Education Act 2001* (*the Act*) in respect of registration, authorisation and approval of educational institutions and the accreditation of courses of study.

This Regulation makes provision with respect to the following:

- (a) the fees payable under the Act,
- (b) the application of sections 14 (Unlawful provision of higher education courses) and 15 (Unlawful conferral of higher education qualifications) of the Act in circumstances where an education institution's registration under the Act is suspended or cancelled or where a course of study's accreditation under the Act is suspended or cancelled in relation to an education institution,
- (c) savings and formal matters.

This Regulation is made under the *Higher Education Act 2001*, including section 25 (the general regulation-making power).

Higher Education Regulation 2008

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Higher Education Regulation 2008

Clause 1

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## Higher Education Regulation 2008

under the

Higher Education Act 2001

### 1 Name of Regulation

This Regulation is the *Higher Education Regulation 2008*.

### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Higher Education Regulation 2003* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Interpretation

- (1) In this Regulation:  
*the Act* means the *Higher Education Act 2001*.
- (2) Notes in this Regulation do not form part of this Regulation.

### 4 Fees

- (1) The fees set out in Schedule 1 are payable with respect to the matters referred to in that Schedule.
- (2) The fees set out in Schedule 1 apply equally to applications for registration, accreditation, authorisation or approval and applications for the renewal of registration, accreditation, authorisation or approval.
- (3) The annual fees referred to in Schedule 1 are payable on 31 July in each year if on the first day of that month:
  - (a) the registration is current, in the case of an annual registration fee, or
  - (b) the education institution is included in Part 2 of Schedule 1 to the Act in the case of an annual fee for inclusion in that Part, or
  - (c) the approval is in force in the case of an annual approval fee.
- (4) The Director-General may waive, remit, reduce or refund any fee that is payable under the Act.  
**Note.** The fees set out in Schedule 1 will generally be subject to an annual review and indexation.

Clause 5 Higher Education Regulation 2008

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**5 Sections 14 and 15 of Act not to apply to certain matters following suspension or cancellation of registration or accreditation**

- (1) This clause applies in circumstances in which:
  - (a) an education institution's registration under the Act is suspended or cancelled, or
  - (b) a course of study's accreditation under the Act is suspended or cancelled in relation to an education institution.
- (2) Section 14 of the Act does not apply to any representation to the effect that the education institution concerned provides, or is authorised to provide, any degree or post-graduate course to persons who commenced the course before the relevant registration or accreditation was suspended or cancelled, as the case may be.
- (3) Section 15 of the Act does not apply to any representation to the effect that the education institution concerned is authorised to confer a degree or post-graduate qualification in relation to any degree or post-graduate course on persons who commenced the course before the relevant registration or accreditation was suspended or cancelled, as the case may be.

**6 Savings provision**

Any act, matter or thing that, immediately before the repeal of the *Higher Education Regulation 2003*, had effect under that Regulation continues to have effect under this Regulation.

Higher Education Regulation 2008

Fees

Schedule 1

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## Schedule 1 Fees

(Clause 4)

**Australian and overseas universities**

Application by education institution of this State for Minister's recommendation under section 4 of Act and preliminary review of application	\$10,000
Application by education institution of the Commonwealth, another State or a Territory for Minister's recommendation under section 4 of Act	\$3,000
Assessment of education institution of this State in connection with application for Minister's recommendation under section 4 of Act	\$40,000
Application by education institution for registration as an overseas university under section 5 of Act	\$10,000
Assessment of education institution in connection with application for registration as an overseas university under section 5 of Act	\$40,000
Annual fee for registration as an overseas university under section 5 of Act	\$2,000
Annual fee for education institution included in Part 2 of Schedule 1 to Act	\$2,000
Application fee for 5 yearly review under the National Protocols of education institution included in Part 2 of Schedule 1 to Act	\$10,000
Undertaking 5 yearly review under the National Protocols of education institution included in Part 2 of Schedule 1 to Act	\$40,000

**Australian and overseas higher education institutions**

Application by education institution for registration as an Australian or overseas higher education institution under section 5 of Act	\$3,000
Assessment of education institution in connection with application for registration as an Australian or overseas higher education institution under section 5 of Act	\$5,000
Annual fee for registration of education institution under section 5 of Act as an Australian or overseas higher education institution	\$2,000
Assessment of education institution in connection with application by institution to vary or revoke any condition of registration under section 6 of Act	\$3,000
Assessment of an overseas location for the delivery of a course of study (per location)	\$5,000
Assessment of application by education institution to vary particulars of its registration	\$3,000

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Page 5

## Higher Education Regulation 2008

## Schedule 1 Fees

**Accreditation of higher education courses by Director-General**

Application for accreditation of course of study under section 7 of Act (per course) \$2,000

Assessment of course of study in connection with application for accreditation under section 7 of Act (per course):

- |  |         |
|--|---------|
| (a) Diploma or advanced diploma              | \$3,500 |
| (b) Associate degree                         | \$4,250 |
| (c) Bachelor degree                          | \$5,000 |
| (d) Graduate certificate or graduate diploma | \$3,500 |
| (e) Masters degree                           | \$7,000 |
| (f) Doctoral degree                          | \$7,000 |

Assessment of application by education institution to vary or revoke any condition under section 8 of Act (per course) \$3,000

Assessment of application by education institution to vary particulars of accreditation of a course of study \$3,000

Approval of a course of an overseas university or higher education institution under the National Protocols \$2,000

**Accreditation of higher education courses by institution**

Application to Director-General under section 7 for authorisation for an education institution to accredit courses provided by the institution \$6,000

Assessment of an application to Director-General under section 7 for authorisation for an education institution to accredit courses provided by the institution \$30,000

Application to vary particulars of authorisation for an education institution to accredit courses provided by the institution \$5,000

Assessment of application to vary particulars of authorisation for an education institution to accredit courses provided by the institution \$5,000

**Approval to provide courses of study to overseas students**

Application for approval of education institution in relation to courses of study under section 10 of Act \$5,000

Annual fee for approval of education institution under section 10 of Act:

- |  |         |
|--|---------|
| (a) if number of courses covered by approval does not exceed 5 | \$1,000 |
| (b) if number of courses covered by approval exceeds 5         | \$2,000 |

Assessment of application by education institution to vary or revoke any condition of approval under section 11 of Act \$3,000

## Higher Education Regulation 2008

## Fees

## Schedule 1

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Assessment of application by education institution to vary its particulars of approval to add, suspend or cancel a course of study	\$1,000
Assessment of application by education institution to vary its particulars of approval to add new course delivery locations (per location)	\$3,000
Application by education institution to vary its particulars of registration other than to add, suspend or cancel a course of study or to add new course delivery location	\$500





New South Wales

# Marine Safety Amendment Regulation 2008

under the

Marine Safety Act 1998

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Marine Safety Act 1998*.

JOSEPH TRIPODI, M.P.,  
Minister for Ports and Waterways

## Explanatory note

The object of this Regulation is to amend the *Marine Safety Regulation 2008* to prescribe procedures for the safekeeping of samples of blood and urine taken for the purposes of testing for the presence of alcohol or drugs under the *Marine Safety Act 1998*. The procedures mirror procedures prescribed under clause 130 of the *Road Transport (Safety and Traffic Management) Regulation 1999* in relation to alcohol and drug testing under the road transport legislation.

This Regulation is made under the *Marine Safety Act 1998*, including section 137 (the general regulation-making power) and clause 34 of Schedule 1.

Clause 1 Marine Safety Amendment Regulation 2008

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## **Marine Safety Amendment Regulation 2008**

under the

Marine Safety Act 1998

### **1 Name of Regulation**

This Regulation is the *Marine Safety Amendment Regulation 2008*.

### **2 Commencement**

This Regulation commences on 1 September 2008.

### **3 Amendment of Marine Safety Regulation 2008**

The *Marine Safety Regulation 2008* is amended as set out in Schedule 1.

Marine Safety Amendment Regulation 2008

Amendment

Schedule 1

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## Schedule 1 Amendment

(Clause 3)

### Clause 3A

Insert after clause 3:

#### **3A Security of blood and urine samples taken under Parts 2–5 of Schedule 1 to the Act**

- (1) After a sample of blood or urine taken under Part 2, 3, 4 or 5 of Schedule 1 to the Act is dealt with in accordance with clause 7 (3), 12 (1), 15 (3) or 20 (3) of that Schedule (as the case may require), the sample must be placed immediately in a locked security box of a type approved by the Commissioner of Police. It is to be kept in the security box until it is submitted to the laboratory in accordance with clause 7 (4), 12 (2), 15 (4) or 20 (4) of Schedule 1 to the Act.
- (2) A person must not destroy or otherwise interfere or tamper with a sample, or a portion of a sample, of a person's blood or urine taken under Part 2, 3 or 5 of Schedule 1 to the Act except as follows:
  - (a) after the expiration of 12 months commencing on the day the sample was taken,
  - (b) in the case of a sample—by or at the direction of an analyst:
    - (i) so as to permit a portion of the sample to be sent for analysis by a medical practitioner or laboratory nominated, under clause 7 (5), 12 (3) or 20 (5) of that Schedule, in an application made under the relevant clause by the person from whom the sample was taken, or
    - (ii) in the course of, or on completion of, an analysis of the sample,
  - (c) in the case of a portion of a sample—by or at the direction of the medical practitioner or laboratory nominated under clause 7 (5), 12 (3) or 20 (5) of that Schedule by the person from whom the sample was taken.
- (3) A person must not destroy or otherwise interfere or tamper with a sample, or a portion of a sample, of a person's blood or urine taken under Part 4 of Schedule 1 to the Act except as follows:

## Marine Safety Amendment Regulation 2008

## Schedule 1 Amendment

- 
- (a) after the expiration of 13 months commencing on the day the sample was taken,

**Note.** Clause 15 (11) of Schedule 1 to the Act provides that a blood or urine sample that has been provided under that clause must be destroyed by or at the direction of the analyst who has custody of the sample without being analysed if, at the expiry of 13 months after the accident concerned, no authorised officer has made a notification relating to a death (as provided under clause 15 (8)).

- (b) in the case of a sample—by or at the direction of an analyst:
- (i) so as to permit a portion of the sample to be sent for analysis by a medical practitioner or laboratory nominated, under clause 15 (5) of that Schedule, in an application made under the relevant clause by the person from whom the sample was taken, or
  - (ii) in the course of, or on completion of, an analysis of the sample,
- (c) in the case of a portion of a sample—by or at the direction of the medical practitioner or laboratory nominated under clause 15 (5) of that Schedule by the person from whom the sample was taken.

Maximum penalty (subclauses (2) and (3)): 20 penalty units.



New South Wales

# Medical Practice Regulation 2008

under the

Medical Practice Act 1992

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Medical Practice Act 1992*.

REBA MEAGHER, M.P.,  
Minister for Health

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Medical Practice Regulation 2003*, which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the requirements for the making and keeping of records by registered medical practitioners and medical corporations,
- (b) the procedures for notifying that a registered medical practitioner or medical student has become a mentally incapacitated person,
- (c) the offences that are excluded from the requirement that a court is to notify the Registrar of the New South Wales Medical Board if a registered medical practitioner is convicted of an offence,
- (d) the restrictions on the advertising of medical services,
- (e) the fees for inspecting, and having additional information recorded in, the Register of Medical Practitioners,
- (f) the infection control standards that registered medical practitioners must comply with,
- (g) savings and formal matters.

This Regulation is made under the *Medical Practice Act 1992*, including sections 70, 71 (1), 114, 126 (1) and 194 (the general regulation-making power) and clauses 21 (4) and 22 (2) of Schedule 1 and clause 10 of Schedule 4.

Medical Practice Regulation 2008

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Medical Practice Regulation 2008

Clause 1

Preliminary

Part 1

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## Medical Practice Regulation 2008

under the

Medical Practice Act 1992

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Medical Practice Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Medical Practice Regulation 2003* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

***medical corporation*** means a corporation engaged in the provision of medical services.

***patient*** means a person to whom medical treatment or other medical services are provided.

***record*** means a record required to be made and kept under Part 2.

***the Act*** means the *Medical Practice Act 1992*.

(2) In this Regulation, a reference to a registered medical practitioner who provides medical treatment or other medical services to a patient includes a reference to a registered medical practitioner who does so on behalf of a medical corporation.

(3) Notes in this Regulation do not form part of this Regulation.

Clause 4            Medical Practice Regulation 2008

Part 2              Records

## Part 2    Records

### 4    Records relating to patients

- (1) A registered medical practitioner or medical corporation engaged in the provision of medical services must, in accordance with this Part and Schedule 1, make and keep a record, or ensure that a record is made and kept, for each patient of the medical practitioner or corporation.
- (2) This clause does not affect section 127 (4) of the Act.
- (3) For avoidance of doubt, contravention of this clause is not an offence.
- (4) Subclause (1) does not apply to the following:
  - (a) a public health organisation within the meaning of the *Health Services Act 1997*,
  - (b) a private health facility,
  - (c) a nursing home within the meaning of the *Public Health Act 1991*.
- (5) Subclause (4) does not affect the application of subclause (1) to a registered medical practitioner appointed, employed, contracted or otherwise engaged by a medical corporation referred to in subclause (4).
- (6) In this clause:
 

**private health facility** means, until the commencement of Schedule 5.19 to the *Private Health Facilities Act 2007*, a private hospital or a day procedure centre.

**Note.** Although contravention of this clause is not an offence, section 36 of the Act provides that any contravention of the regulations by a registered medical practitioner is unsatisfactory professional conduct.

In the case of a corporation that is engaged in the provision of medical services, section 127 of the Act requires the corporation to appoint a registered medical practitioner to be responsible for record keeping by the corporation. If the corporation contravenes the record keeping requirements imposed by the regulations, the person so appointed is taken to have contravened the regulations.

Section 126 (2) of the Act requires a person who makes or keeps a record under the regulations to ensure that when the record is disposed of it is disposed of in such a manner as to preserve its confidentiality. Contravention of that provision is an offence.

### 5    When records are to be made

- (1) A record must be made contemporaneously with the provision of the medical treatment or other medical service or as soon as practicable afterwards.
- (2) This clause may be complied with by the making of further entries in a single record that relates to the patient concerned.



Medical Practice Regulation 2008

Clause 6

Records

Part 2

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**6 How long records are to be kept**

- (1) A record must be kept for at least 7 years from the date of last entry in the record, unless the patient was less than 18 years old at the date of last entry in the record.
- (2) If the patient was less than 18 years old at the date of last entry in the record, the record must be kept until the patient attains or would have attained the age of 25 years.
- (3) In this clause:  
*date of last entry in a record* means the date the patient concerned was last provided with medical treatment or other medical services by the registered medical practitioner or medical corporation who provided that treatment or those services.

**7 Disposal of medical practice**

- (1) If a registered medical practitioner or medical corporation disposes of a medical practice, the outgoing practitioner is taken to have complied with clause 6 if the outgoing practitioner makes reasonable efforts to ensure that the records are kept in accordance with that clause.
- (2) In this clause:  
*outgoing practitioner* means the registered medical practitioner or medical corporation disposing of a practice.  
*reasonable efforts* include:
  - (a) providing the records to the registered medical practitioner or medical corporation that acquires the outgoing practitioner's medical practice, or
  - (b) providing the records to the patient to whom they relate.

**8 Storage**

- (1) All reasonable steps must be taken to ensure that all records are kept in such a manner as to preserve the confidentiality of the information that is contained in them and to prevent them from being damaged, lost or stolen.
- (2) Despite subclause (1), a record must be reasonably accessible for the purpose of treating the patient to whom it relates.

Clause 9 Medical Practice Regulation 2008

Part 3 Miscellaneous

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## Part 3 Miscellaneous

### 9 Notice of mental incapacity of registered medical practitioner or medical student

- (1) For the purposes of section 70 of the Act, the person required to cause notice of mental incapacity to be given to the Registrar is:
  - (a) in the case of a registered medical practitioner or medical student who is a mentally incapacitated person and becomes a patient at a mental health facility because of that incapacity—the medical superintendent of the facility, or
  - (b) in the case of a registered medical practitioner or medical student who is a protected person under the *Protected Estates Act 1983*—the Protective Commissioner.
- (2) Notice for the purposes of section 70 of the Act is to be given by telephone by the next business day, and by post within the next 7 business days, after the day on which the registered medical practitioner or medical student is admitted to the facility or becomes a protected person, and is to specify the following:
  - (a) the name and residential address of the medical practitioner or medical student,
  - (b) the date on which the medical practitioner or medical student:
    - (i) was admitted to the facility at which the medical practitioner or medical student is a patient, or
    - (ii) became a protected person.
- (3) In this clause, **business day** means any day other than a Saturday, a Sunday or a public holiday throughout New South Wales.

### 10 Excluded offences (offences for which notice of conviction or criminal finding not required)

- (1) All the offences under the road transport legislation (within the meaning of the *Road Transport (General) Act 2005*) are prescribed offences for the purposes of section 71 of the Act, except for the following offences:
  - (a) an offence under section 25A (1), (2) or (3) of the *Road Transport (Driver Licensing) Act 1998*,
  - (b) an offence under section 171 (2) of the *Road Transport (General) Act 2005*,
  - (c) an offence under section 9, 12 (1), 42 (2), 43 or 70 of the *Road Transport (Safety and Traffic Management) Act 1999*,

Medical Practice Regulation 2008

Clause 11

Miscellaneous

Part 3

- 
- (d) an offence under section 42 (1) of the *Road Transport (Safety and Traffic Management) Act 1999*, but only if the person is, by way of penalty, sentenced to imprisonment or fined a sum of not less than \$200,
  - (e) any other offence under the road transport legislation if the court orders the disqualification of the person from holding a driver licence.
- (2) All offences relating to the parking of motor vehicles are prescribed offences for the purposes of section 71 of the Act.

**Note.** An offence prescribed by this clause is an **excluded offence** for the purposes of the Act. A conviction or criminal finding for an offence listed in this clause (apart from the offences listed in subclause (1) (a)–(e)) is not required to be notified or disclosed to the Registrar or to the Board under the provisions of the Act that require convictions and criminal findings made against medical practitioners to be so notified or disclosed (see sections 71, 127A and 127B of the Act and clause 3A of Schedule 1 to the Act).

## 11 Advertising

- (1) For the purposes of section 114 of the Act, a person (including a corporation) may advertise medical services in any manner, except as otherwise provided by this clause.
- Note.** Section 114 of the Act makes it an offence for a person (including a corporation) to advertise medical services except in accordance with the regulations.
- (2) Medical services must not be advertised in a manner that:
- (a) is false, misleading or deceptive, or
  - (b) creates an unjustified expectation of beneficial treatment, or
  - (c) promotes the unnecessary or inappropriate use of medical services.
- (3) Any scientific or statistical information used in advertising must be presented in a manner that can be readily understood by persons without any medical or scientific training or experience.
- (4) Any advertising that contains two or more photographs for the purpose of depicting a person before and after the person has received medical services must comply with the following:
- (a) photographs that purport to be of the same person must in fact be of the same person,
  - (b) the person or persons photographed must in fact have received the medical services that are being advertised,
  - (c) the medical services must have been performed by the medical practitioner whose services are being advertised or, in the case of advertising for medical services by a medical corporation, a

Clause 12 Medical Practice Regulation 2008

Part 3 Miscellaneous

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medical practitioner who is currently employed or otherwise engaged by the medical corporation to perform the medical services,

- (d) photographs of the same person must be presented in the same or a similar manner (including the same or similar framing, lighting and make-up).
- (5) Photographs of a person (or part of a person) used in advertising that depict, or claim to depict, the results of medical services (including photographs of a kind referred to in subclause (4)):
  - (a) must not be altered or manipulated in a misleading or deceptive manner, and
  - (b) must be accompanied by a statement, prominently displayed or communicated, to the effect that:
    - (i) the photographs show the result of the medical service performed on one person, and
    - (ii) there is no guarantee that other persons will experience the same or a similar result.

#### **12 Fee for inspection of Register**

For the purposes of clause 21 (4) of Schedule 1 to the Act, the prescribed amount (being the maximum fee for an inspection of the Register) is \$10.

#### **13 Fee for additional information to be recorded in Register**

For the purposes of clause 22 (2) of Schedule 1 to the Act, the prescribed fee (being the fee for recording additional particulars in the Register) is \$20.

#### **14 Infection control standards**

- (1) A registered medical practitioner must not, without reasonable excuse, fail to comply with the infection control standards set out in Schedule 2 to the extent that they apply to the medical practitioner in the practice of medicine.
- (2) In determining whether or not a registered medical practitioner has a reasonable excuse for failing to comply with a standard, particular consideration is to be given to the following:
  - (a) whether the circumstances involved the provision of emergency treatment,
  - (b) whether the medical practitioner's employer failed to provide the necessary equipment, including providing access to it and training in its use, that would have enabled the medical

Medical Practice Regulation 2008

Clause 15

Miscellaneous

Part 3

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practitioner to comply with the standard (and whether the failure to provide such equipment was reported by the medical practitioner to the Director-General).

**15 Savings and transitional**

- (1) Any act, matter or thing that, immediately before the repeal of the *Medical Practice Regulation 2003*, had effect under that Regulation continues to have effect under this Regulation.
- (2) Section 176 of the Act, as amended by the *Medical Practice Amendment Act 2008*, applies only to a Committee constituted by the Board under section 168 of the Act as amended by the *Medical Practice Amendment Act 2008*.

## Medical Practice Regulation 2008

## Schedule 1 Records relating to patients

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**Schedule 1 Records relating to patients**

(Clause 4)

**1 Information to be included in record**

- (1) A record must contain sufficient information to identify the patient to whom it relates.
- (2) A record must include the following:
  - (a) any information known to the registered medical practitioner who provides the medical treatment or other medical services to the patient that is relevant to his or her diagnosis or treatment (for example, information concerning the patient's medical history, the results of any physical examination of the patient, information obtained concerning the patient's mental state, the results of any tests performed on the patient and information concerning allergies or other factors that may require special consideration when treating the patient),
  - (b) particulars of any clinical opinion reached by the registered medical practitioner,
  - (c) any plan of treatment for the patient,
  - (d) particulars of any medication prescribed for the patient.
- (3) The record must include notes as to information or advice given to the patient in relation to any medical treatment proposed by the registered medical practitioner who is treating the patient.
- (4) A record must include the following particulars of any medical treatment (including any medical or surgical procedure) that is given to or performed on the patient by the registered medical practitioner who is treating the patient:
  - (a) the date of the treatment,
  - (b) the nature of the treatment,
  - (c) the name of any person who gave or performed the treatment,
  - (d) the type of anaesthetic given to the patient (if any),
  - (e) the tissues (if any) sent to pathology,
  - (f) the results or findings made in relation to the treatment.
- (5) Any written consent given by a patient to any medical treatment (including any medical or surgical procedure) proposed by the registered medical practitioner who treats the patient must be kept as part of the record relating to that patient.

Medical Practice Regulation 2008

Records relating to patients

Schedule 1

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## **2 General requirements as to content**

- (1) In general, the level of detail contained in a record must be appropriate to the patient's case and to the medical practice concerned.
- (2) A record must include sufficient information concerning the patient's case to allow another registered medical practitioner to continue management of the patient's case.
- (3) All entries in the record must be accurate statements of fact or statements of clinical judgment.

## **3 Form of records**

- (1) Abbreviations and shorthand expressions may be used in a record only if they are generally understood in the medical profession in the context of the patient's case or generally understood in the broader medical community.
- (2) Each entry in a record must be dated and must identify clearly the person who made the entry.
- (3) A record may be made and kept in the form of a computer database or other electronic form, but only if it is capable of being printed on paper.

## **4 Alteration and correction of records**

A registered medical practitioner or medical corporation must not alter a record, or cause or permit another person to alter a record, in such a manner as to obliterate, obscure or render illegible information that is already contained in the record.

## **5 Delegation**

If a person is provided with medical treatment or other medical services by a registered medical practitioner in a hospital, the function of making and keeping a record in respect of the patient may be delegated to a person other than the registered medical practitioner, but only if:

- (a) the record is made and kept in accordance with the rules and protocols of the hospital, and
- (b) the registered medical practitioner ensures that the record is made and kept in accordance with this Schedule.

Medical Practice Regulation 2008

Schedule 2 Infection control standards

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## Schedule 2 Infection control standards

(Clause 14)

### Part 1 Preliminary

#### 1 Definitions

(1) In this Schedule:

*body substance* includes any human bodily secretion or substance other than blood.

*invasive procedure* means any one or more of the following:

- (a) surgical entry into body tissue, cavities or organs,
- (b) surgical repair of injuries,
- (c) cardiac catheterisation and angiographic procedures,
- (d) vaginal or caesarean delivery or any other obstetric procedure during which bleeding may occur,
- (e) the manipulation, cutting, or removal of any oral or peri-oral tissue, including tooth structure, during which bleeding may occur.

*sharps* means any object capable of inflicting penetrating injury, and includes hollow bore needles, suture needles, scalpel blades, wires, trocars, auto lancets, stitch cutters and broken glassware.

(2) The requirements set out in this Schedule apply to a registered medical practitioner who is assisting in performing a procedure in the same way as they apply to a registered medical practitioner who is actually performing the procedure.

### Part 2 General standards applying to registered medical practitioners

#### 2 General precautions and aseptic techniques

- (1) Precautions must be taken to avoid direct exposure to a patient's blood or body substance. This requirement applies regardless of whether there is any perceived risk of infection.
- (2) Aseptic techniques must be used in the course of complying with the requirements of this Schedule.

#### 3 Hand and skin cleaning

- (1) Hands must be cleaned:
  - (a) immediately before and after any direct patient care, and



Medical Practice Regulation 2008

Infection control standards

Schedule 2

- 
- (b) immediately after handling blood or body substances.
  - (2) Subclause (1) does not apply in circumstances where medical treatment is required to be performed urgently and cleaning facilities are not readily available.
  - (3) Hands may be cleaned by:
    - (a) using washing facilities involving water and a soap or antiseptic, or
    - (b) using non-water cleansers or antiseptics.
  - (4) Hands or other skin surfaces that are contaminated with a patient's blood or body substance must be cleaned as soon as it is practicable to clean them.
  - (5) The requirement to clean hands applies regardless of whether gloves are also required to be worn.

#### **4 Protective gowns and aprons**

A gown or apron made of impervious material must be worn during any procedure where there is a likelihood of clothing being splashed or contaminated with blood or body substances.

#### **5 Gloves**

- (1) Gloves must be worn while handling blood or body substances.
- (2) In particular, gloves must be worn:
  - (a) during any procedure where direct contact is anticipated with a patient's blood or body substance, mucous membranes or skin that is not intact, and
  - (b) while suctioning a patient, and
  - (c) while handling items or surfaces that have come into contact with blood or body substances, and
  - (d) while performing an invasive procedure, venipuncture or a finger or heel stick.
- (3) Sterile gloves must be worn if the procedure involves contact with tissue that would be sterile under normal circumstances.
- (4) Gloves must be discarded:
  - (a) as soon as they are torn or punctured, and
  - (b) after contact with each patient.
- (5) Nothing in subclause (4) affects the operation of subclauses (1)–(3).

## Medical Practice Regulation 2008

## Schedule 2 Infection control standards

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- (6) Gloves must be changed if separate procedures are being performed on the same patient and there is a risk of infection from one part of the body to another.

**6 Masks and protective eye wear**

- (1) A fluid repellent mask and protective eye wear must be worn while performing any procedure where there is a likelihood of splashing or splattering of blood or body substances.
- (2) A mask must be worn when in close contact with patients known by the registered medical practitioner to have an infectious disease (or suspected by the medical practitioner of having such a disease) if the disease is capable of being transmitted by the airborne or droplet route. If the disease is tuberculosis, the mask must be a particulate mask that is capable of filtering to 0.3µm.
- (3) In cases where a mask is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (4) A mask must be discarded once it has been worn and it must not be used again.
- (5) In cases where protective eye wear is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (6) Protective eye wear must be discarded once it has been worn and not used again unless it is reusable (in which case it is to be cleaned in accordance with the manufacturer's instructions).

**7 Sharps**

- (1) Sharps must not be passed by hand between a registered medical practitioner and any other person. However, this requirement does not apply if, in any case involving an invasive procedure, the proper conduct of the procedure would be adversely affected.
- (2) A puncture resistant tray must be used to transfer sharps.
- (3) A needle must not be removed from a disposable syringe for disposal, or be purposely broken or otherwise manipulated by hand, unless:
- it is necessary to remove the needle for technical reasons, or
  - the medical practitioner is performing a procedure in which the needle is required to be bent.
- (4) A needle must not be bent after it is contaminated with blood or body substances.
- (5) In any case where resheathing of a needle is required:
- the needle must be properly recapped, and

Medical Practice Regulation 2008

Infection control standards

Schedule 2

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- (b) the sheath must not be held in the fingers, and
  - (c) either a single handed technique or forceps, or a suitable protective guard designed for the purpose, must be used.
- (6) Reusable sharps must, immediately after being used, be placed in a puncture resistant container specially kept for that purpose and labelled as such.
  - (7) Non-reusable sharps must, immediately after being used, be disposed of in a puncture resistant container.

#### **8 Management of waste**

- (1) Clinical waste must be properly packaged to protect against potential exposure to infectious agents and to facilitate the proper handling, storage and treatment or disposal of the waste.
- (2) Splashing or contamination of skin while disposing of blood or body substances must be avoided as far as practicable.
- (3) Nothing in this clause limits any other requirement under this Part.

### **Part 3 Specific standards applying to registered medical practitioners**

#### **9 Sterile medications and solutions**

- (1) A sterile needle and syringe must be used to withdraw any medication or solution from a vial or ampoule (or other similar container).
- (2) The needle and syringe must be discarded once the needle and syringe have been used.
- (3) A medication or solution may be taken from a multi-dose vial or ampoule (or other similar container) only if the medication or solution is not reasonably available in another form.
- (4) Precautions must be taken to ensure that contaminated material or fluid is not injected into a multi-dose vial or ampoule (or other similar container).

#### **10 Anaesthetic apparatus**

- (1) This clause applies in any case where anaesthetic apparatus is used.
- (2) Any anaesthetic apparatus that comes into contact with a patient or is contaminated with blood or body substances must be discarded, or cleaned and disinfected, after each patient.

## Medical Practice Regulation 2008

## Schedule 2 Infection control standards

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- (3) If the anaesthetic apparatus is a breathing circuit and the breathing circuit uses a filter:
- (a) the filter must be discarded after each patient, and
  - (b) the part of the breathing circuit between the patient and the filter must be discarded, or cleaned and disinfected, after each patient, and
  - (c) in any case where a carbon dioxide absorber is also used—the part of the breathing circuit between the carbon dioxide absorber and the filter must be discarded, or cleaned and disinfected, at the end of each procedure list or operation list (as applicable), and
  - (d) in those cases where a carbon dioxide absorber is not used—the breathing circuit tubing that conducts the gas to and from the filter must be discarded, or cleaned and disinfected, at the end of each procedure list or operation list (as applicable).

**11 Invasive procedures**

- (1) In cases where it is technically feasible, retractors must be used for exposure and access during an invasive procedure.
- (2) Fingers must not be used for the purposes of an invasive procedure to expose or increase access for the passage of a suture.
- (3) Only one sharp at a time is to be placed in a puncture resistant tray that is being used in connection with an invasive procedure.
- (4) Forceps or a needle holder must be used when carrying out suturing both to pick up the suture needle and to draw it through tissue.

**Part 4 Processing of instruments and equipment****12 Definitions**

In this Part:

*AS/NZS 4187* means AS/NZS 4187:2003, *Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities*, as in force from time to time.

*AS/NZS 4815* means AS/NZS 4815:2006, *Office-based health care facilities—Reprocessing of reusable medical and surgical instruments and equipment, and maintenance of the associated environment*, as in force from time to time.

Medical Practice Regulation 2008

Infection control standards

Schedule 2

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### 13 Cleaning of instruments and equipment

- (1) Any instrument or equipment that comes into contact with intact skin must be cleaned before it is used.
- (2) Any instrument or equipment that is required under this Part to be sterilised or disinfected must be cleaned before it is sterilised or disinfected.
- (3) The process of cleaning:
  - (a) must involve water and mechanical or physical action (such as washing machines) and a cleaning agent (with the cleaning agent being removed from instruments and equipment by rinsing), and
  - (b) must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.
- (4) In this clause *cleaning agent* means a detergent and includes proteolytic enzyme substances.

### 14 Disinfection of instruments and equipment

- (1) Any instrument or equipment that comes into contact with non-sterile tissue (other than intact skin) must, before it is used, be disinfected with a disinfectant specified in the Australian Register of Therapeutic Goods that is maintained under the *Therapeutic Goods Act 1989* of the Commonwealth, and the relevant manufacturer's instructions must be followed.
- (2) The process of disinfection:
  - (a) must involve either thermal methods or (if thermal methods are unsuitable) chemical methods, and
  - (b) must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.

### 15 Sterilisation of instruments and equipment

- (1) Any instrument or equipment used to enter, or that is capable of entering, tissue that would be sterile under normal circumstances, or the vascular system of a patient, must be sterilised before it is used.
- (2) The method of sterilisation must be:
  - (a) compatible with the particular type of instrument or equipment concerned, and
  - (b) consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.

## Medical Practice Regulation 2008

## Schedule 2 Infection control standards

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- (3) If a steriliser is used (whether it is a benchtop or portable steriliser or a permanently plumbed or wired steriliser), the following criteria must be met:
- (a) the relevant manufacturer's instructions must be followed,
  - (b) an ongoing monitoring program must be followed which reflects the requirements of Table 7.1 Calibration, Monitoring and Maintenance of Sterilizers of AS/NZS 4187 or (in the case of an office-based practice) Table 7.1 Performance Testing, Monitoring, Calibration and Maintenance of Sterilizers of AS/NZS 4815.



New South Wales

# Occupational Health and Safety Further Amendment (Major Hazard Facilities) Regulation 2008

under the

Occupational Health and Safety Act 2000

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Occupational Health and Safety Act 2000*.

ERIC ROOZENDAAL, M.L.C.,  
Acting Minister Assisting the Minister for Finance

## Explanatory note

The *Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008* (which was published in the Gazette on 20 June 2008, but does not commence until 1 September 2008) amends the *Occupational Health and Safety Regulation 2001* (the **Principal Regulation**) to provide (amongst other things) that the Principal Regulation is from that date to apply to mining workplaces and coal workplaces.

The *Occupational Health and Safety Amendment (Major Hazard Facilities) Regulation 2008* (which commenced on 14 July 2008) amended the Principal Regulation to put in place measures aimed at preventing major accidents occurring at major hazard facilities and protecting the health and safety of persons at work and the public from hazards leading to, or arising from, such major accidents.

The object of this Regulation is to amend the Principal Regulation:

- (a) to make it clear that the provisions relating to major hazard facilities do not apply to mining workplaces and coal workplaces even after 1 September 2008, and
- (b) to remake a number of provisions (relating to reviews by the Administrative Decisions Tribunal) that would otherwise be inadvertently omitted from the Principal Regulation by the *Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008* on 1 September 2008, and
- (c) to make a law revision amendment.

This Regulation is made under the *Occupational Health and Safety Act 2000*, including Part 3 (Regulations).

Clause 1 Occupational Health and Safety Further Amendment (Major Hazard Facilities) Regulation 2008

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## **Occupational Health and Safety Further Amendment (Major Hazard Facilities) Regulation 2008**

under the

Occupational Health and Safety Act 2000

### **1 Name of Regulation**

This Regulation is the *Occupational Health and Safety Further Amendment (Major Hazard Facilities) Regulation 2008*.

### **2 Commencement**

This Regulation commences immediately after the commencement of the *Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008* on 1 September 2008.

### **3 Amendment of Occupational Health and Safety Regulation 2001**

The *Occupational Health and Safety Regulation 2001* is amended as set out in Schedule 1.



Occupational Health and Safety Further Amendment (Major Hazard Facilities) Regulation 2008

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 3)

### [1] Clause 175 Application

Insert at the end of clause 175 (2) (c):

, or

- (d) a coal workplace, or
- (e) a mining workplace.

### [2] Clause 175 (2), note

Omit the note to the subclause.

### [3] Clause 175A Definitions

Omit “material present, including” from clause 175A (3).

Insert instead “material, including”.

### [4] Clause 351 Decisions subject to review by the Administrative Decisions Tribunal: section 36 of the Act

Insert after clause 351 (1) (b):

- (b1) decisions made by WorkCover under Chapter 6B:
  - (i) that determine that a potential major hazard facility is a major hazard facility, or
  - (ii) to refuse provisional registration or registration of a major hazard facility, or
  - (iii) to impose a condition on the provisional registration or registration of a major hazard facility, or  
**Note.** This subparagraph relates to conditions imposed on provisional registrations or registrations of major hazard facilities under clauses 175O (1) (c) and 175T (1) (c), not general conditions applying to all provisional registrations or registrations under clauses 175O (1) (b) and 175T (1) (b).
  - (iv) to suspend or cancel the provisional registration or registration of a major hazard facility, or
  - (v) to refuse to renew the registration of a major hazard facility,

Occupational Health and Safety Further Amendment (Major Hazard  
Facilities) Regulation 2008

Schedule 1 Amendments

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**[5] Clause 351 (2A)–(2C)**

Insert after clause 351 (2):

- (2A) If a person has provided a notification under clause 175F in relation to a facility or proposed facility to WorkCover and WorkCover has not within 3 months of that notification provisionally registered the facility or proposed facility under clause 175M, WorkCover is taken, for the purposes of an application for review by the Administrative Decisions Tribunal, to have refused the provisional registration.
- (2B) WorkCover is taken, for the purposes of an application for review by the Administrative Decisions Tribunal, to have refused to register a major hazard facility if it does not determine an application in relation to the registration within 12 months after the date of lodgment of the application.
- (2C) Subclause (2) does not apply to any decision under Chapter 6B (as referred to in subclause (1) (b1)).



New South Wales

# Parliamentary Electorates and Elections Regulation 2008

under the

Parliamentary Electorates and Elections Act 1912

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Parliamentary Electorates and Elections Act 1912*.

MORRIS IEMMA, M.P.,  
Premier

## Explanatory note

The object of this Regulation is to remake, with minor changes, the provisions of the *Parliamentary Electorates and Elections Regulation 2001* which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the preparations for an election, including the alteration of electoral districts, the rolls to be used in an election and the order of candidates on ballot papers,
- (b) the taking of a poll in an election, including postal voting,
- (c) the registration of parties,
- (d) the persons before whom a declaration can be signed by an appointed official,
- (e) the issuing of a penalty notice for the offence of failing to vote,
- (f) the prescribed officer who is to be present if the Court of Disputed Returns grants a party leave to inspect the rolls and other documents in respect of an election,
- (g) savings and formal matters.

This Regulation is made under the *Parliamentary Electorates and Elections Act 1912*, including sections 14 (1), 21AO (1) and (3), 32 (2) (a) and (c) (ii), 34 (1), 38A (1) and (2), 43, 45 (2), 47 (2), 66A (2), 66D (2) (g1), 66HA (1), 81C (1) and (3), 81L (3), 82A (2), 83B (2), 99A, 106 (1), (1A) and (2), 109, 114A (2) (a), 114AA, 114D (1) (b) (ii), 114GA (1), 114H (2), 114Q (1), 114ZA (2) (a), 114ZB (1) (b) (ii), 114ZR (3) and (6A) (d) (iv), 115 (1) (c), 120C (2), 122A (3), 151G (1), 161 (1) (iii) and 176 (the general regulation-making power).

Parliamentary Electorates and Elections Regulation 2008

Explanatory note

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This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature.

## Parliamentary Electorates and Elections Regulation 2008

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## Parliamentary Electorates and Elections Regulation 2008

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Parliamentary Electorates and Elections Regulation 2008

Clause 1

Preliminary

Part 1

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## Parliamentary Electorates and Elections Regulation 2008

under the

Parliamentary Electorates and Elections Act 1912

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Parliamentary Electorates and Elections Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Parliamentary Electorates and Elections Regulation 2001* which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Interpretation

- (1) In this Regulation:  
*the Act* means the *Parliamentary Electorates and Elections Act 1912*.  
*the Commonwealth Act* means the *Commonwealth Electoral Act 1918*.
- (2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.
- (3) Notes in this Regulation (other than Schedule 1) do not form part of this Regulation.

Clause 4 Parliamentary Electorates and Elections Regulation 2008

Part 2 Pre-poll matters

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## **Part 2 Pre-poll matters**

### **Division 1 Alteration of electoral districts**

#### **4 Notice of proposed alteration of electoral district**

For the purposes of section 14 (1) of the Act, the prescribed notice of a proposed alteration of an electoral district:

- (a) to be given in the Gazette—is a notice in Form 1, and
- (b) to be given in some newspaper published or circulating in the district—is a notice in Form 2.

### **Division 2 Rolls**

#### **5 Adoption of Commonwealth forms for purposes of joint rolls**

- (1) For the purposes of sections 32 (2) (a) and 34 (1) of the Act, the prescribed form of claim for enrolment, transfer of enrolment or provisional enrolment is the form approved for the purposes of section 98 of the Commonwealth Act as at 16 April 2007.
- (2) For the purposes of section 38A (1) and (2) of the Act, the prescribed form of request that a person's residence not be entered on or be deleted from the roll is the relevant form approved for the purposes of section 104 of the Commonwealth Act.
- (3) For the purposes of section 45 (2) of the Act, the prescribed form of notice of an objection to a name on the roll (to be given to the person objected to) is the form approved for the purposes of section 116 of the Commonwealth Act.
- (4) For the purposes of section 47 (2) of the Act, the prescribed form of notice of determination of an objection is the form approved for the purposes of section 118 of the Commonwealth Act.

#### **6 Enrolment**

- (1) For the purposes of section 32 (2) (c) (ii) of the Act, a claim for enrolment, transfer of enrolment or provisional enrolment is required to be supported by evidence of the claimant's identity in accordance with this clause.
- (2) Subject to subclauses (3) and (4), the claimant must provide details of:
  - (a) his or her driver's licence number, and
  - (b) the Australian State or Territory in which the licence was issued.



Parliamentary Electorates and Elections Regulation 2008

Clause 7

Pre-poll matters

Part 2

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- (3) If the claimant does not hold a driver's licence issued by an Australian State or Territory:
- (a) the claimant must show to a person in a class of electors set out in the Schedule of prescribed electors an original document, of a kind set out in the Schedule of prescribed documents, that identifies the claimant, and
  - (b) the person must complete the declaration on the enrolment form, stating that the person:
    - (i) is on the roll of electors, and
    - (ii) has sighted the original of one of the documents in the Schedule of prescribed documents.
- (4) If the claimant is unable to comply with subclause (2) or (3), the claimant must have his or her claim signed by 2 electors, who are able to:
- (a) confirm the claimant's name, and
  - (b) confirm that they have known the claimant for at least one month.
- (5) In this clause:
- Schedule of prescribed documents* means Schedule 3 to the *Electoral and Referendum Regulations 1940* of the Commonwealth as in force on 16 April 2007.
- Schedule of prescribed electors* means Schedule 2 to the *Electoral and Referendum Regulations 1940* of the Commonwealth as in force on 16 April 2007.

## 7 Enrolment notice

Every registrar must, as soon as practicable after the end of each period of 28 days, notify the Electoral Commissioner of particulars of claimants enrolled (otherwise than by way of transfer) during that period.

## Division 3 Order of candidates on ballot papers

### 8 Council election: claim to be included in a group

- (1) For the purposes of section 81C (1) of the Act, the prescribed form of claim for the grouping of candidates nominated for a periodic Council election (including any request under section 81C (1A) for a group voting square for the group) is Form 3.
- (2) For the purposes of section 81C (3) of the Act, the prescribed form for the withdrawal of a claim is Form 4.

Clause 9 Parliamentary Electorates and Elections Regulation 2008

Part 2 Pre-poll matters

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- (3) The Electoral Commissioner must, on receipt of a claim under section 81C (1) of the Act or a withdrawal of a claim under section 81C (3) of the Act, make a notation on the claim or withdrawal of the time and date of receipt.

**9 Ballot to determine order of candidates on ballot paper: Assembly election**

For the purposes of section 82A (2) of the Act, a ballot referred to in that section is to be conducted in the following manner:

- (a) the returning officer must, at the place appointed for the receipt of nominations and before all persons present, make out in respect of each candidate a slip bearing the surname and given names of the candidate,
- (b) the returning officer must then enclose the slips in separate identical containers, securely seal each container and deposit all the containers in a locked ballot box,
- (c) the returning officer must then shake and rotate the ballot box and, on request, permit any other person present to do the same,
- (d) the returning officer must then unlock the ballot box and take out and open each container one by one,
- (e) the returning officer must then record the surname and given names of the candidate whose name appears on the slip enclosed in the container first taken from the ballot box and, in consecutive order, the surname and given names of the candidate whose name appears on the slip enclosed in the container next taken from the ballot box, and so on until the placing of all the names has been determined,
- (f) the record made of the names of the candidates as extracted in strict consecutive order must be signed by the returning officer and may also be signed by any of the persons present,
- (g) the original of the record made of the names of the candidates as extracted must be promptly delivered to the Electoral Commissioner by the returning officer or a person authorised by the returning officer or be forwarded to the Electoral Commissioner.

Parliamentary Electorates and Elections Regulation 2008

Clause 10

Pre-poll matters

Part 2

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**10 Ballot to determine order of groups of candidates on ballot paper:  
Council election**

For the purposes of section 83B (2) of the Act, a ballot referred to in section 83B (1) (a) of the Act is to be conducted in the following manner:

- (a) the Electoral Commissioner must, at the place appointed for the receipt of nominations and before all persons present, make out in respect of each group of candidates a slip bearing the surname of each candidate in the group and, if the Electoral Commissioner considers it necessary to do so, the given names or the initial letter or letters of the given names of each candidate in the group,
- (b) the Electoral Commissioner must then enclose the slips in separate identical containers, securely seal each container and deposit all the containers in a locked ballot box,
- (c) the Electoral Commissioner must then shake and rotate the ballot box and, on request, permit any other person present to do the same,
- (d) the Electoral Commissioner must then unlock the ballot box and take out and open each container one by one,
- (e) the Electoral Commissioner must then write the word "Group" followed by the letter "A" on the slip enclosed in the container first taken from the ballot box and write the word "Group" followed by the letter "B" on the slip enclosed in the container next taken from the ballot box, and so on until the word "Group" and a successive letter of the alphabet (or, if there are more than 26 groups, a distinctive symbol determined by the Electoral Commissioner) have been written on each slip,
- (f) the Electoral Commissioner must then cause a record to be made of the names of the candidates in each group and include in that record, before the names of the candidates in each group, the word "Group" followed by the identifying letter or symbol determined in respect of that group in accordance with paragraph (e),
- (g) the record must be signed by the Electoral Commissioner and may also be signed by any of the persons present.

**11 Ballot to determine order on ballot paper of candidates not in a group:  
Council election**

For the purposes of section 83B (2) of the Act, a ballot referred to in section 83B (1) (b) of the Act is to be conducted in the following manner:

Clause 12 Parliamentary Electorates and Elections Regulation 2008

Part 2 Pre-poll matters

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- (a) the Electoral Commissioner must, at the place appointed for the receipt of nominations and before all persons present, make out in respect of each candidate a slip bearing the surname and the given names of the candidate,
- (b) the Electoral Commissioner must then enclose the slips in separate identical containers, securely seal each container and deposit all the containers in a locked ballot box,
- (c) the Electoral Commissioner must then shake and rotate the ballot box and, on request, permit any other person present to do the same,
- (d) the Electoral Commissioner must then unlock the ballot box and take out and open each container one by one,
- (e) the Electoral Commissioner must then record the surname and given names of the candidate whose name appears on the slip enclosed in the container first taken from the ballot box and, in consecutive order, the surname and given names of the candidate whose name appears on the slip enclosed in the container next taken from the ballot box, and so on until a record has been made of the name of each candidate,
- (f) the record must be signed by the Electoral Commissioner and may also be signed by any of the persons present.

#### **12 Form of ballot paper for Council elections with more than 33 groups**

For the purposes of section 176 (3) of the Act, the form of the ballot papers to be used for a periodic Council election for which there are more than 33 groups is declared to be altered so that they are in Form 5 instead of the relevant form prescribed by Schedule 4A to the Act.

### **Division 4 Miscellaneous**

#### **13 Child-related conduct declaration**

For the purposes of section 81L (3) of the Act, the prescribed form for a child-related conduct declaration is Form 6.

#### **14 Declaration by person of Jewish persuasion**

For the purposes of section 109 of the Act:

- (a) the prescribed time for making a declaration referred to in that section is immediately after a ballot paper is given to the person, and
- (b) the prescribed form of such a declaration (which may be made orally or in writing) is Form 7.

Parliamentary Electorates and Elections Regulation 2008

Clause 15

Pre-poll matters

Part 2

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**15 Pre-poll voting**

- (1) For the purposes of sections 114Q (1) and 114ZR (3) of the Act, the prescribed form of declaration is Form 8.
- (2) For the purposes of section 114ZR (6A) (d) (iv) of the Act, it is an additional requirement that not more than one item of electoral material relating to a candidate may be made available for perusal by electors engaging in pre-poll voting at declared institutions.
- (3) In the case of an Assembly general election or by-election, if more than one item of electoral material has been registered in relation to a particular candidate, the one item available for perusal, for the purposes of subclause (2), is to be the item nominated to the Electoral Commissioner by:
  - (a) if a registered party has endorsed the candidate for election—the registered officer of the registered party or another person representing that officer, or
  - (b) in any other case—the candidate.
- (4) In the case of a periodic Council election, if more than one item of electoral material has been registered in relation to a particular candidate, the one item available for perusal, for the purposes of subclause (2), is to be the item nominated to the Electoral Commissioner by:
  - (a) if a registered party has endorsed the candidate for election—the registered officer of the registered party or another person representing that officer, or
  - (b) if the candidate is included in a group—a person representing that group, or
  - (c) in any other case—the candidate.

**16 Voting outside district: declaration**

For the purposes of section 115 (1) (c) of the Act, the prescribed form of declaration to be made to be allowed to vote as an absent voter is Form 9.

**17 Registration of electoral material**

An application under section 151G of the Act for registration of electoral material must be made in the appropriate form approved by the Electoral Commissioner.

Clause 18 Parliamentary Electorates and Elections Regulation 2008

Part 3 Polls

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## **Part 3 Polls**

### **Division 1 General**

#### **18 Declaration of residence by person whose residence is not shown on roll**

For the purposes of section 99A of the Act, the prescribed form of declaration to be made by an elector whose residence does not appear on the roll is Form 10.

#### **19 Declaration to be made in the case of a disputed vote**

- (1) For the purposes of section 106 (1) and (1A) of the Act, the prescribed form of declaration to be made by a person claiming to vote pursuant to either of those subsections is Form 11.
- (2) For the purposes of section 106 (1) and (1A) of the Act, the prescribed questions are those set out in section 100 (1) of the Act.
- (3) For the purposes of section 106 (2) of the Act, the prescribed form of declaration to be made by a person claiming to vote pursuant to that subsection is Form 12.

#### **20 Declaration by person whose name noted under section 114G**

For the purposes of section 114GA (1) of the Act, the prescribed form of declaration for a person who claims not to have received, or to have lost, a postal vote certificate or postal ballot paper is Form 11.

#### **21 Official mark on ballot papers**

For the purposes of section 122A (3) of the Act, a mark depicting the arms of the State enclosed within a fastened oval belt which bears the words "Electoral Commission" and across the lower half of which is superimposed a banner bearing the words "New South Wales" (whether or not the mark depicts any other decorative matter) is prescribed as an official mark.

#### **22 Marking of roll**

Immediately on delivering a ballot paper to a voter, an election official must, in the manner approved by the Electoral Commissioner, place a mark against the voter's name on a copy of the roll.

Parliamentary Electorates and Elections Regulation 2008

Clause 23

Polls

Part 3

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**Division 2      Postal voting****23    Form of application for postal vote**

For the purposes of section 114A (2) (a) of the Act, the prescribed form of application for a postal vote certificate and postal ballot paper is:

- (a) in the case of an elector referred to in section 114A (1) (a), (b), (c), (d), (d1), (e), (g) or (h) of the Act—Form 13, and
- (b) in the case of an elector referred to in section 114A (1) (f) of the Act—Form 14.

**24    Person who is absent from NSW for more than 3 months is prescribed elector**

- (1) For the purposes of section 114AA (1) (a1) of the Act, an elector who will not be within the State during any period that exceeds 3 months is a prescribed elector.
- (2) All the functions of a registrar under section 114AA of the Act in relation to the registration of an elector referred to in subclause (1) are to be exercised by the Electoral Commissioner instead of by the registrar.
- (3) A reference in section 114AA to a registrar is to be read, in relation to the registration of an elector referred to in subclause (1), as a reference to the Electoral Commissioner.

**25    Registration of prescribed electors as general postal voters**

- (1) For the purposes of section 114AA (5) of the Act, the prescribed form of application for a prescribed elector to be registered as a general postal voter is Form 15.
- (2) The register for a subdivision referred to in section 114AA (11) of the Act is to be kept in 2 parts as follows:
  - (a) one part is to be kept in relation to the electors referred to in clause 24 (1) who are registered as general postal voters,
  - (b) the other part is to be kept in relation to all other electors who are registered as general postal voters for that subdivision.
- (3) The Electoral Commissioner is to provide the returning officer for each district with the relevant particulars of such electors referred to in clause 24 (1) as are registered in relation to the returning officer's district.

Clause 26 Parliamentary Electorates and Elections Regulation 2008

Part 3 Polls

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**26 Cancellation of registration of elector as general postal voter**

- (1) For the purposes of section 114AA (13) of the Act:
  - (a) the prescribed circumstances in which a registrar may cancel the registration of an elector (other than an elector referred to in clause 24 (1)) as a general postal voter are circumstances in which the registrar is satisfied that the elector has ceased to be a prescribed elector within the meaning of section 114AA of the Act, and
  - (b) the prescribed circumstances in which the Electoral Commissioner may cancel the registration of an elector referred to in clause 24 (1) as a general postal voter are circumstances in which the Electoral Commissioner is satisfied that the elector has returned to the State during the period of registration.
- (2) If a registrar cancels the registration of an elector (other than an elector referred to in clause 24 (1)) as a general postal voter, the registrar must give, personally or by post, notice in writing to the elector of the cancellation.
- (3) A notice of cancellation given to a person must include a statement setting out the person's right to request the Electoral Commissioner to refer the cancellation to the registrar for review.
- (4) If a registrar receives a request referred to in subclause (3), the registrar must forthwith forward to the Electoral Commissioner a copy of the request and a statement in writing setting out the reasons for the cancellation of the registration of the person as a general postal voter.
- (5) The Electoral Commissioner must, as soon as practicable after receipt of a request referred to in subclause (3) or a copy of any such request under subclause (4), decide whether to direct the registrar to conduct a review of the register in relation to the cancellation.
- (6) When the Electoral Commissioner makes a decision under subclause (5), the Electoral Commissioner must cause a copy of the decision to be given to:
  - (a) the person who made the request, and
  - (b) the registrar in relation to whose decision the request was made.

**27 Form of postal vote certificate**

For the purposes of section 114D (1) (b) (ii) of the Act, the prescribed form of postal vote certificate is Form 16.

**28 Postal votes received by returning officer in respect of another district**

For the purposes of section 114H (2) of the Act, the prescribed manner in which a returning officer is to deal with an envelope posted or



Parliamentary Electorates and Elections Regulation 2008

Clause 29

Polls

Part 3

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delivered to the returning officer in accordance with that subsection is as follows:

- (a) the returning officer must endorse on the envelope the words “Received by me” and add the date of receipt, his or her signature, the words “Returning Officer” and the name of the returning officer’s district,
- (b) the returning officer must then make a record of the name of the voter and the name of the district appearing in the postal vote certificate,
- (c) the returning officer must then enclose the envelope in an outer cover, fasten and seal the outer cover and address it to the returning officer for the district in respect of which the voter named in the postal vote certificate claims to be enrolled and transmit it to that returning officer in a manner authorised by the Electoral Commissioner,
- (d) the returning officer must retain the record made under paragraph (b).

#### **29 Postal votes received by polling place manager**

- (1) For the purposes of section 114H (2) of the Act, the prescribed manner in which a polling place manager is to deal with an envelope delivered to the polling place manager in accordance with that subsection is as follows:
  - (a) the polling place manager must endorse on the envelope the words “Received by me at ..... polling place” and add his or her signature, the words “Polling Place Manager” and the date,
  - (b) the polling place manager must then make a record of the name of the voter and the name of the district appearing in the postal vote certificate,
  - (c) the polling place manager must then deposit the envelope in the ballot box used for the purpose of postal polling at the polling place,
  - (d) at the close of the poll, the polling place manager must forward all the envelopes bearing postal vote certificates to the returning officer for whom the polling place manager is acting,
  - (e) the polling place manager must forward to the returning officer for whom the polling place manager is acting the record made under paragraph (b).
- (2) A returning officer who receives envelopes under subclause (1) (d) is to deal with them in the manner prescribed by clause 28 (c).

Clause 30 Parliamentary Electorates and Elections Regulation 2008

Part 3 Polls

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**30 Application for postal vote by persons outside NSW**

For the purposes of section 114ZA (2) (a) of the Act, the prescribed form of application to a postal voting officer for a postal vote certificate and a postal ballot paper is Form 17.

**31 Postal vote certificate issued to persons outside NSW**

For the purposes of section 114ZB (1) (b) (ii) of the Act, the prescribed form of postal vote certificate is Form 18.

Parliamentary Electorates and Elections Regulation 2008

Clause 32

Registration of parties

Part 4

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## Part 4 Registration of parties

### 32 Procedure where same member relied on by 2 or more parties

- (1) This clause applies, for the purposes of section 66A (2) of the Act, where a person is relied on by 2 or more parties as a member of the party for the purpose of qualifying or continuing to qualify as an eligible party.
- (2) In any such case, the Electoral Commissioner must:
  - (a) request the person in writing to nominate, within 30 days of receiving the request, the party entitled to rely on the member, and
  - (b) advise the parties in writing that the Electoral Commissioner has made that request.
- (3) If, as a result of a nomination made by the person or a failure by the person to make a nomination, a party ceases to qualify as an eligible party, the Electoral Commissioner must advise the party in writing of that fact and give the party at least 60 days in which to provide the requisite particulars and declarations of party membership of the necessary number of additional members of the party that it requires to qualify as an eligible party.

### 33 Party membership declaration forms

For the purposes of section 66D (2) (g1) of the Act, the prescribed form of declaration of membership of a party to be completed and signed by a member of the party on whom the party relies for the purposes of qualifying as an eligible party is Form 19.

### 34 Registered party annual return

For the purposes of section 66HA (1) of the Act, the prescribed form of return as to continued eligibility for registration of a party is Form 20.

Clause 35	Parliamentary Electorates and Elections Regulation 2008
Part 5	Miscellaneous

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## Part 5 Miscellaneous

### 35 Declarations made by appointed officials

For the purposes of section 21AO (1) and (3) of the Act, the following persons are prescribed persons:

- (a) a returning officer,
- (b) a polling place manager,
- (c) a New South Wales public servant or a person appointed or engaged under the *Public Service Act 1999* of the Commonwealth,
- (d) a member of the clergy of any church or religious denomination,
- (e) a person in charge of a post office,
- (f) an Australian legal practitioner.

### 36 Penalty notices

- (1) For the purposes of section 120C (2) of the Act, the prescribed form of penalty notice for the offence of failing to vote is Form 21.
- (2) For the purposes of section 120C (2) of the Act, the prescribed time for giving the Electoral Commissioner a sufficient reason for a failure to vote or for paying a penalty specified in a penalty notice is the period of 28 days immediately following the date of service of the penalty notice.

### 37 Prescribed officer: inspection of documents

For the purposes of section 161 (1) (iii) of the Act, the prescribed officer is, in respect of the inspection of:

- (a) any documents used at or in connection with an election, or
  - (b) any claim made under section 81C (1) of the Act,
- the Electoral Commissioner or a public servant authorised in writing by the Electoral Commissioner.

### 38 Savings

Any act, matter or thing that, immediately before the repeal of the *Parliamentary Electorates and Elections Regulation 2001*, had effect under that Regulation continues to have effect under this Regulation.

Parliamentary Electorates and Elections Regulation 2008

Forms

Schedule 1

## Schedule 1 Forms

(Clause 3 (2))

### Form 1 Notice of proposed alterations of electoral districts

(Clause 4 (a))

(Parliamentary Electorates and Elections Act 1912 (Section 14))

THE Electoral Districts Commissioners give notice that it is proposed to alter the (or certain of the) electoral districts of New South Wales by constituting, instead of those electoral districts, new electoral districts, with the names and boundaries described in the first column of the Appendix.

Suggestions or objections in relation to any of the proposed alterations will be received by the Commissioners at their Sydney office. All suggestions or objections must be in writing, and must be received at the office of the Commissioners within 30 days after the date of the publication in the Gazette of this notice.

A written statement of the Commissioners' reasons for making the proposed alterations will be available for inspection at no cost during office hours at the office of the New South Wales Electoral Commission for the period of 30 days after publication in the Gazette of this notice.

#### Appendix

Names and Boundaries of proposed new electoral districts

Electoral districts the whole or parts of which the proposed new electoral districts comprise

*(signed)*

Electoral Districts Commissioners

### Form 2 Notice of proposed alterations of electoral districts

(Clause 4 (b))

(Parliamentary Electorates and Elections Act 1912 (Section 14))

THE Electoral Districts Commissioners give notice that it is proposed to alter the (or certain of the) electoral districts of New South Wales by constituting, among others, a certain new electoral district (or certain new electoral districts), with the names and boundaries described in the Gazette of (date), and marked on maps that may be inspected at the office of the New South Wales Electoral Commission, at the offices of the local councils of the local government areas within current or proposed boundaries, and on the Commission's internet website [*details may be inserted here*].

Suggestions or objections in relation to any of the proposed alterations will be received by the Commissioners at their Sydney office. All suggestions or objections must be in writing, and must be received at the office of the Commissioners within 30 days after the date of the Gazette notification.

## Parliamentary Electorates and Elections Regulation 2008

## Schedule 1 Forms

A written statement of the Commissioners' reasons for making the proposed alterations will be available for inspection at no cost during office hours at the office of the New South Wales Electoral Commission for the period of 30 days after publication of the Gazette notification.

(signed)

Electoral Districts Commissioners

### Form 3 Claim to be included in a group (including request for group voting square)

(Clause 8 (1))

(Parliamentary Electorates and Elections Act 1912 (Section 81C))

To the Electoral Commissioner:

Pursuant to section 81C (1) of the *Parliamentary Electorates and Elections Act 1912*, we, the undersigned candidates nominated for the periodic Legislative Council election to be held on (*date*), claim to have our names included in a group in the ballot papers to be used in that election and to have our names included in that group in the order specified hereunder.

Pursuant to section 81C (1A) of that Act, we also request a group voting square for the group on the ballot papers to be used in that election<sup>1</sup>.

Pursuant to section 81C (6) of that Act, we nominate the following group of candidates for the purposes of section 129EB of that Act:<sup>2</sup>

Surname	Given Names	Signature of Candidate <sup>3</sup>
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Date:

**Notes.**

- 1 Strike out if inapplicable. A request for a group voting square may only be made if there are at least 15 candidates in the group.
- 2 Strike out if inapplicable. The nomination is to be made for a group that has also requested a group voting square. A second preference vote is taken to be recorded for the nominated group on all ballot papers on which only a first preference vote is recorded for the group to which this claim relates if that group ceases to have 15 candidates because of the operation of section 81C (5) of that Act. Alternatively, the nomination may be made to the Electoral Commissioner within 24 hours after the close of nominations by the candidates in the group (or, on their behalf, by the first candidate in the group or the registered officer of the registered party that has endorsed all or any of the candidates).
- 3 The signature of the candidate must appear opposite the candidate's name to signify consent to the inclusion of the name in the group and to the order in which the candidates' names are included in the group, and to any request or nomination in this form.

(For Office use only)

Time and date of receipt of claim

Signature of Electoral Commissioner

Parliamentary Electorates and Elections Regulation 2008

Forms

Schedule 1

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Time and date of withdrawal of claim      Signature of Electoral Commissioner

Other group nominated under section 81C (6)      Signature of Electoral Commissioner

#### **Form 4    Withdrawal of claim to be included in a group**

(Clause 8 (2))

(Parliamentary Electorates and Elections Act 1912 (Section 81C))

To the Electoral Commissioner:

Pursuant to section 81C (3) of the *Parliamentary Electorates and Elections Act 1912*, we, the undersigned candidates nominated for the periodic Legislative Council election to be held on (*date*), withdraw the claim made by us pursuant to section 81C (1) of that Act to have our names included in a group in the order specified hereunder.

Surname

Given Names

Signature of Candidate<sup>1</sup>

**Note.**

1      The signature of the candidate must appear opposite the candidate's name to signify consent to the withdrawal of the claim.

Date:

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(For Office use only)

Time and date of receipt of withdrawal of claim      Signature of Electoral Commissioner

#### **Form 5    Form of ballot paper for Council elections with more than 33 groups**

(Clause 12)

Parliamentary Electorates and Elections Regulation 2008

Schedule 1 Forms

BALLOT PAPER

NEW SOUTH WALES Election of 21 Members of Legislative Council

<p>GROUP A * <input type="checkbox"/></p> <p>GROUP L * <input type="checkbox"/></p>	<p>GROUP M * <input type="checkbox"/></p>	<p>GROUP K * <input type="checkbox"/></p> <p>GROUP V * <input type="checkbox"/></p>	
<p>GROUP A * <input type="checkbox"/> PARKER Alan ** <input type="checkbox"/> MILLER John ** ..... <input type="checkbox"/> LUMSDAINE Elaine **</p>	<p>GROUP B * <input type="checkbox"/> WILLIAMS Gregory ** <input type="checkbox"/> HANSON Richard ** <input type="checkbox"/> HAMMOND Maureen **</p>	<p>GROUP K * <input type="checkbox"/> BROOKMAN John ** <input type="checkbox"/> CRANE June ** ..... <input type="checkbox"/> ILIC Peter **</p>	<p>GROUP V * <input type="checkbox"/> O'KEEFE John ** ..... <input type="checkbox"/> McAULIFFE Paul ** <input type="checkbox"/> WHITE Veronica **</p>
<p>GROUP L * <input type="checkbox"/> JONES Frederick ** ..... <input type="checkbox"/> JOHNSON Alice ** <input type="checkbox"/> WATSON Reginald **</p>	<p>GROUP M * <input type="checkbox"/> YOUNG David ** ..... <input type="checkbox"/> TAYLOR George ** <input type="checkbox"/> ASSAF Joseph **</p>	<p>GROUP V * <input type="checkbox"/> RODGERS Jodie *** <input type="checkbox"/> PASCALIS Sasha *** <input type="checkbox"/> REID Lisa *** <input type="checkbox"/> ADLER Greg ***</p>	

**You may vote in one of two ways:**  
**either**  
 Place the number "1" in the square for the group of candidates for whom you desire to vote. You may if you wish vote for additional groups of candidates by placing consecutive numbers beginning with the number "2" in the squares for the additional groups of candidates in order of your preferences for them. Fold the ballot paper so that the vote cannot be seen, and put it in the ballot box or in the envelope provided as appropriate.

**or**  
 Place the numbers "1", "2", "3", "4", "5", "6", "7", "8", "9", "10", "11", "12", "13", "14" and "15" in the squares opposite the names of 15 candidates in order of your preference for them. You may if you wish vote for additional candidates by placing consecutive numbers beginning with the number "16" in the squares opposite the names of those additional candidates in the order of your preferences for them. Fold the ballot paper so that the vote cannot be seen, and put it in the ballot box or in the envelope provided as appropriate.

\* Here insert name of registered party or composite name if to be printed \*\* Here insert name of registered party if to be printed \*\*\* Here insert name of registered party or word "Independent" if to be printed



Parliamentary Electorates and Elections Regulation 2008

Forms

Schedule 1

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## Form 6 Child-related conduct declaration

(Clause 13)

(Parliamentary Electorates and Elections Act 1912 (Section 81L))

### Notice to candidates

As part of the nomination process, all candidates for the Legislative Assembly and the Legislative Council are required by the *Parliamentary Electorates and Elections Act 1912* to make a child-related conduct declaration.

You are required to:

- read the Notice to candidates and the Attachment,
- sign the Notice to candidates acknowledging that you have read the Notice and the Attachment,
- complete and sign Part A,
- if required to because of an answer given in Part A—complete and sign Part B,
- return the declaration to the New South Wales Electoral Commission with your nomination form and deposit.

If you do not complete, sign and return these forms, your nomination will not be valid.

#### Not legal advice

**The *Parliamentary Electorates and Elections Act 1912* specifies what must be declared in this declaration. The information contained in this form about what must be declared is intended as general guidance for candidates only. You should seek independent legal advice if you have any specific legal queries about whether any conviction, proceeding or order must be declared in your declaration.**

#### Guidance on which offences must be included in declaration

Your declaration must set out and describe any of the following convictions, proceedings or court orders:

- any conviction against you for a **child sexual offence**, which includes (but is not limited to) offences against children involving sexual activity or acts of indecency punishable by 12 months or more imprisonment, child pornography offences if punishable by 12 months or more imprisonment and similar offences committed outside New South Wales (see the definition set out in the Attachment),
- any conviction against you for **child murder**,
- any **criminal proceedings** ever commenced against you for child murder or child sexual offences. This includes criminal charges laid against you that were subsequently withdrawn for any reason or which did not lead to a conviction. This also includes proceedings where you were found not guilty or where your conviction was subsequently quashed on appeal,
- any **relevant apprehended violence order** which has ever been made by a court against you, being an order made on the application of a police officer or other public official, for the protection of a child from sexual activity or acts of indecency.

**A child is a person under 18 years of age.**

## Parliamentary Electorates and Elections Regulation 2008

## Schedule 1      Forms

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You must include any convictions, proceedings or court orders against you in your current name or any former name.

Offence for false statement and disqualification

It is a **serious offence** for you to make a false statement on this form, **punishable by up to five (5) years imprisonment**. If you are elected as a member of either House of Parliament, and are convicted of such an offence, **your seat will become vacant because of that conviction**.

Declaration will be public

Your declaration will be made public by the New South Wales Electoral Commissioner, and if you are elected, it will be audited by the Commission for Children and Young People and a report will be prepared on the results of that audit and provided to the Presiding Officer of the House of Parliament to which you have been elected. That report will then be made public.

Criminal records check

A criminal records check will be carried out on the National CrimTrac Database for all candidates who are successful at the election. This check will identify offences or proceedings required to be disclosed as part of this form. This criminal records check is carried out at the request of the Commission for Children and Young People in accordance with the *Parliamentary Electorates and Elections Act 1912* and is carried out for the purpose of verifying that the information disclosed by you in this form is correct and accurate.

If a criminal records check is required to be carried out, you will be required to provide proof of identity in the form required by the Commission for Children and Young People.

A report will be prepared for the Presiding Officer of the House of Parliament to which you have been elected using the information obtained from the criminal records check. That report will identify whether your declaration is accurate, and if not, details of any discrepancies. The report will only deal with those offences or proceedings that are required to be disclosed as part of this form. The report will be made public. In addition, if there are any discrepancies, information may also be provided to the NSW Police Force or the Director of Public Prosecutions for prosecution action.

This criminal records check is required to be carried out in accordance with the provisions of the *Parliamentary Electorates and Elections Act 1912*. A failure to sign the consent below will mean that your nomination to be a candidate for the election will not be valid.

Which parts of the Declaration to complete

You must complete Part A of the declaration. If in Part A you declare that you have ever been subject to any of the relevant convictions, proceedings or orders, you must then provide sufficient details in Part B of the declaration to identify those offences, proceedings or orders.

How to complete the declaration

Other than your signature, you should print in BLOCK letters in **black** pen.

## Parliamentary Electorates and Elections Regulation 2008

Forms

Schedule 1

Acknowledgement and consent

Please sign below to indicate that you:

- 1 have read and understood the information above and in the Attachment, and
- 2 consent to the criminal records check using the National CrimTrac Database being carried out.

Surname

Given names

Signature of candidate

Date:

ATTACHMENT

For the purposes of Division 5A of Part 5 of the *Parliamentary Electorates and Elections Act 1912*, **child sexual offence** means:

- (a) an offence involving sexual activity or acts of indecency that was committed in New South Wales and that was punishable by penal servitude or imprisonment for 12 months or more, and that was committed against, with or in the presence of a child (including a child pornography offence that is so punishable), or
- (b) an offence involving sexual activity or acts of indecency that was committed elsewhere and that would have been an offence punishable by penal servitude or imprisonment for 12 months or more if committed in New South Wales, and that was committed against, with or in the presence of a child (including a child pornography offence that is so punishable), or
- (c) an offence under section 80D or 80E of the *Crimes Act 1900*, where the person against whom the offence is committed is a child, or
- (d) an offence under sections 91D–91G of the *Crimes Act 1900* (other than if committed by a child prostitute) or a similar offence under a law other than a law of New South Wales, or
- (e) an offence under section 91H, 578B or 578C (2A) of the *Crimes Act 1900* or a similar offence under a law other than a law of New South Wales, or
- (f) an offence an element of which is an intention to commit an offence referred to in the preceding paragraphs, or
- (g) an offence of attempting, or of conspiracy or incitement, to commit an offence referred to in the preceding paragraphs.

An offence that was a child sexual offence at the time of its commission is not a child sexual offence for the purposes of that Division if the conduct constituting the offence has ceased to be an offence in New South Wales.

An offence involving sexual activity or an act of indecency is not a child sexual offence for the purposes of that Division if the conduct constituting the offence:

- (a) occurred in a public place, and
- (b) would not have constituted an offence in New South Wales if the place were not a public place.

For the purposes of that Division, section 579 of the *Crimes Act 1900* (which relates to older convictions dealt with by way of recognizance) does not apply to or in respect of a child sexual offence.

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**Candidate declaration****Part A**(Answer questions 1–4 by ticking the relevant box in **black** pen)

- 1 Have you ever been convicted of a child sexual offence\*?
- No  
 Yes
- 2 Have you ever been convicted of the murder of a child?
- No  
 Yes
- 3 Have any criminal proceedings\* ever been commenced against you for the murder of a child, or for a child sexual offence\*, other than proceedings relating to a conviction disclosed under questions 1 or 2?
- No  
 Yes
- 4 Have you ever had a relevant apprehended violence order\* made against you?
- No  
 Yes

**In completing this declaration, you should have regard to the *Parliamentary Electorates and Elections Act 1912*, and the Notice to candidates and the Attachment to the notice that are part of this declaration.**

**\*See the Notice to candidates for the meaning of these terms. In particular, a *relevant apprehended violence order* is an apprehended violence order that has been made by a court, on the application of a police officer or other public official, for the protection of a child from sexual activity or acts of indecency.**

**I DECLARE THAT** the answers I have made in this Part to questions 1–4 state the matters required to be stated under section 81L (1) of the *Parliamentary Electorates and Elections Act 1912*.

Surname

Given names

Signature of candidate

Date:

**Part B**(Print using BLOCK letters in **black** pen)

**I DECLARE THAT** the following list identifies all convictions, proceedings or orders in my current name and any former name that I am required to identify under section 81L (2) of the *Parliamentary Electorates and Elections Act 1912*:

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- 
- 1 Convictions for child murder and/or child sexual offences, including findings of guilt where no conviction was recorded, and name under which those convictions were recorded:  
.....  
.....  
.....  
.....  
.....
  - 2 Criminal proceedings for child murder and/or child sexual offences, and name under which those charges were laid:
    - (a) Charges laid against me that are currently before the courts:  
.....  
.....  
.....
    - (b) Charges laid against me but withdrawn before or during trial:  
.....  
.....  
.....
    - (c) Charges for which I was tried but found not guilty at trial:  
.....  
.....  
.....
    - (d) Charges for which I was tried and convicted but found to be not guilty on appeal:  
.....  
.....  
.....
    - (e) Charges for which I was found guilty but for which I was subsequently pardoned:  
.....  
.....  
.....
    - (f) Any other charges or indictments not declared in the above categories:  
.....  
.....  
.....
  - 3 Relevant apprehended violence orders, and name under which those orders were made:  
.....  
.....  
.....

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.....  
.....  
.....

(Please attach a further sheet if additional space is required.)

Surname                                      Given names                                      Signature of candidate

Date:

**Form 7 Declaration of person of the Jewish persuasion objecting to vote on Saturday or day of a Jewish fast or festival**

(Clause 14 (b))

(Parliamentary Electorates and Elections Act 1912 (Section 109))

I, *(full name)*, am of the Jewish persuasion, and object on religious grounds to voting in the manner provided by the *Parliamentary Electorates and Elections Act 1912*.

**Note.** This declaration may be made orally or in writing to an election official.

**Form 8 Pre-poll and declared institution voter's form of declaration**

(Clause 15 (1))

(Parliamentary Electorates and Elections Act 1912 (Sections 114Q and 114ZR))

I declare that I am the person enrolled as:

Surname:

Given name or names:

Residence as enrolled:

Current address:

Date of birth:

on the State electoral roll for the electoral district of *(place)*, that I am entitled to vote in accordance with the *Parliamentary Electorates and Elections Act 1912*, and that if I am permitted to vote at this place I will not vote elsewhere at this election.

*(signed)*

(Signature of Elector)

Declared before me at: *(date)*

*(signed)*

Pre-poll voting officer

**Note.** A person making any untrue statement in this declaration is liable to a maximum penalty of 10 penalty units or imprisonment for 6 months, or both.

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## Form 9 Absent voter's form of declaration

(Clause 16)

(Parliamentary Electorates and Elections Act 1912 (Section 115))

I declare that I am the person enrolled as:

Surname:

Given name or names:

Residence as enrolled:

Current address:

Date of birth:

on the electoral roll for the State electoral district of (*place*) and that I am still qualified to vote for that district, that I have not voted at either this or any other polling place, and that if I am permitted to vote at this polling place I will not vote elsewhere at this election.

Signature of elector:

Declared before me this: (*date*)

at (*place*) polling place in the electoral district of (*place*)

Signature of election official:

Penalty: If a person makes a declaration knowing it is untrue in any material particular he or she is liable to a maximum penalty of 10 penalty units or imprisonment for 6 months, or both.

## Form 10 Declaration by person whose place of living is not on roll

(Clause 18)

(Parliamentary Electorates and Elections Act 1912 (Section 99A))

**Note.** Elector to complete—please print

Surname or family name:

Given name or names:

Address for which you claim to be enrolled:

**Note.** If you have changed your name since you enrolled for the above address, please print your previous name here:

I am entitled to vote. I have not already voted in this election.

I declare that the information shown above is true.

Signature of elector:

Signature of election official:

Polling place:

Electoral district:

Penalty: If a person makes a declaration knowing it is untrue in any material particular he or she is liable to a maximum penalty of 10 penalty units or imprisonment for 6 months, or both.

## Parliamentary Electorates and Elections Regulation 2008

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**Form 11 Declaration by person voting whose name is already marked on roll**

(Clauses 19 (1) and 20)

(Parliamentary Electorates and Elections Act 1912 (Sections 106 and 114GA))

The returning officer

State electoral district of:

Form of declaration, to be made by a person when:

- (a) a second vote is tendered for one name at the same polling booth, or
- (b) a postal vote certificate or postal ballot paper, or a pre-poll vote, has not been received or has been lost.

Polling place at which elector claims to vote:

Electoral district of:

- I, (a) *(Name in full (as appearing on roll) print in BLOCK letters)*  
 (b) *(Address in full (as appearing on roll))*  
 (c) *(Date of birth)*, declare that:

1 My name appears on the certified copy of the roll used at the above named polling place, opposite the number (*number*) on the roll.

2<sup>2</sup> I claim to vote under the provisions of section 106 (1) of the Act. I have not voted in connection with the State election being held this day, even though a mark has been placed against my name on the roll to indicate that a ballot paper has been issued to me at the polling place.

or

2<sup>2</sup> I claim to vote under the provisions of section 106 (1A) of the Act. I have not applied for a postal vote certificate and postal ballot paper in connection with the State election being held this day, even though my name has been noted on the roll as that of an elector to whom a postal vote certificate and postal ballot paper have been issued, or I have not applied for and been issued with a pre-poll vote, even though my name has been noted on the roll as that of an elector to whom a pre-poll vote has been issued.

or

2<sup>2</sup> I claim to vote under the provisions of section 114GA of the Act. I have not received, or have lost, a postal vote certificate or postal ballot paper in connection with the State election being held this day, even though a mark has been placed against my name on the roll to indicate that a postal vote certificate and postal ballot paper have been issued to me.

Signature of voter:

Declared before me (*date*) at the above named polling place.(signed)  
Election official



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**Notes.**

- 1 A person making any untrue statement in this declaration is liable to a maximum penalty of 10 penalty units or imprisonment for 6 months, or both.
- 2 Two of these paragraphs as the case requires should be struck out.

**Form 12 Declaration where name omitted/struck from roll**

(Clause 19 (3))

(Parliamentary Electorates and Elections Act 1912 (Section 106))

The returning officer  
State electoral district of:

Form of declaration to be made by a person claiming to vote, who claims that his or her name has been omitted from or struck out of the certified copy of the roll for the polling place at which he or she claims to be entitled to vote (owing to an error of an officer or a mistake of fact) or by a person whose name cannot be found.

- I,           (a)    *(Name in full, print in BLOCK letters)*  
              (b)    *(Address in full)*  
              (c)    *(Date of birth),*

declare that:

I am entitled to be enrolled on the electoral roll for the electoral district of:

After becoming qualified for enrolment for the district, I sent or delivered to the Registrar for the subdivision of the district in which I reside a fully completed claim for enrolment (or transfer of enrolment) and my claim was received by the Registrar before 6 pm on the date that electoral rolls closed, ie on: *(date of issue of writ)*

From the time of sending or delivering my claim to the Registrar and up to the issue of the writ, I continuously retained my right to be enrolled for the district and did not become qualified for enrolment for any other district. To the best of my knowledge and belief my name has been omitted from or struck out of the certified copy of the roll for this polling place owing to an error of an officer or a mistake of fact, and not as a result of an objection on the ground of non-residence or other disqualification, or because of a transfer or duplication of enrolment.

Signature of voter:

Declared before me:           *(date)*           at           *(place)*           polling place.*(signed)*

Election official

**Note.** A person making any untrue statement in this declaration is liable to a maximum penalty of 10 penalty units or imprisonment for 6 months, or both.

## Parliamentary Electorates and Elections Regulation 2008

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**Form 13 Application for a postal vote certificate and postal ballot paper**

(Clause 23 (a))

(Parliamentary Electorates and Elections Act 1912 (Section 114A))

To the Electoral Commissioner or the returning officer for the electoral district of *(Insert name of electoral district to which the application is to be sent)*I, *(Print full name in BLOCK letters)*, *(Insert date of birth)* of *(Insert place of living as appearing on roll)* apply for a postal vote certificate and a postal ballot paper to enable me to vote by post at the forthcoming election/referendum.

I declare:

1 That I am an elector enrolled on the electoral roll for the State electoral district of *(place)*

2 That my answers to the following questions are true in every particular:

**Question****Applicant's Answer**

(A) Is your real place of living within the electorate in which you claim to vote?

**Note.** If answer to Question (A) is "Yes" the applicant is not required to answer Question (B).

(B) Was your real place of living within the 3 months immediately preceding the date fixed for the polling at the election, within the electorate in respect of which you claim to vote?

**Note.** The words "real place of living" in Questions (A) and (B) include the place of living to which a person, temporarily living elsewhere, has a fixed intention of returning for the purpose of continuing to live.

3 That the ground on which I apply to vote by post is:

**Note.** The elector MUST indicate which of the following grounds apply to his or her particular circumstances.

- (a) that I will not, throughout the hours of polling on polling day, be within New South Wales,
- (b) that I will not, throughout the hours of polling on polling day, be within 8 kilometres by the nearest practicable route of any polling booth open for the purposes of an election,
- (c) that I will throughout the hours of polling on polling day be travelling under conditions which will preclude me from voting at any polling booth,

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- (d) that I am seriously ill or infirm or approaching maternity and by reason of such illness or infirmity or approaching maternity will be precluded from attending at any polling booth to vote,
  - (e) that I will be, at a place other than a hospital, caring for a person who is seriously ill or infirm or approaching maternity and because of caring for the person will be precluded from attending at any polling booth to vote,
  - (f) that, because of my membership of a religious order or my religious beliefs:
    - (i) I am precluded from attending at a polling booth, or
    - (ii) I am precluded from voting throughout the hours of polling on polling day or throughout the greater part of those hours,
  - (g) that I will, because of being engaged for fee, gain or reward in any work throughout the hours of polling on polling day, be precluded from attending at any polling booth to vote,
  - (h) that I am a silent elector.

- 4** That my place of living at the time when the postal vote certificate and the postal ballot paper would be delivered in the ordinary course of post will be as follows: *(Here insert full place of living address to which it is required postal voting papers be posted)*

An elector must not make, and a person must not induce an elector to make, any false statement in an application for a postal vote certificate and a postal ballot paper, or in the declaration contained in the application.

Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.

Signed by the elector: *(Signature or mark of elector)*

Signed by the elector in my presence:

Signature of authorised witness:

Address:

Date:

### **Form 14 Application for a postal vote certificate and postal ballot paper**

(Clause 23 (b))

(Parliamentary Electorates and Elections Act 1912 (Section 114A))

To the Electoral Commissioner or the returning officer for the electoral district of *(Here insert name of electoral district to which the application is to be sent)*

I, *(Print full name in BLOCK letters)*  
of *(Insert place of living as appearing on roll)*

Date of birth:

apply for a postal vote certificate and a postal ballot paper to enable me to vote by post at the forthcoming election/referendum.

## Parliamentary Electorates and Elections Regulation 2008

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I declare:

- 1 That I am an elector enrolled on the electoral roll for the State electoral district of *(place)*
- 2 That the ground on which I apply to vote by post is that, by reason of my being kept in a correctional centre within the meaning of the *Crimes (Administration of Sentences) Act 1999*, I will be precluded from attending at any polling booth to vote.
- 3 That my address at the time when the postal vote certificate and the postal ballot paper would be delivered in the ordinary course of post will be as follows: *(Here insert name and address of correctional centre to which it is required postal voting papers be posted)*

An elector must not make, and a person must not induce an elector to make, any false statement in an application for a postal vote certificate and a postal ballot paper, or in the declaration contained in the application.

Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.

Signature of elector: *(Signature or mark of elector)*

Signed by the elector in my presence:

Signature of authorised witness:

Address:

Date:

### Form 15 Application for registration as general postal voter

(Clause 25 (1))

(Parliamentary Electorates and Elections Act 1912 (Section 114AA))

I, *(Print full name in BLOCK letters)*

of *(Insert place of living as appearing on roll)*

Date of birth:

apply for registration as a general postal voter.

I seek registration because I am:

*(Please tick the box next to the ground which applies.)*

- (a) an elector whose real place of living is not within 20 kilometres, by the nearest practicable route, of a polling place,
- (b) an elector who:
- (i) is a patient in a hospital (not being a hospital that is a polling place or a declared institution under section 114ZN of the Act), and
  - (ii) because of being seriously ill or infirm, is unable to travel from that hospital:
    - the name of that hospital is:
    - the address of that hospital is:

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- (c) an elector who:
- (i) is not a patient in a hospital, and
  - (ii) because of being seriously ill or infirm, is unable to travel from the place where I reside,
- (d) an elector who, because I will be at a place (other than a hospital) caring for a person who is seriously ill or infirm, is unable to travel from that place to a polling place,
- (e) an elector who is being kept in a correctional centre (within the meaning of the *Crimes (Administration of Sentences) Act 1999*)
- the name and address of the place where I am detained is:
- (f) an elector who is enrolled pursuant to a claim made under section 32 (3) of the Act,
- (g) an elector whom an Australian medical practitioner has certified, in writing, to be so physically incapacitated that I cannot sign my name,
- (h) an elector who will be absent from the State for a period exceeding 3 months.
- I will be absent from the State from: (*date of departure from the State*) to (*date of return to the State*).
- The address(es) to which any postal voting papers are to be sent during my absence from the State is (are) as follows:
- (i) an elector who is a silent elector,
- (j) an elector who, because of my religious beliefs or membership of a religious order:
- (i) is precluded from attending a polling booth, or
  - (ii) for the greater part of the hours of polling on polling day, is precluded from attending a polling booth.

Signature or mark of elector or person making application on behalf of elector:

Date:

**Form 16 Postal vote certificate**

(Clause 27)

(Parliamentary Electorates and Elections Act 1912 (Section 114D))

Application No:

Electoral district of (*place*) Roll No:Subject to the *Parliamentary Electorates and Elections Act 1912*, (*name*) is entitled to vote by post at the election to be held on (*date*)

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Date of issue: *(date)*

Signature of Electoral Commissioner or issuing returning officer:

State electoral district of:

**Certificate of voter**

I certify that the “signature of voter” hereunder is written by me with my own hand in the presence of the authorised witness. I declare I am entitled in accordance with the above Act to vote at this election as a postal voter.

Signature of voter: *(Signature or mark of elector)***Certificate of authorised witness**

I certify that the “Certificate of voter” was signed by the voter in my presence at *(place)* on the *(date)*, and I act as an authorised witness:

*(Strike out whichever clauses do not apply)*

- (1) as an elector on the electoral roll for the State of New South Wales, or
- (2) as an elector on the Commonwealth electoral roll for the State or Territory of *(place)*, or *(if outside Australia)*
- (3) under the following title:

Signature of authorised witness:

Name of authorised witness: *(Print in capital letters)*

Address of authorised witness:

**Note.** The “Instructions for Postal Voters” should be carefully read by the witness before completing this declaration.

**Form 17 Application by a person outside New South Wales for a postal vote certificate and postal ballot paper**

(Clause 30)

(Parliamentary Electorates and Elections Act 1912 (Section 114ZA))

To the Postal Voting Officer at:

I, *(Print full name in BLOCK letters)*of *(Insert place of living as appearing on roll)*

Date of birth:

**Passport details** *(To be completed if out of Australasia.)*

Passport No:

Place of issue of passport:

Date of issue of passport:

apply for a postal vote certificate and a postal ballot paper to enable me to vote by post at the forthcoming election.

I declare:

- 1 That I am an elector enrolled on the electoral roll for the State electoral district of *(place)*

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2 That my answers to the following questions are true in every particular:

**Question****Applicant's  
Answer**

(A) Is your real place of living within the electorate in which you claim to vote?

**Note.** If answer to Question (A) is "Yes" the applicant is not required to answer Question (B).

(B) Was your real place of living, at any time within the 3 months immediately preceding the date fixed for the polling at the election, within the electorate in respect of which you claim to vote?

**Note.** The words "real place of living" in Questions (A) and (B) include the real place of living to which a person, temporarily living elsewhere, has a fixed intention of returning for the purpose of continuing to live.

3 That I apply to vote by post on the ground that I will not throughout the hours of polling on polling day be within the State.

4 That my real place of living at the time when the postal vote certificate and the postal ballot paper would be delivered in the ordinary course of post will be as follows: (*Here insert full address to which it is required postal voting papers be posted.*)

Signed by the elector in my presence:

Signature of applicant: (*Signature or mark of elector*)

Signature of authorised witness:

Address:

Date:

**Form 18 Postal vote certificate**

(Clause 31)

(Parliamentary Electorates and Elections Act 1912 (Section 114ZB))

Application No:

Electoral district of:

Subject to the *Parliamentary Electorates and Elections Act 1912*, (*name*) has been issued with a ballot paper to vote by post at the election to be held on (*date*).

Date of issue:

Signature of issuing Postal Voting Officer:

Place of issue:

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**Certificate of voter**

I certify that the “signature of voter” hereunder is my signature or mark, written by me with my own hand in the presence of the authorised witness. I declare I am entitled in accordance with the above Act to vote at this election in respect of my enrolment at (*residence as enrolled*)

Date of birth:

Signature of voter: (*Signature or mark of elector*)

**Certificate of authorised witness**

I certify that the “Certificate of voter” was signed by the voter in my presence at (*place*) on the (*date*), and I act as an authorised witness:

(*Strike out whichever clauses do not apply*)

- (1) as an elector on the electoral roll for the State of New South Wales, or
- (2) as an elector on the Commonwealth electoral roll for the State or Territory of (*place*),  
or
- (3) under the following title: (*if outside Australia*)

Signature of authorised witness:

Name of authorised witness:

Address of authorised witness:

**Note.** The “Instructions for Postal Voters” should be carefully read by the witness before completing this declaration.

**Form 19 Registration of party—declaration of party membership**

(Clause 33)

(Parliamentary Electorates and Elections Act 1912 (Section 66D))

To the Electoral Commissioner:

I, (*Print full name in BLOCK letters, as enrolled*) of (*Insert place of living as appearing on Electoral roll*) born (*Insert date of birth*) declare that I am a member of the following political party: (*Insert full name of the party as registered or to be registered*) and I consent to that party relying on my membership for the purposes of the party qualifying for registration under the *Parliamentary Electorates and Elections Act 1912*.

Signature of party member:

Date:

**Notes.**

- 1 Each declaration of membership must be completed by (or at the direction of) the party member concerned and then signed by the member. Particulars to be completed are to be written by hand at the same time the form is signed. Each declaration of membership is to be made on a separate sheet of paper.
- 2 The Electoral Commissioner may, in order to verify the requirements for registration of a party, request a person who signs a declaration of membership to confirm that the person is a member of the party and that the person completed and signed the form.



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**Form 20 Registration of party—annual return**

(Clause 34)

(Parliamentary Electorates and Elections Act 1912 (Section 66HA))

To the Electoral Commissioner:

Annual return for ..... (year)

of: ..... (name of party as appearing on Register of Parties)

- 1. All the members of the party on whom the party relies to continue to be eligible for registration under Part 4A of the *Parliamentary Electorates and Elections Act 1912* are still members of the party.
- 2. Annexure “A”, pages 1 to ..... , shows members of the party who are members on whom it relies to continue to be eligible for registration (in place of former members of the party shown in the annexure). The remainder of the members on whom the party relies are still members of the party.
- 3. Annexure “B”, pages 1 to ..... , shows the changes that have occurred in the names or addresses of members of the party on whom it relies to continue to be eligible for registration.

***Cross out whichever clause or clauses above do not apply.***

I, .....  
(print full name in BLOCK letters)

the registered officer of the above party, do solemnly and sincerely declare that I have made all reasonable inquiries to verify the above information and that the information is, to the best of my knowledge and belief, correct, and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Date: .....

Signed: .....

(Signature of registered officer of party)

Sworn by the deponent on ..... (date)

before me, ..... J.P. ....

(Name)

(Signature)

*(For Office use only)*

Date of receipt of annual return:

Signature of Electoral Commissioner:

Date: .....

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Annexure "A"

The following list specifies in Column A those former members of the party on whom it previously relied for continued registration. Column B specifies the list of members instead of those former members on whom the party now wishes to rely for continued registration. The remainder of the members on whom the party relies are still members of the party.

Column A	Column B
Names and addresses (as enrolled) of former members on whom the party relied	Names and addresses (as enrolled) of replacement members on whom the party relies
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	

**Note.** A Declaration of Party Membership (Form 20) completed by each replacement member specified in Column B on whom the party relies is to be attached.

Date: .....

Page ..... of .....

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## Annexure "B"

The following list specifies the former names and/or addresses of members of the party on whom it relies to continue to be eligible for registration. Where a member on whom the party relies for continued registration has changed their name, their address, or both, detail these changes below.

Column A	Column B
Previous names and addresses (as enrolled) of members on whom the party relies	Current names and addresses (as enrolled) of members
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	

**Form 21 Penalty notice for failure to vote**

(Clause 36 (1))

(Parliamentary Electorates and Elections Act 1912 (Section 120C))

Electoral district: (*place*) No on roll:

**If penalty is not paid or reason is not given within 28 days, court proceedings may be taken against you.**

Name and address of elector:

You are notified that electoral records show that you appear to have failed to vote at the election held on:

Under section 120F of the *Parliamentary Electorates and Elections Act 1912* the maximum penalty for failing to vote is 0.5 penalty units.

**If you consider you have a sufficient reason for your failure to vote you should return this notice with any explanation you may wish to offer.**

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Alternatively, you may dispose of the matter by:

- 1      Paying a penalty of \$25 to the Electoral Commissioner within 28 days of the date of this notice, or
- 2      Having the matter dealt with by a Court, where the maximum penalty is 0.5 penalty units plus court costs.

**Procedure for payment of penalty or offer of explanation**

Deliver or post the penalty or the explanation to the Electoral Commissioner.

*[Here insert the methods by which payment may be made.]*

**Part payment of this penalty cannot be accepted**

Penalty for any person giving a false reason for failure to vote is 0.5 penalty units.

**This form must be forwarded with your payment or explanation.**

Indicate if receipt is required.

Electoral Commissioner:

Date:

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## Regulations – *continued*

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New South Wales

# Pawnbrokers and Second-hand Dealers Regulation 2008

under the

Pawnbrokers and Second-hand Dealers Act 1996

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Pawnbrokers and Second-hand Dealers Act 1996*.

LINDA BURNEY, M.P.,  
Minister for Fair Trading

### Explanatory note

The object of this Regulation is to remake, with some changes, the provisions of the *Pawnbrokers and Second-hand Dealers Regulation 2003*, which is to be repealed by section 10 (2) of the *Subordinate Legislation Act 1989* on 1 September 2008.

This Regulation makes provision with respect to the following:

- (a) the definitions of “market” and “second-hand goods”,
- (b) the exclusion of certain institutions from the application of section 5 of the *Pawnbrokers and Second-hand Dealers Act 1996* (*the Principal Act*),
- (c) the information that must be recorded and reported by pawnbrokers and second-hand dealers,
- (d) the regulation of businesses licensed under the Principal Act,
- (e) the terms and conditions of pawnbroking transactions,
- (f) disputes as to the ownership and restoration of goods,
- (g) other matters of a minor, consequential or ancillary nature.

This Regulation is made under the Principal Act, including section 43 (the general regulation-making power) and the sections of the Act referred to in this Regulation.

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Clause 1	Pawnbrokers and Second-hand Dealers Regulation 2008
Part 1	Preliminary

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## Pawnbrokers and Second-hand Dealers Regulation 2008

under the

Pawnbrokers and Second-hand Dealers Act 1996

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Pawnbrokers and Second-hand Dealers Regulation 2008*.

**Note.** This Regulation replaces the *Pawnbrokers and Second-hand Dealers Regulation 2003* which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

#### 3 Interpretation

- (1) In this Regulation:  
*the Act* means the *Pawnbrokers and Second-hand Dealers Act 1996*.
- (2) Notes in the text of this Regulation (other than notes included in a form) do not form part of this Regulation.

#### 4 Meaning of “market”

For the purposes of the definition of *market* in section 3 (1) of the Act, a *market* does not include:

- (a) an activity:
  - (i) conducted in the course of or for the purposes of a fundraising appeal within the meaning of the *Charitable Fundraising Act 1991*, and
  - (ii) promoted by a person who is or is taken to be the holder of an authority under that Act in respect of such an appeal, unless, for the purposes of the activity concerned, space is allocated for a consideration to stallholders or marketeers who are not members of a charitable organisation or other body connected with the promotion of the fundraising appeal, or



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- (b) an assembly of stallholders or marketeers:
    - (i) none of whom is selling any second-hand goods (within the meaning of the Act), or
    - (ii) at which every person selling any such goods is selling them in household quantities only and has provided the promoter of the assembly with a signed declaration that the person has not traded in such goods on more than 6 days in the period of 12 months ending with the date on which the assembly is held.

#### 5 Meaning of “second-hand goods”

- (1) For the purposes of the definition of *second-hand goods* in section 3 (1) of the Act, the following classes of goods are prescribed:
  - (a) items of jewellery (including watches) that include gemstones or precious metals,
  - (b) gemstones and precious metals,
  - (c) sporting and recreational goods,
  - (d) musical instruments (but not including pianos other than electric or electronic pianos),
  - (e) photographic equipment (including digital cameras and digital imaging equipment),
  - (f) portable engine-powered, motorised or air-powered tools and equipment,
  - (g) microwave cookers and other electric or electronic goods (other than refrigerators, washing machines or other “whitegoods”),
  - (h) computer hardware and interactive game consoles,
  - (i) computer software and interactive game software,
  - (j) laser-read digital discs (such as compact discs, digital video discs and mini discs), and similar items that are used or designed for use with electric or electronic audio, visual or audio-visual systems,
  - (k) water craft of any description used or capable of being used as a means of transportation on water (including parts of a water craft),
  - (l) tool kits,
  - (m) car accessories,
  - (n) mobile phones,

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- (o) devices designed to play digital files (such as MP3 and DVD players and iPods),
  - (p) global positioning system equipment.
- (2) Despite subclause (1), the following classes of goods are not prescribed for the purposes of the definition of *second-hand goods* in section 3 (1) of the Act:
- (a) motorised wheelchairs, wheeled lounges, spinal carriages and other similar goods designed to carry a person with a disability,
  - (b) industrial or farming machinery that cannot be driven or is not portable.
- (3) The fact that a person, in the course of or as a matter ancillary to the carrying on of a business that does not require a licence under the Act:
- (a) sells any goods pursuant to a power conferred by the *Uncollected Goods Act 1995*, or
  - (b) takes goods as a trade-in or sells any goods so taken, or
  - (c) sells any goods that have become second-hand goods by reason of being used in the course of a rental business conducted by the person, or
  - (d) sells any goods for the purpose of taking or enforcing securities over those goods,
- does not, for the purposes of the Act, constitute carrying on a business of buying or selling second-hand goods.
- (4) In this clause:
- interactive game console*** means equipment for the playing of a game:
- (a) that involves a display on a computer monitor, television screen, liquid crystal display or similar medium, and
  - (b) where the way in which the game proceeds and the result achieved at various stages of the game is determined in response to the decisions, inputs and direct involvement of the player.
- interactive game software*** includes software (whether in a disc or cartridge or otherwise) that comprises a game and that is used or designed for use with an interactive game console.
- trade-in***, in relation to goods, means the taking of the goods as part payment for any new or used goods.

## 6 Application of Act

- (1) For the purposes of section 4 (2) (c) of the Act, the Act does not apply in relation to any act or omission by an approved person in:
  - (a) conducting a recycling program, or

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- (b) selling any goods collected in a recycling program, or
  - (c) contracting with another person to give that person ownership of goods collected in a recycling program.
- (2) For the purposes of section 4 (2) (c) of the Act, the Act does not apply in relation to a person to the extent that the person:
- (a) buys second-hand goods only from a government department or public authority, or
  - (b) deals only in second-hand goods that have been bought from manufacturers as factory seconds.
- (3) A person is an **approved person** for the purposes of subclause (1) if the person is:
- (a) a local government council or an employee of a local government council, or
  - (b) a contractor, or an employee of a contractor, when acting on behalf of a local government council under a contract relating to the recycling program concerned (but only if tenders were invited for the contract and the contractor was the successful tenderer).

#### 7 Exclusion of certain institutions from operation of section 5 of Act

Section 5 of the Act (Buy-back contracts regarded as pledge and loan) does not apply to goods received by an authorised deposit-taking institution or a bank.

#### 8 Fees

- (1) The fees payable for the purposes of the Act are listed in Column 1 of Schedule 3.
- (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 3 in relation to that fee, the total fee being as set out in Column 4 of that Schedule.
- (3) An amount specified in relation to an application in Column 2 of Schedule 3 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*.

Clause 9 Pawnbrokers and Second-hand Dealers Regulation 2008

Part 2 Records

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## Part 2 Records

### 9 Records generally

- (1) Records that are required to be kept for the purposes of the Act must be kept:
- (a) if they are records to which a licence condition under clause 10 applies, in the form required by that condition, or
  - (b) if they are other records, electronically or in a bound (not loose-leaf) book.

**Note.** Clause 11 enables a licence to be issued or renewed, in some circumstances, without a condition of the kind referred to in clause 10.

- (2) Any such records must:
- (a) be in the English language, and
  - (b) have consecutively numbered pages, and
  - (c) permanently record the date on which each record was first compiled and the date on which each entry was made, and
  - (d) include the contract number referred to in clause 12 (1) (c) and (2) (c) for each item taken in trade or pawn.
- (3) Despite subclause (1) and any condition imposed on a licence under clause 10:
- (a) any hard copy of a written statement as to the ownership of goods obtained from a customer under clause 18 (4) may be kept in loose-leaf form, and
  - (b) any hard copy of the record of an agreement by which goods were pawned under section 28 of the Act may be kept in loose-leaf form so long as the record includes the contract number referred to in clause 12 (1) (c) and (2) (c) for each item taken in pawn and is kept in order of contract number.

### 10 Licence condition about record creation and storage

The Director-General is to require the licensee, by way of a condition of the licence, to use electronic means of creation and storage of records kept for the purposes of section 16, 28 or 29A of the Act using software specified, or of a kind specified, in the condition.

### 11 Special provisions relating to keeping of records by certain licensees

- (1) A person who held a second-hand dealer's licence under the *Second-hand Dealers and Collectors Act 1906* immediately before the repeal of that Act on 30 April 1997 and who has never held a licence issued with a condition requiring the use of electronic means of creation

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and storage of records, may, when applying for the issue or renewal of a licence (being a licence authorising the person to carry on the business of a second-hand dealer, but not the business of a pawnbroker), apply to have the licence issued or renewed without such a condition.

- (2) Despite clause 10, if a person makes such an application, the Director-General must not impose such a condition if:
  - (a) the Director-General is satisfied that the person was entitled to make such an application, and
  - (b) the Director-General is satisfied, after having regard to both of the relevant documents in relation to the person's business, that the gross receipts of the business relating to used goods totalled \$150,000 or less in the previous financial year or (if appropriate) the financial year before that.
- (3) For this purpose, the relevant documents in relation to the person's business are:
  - (a) the person's income tax return or audited financial statement for the previous financial year, and
  - (b) a statutory declaration by the person declaring that the gross receipts of the business relating to used goods totalled \$150,000 or less in the previous financial year.
- (4) If the Director-General considers it appropriate, the Director-General may accept the following as relevant documents in relation to a person's business:
  - (a) the person's income tax return or audited financial statement for the year before the previous financial year,
  - (b) a statutory declaration relating to the gross receipts of the business for the year before the previous financial year.
- (5) If the Director-General accepts the person's income tax return or audited financial statement for the year before the previous financial year as the relevant documents for the purposes of this clause, the Director-General may impose a condition on the licence granted or renewed requiring the licensee to forward to the Director-General the licensee's income tax return or financial statement for the previous financial year within 14 days of the licensee receiving or finalising that document.
- (6) If at any time after the issue or renewal of a licence that does not contain a condition requiring the use of electronic means of creation and storage of records the Director-General is satisfied that the gross receipts for the licensee's business relating to used goods totalled more than \$150,000 in the previous financial year, the Director-General may impose a condition of that kind on the licence.

Clause 12 Pawnbrokers and Second-hand Dealers Regulation 2008

Part 2 Records

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- (7) Any condition imposed under subclause (6) takes effect 90 days after written notice of the condition is given to the licensee.
- (8) If, on such evidence as the Director-General may require, the Director-General is satisfied that:
- (a) a second-hand dealer's licence under the *Second-hand Dealers and Collectors Act 1906* was held by a person for the purposes of a business carried on by a corporation or partnership, and
  - (b) in the case of a partnership, there has not been any change in the membership of the partnership since the licence was held on its behalf (except for any person ceasing to be a partner or any spouse of an existing partner becoming a partner),
- the Director-General may determine that the corporation or each of those partners is to be regarded, for the purposes of this clause, as the holder of the licence. The determination has effect accordingly.
- (9) For the purposes of subclause (8), *spouse* includes the other party to a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.
- (10) A reference in subclause (1) to a licence issued under the *Second-hand Dealers and Collectors Act 1906* includes a reference to a licence issued after 30 April 1997 pursuant to an application that was made but not dealt with before that date.
- (11) In this clause:  
*used goods* means goods that have been used or that are represented by a vendor of the goods to be goods purchased (otherwise than by the vendor) previously but unused, and includes second-hand goods.

## 12 Records of goods pawned, purchased or sold

- (1) The following particulars are prescribed for the purposes of section 16 (1) of the Act in so far as the licensee carries on the business of a pawnbroker:
- (a) if the pledgor is:
    - (i) an individual—the name, residential address and date of birth of the individual, or
    - (ii) a corporation—the name, business address and Australian Business Number of the corporation,
  - (b) if the transaction is conducted by an individual acting as agent of the pledgor—the name, residential address and date of birth of the agent,

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- (c) a contract number for each transaction in which goods are pawned (that is, a number uniquely assigned by the licensee to distinguish it from any other pledge arising in the course of the licensee's business),
  - (d) the date on which any pledge was taken, forfeited, sold or otherwise dealt with,
  - (e) the sale price of any forfeited item sold,
  - (f) the name and address of the purchaser of any forfeited item sold, except in cases where:
    - (i) the principal lent on the goods did not exceed \$50, or
    - (ii) the goods were sold by auction conducted away from business premises of the pawnbroker.
- (2) The following particulars are prescribed for the purposes of section 16 (1) of the Act in so far as the licensee carries on the business of a second-hand dealer:
- (a) if the vendor or consignor is:
    - (i) an individual—the name, residential address and date of birth of the individual, or
    - (ii) a corporation—the name, business address and Australian Business Number of the corporation,
  - (b) if the transaction is conducted by an individual acting as agent of the vendor or consignor—the name, residential address and date of birth of the agent,
  - (c) a contract number for each transaction in which goods are bought or sold (that is, a number uniquely assigned by the licensee to distinguish it from any other sale or purchase arising in the course of the licensee's business),
  - (d) the date on which any goods were purchased, taken on consignment, sold or otherwise dealt with,
  - (e) the name and address of the purchaser of goods sold by the licensee along with the sale price, except in cases where the sale price does not exceed \$50,
  - (f) a description of the goods that includes any characteristics specified in section 28 (2) (a) of the Act that appear on or in connection with the goods,
  - (g) the price paid by the licensee for any goods purchased by the licensee,
  - (h) the location of any goods concerned in the business that are not kept at the notified business or storage premises of the licensee.

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- (3) The following particulars are also prescribed for the purposes of section 16 (1) of the Act in relation to all licensed businesses:
- (a) evidence of any search in public registers such as REVS for encumbrances in respect of the goods,
  - (b) features peculiar to any card or document relied on for the purposes of clause 18 (1), such as:
    - (i) in the case of a passport or driver licence—the number of the passport or licence, or
    - (ii) in the case of a credit card—the account number displayed on the card, or
    - (iii) in the case of a bill addressed to the customer from a public utility—the customer's account number shown on the bill,
  - (c) in relation to jewellery, such particulars as the Commissioner of Police, by one or more notices served on the licensee, may specify.
- (4) A record required to be kept by a second-hand dealer under section 16 (1) of the Act must:
- (a) in the case of the acquisition or consignment of second-hand goods:
    - (i) be made by close of business on the day on which the goods were acquired or taken on consignment by the licensee, or
    - (ii) be made as soon as possible after the acquisition or consignment of the goods, if they were received by (or consigned to) the licensee at premises other than those nominated in the licensee's application for a licence or afterwards notified to the Director-General, and
  - (b) in the case of the disposal of second-hand goods, be made by close of business on the day on which the goods were disposed of by the licensee.
- (5) In this clause:  
*business address* of a corporation means the address of the corporation's registered office.

### 13 Records of persons employed in licensed businesses

For the purposes of section 16 (2) of the Act, the prescribed particulars are as follows:

- (a) the name, date of birth and residential address of each person employed in the licensed business,



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- (b) the date on which each person commences employment in the licensed business,
  - (c) the date on which each person's employment in the licensed business is terminated.

**Note.** A record required to be kept under section 16 of the Act must be retained for a period of 3 years after the record is made.

#### **14 Records relating to markets**

For the purposes of section 16 (3) of the Act, the prescribed particulars are as follows:

- (a) the date on which the market is held,
- (b) the location of the market,
- (c) the name, residential address and, if possible, vehicle registration number of any unlicensed stallholder offering second-hand goods for sale,
- (d) a general description of the goods offered for sale by any such stallholder,
- (e) details of any identification documents produced by any such stallholder.

#### **15 Furnishing of records to Commissioner of Police**

- (1) For the purposes of section 16 (5A) of the Act, particulars of a record that is required, by way of a condition of a licence, to be created and stored in electronic form by a licensee must be furnished to the Commissioner of Police by transmission in electronic form within 3 working days of the record being made, or in accordance with other arrangements made by the Commissioner of Police with the licensee.
- (2) For the purposes of section 16 (5A) of the Act, particulars of a record that is required by or under the Act to be kept by a licensee, but that is not required to be created and stored in electronic form, must be furnished to the Commissioner of Police, if so directed by the Commissioner, in the manner and within the time directed by the Commissioner.
- (3) This clause does not apply to a record required to be kept for the purposes of section 29A of the Act.

#### **16 Production of records at offices of Department**

For the purposes of section 17 (4) of the Act, the prescribed distance is 100 kilometres.

Clause 17 Pawnbrokers and Second-hand Dealers Regulation 2008

Part 3 Regulation of licensed businesses

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## Part 3 Regulation of licensed businesses

### 17 Display of licence details and other information

- (1) For the purposes of section 14 of the Act, the required particulars are:
- (a) the name of the licensee, and
  - (b) the licence number, and
  - (c) the business authorised by the licence to be carried on by the licensee, and
  - (d) a statement containing the words “any information provided to the licensee by or about a customer in relation to the trading of second-hand goods may be furnished to the police”.

**Note.** The obligation to furnish information to the Commissioner of Police is imposed by clause 15.

- (2) The required particulars must be written in legible capital letters in the English language using letters and figures each not less than 5 centimetres in height, and in Arial or similar font style.

**Note.** See also clauses 29 and 33 for other signage requirements.

### 18 Evidence of identity and title of supplier of goods

- (1) For the purposes of section 15 (1A) of the Act, the identity of the person (*the customer*) offering to sell or pawn any goods to a licensee must be verified by the licensee by means of:
- (a) a card or document that:
    - (i) bears the customer’s photograph, and
    - (ii) appears to be issued by the government or a statutory authority of New South Wales or the Commonwealth or another State or Territory, and
    - (iii) includes the name of the person who the customer claims to be and the address at which the customer claims to reside, and a signature, purporting to be the signature of that person that matches the signature of the customer, and
    - (iv) does not bear any indications of forgery or tampering, or
  - (b) a combination of cards or documents:
    - (i) that appear to be issued by organisations or persons other than the customer and that include the information and features described in paragraph (a) (iii), and
    - (ii) one of which appears to be issued by the government or a statutory authority of New South Wales or the Commonwealth or another State or Territory, and

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- (iii) none of which bears any indications of forgery or tampering, or
  - (c) a card or document (including, for example, a foreign passport) that:
    - (i) appears to be issued by the government or a government authority of a foreign country, and includes the information and features described in paragraph (a) (i) and (iii) (including the customer's permanent or temporary residential address in Australia), and
    - (ii) does not bear any indications of forgery or tampering, or
  - (d) a combination of cards or documents (including, for example, a foreign passport):
    - (i) one of which appears to be issued by the government or a government authority of a foreign country, and includes the information and features described in paragraph (a) (i) and (iii) (but not including the customer's permanent or temporary residential address in Australia), and
    - (ii) one of which is in the form of a document (such as a letter from a landlord or proprietor of a hotel or similar premises) that includes the customer's permanent or temporary residential address in Australia, and
    - (iii) none of which bears any indications of forgery or tampering.
- (2) For the purposes of section 15 (1B) of the Act, if the person is an individual, the person's date of birth is prescribed as a particular relating to the identity of the person. Evidence of the person's date of birth must be given in a documentary form (such as a driver licence, passport, birth certificate or proof of age card) issued by the government or a statutory authority of New South Wales or the Commonwealth or another State or Territory or the government or a government authority of a foreign country.
- (3) For the purposes of section 15 (1B) of the Act, if the person is a corporation, the corporation's Australian Business Number is prescribed as a particular relating to the identity of the person. Evidence of the Australian Business Number must be given in a documentary form issued by the government or a statutory authority of New South Wales, the Commonwealth or a State or Territory.
- (4) For the purposes of section 15 (3) of the Act, the licensee must obtain from the customer a written statement as to the ownership of goods that:
- (a) is in the form set out in Form 1 in Schedule 1, and
  - (b) is set out in 10 point Arial type.

Clause 19 Pawnbrokers and Second-hand Dealers Regulation 2008

Part 3 Regulation of licensed businesses

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(5) In this clause:

*foreign country* means a country other than Australia, and includes a state, province or other part of such a country.

**19 Exemptions relating to overseas supplier of goods**

- (1) A licensee is exempted from the operation of section 15 (1), (1A), (1B) and (3) of the Act if:
- (a) goods that are being offered for sale to the licensee are to be or have been imported to Australia from a foreign country by the licensee, and
  - (b) an Australian Customs Service Import Reference Number in respect of the goods is obtained by the licensee.
- (2) For the purposes of section 16 (1) of the Act, a licensee must, if a transaction consists of the acquisition of goods referred to in subclause (1), keep all original documents provided by the Australian Customs Service (including the Australian Customs Service Import Reference Number) and a description of the goods or contract to which the reference number relates.

**20 Contract or stock number to be reproduced on tag, label or other attachment**

- (1) A licensee must ensure that:
- (a) the contract number, or
  - (b) a stock number,
- for each item taken in trade or pawn during the course of the licensee's business is reproduced on a tag, label or other attachment to the item that is attached on the day on which the item is taken in trade or pawn and remains on the item until it is redeemed or sold.
- Maximum penalty: 20 penalty units.
- (2) In this clause:
- contract number* for an item is the number referred to in clause 12 (1) (c) or (2) (c) in relation to the item.
- stock number* for an item is a number that:
- (a) is uniquely assigned by the licensee to distinguish the item from any other item held by the licensee in the course of the licensee's business, and
  - (b) is the same as or different from the contract number for the item, and
  - (c) is recorded electronically and in paper form, and

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- (d) is linked to the contract number for the item in the electronic and paper record.

## **21 Retention of goods by licensee**

- (1) Section 21 (1) of the Act does not apply to:
- (a) goods that are on consignment with the licensee for sale, or
  - (b) goods purchased by the licensee at auction, or
  - (c) goods purchased by the licensee from another licensee if before the purchase the goods have already been kept by the other licensee for any period for which the other licensee was required to keep them by section 21 of the Act or any notice under that section, or
  - (d) pawned goods, or
  - (e) goods purchased by tender or auction from:
    - (i) a Government Department, or
    - (ii) a State owned corporation, or
    - (iii) a statutory authority constituted by or under an Act for a public purpose.
- (2) For the purpose of section 21 (1) (a) of the Act, water craft and other goods of substantial size may be kept at any convenient place so long as the licensee notifies the Director-General in writing of the full address of that place.

## **22 Penalty notice offences and demerit points**

- (1) Each offence created by a provision specified in Column 1 of Schedule 2 is a prescribed offence for the purposes of sections 26 and 27 of the Act.
- (2) The penalty specified in Column 2 of Schedule 2 opposite any such provision specified in Column 1 of that Schedule is the amount of penalty prescribed for the offence concerned if dealt with under section 26 of the Act.
- (3) The number of demerit points specified in Column 3 of Schedule 2 opposite any such provision specified in Column 1 of that Schedule is the number of demerit points prescribed for the purposes of section 27 (2) of the Act in respect of the offence concerned.

Clause 23 Pawnbrokers and Second-hand Dealers Regulation 2008

Part 4 Special provisions relating to pawnbrokers

## Part 4 Special provisions relating to pawnbrokers

### 23 Equivalent annual interest rate

(1) In this clause:

*equivalent annual interest rate* means the rate mentioned in section 28 (2) (c) of the Act (expressed as a percentage) calculated as prescribed by this clause.

*interest period*, in relation to a loan made by a pawnbroker, means a period of time in respect of which interest is charged on any outstanding balance.

*outstanding balance*, in relation to such a loan, means the portion of the amount advanced that remains unpaid.

*periodic interest rate*, in relation to such a loan, means the rate (expressed as a percentage) per interest period at which interest is chargeable on any outstanding balance.

(2) The equivalent annual interest rate, in relation to a loan made by a pawnbroker, is the rate that bears to a year the same proportion as the periodic interest rate bears to the interest period. For example:

- (a) if the interest period is one month, the equivalent annual interest rate is 12 times the periodic interest rate, and
- (b) if the interest period is one week, the equivalent annual interest rate is 52 times the periodic interest rate.

### 24 Exemptions relating to pawnbroker's record of pledges

A licensee is exempted from the requirement to record a serial number under section 28 (2) (a) of the Act if the pawned goods are batteries or chargers for any cordless second-hand goods.

### 25 Pawnbroker's record of pledges

(1) For the purposes of section 28 (2) (a) of the Act:

- (a) a fair and reasonable description of a laser-read digital disc or similar item (as referred to in clause 5 (1) (j)) must include:
  - (i) the title of the disc or item or of any film recorded on it, and
  - (ii) in the case of discs designed to play digital audio files—the name of any one or more of any artists or groups whose performance is or performances are recorded on it, and
- (b) a fair and reasonable description of a mobile phone must include its International Mobile Equipment Identity (IMEI) number.

Pawnbrokers and Second-hand Dealers Regulation 2008

Clause 26

Special provisions relating to pawnbrokers

Part 4

- 
- (2) For the purposes of section 28 (2) (f) of the Act:
- (a) particulars of:
    - (i) the date of birth of the owner of the goods, if the owner is an individual, or
    - (ii) the Australian Business Number of the owner of the goods, if the owner is a corporation, and
  - (b) if the goods are pawned by an individual as the agent of the owner of the goods—particulars of the date of birth of the agent, and
  - (c) the printed name and signature of the person who took the pawn on behalf of the pawnbroker,
- are prescribed as particulars required to be included in the record of an agreement by which goods are pawned.
- (3) For the purposes of subclause (2):
- (a) evidence of an individual's date of birth must be given in a documentary form (such as a driver licence, passport, birth certificate or proof of age card) issued by the government or a statutory authority of New South Wales or the Commonwealth or a State or Territory or the government or a government authority of a foreign country, and
  - (b) evidence of a corporation's Australian Business Number must be given in a documentary form issued by the government or a statutory authority of New South Wales, the Commonwealth or a State or Territory.

**26 Notice of rights and obligations of person pawning goods**

- (1) For the purposes of section 28 (5A) (a) of the Act, the form set out as Form 2 in Schedule 1 is prescribed.
- (2) The prescribed form must:
- (a) be set out in 10 point Arial type on A4 size double-sided paper, and
  - (b) not include any information other than the wording set out in Form 2 in Schedule 1.

**27 Additional particulars or information to be disclosed in or to accompany pawn ticket**

For the purposes of section 28 (5A) (d) of the Act, the following particulars or information are to be disclosed in a notice incorporated in or accompanying a pawn ticket:

- (a) a statement of the frequency with which interest charges are to be debited and of the times at which interest charges are payable,

Clause 28 Pawnbrokers and Second-hand Dealers Regulation 2008

Part 4 Special provisions relating to pawnbrokers

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- (b) a statement to the effect that, if provision is made for interest charges to be payable at intervals of greater than one month, the interest charges may instead be paid at monthly intervals at the option of the person who pawned the goods,
- (c) particulars of the address of the premises where the goods will be located during the redemption period,
- (d) if the goods consist of more than one item—a statement as to whether or not the goods may be separately redeemed,
- (e) the date on which the redemption period ends.

#### **28 Redemption of pawned goods**

- (1) For the purposes of section 29 (6) of the Act, the identity of the person (*the customer*) attempting to redeem any pawned goods from a licensee's premises is ascertained by production of the pawn ticket and reproduction, in the presence of the licensee or an employee of the licensee, of the signature shown on that ticket. If the customer does this, there are no other requirements for the purposes of that subsection.
- (2) The identity of a customer who cannot produce the pawn ticket must be ascertained by the licensee by means of:
  - (a) a card or document that:
    - (i) bears the customer's photograph, and
    - (ii) appears to be issued by the government or a statutory authority of New South Wales or the Commonwealth or another State or Territory, and
    - (iii) includes the name of the person who the customer claims to be and the address at which the customer claims to reside, and a signature, purporting to be the signature of that person that matches the signature of the customer, and
    - (iv) does not bear any indications of forgery or tampering, or
  - (b) a combination of cards or documents:
    - (i) that appear to be issued by organisations or persons other than the customer and that include the information and features described in paragraph (a) (iii), and
    - (ii) one of which appears to be issued by the government or a statutory authority of New South Wales or the Commonwealth or a State or Territory, and
    - (iii) none of which bears any indications of forgery or tampering, or



Pawnbrokers and Second-hand Dealers Regulation 2008

Clause 29

Special provisions relating to pawnbrokers

Part 4

- 
- (c) a card or document (including, for example, a foreign passport) that:
    - (i) appears to be issued by the government or a government authority of a foreign country, and includes the information and features described in paragraph (a) (i) and (iii) (including the customer's permanent or temporary residential address in Australia), and
    - (ii) does not bear any indications of forgery or tampering, or
  - (d) a combination of cards or documents (including, for example, a foreign passport):
    - (i) one of which appears to be issued by the government or a government authority of a foreign country, and includes the information and features described in paragraph (a) (i) and (iii) (but not including the customer's permanent or temporary residential address in Australia), and
    - (ii) one of which is in the form of a document (such as a letter from a landlord or proprietor of a hotel or similar premises) that includes the customer's permanent or temporary residential address in Australia, and
    - (iii) none of which bears any indications of forgery or tampering.
- (3) A customer who cannot produce the pawn ticket must:
- (a) complete a declaration in writing stating that he or she is the owner of the goods, or
  - (b) produce:
    - (i) an authority in writing specifying the name and address of the owner of the goods and signed by the owner, authorising the goods to be collected by that customer, or
    - (ii) such evidence as may, in the circumstances, be reasonably sufficient to prove the death or incapacity of the owner or the owner's inability to sign such an authority.
- (4) In this clause:  
*foreign country* means a country other than Australia, and includes a state, province or other part of such a country.

## 29 Notice specifying interest rates and other fees and charges

For the purposes of section 32C of the Act, a notice specifying the rate or rates of interest charged by a licensee and any other fees and charges:

- (a) must be legible and in the English language, and

Clause 30      Pawnbrokers and Second-hand Dealers Regulation 2008

Part 4          Special provisions relating to pawnbrokers

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- (b) must be set out in Arial type of not less than 2.5cm in height, and
- (c) must appear as black writing against a white background.

**30 Sale of unredeemed goods**

For the purposes of section 30 (1) of the Act, the prescribed amount is \$100.

Pawnbrokers and Second-hand Dealers Regulation 2008

Clause 31

Disputes as to ownership of goods and restoration of goods

Part 5

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## **Part 5 Disputes as to ownership of goods and restoration of goods**

### **31 Restoration notices under Part 4A of Act**

- (1) For the purposes of section 32F (3) of the Act, a restoration notice must contain the following particulars and information:
  - (a) the name of the claimant (including, if the claimant is a corporation, the name of the person acting on behalf of the corporation),
  - (b) the claimant's address (including the registered business address if a corporation),
  - (c) the date of birth of the claimant (or ABN if a corporation),
  - (d) the signature of the claimant or the person acting on behalf of the claimant if a corporation,
  - (e) if the claimant is a corporation, a signed statement by an executive officer of the corporation authorising a named person to act on behalf of the corporation,
  - (f) the connection between the claimant and the goods concerned,
  - (g) evidence supporting the claimant's title to the goods,
  - (h) the present location of the goods,
  - (i) a description of the goods (including any serial number),
  - (j) any alternative means of identifying the goods (for example, any engraving or permanent markings),
  - (k) the COPS event number (in the case of a theft report),
  - (l) the date the matter was first reported to a police officer,
  - (m) the police description of the goods on inspection and the licensee's contract number for the goods,
  - (n) the name, contact details and signature of the police officer issuing the notice,
  - (o) the name and licence number of the licensee (including the names of the directors if the licensee is a corporation),
  - (p) the registered business address of the licensee,
  - (q) the address of the licensee's approved premises.
- (2) For the purposes of section 32F (7) of the Act, a restoration notice ceases to be operative if the claimant withdraws his or her allegation under section 32F (1) of the Act.

Clause 32	Pawnbrokers and Second-hand Dealers Regulation 2008
Part 5	Disputes as to ownership of goods and restoration of goods

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### **32 Jurisdiction of Local Court**

In accordance with section 32I (1) (a) of the Act, the Local Court has jurisdiction to determine an action referred to in section 93 of the *Civil Procedure Act 2005* that is brought by a claimant in connection with goods that are in the possession of a licensee and to which a restoration notice relates if the licensee does not make an application under section 32G in relation to the goods within 28 days of being served with the notice.

### **33 Notice relating to operation of Part 4A of Act**

For the purposes of section 32L of the Act, a notice relating to the operation of Part 4A of the Act must:

- (a) be in the form set out in Form 3 in Schedule 1, and
- (b) be legible and in the English language, and
- (c) be set out in Arial type of not less than 2.5cm in height, and
- (d) appear as black writing against a white background.

Pawnbrokers and Second-hand Dealers Regulation 2008

Clause 34

Miscellaneous

Part 6

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## Part 6 Miscellaneous

### 34 Lending or parting with licence

- (1) A licensee must not purport to transfer, and must not lend, the licence to another person or allow the use of the licence by another person.
- (2) A person must not purport to obtain a transfer of, or borrow or use, another person's licence.  
Maximum penalty: 20 penalty units.

### 35 Carrying on of business in partnership

- (1) The prescribed fees under the first 4 items of Schedule 3 are the total amount of the fees payable by all applicants who carry on business in partnership. Accordingly, no amount is payable in connection with an application for a licence or the renewal of a licence by any such applicant if, at that time or during the 12 months before the application, the requisite amount has been paid by any other partner in the partnership (whether the payment is for an application for a licence or for the renewal of a licence).
- (2) The Director-General may, for the purposes of clause 11 (6), treat the gross receipts of a business partnership as the gross receipts of the business of each licensee in the partnership.

### 36 Carrying on of business by legal personal representatives and trustees

- (1) If the holder of a licence dies or becomes mentally incapacitated, or is by the order of any court declared to be bankrupt, the legal personal representative or trustee of the estate of the licensee may in person or by a designated agent carry on the business authorised by the licence for a period of 3 months after the death, incapacity or order, unless sooner notified by the Director-General under subclause (5).
- (2) A person carrying on a business in accordance with this clause must immediately notify the Director-General that he or she is doing so.
- (3) For the purposes of the Act, this Regulation and any powers of the Director-General with respect to licences, a person carrying on a business in accordance with this clause is taken, while so doing, to be the licensee, and any agent through whom the person acts for the purposes of the business is taken to be an employee of the business.
- (4) If the licence concerned expires during the period of 3 months referred to in subclause (1), the provisions of sections 6 and 7 of the Act do not apply so as to render the person carrying on business in accordance with this clause guilty of an offence by reason of doing so.

Clause 37      Pawnbrokers and Second-hand Dealers Regulation 2008

Part 6          Miscellaneous

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- (5) For any reason that appears to the Director-General to be sufficient cause to do so, the Director-General may at any time, by notice in writing to a person carrying on a business in accordance with this clause, revoke the authority conferred by this clause so far as the relevant business is concerned.

**37 Unique identifier for combined licence**

Despite section 20 (3) (b) (i) of the *Licensing and Registration (Uniform Procedures) Act 2002*, the same unique identifier may relate to a pawnbroker's licence and second-hand dealer's licence that are both contained in the same document, as referred to in section 20 (5) of that Act.

**38 Savings provision**

Any act, matter or thing that had effect under the *Pawnbrokers and Second-hand Dealers Regulation 2003* immediately before the commencement of this Regulation is taken to have effect under this Regulation.

**39 Certification of number of demerit points**

For the purposes of section 27 (6) of the Act, the Commissioner for Fair Trading, Department of Commerce is a prescribed officer.

Pawnbrokers and Second-hand Dealers Regulation 2008

Forms

Schedule 1

## Schedule 1 Forms

(Clauses 18 (4), 26 and 33)

### Form 1 Pawnbrokers and Second-hand Dealers Act 1996

(Clause 18 of Pawnbrokers and Second-hand Dealers Regulation 2008)

#### Statement by customer as to who is the owner of goods sold or pawned

I ..... of .....  
..... am the owner of the goods described below.

Signed: .....

Dated: .....

OR

I ..... of .....  
..... am not the owner of the goods described below. The owner of the  
goods is ..... of .....

.....  
and I am authorised by the owner to sell/pawn the goods. (*You should cross out either "sell"  
or "pawn" if you are not authorised to do that thing.*)

Signed: .....

Dated: .....

Description of goods: .....  
.....  
.....  
.....  
.....

#### Important information

##### If you are acting on behalf of a corporation:

You must attach a statement signed by an executive officer of the corporation consenting to the transaction.

##### If you are pawning goods:

You must fill out this form and sign it so that the pawnbroker can be sure that you are the owner of the goods or that you have the authority of the owner to pawn the goods.

Any information that you provide to the pawnbroker will be passed on to the Commissioner of Police.

##### If you are offering any second-hand goods for sale by a second-hand dealer:

You must fill out this form and sign it so that the dealer can be sure that you are the owner of the goods or that you have the authority of the owner to sell the goods.

Any information that you provide to the dealer may be passed on to the Commissioner of Police.

**Warning: It is a crime to give false information or make a false statement in this form.**

**Maximum penalty: 50 penalty units (currently \$5,500).**

## Pawnbrokers and Second-hand Dealers Regulation 2008

## Schedule 1 Forms

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**Form 2 Pawnbrokers and Second-hand Dealers Act 1996**

(Clause 26 of Pawnbrokers and Second-hand Dealers Regulation 2008)

**Notice to person pawning goods**

**Note.** The information contained in this notice is to be treated only as a guide to your rights and obligations. In order to fully ascertain your legal rights and obligations you should refer to the relevant legislation.

**Pawn ticket**

- (1) You must sign an original record of your pawn agreement that contains all the required information.
- (2) You must be given a copy of this record (a pawn ticket) and this ticket must include the following information:
  - (a) The total amount lent on the goods.
  - (b) The date the pawn was made and the agreement signed.
  - (c) The date that the redemption period ends.
  - (d) If the goods consist of more than one item, whether or not the items can be separately redeemed.
  - (e) The interest that you will be charged and the fees and charges that you will or may have to pay including any that may be deducted from the sale of your goods and how those fees and charges are calculated. Note that the interest rate and the fees and charges must not be more than those that are displayed on a sign in the pawnbroking shop.
  - (f) The equivalent annual interest rate.
  - (g) How often interest will be charged with an option to pay interest monthly if you want to.
  - (h) The address of where the goods will be kept during the redemption period.
  - (i) A fair and reasonable description of your goods, including serial numbers or other identifying numbers of every component.
  - (j) The name and residential address of the owner of the goods and any agent through whom they are pawned.
  - (k) By what method your goods may be sold if you were not to redeem them, for example, sold on the shelf or by auction at the pawnbroking shop or sold by auction at other premises.

**Redemption of goods**

- (1) You may reclaim the goods that you have pawned by paying the outstanding amount of the loan, and any interest due and any fees and charges payable, as stated on your pawn ticket. You must also produce your pawn ticket to the pawnbroker and reproduce the signature on the ticket. If you have lost your ticket, you can provide evidence of your identity and a declaration that you are the owner of the goods instead. If you wish an agent to collect the goods on your behalf they will need an authorisation from you or evidence that you are unable to collect the goods yourself or provide an authorisation.



## Pawnbrokers and Second-hand Dealers Regulation 2008

Forms

Schedule 1

- 
- (2) You may reclaim the goods at any time before the pawnbroker sells or disposes of them, even if the period of the loan has passed. The pawnbroker cannot charge interest after the end of the loan period but may charge you a safekeeping fee (this must be on your pawn ticket). This safekeeping fee cannot be more than that stated on the pawn ticket and the sign in the pawnbroking shop.

**Period of loan and payments**

- (1) The pawnbroker must provide you with a minimum 3-month loan period. The period of the loan commences on the day the goods are pawned.
- (2) You have a right to pay your interest charges on a monthly basis, the interest does not all have to be paid at the end of the loan period and you can make an interest payment to the pawnbroker at any time during business hours.
- (3) Any person may make an interest payment on your behalf.

**Lost or stolen pawn ticket**

If the pawn ticket is lost or stolen you have a right to redeem the goods if you give the pawnbroker proof of your identity and:

- (a) a declaration stating that you are the owner of the goods, or
- (b) an authority from the owner to collect the goods, or
- (c) reasonable evidence of the owner's death, incapacity or inability to sign an authority.

**Sale of unredeemed goods and payment of surplus**

The following provisions apply if the period of the loan expires and you have not reclaimed the pawned goods:

- (a) The pawnbroker must, if the loan is greater than \$100, offer the goods for sale as soon as possible in a way that will get the best price possible.
- (b) The only fees and charges that may be taken off the price paid for the goods are those that are stated on your pawn agreement (these must also be shown on a sign in the pawnbroking shop).
- (c) If the goods are sold for more than the loan and any interest or charges payable, then that excess money (or surplus) is payable to you. It is your right to collect that money within 12 months of the sale.
- (d) If there is a surplus which is greater than \$100, then not more than 21 days after the goods are sold the pawnbroker must send you a notice (unless you have requested the pawnbroker not to send you a notice) stating that the goods have been sold and there is a surplus due to you and that you have 12 months to collect it.
- (e) The pawnbroker, an employee of the pawnbroker or a person acting on behalf of a pawnbroker cannot buy the goods. If they do so they will not have legal ownership of the goods.

**Pawn agreement cannot be varied other than to extend**

- (1) You and the pawnbroker cannot vary the original agreement to pawn your goods other than to extend the loan period (this can be done even if the original loan period has already finished).

## Pawnbrokers and Second-hand Dealers Regulation 2008

## Schedule 1 Forms

- 
- (2) You must sign the agreement to extend and be provided with a copy of that agreement. The copy must:
- (a) include a reference to the original agreement and state the date the extension agreement is made and what the new redemption period is, and
  - (b) state any new fees, charges or interest payable as a result of the extension agreement and include the date on which the extension agreement was entered into.

**What happens if the pawnbroking shop closes or the pawnbroker sells the business?**

- (1) If the pawnbroker sells the pawnbroking shop, the pawnbroker must write to you within 14 days of the sale, at the address that you have supplied, and notify you as to who has bought the business and will be in charge of the pawn.
- (2) If a pawnbroker surrenders the pawnbroker's licence, the Office of Fair Trading may require the pawnbroker to advise you as to where you can redeem your goods.

**Form 3 Pawnbrokers and Second-hand Dealers Act 1996**

(Clause 33 of Pawnbrokers and Second-hand Dealers Regulation 2008)

**Disputes about ownership and restoration of goods**

You have a legal right to claim goods from these premises that you have good reason to believe are yours. Go to any Police Station and a police officer will advise you of your rights and what you will need to do.

Pawnbrokers and Second-hand Dealers Regulation 2008

Penalty notice offences and demerit points

Schedule 2

## Schedule 2 Penalty notice offences and demerit points

(Clause 22)

Column 1	Column 2	Column 3
Provision of Act	Penalty (in dollars)	Number of demerit points
Section 6	1,100 in the case of an individual or 2,200 in the case of a corporation	Nil
Section 7	1,100 in the case of an individual or 2,200 in the case of a corporation	Nil
Section 12 (2)	330	2
Section 12A (2)	330	2
Section 12B (2)	330	2
Section 14	330	Nil
Section 15 (1)	330	2
Section 15 (3)	330	2
Section 15A (1)	330	Nil
Section 16 (1)–(5A)	550	2
Section 16 (6)	330	2
Section 17	330	2
Section 19 (1)	550	2
Section 20	330	2
Section 21	550	2
Section 28 (7)	550	2
Section 29	330	2
Section 29A (11)	330	2
Section 29B (2)	550	2
Section 30	330	2
Section 31	330	2
Section 31A (1)	550	2

## Pawnbrokers and Second-hand Dealers Regulation 2008

## Schedule 2 Penalty notice offences and demerit points

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision of Act</b>	<b>Penalty (in dollars)</b>	<b>Number of demerit points</b>
Section 32	330	2
Section 32C	330	Nil
Section 32F (4)	550	2
Section 32L	330	Nil
Section 37	110	Nil

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision of this Regulation</b>	<b>Penalty (in dollars)</b>	<b>Number of demerit points</b>
Clause 20 (1)	330	2

Pawnbrokers and Second-hand Dealers Regulation 2008

Fees

Schedule 3

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## Schedule 3 Fees

(Clause 8)

Column 1	Column 2	Column 3	Column 4
Nature of fee payable	Processing component	Fixed component	Total fee
Application fee for granting of licence	\$154	\$269	\$423
Application fee for renewal of licence	\$36	\$269	\$305
Application fee for restoration of licence	\$72	\$269	\$341
Application fee for replacement of licence	\$25	Nil	\$25
Application fee for extract of register (per entry)	Nil	\$14	\$14

**Note.** The 2008 CPI of 2.37% was applied to the fees in the *Pawnbrokers and Second-hand Dealers Regulation 2003*. The application fee for an extract of the register (per entry) has not been increased in this Regulation. For the proposed 2009 Annual Review of Fees, the cumulative CPI of 2008 and 2009 will be applied to this fee.



New South Wales

# Poisons and Therapeutic Goods Regulation 2008

under the

Poisons and Therapeutic Goods Act 1966

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Poisons and Therapeutic Goods Act 1966*.

REBA MEAGHER, M.P.,  
Minister for Health

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the *Poisons and Therapeutic Goods Regulation 2002* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the packaging, labelling, storage, prescription and supply (including making records of supply) of poisons, restricted substances and drugs of addiction,
- (b) the supply of substances by wholesale, and the regulation of wholesale dealing,
- (c) the preparation, handling, supply and labelling of therapeutic goods,
- (d) the analysis and disposal of goods that have been seized under section 43 of the *Poisons and Therapeutic Goods Act 1966*,
- (e) the issue, suspension and cancellation of licences and authorities for the purposes of that Act,
- (f) the fees payable in respect of those licences and authorities,
- (g) savings and formal matters.

This Regulation is made under the *Poisons and Therapeutic Goods Act 1966*, including section 45C (the general regulation-making power) and the various other provisions referred to in this Regulation.

## Poisons and Therapeutic Goods Regulation 2008

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Clause 1	Poisons and Therapeutic Goods Regulation 2008
Part 1	Preliminary

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## Poisons and Therapeutic Goods Regulation 2008

under the

Poisons and Therapeutic Goods Act 1966

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Poisons and Therapeutic Goods Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Poisons and Therapeutic Goods Regulation 2002* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

*Ambulance Service of NSW* has the same meaning as it has in the *Health Services Act 1997*.

*authorised practitioner* means:

- (a) in Part 4 (Drugs of addiction), a medical practitioner, nurse practitioner, midwife practitioner, dentist or veterinary practitioner, and
- (b) in a Part other than Part 4, a medical practitioner, nurse practitioner, midwife practitioner, dentist, optometrist or veterinary practitioner.

*charitable organisation* means an organisation or association that holds an authority under the *Charitable Fundraising Act 1991* or that is referred to in section 7 of that Act as an organisation or association to which that Act (section 48 excepted) does not apply.

*Commonwealth Department of Health* means the Commonwealth Department of Health and Ageing.

*confer a function* includes impose a duty.

*current Poisons Standard* has the same meaning as it has in the *Therapeutic Goods Act 1989* of the Commonwealth.

Poisons and Therapeutic Goods Regulation 2008

Clause 3

Preliminary

Part 1

**dealer**, in relation to a substance, means a person who supplies the substance as a manufacturer, an importer or exporter or a wholesale or retail dealer, and includes an authorised practitioner or pharmacist in his or her capacity as a supplier of the substance.

**exercise** a function includes perform a duty.

**function** includes a power, authority and duty.

**hallucinogen** means any of the following drugs of addiction:

- (a) etorphine,
- (b) tetrahydrocannabinol and its alkyl homologues where Schedule 8 of the Poisons List applies.

**hospital** means a public hospital, public institution, private health facility or nursing home.

**inspector** means a person authorised by the Director-General to exercise the powers conferred by section 43 of the Act.

**nursing home** has the same meaning as in the *Public Health Act 1991*.

**practitioner of alternative medicine** means a herbalist, nutritionist, naturopath, practitioner of Chinese medicine or homoeopathic practitioner.

**prescribed restricted substance**—see clause 61.

**prescription reference number** means the unique reference number for the prescription recorded under clause 55 or 114.

**private health facility** means a private health facility licensed under the *Private Health Facilities Act 2007* or premises licensed as a private hospital under the *Private Hospitals and Day Procedure Centres Act 1988*.

**public hospital** means a public hospital within the meaning of the *Health Services Act 1997*.

**retail dealer**, in relation to a substance, means a person who supplies the substance as a retailer, and not as a manufacturer, importer, exporter or wholesaler, and not as an authorised practitioner or pharmacist in his or her capacity as a supplier of the substance.

**retail pharmacist** means a pharmacist who is employed in a retail pharmacy.

**retail pharmacy** means premises approved under Schedule 2 to the *Pharmacy Practice Act 2006* as suitable for carrying on a pharmacy business.

**scientifically qualified person** means:

- (a) a medical practitioner, dentist, veterinary practitioner or pharmacist, or



Clause 4 Poisons and Therapeutic Goods Regulation 2008

Part 1 Preliminary

(b) a person who holds a degree or diploma approved for the time being by the Director-General, or

(c) a person approved for the time being by the Director-General.

*seized goods* means regulated goods that have been seized under section 43 of the Act.

*special restricted substance* means a substance included in Appendix B to this Regulation.

*the Act* means the *Poisons and Therapeutic Goods Act 1966*.

*Therapeutic Goods Order No. 65* means the order of that number called *Child-Resistant Packaging for Therapeutic Goods*, as in force from time to time under section 10 of the *Therapeutic Goods Act 1989* of the Commonwealth.

*therapeutic substances* means substances that are therapeutic goods.

*ward* of a hospital includes any theatre, laboratory or department of the hospital, other than the pharmacy department.

(2) In this Regulation:

(a) expressions that are defined in the current Poisons Standard have the meanings given to them by that Standard, and

(b) expressions that are defined in the current Poisons Standard and that are also defined in the Act or in this Regulation have the meanings given to them by the Act or this Regulation, respectively, and

(c) a reference to a Schedule 1, 2, 3, 4, 5, 6, 7 or 8 substance is a reference to a substance included in the correspondingly numbered Schedule of the Poisons List.

(3) Notes included in this Regulation do not form part of this Regulation.

#### **4 Authorisation of nurse practitioner or midwife practitioner under section 17A of the Act**

Nothing in this Regulation authorises a nurse practitioner or midwife practitioner to possess, use, supply or prescribe any poison or restricted substance otherwise than in accordance with an authorisation in force under section 17A of the Act in respect of the nurse practitioner or midwife practitioner.

#### **5 Authorisation of nurse practitioner or midwife practitioner to possess, use, supply or prescribe drugs of addiction**

(1) Nothing in this Regulation authorises a nurse practitioner or midwife practitioner to possess, use, supply or prescribe a drug of addiction otherwise than in accordance with an authorisation of the Director-General under this clause.

Poisons and Therapeutic Goods Regulation 2008

Clause 6

Preliminary

Part 1

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- (2) The Director-General may, by means of a written authorisation, authorise a nurse practitioner or midwife practitioner, or a class of nurse practitioners or midwife practitioners, to possess, use, supply or prescribe any drug of addiction for the purposes of the practice of a nurse practitioner's or midwife practitioner's profession.
  - (3) Such an authority is to be given only if the Director-General approves guidelines, under section 78A of the *Nurses and Midwives Act 1991*, that provide for the possession, use, supply or prescription of drugs of addiction by nurse practitioners or midwife practitioners and is to be given in accordance with those guidelines.
  - (4) The Director-General may amend or revoke any authorisation given under this clause.

#### **6 Authorisation of optometrist under section 17B of the Act**

Nothing in this Regulation authorises an optometrist to possess, use, supply or prescribe any poison or restricted substance unless:

- (a) the use of the poison or restricted substance in the practice of optometry has been approved under section 17B of the Act, and
- (b) the optometrist holds a drug authority issued by the Optometrists Registration Board allowing the optometrist to possess, use, supply or prescribe that poison or restricted substance.

**Note.** Section 21 (5) of the *Optometrists Act 2002* provides for a registered optometrist to possess and use certain drugs in the practice of optometry. That section is unaffected by this clause.

Clause 7 Poisons and Therapeutic Goods Regulation 2008

Part 2 Poisons (S1, S2, S3, S5, S6, S7)

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## **Part 2 Poisons (S1, S2, S3, S5, S6, S7)**

### **Division 1 Packaging and labelling**

#### **7 Packaging and labelling generally**

- (1) A dealer who supplies a poison must ensure that the poison is packaged and labelled:
  - (a) in accordance with the relevant provisions of the current Poisons Standard, and
  - (b) in the case of a poison to which *Therapeutic Goods Order No. 65* applies, in accordance with that Order.
- (2) This clause does not apply to the labelling of a substance that is supplied by an authorised practitioner or pharmacist so long as the substance is supplied in a package that is labelled in accordance with the requirements of Appendix A.
- (3) A pharmacist who supplies any quantity of a Schedule 2 or 3 substance on prescription must ensure that the substance is supplied in a package that is labelled in accordance with the requirements of Appendix A instead of in accordance with the requirements of subclause (1).  
Maximum penalty: 10 penalty units.

#### **8 Misleading labelling of substances as poisons**

A dealer must not supply any substance in a container that has a label that states or implies that the substance is a poison, unless the substance is a poison.  
Maximum penalty: 10 penalty units.

#### **9 Schedule 3 substances supplied by dealers**

- (1) A dealer must ensure that any Schedule 3 substance supplied by the dealer is labelled with the dealer's name and address.  
Maximum penalty: 2 penalty units.
- (2) Subclause (1) does not apply to the supply of any Schedule 3 substance by wholesale.

#### **10 Exemptions**

- (1) The Director-General may, by order in writing, exempt any person or substance, or any class of persons or substances, from the requirements of this Division.
- (2) Such an exemption may be given unconditionally or subject to conditions.

Poisons and Therapeutic Goods Regulation 2008

Clause 11

Poisons (S1, S2, S3, S5, S6, S7)

Part 2

- (3) Subject to subclause (4), any exemption in force under a law of the Commonwealth, or of another State or a Territory, corresponding to this clause has the same effect as an exemption under this clause.
- (4) The Director-General may, by order published in the Gazette, declare that subclause (3) does not have effect with respect to an exemption specified in the order.

## **Division 2 Storage**

### **11 Storage generally**

A dealer who has possession of any poison must keep the poison:

- (a) apart from food intended for consumption by humans or animals, and
- (b) in such a way that, if its container breaks or leaks, the poison cannot mix with or contaminate any food intended for consumption by humans or animals.

Maximum penalty: 10 penalty units.

### **12 Schedule 3 or 7 substances**

A dealer who has possession of any Schedule 3 or 7 substance must keep the substance in a room or enclosure to which the public does not have access.

Maximum penalty: 10 penalty units.

### **13 Schedule 6 substances**

- (1) A dealer who has possession of any Schedule 6 substance must keep that substance:

- (a) in a place to which the public does not have access, or
- (b) in a place that is at least 1.2 metres above the floor and at least 1.2 metres away from any step, stairway, ramp or escalator to which the public has access.

Maximum penalty: 10 penalty units.

- (2) This clause does not apply to any of the following:

- (a) any therapeutic substance for internal use in animals,
- (b) any substance in a container that is fitted with a child-resistant closure,
- (c) any substance in a pressurised spray dispenser that is fitted with a cap that can be removed only by using a levering instrument applied through a slot in the cap,

Clause 14 Poisons and Therapeutic Goods Regulation 2008

Part 2 Poisons (S1, S2, S3, S5, S6, S7)

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- (d) any substance in a container that has a capacity of 5 litres or more or a weight (inclusive of its contents) of 5 kilograms or more,
  - (e) any hair dye in a container that has a capacity of 50 millilitres or less,
  - (f) any cockroach bait that is enclosed in a complex welded plastic structure.
- (3) In this clause, *child-resistant closure* means:
- (a) a child-resistant closure within the meaning of the current Poisons Standard, or
  - (b) a closure of a design approved for the time being by the Director-General.

### **Division 3 Prescriptions**

#### **14 Unauthorised persons not to prescribe Schedule 2 or 3 substances**

- (1) An authorised practitioner may issue a prescription for a Schedule 2 or 3 substance.
- (2) A person must not issue a prescription for a Schedule 2 or 3 substance unless authorised to do so by this clause.  
Maximum penalty: 10 penalty units.

#### **15 Prescription for pseudoephedrine**

- (1) A person who issues a prescription for pseudoephedrine must ensure that the prescription complies with Division 3 of Part 3 as if pseudoephedrine were a restricted substance.  
Maximum penalty: 10 penalty units.
- (2) Subclause (1) applies to pseudoephedrine only in so far as it is a Schedule 3 substance.

#### **16 Quantity and purpose of prescriptions to be appropriate**

An authorised practitioner must not issue a prescription for a Schedule 2 or 3 substance in a quantity, or for a purpose, that does not accord with the recognised therapeutic standard of what is appropriate in the circumstances.

Maximum penalty: 10 penalty units.

Poisons and Therapeutic Goods Regulation 2008

Clause 17

Poisons (S1, S2, S3, S5, S6, S7)

Part 2

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## Division 4      Supply

### 17    Schedule 2 and 3 substances may be supplied by authorised persons

A person who is not an authorised practitioner or a pharmacist may supply a Schedule 2 or 3 substance to another person if the supplier holds a licence or authority under Part 8 to supply the substance.

### 18    Schedule 3 substances to be supplied personally by pharmacists

- (1) A pharmacist must not supply a Schedule 3 substance to any person unless the pharmacist:
  - (a) personally hands the substance to the person, and
  - (b) gives the person an opportunity to seek advice as to the use of the substance, including advice that the person may require in respect of the dosage, frequency of administration and general toxicity of the substance.
- (2) This clause does not apply to the supply of any substance:
  - (a) to an authorised practitioner, or
  - (b) to any other person on the prescription of an authorised practitioner.
- (3) This clause does not apply to the supply of salbutamol or terbutaline in metered aerosols for first aid purposes to a person who holds a current emergency asthma management certificate issued by an organisation approved by the Director-General for the purposes of this subclause.
- (4) This clause does not apply to the supply to the director of nursing of a nursing home of any substance in the manufacturer's original pack, in accordance with a written order signed by the director of nursing, if the Director-General has determined that the substance may be supplied for emergency use at the nursing home in accordance with the authorisation of a medical practitioner, nurse practitioner, dentist or optometrist who prescribes substances to the nursing home's residents.
- (5) This clause does not apply to the supply of adrenaline for anaphylaxis first aid purposes if:
  - (a) the adrenaline is contained in single use automatic injectors that have been filled by the manufacturer and that deliver no more than 0.3 milligrams of adrenaline each, and
  - (b) the supply is to a person who holds a current first aid certificate issued after completion of a first aid course approved by the WorkCover Authority as referred to in regulations made under the *Occupational Health and Safety Act 2000*, and the person has received training on the symptoms and first aid management of anaphylaxis from:

Clause 19 Poisons and Therapeutic Goods Regulation 2008

Part 2 Poisons (S1, S2, S3, S5, S6, S7)

(i) a first aid training organisation approved by the WorkCover Authority, or

(ii) any other organisation approved by the Director-General for the purposes of this paragraph.

Maximum penalty: 10 penalty units.

**19 Prescriptions for Schedule 2 or 3 substances to be endorsed**

(1) A pharmacist who supplies a Schedule 2 or 3 substance on prescription must endorse the prescription for the substance in accordance with clause 41 as if the substance were a restricted substance.

Maximum penalty: 10 penalty units.

(2) The Director-General may, by order in writing, exempt any person or substance, or any class of persons or substances, from any or all of the requirements of this clause.

(3) Such an exemption may be given unconditionally or subject to conditions.

**20 Certain Schedule 7 substances to be supplied and used only under an authority**

(1) A person must not obtain or use a Schedule 7 substance unless the person holds an authority under Part 8 to obtain or use the substance.

Maximum penalty: 10 penalty units.

(2) A dealer must not supply a Schedule 7 substance to any other person unless:

(a) the dealer holds an authority under Part 8 to supply the substance, and

(b) the person being supplied holds an authority under Part 8 to obtain the substance.

Maximum penalty: 10 penalty units.

(3) A person being supplied with a Schedule 7 substance must surrender to the dealer the person's authority to obtain the substance.

Maximum penalty: 10 penalty units.

(4) In the case of an authority:

(a) that authorises multiple supplies of a Schedule 7 substance, or

(b) that has been issued to a class of persons (as referred to in clause 170 (4)),

it is sufficient compliance with subclause (3) if the person being supplied surrenders a copy of the authority to the dealer.

Poisons and Therapeutic Goods Regulation 2008

Clause 20

Poisons (S1, S2, S3, S5, S6, S7)

Part 2

- 
- (5) The functions of the Director-General under Part 8 with respect to an authority under this clause may be exercised by the Permanent Head of the Commonwealth Department of Health.
- (6) The Director-General may, by order in writing, exempt any person or substance, or any class of persons or substances, from any or all of the requirements of this clause.
- (7) Such an exemption may be given unconditionally or subject to conditions.
- (8) This clause does not apply to:
- (a) the supply by wholesale of any Schedule 7 substance, or
  - (b) the use by a person of any Schedule 7 substance that is:
    - (i) a pesticide (within the meaning of the *Pesticides Act 1999*), or
    - (ii) a stock medicine (within the meaning of the *Stock Medicines Act 1989*),
 or the supply to, or obtaining by, such a person of any such substance, or
  - (c) the use by a person in charge of an institution or facility for scientific research, instruction, analysis or study of any Schedule 7 substance for use in that institution or facility, or the supply to, or obtaining by, such a person of any such substance for use in that institution or facility, or
  - (d) the use by a person of any Schedule 7 substance (other than a highly dangerous substance) for non-domestic purposes, or the supply to, or obtaining by, a person of any such substance for use for non-domestic purposes.
- (9) In subclause (8) (d), **highly dangerous substance** means any of the following substances:
- arsenic
  - cyanides
  - fluoroacetamide
  - fluoroacetic acid
  - hydrocyanic acid
  - strychnine
  - thallium
  - any Schedule 7 substance that is listed in Appendix C of the current Poisons Standard



Clause 21 Poisons and Therapeutic Goods Regulation 2008

Part 2 Poisons (S1, S2, S3, S5, S6, S7)

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**21 “Particular use” poisons may only be supplied in original containers**

- (1) This clause applies to any Schedule 5, 6 or 7 substance that is specified in the Poisons List as being a substance that is manufactured or supplied for a particular use.
- (2) A dealer (other than an authorised practitioner or pharmacist) who supplies a substance to which this clause applies must supply the substance, unopened, in the container in which it was received by the dealer.

Maximum penalty: 10 penalty units.

**22 Supply of art materials, toys, furniture and the like containing poisons**

- (1) A person must not supply any pencil, crayon, finger colour, poster paint, school pastel or show card colour or other such article or substance if the article or substance contains a Schedule 2, 3, 5, 6 or 7 substance.
- (2) Subclause (1) does not apply to the supply of artists’ oil colours.
- (3) A person must not supply any painted toy, furniture or other item of household goods if the paint contains a Schedule 6 or 7 substance.

Maximum penalty: 10 penalty units.

**23 Quantity and purpose of supply to be appropriate**

An authorised practitioner, pharmacist or retail dealer must not supply any poison:

- (a) in the case of a therapeutic substance, in a quantity, or for a purpose, that does not accord with the recognised therapeutic standard of what is appropriate in the circumstances, or
- (b) in any other case, for a purpose other than that stated on its container or for a purpose other than that for which it is normally used.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

**Division 5 Records of supply**

**24 Supply of certain Schedule 3 substances to be recorded**

- (1) A pharmacist who supplies pseudoephedrine, whether on prescription or otherwise, must record details of the supply in accordance with clause 55 as if pseudoephedrine were a restricted substance.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

Poisons and Therapeutic Goods Regulation 2008

Clause 25

Poisons (S1, S2, S3, S5, S6, S7)

Part 2

- 
- (2) Subclause (1) applies to pseudoephedrine only in so far as it is a Schedule 3 substance.
  - (3) The Director-General may, by order in writing, exempt any person or any class of persons from the requirements of this clause.
  - (4) Such an exemption may be given unconditionally or subject to conditions.

## **Division 6      Miscellaneous**

### **25    Poisons to be used or disposed of safely**

A person must not use or dispose of a poison in any place or in any manner likely to constitute a risk to the public.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

Clause 26 Poisons and Therapeutic Goods Regulation 2008

Part 3 Restricted substances (S4)

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## **Part 3 Restricted substances (S4)**

### **Division 1 Packaging and labelling**

#### **26 Packaging and labelling generally**

- (1) A dealer who supplies a restricted substance must ensure that the substance is packaged and labelled:
  - (a) in accordance with the relevant provisions of the current Poisons Standard, and
  - (b) in the case of a substance to which *Therapeutic Goods Order No. 65* applies, in accordance with that Order.
- (2) Despite subclause (1), an authorised practitioner who supplies a restricted substance must ensure that the substance is packaged in accordance with the requirements of subclause (1) but labelled in accordance with the requirements of Appendix A.
- (3) Despite subclause (1), a pharmacist who supplies a restricted substance on prescription, or as referred to in clause 45, or who supplies the restricted substance benzylpenicillin as referred to in clause 48, must ensure that the substance is packaged and labelled in accordance with the requirements of Appendix A.

Maximum penalty: 10 penalty units.

#### **27 Misleading labelling of substances as restricted substances**

A dealer must not supply any substance in a container that has a label that states or implies that the substance is a restricted substance, unless the substance is such a substance.

Maximum penalty: 10 penalty units.

#### **28 Exemptions**

- (1) The Director-General may, by order in writing, exempt any person or substance, or any class of persons or substances, from the requirements of this Division.
- (2) Such an exemption may be given unconditionally or subject to conditions.
- (3) Subject to subclause (4), any exemption in force under a law of the Commonwealth, or of another State or a Territory, corresponding to this clause has the same effect as an exemption under this clause.
- (4) The Director-General may, by order published in the Gazette, declare that subclause (3) does not have effect with respect to an exemption specified in the order.

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Clause 29

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## **Division 2 Storage**

### **29 Storage generally**

A dealer who has possession of any restricted substance must keep the substance:

- (a) in a room or enclosure to which the public does not have access, and
- (b) apart from food intended for consumption by humans or animals, and
- (c) in such a way that, if its container breaks or leaks, the substance cannot mix with or contaminate any food intended for consumption by humans or animals.

Maximum penalty: 15 penalty units.

### **30 Storage of prescribed restricted substances in hospital wards**

- (1) Prescribed restricted substances that are kept in a hospital ward must be stored apart from all other goods (other than drugs of addiction) in a separate room, safe, cupboard or other receptacle securely attached to a part of the premises and kept securely locked when not in immediate use.
- (2) This clause does not apply to the storage of prescribed restricted substances on an emergency trolley, anaesthetic trolley or operating theatre trolley.

Maximum penalty: 20 penalty units.

### **31 Responsibility for storage in hospitals**

- (1) The chief pharmacist of a hospital is responsible for the storage of all restricted substances at the hospital other than those that have been supplied to a ward.
- (2) In the case of a hospital for which there is no pharmacist, the responsibilities of a chief pharmacist under this clause are instead the responsibilities of:
  - (a) the director of nursing of the hospital, or
  - (b) the medical superintendent of the hospital,as the chief executive officer of the hospital may determine.
- (3) The nurse or midwife in charge of a hospital ward is responsible for the storage of all restricted substances in the ward.

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Part 3 Restricted substances (S4)

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### Division 3 Prescriptions

#### 32 Prescriptions for restricted substances

- (1) A medical practitioner, dentist or veterinary practitioner may issue a prescription for a restricted substance.
- (2) A person must not issue a prescription for a restricted substance unless authorised to do so by or under the Act (including by an authority under Part 8).

Maximum penalty: 15 penalty units.

**Note.** See section 17A of the Act in relation to the authorisation of nurse practitioners and midwife practitioners, and section 17B in relation to the authorisation of optometrists, to issue prescriptions for restricted substances.

#### 33 Prescriptions may be issued only for certain purposes

- (1) A medical practitioner must not issue a prescription for a restricted substance otherwise than for medical treatment.
- (2) A nurse practitioner must not issue a prescription for a restricted substance otherwise than in the course of practising as a nurse practitioner.
- (3) A midwife practitioner must not issue a prescription for a restricted substance otherwise than in the course of practising as a midwife practitioner.
- (4) A dentist must not issue a prescription for a restricted substance otherwise than for dental treatment, and must endorse any such prescription with the words "FOR DENTAL TREATMENT ONLY".
- (5) An optometrist must not issue a prescription for a restricted substance otherwise than in the course of practising as an optometrist, and must endorse any such prescription with the words "FOR OPTOMETRICAL TREATMENT ONLY".
- (6) A veterinary practitioner must not issue a prescription for a restricted substance otherwise than for veterinary treatment, and must endorse any such prescription with the words "FOR ANIMAL TREATMENT ONLY".

Maximum penalty: 15 penalty units.

#### 34 Quantity and purpose of prescriptions to be appropriate

An authorised practitioner must not issue a prescription for a restricted substance in a quantity, or for a purpose, that does not accord with the

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Clause 35

Restricted substances (S4)

Part 3

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recognised therapeutic standard of what is appropriate in the circumstances.

Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

### **35 Form of prescription**

- (1) A prescription for a restricted substance must include the following details:
  - (a) the date on which it is issued,
  - (b) the name and address of the patient or (if the treatment is for an animal) the species of animal and the name and address of the animal's owner,
  - (c) the name, strength and quantity of the substance to be supplied,
  - (d) adequate directions for use,
  - (e) the maximum number of times the substance may be supplied on the prescription,
  - (f) in the case of a prescription for a special restricted substance, the intervals at which the substance may be supplied on the prescription,
  - (g) if the prescription is issued at a hospital, the name and designation of the person by whom it is issued and the name, address and telephone number of the hospital,
  - (h) if the prescription is issued elsewhere than at a hospital, the name and designation of the person by whom it is issued and the address and telephone number of the premises at which it is issued.
- (2) The details referred to in subclause (1) (a)–(f) must be made out:
  - (a) in the handwriting of the person by whom the prescription is issued, or
  - (b) in such other manner as may be approved for the time being by the Director-General,and the prescription must be signed by the person by whom it is issued.
- (3) The person by whom the prescription is issued must confirm any dose that could be regarded as being dangerous or unusual by underlining the part of the prescription that specifies the intended dose and by initialling the prescription in the margin.
- (4) A person who issues a prescription for a restricted substance must ensure that the prescription complies with the requirements of this clause.

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Part 3 Restricted substances (S4)

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(5) The Director-General may, by order in writing, exempt any person or restricted substance, or any class of persons or restricted substances, from any or all of the requirements of this clause.

(6) Such an exemption may be given unconditionally or subject to conditions.

Maximum penalty: 15 penalty units.

**36 Emergency prescriptions may be given by telephone or otherwise**

(1) In an emergency, an authorised practitioner may direct the supply of a restricted substance orally, by telephone, by electronic mail or by facsimile.

(2) A person who so directs the supply of a restricted substance:

(a) must immediately make out a prescription, and

(b) must send the prescription without delay (and in any case within 24 hours) to the person to whom the direction was given.

(3) A person who issues a prescription under this clause must ensure that the prescription is endorsed with words that indicate the prescription has been issued in confirmation of a direction under this clause.

(4) This clause does not apply to a direction given under clause 58.

Maximum penalty: 15 penalty units.

**37 Authority required to prescribe certain restricted substances**

(1) This clause applies to the following restricted substances:

acitretin

clomiphene

cyclofenil

dinoprost

dinoprostone

etretinate

follitropin beta

isotretinoin for oral use

luteinising hormone

tretinoin for oral use

urofollitrophin (human follicle stimulating hormone)

(2) A person must not prescribe a restricted substance to which this clause applies unless the person holds an authority under Part 8 to prescribe the substance.

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Clause 38

Restricted substances (S4)

Part 3

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- (3) This clause does not apply to the prescription of a substance:
- (a) by a veterinary practitioner, or
  - (b) by a person who is authorised by the Permanent Head of the Commonwealth Department of Health to issue a prescription for the substance.
- (4) A person who issues a prescription that authorises the supply of a substance to which this clause applies must ensure:
- (a) in the case of a prescription that is issued in accordance with an authority under Part 8 that was granted to a particular person (by means of an instrument in writing given to the person), that the prescription is endorsed with the reference number shown on the authority, or
  - (b) in any other case, that the prescription is endorsed with words that clearly indicate that the prescription has been issued under this clause.

Maximum penalty: 15 penalty units.

### **38 Records to be kept of certain prescriptions**

- (1) An authorised practitioner who prescribes a prescribed restricted substance must make a record of the following particulars:
- (a) the name, strength and quantity of the substance prescribed and the date on which it was prescribed,
  - (b) if the substance is intended for the treatment of a person, the name and address of the person to be treated,
  - (c) if the substance is intended for the treatment of an animal, the species of animal and the name and address of the animal's owner,
  - (d) the maximum number of times the substance may be supplied on the prescription,
  - (e) in the case of a prescription for a special restricted substance, the intervals at which the substance may be supplied on the prescription,
  - (f) the directions for use, as shown on the prescription.
- (2) The record must be kept at the surgery, hospital or office of the person prescribing the substance.

Maximum penalty: 15 penalty units.



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Part 3 Restricted substances (S4)

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## **Division 4 Supply**

### **Subdivision 1 Supply on prescription**

#### **39 Prescriptions may be filled only if in proper form**

- (1) A pharmacist must not supply a restricted substance on prescription unless the prescription is in the form required by Division 3.
- (2) This clause does not prevent a pharmacist from supplying a restricted substance on prescription merely because:
  - (a) the prescription fails to specify the maximum number of times the substance may be supplied, or
  - (b) in the case of a prescription for a special restricted substance, the prescription fails to specify the intervals at which the substance may be supplied, or
  - (c) the address shown on the prescription indicates that it has been issued by an authorised practitioner from some other State or a Territory.
- (3) A pharmacist must not supply a restricted substance on a prescription referred to in subclause (2) (a) or (b) if it appears to the pharmacist that the substance has previously been supplied on the prescription, regardless of how many times the prescription purports to authorise the supply of the substance.
- (4) The Director-General may, by order in writing, exempt any person or restricted substance, or any class of persons or restricted substances, from any or all of the requirements of this clause.
- (5) Such an exemption may be given unconditionally or subject to conditions.  
Maximum penalty: 15 penalty units.

#### **40 Certain prescriptions not to be filled**

- (1) A pharmacist must not supply a restricted substance on prescription:
  - (a) if the prescription is marked "CANCELLED", or
  - (b) if the substance has already been supplied on the prescription the maximum number of times indicated by the prescription, or
  - (c) if the interval of time that has elapsed since the substance was last supplied on the prescription is less than that indicated by the prescription as the minimum interval that must elapse between successive supplies of the substance, or
  - (d) if the prescription is illegible or defaced, or

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- (e) if the prescription appears to have been forged or fraudulently obtained, or
  - (f) if the prescription appears to have been altered otherwise than by the authorised practitioner by whom it was issued, or
  - (g) if the prescription is dated more than 12 months (or, in the case of a prescription for a prescribed restricted substance, 6 months) before the date on which the supply is requested.
- (2) Immediately on being requested to supply a prescribed restricted substance in either of the circumstances referred to in subclause (1) (e) or (f), a pharmacist must retain the prescription and cause notice of the request to be given to a police officer.
- Maximum penalty: 15 penalty units.

#### **41 Prescriptions to be endorsed**

- (1) A pharmacist who supplies a restricted substance on prescription must (on each occasion the substance is supplied) endorse the following particulars (in ink) on the prescription:
- (a) the date on which the substance was supplied,
  - (b) the address of the place at which the substance was supplied,
  - (c) the prescription reference number.
- Maximum penalty: 15 penalty units.
- (2) A person who supplies a substance on prescription must endorse (in ink) across the prescription the word "CANCELLED":
- (a) if the maximum number of times the prescription is to be dispensed is not clearly specified, or
  - (b) if (in the case of a prescription for a special restricted substance) the intervals at which the substance may be supplied are not clearly specified, or
  - (c) if the prescription has reached the last occasion on which it can be supplied according to the maximum number of times specified on it.
- Maximum penalty: 15 penalty units.
- (3) The Director-General may, by order in writing, exempt any person or substance, or any class of persons or substances, from any or all of the requirements of this clause.
- (4) Such an exemption may be given unconditionally or subject to conditions.

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Part 3 Restricted substances (S4)

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**42 Prescriptions for certain substances to be kept**

- (1) A pharmacist who supplies a special restricted substance on prescription must keep the prescription, whether or not the prescription authorises more than one supply of the substance.  
Maximum penalty: 20 penalty units.
- (2) A pharmacist must keep prescriptions for special restricted substances separate from other prescriptions (other than prescriptions for drugs of addiction).  
Maximum penalty: 20 penalty units.
- (3) The Director-General may, by order in writing, exempt any person or substance, or any class of persons or substances, from any or all of the requirements of this clause.
- (4) Such an exemption may be given unconditionally or subject to conditions.

**Subdivision 2 Supply without prescription**

**43 Supply by certain health practitioners**

- (1) A medical practitioner must not supply a restricted substance to any person otherwise than for medical treatment.
- (2) A nurse practitioner must not supply a restricted substance to any person otherwise than in the course of practising as a nurse practitioner.
- (3) A midwife practitioner must not supply a restricted substance to any person otherwise than in the course of practising as a midwife practitioner.
- (4) A dentist must not supply a restricted substance to any person otherwise than for dental treatment.
- (5) An optometrist must not supply a restricted substance to any person otherwise than in the course of practising as an optometrist.
- (6) A veterinary practitioner must not supply a restricted substance to any person otherwise than for veterinary treatment.  
Maximum penalty: 15 penalty units.

**44 Emergency supply by pharmacists on direction of certain health practitioners**

- (1) A pharmacist may supply a person with a restricted substance (including a prescribed restricted substance) in accordance with a direction given under clause 36.

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- (2) A prescription that is subsequently sent in confirmation of the direction must be dealt with in accordance with clauses 41 and 42, and details of the supply must be recorded in accordance with clause 55, in the same way as if the restricted substance had been supplied on prescription.
  - (3) If such a prescription is not received within 7 days after the substance is supplied, the pharmacist must report that fact to the Director-General.  
Maximum penalty: 15 penalty units.

**45 Emergency supply by pharmacists otherwise than on direction of health practitioner**

- (1) A pharmacist may supply a person with a restricted substance (other than a prescribed restricted substance) if the pharmacist is satisfied:
  - (a) that the person is undergoing treatment essential to the person's well-being, and
  - (b) that the substance has previously been prescribed for the treatment, and
  - (c) that the person is in immediate need of the substance for continuation of the treatment, and
  - (d) that, in the circumstances, it is not practicable for the person to obtain a prescription for the substance from an authorised practitioner.
- (2) A restricted substance may not be supplied to any person under this clause unless:
  - (a) the quantity supplied is no more than that required for 3 days' treatment, or
  - (b) in the case of a liquid, aerosol, cream, ointment or anovulant tablet that is contained in a standard pack, the standard pack is the smallest standard pack in which that kind of liquid, aerosol, cream, ointment or anovulant tablet is generally available.

Maximum penalty: 15 penalty units.

**46 Supply by pharmacists to health practitioners for emergency use**

A pharmacist may supply an authorised practitioner with a restricted substance (including a prescribed restricted substance) for emergency use, but only on a written order signed and dated by the authorised practitioner.

**47 Supply by pharmacists to nursing homes of stock for emergency use**

- (1) The director of nursing of a nursing home is authorised to have possession of a restricted substance (including a prescribed restricted

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substance) that is approved by the Director-General for emergency use in that nursing home.

- (2) A retail pharmacist is authorised to supply a manufacturer's original pack of a restricted substance (including a prescribed restricted substance) to the director of nursing of a nursing home but only if the substance is supplied:
- (a) at the premises of, and in the course of carrying on the business of, the pharmacy, and
  - (b) in accordance with a written order signed by the director of nursing.
- (3) A director of nursing at a nursing home must not:
- (a) sign an order under this clause for a restricted substance unless the substance is approved by the Director-General for emergency use in that nursing home, or
  - (b) allow any restricted substance in his or her possession to be used otherwise than for administration to a resident of the nursing home in accordance with an authorisation by a medical practitioner, nurse practitioner, dentist or optometrist who prescribes substances to the nursing home's residents.
- Maximum penalty: 15 penalty units.
- (4) An approval under this clause:
- (a) is to be by order in writing, and
  - (b) may apply generally or may be limited to a particular nursing home or class of nursing homes, and
  - (c) may apply generally or may be limited to a particular substance or class of substance, and
  - (d) may be given unconditionally or subject to conditions.

**48 Supply by pharmacists of benzylpenicillin for use in animals**

- (1) This clause applies to benzylpenicillin, including procaine penicillin, in preparations for use by intramuscular injection in animals.
- (2) A pharmacist may supply benzylpenicillin otherwise than on prescription to a person who satisfies the pharmacist that it is needed for the urgent treatment of an animal and that, under the circumstances, it is not practicable to obtain a prescription authorising its supply.
- (3) A pharmacist must not supply benzylpenicillin:
  - (a) to any person who is under 18 years of age, or
  - (b) to any person who is unknown to the pharmacist.

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- (4) Subclause (3) (b) does not prevent a pharmacist from supplying benzylpenicillin to a person who is unknown to the pharmacist if it is supplied in the presence of a person who is known to the pharmacist and who satisfies the pharmacist that he or she knows the person being supplied.

### **Subdivision 3 Supply in hospitals**

#### **49 Supply by pharmacists**

A pharmacist employed at a hospital may supply a restricted substance:

- (a) on a prescription issued in accordance with Division 3, or
- (b) on the authorisation (whether in writing, by electronic mail, by facsimile or by any other form of electronic communication approved by the Director-General) of an authorised practitioner (other than a veterinary practitioner), where that authorisation is entered on a patient's medication chart, or
- (c) on the requisition (whether in writing, by electronic mail, by facsimile or by any other form of electronic communication approved by the Director-General) of an authorised practitioner (other than a veterinary practitioner) or the nurse or midwife in charge of the ward in which the substance is to be used or stored.

#### **50 Supply in original containers**

- (1) A person who supplies a restricted substance to a patient in a hospital, or to an inmate in an institution, in accordance with section 10 (4) (c) of the Act must supply the substance, unopened, in the container in which it was received by the person.
- (2) This clause does not prevent the person from supplying an individual dose of the substance to the patient or inmate.  
Maximum penalty: 15 penalty units.

### **Subdivision 4 Supply generally**

#### **51 Research drugs**

- (1) This clause applies to thalidomide other than as registered goods.
- (2) A dealer must not supply thalidomide unless the person being supplied holds an authority under Part 8 to be supplied with thalidomide.
- (3) This clause:
  - (a) does not prohibit a dealer from supplying thalidomide to a person who has the approval in writing of the Permanent Head of the

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Commonwealth Department of Health to import, buy, obtain or otherwise be supplied with thalidomide, and

- (b) does not prohibit a person holding an authority under Part 8 to be supplied with thalidomide from supplying thalidomide to a person under his or her general supervision, for the purpose of enabling that other person to carry out medical diagnosis, or medical or scientific research or analysis (including the conduct of clinical trials), and
  - (c) does not prohibit a medical practitioner holding an authority under Part 8 to be supplied with thalidomide from supplying thalidomide to another person for the purpose of treating that other person in accordance with the authority.
- (4) A person being supplied with thalidomide (otherwise than as referred to in subclause (3) (c)) must surrender his or her authority to the dealer.
  - (5) A dealer must keep any authority surrendered to the dealer under this clause.

Maximum penalty: 15 penalty units.

**52 Authority required to supply certain restricted substances**

- (1) This clause applies to the following substances:
  - acitretin
  - clomiphene
  - cyclofenil
  - dinoprost
  - dinoprostone
  - etretinate
  - follitropin beta
  - isotretinoin for oral use
  - luteinising hormone
  - tretinoin for oral use
  - urofollitropin (human follicle stimulating hormone)
- (2) A person must not supply a substance to which this clause applies unless the person holds an authority under Part 8 to supply the substance.
- (3) This clause does not apply to the supply of a substance:
  - (a) by wholesale, or
  - (b) by a veterinary practitioner, or
  - (c) by a pharmacist on the prescription of:

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- (i) a medical practitioner holding an authority under Part 8 to prescribe the substance, or
  - (ii) a veterinary practitioner, or
  - (d) by a person who is authorised by the Permanent Head of the Commonwealth Department of Health to supply the substance.
- Maximum penalty: 15 penalty units.

**53 Restricted substances may be supplied by authorised persons**

A person who is not an authorised practitioner may supply a restricted substance to another person if the person by whom the substance is supplied holds an authority under Part 8 to supply the substance.

**54 Quantity and purpose of supply to be appropriate**

An authorised practitioner or pharmacist must not supply any restricted substance in a quantity, or for a purpose, that does not accord with the recognised therapeutic standard of what is appropriate in the circumstances.

Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

**Division 5 Records of supply**

**55 Supply on prescription to be recorded**

- (1) A pharmacist who supplies a restricted substance on prescription must record the following details in a manner approved by the Director-General:
  - (a) the details required by clause 35 (1) to be included in the prescription,
  - (b) a unique reference number for the prescription,
  - (c) the date on which the substance was supplied,
  - (d) the name of the person by whom the substance was supplied.

Maximum penalty: 15 penalty units.
- (2) A prescription for the supply of a restricted substance in a hospital need not be recorded so long as the chief pharmacist of the hospital keeps the prescription or a copy of the prescription.
- (3) The Director-General may, by order in writing, exempt any person or restricted substance, or any class of persons or restricted substances, from the requirements of this clause.
- (4) Such an exemption may be given unconditionally or subject to conditions.



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**56 Records to be kept of certain supply of restricted substances**

An authorised practitioner who supplies a restricted substance:

- (a) must record the name, strength and quantity of the substance supplied and the date on which it was supplied, and
- (b) must record the name and address of the patient or (if the treatment is for an animal) the species of animal and the name and address of the animal's owner, and
- (c) must keep the record of the supply of the substance at the hospital, surgery or office of the person supplying the substance.

Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

**57 Certain supplies of restricted substances to be separately recorded**

- (1) A pharmacist who supplies a restricted substance as referred to in clause 45, or who supplies the restricted substance benzylpenicillin as referred to in clause 48, must record the following details of the supply in a manner approved by the Director-General:

- (a) a unique reference number for the supply,
- (b) the name and address of the patient or (if the treatment is for an animal) the species of animal and the name and address of the animal's owner,
- (c) the name, strength and quantity of the substance,
- (d) the directions given by the pharmacist for the use of the substance,
- (e) in the case of a restricted substance supplied as referred to in clause 45, the name and address of the authorised practitioner by whom it appears to the pharmacist that the substance was last prescribed,
- (f) the date on which the substance was supplied,
- (g) the name of the person by whom the substance was supplied.

Maximum penalty: 15 penalty units.

- (2) A pharmacist who supplies a restricted substance as referred to in clause 46 or clause 47 must record the following details of the supply in a manner approved by the Director-General:

- (a) a unique reference number for the supply,
- (b) the name and address of the person supplied,
- (c) the name, strength and quantity of the substance,
- (d) the date on which the substance was supplied,

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- (e) the name of the person by whom the substance was supplied.  
Maximum penalty: 15 penalty units.

## Division 6 Administration

### 58 Administration by persons employed at a hospital

- (1) A person employed at a hospital must not administer a restricted substance to a patient in the hospital otherwise than on the direction of an authorised practitioner (other than a veterinary practitioner).
- (2) Such a direction:
  - (a) must be given in writing (otherwise than by electronic mail or facsimile) or in any other manner approved by the Director-General for the purposes of this paragraph, or
  - (b) in an emergency, may be given:
    - (i) by electronic mail or by facsimile, or
    - (ii) orally, by telephone or in any other manner approved by the Director-General for the purposes of this subparagraph.
- (3) An authorised practitioner who gives a direction under subclause (2) (b) (ii) must:
  - (a) as soon as is practicable (and in any case within the next 24 hours) either:
    - (i) sign an entry in the patient's medical history confirming that he or she has given the direction, or
    - (ii) confirm the direction by electronic mail or by facsimile, and
  - (b) attend to review the patient as soon as he or she considers it appropriate in the circumstances of the case.
- (4) If confirmation is not received within 7 days after the restricted substance is administered, the person by whom the substance was administered must report that fact to the Director-General.
- (5) An authorised practitioner who, by electronic mail or by facsimile, gives or confirms a direction for the administration of a restricted substance to a patient must attend to review the patient as soon as he or she considers it appropriate in the circumstances of the case.
- (6) Subclauses (3), (4) and (5) do not apply to the administration of a restricted substance to an inmate of a correctional centre (within the meaning of the *Crimes (Administration of Sentences) Act 1999*) if confirmation of the direction for the administration of the substance has

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been given in accordance with the requirements of a protocol approved by the Director-General.

Maximum penalty: 15 penalty units.

**59 Administration of prescribed restricted substances**

- (1) A person must not self-administer a prescribed restricted substance, or administer a prescribed restricted substance to any other person, otherwise than:
  - (a) for the purposes of medical treatment prescribed by a medical practitioner, or
  - (b) for the purposes of dental treatment prescribed by a dentist, or
  - (c) for the purposes of treatment prescribed by:
    - (i) a nurse practitioner in the course of practising as a nurse practitioner, or
    - (ii) a midwife practitioner in the course of practising as a midwife practitioner, or
    - (iii) an optometrist in the course of practising as an optometrist.

Maximum penalty: 20 penalty units.
- (2) For the purposes of subclause (1), it is sufficient if the treatment referred to in subclause (1) (a) or (b) in relation to the self-administration of a prescribed restricted substance has been prescribed by the person by whom the substance is being self-administered.
- (3) This clause has effect for the purposes of Division 1 of Part 2 of the *Drug Misuse and Trafficking Act 1985* in relation to any prescribed restricted substance that is included in Schedule 1 to that Act.

**60 Authority required to administer certain restricted substances**

- (1) This clause applies to the following restricted substances:
  - acitretin
  - clomiphene
  - cyclofenil
  - dinoprost
  - dinoprostone
  - etretinate
  - follitropin beta
  - isotretinoin for oral use

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luteinising hormone

tretinoin for oral use

urofollitropin (human follicle stimulating hormone)

- (2) A person must not administer a restricted substance to which this clause applies unless the person holds an authority under Part 8 to administer the substance.
- (3) This clause does not apply to:
- (a) the administration to a patient of a substance whose administration has been prescribed or directed by a medical practitioner holding an authority under Part 8 to prescribe the substance, or
  - (b) the administration of a substance to an animal by a veterinary practitioner or by a person acting under the general supervision of a veterinary practitioner.

Maximum penalty: 15 penalty units.

## **Division 7      Miscellaneous**

### **61    Prescribed restricted substances**

- (1) For the purposes of section 16 of the Act, the substances specified in Appendix D are prescribed restricted substances.
- (2) The substances specified in Appendix D are also restricted substances for the purposes of sections 9, 10, 11 and 18 of the Act, as referred to in paragraph (a) of the matter specified at the end of sections 9 (1), 10 (3), 11 (1) and 18 of the Act with respect to penalties.
- (3) For the purposes of section 18A (1) of the Act, the quantities specified in Appendix D are the prescribed quantities for the corresponding restricted substances specified in that Appendix.

### **62    Authorised persons**

For the purposes of section 16 (1) (e) of the Act, the following persons are authorised to obtain possession of prescribed restricted substances for the purposes of their profession or employment:

- (a) the director of nursing of a hospital that does not employ a chief pharmacist,
- (b) the nurse or midwife in charge of a ward in a public hospital,
- (c) a nurse or midwife who is approved for the time being by the Director-General for the purposes of this clause, or who belongs to a class of nurses or a class of midwives so approved,

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- (d) any other nurse or midwife, but for the purpose only of administering doses of such substances to individual patients in a hospital,
  - (e) an analyst, or a person acting under the direct personal supervision of an analyst.

**63 Disclosure of other prescribed restricted substances obtained or prescribed**

- (1) A person who asks an authorised practitioner (other than a veterinary practitioner):
  - (a) to supply the person with a prescribed restricted substance, or
  - (b) to give the person a prescription for a prescribed restricted substance,
 must disclose to the authorised practitioner the quantity of that and any other prescribed restricted substance with which the person has been supplied, or for which the person has been given prescriptions, within the last 2 months.
- (2) If the request is made on behalf of some other person, the person making the request is obliged only to furnish such information as is within that person's knowledge.  
Maximum penalty: 20 penalty units.

**64 Delivery by carrier**

A carrier is authorised to be in possession of a package containing a prescribed restricted substance, but for the purpose only of delivering it to the person to whom it is addressed.

**65 Pentobarbitone sodium**

- (1) This clause applies to pentobarbitone sodium to the extent only to which it is a restricted substance, and not to the extent to which it is a drug of addiction.
- (2) An authorised person who uses pentobarbitone sodium for the destruction of animals must ensure that the requirements of this clause are complied with.
- (3) Pentobarbitone sodium must be kept separately from all other goods in a safe, cupboard or other receptacle:
  - (a) that is securely attached to a part of the premises, and
  - (b) that is kept securely locked except when in immediate use.
- (4) An authorised person must keep a separate register of all pentobarbitone sodium that is obtained or used by the authorised person.

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- (5) On the day on which an authorised person obtains or uses any pentobarbitone sodium, the authorised person must enter in the register such of the following details as are relevant to the transaction:
- (a) the quantity that was obtained or used,
  - (b) the name and address of the person from whom it was obtained,
  - (c) the number and species of animals for which it was used,
  - (d) the total quantity held by the authorised person after the entry is made.
- (6) Each entry must be dated and signed by the authorised person.
- (7) In this clause, *authorised person* means:
- (a) a person nominated by the council of a local government area, or
  - (b) an officer of an animal welfare organisation nominated by the organisation,
- being in either case a person who is authorised under section 16 (1) (d) of the Act to obtain possession of pentobarbitone sodium for the humane destruction of animals.
- Maximum penalty: 20 penalty units.

**66 Restricted substances to be used or disposed of safely**

A person must not use or dispose of a restricted substance in any place or in any manner likely to constitute a risk to the public.

Maximum penalty: 15 penalty units.

**67 Loss or theft of prescribed restricted substances**

- (1) A person must immediately notify the Director-General if the person loses a prescribed restricted substance or if a prescribed restricted substance is stolen from the person.
  - (2) This clause does not apply to the loss of any substance by, or the theft of any substance from, a person who has been supplied with the substance by, or on the prescription of, an authorised practitioner.
- Maximum penalty: 20 penalty units.

**68 Forfeiture of prescribed restricted substances**

The court before which a person is convicted of the illegal possession of a prescribed restricted substance may order that the substance be forfeited to the Crown, and may further order the forfeited substance to be destroyed or otherwise disposed of as the court thinks fit.

Clause 69 Poisons and Therapeutic Goods Regulation 2008

Part 4 Drugs of addiction (S8)

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## Part 4 Drugs of addiction (S8)

### Division 1 Packaging and labelling

#### 69 Packaging and labelling generally

- (1) A dealer who supplies a drug of addiction must ensure that the drug is packaged and labelled:
  - (a) in accordance with the relevant provisions of the current Poisons Standard, and
  - (b) in the case of a drug of addiction to which *Therapeutic Goods Order No. 65* applies, in accordance with that Order.
- (2) Despite subclause (1), an authorised practitioner who supplies a drug of addiction must ensure that the drug is packaged in accordance with the requirements of that subclause but labelled in accordance with the requirements of Appendix A.
- (3) A pharmacist who supplies any quantity of a drug of addiction on prescription must ensure that the drug is supplied in a package that is labelled in accordance with the requirements of Appendix A instead of in accordance with the requirements of subclause (1).

Maximum penalty: 10 penalty units.

#### 70 Misleading labelling of substances as drugs of addiction

A dealer must not supply any substance in a container that has a label that states or implies that the substance is a drug of addiction, unless the substance is such a drug.

Maximum penalty: 10 penalty units.

#### 71 Packages to be sealed so that broken seal is readily distinguishable

- (1) A dealer who supplies any drug of addiction must ensure that the drug is packaged in such a way that:
  - (a) its container is so sealed that, when the seal is broken, it is readily distinguishable from sealed containers, and
  - (b) if several containers are enclosed in a single primary pack, the primary pack is so sealed that, when the seal is broken, it is readily distinguishable from sealed primary packs.
- (2) This clause does not apply to the supply of a drug of addiction:
  - (a) by an authorised practitioner in the practice of his or her profession, or
  - (b) by a pharmacist on the prescription of an authorised practitioner, or

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- (c) by a pharmacist employed at a hospital, on the written requisition of an authorised practitioner (other than a veterinary practitioner) or the nurse or midwife in charge of the ward in which the drug is to be used or stored, or
  - (d) by a nurse or midwife on the direction in writing of an authorised practitioner (other than a veterinary practitioner).

Maximum penalty: 20 penalty units.

## 72 Exemptions

- (1) The Director-General may, by order in writing, exempt any person or substance, or any class of persons or substances, from the requirements of this Division.
- (2) Such an exemption may be given unconditionally or subject to conditions.
- (3) Subject to subclause (4), any exemption in force under a law of the Commonwealth, or of another State or a Territory, corresponding to this clause has the same effect as an exemption under this clause.
- (4) The Director-General may, by order published in the Gazette, declare that subclause (3) does not have effect with respect to an exemption specified in the order.

## Division 2 Storage

### 73 Storage generally

- (1) A person who is in possession of any drug of addiction must keep the drug:
  - (a) in his or her possession stored apart from all other goods (other than cash or documents) in a separate room, safe, cupboard or other receptacle securely attached to a part of the premises and kept securely locked when not in immediate use, or
  - (b) stored in any other manner approved by the Director-General for the particular person or class of persons to which the person belongs.
- (2) A person who is an authorised practitioner or a person referred to in clause 101 (1) (g) is taken to comply with subclause (1) (a) if he or she keeps any drug of addiction (for use in an emergency only) in a bag that is in a room, or in a vehicle, kept locked when not occupied by the person.

Maximum penalty: 20 penalty units.



Clause 74 Poisons and Therapeutic Goods Regulation 2008

Part 4 Drugs of addiction (S8)

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#### **74 Responsibility for storage in hospitals**

- (1) The chief pharmacist of a hospital is responsible for the storage of all drugs of addiction at a hospital other than those that have been supplied to a ward.
- (2) In the case of a hospital for which there is no pharmacist, the responsibilities of a chief pharmacist under this clause are instead the responsibilities of:
  - (a) the director of nursing of the hospital, or
  - (b) the medical superintendent of the hospital, as the chief executive officer of the hospital may determine.
- (3) The nurse or midwife in charge of a hospital ward is responsible for the storage of all drugs of addiction in the ward.

#### **75 Storage in hospital wards**

- (1) Drugs of addiction that are kept in a hospital ward must be stored apart from all other goods (other than prescribed restricted substances) in a separate room, safe, cupboard or other receptacle securely attached to a part of the ward and kept securely locked when not in immediate use.
- (2) The nurse or midwife in charge of a hospital ward must ensure that:
  - (a) the room, safe, cupboard or receptacle is kept securely locked when not in immediate use, and
  - (b) any key or other device by means of which the room, safe, cupboard or receptacle may be unlocked:
    - (i) is kept on the person of a nurse or midwife whenever it is in the ward, and is removed from the ward whenever there is no nurse or midwife in the ward, or
    - (ii) is kept in a separately locked safe to which only a nurse or midwife has access, and
  - (c) any code or combination that is required to unlock the room, safe, cupboard or receptacle is not divulged to any unauthorised person.

Maximum penalty: 20 penalty units.

#### **76 Storage in pharmacies**

- (1) The pharmacist for the time being in charge of a pharmacy must keep any drug of addiction stored apart from other substances or goods (other than cash or documents) in a separate safe.
- (2) Unless otherwise approved for the time being by the Director-General, such a safe must comply with the following requirements:

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- (a) it must be made of black mild steel plate at least 9 millimetres thick with continuous welding along all edges,
  - (b) it must be fitted with a door made of mild steel plate at least 9 millimetres thick, the door being flush fitting with a clearance around the door of not more than 1.5 millimetres,
  - (c) it must have a fixed locking bar, welded to the inside face of the door near the hinged edge, that engages in a rebate in the safe body when the door is closed,
  - (d) it must be fitted with a five lever key lock (or a locking mechanism providing at least equivalent security) securely fixed to the rear face of the door,
  - (e) if mounted on a brick or concrete wall or floor, it must be attached to the wall or floor by means of suitably sized expanding bolts through holes 9 millimetres in diameter drilled in the rear or bottom of the safe,
  - (f) if mounted on a timber framed wall or floor, it must be attached to the wall or floor frame by means of suitably sized coach screws through holes 9 millimetres in diameter drilled in the rear or bottom of the safe,
  - (g) if mounted on any other kind of wall or floor, it must be attached to the wall or floor in a manner approved for the time being by the Director-General.
- (3) The pharmacist must ensure that:
- (a) the safe is kept securely locked when not in immediate use, and
  - (b) any key or other device by means of which the safe may be unlocked:
    - (i) is kept on the person of a pharmacist whenever it is on the same premises as the safe, and is removed from the premises whenever there is no pharmacist at those premises, or
    - (ii) is kept in a separately locked safe to which only a pharmacist has access, and
  - (c) any code or combination that is required to unlock the safe is not divulged to any unauthorised person.
- (4) This clause applies to a hospital pharmacy as well as to a retail pharmacy.
- Maximum penalty: 20 penalty units.

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Part 4 Drugs of addiction (S8)

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### **Division 3 Prescriptions**

#### **77 Unauthorised persons not to prescribe drugs of addiction**

- (1) An authorised practitioner may issue a prescription for a drug of addiction.
- (2) A person must not issue a prescription for a drug of addiction unless authorised to do so by this clause.  
Maximum penalty: 20 penalty units.

#### **78 Prescriptions may be issued for certain purposes only**

- (1) A medical practitioner must not issue a prescription for a drug of addiction otherwise than for medical treatment.
- (2) A nurse practitioner must not issue a prescription for a drug of addiction otherwise than in the course of practising as a nurse practitioner.
- (3) A midwife practitioner must not issue a prescription for a drug of addiction otherwise than in the course of practising as a midwife practitioner.
- (4) A dentist must not issue a prescription for a drug of addiction otherwise than for the dental treatment (for a period not exceeding one month's continuous treatment) of a patient and must endorse any such prescription with the words "FOR DENTAL TREATMENT ONLY".
- (5) If the patient is in a hospital, the dentist may issue a prescription for any drug of addiction.
- (6) If the patient is not in a hospital, the dentist may issue a prescription only:
  - (a) for pentazocine, or
  - (b) for any drug of addiction included in the list of preparations that may be prescribed by participating dental practitioners for dental treatment only set out in the *Schedule of Pharmaceutical Benefits* issued by the Commonwealth Department of Health, as that Schedule is in force from time to time.
- (7) A veterinary practitioner must not issue a prescription for a drug of addiction otherwise than for veterinary treatment, and must endorse any such prescription with the words "FOR ANIMAL TREATMENT ONLY".  
Maximum penalty: 20 penalty units.

#### **79 Quantity and purpose of prescriptions to be appropriate**

An authorised practitioner must not issue a prescription for a drug of addiction in a quantity, or for a purpose, that does not accord with the

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recognised therapeutic standard of what is appropriate in the circumstances.

Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

### **80 Form of prescription**

- (1) A person who issues a prescription for a drug of addiction must ensure that the prescription includes the following details:
  - (a) the date on which it is issued,
  - (b) the name and address of the patient or (if the treatment is for an animal) the species of animal and the name and address of the animal's owner,
  - (c) the name, strength and quantity (expressed in both words and figures) of the drug to be supplied,
  - (d) adequate directions for use,
  - (e) the maximum number of times the drug may be supplied on the prescription,
  - (f) the intervals at which the drug may be supplied on the prescription,
  - (g) if the prescription is issued at a hospital, the name and designation of the person by whom it is issued and the name, address and telephone number of the hospital,
  - (h) if the prescription is issued elsewhere than at a hospital, the name and designation of the person by whom it is issued and the address and telephone number of the premises at which it is issued.
- (2) The details referred to in subclause (1) (a)–(f) must be made out:
  - (a) in the handwriting of the person by whom the prescription is issued, or
  - (b) in such other manner as may be approved for the time being by the Director-General,and the prescription must be signed by the person by whom it is issued.
- (3) The person by whom the prescription is issued must confirm any dose that could be regarded as being dangerous or unusual by underlining the part of the prescription that specifies the intended dose and by initialling the prescription in the margin.
- (4) A person must not issue a prescription that includes:
  - (a) more than one preparation containing a drug of addiction, or

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- (b) both a preparation containing a drug of addiction and another preparation.
- (5) The Director-General may, by order in writing, exempt any person or drug of addiction, or any class of persons or drugs of addiction, from any or all of the requirements of this clause.
- (6) Such an exemption may be given unconditionally or subject to conditions.  
Maximum penalty: 20 penalty units.

**81 Emergency prescriptions may be given by telephone or otherwise**

- (1) In an emergency, an authorised practitioner may direct the supply of a drug of addiction orally, by telephone, by electronic mail or by facsimile.
- (2) A person who so directs the supply of a drug of addiction:
  - (a) must immediately make out a prescription, and
  - (b) must send the prescription without delay (and in any case within 24 hours) to the person to whom the direction was given.
- (3) A person who issues a prescription under this clause must ensure that the prescription is endorsed with words that indicate the prescription has been issued in confirmation of a direction under this clause.
- (4) This clause does not apply to a direction given under clause 120.  
Maximum penalty: 20 penalty units.

**82 Records of prescriptions**

- (1) An authorised practitioner who prescribes a drug of addiction must make a record of the following particulars:
  - (a) the name, strength and quantity of the drug prescribed and the date on which it was prescribed,
  - (b) if the drug is intended for the treatment of a person, the name and address of the person to be treated,
  - (c) if the drug is intended for the treatment of an animal, the species of animal and the name and address of the animal's owner,
  - (d) the maximum number of times the drug may be supplied on the prescription,
  - (e) the intervals at which the substance may be supplied on the prescription,
  - (f) the directions for use, as shown on the prescription.

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- (2) The record must be kept at the surgery, hospital or office of the person prescribing the substance.  
Maximum penalty: 20 penalty units.

**83 Exceptions to section 28—prescriptions generally**

- (1) A medical practitioner or nurse practitioner is authorised to issue a prescription for a drug of addiction for a person without an authority under section 29 of the Act if:
- (a) the medical practitioner or nurse practitioner is of the opinion that the person requires the use of the drug in the course of treatment as an in-patient in a public hospital or private health facility, and
  - (b) the prescription is for a course of treatment for a period of not more than 14 days following the person's admission as an in-patient.
- (2) A medical practitioner or nurse practitioner is authorised to prescribe methadone or buprenorphine for the treatment of a person without an authority under section 29 of the Act if:
- (a) in the case of a medical practitioner, the medical practitioner is approved as a prescriber of drugs of addiction under section 28A of the Act and, in the case of a nurse practitioner, the nurse practitioner is authorised by the Director-General for the purposes of this clause, and
  - (b) at the time the prescription is issued the person is, or at some time during the preceding 21 days was, an inmate in a correctional centre (within the meaning of the *Crimes (Administration of Sentences) Act 1999*), and
  - (c) the prescription is for methadone or buprenorphine in oral dosage form for use by the person as a course of treatment:
    - (i) while an inmate, or
    - (ii) during a period of not more than 21 days after release, and
  - (d) immediately before the person became an inmate, a medical practitioner or nurse practitioner had an authority under section 29 of the Act to prescribe methadone or buprenorphine for the person, or to supply methadone or buprenorphine to the person, and
  - (e) the prescription is issued for the purpose of continuing the treatment that the person was receiving or was about to receive immediately before the person became an inmate.
- (3) A medical practitioner or nurse practitioner is authorised to issue a prescription for a drug of addiction for a person without an authority under section 29 of the Act if:

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- (a) the person is the subject of such an authority, and
  - (b) the medical practitioner or nurse practitioner is practising at the same premises that the holder of the authority was practising at when the authority was issued, and
  - (c) the prescription is issued in accordance with any conditions to which that authority is subject.

**84 Exceptions to section 28—prescriptions for amphetamines**

- (1) This clause applies to the following substances:
  - amphetamine
  - dexamphetamine
  - methylamphetamine
  - methylphenidate
  - phendimetrazine
  - phenmetrazine
- (2) A medical practitioner is authorised to issue a prescription for dexamphetamine or methylphenidate for a person without an authority under section 29 of the Act:
  - (a) for the purpose of testing the suitability of the person to undergo a course of medical treatment involving the use of such a substance, or
  - (b) for the purpose of treating the person for attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD), so long as the medical practitioner holds an authority under Part 8 to prescribe such a substance.
- (3) An authorised practitioner (other than a medical practitioner) must not issue a prescription for a substance to which this clause applies.  
Maximum penalty: 20 penalty units.

**Division 4 Supply**

**Subdivision 1 Supply on prescription**

**85 Pharmacists may supply drugs of addiction on prescription**

- (1) A pharmacist may supply a drug of addiction on prescription if the prescription is in the form required by Division 3.
- (2) This clause does not prevent a pharmacist from supplying a drug of addiction on prescription merely because:

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- (a) the prescription fails to specify the maximum number of times the drug may be supplied, or
  - (b) the prescription fails to specify the intervals at which the drug may be supplied.
- (3) A pharmacist must not supply a drug of addiction on a prescription referred to in subclause (2) if it appears to the pharmacist that the drug has previously been supplied on the prescription, regardless of how many times the prescription purports to authorise the supply of the drug.
- (4) The Director-General may, by order in writing, exempt any person or drug, or any class of persons or drugs, from any or all of the requirements of this clause.
- (5) Such an exemption may be given unconditionally or subject to conditions.
- Maximum penalty: 20 penalty units.

**86 Certain prescriptions not to be filled**

- (1) A pharmacist must not supply a drug of addiction on prescription:
- (a) if the prescription is marked "CANCELLED", or
  - (b) if the drug has already been supplied on the prescription the maximum number of times indicated by the prescription, or
  - (c) if the interval of time that has elapsed since the drug was last supplied on the prescription is less than that indicated by the prescription as the minimum interval that must elapse between successive supplies of the drug, or
  - (d) if the prescription is illegible or defaced, or
  - (e) if the prescription is dated more than 6 months before the date on which the supply is being requested, or
  - (f) if the prescription appears to have been forged or fraudulently obtained, or
  - (g) if the prescription appears to have been altered otherwise than by the authorised practitioner by whom it was issued, or
  - (h) if notice of an order prohibiting the person by whom the prescription was issued from issuing such a prescription has been published in the Gazette, unless the prescription contains a direction for the supply of the drug more than once and it appears that the drug has been supplied on the basis of the prescription at least once before the notice was published.
- (2) Immediately on being requested to supply a drug of addiction in any of the circumstances referred to in subclause (1) (f), (g) or (h), a



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pharmacist must retain the prescription and cause notice of the request to be given to a police officer.

Maximum penalty: 15 penalty units.

- (3) A pharmacist must not supply a drug of addiction on a prescription that includes:
- (a) more than one preparation containing a drug of addiction, or
  - (b) both a preparation containing a drug of addiction and another preparation.

Maximum penalty: 20 penalty units.

#### **87 Prescriptions require verification**

- (1) A pharmacist must not supply a drug of addiction on prescription unless he or she:
- (a) is familiar with the handwriting of the person who issued the prescription, or
  - (b) knows the person for whom the drug is prescribed, or
  - (c) has verified that the person who is purported to have issued the prescription has actually issued the prescription.
- (2) This clause does not prevent a pharmacist who is otherwise authorised to supply drugs of addiction from supplying a drug of addiction on prescription in a quantity sufficient for no more than 2 days' treatment.
- Maximum penalty: 20 penalty units.

#### **88 Prescriptions to be endorsed**

- (1) A person who supplies a drug of addiction on prescription must (on each occasion the drug is supplied) endorse the following particulars (in ink) on the prescription:
- (a) the date on which the drug was supplied,
  - (b) the address of the place at which the drug was supplied,
  - (c) the prescription reference number.
- Maximum penalty: 20 penalty units.
- (2) A person who supplies a drug of addiction on prescription must endorse (in ink) across the prescription the word "CANCELLED":
- (a) if the maximum number of times the prescription is to be dispensed is not clearly specified, or
  - (b) if the intervals at which the drug may be supplied are not clearly specified, or

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- (c) if the prescription has reached the last occasion on which it can be supplied according to the maximum number of times specified on it.

Maximum penalty: 20 penalty units.

- (3) The Director-General may, by order in writing, exempt any person or drug of addiction, or any class of persons or drugs of addiction, from any or all of the requirements of this clause.
- (4) Such an exemption may be given unconditionally or subject to conditions.

#### **89 Prescriptions and orders to be kept**

- (1) A pharmacist who supplies a drug of addiction on prescription, or by order under clause 97 or 103, must keep the prescription or order, whether or not the prescription or order authorises more than one supply of the drug.

Maximum penalty: 20 penalty units.

- (2) A pharmacist must keep prescriptions or orders for drugs of addiction separate from other prescriptions (other than prescriptions for special restricted substances).

Maximum penalty: 20 penalty units.

- (3) The Director-General may, by order in writing, exempt any person or drug of addiction, or any class of persons or drugs of addiction, from any or all of the requirements of this clause.

- (4) Such an exemption may be given unconditionally or subject to conditions.

#### **90 Supply by pharmacists of amphetamines**

- (1) This clause applies to the following substances:

amphetamine  
dexamphetamine  
methamphetamine  
methylphenidate  
phendimetrazine  
phenmetrazine

- (2) A pharmacist must not supply such a substance on prescription unless the reference number of the authority to issue the prescription (whether given under section 29 of the Act or Part 8 of this Regulation) is shown on the prescription.

Maximum penalty: 20 penalty units.

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**91 Records to be kept by pharmacists of methadone or buprenorphine prescriptions**

- (1) A pharmacist at a retail pharmacy who supplies any person with methadone in oral liquid form or buprenorphine tablets on a prescription for the treatment of drug dependence must keep a record of the supply in accordance with this clause.

Maximum penalty: 20 penalty units.

- (2) A record under this clause must contain the following particulars:
- (a) the name of the person to whom the supply was made,
  - (b) the number of the prescription on which the supply was made,
  - (c) the name of the person who gave the prescription,
  - (d) the amount of methadone in oral liquid form or buprenorphine tablets supplied,
  - (e) the date on which the supply occurred,
  - (f) if the whole or part of the methadone in oral liquid form or buprenorphine tablets was supplied for consumption on a different day to that on which it was supplied, the day or days on which it is to be consumed and the amount to be consumed on that day or on each of those days.
- (3) Records made under this clause in relation to a particular pharmacy are to be made in writing in a book in which all such records for the pharmacy are kept.
- (4) The Director-General may from time to time approve the keeping of records under this clause in any other form.
- (5) A record made under this clause must be kept for at least 2 years from the date on which it is made.

**92 Supply by pharmacists of liquid methadone or buprenorphine tablets**

- (1) A pharmacist at a retail pharmacy must not, on any particular day, supply any person with methadone in oral liquid form or buprenorphine tablets on a prescription for the treatment of drug dependence if that supply would result in more than 50 persons having been supplied with methadone in oral liquid form or buprenorphine tablets on prescription at that pharmacy on that day.

Maximum penalty: 20 penalty units.

- (2) For the purposes of subclause (1), if an amount of methadone in oral liquid form or buprenorphine tablets is or are supplied for consumption on a day other than the day on which it is supplied, the supply of that amount is taken to have occurred on the day on which the amount is to be consumed.

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- (3) A person is not to be counted for the purposes of subclause (1) if the person is supplied with an amount of methadone in oral liquid form or buprenorphine tablets that is intended to last the person for at least one week and the person is supplied at that pharmacy with either of those drugs no more than once in any 7 day period.
  - (4) Subclause (1) does not apply to the supply of methadone in oral liquid form or buprenorphine tablets at a pharmacy in accordance with:
    - (a) an exemption granted under clause 93, or
    - (b) a licence issued under Division 3 of Part 8.

**93 Exemptions relating to methadone or buprenorphine supply at pharmacies**

- (1) The owner of a pharmacy may apply in writing to the Director-General for an exemption from clause 92 (1) in relation to the pharmacy.
- (2) The Director-General may require the owner of the pharmacy to furnish such information as is necessary to enable the Director-General to determine the application.
- (3) The Director-General may, by notice in writing served on the owner of the pharmacy, grant the exemption or refuse to grant the exemption.
- (4) An exemption is subject to such conditions as may be specified in the notice referred to in subclause (3) and to such further conditions as the Director-General may from time to time notify in writing to the holder of the exemption.
- (5) The Director-General may from time to time vary or revoke any condition of an exemption by notice in writing served on the holder of the exemption.
- (6) An exemption remains in force until:
  - (a) the expiry date (if any) specified in the exemption, or
  - (b) it is surrendered or cancelled,whichever occurs first.
- (7) The Director-General may suspend or cancel an exemption by notice in writing served on the holder of the exemption.
- (8) An exemption has no effect during any period of suspension.
- (9) For the removal of doubt, an exemption is not a licence or authority for the purposes of this Regulation.

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**94 Exceptions to section 28—supply**

- (1) A medical practitioner or nurse practitioner is authorised to supply a drug of addiction for a person without an authority under section 29 of the Act if:
  - (a) the medical practitioner or nurse practitioner is of the opinion that the person requires the use of the drug in the course of treatment as an in-patient in a public hospital or private health facility, and
  - (b) the supply is for a course of treatment for a period of not more than 14 days following the person's admission as an in-patient.
- (2) A medical practitioner or nurse practitioner is authorised to supply methadone or buprenorphine to a person without an authority under section 29 of the Act if:
  - (a) in the case of a medical practitioner, the medical practitioner is approved as a prescriber of drugs of addiction under section 28A of the Act and in the case of a nurse practitioner, the nurse practitioner is authorised by the Director-General for the purposes of this clause, and
  - (b) the person is an inmate in a correctional centre (within the meaning of the *Crimes (Administration of Sentences) Act 1999*), and
  - (c) the methadone or buprenorphine is supplied in oral dosage form for use by the person as a course of treatment while an inmate, and
  - (d) immediately before the person became an inmate, a medical practitioner or nurse practitioner had an authority under section 29 of the Act to prescribe methadone or buprenorphine for the person, or supply methadone or buprenorphine to the person, and
  - (e) the methadone or buprenorphine is supplied for the purpose of continuing the treatment that the person was receiving or was about to receive immediately before the person became an inmate.
- (3) A medical practitioner or nurse practitioner is authorised to supply a drug of addiction to a person without an authority under section 29 of the Act if:
  - (a) the person is the subject of such an authority, and
  - (b) the medical practitioner or nurse practitioner is practising at the same premises that the holder of the authority was practising at when the authority was issued, and
  - (c) the supply is in accordance with any conditions to which that authority is subject.

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## Subdivision 2 Supply without prescription

### 95 Supply and receipt of drugs of addiction generally

- (1) A person who is authorised to supply drugs of addiction (whether by this Division or by an authority or licence under Part 8) may supply a drug of addiction to an *authorised person*, being:
  - (a) any person who is authorised to have possession of such a drug of addiction, or
  - (b) any other person if the other person is in possession of a certificate, signed by a person so authorised, to the effect that the other person is authorised to obtain the drug of addiction on behalf of the person so authorised.
- (2) A supplier may supply drugs of addiction under this clause on the basis of a written order signed by an authorised person or on the basis of an order received from an authorised person by telephone, electronic mail or facsimile.
- (3) A person who orders and receives a drug of addiction must notify the supplier of the receipt of the drug within 24 hours after that receipt.
- (4) The notice under subclause (3) must be in writing and must be dated and signed by an authorised person.
- (5) If a supplier, who supplies a drug of addiction on the basis of an order, does not receive written notice of the order under subclause (3) within 7 days after the drug is supplied, the supplier must report that fact to the Director-General.
- (6) A person who supplies a drug of addiction in accordance with this clause must:
  - (a) keep and cancel the relevant order, and
  - (b) keep the written notice under subclause (3) and (if the drug is supplied as referred to in subclause (1) (b)) the relevant certificate.

Maximum penalty: 20 penalty units.

### 96 Emergency supply by pharmacists

- (1) A pharmacist may supply a person with a drug of addiction in accordance with a direction given under clause 81.
- (2) A pharmacist who supplies a drug of addiction in accordance with this clause:
  - (a) must keep and cancel the prescription that is subsequently sent in confirmation of the direction, or

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- (b) if such a prescription is not received within 7 days after the drug is supplied, must report that fact to the Director-General.

Maximum penalty: 20 penalty units.

**97 Supply by pharmacists for emergency purposes**

A pharmacist may supply an authorised practitioner with a drug of addiction for emergency use, but only on a written order signed and dated by the authorised practitioner.

**98 Supply of amphetamines**

- (1) This clause applies to the following substances:  
amphetamine  
dexamphetamine  
methylamphetamine  
methylphenidate  
phendimetrazine  
phenmetrazine
- (2) A medical practitioner does not require an authority under section 29 of the Act to supply dexamphetamine or methylphenidate to a person for the purpose of testing the suitability of the person to undergo a course of medical treatment involving the use of such a substance so long as the medical practitioner holds an authority under Part 8 to supply such a substance.
- (3) A nurse practitioner, midwife practitioner, dentist or veterinary practitioner is not authorised to supply any substance to which this clause applies.
- (4) This clause does not prevent a veterinary practitioner from supplying methylphenidate in solid dosage form to a person for the treatment of an animal.

**Subdivision 3 Supply in hospitals**

**99 Supply by pharmacists**

- (1) A pharmacist employed at a hospital may supply a drug of addiction from the pharmacy department of the hospital:
- (a) on a prescription issued in accordance with Division 3, or
- (b) on the authorisation (whether in writing, by electronic mail, by facsimile or by any other form of electronic communication approved by the Director-General) of an authorised practitioner

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(other than a veterinary practitioner), where that authorisation is entered on a patient's medication chart, or

- (c) on the requisition (whether in writing, by electronic mail, by facsimile or by any other form of electronic communication approved by the Director-General) of an authorised practitioner (other than a veterinary practitioner) or of the nurse or midwife in charge of the ward in which the drug is to be used or stored.
- (2) The person delivering a drug of addiction to a ward from the pharmacy department of the hospital must obtain a receipt, dated and signed, from the person to whom the drug is delivered.

Maximum penalty: 20 penalty units.

#### **Subdivision 4 Manufacture, possession and supply generally**

##### **100 Unauthorised manufacture and supply of drugs of addiction prohibited**

- (1) A person must not manufacture or supply a drug of addiction unless the person is authorised to do so by this Division or by an authority or licence under Part 8.
- (2) This Division does not authorise a person to manufacture or supply drugs of addiction in contravention of any prohibition or restriction to which the person is otherwise subject.

Maximum penalty: 20 penalty units.

##### **101 Possession and supply of drugs of addiction**

- (1) The following persons are authorised to have possession of, and to supply, drugs of addiction:
  - (a) an authorised practitioner,
  - (b) the chief pharmacist of, and any pharmacist employed in dispensing medicines at, any public hospital or other public institution,
  - (c) the director of nursing of a hospital in which a pharmacist is not employed,
  - (d) the nurse or midwife in charge of a ward in a public hospital,
  - (e) a nurse or midwife who is approved for the time being by the Director-General for the purposes of this clause, or who belongs to a class of nurses or a class of midwives so approved,
  - (f) any other nurse or midwife, but for the purpose only of administering doses of such drugs to individual patients in a hospital,
  - (g) a person:



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- (i) who is employed in the Ambulance Service of NSW as an ambulance officer or as an air ambulance flight nurse, and
  - (ii) who is approved for the time being by the Director-General for the purposes of this clause.
- (2) The following persons are authorised to have possession of (but not to supply) drugs of addiction:
- (a) a person in charge of a laboratory used for the purpose of analysis, research or instruction, who is, or who belongs to a class of persons who are, authorised for the time being by the Director-General for the purposes of this clause,
  - (b) an analyst,
  - (c) a person acting under the direct personal supervision of a person referred to in paragraph (a) or (b).
- (3) This clause authorises a person referred to in subclause (1) or (2) to have possession of, or to supply, drugs of addiction for the purpose only of the lawful practice of the person's profession or occupation.
- (4) This clause does not authorise any person to have possession of, or to supply, hallucinogens.
- (5) This clause does not authorise a nurse practitioner, midwife practitioner, dentist or veterinary practitioner to have possession of, or to supply, any of the following substances:
- amphetamine
  - dexamphetamine
  - methylamphetamine
  - methylphenidate (other than methylphenidate in solid dosage form)
  - phendimetrazine
  - phenmetrazine

**102 Possession and manufacture of drugs of addiction by retail pharmacists**

- (1) A retail pharmacist is authorised:
  - (a) to have possession of drugs of addiction, and
  - (b) to manufacture drugs of addiction and any preparation, admixture or extract of a drug of addiction,
 but only if he or she does so at the premises of, and in the course of carrying on a pharmacy business.
- (2) This clause does not authorise a retail pharmacist to have possession of, or to manufacture or supply, hallucinogens.  
Maximum penalty: 20 penalty units.

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**103 Possession of drugs of addiction by directors of nursing of private health facilities and nursing homes**

- (1) The director of nursing of a private health facility or nursing home is authorised to have possession of the following drugs of addiction in the following quantities:
  - (a) no more than 5 ampoules, each of 1 millilitre or less, of morphine sulfate, at a concentration of 30 milligrams or less of morphine sulfate per millilitre,
  - (b) no more than 5 ampoules, each of 2 millilitres or less, of pethidine hydrochloride, at a concentration of 50 milligrams or less of pethidine hydrochloride per millilitre.
- (2) A retail pharmacist is authorised to supply a drug of addiction to the director of nursing of a private health facility or nursing home but only if the drug is supplied:
  - (a) at the premises of, and in the course of carrying on the business of, the pharmacy, and
  - (b) in accordance with a written order signed by the director of nursing.
- (3) The director of nursing must not sign an order for any quantity of a drug of addiction if the quantity of that drug that will be in the possession of the director of nursing as a result of the order being filled will be in excess of the maximum quantity allowed by subclause (1).
- (4) The director of nursing must not allow any drug of addiction in his or her possession to be used otherwise than for administration to a patient in accordance with the directions of an authorised practitioner (other than a veterinary practitioner).
- (5) This clause does not limit the power of a director of nursing to have possession of drugs of addiction, or to supply drugs of addiction to patients, in accordance with a licence under Part 8.  
Maximum penalty: 20 penalty units.

**104 Possession of drugs of addiction by masters of ships**

- (1) The master of a ship is authorised to have possession of drugs of addiction that are required by law to be carried on the ship.
- (2) A pharmacist may supply drugs of addiction to the master of a ship if the pharmacist is authorised to do so by an authority under Part 8.
- (3) A person must not supply a drug of addiction to the master of a ship unless the person receives:
  - (a) a written order for the drug (in duplicate) signed by the master of the ship, and

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- (b) a written statement (in duplicate) signed by the master of the ship to the effect that the drug is required by law to be carried on the ship, and
  - (c) a certificate, issued by the ship's agent in New South Wales, to the effect that the signatures appearing on the order and statement are those of the master of the ship.
- (4) A person who supplies a drug of addiction in accordance with this clause:
- (a) must keep and cancel the relevant order and statement, and
  - (b) must cancel the duplicate copies of the order and statement and forward them to the Director-General, together with the certificate issued by the ship's agent, within 24 hours.
- (5) This clause does not authorise the master of a ship to have possession of, or to supply, hallucinogens.  
Maximum penalty: 20 penalty units.

**105 Possession of hallucinogens**

A person must not obtain possession of a hallucinogen unless the person is authorised to do so by an authority or licence under Part 8.  
Maximum penalty: 20 penalty units.

**106 Authorities to possess and administer drugs of addiction**

- (1) The following persons are authorised to have possession of drugs of addiction, but only if authorised to do so by an authority under Part 8:
- (a) a person in an isolated locality,
  - (b) a person in charge of a first aid post,
  - (c) a person representing an organisation established for search and rescue,
  - (d) any other person the Minister may from time to time approve.
- (2) A person who is so authorised to have possession of a drug of addiction is also authorised to administer the drug to another person in an emergency.

**107 Mode of delivery**

- (1) A person who supplies drugs of addiction must do so personally, by registered mail or by carrier.
- (2) A person who supplies a drug of addiction personally:
- (a) must deliver it to the person being supplied at the premises of the supplier or at the premises of the person being supplied, and

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- (b) must obtain a receipt, dated and signed, from the person to whom it is delivered.
  - (3) A person who supplies a drug of addiction by registered mail must obtain and keep written evidence of postage of the drug.
  - (4) A person who supplies a drug of addiction by carrier must obtain and keep written evidence of the consignment of the drug.
  - (5) A person who supplies a drug of addiction must not deliver a drug of addiction by carrier otherwise than under an arrangement under which the carrier undertakes:
    - (a) to obtain a receipt, dated and signed, from the person to whom the drug is delivered, and
    - (b) to deliver the receipt to the supplier.Maximum penalty: 20 penalty units.

**108 Delivery by carrier**

- (1) A carrier is authorised to be in possession of a package containing a drug of addiction, but for the purpose only of delivering it to the person to whom it is addressed.
- (2) A dealer (other than an authorised practitioner or pharmacist) who supplies a drug of addiction by post or by carrier must ensure that:
  - (a) the drug is contained in a package that has at least one opaque covering, and
  - (b) no other goods are contained in the package, and
  - (c) the package contains a document:
    - (i) listing the contents of the package, and
    - (ii) bearing the words “SCHEDULE EIGHT—CHECK CAREFULLY” in bold face sans serif capital letters with a letter height of at least 12.5 millimetres, and
  - (d) the outside of the package does not indicate that it contains a drug of addiction, and
  - (e) the package is properly addressed to the person to whom the drug is being supplied.
- (3) This clause does not prevent a dealer from supplying a drug of addiction by means of a separately wrapped inner package within an outer package containing other goods so long as:
  - (a) a document listing the contents of the inner package is contained in the inner package, and

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- (b) the inner package is marked with the words “SCHEDULE EIGHT—CHECK CAREFULLY” in bold face sans serif capital letters with a letter height of at least 12.5 millimetres, and
- (c) the outside of the outer package does not indicate that it contains a drug of addiction, and
- (d) the outer package is properly addressed to the person to whom the drug is being supplied.

Maximum penalty: 20 penalty units.

**109 Quantity and purpose of supply to be appropriate**

An authorised practitioner or pharmacist must not supply any drug of addiction in a quantity, or for a purpose, that does not accord with the recognised therapeutic standard of what is appropriate in the circumstances.

Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

**Division 5 Records of supply**

**Subdivision 1 Drug registers otherwise than for hospital wards**

**110 Application of Subdivision**

This Subdivision applies to drugs of addiction that are kept at any place (including the pharmacy of a hospital) for the purposes of manufacture, supply, research or testing, but does not apply to drugs of addiction that are kept in a hospital ward or that are in the possession of a carrier for the purpose of their being delivered to the persons to whom they are addressed.

**111 Drug registers to be kept**

- (1) A person who has possession of drugs of addiction at any place must keep a separate register (a *drug register*) at that place.
- (2) A drug register is to be in the form of a book:
  - (a) that contains consecutively numbered pages, and
  - (b) that is so bound that the pages cannot be removed or replaced without trace, and
  - (c) that contains provision on each page for the inclusion of the particulars required to be entered in the book.
- (3) Separate pages of the register must be used for each drug of addiction, and for each form and strength of the drug.

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- (4) The Director-General may from time to time approve the keeping of a drug register in any other form.

Maximum penalty: 20 penalty units.

#### **112 Entries in drug registers**

- (1) On the day on which a person manufactures, receives, supplies, administers or uses a drug of addiction at any place, the person must enter in the drug register for that place such of the following details as are relevant to the transaction:
- (a) the quantity of the drug manufactured, received, supplied, administered or used,
  - (b) the name and address of the person to, from, or by, whom the drug was manufactured, received, supplied, administered or used,
  - (c) in the case of a drug that has been administered to an animal or supplied for the treatment of an animal, the species of animal and the name and address of the animal's owner,
  - (d) in the case of a drug that is supplied or administered on prescription:
    - (i) the prescription reference number, and
    - (ii) the name of the authorised practitioner by whom the prescription was issued,
  - (e) in the case of a drug that has been administered to a patient, the name of the authorised practitioner (other than a veterinary practitioner) by whom, or under whose direct personal supervision, the drug was administered,
  - (f) in the case of a drug that has been administered to an animal, the name of the veterinary practitioner by whom, or under whose direct personal supervision, the drug was administered,
  - (g) in the case of a drug that has been administered by a person authorised to do so by an authority under Part 8, details of the circumstances requiring administration of the drug,
  - (h) in the case of a drug that has been used by a person who is in charge of a laboratory, or is an analyst, the purpose for which the drug was used,
  - (i) the quantity of drugs of addiction of that kind held at that place after the transaction takes place,
  - (j) any other details approved by the Director-General.
- (2) Each entry in a drug register must be dated and signed by the person by whom it is made.

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- (3) The Director-General may, by order in writing, exempt any person or drug of addiction, or any class of persons or drugs of addiction, from any or all of the requirements of this clause.
- (4) Such an exemption may be given unconditionally or subject to conditions.  
Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

**113 Supply on prescription to be recorded**

- (1) A pharmacist who supplies a drug of addiction on prescription must record the following details in a manner approved by the Director-General:
  - (a) the details required by clause 80 (1) to be included in the prescription,
  - (b) a unique reference number for the prescription,
  - (c) the date on which the substance was supplied,
  - (d) the name of the person by whom the substance was supplied.Maximum penalty: 20 penalty units.
- (2) A prescription for the supply of a drug of addiction in a hospital need not be recorded so long as the chief pharmacist of the hospital keeps the prescription or a copy of the prescription.
- (3) The Director-General may, by order in writing, exempt any person or drug of addiction, or any class of persons or drugs of addiction, from the requirements of this clause.
- (4) Such an exemption may be given unconditionally or subject to conditions.

**114 Emergency supply or supply to private health facility or nursing home to be recorded**

- A pharmacist who supplies a drug of addiction in accordance with clause 97 or 103 must record the following details of the supply in a manner approved by the Director-General:
- (a) a unique reference number for the supply,
  - (b) the name and address of the person supplied,
  - (c) the name, strength and quantity of the substance,
  - (d) the date on which the substance was supplied,
  - (e) the name of the person by whom the substance was supplied.
- Maximum penalty: 20 penalty units.

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## Subdivision 2 Drug registers for hospital wards

### 115 Application of Subdivision

This Subdivision applies to drugs of addiction that are kept in a hospital ward, but does not apply to drugs of addiction that are kept in a pharmacy at the hospital.

### 116 Ward registers to be kept

- (1) The nurse or midwife in charge of a hospital ward must keep a register of drugs of addiction (a *ward register*) in that ward.
- (2) A ward register is to be in the form of a book:
  - (a) that contains consecutively numbered pages, and
  - (b) that is so bound that the pages cannot be removed or replaced without trace, and
  - (c) that contains provision on each page for the inclusion of the particulars required to be entered in the book.
- (3) Separate pages of the register must be used for each drug of addiction, and for each form and strength of the drug.
- (4) The Director-General may from time to time approve the keeping of a ward register in any other form.

Maximum penalty: 20 penalty units.

### 117 Entries in ward registers

- (1) On the day on which a person receives, supplies or administers a drug of addiction in any ward, the person must enter in the ward register such of the following details as are relevant to the transaction:
  - (a) the quantity of the drug received, supplied or administered,
  - (b) the time of day when the drug was received, supplied or administered,
  - (c) in the case of a drug that is supplied or administered to a patient:
    - (i) the name of the patient to whom the drug was supplied or administered, and
    - (ii) the name of the person by whom the supply or administration of the drug was prescribed or directed,
  - (d) the quantity of drugs of addiction of that kind held in the ward after the transaction takes place,
  - (e) any other details approved by the Director-General.
- (2) The entry must be dated and signed by the person by whom it is made and countersigned:



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- (a) in the case of an entry relating to the receipt of a drug of addiction, by a person who witnessed its receipt, or
  - (b) in the case of an entry relating to the supply or administration of a drug of addiction:
    - (i) by the person who supervised or directed its supply or administration, or
    - (ii) by a person who witnessed its supply or administration.
  - (3) The Director-General may, by order in writing, exempt any person or drug of addiction, or any class of persons or drugs of addiction, from any or all of the requirements of this clause.
  - (4) Such an exemption may be given unconditionally or subject to conditions.

Maximum penalty: 20 penalty units.

### **Subdivision 3 Records generally**

#### **118 Periodical inventory of stock of drugs of addiction**

- (1) The person responsible for maintaining a drug register (including a ward register) at any place:
  - (a) must, during the prescribed periods, make an accurate inventory of all drugs of addiction at that place, and
  - (b) must endorse the relevant drug register, immediately under the last entry for each drug of addiction, with the quantity of each drug of addiction actually held and the date on which the inventory was made, and
  - (c) must sign each entry.
- (2) The prescribed periods for the purposes of subclause (1) (a) are:
  - (a) March and September each year, or
  - (b) if the Director-General determines some other periods, either generally or in specified circumstances, the periods so determined.
- (3) A person who assumes control for a period of one month or more over any place at which drugs of addiction are held must, immediately on assuming control, make an inventory and endorse the drug register as if the inventory were an inventory made under this clause.

Maximum penalty: 20 penalty units.

#### **119 Loss or destruction of registers**

Immediately after a drug register (including a ward register) is lost or destroyed, the person responsible for keeping the register:

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- (a) must give written notice to the Director-General of that fact and of the circumstances of the loss or destruction, and
  - (b) must make an accurate inventory of all drugs of addiction held at the premises concerned and enter, in a new drug register, the particulars of the drugs so held.

Maximum penalty: 20 penalty units.

## **Division 6 Administration**

### **120 Administration by persons employed at a hospital**

- (1) A person employed at a hospital must not administer a drug of addiction to a patient in the hospital otherwise than on the direction of an authorised practitioner (other than a veterinary practitioner).
- (2) Such a direction:
  - (a) must be given in writing (otherwise than by electronic mail or facsimile) or in any other manner approved by the Director-General for the purposes of this paragraph, or
  - (b) in an emergency, may be given:
    - (i) by electronic mail or by facsimile, or
    - (ii) orally, by telephone or in any other manner approved by the Director-General for the purposes of this subparagraph.
- (3) An authorised practitioner who gives a direction under subclause (2) (b) (ii) must:
  - (a) as soon as is practicable (and in any case within the next 24 hours) either:
    - (i) sign an entry in the patient's medical history confirming that he or she has given the direction, or
    - (ii) confirm the direction by electronic mail or by facsimile, and
  - (b) attend to review the patient as soon as he or she considers it appropriate in the circumstances of the case.
- (4) If confirmation is not received within 7 days after the drug of addiction is administered, the person by whom the drug was administered must report that fact to the Director-General.
- (5) An authorised practitioner who, by electronic mail or by facsimile, gives or confirms a direction for the administration of a drug of addiction to a patient must also attend to review the patient as soon as he or she considers it appropriate in the circumstances of the case.

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- (6) Subclauses (3), (4) and (5) do not apply to the administration of a drug of addiction to an inmate of a correctional centre (within the meaning of the *Crimes (Administration of Sentences) Act 1999*) if confirmation of the direction for the administration of the substance has been given in accordance with the requirements of a protocol approved by the Director-General.

Maximum penalty: 20 penalty units.

#### **121 Self-administration by medical practitioners and dentists**

- (1) For the purposes of Division 1 of Part 2 of the *Drug Misuse and Trafficking Act 1985*:
- (a) a medical practitioner is authorised to self-administer a drug of addiction, but only if the medical practitioner does so for the purposes of medical treatment, and
  - (b) a dentist is authorised to self-administer a drug of addiction, but only if the dentist does so for the purposes of dental treatment.
- (2) Subclause (1) does not authorise a medical practitioner or dentist to self-administer a drug of addiction for more than 7 days.
- (3) However, a medical practitioner may self-administer a drug of addiction for more than 7 days if the medical practitioner does so in accordance with an authority issued under Part 8.

### **Division 7 Miscellaneous**

#### **122 Prescribed type A drugs of addiction**

For the purposes of section 28 of the Act, each of the following is prescribed as a type A drug of addiction:

- (a) amphetamine,
- (b) dexamphetamine,
- (c) methylamphetamine,
- (d) methylphenidate,
- (e) phendimetrazine,
- (f) phenmetrazine.

#### **123 Prescribed type B drugs of addiction**

For the purposes of section 28 of the Act, each of the following is prescribed as a type B drug of addiction:

- (a) a drug of addiction that is packaged and labelled in a manner that is consistent with the drug being intended for administration by injection,

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- (b) buprenorphine (other than in transdermal patches),
  - (c) dextromoramide,
  - (d) flunitrazepam,
  - (e) hydromorphone,
  - (f) methadone.

**124 Loss or theft of drugs of addiction**

A person who is authorised to be in possession of drugs of addiction must immediately notify the Director-General if the person loses a drug of addiction or if a drug of addiction is stolen from the person.

Maximum penalty: 20 penalty units.

**125 Drugs of addiction not to be destroyed**

- (1) A person who is authorised to be in possession of a drug of addiction must not wilfully destroy the drug or allow the drug to be destroyed.
- (2) This clause does not apply to the destruction of a drug of addiction carried out:
  - (a) by or under the direct personal supervision of a police officer or an inspector or by or under the direct personal supervision of a person authorised, whether generally or in a particular case, by an authority under Part 8 held by the person, or
  - (b) by or under the direct personal supervision of a person who is in charge of a laboratory, or who is an analyst, but only if the destruction is carried out in accordance with an authority under Part 8 held by the person, or
  - (c) by a person to whom the drug has been supplied by, or in accordance with the prescription of, an authorised practitioner, or
  - (d) in accordance with clause 126, 127 or 128.

Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

**126 Destruction of unusable or unwanted drugs of addiction held by practitioners**

- (1) A pharmacist who is engaged in the supply of restricted substances or drugs of addiction in a retail pharmacy and who has been notified by a relevant practitioner that a drug of addiction has become unusable or unwanted:
  - (a) may (but only in the presence of the relevant practitioner) destroy the drug of addiction, either at the retail pharmacy or at the premises at which the practitioner's practice is conducted, and

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- (b) in that event, must record the fact of the destruction of the drug in the relevant practitioner's drug register.
  - (2) The entry must include the date and the name, professional registration number and signature of the pharmacist and the name and signature of the relevant practitioner.  
Maximum penalty: 20 penalty units.
  - (3) In this clause:  
*relevant practitioner* means a medical practitioner, a dentist or a veterinary practitioner.

**127 Destruction of unusable drugs of addiction in public hospital wards**

- (1) The nurse or midwife in charge of a ward in a public hospital having responsibility for a drug of addiction that becomes unusable must immediately notify the chief pharmacist of the hospital of the fact and of the circumstances under which the drug became unusable.
- (2) A pharmacist employed in a public hospital:
  - (a) may (but only in the presence of a nurse or midwife) destroy the drug of addiction, and
  - (b) in that event, must record the fact of the destruction of the drug in the ward register.
- (3) The entry must include the date and the name, professional registration number and signature of the pharmacist and the name and signature of the nurse or midwife who witnessed the destruction of the drug.
- (4) In the case of a public hospital for which there is no pharmacist, the functions of a chief pharmacist or pharmacist under this clause are instead the functions of:
  - (a) the director of nursing of the hospital, or
  - (b) the medical superintendent of the hospital,
 as the chief executive officer of the hospital may determine.  
Maximum penalty: 20 penalty units.

**128 Destruction of unwanted drugs of addiction in a private health facility or nursing home**

- (1) A retail pharmacist who is engaged in the supply of restricted substances or drugs of addiction:
  - (a) to a private health facility or nursing home, or
  - (b) to a patient in a private health facility or nursing home,
 is authorised to destroy any unwanted drug of addiction on the premises of that private health facility or nursing home.

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Part 4

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- (2) Subclause (1) applies only where the drug is destroyed in the presence of:
- (a) where the private health facility or nursing home is the holder of a licence under Division 2 of Part 8, the person who is named on the licence as being responsible for the storage of drugs of addiction, or
  - (b) in any other case, the director of nursing of the private health facility or nursing home.
- (3) A pharmacist who destroys a drug of addiction in accordance with this clause:
- (a) must record the fact of the destruction of the drug by an entry in the drug register maintained by the private health facility or nursing home, and
  - (b) must ensure that the entry includes the date and the name, professional registration number and signature of the pharmacist and the name and signature of person who witnessed the destruction of the drug.

Maximum penalty: 20 penalty units.

- (4) In this clause:
- private health facility*** includes premises licensed as a day procedure centre under the *Private Hospitals and Day Procedure Centres Act 1988*.

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Part 5 Supply by wholesale and by holders of wholesaler's licences and authorities

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## Part 5 Supply by wholesale and by holders of wholesaler's licences and authorities

### 129 Persons authorised to possess or use substances and to be supplied by holder of wholesaler's licence or authority

- (1) Each person specified in Appendix C is authorised to possess and use the substances specified in relation to that person in that Appendix subject to any conditions or qualifications that may be specified.

**Note.** Section 11 (1) of the Act creates an offence if the holder of a wholesaler's licence or wholesaler's authority supplies any Schedule 1, 2, 3 or 7 substance or any restricted substance to a person other than an authorised person. An authorised person includes a person who is authorised by or under the Act to use, or have possession of, the substance concerned.

- (2) Each person who is specified in Appendix C as being authorised to possess and use a substance is, for the purposes of paragraph (d) of the definition of *Supply by wholesale* in section 4 (1) of the Act, authorised to be supplied with wholesale quantities of the substance.

- (3) For the purposes of section 10 (2) (b) of the Act, the holder of a wholesaler's licence or wholesaler's authority is authorised to supply a Schedule 1, 2 or 3 substance otherwise than by wholesale to any person who is specified in Appendix C as being authorised to possess and use the substance.

**Note.** Section 10 (1) of the Act creates an offence of supplying a substance specified in Schedule 1, 2 or 3 of the Poisons List otherwise than by wholesale except under a general supplier's licence or a general supplier's authority. Section 10 (2) of the Act provides for exceptions to this offence.

- (4) For the purposes of section 10 (4) (d) of the Act, the holder of a wholesaler's licence or wholesaler's authority is authorised to supply a restricted substance otherwise than by wholesale to any person who is specified in Appendix C as being authorised to possess and use the substance.

**Note.** Section 10 (3) of the Act creates an offence of supplying a restricted substance otherwise than by wholesale. Section 10 (4) of the Act provides for exceptions to this offence.

### 130 Restrictions on supply by wholesale

A person must not supply by wholesale any Schedule 2, 3 or 4 substance that is for therapeutic use:

- (a) to any person in another State or a Territory, unless the person being supplied with the substance is authorised by a law of that State or Territory to obtain or supply the substance, or

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Clause 131

Supply by wholesale and by holders of wholesaler's licences and authorities

Part 5

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- (b) to any person outside Australia, unless the person supplying the substance is authorised to do so by a law of the Commonwealth.

Maximum penalty: 15 penalty units.

**131 Records of supply by wholesale**

- (1) A person who supplies by wholesale any regulated goods must issue an invoice to the person being supplied and must keep a copy of the invoice.
- (2) Each invoice must show:
- (a) the date of the supply, and
  - (b) the name and address of the person being supplied, and
  - (c) the name, strength and quantity of the substance supplied.

Maximum penalty: 20 penalty units.

**132 Distribution of free samples**

Any person:

- (a) who is engaged in the manufacture, or supply by wholesale, of any poison or restricted substance for therapeutic use, or
- (b) who is acting as an agent of a person so engaged,

must not supply any such poison or restricted substance by way of distribution of free samples otherwise than in a manner approved for the time being by the Director-General.

Maximum penalty: 20 penalty units.

**133 Storage of therapeutic substances for human use**

- (1) A person who is engaged in the supply by wholesale of therapeutic substances for human use must ensure that the recommendations and requirements of the Wholesaling Code of Practice are complied with.
- Maximum penalty: 20 penalty units.
- (2) The Director-General may, by order in writing, exempt any person or substance, or any class of persons or substances, from any or all of the requirements of this clause.
- (3) Such an exemption may be given unconditionally or subject to conditions.
- (4) In this clause, *Wholesaling Code of Practice* means the Code of Practice entitled *Australian Code of Good Wholesaling Practice for Therapeutic Goods for Human Use*, published by the Commonwealth Government, as in force from time to time or a code of practice that replaces that Code.



Clause 134 Poisons and Therapeutic Goods Regulation 2008

Part 5 Supply by wholesale and by holders of wholesaler's licences and authorities

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**134 Pharmacists authorised to supply by wholesale in certain circumstances**

- (1) A pharmacist is authorised to supply a substance by wholesale to another pharmacist if:
  - (a) the pharmacist is requested to do so in writing signed by the other pharmacist, and
  - (b) the other pharmacist is making the request to satisfy an order of a customer, and
  - (c) the pharmacist, as far as is reasonably practicable supplies to that other pharmacist only the minimum amount of the substance that is necessary to satisfy the order of that customer.
- (2) A pharmacist is authorised to supply a substance by wholesale to another pharmacist if the pharmacist has previously been supplied an amount of the substance in accordance with subclause (1) and is supplying a similar amount of the substance as a replacement for that earlier supply.

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Clause 135

Preparation, handling, supply and labelling of therapeutic goods

Part 6

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## **Part 6 Preparation, handling, supply and labelling of therapeutic goods**

### **Division 1 Preparation and handling of exposed substances**

#### **135 Application of Division**

This Division applies to all therapeutic goods, and all substances used in the preparation of therapeutic goods, that are unpackaged or otherwise susceptible to contamination (in this Division referred to as *exposed substances*).

#### **136 Preparation and handling generally**

An authorised practitioner, pharmacist or practitioner of alternative medicine must ensure that:

- (a) all exposed substances that are prepared or handled on his or her business premises are free from any contamination and from anything that is likely to render them harmful or to have an adverse effect on their efficacy, and
- (b) all persons that he or she employs in the preparation or handling of exposed substances comply with the requirements of this Division.

Maximum penalty: 20 penalty units.

#### **137 Personal cleanliness**

A person who is involved in the preparation or handling of exposed substances:

- (a) must be clean and must wear clean clothing, and
- (b) must clean his or her hands (by means of soap or detergent and water or by some other suitable cleaning process) before starting work and before resuming work after using the toilet.

Maximum penalty: 10 penalty units.

#### **138 Certain behaviour prohibited**

A person who is involved in the preparation or handling of exposed substances, or who is in a place that is used for preparing or handling exposed substances, must not:

- (a) urinate, defecate or spit on, or
- (b) use, smoke or chew tobacco or any other similar substance in the vicinity of, or
- (c) sit, walk, stand or lie on,

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Part 6	Preparation, handling, supply and labelling of therapeutic goods

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any surface used for the purpose of preparing or handling exposed substances.

Maximum penalty: 10 penalty units.

**139 Contact with hands**

- (1) A person who is involved in the preparation or handling of exposed substances:
  - (a) must not have any unnecessary human contact with any such substance, and
  - (b) must not handle any such substance with his or her fingers, but must use a suitable clean implement or disposable gloves to do so, and
  - (c) must not touch his or her mouth, eye, ear, nose or scalp while handling any such substance, and
  - (d) must not wipe his or her hands otherwise than with a clean towel, and
  - (e) must not place, so that it can come into contact with any such substance, any ticket, label or other article that is unclean or liable to contaminate any such substance or that has been in contact with the person's mouth, and
  - (f) must not place in his or her pockets any implement or gloves to be used in preparing or handling any such substance.
- (2) A person who uses disposable gloves to handle an exposed substance must dispose of the gloves as soon as practicable.  
Maximum penalty: 10 penalty units.

**140 Contact with mouth**

A person who is involved in the preparation or handling of exposed substances must not apply to his or her mouth any implement used for preparing or handling any such substance.

Maximum penalty: 10 penalty units.

**141 Bandages**

A person who is wearing an unclean bandage or a medicated or absorbent bandage must not prepare or handle exposed substances, or use any appliance, article or fitting for preparing or handling exposed substances, unless the bandage is protected and covered with a waterproof covering.

Maximum penalty: 10 penalty units.

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Preparation, handling, supply and labelling of therapeutic goods

Part 6

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**142 Persons suffering from infectious diseases**

- (1) A person who is suffering from an infectious disease, or who has any exposed cut, sore, wound or skin eruption, must not prepare or handle exposed substances, or use any appliance, article or fitting for preparing or handling exposed substances.

Maximum penalty: 10 penalty units.

- (2) This clause does not apply to an activity carried out by a person if the Director-General has certified in writing that the person may carry out that activity and the person complies with any conditions contained in the certificate.

**143 Appliances, articles, fittings and surfaces**

- (1) A person who is involved in the preparation or handling of exposed substances must not use any appliance, article or fitting for preparing or handling any such substance unless the appliance, article or fitting:

- (a) is designed and constructed so as to be easily cleaned, and  
(b) is kept clean.

Maximum penalty: 10 penalty units.

- (2) A person who is involved in the preparation or handling of exposed substances must not cause or allow any such substance to come into contact with any surface used for preparing or handling any such substance unless the surface:

- (a) is designed and constructed so as to be easily cleaned, and  
(b) is kept clean.

Maximum penalty: 10 penalty units.

**Division 2 Supply of therapeutic goods**

**144 Premises to be free of vermin**

A person must not use any premises for preparing, handling or supplying therapeutic goods unless the premises are clean and free from vermin.

Maximum penalty: 10 penalty units.

**145 Animals not permitted on premises**

- (1) A person who uses any premises for preparing, handling or supplying therapeutic goods must not cause or permit any animal to be in those premises.

Maximum penalty: 10 penalty units.

- (2) This clause does not apply to the premises of a veterinary practitioner.

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Part 6 Preparation, handling, supply and labelling of therapeutic goods

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### Division 3 Labelling of unscheduled therapeutic substances

#### 146 Labelling of unscheduled therapeutic substances

- (1) This clause applies to all therapeutic goods that are not therapeutic devices and are not included in a Schedule of the Poisons List (in this clause referred to as *unscheduled therapeutic substances*).
- (2) An authorised practitioner, pharmacist or practitioner of alternative medicine must ensure that any unscheduled therapeutic substances that are supplied from his or her business premises for therapeutic use are labelled in accordance with the requirements of Appendix A.  
Maximum penalty: 10 penalty units.
- (3) This clause does not apply to the supply of a substance by a person referred to in subclause (2) if:
  - (a) the substance is supplied, unopened, in the container in which it was received by the person, and
  - (b) the container is labelled in accordance with the requirements of the Commonwealth therapeutic goods laws.

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Clause 147

Analysis and disposal of seized goods

Part 7

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## **Part 7 Analysis and disposal of seized goods**

### **Division 1 Analysis of seized goods**

#### **147 Samples for analysis**

- (1) An inspector who seizes a portion or sample of regulated goods for analysis:
  - (a) must immediately notify the person from whom the portion or sample was taken of the inspector's intention to submit it for analysis, and
  - (b) must divide the portion or sample into 3 parts and properly fasten and seal each part or (if that is impracticable) properly fasten and seal the whole portion or sample.
- (2) If the portion or sample is divided into 3 parts, the inspector:
  - (a) must return one part to the person from whom it was taken, and
  - (b) must forward another part for analysis, and
  - (c) must retain the remaining part.
- (3) If the portion or sample is not divided into 3 parts, the inspector must forward the whole of it for analysis.
- (4) For the purposes of this clause, a portion or sample is properly fastened and sealed if:
  - (a) it is put into a container, and
  - (b) the container is marked with the name and address of the person from whom it was taken, and
  - (c) the container is fastened and sealed so as to prevent the container from being opened, or the name and address being removed, without the seal's being broken.

#### **148 Payment for sample**

Payment for a portion or sample of regulated goods that is seized for analysis is to be made by the State, at current market value:

- (a) to the person from whom those goods were taken, or
- (b) if the person was not the owner of those goods, to the owner.

### **Division 2 Disposal of seized goods**

#### **149 Release of seized goods**

- (1) Seized goods are to be released at the end of the period of 6 months after they were seized unless, before the end of that period, a Magistrate

Clause 150 Poisons and Therapeutic Goods Regulation 2008

Part 7 Analysis and disposal of seized goods

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makes an order under this Division directing them to be forfeited to the State.

- (2) This clause does not prevent seized goods from being released before the expiration of that period.
- (3) Seized goods may be released:
  - (a) by or at the direction of the inspector who seized them or by or at the direction of the Director-General, and
  - (b) to the owner of the goods or the person in whose possession, care, custody or control they were at the time of the seizure.
- (4) This clause does not require the release of any goods that have been damaged or destroyed in the course of analysis.
- (5) A Magistrate may, in any particular case, extend the period referred to in subclause (1).

**150 Order that seized goods be forfeited**

- (1) A Magistrate may order that seized goods specified in the order be forfeited to the State on the expiration of any period so specified.
- (2) Such an order does not have effect in respect of any goods that have been released under this Division.
- (3) Before a Magistrate makes an order under this clause, the Magistrate may require such notice as he or she thinks fit to be given to such persons as he or she considers appropriate.

**151 Order that expenses be paid**

- (1) A Magistrate may order that a person, from whom goods have been seized under section 43 of the Act and who has been convicted of an offence in connection with those goods, must pay to the Director-General such amount as the Magistrate considers appropriate to cover the reasonable costs of:
  - (a) seizing the goods, and
  - (b) dealing with them under this Division, and
  - (c) conducting any analysis for which they have been submitted.
- (2) Before a Magistrate makes an order under this clause, the Magistrate may require such notice as he or she thinks fit to be given to such persons as he or she considers appropriate.
- (3) An order under this clause operates as an order under the *Civil Procedure Act 2005*, and is enforceable as such an order under the provisions of that Act.

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Clause 152

Analysis and disposal of seized goods

Part 7

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**152 Storage of and interference with seized goods**

- (1) Subject to any direction of the Director-General, seized goods may be kept or stored:
  - (a) at the premises at which they were seized, or
  - (b) at such other place as the inspector who seized them considers appropriate.
- (2) A person must not remove, alter or interfere in any way with seized goods without the authority of an inspector or the Director-General.  
Maximum penalty: 20 penalty units.

**153 Forfeiture of goods with consent**

If the owner of seized goods or the person in whose possession, care, custody or control they were at the time of their seizure consents in writing to their forfeiture, the goods are, by virtue of that consent, forfeited to the State.

**154 Disposal of forfeited goods**

Any goods forfeited under this Division may be disposed of in such manner as the Director-General may direct, either generally or in any particular case or class of cases.



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Part 8 Licences and authorities

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## **Part 8 Licences and authorities**

### **Division 1 Licences to supply Schedule 2 substances**

#### **155 Applications for licences**

- (1) Any person who conducts, or proposes to conduct, a retail shop may apply for a licence to supply Schedule 2 substances from the shop.
- (2) The application:
  - (a) must be in the form approved by the Director-General, and
  - (b) must be accompanied by an application fee of \$65, and
  - (c) must be lodged with the Director-General.
- (3) The Director-General may require an applicant to furnish such further information as is necessary to enable the Director-General to determine the application.

#### **156 Consideration of applications**

- (1) After considering an application under this Division, the Director-General may issue the licence for which the application is made or may refuse the application.
- (2) In particular, the Director-General may refuse an application if of the opinion that the applicant is not a fit and proper person to hold the licence for which the application is made.
- (3) A licence may not be issued or renewed unless:
  - (a) in the case of premises the subject of an existing licence issued before 7 April 1989 that is in force, the Director-General is satisfied that the premises to which the application relates are at least 6.5 kilometres (measured along the shortest practicable route) from the premises of the nearest retail pharmacist, or
  - (b) in any other case, the Director-General is satisfied that the premises to which the application relates are at least 20 kilometres (measured along the shortest practicable route) from the premises of the nearest retail pharmacist.

#### **157 Licences**

- (1) A licence is to be in the form for the time being approved by the Director-General.
- (2) A licence remains in force until suspended, cancelled or surrendered.
- (3) A licence is not transferable.

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Licences and authorities

Part 8

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**158 Conditions of licences**

- (1) A licence is subject to such conditions as the Director-General may endorse on the licence and to such further conditions as the Director-General may from time to time impose by order in writing served on the holder of the licence.
- (2) The Director-General may from time to time vary or revoke any condition of a licence by means of a further order in writing served on the holder of the licence.
- (3) A licence is ineffective unless its conditions are complied with.

**159 Annual licence fees**

The holder of a licence under this Division must, on or before 31 March in each year following that in which the licence was issued, pay to the Director-General an annual licence fee of \$65.

**Division 2 Licences to supply by wholesale poisons and restricted substances**

**160 Applications for licences**

- (1) Any person may apply to the Director-General for a licence to supply by wholesale any poisons or restricted substances.
- (2) The application:
  - (a) must be in the form approved by the Director-General, and
  - (b) must be accompanied by the relevant application fee, and
  - (c) must be lodged with the Director-General.
- (3) The relevant application fee is:
  - (a) \$60, in the case of an application by a public institution, or
  - (b) \$395, in any other case.
- (4) The Director-General may require an applicant to furnish such further information as is necessary to enable the Director-General to determine the application.

**161 Consideration of applications**

- (1) After considering an application under this Division, the Director-General may issue the licence for which the application is made or may refuse the application.
- (2) In particular, the Director-General may refuse an application if of the opinion that the applicant is not a fit and proper person to hold the licence for which the application is made.

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Part 8 Licences and authorities

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- (3) A licence may not be issued unless the Director-General is satisfied that the premises to which the application relates are appropriate for the supply of the poisons or restricted substances concerned.

**162 Licences**

- (1) A licence is to be in a form for the time being approved by the Director-General.
- (2) A licence remains in force until suspended, cancelled or surrendered.
- (3) A licence is not transferable.

**163 Conditions of licences**

- (1) A licence is subject to such conditions as the Director-General may from time to time impose by order in writing served on the holder of the licence.
- (2) The Director-General may from time to time vary or revoke any condition of a licence by means of a further order in writing served on the holder of the licence.
- (3) A licence is ineffective unless its conditions are complied with.

**164 Annual licence fees**

The holder of a licence under this Division must, on or before 30 September in each year following that in which the licence was issued, pay to the Director-General an annual licence fee of:

- (a) \$60, if the holder is a public institution, or
- (b) \$395, in any other case.

**Division 3 Licences to manufacture or supply drugs of addiction**

**165 Applications for licences**

- (1) Any person may apply to the Director-General for a licence to manufacture drugs of addiction at, or to supply drugs of addiction from, any premises.
- (2) The application:
- (a) must be in the form approved by the Director-General, and
- (b) must be accompanied by the relevant application fee, and
- (c) must be lodged with the Director-General.
- (3) The relevant application fee for a licence to manufacture drugs of addiction is:

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- (a) \$60, in the case of an application by a public institution, or
- (b) \$525, in any other case.
- (4) The relevant application fee for a licence to supply drugs of addiction is:
  - (a) \$15, in the case of an application by a charitable organisation, or
  - (b) \$60, in the case of an application by a public institution (other than a charitable organisation), or
  - (c) \$265, in any other case.
- (5) The Director-General may require an applicant to furnish such further information as is necessary to enable the Director-General to determine the application.

#### 166 Consideration of applications

- (1) After considering an application under this Division, the Director-General may issue the licence for which the application is made or may refuse the application.
- (2) In particular, the Director-General may refuse an application if of the opinion that the applicant is not a fit and proper person to hold the licence for which the application is made.
- (3) A licence may not be issued unless the Director-General is satisfied that the premises to which the application relates are appropriate for the manufacture or supply of drugs of addiction.
- (4) The Director-General is not empowered to issue a licence under this Division for the supply, under the program known as the New South Wales Opioid Treatment Program, of methadone or buprenorphine to drug dependent persons (as defined in section 27 of the Act) unless it is a replacement licence.
- (5) To avoid doubt:
  - (a) subclause (4) does not affect the validity or operation of any licence to supply methadone or buprenorphine that was in force immediately before 30 June 2006, and
  - (b) the Director-General may:
    - (i) add conditions to, or vary or revoke the conditions of, such a licence, or
    - (ii) vary the premises to which such a licence relates, on the application of the licensee.
- (6) In this clause:
 

**replacement licence** means a licence to supply methadone or buprenorphine that replaces such a licence which is in force immediately before the replacement licence is issued.

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Part 8 Licences and authorities

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#### **167 Licences**

- (1) A licence is to be in the form for the time being approved by the Director-General.
- (2) A licence to manufacture drugs of addiction authorises the manufacturer to supply drugs that are manufactured under the licence, subject to the conditions of the licence.
- (3) A licence remains in force until suspended, cancelled or surrendered.
- (4) A licence is not transferable.

#### **168 Conditions of licences**

- (1) A licence is subject to such conditions as the Director-General may endorse on the licence and to such further conditions as the Director-General may from time to time impose by order in writing served on the holder of the licence.
- (2) The Director-General may from time to time vary or revoke any condition of a licence by means of a further order in writing served on the holder of the licence.
- (3) A licence is ineffective unless its conditions are complied with.

#### **169 Annual licence fees**

- (1) The holder of a licence to manufacture drugs of addiction must, on or before 30 September in each year following that in which the licence was issued, pay to the Director-General an annual licence fee of:
  - (a) \$60, if the holder is a public institution, or
  - (b) \$525, in any other case.
- (2) The holder of a licence to supply drugs of addiction must, on or before 30 September in each year following that in which the licence was issued, pay to the Director-General an annual licence fee of:
  - (a) \$15, if the holder is a charitable organisation, or
  - (b) \$60, if the holder is a public institution (other than a charitable organisation), or
  - (c) \$265, in any other case.

### **Division 4 Authorities**

#### **170 Authorities**

- (1) The Director-General may issue authorities for the purposes of the Act and this Regulation.

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- (2) The Director-General may require a person seeking an authority to furnish such information as is necessary to enable the Director-General to determine the issuing of the authority.
  - (3) The Director-General may refuse to issue an authority to a person if of the opinion that the person is not a fit and proper person to hold the authority.
  - (4) An authority may be issued to a particular person (by means of an instrument in writing given to the person) or to a specified class of persons (by means of an instrument published in a manner approved by the Director-General).
  - (5) An authority that is issued to a particular person remains in force until it is suspended, cancelled or surrendered.
  - (6) An authority that is issued to a particular person is not transferable.
  - (7) In this Regulation, a reference to a person who holds an authority under this Part includes a reference to a person who belongs to a class of persons specified in an instrument referred to in subclause (4).

#### **171 Conditions of authorities**

- (1) The exercise of the functions conferred on a person by an authority is subject to such conditions as the Director-General may specify in the instrument by which the authority is issued and to such further conditions as the Director-General may from time to time impose by order in writing served on that person.
- (2) The Director-General may from time to time vary or revoke any condition of an authority by means of a further order in writing served on the holder of the authority.
- (3) An authority is ineffective unless its conditions are complied with.

### **Division 5 Suspension and cancellation of licences and authorities**

#### **172 Grounds for suspension or cancellation**

- (1) The Director-General must suspend or cancel a licence or authority on the occurrence of one or more of the following:
  - (a) the holder of the licence or authority requests or agrees in writing to the suspension or cancellation of the licence or authority,
  - (b) the holder of the licence or authority is convicted of a serious offence against the *Drug Misuse and Trafficking Act 1985* or any regulation in force under that Act,

Clause 173 Poisons and Therapeutic Goods Regulation 2008

Part 8 Licences and authorities

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- (c) the Director-General forms the opinion that the holder of the licence or authority is no longer a fit and proper person to hold the licence or authority,
  - (d) in the case of a licence or authority to supply methadone or buprenorphine, the Director-General forms the opinion that the supply of methadone or buprenorphine has a significant adverse effect on the amenity of the area in which the premises from which it is being supplied are situated.
- (2) The Director-General may, at the Director-General's discretion, suspend or cancel a licence or authority on any one or more of the following grounds:
- (a) the holder of the licence or authority contravenes any condition of the licence or authority,
  - (b) the holder of the licence or authority is convicted of an offence against the Act or this Regulation, or of an offence (not being a serious offence) against the *Drug Misuse and Trafficking Act 1985* or any regulation in force under that Act,
  - (c) an order is made under section 10 (1) of the *Crimes (Sentencing Procedure) Act 1999* relating to the holder of the licence or authority in respect of an offence against the Act or this Regulation, or an offence against the *Drug Misuse and Trafficking Act 1985* or any regulation in force under that Act,
  - (d) the holder of the licence or authority has made a representation in connection with the licence or authority (including in connection with an application for the licence or authority) that is false or misleading in a material particular,
  - (e) the annual fee for the licence is not duly paid.
- (3) In this clause, *serious offence* means an offence that is punishable by imprisonment for a term of 5 years or more.

### 173 Suspension or cancellation

- (1) Before suspending or cancelling a licence or authority (otherwise than at the request of its holder), the Director-General:
- (a) must cause written notice of the proposed suspension or cancellation, and of the grounds for the proposed suspension or cancellation, to be served on the holder of the licence or authority, and
  - (b) must give the holder of the licence or authority a reasonable opportunity to make representations with respect to the proposed suspension or cancellation, and
  - (c) must take any such representations into consideration.

Poisons and Therapeutic Goods Regulation 2008

Clause 174

Licences and authorities

Part 8

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- (2) Suspension or cancellation of a licence or authority takes effect on the date on which written notice of the suspension or cancellation is served on its holder or on such later date as is specified in the notice.
  - (3) The Director-General may, by a further notice in writing served on the holder of a licence or authority that is suspended, revoke the suspension or vary the period of the suspension.

### **Division 6      Modification of applied provisions of Commonwealth therapeutic goods laws**

#### **174    Modification of applied provisions of Commonwealth therapeutic goods laws with respect to advertising**

- (1) Part 2 (Advertisements) of the *Therapeutic Goods Regulations 1990* of the Commonwealth is modified in its application as a law of New South Wales to the extent that the Director-General may, by order in writing, exempt any person or substance, or any class of persons or substances, from the requirements of that Part.
- (2) Such an exemption may be given unconditionally or subject to conditions.



Clause 175 Poisons and Therapeutic Goods Regulation 2008

Part 9 Miscellaneous

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## Part 9 Miscellaneous

### 175 Director-General may restrict authorisations conferred by this Regulation

- (1) The Director-General may, by order in writing served on any person, prohibit or restrict the person from doing anything authorised by this Regulation.
- (2) Such an order may be made on any one or more of the following grounds:
  - (a) the person requests or agrees in writing to the making of the order,
  - (b) the person is convicted of an offence against the Act or this Regulation, or of an offence against the *Drug Misuse and Trafficking Act 1985* or any regulation in force under that Act, or an order is made against the person under section 10 (1) of the *Crimes (Sentencing Procedure) Act 1999* in respect of such an offence,
  - (c) the person has, in the opinion of the Director-General, failed to comply with any restriction imposed on the person by an order under this clause,
  - (d) the person is, in the opinion of the Director-General, a person whose authorisation to do that thing should be withdrawn for the purpose of protecting the life, or the physical or mental health, of that or any other person (whether or not any other such person is identifiable).
- (3) An order that restricts a person as referred to in subclause (1):
  - (a) may be made unconditionally or subject to conditions, and
  - (b) may apply generally or be limited in its application by reference to specified exceptions or factors, and
  - (c) may apply differently according to different factors of a specified kind.
- (4) An order under this clause must specify the grounds on which it is made including, if it is made on the grounds referred to in subclause (2) (d), the reasons for its withdrawal on those grounds.
- (5) An order under this clause takes effect:
  - (a) in the case of an order made on the grounds referred to in subclause (2) (d), when the order is served on the person against whom it is made, or
  - (b) in any other case, the date specified in the order in that regard.

Poisons and Therapeutic Goods Regulation 2008

Clause 176

Miscellaneous

Part 9

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- (6) Except in the case of an order that is made on the ground referred to in subclause (2) (a), the date referred to in subclause (5) (b) must be a date occurring not less than 14 days after the date on which the order is served on the person against whom it is made.
  - (7) On making an order that prohibits a person from doing all of the things authorised by Part 2, 3, 4 or 5 of this Regulation, or by any two or more of those Parts, the Director-General is to cause notice of:
    - (a) the name of the person, and
    - (b) the terms of the order, and
    - (c) the date on which the order took effect,to be published in the Gazette.
  - (8) A person must not contravene any order in force under this clause.  
Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

#### **176 Records generally**

- (1) Except to the extent to which this Regulation otherwise provides, all documents required to be kept under this Regulation:
  - (a) must be kept in the form of legible instruments written indelibly in English, or
  - (b) must be kept in some other manner from which a legible instrument written indelibly in English is readily reproducible.
- (2) A record required to be made of the manufacture, receipt, supply, administration or use of any substance at or from any premises must be kept at those premises.
- (3) A person who is required by this Regulation to keep any document or make any record must keep it for a period of at least 2 years, commencing on the latest date on which:
  - (a) any entry was made in the document or record, or
  - (b) any substance was manufactured, received, supplied, administered or used in accordance with, or on the authority of, the document or record,and must make it available for inspection on demand by a police officer or an inspector.  
Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

Clause 177 Poisons and Therapeutic Goods Regulation 2008

Part 9 Miscellaneous

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**177 False or misleading entries in records and registers**

- (1) A person who is required by this Regulation to keep any record or register must not make any entry in the record or register that the person knows to be false or misleading in a material particular.
- (2) A person must not make any alterations, obliterations or cancellations in a record or register required by this Regulation, but may correct any mistake in any entry by making a marginal note or footnote and by initialling and dating it.

Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

**Note.** Section 307A of the *Crimes Act 1900* creates the offence of providing false or misleading information in certain circumstances. The offence carries a maximum penalty imprisonment for 2 years, or 200 penalty units, or both.

**178 Service of notices**

A notice referred to in this Regulation may be served on a person:

- (a) by delivering it to the person personally, or
- (b) by leaving it at the person's place of residence last known to the Director-General with someone who apparently resides there, or
- (c) by leaving it at the person's place of business or employment last known to the Director-General with someone who is apparently employed there, or
- (d) by posting it to the person in an envelope addressed to the person at the place of his or her residence, business or employment last known to the Director-General.

**179 Applications for authorities under section 29**

Before determining an application referred to in section 29 (1) of the Act, the Director-General may require the applicant to furnish such further information as the Director-General may require in relation to the application.

**180 Quorum for Poisons Advisory Committee**

The quorum for a meeting of the Advisory Committee referred to in clause 2 of Schedule 2 to the Act is 9.

**181 Saving**

Any act, matter or thing that, on the repeal of the *Poisons and Therapeutic Goods Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.

Poisons and Therapeutic Goods Regulation 2008

Labelling of therapeutic substances

Appendix A

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## Appendix A Labelling of therapeutic substances

(Clauses 7, 26, 69 and 146)

**Note.** Although this Appendix refers to labels “on” a container, the information required by this Appendix may be shown by tags, brands, marks or statements in writing on the container itself (rather than on something affixed or attached to the container). See the definition of **Label** in section 4 (1) of the Act.

### 1 General

- (1) All details, words and other information that a label on a container of a therapeutic substance must carry must be in the English language (although it may also be in another language).
- (2) All symbols, numbers and words on a label must be in durable characters.
- (3) The label on a container of a therapeutic substance must contain the following details:
  - (a) the name and address of the dealer supplying the substance,
  - (b) the approved name, strength and quantity of the substance,
  - (c) the substance’s proprietary name (unless the substance is a preparation compounded in accordance with the dealer’s own formula),
  - (d) adequate directions for use,
  - (e) the words “KEEP OUT OF REACH OF CHILDREN” in red on a white background,
  - (f) if the substance is intended for external use only, the word “POISON”, or the words “FOR EXTERNAL USE ONLY”, in red on a white background,
  - (g) if the substance is intended for the treatment of a person, the name of the person,
  - (h) if the substance is intended for the treatment of an animal, the species of animal and the name of the animal’s owner,
  - (i) if the substance is supplied in the circumstances referred to in clause 45 or 48, the words “EMERGENCY SUPPLY”.

### 2 Additional labelling requirements for certain substances

- (1) The label on a container of a therapeutic substance that is supplied on prescription must also bear:
  - (a) the prescription reference number, and
  - (b) the date on which the prescription was supplied (unless that date is clear from the prescription reference number), and

## Poisons and Therapeutic Goods Regulation 2008

Appendix A Labelling of therapeutic substances

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- (c) the directions for use set out in the prescription.
- (2) The label on a container of a restricted substance that is supplied in the circumstances referred to in clause 45 or 48 must also bear:
  - (a) the unique reference number recorded under clause 57 with respect to the supply, and
  - (b) the date on which the substance was supplied, and
  - (c) the directions given by the pharmacist for the use of the substance.

**3 Warning: therapeutic substances for internal use**

The label on a container of a therapeutic substance specified in Appendix F to the current Poisons Standard must bear the warning specified in that Appendix in respect of that substance.

The label on a container of a therapeutic substance specified in Appendix K to the current Poisons Standard (being a therapeutic substance that is supplied on prescription and is intended for internal use in humans) must bear Warning Statement 39, 40 or 90 specified in Part 1 of Appendix F to that Standard. The warning must be immediately preceded by a symbol in the form of an open equilateral triangle at least 4.5 millimetres high in bold print, coloured red.

**4 Warning: quinine**

The label on a container of quinine must bear the words “WARNING—MAY BE FATAL TO CHILDREN”.

**5 Warning: other substances**

- (1) This clause applies to the following substances:
  - amphetamine
  - chlorphentermine
  - dexamphetamine
  - diethylpropion
  - ephedrine
  - methylphenidate
  - phentermine
  - propylhexedrine
- (2) The label on a container of such a substance (being a substance that is represented as being for oral use by a person other than a child under 16) must bear the words “THIS MEDICATION (MEDICINE) MAY AFFECT MENTAL ALERTNESS OR CO-ORDINATION OR

Poisons and Therapeutic Goods Regulation 2008

Labelling of therapeutic substances

Appendix A

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**BOTH. IF AFFECTED, DO NOT DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY”.**

- (3) The warning must be immediately preceded by a symbol in the form of an open equilateral triangle at least 4.5 millimetres high in bold print, coloured red.

Poisons and Therapeutic Goods Regulation 2008

Appendix B Special restricted substances

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## Appendix B Special restricted substances

(Clause 3 (1))

Amylobarbitone when included in Schedule 4 of the Poisons List  
Anabolic and androgenic steroidal agents included in Schedule 4 of the Poisons List,  
except when referred to elsewhere in this Appendix  
Drostanolone  
Ethyloestrenol  
Fluoxymesterone  
Mesterolone  
Methandienone  
Methandriol  
Methenolone  
Methylandrostanolone  
Methyltestosterone  
Mibolerone  
Nandrolone  
Norethandrolone  
Oxandrolone  
Oxymesterone  
Oxymetholone in preparations for therapeutic use  
Pentobarbitone when included in Schedule 4 of the Poisons List  
Stanolone  
Stanozolol  
Testosterone except when included in Schedule 6 of the Poisons List

Poisons and Therapeutic Goods Regulation 2008

Persons authorised to possess and use substances

Appendix C

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## Appendix C Persons authorised to possess and use substances

(Clause 129)

**Note.** Clause 129 provides that each person who is authorised by this Appendix to possess and use a substance is also authorised to be supplied with the substance, whether by wholesale or otherwise, by the holder of a wholesaler's licence or wholesaler's authority.

### 1 Medical superintendents of hospitals

The medical superintendent of a hospital is authorised to possess and, if the medical superintendent is an authorised practitioner, use any Schedule 2, 3 or 4 substance that is required for use in connection with the medical treatment of persons at the hospital.

### 2 Optometrists

An optometrist is authorised to possess and use any Schedule 2, 3 or 4 substance prescribed under the *Optometrists Act 2002* for the purposes of section 21 (5) of that Act that is required for use in connection with the practice of optometry.

### 3 Podiatrists

A registered podiatrist is authorised to possess and use synthetic cocaine substitutes (prepared for parenteral use) if required for use in connection with the practice podiatry.

### 4 Dental therapists or oral health therapists

- (1) A dental therapist or oral health therapist is authorised to possess and use the following substances if required for use in connection with dental therapy or oral health therapy:

benzocaine

lignocaine

mepivacaine

prilocaine

procaine

tetracycline (in preparations for treatment of dental pulp)

triamcinolone (in preparations for treatment of dental pulp)

- (2) In this clause:

***dental therapist*** means a person who is registered under the *Dental Practice Act 2001* as a dental auxiliary in the class of dental therapist.



Poisons and Therapeutic Goods Regulation 2008

Appendix C Persons authorised to possess and use substances

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*oral health therapist* means a person who is registered under the *Dental Practice Act 2001* as a dental auxiliary in the class of oral health therapist.

## 5 Dental hygienists

- (1) A dental hygienist is authorised to possess and use the following substances if required for use in connection with an activity prescribed by clause 6 of the *Dental Practice Regulation 2004*:

benzocaine  
lignocaine  
mepivacaine  
prilocaine  
procaine

- (2) In this clause:

*dental hygienist* means a person who is registered under the *Dental Practice Act 2001* as a dental auxiliary in the class of dental hygienist.

## 6 Registered nurses involved in vaccination programs

A person who is a registered nurse and who is employed in connection with a vaccination program carried out in a public institution or place of work is authorised to possess and use vaccines if required for use in vaccinating humans.

## 7 Emergency medical treatment by ambulance officers

A person:

- (a) who is employed in the Ambulance Service of NSW as an ambulance officer or as an air ambulance flight nurse, and  
(b) who is approved for the time being by the Director-General for the purposes of this clause,

is authorised to possess and use any Schedule 2, 3 or 4 substance that is approved by the Director-General for use by such persons in the carrying out of emergency medical treatment.

## 8 Emergency medical treatment of divers

A person:

- (a) who is a dive medical technician within the NSW Police Force, and  
(b) whose duties include the carrying out (under the supervision of a medical practitioner who is qualified in underwater medicine) of emergency medical treatment on divers,

## Poisons and Therapeutic Goods Regulation 2008

## Persons authorised to possess and use substances

## Appendix C

is authorised to possess and use any substance referred to in the Table to this clause if the substance is required for the emergency medical treatment of divers and the substance complies with the requirements as to form and strength set out in that Table opposite that substance.

**Table**

<b>Substance</b>	<b>Form</b>	<b>Strength</b>
adrenaline	ampoule	not more than 0.01 per cent
amoxicillin with clavulanic acid	tablet	not more than 500 milligrams (amoxicillin) and 125 milligrams (clavulanic acid)
atropine	ampoule	not more than 600 micrograms per ampoule
dexamethasone with framycetin and gramicidin	ear drops	not more than 500 micrograms (dexamethasone), 5 milligrams (framycetin) and 50 micrograms (gramicidin)
diazepam	ampoule	not more than 10 milligrams per ampoule
diclofenac	tablet	not more than 50 milligrams
frusemide	ampoule	not more than 20 milligrams per ampoule
heparin	ampoule	not more than 25,000 units per 5 millilitres
lignocaine	ampoule	not more than 1 per cent
lignocaine with chlorhexidine	ampoule	not more than 2 per cent
metronidazole	tablet	not more than 200 milligrams
naloxone	ampoule	not more than 400 micrograms per ampoule
piroxicam	gel	not more than 0.5 per cent
prochlorperazine	ampoule	not more than 12.5 milligrams per ampoule
prochlorperazine	tablet	not more than 5 milligrams
trimethoprim with sulfamethoxazole	tablet	not more than 160 milligrams (trimethoprim) and 800 milligrams (sulfamethoxazole)

## Poisons and Therapeutic Goods Regulation 2008

Appendix C Persons authorised to possess and use substances

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**9 General first aid**

A person who holds a current occupational first-aid certificate approved by the WorkCover Authority in accordance with the regulations under the *Occupational Health and Safety Act 2000* is authorised to possess and use methoxyflurane and nitrous oxide if required in connection with the carrying out of first aid.

**10 Industrial first aid**

A person who is in control of an industrial first aid post is authorised to possess and use any Schedule 2 substance that is required in connection with the carrying out of industrial first aid.

**11 First aid in mines**

The following persons are authorised to possess and use nitrous oxide if required for use in connection with the carrying out of first aid at a mine:

- (a) in the case of a coal or shale mine, a person who is appointed in accordance with the emergency management system for the mine (as required by the *Coal Mine Health and Safety Act 2002*) as a person to provide first aid at the mine,
- (b) in the case of any other mine, a person who is employed in accordance with the regulations under the *Mine Health and Safety Act 2004* to provide first aid treatment at the mine.

**12 Asthma first aid**

A person who holds a current emergency asthma management certificate issued by an organisation approved by the Director-General for the purposes of clause 18 (3) of this Regulation is authorised to possess and use salbutamol or terbutaline in metered aerosols if required in connection with the carrying out of first aid.

**13 Anaphylaxis first aid**

A person is authorised to possess and use adrenaline if:

- (a) if the person requires the adrenaline for use in connection with the carrying out of anaphylaxis first aid, and
- (b) the adrenaline is contained in single use automatic injectors that have been filled by the manufacturer and that deliver no more than 0.3 milligrams of adrenaline each, and
- (c) the person holds a current first aid certificate issued after completion of a first aid course approved by the WorkCover Authority as referred to in regulations made under the *Occupational Health and Safety Act 2000*, and the person has

## Poisons and Therapeutic Goods Regulation 2008

## Persons authorised to possess and use substances

## Appendix C

---

received training on the symptoms and first aid management of anaphylaxis from:

- (i) a first aid training organisation approved by the WorkCover Authority, or
- (ii) any other organisation approved by the Director-General for the purposes of clause 18 (5) (b) (ii) of this Regulation.

**14 Ski rescue**

A ski patroller who holds a valid first aid certificate issued by the Australian Ski Patrol Association for use in ski patrol duties is authorised to possess and use methoxyflurane, nitrous oxide and trichloroethylene if required for use in connection with the carrying out of ski rescues.

**15 Animal feedstuff production**

- (1) A person who is authorised under this Regulation to obtain a Schedule 2, 3 or 4 substance is authorised to possess and use the substance if the substance is required for use in connection with the commercial production of animal feedstuff or feedstuff premixes.
- (2) In this clause, a reference to an animal feedstuff or feedstuff premix is a reference to a feedstuff or feedstuff premix containing a Schedule 2, 3 or 4 substance at such a level, or in such a form:
  - (a) that Schedule 5 or 6 to the Poisons List applies to the substance, or
  - (b) that the substance is not a poison.

**16 Bee keeping**

A person:

- (a) who is registered as a beekeeper under the *Apiaries Act 1985*, and
- (b) who holds a written authority (issued by the Director-General of the Department of Primary Industries) recommending the use, by that person, of that substance for that purpose,

is authorised to possess and use oxytetracycline in the form of a stock medicine registered under the *Stock Medicines Act 1989* if required for use in the treatment or prevention of European Foulbrood disease in bees.

**17 Persons licensed to manufacture or supply drugs of addiction**

The holder of a licence under Part 8 to manufacture or supply drugs of addiction is authorised to possess and use any Schedule 2, 3 or 4 substance that the holder of the licence requires for use in accordance with that licence.

## Poisons and Therapeutic Goods Regulation 2008

Appendix C Persons authorised to possess and use substances

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**18 Miscellaneous trades and industries**

A person who is engaged in any of the following activities is authorised to possess and use any Schedule 2 or 3 substance that is required for use in connection with that activity:

- (a) jewellery manufacture,
- (b) electroplating,
- (c) paint manufacture,
- (d) ferrous hardening,
- (e) commercial pest control,
- (f) mining gold or other precious metals,
- (g) refining non-ferrous metals.

**19 Scientifically qualified persons**

A scientifically qualified person in charge of a laboratory or department, or a person acting under the direct personal supervision of such a person, is authorised to possess and use any Schedule 2, 3 or 4 substance that is required for the conduct of medical or scientific research or instruction or the conduct of quality control or analysis.

**20 Masters of ships**

The master of a ship is authorised to possess and use any Schedule 2, 3 or 4 substance that is required by law to be carried on the ship for use in connection with the medical treatment of persons on the ship.

Poisons and Therapeutic Goods Regulation 2008

Prescribed restricted substances

Appendix D

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## Appendix D Prescribed restricted substances

(Clause 61)

<b>Substance</b>	<b>Prescribed quantity</b>
Alprazolam	0.25 gram
Amylobarbitone when included in Schedule 4 of the Poisons List	50.0 grams
Anabolic and androgenic steroidal agents included in Schedule 4 of the Poisons List, except when referred to elsewhere in this Appendix	5.0 grams
Androisoxazole	5.0 grams
Barbiturates included in Schedule 4 of the Poisons List, except when referred to elsewhere in this Appendix	50.0 grams
Benzodiazepine derivatives included in Schedule 4 of the Poisons List, except when referred to elsewhere in this Appendix	0.5 gram
Benzphetamine	5.0 grams
Bolandiol	5.0 grams
Bolasterone	5.0 grams
Boldenone	2.5 grams
Bolmantalate	5.0 grams
Bromazepam	5.0 grams
Calusterone	30.0 grams
Cathine	5.0 grams
Chlorandrostenolone	5.0 grams
Chlordiazepoxide	5.0 grams
Chloroxydienone	5.0 grams
Chloroxymesterone	5.0 grams
Clobazam	2.5 grams
Clonazepam	0.5 gram
Clorazepate	3.0 grams
Clostebol	2.0 grams
Dextropropoxyphene when included in Schedule 4 of the Poisons List	15.0 grams

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## Poisons and Therapeutic Goods Regulation 2008

## Appendix D Prescribed restricted substances

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<b>Substance</b>	<b>Prescribed quantity</b>
Diazepam	2.5 grams
Diethylpropion	5.0 grams
Dihydrolone	5.0 grams
Dimethandrostanolone	5.0 grams
Dimethazine	5.0 grams
Doxapram	2.0 grams
Drostanolone	2.0 grams
Ephedrine	5.0 grams
Ethchlorvynol	50.0 grams
Ethinamate	50.0 grams
Ethyldienolone	5.0 grams
Ethylloestrenol	1.0 gram
Fencamfamin	1.0 gram
Fenproporex	1.0 gram
Fluoxymesterone	2.0 grams
Flurazepam	10.0 grams
Formebolone	1.0 gram
Formyldienolone	1.0 gram
Furazabol	0.5 gram
Glutethimide	50.0 grams
Hydroxystenozol	5.0 grams
Lorazepam	1.0 gram
Mazindol	0.5 gram
Medazepam	2.5 grams
Mefenorex	5.0 grams
Meprobamate	100.0 grams
Mesabolone	5.0 grams
Mestanolone	5.0 grams
Mesterolone	10.0 grams
Methandienone	1.0 gram

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## Poisons and Therapeutic Goods Regulation 2008

## Prescribed restricted substances

## Appendix D

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<b>Substance</b>	<b>Prescribed quantity</b>
Methandriol	20.0 grams
Methenolone	2.0 grams
Methylandrostanolone	5.0 grams
Methylclostebol	5.0 grams
Methylphenobarbitone	50.0 grams
Methyltestosterone	20.0 grams
Methyltrienolone	5.0 grams
Methypylone	40.0 grams
Mibolerone	0.01 gram
Midazolam	0.5 gram
Nalbuphine	0.5 gram
Nandrolone	1.0 gram
Nitrazepam	1.0 gram
Norandrostenolone	1.0 gram
Norbolethone	5.0 grams
Norethandrolone	4.0 grams
Normethandrone	0.5 gram
Oxabolone	0.5 gram
Oxandrolone	1.0 gram
Oxazepam	10.0 grams
Oxymesterone	4.0 grams
Oxymetholone	40.0 grams
Paraldehyde	250 millilitres
Pentobarbitone when included in Schedule 4 of the Poisons List	50.0 grams
Phenobarbitone	50.0 grams
Phentermine	10.0 grams
Pipradrol	1.0 gram
Prasterone	1.0 gram
Prazepam	2.5 grams
Propylhexedrine	5.0 grams

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## Poisons and Therapeutic Goods Regulation 2008

## Appendix D Prescribed restricted substances

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<b>Substance</b>	<b>Prescribed quantity</b>
Pseudoephedrine when included in Schedule 4 of the Poisons List	20.0 grams
Pyrovalerone	1.0 gram
Quinbolone	3.0 grams
Silandrone	5.0 grams
Stanolone	10.0 grams
Stanozolol	2.0 grams
Stenbolone	5.0 grams
Temazepam	5.0 grams
Testolactone	100.0 grams
Testosterone except when included in Schedule 6 of the Poisons List	20.0 grams
Thiomesterone	5.0 grams
Trenbolone except when included in Schedule 6 of the Poisons List	5.0 grams
Trestolone	5.0 grams
Triazolam	0.05 gram
Zolazepam	2.5 grams

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New South Wales

# Public Authorities (Financial Arrangements) Amendment (Sydney Ports Corporation) Regulation 2008

under the

Public Authorities (Financial Arrangements) Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Public Authorities (Financial Arrangements) Act 1987*.

MICHAEL COSTA, M.L.C.,  
Treasurer

## Explanatory note

The object of this Regulation is to authorise a specific type of investment to be made by the Sydney Ports Corporation.

This Regulation is made under the *Public Authorities (Financial Arrangements) Act 1987*, including sections 24 and 43 (the general regulation-making power) and clause 3 (f) of Schedule 4.

Clause 1            Public Authorities (Financial Arrangements) Amendment (Sydney Ports Corporation) Regulation 2008

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## **Public Authorities (Financial Arrangements) Amendment (Sydney Ports Corporation) Regulation 2008**

under the

Public Authorities (Financial Arrangements) Act 1987

### **1 Name of Regulation**

This Regulation is the *Public Authorities (Financial Arrangements) Amendment (Sydney Ports Corporation) Regulation 2008*.

### **2 Amendment of Public Authorities (Financial Arrangements) Regulation 2005**

The *Public Authorities (Financial Arrangements) Regulation 2005* is amended by inserting after clause 16 in Part 2 of Schedule 5:

#### **16A Sydney Ports Corporation**

The following additional investment is prescribed in respect of the Sydney Ports Corporation:

Investment in the nature of a loan to the Sydney Harbour Foreshore Authority of the deferred proceeds of sale to that Authority of land comprising Lots 3 and 5 in DP 876514.



New South Wales

# Police Regulation 2008

under the

Police Act 1990

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Police Act 1990*.

DAVID CAMPBELL, M.P.,  
Minister for Police

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Police Regulation 2000* which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the appointment, promotion and management of police officers (Part 2),
- (b) the appointment of administrative officers and temporary employees (Part 3),
- (c) administrative provisions with respect to police officers, administrative officers and temporary employees (Part 4),
- (d) the consumption of alcohol and the use of prohibited drugs (Part 5),
- (e) leave entitlements (Part 6),
- (f) allowances (Part 7),
- (g) savings and formal matters (Parts 1 and 8).

This Regulation is made under the *Police Act 1990*, including section 219 (the general regulation-making power) and various other sections referred to in the Regulation.

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*—namely, matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Police Regulation 2008

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Part 1

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## Police Regulation 2008

under the

Police Act 1990

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Police Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Police Regulation 2000* which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

***Commissioner's Instructions*** means the instructions in force under section 8 (4) of the Act.

***complaints information system*** means the complaints information system referred to in Part 8A of the Act.

***eligibility program*** means a program relating to a person's eligibility for placement on a promotion list.

***eligibility requirement*** means any of the following:

- (a) a pre-qualifying assessment,
- (b) a promotion examination,
- (c) a management performance review,
- (d) an eligibility program.

***Executive Director*** means the Executive Director, Corporate Services, NSW Police Force.

***management performance review*** means a performance review relating to a person's eligibility for placement on a promotion list.

***non-reviewable section 173 order*** means a section 173 order for non-reviewable action within the meaning of section 173 of the Act.

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***Police Code of Conduct*** means the document issued by the Commissioner under the title *NSW Police Code of Conduct and Ethics*.

***pre-qualifying assessment*** means an assessment relating to a person's eligibility for placement on a promotion list.

***promotion examination*** means an examination relating to a person's eligibility for placement on a promotion list.

***Review Committee*** means the Promotions Review Committee established under clause 41.

***Review Panel*** means a Management Performance Review Panel convened under clause 37.

***review proceedings*** means proceedings before the Industrial Relations Commission on an application for the review of a section 173 order or section 181D order.

***reviewable section 173 order*** means a section 173 order for reviewable action within the meaning of section 173 of the Act.

***section 80 dismissal action*** means action to dismiss a probationary police officer under section 80 (3) of the Act.

***section 173 order*** means an order under section 173 of the Act under which reviewable or non-reviewable action (within the meaning of that section) is taken with respect to a police officer.

***section 181D order*** means an order under section 181D of the Act under which a police officer is removed from the NSW Police Force.

***the Act*** means the *Police Act 1990*.

- (2) Notes in this Regulation do not form part of this Regulation.

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Part 2             Police officers

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## **Part 2    Police officers**

### **Division 1    General provisions**

#### **4    Division of State for police purposes**

The Commissioner is responsible, for the purposes of the NSW Police Force:

- (a) for the division of the State into Regions and Local Areas, and
- (b) for the establishment of Region Commands, Local Area Commands, Branches, Sections and Special Task Forces.

#### **5    Grades within ranks of police officers**

- (1) The grades within the ranks of superintendent, inspector, sergeant and constable are as follows:

**Superintendents (in descending order)**

- chief superintendent
- superintendent

**Inspectors (in descending order)**

- chief inspector
- inspector

**Sergeants (in descending order)**

- senior sergeant
- sergeant

**Constables (in descending order)**

- senior constable
- constable

- (2) A police officer of any rank may, on satisfying requirements specified by the Commissioner, be designated as a detective.

#### **6    General responsibilities of police officers**

- (1) Police officers within the NSW Police Force Senior Executive Service:
  - (a) if in charge of a Region or Local Area, are responsible for the peace and good order of the Region or Area, and
  - (b) are responsible for the proper performance of duty by police officers, administrative officers and temporary employees under their control.

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- (2) Superintendents and inspectors:
  - (a) if in charge of a Local Area, are responsible for the peace and good order of the Area, and
  - (b) are responsible for the proper performance of duty by police officers, administrative officers and temporary employees under their control.
- (3) Police officers, if in charge of a Branch, Section or Special Task Force, are responsible for the proper performance of duty by police officers, administrative officers and temporary employees under their control.

#### **7 Oath or affirmation of office for police officers**

- (1) The form of the oath required to be taken by a police officer under section 13 of the Act is as follows:
 

I, \_\_\_\_\_, do swear that I will well and truly serve our Sovereign Lady the Queen as a police officer without favour or affection, malice or ill-will until I am legally discharged, that I will cause Her Majesty's peace to be kept and preserved, and that I will prevent to the best of my power all offences against that peace, and that while I continue to be a police officer I will to the best of my skill and knowledge discharge all my duties faithfully according to law. So help me God.
- (2) The form of the affirmation is the same as the form of the oath, except that:
  - (a) the words "solemnly, sincerely and truly declare and affirm" are to be substituted for the word "swear", and
  - (b) the words "So help me God" are to be omitted.

#### **8 Performance of duties by police officers**

- (1) Police officers are to comply strictly with the Act and this Regulation and promptly comply with all lawful orders from those in authority over them.
- (2) In particular, a police officer is required:
  - (a) to serve wherever the officer is duly directed, and
  - (b) to perform such police duty as may be duly directed, whether or not during the officer's rostered hours of duty.

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## **9 Responsibilities of off-duty police officers**

- (1) A police officer who is off-duty (whether rostered off-duty, on annual leave, suspended or otherwise absent):
  - (a) is subject to the provisions of this Regulation and the Police Code of Conduct, and
  - (b) will be held responsible for any misconduct by the officer while off-duty, and
  - (c) unless on sick leave, may be recalled to duty as if the officer were on duty.
- (2) If directed to do so by his or her supervising officer, a police officer who is off-duty must give notice to the supervising officer (or such other police officer or administrative officer as the supervising officer may nominate) if the off-duty officer is to be absent from his or her usual place of residence for more than 24 hours.
- (3) The notice must indicate where the police officer intends to be, and how the police officer may be contacted, during that absence.

## **10 Health assessment of police officers**

Before completing his or her probation and at such other times as the Commissioner may direct, a police officer must undergo a health assessment in accordance with the regulations under the *Public Sector Employment and Management Act 2002* in the same way as if the person were being considered for appointment to an officer's position in the Public Service.

## **11 Certificate of discharge**

- (1) A police officer is entitled to be issued with a certificate of discharge by the Commissioner on resignation or retirement unless:
  - (a) the officer is removed from the NSW Police Force as a consequence of a section 181D order, or
  - (b) the officer is dismissed from the NSW Police Force as a consequence of section 80 dismissal action, or
  - (c) the officer resigns or retires from the NSW Police Force after having been notified that he or she is:
    - (i) the subject of consideration for the making of a section 181D order or the taking of section 80 dismissal action, or
    - (ii) the subject of an investigation under the Act, the *Police Integrity Commission Act 1996* or the *Ombudsman Act 1974*.

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- (2) A police officer who is not issued with a certificate of discharge because of an investigation concerning the officer's conduct is nevertheless entitled to a certificate if, after the investigation and any proceedings arising from the investigation are completed, there is no evidence of misconduct on the part of the officer.

## **Division 2 Appointment and promotion of constables**

### **12 Appointment of constables on probation**

- (1) In accordance with section 80 (2) of the Act, a person when first appointed as a police officer of the rank of constable is to be appointed on probation:
- (a) for a period of 1 year, or
  - (b) for such longer or shorter period (being not less than 6 months) as the Commissioner may direct in the case of that person.
- (2) Despite subclause (1), the Commissioner may direct that the period of probation be less than 6 months, or may waive the period of probation completely, if the person has previously served as a police officer in the NSW Police Force or in any other police service or police force (however called).
- (3) All or any part of such previous service may, with the approval of the Commissioner, be counted towards seniority.

### **13 Confirmation of appointment as constable**

Confirmation of appointment in the rank of constable is subject to:

- (a) the successful completion of initial basic training, as determined by the Commissioner, and
- (b) the completion of the period of probation, and
- (c) a satisfactory fitness report, and
- (d) the other requirements of this Division.

### **14 Fitness report for probationary constables**

- (1) The appointment of a probationary constable is not to be confirmed unless a police officer designated by the Commissioner has reported that the probationary constable is fit to discharge satisfactorily the duties of constable.
- (2) Any such fitness report is to deal with the probationary constable's:
- (a) medical fitness, as indicated by a health assessment referred to in clause 10, and
  - (b) aptitude for the discharge of the duties of constable, and



Clause 15      Police Regulation 2008

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- (c) competence, integrity, performance and conduct.
- (3) If on the day on which the Commissioner would otherwise confirm his or her appointment the probationary constable is medically unfit but satisfies all other requirements, the Commissioner may confirm the appointment on and from the day the probationary constable is certified medically fit by a medical practitioner.
- (4) The seniority of a constable whose appointment is confirmed in accordance with subclause (3) is to be determined:
- (a) if the constable's medical unfitness was due to any wound, injury or sickness occasioned in the actual execution of duty, as though the appointment had been confirmed:
- (i) on the day on which it would have been confirmed but for the constable's medical unfitness, or
- (ii) if that day occurred more than 12 months before the day on which the appointment was actually confirmed, on the day occurring 12 months before the day on which it was actually confirmed, or
- (b) if the constable's medical unfitness was not due to any wound, injury or sickness occasioned in the actual execution of duty, as though the appointment had been confirmed:
- (i) on the day on which it would have been confirmed but for the constable's medical unfitness, or
- (ii) if that day occurred more than 9 months before the day on which the appointment was actually confirmed, on the day occurring 9 months before the day on which it was actually confirmed.

#### **15 Promotion of constables**

Promotion to the grade of senior constable is subject to:

- (a) the successful completion of internal or external qualifications as determined by the Commissioner, and
- (b) the completion of 4 years' service:
- (i) from the date on which the constable's appointment was confirmed, or
- (ii) if the constable's seniority runs from an earlier day, from that earlier day, and
- (c) a satisfactory fitness report, and
- (d) the other requirements of this Division.

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**16 Fitness report for promotion to senior constable**

- (1) A constable is not to be promoted to the grade of senior constable unless a police officer designated by the Commissioner has reported that the constable is fit to discharge satisfactorily the duties of senior constable.
- (2) Any such report is to deal with the constable's:
  - (a) aptitude for the discharge of the duties of senior constable, and
  - (b) competence, integrity, performance and conduct.

**17 Exceptional bravery or specially meritorious service**

- (1) Despite anything to the contrary in this Division, the Commissioner:
  - (a) may confirm the appointment of probationary constable, or
  - (b) may promote a constable to the grade of senior constable, on the basis of exceptional bravery or specially meritorious service.
- (2) A police officer whose appointment is confirmed or who is promoted under this clause is not eligible for a further promotion until any prescribed qualifications for the grade up to and including that of the further promotion have been satisfied.

**Division 3 Appointment of sergeants****18 Application of Division**

This Division applies to appointments by way of promotion under Part 6 of the Act.

**19 Requirements for appointment as sergeant**

A person is not eligible to be appointed to a position of the rank of sergeant (other than the grade of senior sergeant) unless the person:

- (a) is, or has previously been, permanently appointed to the rank of sergeant or above, or
- (b) is on the sergeants promotion list that is in force when the appointment is made.

**20 Requirements for appointment as senior sergeant**

A person is not eligible to be appointed to the rank and grade of senior sergeant unless the person:

- (a) is, or has previously been, permanently appointed to the grade of senior sergeant or a rank higher than sergeant, or
- (b) is eligible for placement on the senior sergeants promotion list that is in force when the appointment is made.

Clause 21      Police Regulation 2008

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#### **Division 4      Appointment of inspectors**

##### **21    Application of Division**

This Division applies to appointments by way of promotion under Part 6 of the Act.

##### **22    Requirements for appointment as inspector**

A person is not eligible to be appointed to a position of the rank of inspector unless the person:

- (a) is, or has previously been, permanently appointed to the rank of inspector or above, or
- (b) is on the inspectors promotion list that is in force when the appointment is made.

#### **Division 5      Appointment of superintendents**

##### **23    Application of Division**

This Division applies to appointments by way of promotion under Part 6 of the Act.

##### **24    Requirements for appointment as superintendent**

A person is not eligible to be appointed to a position of the rank of superintendent unless the person:

- (a) is, or has previously been, permanently appointed to the rank of superintendent or above, or
- (b) is on the superintendents promotion list that is in force when the appointment is made.

#### **Division 6      Promotion lists**

##### **25    Establishment of promotion lists**

- (1) A person may be placed on the promotion list for a rank or grade within a rank of police officer if the person meets the requirements for placement set out in this clause.
- (2) A person is eligible to be placed on a promotion list (other than the senior sergeants promotion list) if:
  - (a) the person has completed the required time at rank before applying to complete the pre-qualifying assessment for that rank or grade within a rank, and

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- (b) the person has, within the last 3 years, obtained a mark in the pre-qualifying assessment for that rank or grade within a rank and has, on the basis of the person's mark in that assessment, been determined by the Commissioner to meet the quota requirements for selecting persons to proceed to undertake the promotion examination and management performance review for that rank or grade within a rank, and
  - (c) the person has, within the last 3 years, completed the promotion examination, and the management performance review, for that rank or grade within a rank, and
  - (d) the person has, on the basis of the person's performance in the pre-qualifying assessment and that examination and review, been determined by the Commissioner to meet the quota requirements for selecting persons to proceed to undertake the eligibility program for that rank or grade within a rank, and
  - (e) the person has, within the last 3 years, successfully completed the eligibility program and obtained an eligibility mark, as determined by the Commissioner, for that rank or grade within a rank.
- (3) The **required time at rank** for the purposes of subclause (2) is:
- (a) in the case of a person applying for placement on the sergeants promotion list—a period of, or periods totalling, not less than 2 years at the rank of senior constable, and
  - (b) in the case of a person applying for placement on the inspectors promotion list—a period of, or periods totalling, not less than 2 years of appointment (including temporary appointment under Part 6 of the Act or an appointment to act in an executive position under the Act) at the rank of sergeant or a higher rank, and
  - (c) in the case of a person applying for placement on the superintendents promotion list—a period of, or periods totalling, not less than 2 years of appointment (including temporary appointment under Part 6 of the Act or an appointment to act in an executive position under the Act) at the rank of inspector or a higher rank.
- (4) A person is eligible to be placed on the senior sergeants promotion list if:
- (a) the person is on, or has received an eligibility mark for, the sergeants promotion list and:
    - (i) the person applies for placement on the senior sergeants promotion list, and
    - (ii) the person has, on the basis of the person's performance in the eligibility program for the sergeants promotion list,

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been determined by the Commissioner to meet the quota requirements for placement on the senior sergeants promotion list, or

- (b) the person is a police officer of the rank of sergeant and:
  - (i) if required to do so by the Commissioner, the person has successfully completed the senior sergeants promotion examination and has, on the basis of the person's performance in that examination, been determined by the Commissioner to meet the quota requirements to proceed to undertake the sergeants eligibility program, and
  - (ii) the person has successfully completed the sergeants eligibility program and obtained an eligibility mark, as determined by the Commissioner, and
  - (iii) the person has, on the basis of the person's performance in the eligibility program, been determined by the Commissioner to meet the quota requirements for placement on the senior sergeants promotion list.
- (5) A person who is qualified for more than one promotion list may be placed on more than one promotion list at any one time.

## **26 Eligibility requirements**

- (1) The Commissioner may:
  - (a) determine quotas for the number of persons who may be selected to attempt eligibility requirements for placement on a promotion list in each year, and
  - (b) determine quotas for the number of persons who may be placed on the senior sergeants promotion list in each year, and
  - (c) from time to time determine the standard for successful completion of an eligibility requirement.
- (2) The Commissioner may from time to time determine the period within which successive attempts to complete the same eligibility requirement may be made and may limit the number of attempts to successfully complete an eligibility requirement that a person is permitted to make.

## **27 Ranking on promotion lists**

- (1) Persons placed on a promotion list are to be ranked on that list in order according to the eligibility mark of each person.
- (2) The eligibility mark of a person on a promotion list is to be determined for the person by the Commissioner on the basis of marks determined for each eligibility requirement.

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- (3) The Commissioner may determine the weighting to be given to each eligibility requirement for the purpose of calculating eligibility marks for a promotion list.

**28 Time for acceptance of promotion offers**

A person who is on a promotion list and who is offered an appointment to a rank or a grade within a rank to which the list applies is taken to have refused the offer if the person fails to accept the appointment within 72 hours of the offer being made, or within such longer period as the Commissioner may allow in a particular case.

**29 Removal or suspension from list**

- (1) A police officer who is appointed by way of promotion to a rank or grade within a rank to which a promotion list applies is to be removed from the list.
- (2) The Commissioner must notify a person in writing if the person is suspended or removed from a promotion list on integrity grounds.

**30 Currency of promotion list**

A promotion list remains current:

- (a) for the period of 12 months after it is established, or
- (b) until all persons on the list have been removed from the list, whichever occurs first.

**31 Eligible persons to be included in replacement promotion lists**

- (1) A person who is on a promotion list for a rank or a grade within a rank is to be included on any replacement promotion list if the person remains eligible to be placed on such a promotion list.
- (2) A person may not be included in a replacement promotion list if the person was last awarded an eligibility mark more than 3 years before the promotion list is established.

**Division 7      Reviews in relation to promotion lists**

**Subdivision 1      Preliminary**

**32 Delegation**

The Executive Director may delegate the exercise of any function of the Executive Director under this Division (other than this power of delegation) to any other member of the NSW Police Force.

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## **Subdivision 2      Pre-qualifying assessments**

### **33      Review of performance in pre-qualifying assessment**

- (1) A person may apply to the Executive Director for a review of the person's performance in a pre-qualifying assessment.
- (2) A person who attempts a pre-qualifying assessment must be advised that the person is entitled to apply for a review of the person's performance in the assessment.
- (3) The grounds for applying for a review under this clause are limited to the following matters:
  - (a) the assessment process (including matters such as the date and timing of the assessment, work requirements, the applicant's health and any circumstances that disadvantaged the applicant when attempting the assessment),
  - (b) the form and content of the assessment,
  - (c) the mark awarded for the assessment based on the answers or assignment provided by the person.
- (4) An application for a review under this clause must:
  - (a) be in writing and state the grounds on which the application for review is made, and
  - (b) be made no later than 72 hours after the person is notified of the person's results in the pre-qualifying assessment.
- (5) However, an application may be made before the person is notified of the person's results.
- (6) After reviewing the applicant's performance in the pre-qualifying assessment, the Executive Director may:
  - (a) affirm the person's results in the pre-qualifying assessment, or
  - (b) vary the person's results, or
  - (c) allow the person to attempt the pre-qualifying assessment again.
- (7) The applicant is to be notified in writing of the Executive Director's decision within 72 hours after the Executive Director receives the application for the review. However, failure to notify the applicant within that 72-hour period does not invalidate the Executive Director's decision in relation to the review.
- (8) Except as provided by clause 42 (2), the decision of the Executive Director in relation to a review under this clause is final and is not subject to any further review.

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### **Subdivision 3 Promotion examinations**

#### **34 Review of performance in promotion examination**

- (1) A person may apply to the Executive Director for a review of the person's performance in a promotion examination.
- (2) A person who attempts a promotion examination must be advised that the person is entitled to apply for a review of the person's results in the examination.
- (3) The grounds for applying for a review under this clause are limited to the following matters:
  - (a) the process of the examination (including matters such as the date and timing of the examination, work requirements, the applicant's health and any circumstances that disadvantaged the applicant when sitting the examination),
  - (b) the form and content of the examination,
  - (c) the mark awarded for the examination based on the answers provided by the person.
- (4) An application for a review under this clause must:
  - (a) be in writing and state the grounds on which the application for review is made, and
  - (b) be made no later than 72 hours after the person is notified of the person's results.
- (5) However, an application may be made before the person is notified of the person's results.
- (6) If an application for a review is made on the ground referred to in subclause (3) (c), the person's examination is to be remarked by 2 independent markers (with the average of those marks being the result of the remark).
- (7) After reviewing the applicant's results in the promotion examination, the Executive Director may:
  - (a) affirm the person's results in the examination, or
  - (b) vary the person's results by adopting the results of the remark under subclause (6), or
  - (c) allow the person to resit the examination.
- (8) The applicant is to be notified in writing of the Executive Director's decision within 72 hours after the Executive Director receives the application for review. However, failure to notify the applicant within that 72-hour period does not invalidate the Executive Director's decision.



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- (9) Except as provided by clause 42 (2), the decision of the Executive Director in relation to a review under this clause is final and is not subject to any further review.

#### **Subdivision 4      Management performance reviews**

##### **35      Application for review of performance management decision**

- (1) A person who is subject to a management performance review may apply to the Executive Director for a review of any decision made in relation to the management performance review.
- (2) A person who is subject to a management performance review must be advised that the person is entitled to apply for a review of any decision made in relation to the management performance review.
- (3) The grounds for applying for a review under this clause are limited to the following matters:
- (a) the management performance review process (including matters such as work requirements, the applicant's health and any circumstances that disadvantaged the applicant when undertaking the management performance review),
  - (b) the mark awarded for the management performance review,
  - (c) the calling into question of the applicant's conduct in connection with the management performance review.
- (4) An application for a review under this clause must:
- (a) be in writing and state the grounds on which the application for review is made, and
  - (b) be made no later than 7 days after the person is given notice of any mark for the management performance review.
- (5) However, an application may be made before the person is given such notice.

##### **36      Referral of application to Review Panel**

The Executive Director is to refer any application under clause 35 to a Review Panel within 48 hours after the Executive Director receives the application.

##### **37      Convening of Management Performance Review Panels**

- (1) The Executive Director may convene such number of Management Performance Review Panels as the Executive Director considers appropriate to deal with applications for reviews under this Subdivision.

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- (2) A Review Panel consists of the following members:
    - (a) a representative of the Police Association of NSW appointed by the President of the Police Association of NSW,
    - (b) a Superintendent appointed by the Commissioner,
    - (c) a police officer who is a Human Resources Manager and who is appointed by the Director, Corporate Human Resources, NSW Police Force as the Chairperson of the Review Panel.
  - (3) Subject to this clause, a member of a Review Panel holds office for such period (not exceeding 12 months) as is specified in the member's instrument of appointment, but is eligible for re-appointment.
  - (4) Each person who is responsible for appointing a member of a Review Panel may appoint a person as an alternate member to act during the absence or illness of the member concerned. An alternate member has and may exercise, while acting as a member, the functions of the person for whom he or she is the alternate member.
  - (5) A member (including any alternate member) may be removed from office at any time by the person who appointed the member.

**38 Procedure for conducting review**

- (1) The procedure for conducting a review by a Review Panel is, subject to the Act and this Subdivision, to be determined by the Commissioner.
- (2) A review by a Review Panel is not to be conducted by way of a hearing that involves any person appearing before the Review Panel.
- (3) In conducting a review, the Review Panel may consider any information that is relevant to the management performance review concerned.
- (4) The Chairperson of a Review Panel is to preside at a meeting of the Review Panel.
- (5) A decision supported by a majority of the votes cast at a meeting of a Review Panel is the decision of the Panel concerned.
- (6) A person who was involved in a decision the subject of a review may not be a member of the Review Panel considering the decision concerned.

**39 Decision of Review Panel**

- (1) The Review Panel may, following its review of a decision made in relation to a management performance review:
  - (a) affirm the decision, or
  - (b) vary the decision, or

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- (c) set aside the decision and make a decision in substitution for the decision set aside.
  - (2) The applicant is to be notified in writing of the Review Panel's decision within 72 hours after the decision is made. However, failure to notify the applicant within that 72-hour period does not invalidate the Review Panel's decision.
  - (3) Except as provided by clause 42 (2), the decision of the Review Panel is final and is not subject to review by any person or body.

## **Subdivision 5      Eligibility programs**

### **40      Review of eligibility program results**

- (1) A person may apply to the Executive Director for a review of the results obtained by the person in an eligibility program.
- (2) A person who undertakes an eligibility program must be advised that the person is entitled to apply for a review of the person's results in the program.
- (3) The grounds for applying for a review under this clause are limited to the following matters:
  - (a) the process of the eligibility program (including matters such as the date and timing of the program, work requirements, the applicant's health and any circumstances that disadvantaged the applicant when undertaking the program),
  - (b) the form and content of the program,
  - (c) the mark awarded for the program based on the answers or assignments provided by the person.
- (4) An application for a review under this clause must:
  - (a) be in writing and state the grounds on which the application for review is made, and
  - (b) be made no later than 7 days after the person is notified of the person's results.
- (5) However, an application may be made before the person is notified of the person's results.
- (6) If an application for a review is made on the ground referred to in subclause (3) (c), the work provided by the person in relation to the eligibility program is to be remarked by 2 independent markers (with the average of those marks being the result of the remark).

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- (7) After reviewing the applicant's results in the eligibility program, the Executive Director may:
    - (a) affirm the person's results in the program, or
    - (b) vary the person's results by adopting the results of the remark under subclause (6), or
    - (c) allow the person to undertake all or any part of the program again.
  - (8) The applicant is to be notified in writing of the Executive Director's decision within 7 days after the Executive Director receives the application for review. However, failure to notify the applicant within the 7-day period does not invalidate the Executive Director's decision.
  - (9) Except as provided by clause 42 (2), the decision of the Executive Director in relation to a review under this clause is final and is not subject to any further review.

## **Subdivision 6 Promotions Review Committee**

### **41 Establishment and composition of Promotions Review Committee**

- (1) A Promotions Review Committee is established.
- (2) The Review Committee consists of the following members:
  - (a) an employer representative appointed by the Commissioner,
  - (b) an employee representative appointed by the President of the Police Association of NSW,
  - (c) an independent person appointed by the Minister as the Chairperson of the Promotions Review Committee.
- (3) Subject to this clause, a member of the Review Committee holds office for such period (not exceeding 2 years) as is specified in the member's instrument of appointment, but is eligible for re-appointment.
- (4) Each person who is responsible for appointing a member of the Review Committee may appoint a person as an alternate member to act during the absence or illness of the member concerned. An alternate member has and may exercise, while acting as a member, the functions of the person for whom he or she is the alternate member.
- (5) A member (including any alternate member) may be removed from office at any time by the person who appointed the member.

### **42 Application for review by Review Committee**

- (1) A person may apply to the Review Committee for a review of a decision as to the ranking of the person on a promotion list.

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- (2) A person may apply to the Review Committee for a review of a decision in relation to the person's performance in an eligibility requirement, but only on the ground that the person has been disadvantaged by a failure to comply with the procedural requirements at the previous stage of the review process (including, for example, failing to be notified of the decision of the relevant person or body within the required time period).
- (3) An application under this clause:
- (a) is to be in writing and state the grounds on which the application is made, and
  - (b) is to be made not later than 7 days after the person is notified of the decision concerned (or within such longer period as the Review Committee may allow in a particular case).

#### **43 Procedure for conducting review**

- (1) The procedure for conducting a review under this Subdivision is, subject to the Act and this Subdivision, to be determined by the Review Committee.
- (2) A review by the Review Committee is not to be conducted by way of a hearing involving persons appearing before the Review Committee.
- (3) In conducting a review, the Review Committee is to consider:
  - (a) any written information provided by the applicant, and
  - (b) any information provided by the Commissioner.
- (4) The Review Committee may:
  - (a) require the applicant to provide further information in relation to the application, and
  - (b) obtain expert advice in relation to any matter that is subject to the review, and
  - (c) inform itself in such other manner as the Committee thinks appropriate.
- (5) The Commissioner must, if requested to do so by the Review Committee, provide to the Committee any information that is relevant to the decision concerned.
- (6) The Chairperson of the Review Committee is to preside at a meeting of the Review Committee.
- (7) A decision supported by a majority of the votes cast at a meeting of the Review Committee is the decision of the Committee.
- (8) A person who was involved in a decision the subject of a review may not be a member of the Review Committee considering the decision concerned.

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#### **44 Decision of Review Committee**

- (1) The Review Committee may, following its review:
  - (a) affirm the decision the subject of the review, or
  - (b) vary the decision, or
  - (c) set aside the decision and make a decision in substitution for the decision set aside.
- (2) Any such review must be completed not later than 14 days after the application for the review is made.
- (3) The Review Committee must notify the Commissioner and the applicant of its decision, and the reasons for the decision, as soon as practicable after making the decision.
- (4) The decision of the Review Committee is taken to be the decision of the Commissioner and is to apply accordingly.
- (5) The decision of the Review Committee is final and is not subject to review by any person or body.

#### **Subdivision 7 Other reviews**

##### **45 Review of decisions made on integrity grounds**

- (1) A person may apply to the Commissioner for a review of the decision:
  - (a) to suspend or remove the person from a promotion list on integrity grounds, or
  - (b) to refuse, on integrity grounds, the person the right to participate, or continue to participate, in any part of the process to obtain placement on a promotion list.
- (2) An application for a review under this clause must:
  - (a) be in writing and state the grounds on which the application is made, and
  - (b) be made no later than 7 days after the person is notified of the decision concerned.
- (3) If an application under this clause is made, the Commissioner is to refer the application within 48 hours to a person who is appointed by the Minister for the purpose of conducting the review (referred to in this Subdivision as the *appointed person*).

##### **46 Procedure for conducting review**

- (1) The procedure for conducting a review under this Subdivision is, subject to the Act and this Subdivision, to be determined by the appointed person.

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- (2) Any such review is not to be conducted by way of a hearing involving persons appearing before the appointed person.
- (3) In conducting the review, the appointed person may have regard to:
  - (a) any written information provided by the applicant, and
  - (b) any information provided by the Commissioner (including any information as to the integrity of the applicant, being information in respect of which the decision the subject of the review was based).
- (4) The Commissioner is authorised to provide any such information to the appointed person.
- (5) The appointed person may:
  - (a) require the applicant to provide further information in relation to the application, and
  - (b) obtain expert advice in relation to any matter that is subject to the review, and
  - (c) inform himself or herself in such other manner as the appointed person thinks appropriate.
- (6) The Commissioner must, if requested to do so by the appointed person, provide to the person any information that is relevant to the decision concerned.

#### **47 Decision of appointed person**

- (1) The appointed person may, following his or her review of the decision the subject of review:
  - (a) affirm the decision, or
  - (b) vary the decision, or
  - (c) set aside the decision and make a decision in substitution for the decision set aside.
- (2) The appointed person must notify the Commissioner and the applicant of the appointed person's decision, and the reasons for the decision, as soon as practicable after making the decision.
- (3) The decision of the appointed person is taken to be the decision of the Commissioner and is to apply accordingly.
- (4) The decision of the appointed person is final and is not subject to review by any person or body.

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## **Division 8      Retention of information concerning police officers**

### **48      Retention of information concerning police officers**

- (1) The Commissioner must ensure that the following information is kept in relation to each police officer:
  - (a) information as to any offence in respect of which the officer has been charged before a court, including information as to:
    - (i) whether the officer was found guilty of the offence, or
    - (ii) whether the charge was withdrawn, dismissed or otherwise disposed of,
  - (b) information as to any finding of misconduct or unsatisfactory performance in respect of which a section 173 order has been made, being:
    - (i) a reviewable section 173 order, or
    - (ii) a non-reviewable section 173 order made as a consequence of the officer's substantial or consistent failure to meet reasonable standards of performance or conduct, including information as to the reasons for the finding,
  - (c) information as to any offence in respect of which a departmental charge had been preferred against the officer before 8 March 1999, including information as to:
    - (i) whether the charge was found proven (and, if so, the reasons for the finding), or
    - (ii) whether the charge was withdrawn, dismissed or otherwise disposed of.
- (2) A police officer is entitled on application to be given access to any information kept in relation to the police officer under this clause.

## **Division 9      Misconduct and unsatisfactory performance**

### **49      Police officer to report misconduct**

- (1) If:
  - (a) an allegation is made to a police officer that another police officer has engaged in conduct which, in the opinion of the officer to whom the allegation is made, constitutes a criminal offence or other misconduct, or



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- (b) a police officer sincerely believes that another police officer has engaged in any conduct of that kind,  
the officer is required to report the conduct or alleged conduct by the other officer to a senior police officer (being a police officer who is more senior in rank than the officer making the report).
- (2) This clause does not apply to conduct or alleged conduct:
- (a) that has been made the subject of a complaint under Part 8A of the Act, or
  - (b) that has been the subject of evidence or other material given, or submissions made, in the course of criminal proceedings, or
  - (c) that has already been reported under this clause to a senior police officer.
- (3) A senior police officer to whom conduct (or alleged conduct) by a police officer is reported is required to report it promptly to the Commissioner or a police officer nominated by the Commissioner if the senior police officer believes that the conduct (or alleged conduct):
- (a) constitutes (or would constitute) a criminal offence, or
  - (b) could provide sufficient grounds:
    - (i) for taking section 80 dismissal action, or
    - (ii) for making a reviewable section 173 order or a section 181D order.

## 50 Victimisation

- (1) A police officer must not, in relation to any other police officer:
- (a) fail to approve, or fail to recommend, the promotion of that other officer, or
  - (b) approve or recommend:
    - (i) the taking of section 80 dismissal action, or
    - (ii) the making of a section 173 order or section 181D order, with respect to that other officer, or
  - (c) direct, approve or recommend the transfer of that other officer to another position in the NSW Police Force, or
  - (d) make, approve or recommend a decision which detrimentally affects the benefits or awards of that other officer, or
  - (e) fail to approve or recommend that that other officer receive education or training which could reasonably be expected to improve that other officer's opportunities for promotion or to confer some other advantage on that other officer, or

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- (f) change the duties of that other officer so that they are not appropriate to that other officer's salary or position or approve or recommend such a change, or
  - (g) otherwise act to the detriment of that other officer, in retaliation against that other officer because that other officer has made a protected report in relation to unlawful conduct.
- (2) In this clause, *protected report* means report under this Division, a complaint under Part 8A of the Act, a protected disclosure within the meaning of the *Protected Disclosures Act 1994* or a disclosure to another police officer.

**Note.** Section 206 of the Act provides that it is an offence (maximum penalty: 50 penalty units or 12 months' imprisonment, or both) to take detrimental action against a police officer where an allegation of misconduct or criminal activity has been made by that officer in the performance of his or her duty or in accordance with the procedures for making allegations set out in the Act.

## 51 Suspension

- (1) If the Commissioner has reasonable cause to believe that the conduct of a police officer has been such as to justify:
  - (a) the taking of section 80 dismissal action or the making of a section 181D order with respect to the officer, or
  - (b) the institution of criminal proceedings against the officer,
 the Commissioner may suspend the officer from office (with or without pay) pending further investigation and decision as to the action to be taken.
- (2) If it is established to the satisfaction of the Commissioner that a police officer under suspension from office without pay is suffering undue hardship, the Commissioner may approve of the officer obtaining other employment for such period as the Commissioner may direct.
- (3) If it is established to the satisfaction of the Commissioner that the officer or the officer's family will suffer undue hardship because of the suspension from pay, the Commissioner may approve a maintenance payment of not more than 100% of the salary of the officer at the time of the suspension.

## 52 Proceedings against police officers

A police officer may not commence criminal proceedings against another police officer unless authorised by the Commissioner.

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### **53    Secrecy as to complaints about conduct**

- (1) This clause applies if:
  - (a) any person (including a police officer) makes an allegation, not being an allegation which constitutes a complaint under Part 8A of the Act, to a police officer (in this clause called *the senior officer*) concerning the conduct of a police officer, and
  - (b) the senior officer has reasonable grounds for believing that, if the allegation were true:
    - (i) the police officer against whom the allegation was made would have committed a criminal offence, or
    - (ii) section 80 dismissal action could be taken, or a section 173 order or section 181D order could be made, with respect to that officer.
- (2) In the circumstances referred to in subclause (1), the senior officer must not disclose to the officer against whom the allegation was made or any other person the identity of the person who made the allegation, except:
  - (a) to or with the authority of the Commissioner, or
  - (b) in connection with the institution of or otherwise for the purposes of any proceedings before a Royal Commission, a Special Commission of Inquiry, the Industrial Relations Commission or a court.
- (3) In the course of an investigation into the allegation, a police officer must not, without the consent of the Commissioner, disclose to any person (other than the Commissioner) the identity of the person who made the allegation.
- (4) The Commissioner must not grant a consent under subclause (3) unless the Commissioner considers that the disclosure of the identity of the person who made the allegation is necessary for the effective conduct of the investigation into the allegation.

## **Division 10    Complaints information system**

### **54    Establishment of complaints information system**

- (1) A complaints information system is to be established.
- (2) The system is to be operated and maintained by the Commissioner.
- (3) The Commissioner must allow the Police Integrity Commission and the Ombudsman to have access to the system for the purpose only of enabling unrestricted access to all information in the system as provided for in section 129 (3) and (5) of the Act.

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- (4) The Commissioner must provide the Police Integrity Commission and the Ombudsman with such information as that body or person may request with respect to the design of the system and the procedures in accordance with which the system is operated and maintained.
  - (5) Despite subclauses (3) and (4), the Commissioner is not to allow unauthorised access to information the subject of a caveat under section 129 (4) of the Act.
  - (6) The following information about complaints is to be registered in the system:
    - (a) such information as is required to be registered in the system by the terms of a protocol or memorandum of understanding referred to in section 128 (2) of the Act,
    - (b) such other information as the Commissioner may from time to time direct to be registered in the system.
  - (7) The complaints information system kept prior to 1 September 2008 (including the complaints information system kept under Part 8A of the Act prior to 8 March 1999) is taken to form part of the complaints information system established under this clause.

## **Division 11 Remedial performance programs**

### **55 Remedial performance programs**

- (1) A remedial performance program referred to in section 173 (3) of the Act must include the following elements:
  - (a) a police officer is to be placed on the program if his or her performance as a police officer is consistently unsatisfactory, having regard to his or her job-stream responsibilities,
  - (b) the police officer is firstly to be required to attend local workplace counselling conducted by his or her supervisor (the number of counselling sessions, the period of time over which they are to be conducted and the date on which a review of the police officer's performance is to be held to be determined by the supervisor following consultation with the police officer),
  - (c) a statement of the matters determined in accordance with paragraph (b) is to be signed both by the police officer and the supervisor,
  - (d) the principal purpose of the counselling sessions is to ensure that the police officer is made aware of:
    - (i) his or her job-stream responsibilities and work performance expectations, and

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- (ii) the standard to which he or she is expected to perform in fulfilling those responsibilities and expectations,
- (e) if after completion of the counselling sessions the police officer's performance as a police officer is satisfactory, the supervisor must notify the police officer of that fact,
- (f) if after completion of the counselling sessions the police officer's performance as a police officer continues to be unsatisfactory, the supervisor:
  - (i) must notify the police officer of that fact, and
  - (ii) must require the police officer to attend formal counselling sessions (the number of counselling sessions, the period of time over which they are to be conducted and the date on which a final review of the police officer's performance is to be held to be determined by the supervisor),
- (g) a statement of the matters determined in accordance with paragraph (f) is to be signed both by the police officer and the supervisor,
- (h) the decision to require a police officer to attend formal counselling sessions is to be made only after consultation with, and with the concurrence of, the supervisor's commander or manager,
- (i) the number of counselling sessions, the period of time over which they are to be conducted and the date on which a final review of the police officer's performance is to be held may be extended or postponed, as occasion requires,
- (j) the principal purpose of the formal counselling sessions is to ensure that the police officer is made aware of:
  - (i) those areas in which he or she is failing to fulfil his or her job-stream responsibilities, and
  - (ii) the standard to which his or her performance must be improved, and
  - (iii) the period of time within which he or she must sustain an improved performance in those areas, and
  - (iv) the fact that his or her performance will be closely monitored during that period,
- (k) the police officer's supervisor must cause a written record to be kept as to the steps that are taken to ensure that the police officer is made aware of the matters referred to in paragraph (j),
- (l) if after completion of the formal counselling sessions the police officer's performance as a police officer is satisfactory, the police officer's supervisor must notify the police officer of that fact,

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- (m) if after completion of the formal counselling sessions the police officer's performance as a police officer continues to be unsatisfactory, the supervisor:
- (i) must notify the police officer of that fact, and
  - (ii) may recommend that a section 173 order be made with respect to the police officer,
- (n) the decision to make such a recommendation is to be made only after consultation with, and with the concurrence of, the supervisor's commander or manager.
- (2) In this clause, a reference to a police officer's *job-stream responsibilities* is a reference to the responsibilities and duties that attach to the police officer's rank and position within the NSW Police Force.

## **Division 12 Uniform and insignia**

### **56 Police officers to wear uniform**

- (1) Uniform must be worn at all times by police officers when on duty or when proceeding to and from their police stations, unless otherwise authorised by the Commissioner.
- (2) The Commissioner may from time to time approve of police officers performing certain types of duty being permitted to wear other clothing.
- (3) The pattern and cut of the uniform must not be altered in any way and badges, service numbers and insignia of rank must be worn in such manner as the Commissioner may from time to time direct.

### **57 Insignia of rank**

- (1) Insignia of rank must be worn on epaulettes.
- (2) The details of insignia of rank, uniform, badges and service number are to be as the Commissioner may from time to time direct.

### **58 Responsibility for loss or damage**

A police officer:

- (a) is responsible for all articles of uniform and equipment issued to the officer, and
- (b) is responsible for any damage to uniform or equipment through neglect and may be required to meet its replacement cost.

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## **Division 13      Commissioner's Valour Award**

### **59      Conferral of Valour Award**

- (1) If while on police operational duty a police officer performs an act of conspicuous merit involving exceptional bravery, the Commissioner may grant to the officer the Commissioner's Valour Award.
- (2) The recipient is entitled to use the initials "VA" added after his or her name.

### **60      Bar for Valour Award**

- (1) If while on police operational duty a police officer who has previously been granted the Valour Award performs a further act of conspicuous merit involving exceptional bravery, the Commissioner may grant to the officer a Silver Bar to the Commissioner's Valour Award.
- (2) The recipient is entitled to use the initials "VA" followed by an asterisk after his or her name.

### **61      Form of Valour Award**

- (1) The Commissioner's Valour Award comprises an ornamental sterling silver medallion 22 mm in diameter depicting the New South Wales Police crest and embellished with blue enamel on its highlighted and shaded features.
- (2) The medallion is to be mounted centrally on an ornamental sterling silver cross 38 mm in width.
- (3) The medallion is to be suspended by a silver ring from a plain silver bar on a mainly blue ribbon 38 mm wide.
- (4) The medallion is to bear the words "FOR BRAVERY".
- (5) Subsequent Bars to the Commissioner's Valour Awards are to be represented by a laurelled leaf bar with a central rose design, 38 mm long in silver gilt.
- (6) A miniature of the medallion is to be depicted in a lapel brooch 12 mm wide.
- (7) Subsequent Bars to the Commissioner's Valour Awards are to be represented on the back of the lapel brooch by a metal blue disc of 15 mm diameter.
- (8) The lapel brooch and disc are to be worn only by police officers in plainclothes.

Police Regulation 2008

Clause 62

Police officers

Part 2

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## Division 14 New South Wales Police Medal

### 62 Conferral of Medal

The Commissioner may grant to a police officer the New South Wales Police Diligent and Ethical Service Medal (also known as the New South Wales Police Medal). The Medal is to be granted in accordance with the *Guidelines for the New South Wales Police Medal* approved by the Minister from time to time.

## Division 15 Payment of gratuities and rewards

### 63 Payment of gratuities for special services

The Commissioner may approve the payment of gratuities, or recommend the payment of rewards, for special services by police officers.

### 64 Special leave benefit where police officer disengaged

- (1) This clause applies to a police officer who:
  - (a) accepts an offer of a disengagement benefit under section 8A of the *Police Regulation (Superannuation) Act 1906*, or
  - (b) is offered a disengagement benefit under that section but elects instead to make provision for the benefit under section 9B of that Act.
- (2) A police officer to whom this clause applies is entitled to be paid on the termination of the officer's services the money value of 39 weeks' special leave with pay as a gratuity.
- (3) However, the following provisions apply if the police officer is entitled to be paid a benefit under clause 64 of the *Crown Employees (Police Officers—2008) Award (the Award)*:
  - (a) if the amount payable to the police officer under clause 64 of the Award is less than the amount calculated under subclause (2)—the gratuity is to be reduced by the amount payable to the police officer under clause 64 of the Award,
  - (b) if the amount payable to the police officer under clause 64 of the Award is the same as or greater than the amount calculated under subclause (2)—the police officer is not entitled to be paid a gratuity under this clause.
- (4) Any gratuity under this clause is in addition to any other gratuity to which the police officer may be entitled under the *Police Regulation (Superannuation) Act 1906*.



Clause 64      Police Regulation 2008

Part 2          Police officers

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- (5) Any gratuity under this clause is payable by the Commissioner and is not payable from the Police Superannuation Fund.
- (6) Any amendment to this clause that changes the entitlements of a police officer to a gratuity under this clause applies only to an offer of a disengagement benefit referred to in subclause (1) that is made after the commencement of that amendment.

Police Regulation 2008

Clause 65

Administrative officers and temporary employees

Part 3

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### **Part 3 Administrative officers and temporary employees**

#### **65 General responsibilities of administrative officers and temporary employees**

Administrative officers are responsible for the proper performance of duty by police officers, administrative officers and temporary employees under their control.

#### **66 Selection procedures**

- (1) Unless the Commissioner otherwise determines, a selection committee is to be established to assess the merit of applicants for appointment to a vacant position of administrative officer.
- (2) A selection committee is, as far as practicable:
  - (a) to consist of at least 2 persons, and
  - (b) to include at least one person who does not hold a position as an administrative officer or police officer, and
  - (c) to be constituted so as to ensure the fairest consideration of all applicants.
- (3) A selection committee must, as far as practicable, deal with each applicant in similar fashion, but the committee is not required to interview all applicants.
- (4) Nothing in this clause requires the Commissioner to adopt any recommendation made by a selection committee in relation to the filling of a vacancy.

#### **67 Health assessment of administrative officers**

Before the first appointment of a person as an administrative officer is confirmed, the person must undergo a health assessment in accordance with the regulations under the *Public Sector Employment and Management Act 2002* in the same way as if the person were being considered for appointment to an officer's position in the Public Service.

#### **68 Appointments on probation**

- (1) A person when first appointed as an administrative officer is to be appointed on probation for a period of 6 months or for such longer period as the Commissioner directs in respect of the person.
- (2) The Commissioner may appoint a person as an administrative officer without the person being required to serve such a period of probation.

Clause 69	Police Regulation 2008
Part 3	Administrative officers and temporary employees

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- (3) If a person is appointed on probation, the Commissioner may (after due inquiry and report):
  - (a) after the period of probation, confirm the appointment, or
  - (b) during or after the period of probation, annul the appointment.

**69 Application of Public Service conditions of service**

- (1) The regulations under the *Public Sector Employment and Management Act 2002* apply to administrative officers and temporary employees in relation to the following matters:
  - (a) hours of attendance on duty,
  - (b) public holidays,
  - (c) absence from duty,
  - (d) increments,
  - (e) health and safety.
- (2) For the purpose of applying those regulations, a reference in them to the Public Employment Office or the Department Head is to be read as a reference to the Commissioner.
- (3) In the case of an administrative officer within the NSW Police Force Senior Executive Service, this clause is subject to the contract of employment under Part 5 of the Act between the officer and the Commissioner.

Police Regulation 2008

Clause 70

Members of the NSW Police Force generally

Part 4

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## **Part 4 Members of the NSW Police Force generally**

### **70 Acting or relieving in other positions**

- (1) The Commissioner may direct the manner in which and the occasions on which the functions of suspended, sick or absent members of the NSW Police Force (or the functions attaching to vacant positions) are to be exercised by other members.
- (2) A police officer may act or relieve in a police or administrative position and an administrative officer may act or relieve in an administrative or police position.

### **71 Administrative officers and temporary employees may not exercise police powers**

An administrative officer or temporary employee who:

- (a) acts or relieves in a position currently held by a police officer, or
  - (b) exercises any supervisory functions in relation to police officers,
- is not thereby authorised to exercise (or direct the exercise of) the statutory or common law powers of a police officer.

### **72 Members refusing promotion or appointment**

A member of the NSW Police Force who has been offered a promotion or appointment in the NSW Police Force may decline the promotion or appointment without prejudice to any rights that the member would, if the promotion or appointment had not been declined, have had to any future promotion or appointment.

### **73 Name-plates to be worn**

A member of the NSW Police Force is to wear a name-plate in such manner, and containing such particulars, as the Commissioner may from time to time direct, unless the member is exempted by the Commissioner from having to wear such a name-plate.

### **74 Numerical identification plates to be worn**

A uniformed police officer who is not required to wear a name-plate must instead wear a numerical identification plate in such manner, and containing such particulars, as the Commissioner may from time to time direct.

Clause 75          Police Regulation 2008

Part 4              Members of the NSW Police Force generally

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**75 Confidential information**

- (1) A member of the NSW Police Force or a student of policing must treat all information which comes to his or her knowledge in his or her official capacity as strictly confidential, and on no account without proper authority divulge it to anyone.
- (2) In particular, a member of the NSW Police Force or a student of policing must observe the strictest secrecy in regard to NSW Police Force business, and is forbidden to communicate without proper authority in any way to any person outside the NSW Police Force any information in regard to police or other official business connected with his or her duties, or which may come to his or her knowledge in the performance of them.
- (3) Nothing in this clause operates so as to impede the due performance of operational police duties or to prevent the giving of information if it is reasonable to do so for the purpose of dealing with an emergency when life or property is at risk.

Police Regulation 2008

Clause 76

Consumption of alcohol and use of prohibited drugs or steroids

Part 5

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## Part 5 Consumption of alcohol and use of prohibited drugs or steroids

### Division 1 Preliminary

#### 76 Definitions

In this Part:

**analyst** means a person employed by an organisation accredited by the National Association of Testing Authorities, Australia for the purposes of AS 4308 as an analyst.

**AS 4308** means the document entitled AS/NZS 4308—2008: *Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine*, published by Standards Australia, as in force on 19 March 2008.

**authorised person** means a person who is appointed as an authorised person under Division 4.

**breath analysing instrument** means any instrument of a type approved by the Governor by order under the *Road Transport (Safety and Traffic Management) Act 1999* as such an instrument, that is, as an instrument designed to ascertain, by analysis of a person's breath, the concentration of alcohol present in that person's breath or blood.

**breath analysis** means a test carried out by a breath analysing instrument for the purpose of ascertaining, by analysis of a person's breath, the concentration of alcohol present in that person's breath or blood.

**breath test** means a test:

- (a) that is designed to indicate the concentration of alcohol present in a person's breath or blood, and
- (b) that is carried out on the person's breath by means of a device (not being a breath analysing instrument) of a type approved by the Governor for the conduct of breath tests under the *Road Transport (Safety and Traffic Management) Act 1999*.

**code of behaviour** means the code of behaviour set out in clause 78.

**police uniform** includes any portion of a police uniform that bears any badge, patch, insignia of rank or any other identifiable marking of the NSW Police Force.

**prescribed concentration of alcohol** means a concentration of 0.02 grams or more of alcohol in 210 litres of breath or 100 millilitres of blood.

**prohibited drug** has the same meaning as in the *Drug Misuse and Trafficking Act 1985*.

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Part 5	Consumption of alcohol and use of prohibited drugs or steroids

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*steroid* means anabolic and androgenic steroidal agents included in Schedule 4 of the Poisons List under the *Poisons and Therapeutic Goods Act 1966*.

### **77 Operation of Part**

- (1) Nothing in this Part affects any liability for an offence relating to the consumption or supply of alcohol, or the use or supply of other drugs, arising under the *Road Transport (Safety and Traffic Management) Act 1999* or the *Drug Misuse and Trafficking Act 1985* or any other Act.
- (2) Nothing in this Part affects any right to conduct breath or other tests for the presence of alcohol or other drugs in a person's body, under the *Road Transport (Safety and Traffic Management) Act 1999*, the *Marine Safety Act 1998* or any other Act.
- (3) Nothing in this Part affects any obligation or right under the *Anti-Discrimination Act 1977*, the *Occupational Health and Safety Act 2000* or any other Act.
- (4) Nothing in this Part:
  - (a) prevents the making of a section 173 order or section 181D order in relation to any other matter associated with the consumption of alcohol or the use of prohibited drugs or steroids by a police officer, or
  - (b) prevents disciplinary proceedings from being taken under any Act in relation to any other matter associated with the consumption of alcohol or the use of prohibited drugs or steroids by a member of the NSW Police Force who is not a police officer.

## **Division 2 Code of behaviour**

### **78 Code of behaviour**

- (1) A member of the NSW Police Force must not use any prohibited drug.
- (2) A member of the NSW Police Force must not use any steroid unless the police officer's use of the steroid is in accordance with a prescription of a medical practitioner.
- (3) A member of the NSW Police Force must not have the prescribed concentration of alcohol in his or her breath or blood while the member is rostered on duty.
- (4) A member of the NSW Police Force must not consume alcohol while the member is on police premises. This applies whether or not the member is rostered on duty.

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Clause 79

Consumption of alcohol and use of prohibited drugs or steroids

Part 5

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- (5) A police officer must not consume alcohol while the police officer is wearing a police uniform. This applies whether or not the police officer is rostered on duty.
  - (6) A police officer must not, when required under the Act or this Part to do so, refuse or fail:
    - (a) to undergo a breath test, or
    - (b) to submit to a breath analysis, or
    - (c) to provide a sample of urine or hair,in accordance with a direction given by an authorised person.
  - (7) A member of the NSW Police Force must treat all information relating to the results of any test conducted under section 211A or 211AA of the Act or this Part that comes to the member's knowledge in his or her official capacity as strictly confidential and must not divulge the information to anyone, except for the purposes of Part 9 of the Act or in connection with the assessment, counselling or rehabilitation of the police officer under this Part.
  - (8) A member of the NSW Police Force must not conspire with, or aid or abet, any police officer to breach this code of behaviour.
  - (9) A breach of this code of behaviour does not constitute an offence.

#### **79 Exemptions from compliance with code of behaviour**

- (1) The code of behaviour does not apply so as to prevent a member of the NSW Police Force from consuming alcohol:
  - (a) in the performance of a police task, or
  - (b) in an official capacity, or
  - (c) in any other circumstances,if the member is authorised by the Commissioner to do so.
- (2) The code of behaviour does not apply so as to prevent a member of the NSW Police Force from consuming alcohol on police premises if the member has the approval of the commander or manager of those premises to do so.
- (3) An authorised officer must not direct a police officer to undergo a breath test, submit to a breath analysis, or provide a sample, if the police officer is unable on medical grounds to do so.
- (4) The code of behaviour does not prevent a member of the NSW Police Force from divulging otherwise confidential information with the written authority of the Director, Corporate Human Resources, or the relevant police officer.



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Part 5 Consumption of alcohol and use of prohibited drugs or steroids

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### **Division 3 Consequences of breach of code of behaviour**

#### **80 Immediate action: police officer relieved from duty and reported**

- (1) If the result of a test conducted under section 211A of the Act or this Part indicates that the prescribed concentration of alcohol is present in a police officer's breath or blood while the police officer is rostered on duty (and no breath analysis indicates otherwise), the police officer is to be immediately relieved of duty and is not to carry out any duty for the duration of the officer's shift.
- (2) The Commissioner may decide that a police officer who is relieved from duty because of the operation of this clause is not entitled to be paid (whether in wages or salary, paid sick leave or any other type of payment) for that part of the relevant shift that the officer did not work.

#### **81 Consequences for police officers consuming alcohol**

- (1) This clause applies if:
  - (a) the Commissioner considers, as a result of a test conducted under section 211A of the Act or this Part, that a police officer has breached the code of behaviour by having the prescribed concentration of alcohol in his or her breath or blood while rostered on duty, and
  - (b) the police officer has not breached the code of behaviour in that manner in the 3 years immediately preceding the breach.
- (2) In such a case, the Commissioner may ask the police officer to choose whether to undergo counselling and rehabilitation or whether to face the possibility that a section 173 order may be made with respect to the officer.
- (3) If the police officer chooses to undergo counselling and rehabilitation, the Commissioner must direct the police officer:
  - (a) to attend any interview organised with the officer's commander or manager, and
  - (b) to attend an interview with a NSW Police Force drug and alcohol counsellor for assessment, and
  - (c) to participate in any rehabilitation program recommended by that counsellor.
- (4) If a police officer:
  - (a) chooses not to undergo counselling or rehabilitation, or
  - (b) without reasonable excuse, fails to attend an interview or counselling session after choosing to do so, or

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- (c) without reasonable excuse, fails to participate in a rehabilitation program after choosing to do so,  
the police officer's commander or manager may recommend the making of a section 173 order with respect to the officer.
- (5) The Commissioner is not required to ask the police officer to choose whether to undergo counselling if the Commissioner, having regard to all the circumstances, considers that it would be more appropriate to make a section 173 order or section 181D order with respect to the officer.

**82 Consequences for police officers repeatedly consuming alcohol**

- (1) This clause applies if:
- (a) the Commissioner considers, as a result of a test conducted under section 211A of the Act or this Part, that a police officer has breached the code of behaviour by having the prescribed concentration of alcohol in his or her breath or blood while rostered on duty, and
  - (b) the police officer has breached the code of behaviour in that manner in the 3 years immediately preceding the breach.
- (2) In such a case, the Commissioner may make a section 173 order or section 181D order with respect to the officer.
- (3) The Commissioner may refer the police officer to a medical practitioner for the purpose of that officer determining the police officer's fitness to remain a police officer.
- (4) The Commissioner is to have regard to any report made by the medical practitioner in relation to such a police officer.

**83 Consequences for police officers using prohibited drugs or steroids**

- (1) This clause applies if:
- (a) the Commissioner considers, as a result of a test conducted under section 211A or 211AA of the Act or this Part, that a police officer has breached the code of behaviour by using a prohibited drug or steroid, and
  - (b) the police officer has not breached the code of behaviour in that manner in the 5 years preceding the breach.
- (2) In such a case, the Commissioner may ask the police officer to choose whether to undergo counselling and rehabilitation or whether to face the possibility that a section 173 order may be made with respect to the officer.

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- (3) If the police officer chooses to undergo counselling and rehabilitation, the Commissioner must direct the police officer:
- (a) to attend any interview organised with the officer's commander or manager, and
  - (b) to attend an interview with a NSW Police Force drug and alcohol counsellor for assessment, and
  - (c) to participate in any rehabilitation program recommended by that counsellor.
- (4) If a police officer:
- (a) chooses not to undergo counselling or rehabilitation, or
  - (b) without reasonable excuse, fails to attend an interview or counselling session after choosing to do so, or
  - (c) without reasonable excuse, fails to participate in a rehabilitation program after choosing to do so,
- the Commissioner may make a section 173 order with respect to the officer.
- (5) The Commissioner is not required to ask the police officer to choose whether to undergo counselling if the Commissioner, having regard to all the circumstances, considers that it would be more appropriate to make a section 173 order or section 181D order with respect to the officer.

**84 Consequences for police officers repeatedly using prohibited drugs or steroids**

- (1) This clause applies if:
- (a) the Commissioner considers, as a result of a test conducted under section 211A or 211AA of the Act or this Part, that a police officer has breached the code of behaviour by using a prohibited drug or steroid, and
  - (b) the police officer has breached the code of behaviour in that manner in the 5 years preceding the breach.
- (2) In such a case, the Commissioner may make a section 173 order or a section 181D order in relation to the breach of the code of behaviour by any such police officer.

**85 Special provisions in relation to probationary constables**

- (1) This clause applies to an officer who has been appointed on probation.

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- (2) If the Commissioner considers, as a result of a test conducted under section 211A or 211AA of the Act or this Part, that such an officer has breached the code of behaviour by having the prescribed concentration of alcohol in his or her breath or blood while rostered on duty or by using a prohibited drug or steroid, the Commissioner must either:
    - (a) direct the officer to attend an interview with a NSW Police Force drug and alcohol counsellor for assessment and to participate in any rehabilitation program recommended by that counsellor, or
    - (b) direct that the officer's appointment be terminated.
  - (3) If such an officer fails, without reasonable excuse, to attend an interview or counselling session after being directed to do so, the Commissioner must direct that the officer's appointment be terminated.
  - (4) The Commissioner may at any time refer the officer to a medical practitioner for the purpose of that officer determining the officer's fitness for duty.
  - (5) The Commissioner is to have regard to any report made by the medical practitioner in relation to such an officer.

#### **86 Other breaches of code of behaviour**

- (1) This clause applies to a police officer who breaches the code of behaviour:
  - (a) by consuming alcohol while wearing a police uniform (while not rostered on duty), or
  - (b) by consuming alcohol while on police premises (while not rostered on duty), or
  - (c) by refusing or failing to undertake a breath test when required to do so under this Part, or
  - (d) by refusing to submit to a breath analysis or to provide a sample of urine or hair when required to do so under this Part,
 and who is not exempt from complying with the code of behaviour by reason of clause 79.
- (2) In such a case, the Commissioner may make a section 173 order or section 181D order in relation to the breach of the code of behaviour by any such police officer.

#### **87 Special follow-up testing**

- (1) The Commissioner may direct an authorised person to conduct special follow-up testing of police officers whom the Commissioner has previously considered to be in breach of the code of behaviour.

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- (2) Special testing must occur at least once a year. The police officer is not to be given notice of the time of testing.
- (3) Special testing may involve any one or more of the following in accordance with this Part:
  - (a) breath testing,
  - (b) breath analysis,
  - (c) a requirement to supply a sample of hair,
  - (d) a requirement to supply a sample of urine.
- (4) Any such special testing is to continue:
  - (a) for 3 years from the most recent breach, in relation to a police officer who breached the code of behaviour by having more than the prescribed concentration of alcohol in his or her breath or blood, or
  - (b) for 5 years from the most recent breach, in relation to a police officer who breached the code of behaviour by using a prohibited drug or steroid.
- (5) The Commissioner may at any time change or revoke any direction given under this clause.

**88 Double jeopardy**

- (1) A police officer is not liable to be punished under this Part in relation to the same incident for both:
  - (a) having the prescribed concentration of alcohol in his or her breath or blood while rostered on duty, or using a prohibited drug or steroid, or consuming alcohol while wearing a police uniform or while on police premises, and
  - (b) refusing or failing to undertake a breath test, to submit to a breath analysis or to provide a sample of urine or hair in accordance with this Part.
- (2) A police officer is not liable to be punished under this Part in relation to the same incident for both:
  - (a) having the prescribed concentration of alcohol in his or her breath or blood while rostered on duty, and
  - (b) consuming alcohol while wearing a police uniform or while on police premises.

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## **Division 4 Authorisation of people to conduct tests and use instruments**

### **89 Appointment of authorised persons**

- (1) The Commissioner may, by instrument in writing, appoint any person to be an authorised person for the purposes of section 211A or 211AA of the Act and this Part. For those purposes, the Commissioner may appoint a police officer or any other person.
- (2) The Commissioner may appoint as an authorised person:
  - (a) a person by name, or
  - (b) the holder from time to time of a particular office by reference to the title of the office concerned.
- (3) The Commissioner must furnish authorised persons with certificates of their appointment as authorised persons.
- (4) An authorised person must, if requested to do so, produce the certificate of appointment to any police officer required by the authorised person to submit to a breath test or to do any other thing under section 211A or 211AA or this Part.

## **Division 5 Conduct of testing**

### **90 Breath analysis of police officers following positive breath testing**

- (1) This clause applies if:
  - (a) it appears to an authorised person as a result of a breath test conducted under section 211A of the Act that the prescribed concentration of alcohol may be present in a police officer's breath or blood, or
  - (b) a police officer who is required by an authorised person to undergo a breath test under this Part refuses or fails to do so in accordance with the direction of the authorised person.
- (2) In such a case, the authorised person may require the police officer to submit to a breath analysis in accordance with the directions of the person.
- (3) A breath analysis may be carried out only by an authorised person.
- (4) As soon as practicable after a police officer has submitted to a breath analysis the person who carried out the analysis must deliver to the police officer a statement in writing signed by the person specifying:

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- (a) the concentration of alcohol determined by the analysis to be present in the police officer's breath or blood and expressed in grams of alcohol in 210 litres of breath or 100 millilitres of blood, and
  - (b) the day on which and time of the day at which the breath analysis was completed.
- (5) A police officer who is required to submit to a breath analysis may request the person making the requisition to arrange for the taking (in the presence of an authorised person) of a sample of the police officer's blood for analysis, at the police officer's own expense, by:
- (a) a medical practitioner nominated by the police officer, or
  - (b) a medical practitioner nominated by the person at the police officer's request.
- (6) The making of any such request or the taking of a sample of a police officer's blood does not absolve the police officer from the obligation imposed on the police officer to submit to a breath analysis in accordance with this clause.
- (7) If a police officer makes such a request, the authorised officer must take all reasonable steps to contact the relevant medical practitioner.

## **Division 6 Handling and analysis of samples**

### **91 Object of Division**

The object of this Division is to set out the procedure to be followed in relation to:

- (a) a sample of urine or hair provided by a police officer under section 211A or 211AA of the Act (which empowers an authorised person to require a police officer to provide a sample of the officer's urine or hair for the purpose of testing for the presence of prohibited drugs or steroids), or
- (b) a sample of blood provided by a police officer under clause 90 (which allows a police officer to request that a sample of blood be taken) or under section 211A (4B) of the Act (under which a police officer may be required to provide a sample of blood).

### **92 Action with respect to samples of urine, hair and blood**

- (1) This clause applies to:
- (a) an authorised person who arranges for a sample of urine, hair or blood to be taken when empowered to do so under section 211A or 211AA of the Act, and

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- (b) a medical practitioner who takes a sample of blood when empowered to do so under clause 90 or directed to do so by an authorised person under section 211A (4B) of the Act.
  - (2) A person to whom this clause applies must ask the police officer from whom the sample was taken whether or not the police officer would like to keep part of the sample of urine, hair or blood taken from the officer.
  - (3) A person to whom this clause applies must:
    - (a) divide the sample into 2 approximately equal portions, or, if the police officer has indicated that he or she would like to keep a part of the sample, divide the same into 3 approximately equal portions, and
    - (b) place each portion into a container, and
    - (c) fasten and seal each container, and
    - (d) mark or label each container for future identification.
  - (4) Of the sealed containers:
    - (a) the first container must:
      - (i) in the case of a sample taken by a medical practitioner under clause 90, be handed by a medical practitioner to the authorised person present when the sample was taken, or
      - (ii) in any other case, be dealt with in accordance with clause 93, and
    - (b) the second container must be transported to a laboratory accredited by the National Association of Testing Authorities, Australia for the purposes of AS 4308 and nominated by the Commissioner, and must be stored at that laboratory on behalf of the Commissioner, and
    - (c) in the case where the police officer has indicated that he or she would like to keep a part of the sample, the third container must be given to the police officer.
  - (5) In the case of samples of urine, the two sealed containers referred to in subclause (4) (a) and (b) must be handled in accordance with the procedure set out in AS 4308 or any other procedure approved by the Commissioner in that regard.

### **93 Analysis of samples of urine, hair or blood**

- (1) An authorised person may arrange for a portion of a sample of a police officer's urine, hair or blood taken in accordance with section 211A or 211AA of the Act or this Part to be submitted for analysis to an analyst to determine the concentration of alcohol in the blood or to determine whether the urine or hair contains a prohibited drug or steroid.



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- (2) An analyst to whom a portion of a sample of urine, hair or blood is submitted for analysis under this clause may carry out an analysis of the portion to determine the concentration of alcohol in the blood or to determine whether the urine or hair contains alcohol or a prohibited drug or drugs or a steroid or steroids, as the case requires.
- (3) Such analysis must be carried out, and a report on that analysis provided, in accordance with the procedure set out in AS 4308 or any other procedure approved by the Commissioner in that regard.
- (4) Analysis must be carried out in a laboratory accredited by the National Association of Testing Authorities, Australia for the purposes of AS 4308 and nominated by the Commissioner.
- (5) If the first analysis of a portion of the sample indicates the presence of alcohol or a prohibited drug or steroid in the sample, an analysis of another portion of the sample must be undertaken.

## **Division 7        Offence**

### **94    Interfering with results of test**

A person who does anything to introduce, or alter the concentration of, alcohol or any prohibited drug or steroid in the police officer's urine, hair, breath or blood:

- (a) before submitting to a breath analysis, or
- (b) before providing a sample of urine, hair, breath or blood,

is guilty of an offence if the person does so for the purpose of preventing or restricting the use of the results of the analysis in any proceedings against the police officer.

Maximum penalty: 20 penalty units.

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### Division 1 Preliminary

#### 95 General

- (1) This Part is subject to:
  - (a) any award or enterprise agreement under the *Industrial Relations Act 1996*, and
  - (b) any agreement under section 87 of the Act (including any agreement under section 86 of the Act, as in force before 1 December 2006, or any award, industrial agreement or determination applicable under clause 8 of Schedule 4 to the Act).
- (2) For the purpose of calculating the entitlement of a member of the NSW Police Force to leave under this Part, any period served by the member before the commencement of this Part as a member of the Police Force or as a public servant is to be taken into account as service as a member of the NSW Police Force.

**Note.** Current awards such as the *Crown Employees (Police Officers—2008) Award* and the *Crown Employees (Public Sector—Salaries 2007) Award* generally provide for leave entitlements for members of the NSW Police Force to whom this Part applies.

#### 96 Applications for leave

- (1) An application by a member of the NSW Police Force for leave under this Part is to be made to and dealt with by the Commissioner.
- (2) The Commissioner, in dealing with any such application, must have regard to the exigencies of the NSW Police Force, but as far as practicable is to deal with the application in accordance with the wishes of the member.

#### 97 Special provisions relating to administrative officers and temporary employees

- (1) Unless the contrary intention appears, a period of leave to which an administrative officer or temporary employee is entitled under this Part is, where the officer or employee is employed in the NSW Police Force for 6 or 7 working days each week, to be increased to six-fifths or seven-fifths, respectively, of the period of leave to which the officer or employee would, but for this subclause, be entitled under this Part.
- (2) If the period of leave to which a temporary employee is entitled under this Part exceeds the period for which the temporary employee is employed under the Act, the balance of that period of leave may be granted during subsequent periods of employment in the NSW Police

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Force if each such subsequent period of employment commences on the termination of a previous period of employment in the NSW Police Force.

## Division 2 Extended leave

### 98 Entitlement to extended leave

- (1) Subject to this Division, a member of the NSW Police Force is entitled:
  - (a) after service for 10 years, to leave for 2 months on full pay or 4 months on half pay, and
  - (b) after service for more than 10 years, to:
    - (i) leave as provided by paragraph (a), and
    - (ii) in addition, an amount of leave proportionate to the member's length of service after 10 years, calculated on the basis of 5 months on full pay, or 10 months on half pay, for 10 years served after service for 10 years.
- (2) For the purpose of calculating the entitlement of a person to extended leave under this clause at any time:
  - (a) service referred to in this clause includes service before the commencement of this Part (as referred to in clause 95 (2)), and
  - (b) there must be deducted from the amount of extended leave to which, but for this paragraph, that person would be entitled:
    - (i) any extended leave, or leave in the nature of extended leave, and
    - (ii) the equivalent, in extended leave, of any benefit instead of extended leave or leave in the nature of extended leave, taken or received by that person before that time, including any such leave taken, or benefit received, by that person in accordance with any former Act, and
  - (c) the provisions of Schedule 3A to the *Public Sector Employment and Management Act 2002* have effect.
- (3) Nothing in subclause (2) is to be regarded as authorising, in respect of the same period of leave taken or the same benefit received, a deduction under both subclause (2) (b) and clause 7 of Schedule 3A to the *Public Sector Employment and Management Act 2002*.
- (4) If the services of a member of the NSW Police Force with at least 5 years' service as an adult and less than 10 years' service are terminated (otherwise than by the making of a section 181D order):
  - (a) by the Crown, the Governor or the Commissioner for any reason other than the member's serious and intentional misconduct, or

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- (b) by the member on account of illness, incapacity or domestic or other pressing necessity,  
the member is entitled:
- (c) for 5 years' service, to 1 month's leave on full pay, and
- (d) for service after 5 years, to a proportionate amount of leave on full pay calculated on the basis of 3 months' leave for 15 years' service (that service to include service as an adult and otherwise than as an adult).
- (5) For the purposes of subclause (4), ***service as an adult***, in the case of a member of the NSW Police Force employed to do any work for which the remuneration has been fixed by an industrial award or industrial agreement (however described) under any law in force in New South Wales, means the period of service during which the remuneration applicable to the member was at a rate not lower than:
- (a) in the case of a police officer—the rate for a constable, or
- (b) in any other case—the lowest rate fixed under the award or agreement, for an adult male or adult female in the same trade, classification, calling, group or grade as the member.
- (6) For the purposes of subclause (1), ***service*** includes:
- (a) service under the *Teaching Service Act 1980*, and
- (b) any period of leave without pay taken before the commencement of the *Public Service and Other Statutory Bodies (Extended Leave) Amendment Act 1963*, and
- (c) in the case of a member of the NSW Police Force who has completed at least 10 years' service—any period of leave without pay, not exceeding 6 months, taken after that commencement.
- (7) In subclause (6) (c), for the purpose of determining whether or not a member of the NSW Police Force has completed at least 10 years' service, the member's period of service is to be taken:
- (a) to include any period of leave without pay taken before the commencement of the *Public Service and Other Statutory Bodies (Extended Leave) Amendment Act 1963*, and
- (b) to exclude any period of leave without pay taken after that commencement.
- (8) For the purposes of subclause (4), ***service*** does not include any period of leave without pay whether taken before or after the commencement of the *Public Service and Other Statutory Bodies (Extended Leave) Amendment Act 1963*.
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**99 Entitlement to gratuity instead of extended leave**

A member of the NSW Police Force who has acquired a right to extended leave with pay is entitled, immediately on the termination of the member's services, to be paid instead of that leave the money value of the extended leave as a gratuity in addition to any gratuity to which the member may be otherwise entitled.

**100 Payment where member of the NSW Police Force has died**

- (1) If a member of the NSW Police Force has acquired a right to extended leave with pay and dies before starting it, or after starting it dies before completing it:
- (a) the member's surviving spouse, or
  - (b) if there is no such surviving spouse, the member's children, or
  - (c) if there is no such surviving spouse or child, a person who, in the opinion of the Commissioner, was, at the time of the member's death, a dependant relative of the member,
- is or are entitled to receive the money value of the leave not taken, or not completed, calculated at the rate of salary that the member received at the time of his or her death, less any amount paid to the member in respect of the leave not taken, or not completed.
- (2) If a member of the NSW Police Force with at least 5 years' service as an adult and less than 10 years' service dies:
- (a) the member's surviving spouse, or
  - (b) if there is no such surviving spouse, the member's children, or
  - (c) if there is no such surviving spouse or child, a person who, in the opinion of the Commissioner, was, at the time of the death of the member, a dependant relative of the member,
- is or are entitled to receive the money value of the leave which would have accrued to the member had his or her services terminated, calculated at the rate of salary that the member was receiving at the time of his or her death.
- (3) If there is a guardian of any children entitled under subclause (1) or (2), the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.
- (4) If there is no person entitled under subclause (1) or (2) to receive the money value of any leave not taken or not completed by a member of the NSW Police Force or which would have accrued to a member of the NSW Police Force, payment in respect of that leave must be made to the member's personal representatives.

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- (5) Any payment under this clause is in addition to any payment due under any Act under which superannuation benefits are paid.
  - (6) If payment of the money value of leave has been made under this clause, the Crown and the Commissioner cease to be liable for payment of any amount in respect of that leave.
  - (7) In this clause, *surviving spouse* of a member of the NSW Police Force who has died includes any person who, immediately before the death, was in a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) with the member.

### **Division 3 Annual leave (non-PSES police officers)**

#### **101 Application of Division**

This Division applies to all police officers, other than those who are members of the NSW Police Force Senior Executive Service.

#### **102 Entitlement to annual leave**

- (1) Annual leave on full pay accrues to a non-commissioned police officer at the rate of 30 working days per year.
- (2) Annual leave on full pay accrues to a commissioned police officer:
  - (a) at the rate of 25 working days per year, or
  - (b) at the rate of 30 working days per year if the officer qualifies for 3 or more additional working days leave in accordance with subclause (4) and is regularly rostered to work shift work on Sundays and public holidays.
- (3) A police officer while attached to a Police Station within the Western Division or Central Division (within the meaning of the *Crown Lands Consolidation Act 1913*, as in force immediately before its repeal) accrues additional annual leave on full pay at the rate of 5 working days per year.
- (4) A police officer who is rostered to work his or her ordinary hours on a Sunday or public holiday (a *compensable shift*) accrues, on the completion of the relevant qualifying period, additional annual leave on full pay on the following basis:
  - (a) 1 additional working day if between 4 and 10 compensable shifts have been worked during that period,
  - (b) 2 additional working days if between 11 and 17 compensable shifts have been worked during that period,
  - (c) 3 additional working days if between 18 and 24 compensable shifts have been worked during that period,

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- (d) 4 additional working days if between 25 and 31 compensable shifts have been worked during that period,
  - (e) 5 additional working days if 32 or more compensable shifts have been worked during that period.
- (5) A reference in subclause (4) to the relevant qualifying period is:
- (a) in the case of a commissioned police officer (except as provided by paragraph (c))—a reference to the period of 12 months commencing on 1 December 1979 and to any subsequent period of 12 months, and
  - (b) in the case of a sergeant or constable (except as provided by paragraph (c))—a reference to the period of 12 months commencing on 1 December 1977 and to any subsequent period of 12 months, and
  - (c) if a police officer leaves the NSW Police Force before the end of a 12-month period referred to in paragraph (a) or (b)—a reference, in relation to that officer, to the period from the commencement of that 12-month period to the date on which the officer ceases to be a police officer.
- (6) A police officer accrues additional annual leave on full pay at the rate of 1 working day for each holiday publicly observed throughout the State, other than the days on which New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day or Boxing Day are publicly observed.

### 103 Excess annual leave

- (1) Police officers who are authorised to grant annual leave must ensure that any annual leave granted to any police officer in any calendar year that is in excess of that to which the officer is entitled is deducted from the officer's annual leave entitlement in the next succeeding calendar year.
- (2) Nothing in subclause (1) affects the entitlement of a police officer to accrue 2 years' annual leave.

### 104 Limits on accumulation

- (1) Annual leave accrued and not taken by a police officer owing to the exigencies of the NSW Police Force, or for any other reason the Commissioner considers sufficient, accumulates up to a maximum of:
  - (a) 60 working days, in the case of:
    - (i) a non-commissioned police officer, or

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- (ii) a commissioned police officer to whom clause 102 (2) (b) applies, or
    - (b) 50 working days, in the case of a commissioned police officer (other than a commissioned police officer to whom clause 102 (2) (b) applies).
  - (2) Subject to this clause, all annual leave accruing in excess of the relevant maximum number of working days is forfeited.
  - (3) The Commissioner may direct a police officer to take, at such time as is convenient to the working of the NSW Police Force, annual leave accrued, but as far as practicable the wishes of the officer concerned are to be taken into consideration in directing the time for the taking of leave.
  - (4) If the Commissioner is satisfied that a police officer is prevented from taking an amount of annual leave sufficient to reduce the accrued leave below the relevant maximum number of working days, the leave accrued in excess of the relevant maximum number of working days is, if the Commissioner so directs, not to be forfeited.
  - (5) If the Commissioner has given a direction under subclause (4), the Commissioner is, at that time or as soon as practicable after that time, to give to the police officer a direction under subclause (3) in respect of the leave accrued in excess of the relevant maximum number of working days.
  - (6) If any such police officer does not take leave in accordance with any direction referred to in subclause (5), all leave accrued to that officer in excess of the relevant maximum number of working days is then forfeited.

**105 Termination of services**

- (1) A police officer who resigns or retires or whose services are otherwise terminated (except by death) is, on cessation of employment, entitled to be paid immediately, instead of annual leave accrued and remaining untaken, the money value of that leave as a gratuity.
- (2) An officer to whom subclause (1) applies may elect to take either the whole or part of the annual leave accrued and remaining untaken at cessation of active duty as annual leave on full pay instead of taking the money value of that leave as a gratuity.
- (3) If an officer has acquired a right to annual leave with pay and dies before entering on it, or after entering on it dies before its termination:
  - (a) the officer's surviving spouse, or
  - (b) if there is no such surviving spouse, the officer's children, or



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(c) if there is no such surviving spouse or child, a person who, in the opinion of the Commissioner, was, at the time of the officer's death, a dependant relative of the officer,

is or are entitled to receive the money value of the leave not taken.

- (4) If there is a guardian of any children entitled under subclause (3), the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.
- (5) If there is no person entitled under subclause (3) to receive the money value of any leave not taken or not completed by an officer or which would have accrued to an officer, the payment is to be made to the officer's personal representatives.
- (6) If payment of the money value of leave has been made under this clause, the Crown and the Commissioner cease to be liable for payment of any amount in respect of that leave.
- (7) In this clause, *surviving spouse* of a police officer who has died includes any person who, immediately before the death, was in a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) with the officer.

**106 Accrual of annual leave while on extended leave, sick leave**

- (1) Annual leave accrues in respect of any period a police officer is on extended leave on full pay, but during one-half only of any period of extended leave on half pay.
- (2) Annual leave accrues in respect of any period during which a police officer is on sick leave (whether with or without pay) and in respect of any period of leave without pay granted on account of incapacity for which compensation has been authorised to be paid under the *Workers Compensation Act 1987*.

**107 Adjustment for excess leave on termination of services**

- (1) If any police officer ceases to be a police officer during but before the end of a calendar year, the officer is to be taken to have been entitled for that year to annual leave in respect only of the period from the commencement of that year to the date on which the officer so ceases to be a police officer, and that leave is to be calculated as a proportionate part of the entitlement for that year.
- (2) It is a condition on which any annual leave is granted or taken that when a police officer ceases to be such an officer a sum of money equivalent to the value, calculated at the rate of pay the officer is receiving at the date he or she ceases to be such an officer, of all annual leave the officer has had in excess of that to which the officer was entitled must be repaid by the officer to the Commissioner on demand.

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- (3) In addition to the other means of recovering it, the sum of money referred to in subclause (2) or any part of it may be deducted from any pay or other money due to the officer.

#### **Division 4      Annual leave (PSSSES police officers, administrative officers and temporary employees)**

##### **108    Application of Division**

This Division applies to all members of the NSW Police Force, other than those who are police officers to whom Division 3 applies.

##### **109    Entitlement to annual leave**

- (1) Annual leave on full pay accrues to members of the NSW Police Force at the rate of 20 working days per year.
- (2) Subject to the approval of the Commissioner, additional annual leave on full pay accrues to members of the NSW Police Force indefinitely stationed in the Western or Central Division of the State at the rate of 5 working days per year.
- (3) Annual leave accrues from month to month only, but for the purpose of calculating annual leave which may be due on the cessation of employment, credit is to be given for periods of service of less than 1 month.
- (4) In this clause, *Western or Central Division of the State* means the Western Division or Central Division within the meaning of the *Crown Lands Consolidation Act 1913*, as in force immediately before its repeal.

##### **110    Limits on accumulation**

- (1) Annual leave accrued and not taken by a member of the NSW Police Force owing to the exigencies of the NSW Police Force, or for any other reason the Commissioner considers sufficient, accumulates up to a maximum of 40 working days.
- (2) Subject to this clause, all annual leave accruing in excess of 40 working days is forfeited.
- (3) The Commissioner may direct a member of the NSW Police Force to take, at such time as is convenient to the working of the NSW Police Force, annual leave accrued, but as far as practicable the wishes of the member concerned are to be taken into consideration in directing the time for the taking of leave.
- (4) If the Commissioner is satisfied that a member of the NSW Police Force is prevented from taking an amount of annual leave sufficient to reduce

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the accrued leave below 40 working days, the leave accrued in excess of 40 working days is, if the Commissioner so directs, not to be forfeited.

- (5) If the Commissioner has given a direction under subclause (4), the Commissioner is, at that time or as soon as practicable thereafter, to give to the member a direction under subclause (3) in respect of the leave accrued in excess of 40 working days.
- (6) If any such member does not take leave in accordance with any direction referred to in subclause (5), all leave accrued to that member in excess of 40 working days is then forfeited.

#### 111 Miscellaneous

- (1) Annual leave does not accrue to a member of the NSW Police Force in respect of any period of absence from duty without pay or without leave.
- (2) Despite subclause (1), annual leave accrues in respect of:
  - (a) any period of leave without pay granted on account of incapacity for which compensation has been authorised to be paid under the *Workers Compensation Act 1987*, and
  - (b) any period of sick leave without pay, and
  - (c) any other period of leave without pay, not exceeding 5 working days in any period of 12 months.
- (3) If a member of the NSW Police Force takes extended leave on half pay, the period of that leave is to be taken into account to the extent of one-half of the leave only in calculating the member's accrual of annual leave.
- (4) A member of the NSW Police Force who resigns or retires or whose services are otherwise terminated (except by death) is, on cessation of employment, entitled to be paid immediately, instead of annual leave accrued and remaining untaken or unforfeited, the money value of that leave as a gratuity.
- (5) A member of the NSW Police Force to whom subclause (4) applies may elect to take either the whole or part of the annual leave accrued and remaining untaken or unforfeited at cessation of active duty as annual leave on full pay instead of taking the money value of that leave as a gratuity.
- (6) If a member of the NSW Police Force has acquired a right to annual leave with pay and dies before entering on it, or after entering on it dies before its termination:
  - (a) the member's surviving spouse, or

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- (b) if there is no such surviving spouse, the children of the member, or
  - (c) if there is no such surviving spouse or child, a person who, in the opinion of the Commissioner, was, at the time of the death of the member, a dependant relative of the member,
- is or are entitled to receive the money value of the leave not taken.
- (7) If there is a guardian of any children entitled under subclause (6), the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.
  - (8) If there is no person entitled under subclause (6) or (7) to receive the money value of any leave not taken or not completed by a member of the NSW Police Force or which would have accrued to a member of the NSW Police Force, the payment is to be made to the personal representative of the member.
  - (9) If payment of the money value of leave has been made under this clause, no proceedings may be brought against the Commissioner or Crown for payment of any amount in respect of that leave.
  - (10) In this clause, *surviving spouse* of a member of the NSW Police Force who has died includes any person who, immediately before the death, was in a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) with the member.

## Division 5 Adoption, maternity and parental leave

### 112 Adoption leave

- (1) A member of the NSW Police Force who adopts, and becomes the primary care-giver for, a child:
  - (a) if the child has not commenced school at the date of the taking of custody—is entitled to be granted adoption leave for a maximum period of 12 months, or
  - (b) if the child has commenced school at that date—may be granted adoption leave for such period (not exceeding 12 months on a full-time basis) as the Commissioner may determine,

from the date when the member takes custody of the child concerned, whether that date is before or after the date on which a court makes an order for the adoption of the child by the member.
- (2) Adoption leave referred to in subclause (1) (a):
  - (a) may be taken full-time for a period not exceeding 12 months, or
  - (b) may be taken part-time over a period not exceeding 2 years, or

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- (c) may be taken partly full-time and partly part-time over a proportionate period,  
as the Commissioner may permit.
- (3) A member of the NSW Police Force who resumes duty immediately on the expiration of adoption leave:
- (a) if the position occupied by the member immediately before the commencement of that leave still exists—is entitled to be placed in that position, or
  - (b) if the position so occupied by the member has ceased to exist—is entitled to be appointed (subject to the availability of other suitable positions) to another position for which the member is qualified in accordance with the Act and this Regulation.
- (4) Except as otherwise provided by subclause (5), adoption leave is to be granted without pay.
- (5) A member of the NSW Police Force who:
- (a) applies for adoption leave within such time and in such manner as the Commissioner may from time to time determine, and
  - (b) prior to the commencement of adoption leave, completes not less than 40 weeks' continuous service,
- is entitled to payment at his or her ordinary rate of pay for a period of 3 weeks of adoption leave or the period of adoption leave taken, whichever is the shorter period.

### 113 Maternity leave

- (1) In this clause:  
*birth* includes stillbirth.  
*expected date of birth*, in relation to a member of the NSW Police Force who is pregnant, means a date specified by a medical practitioner to be the date on which the medical practitioner expects the member to give birth.
- (2) A member of the NSW Police Force who is pregnant is, subject to this clause, entitled to be granted maternity leave:
  - (a) for a period (not exceeding 9 weeks on a full-time basis) prior to the expected date of birth, and
  - (b) for a maximum period of 12 months after the actual date of birth.
- (3) Maternity leave referred to in subclause (2) (b):
  - (a) may be taken full-time for a period not exceeding 12 months, or
  - (b) may be taken part-time over a period not exceeding 2 years, or

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- (c) may be taken partly full-time and partly part-time over a proportionate period,  
as the Commissioner may permit.
- (4) A member of the NSW Police Force who has applied for or been granted maternity leave must, as soon as practicable after the end of her pregnancy (whether by the birth of a living child or otherwise), notify the Commissioner that her pregnancy has ended and the date on which it ended.
- (5) A member of the NSW Police Force who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- (6) A member of the NSW Police Force who resumes duty immediately on the expiration of maternity leave:
- (a) if the position occupied by her immediately before the commencement of that leave still exists, is entitled to be placed in that position, or
  - (b) if the position so occupied by her has ceased to exist, is entitled to be appointed (subject to the availability of other suitable positions) to another position for which she is qualified in accordance with the Act and this Regulation.
- (7) Except as otherwise provided by subclause (8), maternity leave is to be granted without pay.
- (8) A member of the NSW Police Force who:
- (a) applies for maternity leave within such time and in such manner as the Commissioner may from time to time determine, and
  - (b) prior to the commencement of maternity leave, completes not less than 40 weeks' continuous service,
- is entitled to payment at her ordinary rate of pay for a period not exceeding 9 weeks of maternity leave or the period of maternity leave taken, whichever is the shorter period.

**114 Parental leave**

- (1) The Commissioner may, subject to such conditions as may from time to time be determined by the Commissioner, grant parental leave for a period not exceeding 12 months to a member of the NSW Police Force who becomes a parent but is not entitled to maternity leave or adoption leave.
- (2) Parental leave may commence at any time up to 2 years from the date of birth or adoption of the child.

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- (3) Parental leave:
- (a) may be taken full-time for a period not exceeding 12 months, or
  - (b) may be taken part-time over a period not exceeding 2 years, or
  - (c) may be taken partly full-time and partly part-time over a proportionate period.
- (4) A member of the NSW Police Force who resumes duty immediately on the expiration of parental leave:
- (a) if the position occupied by him or her immediately before the commencement of that leave still exists—is entitled to be placed in that position, or
  - (b) if the position so occupied by him or her has ceased to exist—is entitled to be appointed (subject to the availability of other suitable positions) to another position for which he or she is qualified in accordance with the Act and this Regulation.
- (5) Parental leave is to be granted without pay.

**115 Accrual of leave while on maternity leave or adoption leave**

- (1) For the purpose of accrual of leave by a member of the NSW Police Force:
- (a) any period of maternity leave or adoption leave in respect of which payment was made at the rate of full pay is to be counted as service, and
  - (b) half of any period of maternity leave or adoption leave in respect of which payment was made at the rate of half pay is to be counted as service.
- (2) For the purpose of accrual of leave by a member of the NSW Police Force, any period of maternity leave, adoption leave or parental leave taken as leave without pay is not to be counted as service except as provided by Division 2.

**116 Incremental progression while on maternity leave, adoption leave or parental leave**

For the purpose of payment of any increment to a member of the NSW Police Force:

- (a) a period of maternity leave or adoption leave in respect of which payment was made at the rate of full pay or half pay is to be counted as service, and
- (b) a period of any maternity leave, adoption leave or parental leave without pay is not to be counted as service.

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## **Division 6      Family and community service leave**

### **117    Commissioner may grant family and community service leave**

- (1) The Commissioner may grant family and community service leave to a member of the NSW Police Force:
  - (a) for reasons related to the family responsibilities of the member, or
  - (b) for reasons related to the performance of community service by the member, or
  - (c) in a case of pressing necessity.
- (2) A member of the NSW Police Force is not to be granted family and community service leave for attendance at court to answer a criminal charge unless the Commissioner approves the grant of leave in the particular case.

### **118    Maximum amount of family and community service leave**

- (1) The maximum amount of family and community service leave on full pay that may be granted to a member of the NSW Police Force is:
  - (a) two and a half working days during the first year of service, and 5 working days in any period of 2 years after the first year of service, or
  - (b) one working day for each year of service after 2 years' continuous service, minus any period of family and community service already taken by the member,whichever is the greater.
- (2) The Commissioner may grant up to 5 days' family and community service leave without pay to a member of the NSW Police Force in any period of one year if the amount of paid family and community service leave available to the member for that period has been used.
- (3) The amount of any family and community service leave without pay that may be granted under subclause (2) in any period of one year is to be reduced by the amount of any paid family and community service leave already taken by the member in the same period.
- (4) Additional paid family and community service leave may be granted to a member of the NSW Police Force to care for a person for whose care the member is responsible if the grant of such leave is authorised by a determination of the Public Sector Workforce Office.



Clause 119 Police Regulation 2008

Part 6 Leave entitlements

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- (5) Family and community service leave may be granted under subclause (4) only if the member has accrued sick leave since 12 May 1995 for the period of leave and, if granted, the family and community service leave so granted replaces that sick leave.
- (6) A reference in this clause to family and community service leave granted to a member of the NSW Police Force includes a reference to short leave granted to the member before the commencement of this clause.

## **Division 7 Leave without pay**

### **119 Leave without pay for police officers**

- (1) The Commissioner may grant leave without pay to a police officer for a period not exceeding 3 years if good and sufficient reason is shown.
- (2) Leave without pay is subject to such conditions as the Commissioner may from time to time determine.
- (3) Leave without pay may be granted on a full-time or a part-time basis.
- (4) Leave without pay is not to be counted as service for the purposes of:
  - (a) accrual of annual leave or sick leave, or
  - (b) the payment of any increment.
- (5) Leave without pay is not to be counted as service for the purposes of:
  - (a) any qualification for promotion within the rank of constable, or
  - (b) the period of any probation.
- (6) This clause does not apply to leave without pay that is sick leave, maternity leave, adoption leave or parental leave.

### **120 Leave without pay for administrative officers and temporary employees**

- (1) The Commissioner may grant leave without pay to an administrative officer or temporary employee if good and sufficient reason is shown.
- (2) Leave without pay is subject to such conditions as the Commissioner may from time to time determine.
- (3) Leave without pay may be granted on a full-time or a part-time basis.
- (4) If an administrative officer or temporary employee is granted leave without pay for a period not exceeding 14 consecutive calendar days, pay may be allowed by the Commissioner for such days occurring during that leave as are public holidays throughout the State.

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Part 6

- (5) An administrative officer or temporary employee who has been granted leave without pay may, with the approval of the Commissioner, elect to take available annual or extended leave instead of leave without pay.

## **Division 8 Sick leave**

### **121 Authority to grant sick leave**

- (1) If the Commissioner is satisfied that a member of the NSW Police Force is unable to perform his or her duty because of illness, the Commissioner:
- (a) must, subject to this Division, grant to the member sick leave on full pay, and
  - (b) may, subject to this Division, grant to the member sick leave without pay if the absence of the member exceeds the entitlement of the member under this Division to sick leave on full pay.
- (2) A member of the NSW Police Force may elect to take available annual or extended leave instead of sick leave without pay.

### **122 Requirements for medical certificate**

- (1) A member of the NSW Police Force absent from duty because of illness:
- (a) in respect of any such absence in excess of 3 consecutive working days, must furnish a medical certificate to the Commissioner, or
  - (b) in respect of any such absence of 3 consecutive working days or less, must if required to do so by the Commissioner, furnish a medical certificate to the Commissioner.
- (2) Despite subclause (1), the Commissioner may at any time require a member of the NSW Police Force who has been granted sick leave to furnish medical evidence of the inability of the member to resume duty.
- (3) If a member of the NSW Police Force applying for sick leave furnishes a medical certificate which appears to the Commissioner to indicate that the condition of the member does not warrant the grant of sick leave, that application together with that medical certificate is to be referred immediately by the Commissioner to a medical practitioner for consideration.
- (4) The nature of the leave to be granted to a member of the NSW Police Force in respect of an application referred to in subclause (3) is to be determined by the Commissioner on the advice of a medical practitioner.
- (5) If sick leave is not granted to a member of the NSW Police Force in respect of an application referred to in subclause (3), the Commissioner

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Part 6            Leave entitlements

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is, as far as practicable, to take into account the wishes of the member concerned when determining the nature of the leave to be granted in respect of the application.

- (6) A member of the NSW Police Force may elect to have an application for sick leave dealt with confidentially by a medical practitioner in accordance with such procedures as may be determined from time to time by the Commissioner.
- (7) If a member of the NSW Police Force who is on annual leave or extended leave furnishes to the Commissioner a satisfactory medical certificate in respect of illness occurring during that leave, the Commissioner may, subject to the provisions of this Division relating to sick leave, grant sick leave to the member for the following period:
  - (a) in the case of a member of the NSW Police Force on annual leave, the period set out in the medical certificate,
  - (b) in the case of a member of the NSW Police Force on extended leave, the period set out in the medical certificate, unless that period is less than 7 calendar days.
- (8) Subclause (7) applies to all members of the NSW Police Force other than those on leave prior to resignation or termination of services, unless the resignation or termination of services amounts to a retirement.

### **123 Sick leave entitlements**

- (1) Sick leave on full pay accrues to a member of the NSW Police Force at the rate of 15 days each calendar year, and any such accrued leave which is not taken is cumulative.
- (2) Sick leave on full pay accrues at the beginning of the calendar year, but if a member of the NSW Police Force is appointed during a calendar year, sick leave on full pay accrues on the date the member commences duty at the rate of one and a quarter days for each complete month before the next 1 January.
- (3) In the case of a member of the NSW Police Force employed as a public servant on 1 May 1988:
  - (a) sick leave on full pay for the calendar year commencing 1 January 1988 accrues at the rate of 10 days, and
  - (b) in addition to that 10 days, the member is to be credited with sick leave on full pay in relation to service before 1 May 1988 for the following number of days less the number of days of sick leave on full pay previously granted to the member:

Police Regulation 2008

Clause 124

Leave entitlements

Part 6

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- (i) after completion of the first year of service and before completion of the second year of service—20 working days,
  - (ii) after completion of the second year of service and before completion of the fifth year of service—40 working days,
  - (iii) after completion of the fifth year of service—60 working days plus an additional 10 working days for each completed year of service thereafter.
- (4) Except as otherwise provided by this Division or otherwise determined by the Commissioner, only service as a member of the NSW Police Force or as a public servant is to be taken into account for the purpose of calculating sick leave due.
  - (5) For the purposes of determining the amount of sick leave accrued where sick leave is granted on less than full pay, the amount of sick leave granted is to be converted to its full pay equivalent.

**124 Payment during initial period of service**

- (1) No more than 5 days' sick leave on full pay is to be granted to a member of the NSW Police Force during the first 3 months of service unless a satisfactory medical certificate in respect of each absence is furnished.
- (2) On completion of the first 12 months' service, payment may be made to a member of the NSW Police Force for such portion of sick leave taken without pay during the first 3 months of that service as, with the addition of all sick leave on full pay granted during that period of 12 months, does not exceed a total of 15 working days.

**125 Procedure where workers compensation claimed**

- (1) This clause applies where a member of the NSW Police Force is or becomes unable to attend for duty or to continue on duty in circumstances that may give the member a right to claim compensation under the *Workers Compensation Act 1987*.
- (2) If a member of the NSW Police Force has made a claim for any such compensation, the member may, pending the determination of that claim and subject to the provisions of this Division relating to sick leave and to subclauses (4) and (7), be granted by the Commissioner sick leave on full pay for which the member is eligible, and if that claim is accepted the equivalent period of any such sick leave is to be restored to the credit of the member.
- (3) A member of the NSW Police Force who continues in receipt of compensation after the completion of the period of 26 weeks referred to in section 36 of the *Workers Compensation Act 1987* may, subject to the provisions of this Division relating to sick leave and to subclause (7), be

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Part 6            Leave entitlements

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paid an amount representing the difference between the amount of compensation payable under that Act and the ordinary rate of pay of the member, but sick leave equivalent to the amount of the difference so paid is to be debited against the member.

- (4) If a member of the NSW Police Force referred to in subclause (1) notifies the Commissioner that he or she does not intend to make a claim for any such compensation, sick leave on full pay is not to be granted unless the Commissioner determines that in the circumstances of the case sick leave on full pay should be granted.
- (5) If a member of the NSW Police Force who is required to submit to a medical examination under the *Workers Compensation Act 1987* in relation to a claim for compensation under that Act refuses to submit to or in any way obstructs any such examination, the member is not to be granted sick leave on full pay until that examination has taken place and a medical certificate has been given indicating that the member is not fit to resume duty.
- (6) If, as a result of any such medical examination in relation to a member of the NSW Police Force:
  - (a) a certificate is given under the *Workers Compensation Act 1987* setting out the condition and fitness for employment of the member or the kind of employment for which the member is fit, and
  - (b) the Commissioner makes available to the member employment falling within the terms of that certificate, and
  - (c) the member refuses or fails to resume or perform the employment so provided,
 all payments in accordance with this clause are to cease from the date of that refusal or failure.
- (7) Despite subclause (2) or (3), if there is a commutation of weekly payments of compensation by the payment of a lump sum pursuant to Division 9 of Part 3 of the *Workers Compensation Act 1987*, there will then be no further sick leave granted on full pay.

**126 Procedure where other claim has been made**

- (1) This clause applies if the circumstances of any injury to or illness of a member of the NSW Police Force may give rise to a claim for damages or to compensation, other than compensation under the *Workers Compensation Act 1987*.

Police Regulation 2008

Clause 127

Leave entitlements

Part 6

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- (2) Sick leave on full pay may, subject to and in accordance with this Division, be granted to a member of the NSW Police Force on completion by the member of an undertaking in a form approved by the Commissioner:
    - (a) that any such claim if made will include a claim for the value of any period of sick leave on full pay granted, and
    - (b) that, if the member receives or recovers damages or compensation pursuant to that claim for loss of salary or wages during any such period of sick leave, the member will repay to the Commissioner such money as is paid by the Commissioner in respect of any such period of sick leave.
  - (3) Sick leave on full pay is not to be granted to a member of the NSW Police Force who refuses or fails to complete such an undertaking, except with the express approval of the Commissioner given on the grounds that the refusal or failure is unavoidable in the circumstances.
  - (4) On repayment made to the Commissioner pursuant to an undertaking given by a member of the NSW Police Force, sick leave equivalent to that repayment, calculated at the ordinary rate of pay of the member, is to be restored to the credit of the member.

#### **127 Sick leave for police officers appointed before 1 January 1995**

- (1) This clause applies to police officers appointed before 1 January 1995 who are contributors to the Police Superannuation Fund.
- (2) Any such police officer who is absent from duty because of infirmity of body or mind is to be allowed full pay for the whole of the period of the absence if the Commissioner so approves:
  - (a) if the absence from duty is occasioned by infirmity arising from a wound or injury received in the actual execution of the duty of his or her office, or
  - (b) if the absence from duty is the result of an injury (within the meaning of the *Workers Compensation Act 1987*) for which compensation would be payable (if the officer were a worker under that Act) under section 10 or 11 of that Act.
- (3) A police officer is not to be allowed sick pay pursuant to this clause if the infirmity, wound or injury arises from his or her own misconduct.

### **Division 9 Miscellaneous**

#### **128 Military leave for members**

- (1) The Commissioner may, during the period of 12 months commencing on 1 July each year, grant to a member of the NSW Police Force who is

Clause 129 Police Regulation 2008

Part 6 Leave entitlements

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a volunteer part-time member of the Defence Forces military leave on full pay for such absence from duty as is necessarily involved in respect of periods of annual training not exceeding in the aggregate:

- (a) in the case of a member of the Naval Forces, 13 calendar days, or
  - (b) in the case of a member of the Military Forces, 14 calendar days, or
  - (c) in the case of a member of the Air Force, 16 calendar days.
- (2) The Commissioner may, during the period of 12 months commencing on 1 July each year, grant to a member of the NSW Police Force who is a volunteer part-time member of the Defence Forces military leave on full pay for such absence from duty as is necessarily involved in respect of attendance at schools, classes or courses of instruction not exceeding in the aggregate:
- (a) in the case of a member of the Naval Forces, 13 calendar days, or
  - (b) in the case of a member of the Military Forces, 14 calendar days, or
  - (c) in the case of a member of the Air Force, 16 calendar days.
- (3) Despite subclauses (1) and (2), if the commanding officer certifies in writing that it is necessary for a particular member of the NSW Police Force to attend on days additional to those specified in those subclauses, the Commissioner may grant to that officer military leave on full pay for a further period not exceeding in the aggregate 4 days in any 1 year.
- (4) Applications for military leave are to be accompanied by satisfactory evidence of the necessity for attendance.
- (5) At the expiration of military leave, a member of the NSW Police Force must furnish to the Commissioner a certificate of attendance signed by the commanding officer or other responsible officer.

**129 Special leave generally**

- (1) Special leave on full pay is to be granted to police officers and administrative officers:
  - (a) for the purpose of attending at any examination under the Act or this Regulation, and
  - (b) up to a maximum of 5 days in any 1 year—for the purpose of attending at any other examination approved by the Commissioner for the purposes of this paragraph.
- (2) Special leave granted under subclause (1) for the purposes of attending at an examination is to include leave for any necessary travel to or from the place at which the examination is held.

Police Regulation 2008

Clause 130

Leave entitlements

Part 6

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- (3) Special leave on full pay may be granted to police officers and administrative officers for such other purposes and during such periods and subject to such conditions as may be determined from time to time by the Public Sector Workforce Office.

**130 Special leave to attend as witness**

- (1) An administrative officer or temporary employee who is subpoenaed or called as a witness by the Crown (whether in right of the Commonwealth or in right of any State or a Territory of the Commonwealth) is:
- (a) to be granted, for the whole of the period necessary to attend as such a witness, special leave on full pay, and
  - (b) to pay to the Commissioner all money paid to the administrative officer or temporary employee under or in respect of any such subpoena or call, other than any such money so paid in respect of reimbursement of necessary expenses properly incurred in answer to that subpoena or call.
- (2) An administrative officer or temporary employee who is subpoenaed or called as a witness otherwise than as referred to in subclause (1) is, for the whole of the period necessary to attend as such a witness, to be granted at the sole election of the administrative officer or temporary employee:
- (a) subject to this Part, annual leave on full pay, or
  - (b) leave without pay.
- (3) This clause does not apply to an administrative officer or temporary employee who is subpoenaed or called as a witness in an official capacity.

**131 Weekly rest days for police officers**

- (1) Police officers are to ensure that weekly rest days are equitably distributed among police officers in their charge.
- (2) Police officers are, as far as practicable, to be allowed off duty every alternate Sunday.



Clause 132      Police Regulation 2008

Part 7           Allowances

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## **Part 7   Allowances**

### **132   Travelling, subsistence and other allowances**

The travelling and subsistence allowances and other allowances for members of the NSW Police Force are those provided in awards, agreements under section 87 of the Act or determinations under section 86 of the Act.

Police Regulation 2008

Clause 133

Miscellaneous

Part 8

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## Part 8 Miscellaneous

### 133 Capitalisation factors under section 216AA

For each age specified in Column 1 of Schedule 1, the capitalisation factors specified in Column 2 of that Schedule (for males) and Column 3 of that Schedule (for females) are prescribed for the purposes of section 216AA of the Act.

### 134 Fees and charges payable to Commissioner under section 208

- (1) The Commissioner is entitled to demand from a person (including a public authority or local council) such fees and charges as the Commissioner may from time to time determine with respect to the following services provided to the person, at the person's request, by a member of the NSW Police Force:
  - (a) the processing, on behalf of the person, of penalty notices issued by or on behalf of the person,
  - (b) the provision to the person of training services in connection with the procedures to be followed in relation to the issuing of penalty notices.
- (2) The Commissioner is entitled to demand from a person (including a public authority or local council) amounts for the provision of supplementary policing services calculated in the manner agreed between the Commissioner and the person if:
  - (a) the services are provided at the request of the person, and
  - (b) the services are provided in accordance with conditions agreed between the Commissioner and the person.
- (3) In this clause:

*penalty notice* has the same meaning as it has in the *Fines Act 1996*.

*supplementary policing service* means a service (other than a service described in section 208 (1) of the Act) that is provided by a police officer who would not otherwise be rostered for duty.

### 135 Bodies authorised to carry on business under operating name that includes "police": section 204A

The following bodies of persons are declared to be bodies to which section 204A of the Act does not apply:

- (a) Justice and Police Museum,
- (b) Police & Community Youth Clubs NSW Ltd,
- (c) New South Wales Police Legacy Limited,
- (d) Police Credit Union,

Clause 136      Police Regulation 2008

Part 8            Miscellaneous

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- (e) any body that has, among its primary objects, the object of providing public entertainment (other than a body that also has, among its primary objects, the object of promoting or conducting any sporting activity).

**136 Prescription of police officers award**

For the purposes of the definition of *police officers award* in clause 68 of Schedule 4 to the Act, the *Crown Employees (Police Officers Death and Disability) Award 2005* is prescribed.

**137 Review of promotion system**

- (1) The Minister is to review the promotion system established for non-executive police officers by the amendments made to the Act and the *Police Regulation 2000* by the *Police Amendment (Police Promotions) Act 2006*.
- (2) The review is to be undertaken as soon as possible after 2 years after the establishment of the first promotion list under that system and is to be completed within 6 months.

**138 Savings**

Any act, matter or thing that, immediately before the repeal of the *Police Regulation 2000*, had effect under that Regulation, is taken to have effect under this Regulation.

## Police Regulation 2008

## Schedule 1 Capitalisation factors

**Schedule 1 Capitalisation factors**

(Clause 133)

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 1 Continued</b>	<b>Column 2 Continued</b>	<b>Column 3 Continued</b>
<b>Age</b>	<b>Male</b>	<b>Female</b>	<b>Age</b>	<b>Male</b>	<b>Female</b>
19	3.568	3.626	45	2.865	2.966
20	3.552	3.610	46	2.824	2.928
21	3.534	3.594	47	2.782	2.888
22	3.516	3.576	48	2.738	2.847
23	3.498	3.559	49	2.693	2.805
24	3.478	3.540	50	2.647	2.762
25	3.458	3.522	51	2.599	2.717
26	3.438	3.502	52	2.550	2.671
27	3.416	3.482	53	2.500	2.624
28	3.394	3.460	54	2.449	2.575
29	3.371	3.439	55	2.396	2.525
30	3.347	3.416	56	2.342	2.473
31	3.322	3.393	57	2.286	2.420
32	3.296	3.368	58	2.230	2.365
33	3.269	3.343	59	2.172	2.309
34	3.241	3.317	60	2.112	2.251
35	3.213	3.290	61	2.050	2.192
36	3.183	3.262	62	1.987	2.131
37	3.152	3.234	63	1.923	2.069
38	3.120	3.204	64	1.858	2.006
39	3.087	3.173	65	1.792	1.941
40	3.053	3.141	66	1.725	1.876
41	3.018	3.108	67	1.657	1.811
42	2.982	3.074	68	1.589	1.744
43	2.944	3.039	69	1.521	1.678
44	2.905	3.003	70	1.453	1.611



New South Wales

# Real Property Regulation 2008

under the

Real Property Act 1900

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Real Property Act 1900*.

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

## Explanatory note

The object of this Regulation is to remake, with minor changes, the provisions of the *Real Property Regulation 2003* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the lodgement of dealings and caveats, including requirements relating to the form and content of certain documents,
- (b) the manner in which a requisition for an official search of the Register kept under the *Real Property Act 1900* is to be made,
- (c) the times at which information in the Register is to be made available to the public for searches and the manner in which such information is to be provided to an applicant,
- (d) the payment of fees,
- (e) prescribing the period during which the Registrar-General may require production in electronic format or hard copy of certain documents lodged in electronic form,
- (f) the particulars to be included in certain notices given to the Public Trustee relating to applications for foreclosures,
- (g) the service of certain documents,
- (h) prescribing the maximum amount that the Registrar-General may pay in settlement of claims against the Torrens Assurance Fund without further authorisation from the Minister,
- (i) savings and formal matters.

Real Property Regulation 2008

Explanatory note

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This Regulation is made under the *Real Property Act 1900*, including sections 12AA (2) (b) and (c), 61 (2A), 74N (1) (d), 91 (2) and (5), 96B, 135 (3) (b) and 144 (the general regulation-making power).

Real Property Regulation 2008

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Clause 1	Real Property Regulation 2008
Part 1	Preliminary

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## Real Property Regulation 2008

under the

Real Property Act 1900

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Real Property Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Real Property Regulation 2003* which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

- (1) In this Regulation:  
*approved* means approved for the time being by the Registrar-General.  
*the Act* means the *Real Property Act 1900*.
- (2) Notes included in this Regulation do not form part of this Regulation.



Real Property Regulation 2008

Clause 4

Dealings and caveats

Part 2

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## Part 2 Dealings and caveats

### 4 Lodgment of dealings and caveats

A dealing or caveat that is intended to be lodged at the office of the Registrar-General must:

- (a) be lodged in the approved manner, and
- (b) be accompanied by the relevant fee set out in Schedule 1.

### 5 Certain instruments to comply with Schedule 2 requirements

Each of the following instruments must comply with the requirements set out in Schedule 2 if the instrument is intended to be lodged at the office of the Registrar-General:

- (a) an application or dealing that is required by the Act or any other Act to be in an approved form,
- (b) a caveat referred to in section 74B or 74F of the Act,
- (c) a declaration of trust (or a duplicate or an attested copy) lodged in accordance with section 82 of the Act.

### 6 Joint tenancy or tenancy in common to be stated

- (1) The following applications and dealings must state whether the persons concerned take as joint tenants or as tenants in common:
  - (a) an application by 2 or more persons to be registered as proprietors of land,
  - (b) a transfer, mortgage, charge or lease in favour of 2 or more persons,and, if they take as tenants in common, the shares in which they take.
- (2) If the persons take as tenants in common, and if the shares in which they take are expressed as fractions, the shares must be stated by means of fractions having a common denominator and each numerator or denominator of the fraction must be an integer (for example: "A takes as to five-tenths, B takes as to three-tenths and C takes as to two-tenths").

### 7 Caveats: particulars of estate or interest claimed

The following caveats must specify the particulars set out in Schedule 3 in relation to the estate or interest to which a caveator claims to be entitled:

- (a) a caveat lodged under section 74B of the Act against a primary application,

Clause 8            Real Property Regulation 2008

Part 2             Dealings and caveats

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- (b) a caveat lodged under section 74F of the Act against a dealing, possessory application or delimitation plan, or against an application for cancellation of an easement or extinguishment of a restrictive covenant.

**8 Caveats applying to part of land only: description of part**

- (1) This clause applies to a caveat lodged under section 74F of the Act against a dealing, possessory application or delimitation plan, or against an application for cancellation of an easement or extinguishment of a restrictive covenant.
- (2) A caveat to which this clause applies that relates to part only of the land described in a folio of the Register or a current lease must describe the part in accordance with the requirements of Schedule 4.

**9 Annexure of plans to dealings or caveats**

- (1) A plan must not be annexed to or endorsed on a dealing or caveat lodged in the office of the Registrar-General unless the Registrar-General so approves.
- (2) A plan that is annexed to or endorsed on a dealing (other than a lease of premises) or caveat must comply with the requirements of Schedule 5.
- (3) A plan that is annexed to or endorsed on a lease of premises must comply with the requirements of Schedule 6.
- (4) Unless the Registrar-General otherwise approves, a lease of premises for a term of more than 25 years must show the leased premises in a plan annexed to or endorsed on the lease that complies with Schedule 6.

Real Property Regulation 2008

Clause 10

Searches

Part 3

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## Part 3 Searches

### 10 Official searches

- (1) A requisition for an official search of the Register must be made in the approved form.
- (2) A requisition is to be limited to parcels of land held by one proprietor or jointly held by 2 or more proprietors.
- (3) A requisition may be lodged personally, by post, by facsimile or by other approved means.
- (4) The relevant fee set out in Schedule 1 must, if required by the Registrar-General, be paid before delivery of the office copy of a certificate of the result of a search.
- (5) If a requisition is withdrawn after the commencement but before completion of a search, such fees as the Registrar-General determines having regard to the work done up to the time of withdrawal must be paid.
- (6) The Registrar-General may require an interim payment of fees before completion of a search.

### 11 Public searches

For the purposes of section 96B of the Act:

- (a) the prescribed times at which information in the Register is to be made available are 8.30 am to 4.30 pm each day (other than a Saturday, Sunday or public holiday), and
- (b) the prescribed manner in which information in the Register is to be made available to an applicant is:
  - (i) by providing a copy of the information to the applicant in printed, electronic or other approved form, or
  - (ii) in the case of information contained in a computer folio of the Register, by furnishing a certificate to the applicant in accordance with section 96D or 96G of the Act, or
  - (iii) in the case of information contained in a bound volume to which the public has access, by permitting the applicant to inspect the bound volume, and
- (c) the prescribed fee is the relevant fee set out in Schedule 1.

Clause 12 Real Property Regulation 2008

Part 4 Miscellaneous

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## Part 4 Miscellaneous

### 12 Fees payable to the Registrar-General

- (1) The fees specified opposite the matters listed in Schedule 1 are payable to the Registrar-General in respect of those matters.
- (2) A fee is payable before the service to which the fee relates is provided or at such time and in accordance with such conditions as the Registrar-General may agree with the person paying the fee.

### 13 Period for retention of documents

For the purposes of section 12AA (2) (b) and (c) of the Act, the period prescribed:

- (a) for a plan or other document that has been lodged otherwise than for the purpose of its being registered or recorded, is the period of 12 months commencing with the day on which it was lodged, or
- (b) for a plan or other document that has been registered or recorded, is the period of 12 months commencing with the day on which it was registered or recorded.

### 14 Statement to accompany notice to Public Trustee of intention to apply for foreclosure order

A statement accompanying a notice given to the Public Trustee under section 61 (2A) of the Act must contain the following particulars:

- (a) a statement that the notice is given pursuant to section 61 (2A) of the Act,
- (b) the full name and last known address of the mortgagor concerned and the date and place of his or her death,
- (c) the amount due and owing under the mortgage at the date the notice is given, or at such other date as may be specified in the notice.

### 15 Service of notices on caveator: prescribed person

For the purposes of section 74N (1) (d) of the Act, Toll Transport Pty Ltd is a prescribed person.

### 16 Service of notices relating to lease where proprietor of lease is bankrupt

For the purposes of section 91 (2) and (5) of the Act, the prescribed manner of serving a notice is by serving it in the manner provided in section 170 of the *Conveyancing Act 1919*.

Real Property Regulation 2008	Clause 17
Miscellaneous	Part 4

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### 17 Settlement of claims

For the purposes of section 135 (3) (b) of the Act, the amount that may be paid by the Registrar-General in settlement of a claim must not exceed \$250,000.

**Note.** Section 135 (3) (b) of the Act provides that a higher amount than the amount prescribed by this clause may be paid in a particular settlement if the Minister has approved of the settlement.

### 18 Savings

Any act, matter or thing that, immediately before the commencement of this Regulation, had effect under the *Real Property Regulation 2003* is taken to have effect under this Regulation.

## Real Property Regulation 2008

## Schedule 1 Fees

**Schedule 1 Fees**

(Clauses 4 (b), 10 (4), 11 (c) and 12 (1))

		\$
<b>Copies</b>		
1	On lodgment of an application for a certified copy of a registered instrument or part of it affecting land under the provisions of the Act—for each copy	92.00
2	For supplying a copy of a document or part of a document in the custody of the Registrar-General:	
(a)	to any person attending an office of the Department of Lands	12.50
(b)	by electronic means to any agent licensed by the Department of Lands	6.35
(c)	to any person by some other means	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in providing the service
3	On lodgment of an application for a copy of a document in the custody of the Registrar-General, other than a certified copy or a copy available to any person attending an office of the Department of Lands	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in preparing the copy
<b>Advertisements</b>		
4	On advertisement, pursuant to section 12 (1) (h1) of the Act, of the intended exercise or performance of any power, authority, duty or function conferred or imposed on the Registrar-General by the Act	Such reasonable fee (determined by the Registrar-General) as is warranted by the cost incurred in publishing the advertisement
<b>Production of documents</b>		
5	For each Crown grant, certificate of title or other document produced for the purpose of any application, request, dealing or plan to be subsequently lodged	39.00

## Real Property Regulation 2008

## Fees

## Schedule 1

		\$
<b>Applications, requests and dealings</b>		
6	On lodgment of a primary application to bring land under the Act pursuant to section 14 of the Act	1,230.00
7	On lodgment of a resumption application to bring land under the Act pursuant to section 31A of the Act	200.00
	In addition, for each quarter-hour or part of a quarter-hour in excess of the first hour occupied in examining the application	50.00
8	On lodgment of an application under section 45D of the Act by a person in possession of land to be recorded as proprietor of an estate or interest in that land	92.00
	In addition, for each quarter-hour or part of a quarter-hour occupied in examining the application	50.00
9	On lodgment of an application, request or dealing for which no fee is otherwise provided	92.00
10	On lodgment of an application (other than an application to dispose of Crown land arising from the closing of a public road under the <i>Roads Act 1993</i> ), request or dealing that will result in more than one recording on a folio of the Register, for each additional recording	92.00
11	On lodgment of an application to dispose of Crown land arising from the closing of a public road under the <i>Roads Act 1993</i> , regardless of how many recordings will ensue	92.00
12	On lodgment of an application or request for amendment of a folio of the Register, Crown grant or certificate of title	92.00
13	On lodgment of an application to record in the Register an appurtenant easement created by a deed	92.00
	In addition, for each quarter-hour or part of a quarter-hour occupied in processing the application	50.00
14	On lodgment of an application under section 81A of the Act for the extinguishment of a restrictive covenant	92.00
	In addition:	
(a)	for each quarter-hour or part of a quarter-hour occupied in examining the application	50.00
(b)	for the Registrar-General's costs of giving notice under section 81D of the Act by way of registered post	Such reasonable fee (determined by the Registrar-General) as is warranted by the cost incurred in posting the notice

## Real Property Regulation 2008

## Schedule 1 Fees

	\$
15 On lodgment of an application under section 49 of the Act for the cancellation of an easement that has been abandoned or extinguished	92.00
In addition, for each quarter-hour or part of a quarter-hour occupied in examining the application	50.00
16 On lodgment of an application for the determination under Part 14A of the Act of the position of the common boundary of adjoining lands	92.00
17 On lodgment of a building management statement (within the meaning of the <i>Conveyancing Act 1919</i> )	307.50
18 For every plan, sketch or diagram accompanying an application, request or dealing	92.00
19 For the creation of a certificate of title on any application, request or dealing (other than pursuant to section 111 of the Act), for each certificate, an additional	92.00
<b>Caveats</b>	
20 On lodgment or recording of a caveat	92.00
21 On withdrawal or partial withdrawal of a caveat pursuant to section 74M (1) of the Act	92.00
22 On lodgment of a request for withdrawal or partial withdrawal of a Registrar-General's caveat (no fee is payable for withdrawal or partial withdrawal of a Registrar-General's caveat consequent on lodgment and registration of a dealing)	92.00
23 On lodgment of a request for the Registrar-General to direct the manner of service of a notice on a caveator pursuant to section 74N (1) (e) of the Act	92.00
24 On lodgment of an application for preparation of a notice for service on a caveator pursuant to section 74C (3), 74I (1) or (2), 74J (1) or 74JA (2) of the Act	92.00
25 On lodgment of a notice of a change of name of a caveator or of the address for service of a notice on a caveator	92.00
<b>Authentication of forms</b>	
26 For examination and authentication of any dealing, application, request or caveat that is required by any Act to be in an approved form which contains departures from the approved form and which is not a form licensed by the Registrar-General, an additional	92.00



## Real Property Regulation 2008

## Fees

## Schedule 1

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**\$**

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**Official searches**

27	On requisition for an official search of a folio of the Register (whether or not requiring the continuation of a search from the date of a previous search of that folio or the date of a prior certificate of result of a search)	200.00
	In addition, for each quarter-hour or part of a quarter-hour occupied in the search after the first hour	50.00

**Public searches**

28	On the lodgment of a requisition requiring dispatch of information by post, facsimile or other approved means:	
(a)	for an initial search of a folio of the Register, including investigation as to title reference, a copy of the relevant folio and the transmission fee	55.00
	In addition, for each quarter-hour or part of a quarter-hour occupied in the search after the first quarter-hour	55.00
	In addition, for inclusion in the initial search of any additional document forming part of the Register (per document)	12.50
(b)	for providing a copy of a document in the custody of the Registrar-General if no initial search is required, including a copy of the document and the transmission fee	24.00
	In addition, for inclusion of each additional document required	12.50

**Searches generally**

29	In the case of a requisition for an official search of a manual folio, a computer folio certificate or a search of a historical record that, in the opinion of the Registrar-General, is a search for which the above schedule of fees is not appropriate	Such reasonable fee (determined by the Registrar-General in negotiation with the requesting party) as is warranted by the cost incurred in carrying out the search
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**Certificates of title**

30	On lodgment of an application for a new certificate of title under section 111 of the Act	184.00
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## Real Property Regulation 2008

## Schedule 1 Fees

		\$
<b>Miscellaneous</b>		
31	On depositing an instrument declaratory of trusts or other instrument not specified	92.00
32	On lodgment of an application for a statement of reasons under section 121 of the Act	92.00
33	For recording of any memorial or notification not otherwise provided for	92.00
34	On lodgment of a request for delivery of a document or documents pursuant to section 23A (3) (c) of the Act (no fee is payable if the request is made during the currency of the primary application)	24.00
35	For furnishing a certificate of ownership ( <i>Local Government Act 1993</i> —section 700 (2) or <i>Environmental Planning and Assessment Act 1979</i> —section 151 (2)) and incorporating in it any information as to subsisting encumbrances or interests	50.00
	In addition, for each quarter-hour or part of a quarter-hour occupied in preparing the certificate of ownership after the first quarter-hour	50.00
	In addition, for supplying each additional document forming part of the Register	12.50
36	For supplying information in response to a written inquiry as to the manner in which a proposed dealing or plan should be drawn, or as to whether a proposed dealing or plan is entitled to registration, or in response to a written inquiry that necessitates any searching or investigation	Such reasonable fee (determined by the Registrar-General) as is warranted by the cost incurred in supplying the information, searching or investigating
37	For production of documents at the Office of State Revenue	22.00
38	In addition, for any dealing, application, request or caveat that refers to more than 20 folios of the Register	92.00 for each group of 20 folio references or part of that number

Real Property Regulation 2008

Requirements for certain instruments

Schedule 2

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## Schedule 2 Requirements for certain instruments

(Clause 5)

- 1 The text must be clearly printed or written across the width of each sheet of paper used.
- 2 Unless the Registrar-General otherwise approves, all text must be in the English language.
- 3 The text must be printed or written on only one side of each sheet.
- 4 The sheets used must have clear margins:
  - (a) on the first sheet—of not less than 25mm at the top and 10mm on each side and at the bottom, and
  - (b) on each subsequent sheet—of not less than 10mm on each side and at the top and bottom.
- 5 The paper used must be:
  - (a) archival paper of a quality approved by the Registrar-General, that is:
    - (i) white and free from discolouration and blemishes, and
    - (ii) not less than 80 grams per square metre, and
    - (iii) 297mm in length by 210mm in width (standard A4), or
  - (b) such other paper as may be approved by the Registrar-General.
- 6
  - (1) Unless the Registrar-General otherwise approves, all letters, numbers and other symbols appearing in text must be in a font style that is:
    - (a) at least 10 point (1.8mm) in size, and
    - (b) dense black or dense dark blue in colour, and
    - (c) open in formation and construction, and
    - (d) in an upright style.
  - (2) The lines must not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread, or are liable to mark or damage an adjacent sheet, will not be accepted.
  - (3) Handwriting and any imprint of a seal must be clear and legible and in dense black or dense dark blue ink.
  - (4) Unless:
    - (a) the Registrar-General otherwise approves, or
    - (b) otherwise provided for by this Schedule,all symbols used must be letters.

## Real Property Regulation 2008

## Schedule 2 Requirements for certain instruments

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- 7** All typewriting, printing, handwriting and any imprint of a seal must be to a standard that will enable it to be clearly reproduced by the imaging processes employed by the Registrar-General.
- 8** Typewriting, printing, writing or seals must not extend into the margin.
- 9** Typewriting, printing, writing or signatures must not extend into any seal.
- 10** (1) Alterations must be made by striking through the matter intended to be altered and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid.
- (2) Signatures or initials noting alterations by interlineation or the striking through of matter must be placed in the margin as near as practicable to the alteration.
- 11** The pages of an annexure to a dealing must be numbered sequentially in the centre of the foot of each page as “Page ..... of ..... pages” and the annexure:
- (a) must be identified (on the annexure itself) as an annexure to the dealing, and
- (b) must be signed, on the first and last pages, by the parties to the dealing (or, if a party is a body corporate, by a person who has attested the affixing of the seal of the body corporate or who has otherwise signed on its behalf), and
- (c) must be referred to in the body of the dealing.
- 12** An additional or inserted sheet intended to form part of a dealing:
- (a) must be attached to the dealing in a manner acceptable to the Registrar-General, and
- (b) if it contains matter that would normally be inserted in an approved form, must be signed by the parties to the dealing (or, if a party is a body corporate, signed by a person who has attested the affixing of the seal of the body corporate or who has otherwise signed on its behalf).
- 13** If, apart from any matter contained in an additional or inserted sheet, it is not readily apparent from the body of a dealing that the additional or inserted matter is intended to form part of the dealing:
- (a) a note referring to the additional or inserted matter (or covenants by number where appropriate) must be added to the body of the dealing, and
- (b) a note identifying the additional or inserted matter must be added to the additional or inserted sheet containing that matter.

Real Property Regulation 2008

Requirements for certain instruments

Schedule 2

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- 14** Dimensions referred to in a dealing:
- (a) in the case of dimensions of length, must be expressed in metres and not in any other unit of measurement of length (whether or not related to the metre), and
  - (b) in the case of dimensions of area, must be expressed in square metres, hectares or square kilometres and not in any other unit of measurement of area (whether or not related to the square metre, hectare or square kilometre).
- 15** Annexures, additional sheets or inserted sheets may be prepared by means of a photographic or similar approved process and, if so prepared:
- (a) must comply with items 1–14, and
  - (b) must contain only printing that is permanent and legible with a dense black image free from excessive background, and
  - (c) must be so prepared that the process does not affect the quality of the paper, and
  - (d) must be authenticated by original signatures.

## Real Property Regulation 2008

## Schedule 3 Particulars of estate or interest to be specified in caveats

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**Schedule 3 Particulars of estate or interest to be specified in caveats**

(Clause 7)

- 1 Particulars of the nature of the estate or interest in land claimed by the caveator.
- 2 The facts on which the claim is founded, including (if appropriate) a statement as to the manner in which the estate or interest claimed is derived from the registered proprietor of the estate or interest or the primary or possessory applicant against which the caveat is to operate.
- 3 If the caveator's claim is based (wholly or in part) on the terms of a written agreement or other instrument, particulars of the nature and date of that agreement or instrument and the parties to it.
- 4 If the caveator claims as mortgagee, chargee or covenant chargee, a statement of the amount (if readily ascertainable) of the debt or other sum of money charged on the land (or, if the amount is not readily ascertainable, the nature of the debt, annuity, rent-charge or other charge secured on the land).
- 5 If the caveator claims as lessee for a term or for a renewal or extension of a term, particulars of the duration of the term or renewed or extended term and its commencing date (and, if the agreement for the term, renewal or extension includes an option for the renewal or extension of the term or to purchase the reversion, a statement to the appropriate effect).
- 6 If the caveator claims an easement, particulars of the land or authority that has or is intended to have the benefit of the easement.
- 7 If the caveator claims a profit à prendre, particulars of the land or authority intended to have the benefit of the profit à prendre.
- 8 If the caveator claims a right to the benefit of a restriction on the use of land, particulars of the land or authority intended to have the benefit of the restriction.
- 9 If the caveator claims a right to the benefit of a positive covenant, particulars of the land or authority intended to have the benefit of the covenant.

Real Property Regulation 2008

Particulars of estate or interest to be specified in caveats

Schedule 3

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- 10** It is not necessary to specify:
- (a) whether the estate or interest claimed is legal or equitable, or
  - (b) the quantum of the estate or interest claimed (except as provided in items 4 and 5), or
  - (c) how the estate or interest claimed ranks in priority with other estates and interests in the land.

Real Property Regulation 2008

Schedule 4 Description in caveats of part of land

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## Schedule 4 Description in caveats of part of land

(Clause 8)

- 1** Except where item 2, 3 or 5 applies, the description of the part must refer to the part:
- (a) as a lot or portion in a current plan within the meaning of the *Conveyancing Act 1919*, or
  - (b) as a proposed lot in a plan lodged for registration or recording:
    - (i) under Division 3 of Part 23 of the *Conveyancing Act 1919*, or
    - (ii) under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*,  
but only if the plan has not been so registered or recorded at the time of lodgment of the caveat, or
  - (c) if the Registrar-General so approves, as the land shown in a plan annexed to or endorsed on the caveat, which plan must contain sufficient information to establish, to the satisfaction of the Registrar-General, the relationship of the plan to the boundaries of the land comprised in the folio of the Register or the current lease to which the caveat relates.
- 2** If the claim of the caveator is in respect of:
- (a) premises within an existing building, or
  - (b) a proposed lot in a proposed strata plan or other proposed plan of subdivision which, at the time of lodgment of the caveat, has not been lodged with the Registrar-General for registration or recording, or
  - (c) a parcel for which description in accordance with item 1 is inappropriate,
- the description of the part must be in such other form or manner as will enable the Registrar-General to identify the part to which the claim relates.
- 3** If the claim of the caveator is in respect of an unregistered easement over part of the land comprised in a folio of the Register or a current lease, the description must identify the site of the easement:
- (a) if the Registrar-General approves, as the land shown in a plan annexed to or endorsed on the caveat, or



Real Property Regulation 2008

Description in caveats of part of land

Schedule 4

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- (b) as the land shown in a plan which defines the site of the easement and which is registered or recorded in the office of the Registrar-General.
- 4** It is not necessary for a plan referred to in item 3 to define precisely the site of an easement intended to be created in respect of an existing tunnel, pipe, conduit, wire or other similar object which is underground, or is within or beneath an existing building, so long as the plan shows the approximate position of the easement.
- 5** If mines or minerals constitute the part of the land comprised in the folio of the Register or current lease to which the claim of the caveator relates, it is sufficient to specify or describe the mines or minerals concerned.

## Real Property Regulation 2008

Schedule 5 Requirements for plans annexed to or endorsed on dealings (other than leases of premises) or caveats

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## **Schedule 5 Requirements for plans annexed to or endorsed on dealings (other than leases of premises) or caveats**

(Clause 9)

- 1 A plan must identify the land to which it relates.
- 2 A plan must be drawn in a manner and to a scale that allows all details and notations to be clearly reproduced by the imaging processes used by the Registrar-General.
- 3 A plan must contain the following particulars:
  - (a) a statement of the reduction ratio at which the plan is drawn,
  - (b) the north point (which must be directed upwards) and the meridian to which it relates,
  - (c) complete dimensions (including area) of every parcel comprised in the plan,
  - (d) sufficient information to define any proposed easement, or any proposed variation of an existing easement, and its relationship to the boundaries of any affected parcel,
  - (e) if prepared by a registered land surveyor within the meaning of the *Surveying Act 2002*, the signature of the surveyor,
  - (f) the date of preparation of the plan,
  - (g) the signature of each person who has signed the dealing or caveat to which the plan is annexed.
- 4 The description of the part of the land shown in the plan must agree with the description of that part shown in the dealing or caveat.
- 5 The lengths shown on a plan must be expressed in metres and not in any other unit of measurement of length (whether or not related to the metre), without the use of any symbol or abbreviation to represent the metre as the unit of measurement employed.
- 6 Area measurements shown on a plan must be expressed in the following units of measurement:
  - (a) areas of less than one hectare must be expressed in square metres accompanied by the symbol "m<sup>2</sup>",
  - (b) areas of one hectare or more but less than 10,000 hectares must be expressed in hectares (using not more than 4 significant figures) accompanied by the symbol "ha",

## Real Property Regulation 2008

Requirements for plans annexed to or endorsed on dealings (other than leases of premises) or caveats Schedule 5

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- (c) areas of 10,000 hectares or more must be expressed in square kilometres accompanied by the symbol “km<sup>2</sup>”.
- 7** There must be a statement on each sheet of the reduction ratio at which the plan is drawn.
- 8** Unless the Registrar-General otherwise approves, all words, letters, figures and symbols appearing on a plan:
- (a) must be shown in capital letters (except as provided by item 6), and
  - (b) must be open in formation and construction, and
  - (c) must be drawn in an upright style, and
  - (d) must be in the English language.
- 9** A plan may be altered only by striking through the matter to be altered. In particular, a plan may not be altered by the use of correction fluid or by rubbing, scraping or cutting the surface of the sheet on which the plan is drawn. The Registrar-General may require a sheet on which a plan is drawn to be replaced if, in the opinion of the Registrar-General any alteration on the sheet will render it unsuitable for imaging.
- 10** If lodged as an annexure, a plan must be neatly and clearly drawn without colour or edging.
- 11** Each plan sheet must consist of paper, or some other approved medium.
- 12** A plan must be drawn on only one side of a plan sheet and must be drawn on a matt surface.
- 13** Each plan sheet must be free from blemishes and creases.
- 14** Each plan sheet must be 297mm in length by 210mm in width (standard A4) and have clear margins of at least 10mm on each side and at the top and bottom.
- 15** If a plan is endorsed on a dealing or caveat, it must be drawn in such a manner that the lines and notation of the plan do not obscure or interfere with any writing or printing on the dealing or caveat.
- 16** Where the original plan is not available, an annexed plan may be a reproduction prepared by means of a photographic or similar approved process and, if so prepared:
- (a) must comply with items 1–15, and
  - (b) must contain only printing that is permanent and legible with a dense black image free from excessive background, and

## Real Property Regulation 2008

Schedule 5 Requirements for plans annexed to or endorsed on dealings (other than leases of premises) or caveats

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(c) must be so prepared that the process does not affect the quality of the paper, and

(d) must be authenticated by original signatures.

**17** Plans annexed to or endorsed on dealings or caveats must be compiled plans and not plans of survey except with the consent of the Registrar-General.

Real Property Regulation 2008

Requirements for plans annexed to or endorsed on leases of premises

Schedule 6

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## **Schedule 6 Requirements for plans annexed to or endorsed on leases of premises**

(Clause 9)

- 1 For the purposes of this Schedule, *premises* means a building or part of a building, unless the Registrar-General approves otherwise.
- 2 A plan must identify the premises to which it relates.
- 3 Premises that comprise the whole of a building may be defined by measurements in a plan.
- 4 Premises that comprise part of a building may be identified in a plan by showing the outer walls of the building and defining the leased area by reference to:
  - (a) internal walls and fixtures, or
  - (b) dimensions.
- 5 The description of any premises shown in a plan must agree with the description of those premises shown in the lease.
- 6 A plan must be drawn in a manner and to a scale that allows all details and notations to be clearly reproduced by the imaging processes used by the Registrar-General.
- 7 A plan must be neatly and clearly drawn without colour or edging.
- 8 A plan must contain the following particulars:
  - (a) the north point (which must be directed upwards),
  - (b) if the Registrar-General so requires, dimensional connections of the leased premises to the title boundaries,
  - (c) a statement as to the floor level on which the premises are located, where appropriate,
  - (d) sufficient information to define any proposed easement and its relationship to the boundaries of the affected parcel,
  - (e) the signature of each person who has signed the lease to which the plan is annexed.
- 9 The lengths shown on a plan must be expressed in metres and not in any other unit of measurement of length (whether or not related to the metre), without the use of any symbol or abbreviation to represent the metre as the unit of measurement employed.

## Real Property Regulation 2008

## Schedule 6 Requirements for plans annexed to or endorsed on leases of premises

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- 10** Area measurements shown on a plan must be expressed in square metres accompanied by the symbol “m<sup>2</sup>”.
- 11** Unless the Registrar-General otherwise approves, all words, letters, figures and symbols appearing on a plan:
- (a) must be shown in capital letters (except as provided by item 10), and
  - (b) must be open in formation and construction, and
  - (c) must be drawn in an upright style, and
  - (d) must be in the English language.
- 12** A plan may be altered only by striking through the matter to be altered. In particular, a plan may not be altered by the use of correction fluid or by rubbing, scraping or cutting the surface of the sheet on which the plan is drawn. The Registrar-General may require a sheet on which a plan is drawn to be replaced if, in the opinion of the Registrar-General, any alteration on the sheet will render it unsuitable for imaging.
- 13** Each plan sheet must consist of paper, or some other approved medium.
- 14** A plan must be drawn on only one side of a plan sheet and must be drawn on a matt surface.
- 15** Each plan sheet must be free from blemishes and creases.
- 16** Each plan sheet must be 297mm in length by 210mm in width (standard A4) and have clear margins of at least 10mm on each side and at the top and bottom.
- 17** If a plan is endorsed on a lease, it must be drawn in such a manner that the lines and notation of the plan do not obscure or interfere with any writing or printing on the lease.
- 18** Where the original plan is not available, an annexed plan may be a reproduction prepared by means of a photographic or similar approved process and, if so prepared:
- (a) must comply with items 1–17, and
  - (b) must contain only printing that is permanent and legible with a dense black image free from excessive background, and
  - (c) must be so prepared that the process does not affect the quality of the paper, and
  - (d) must be authenticated by original signatures.

Real Property Regulation 2008

Requirements for plans annexed to or endorsed on leases of premises

Schedule 6

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- 19** Plans annexed to or endorsed on leases must be compiled plans and not plans of survey except with the consent of the Registrar-General.



New South Wales

# Road Rules Amendment (Driver Licensing) Regulation 2008

under the

Road Transport (Safety and Traffic Management) Act 1999

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (Safety and Traffic Management) Act 1999*.

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

## Explanatory note

The object of this Regulation is to amend the *Road Rules 2008* as a consequence of the repeal of the *Road Transport (Driver Licensing) Regulation 1999* and its replacement by the *Road Transport (Driver Licensing) Regulation 2008*.

This Regulation is made under the *Road Transport (Safety and Traffic Management) Act 1999*, including sections 71 (the general regulation-making power) and 72A (the general rule-making power).



Clause 1 Road Rules Amendment (Driver Licensing) Regulation 2008

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## **Road Rules Amendment (Driver Licensing) Regulation 2008**

under the

Road Transport (Safety and Traffic Management) Act 1999

### **1 Name of Regulation**

This Regulation is the *Road Rules Amendment (Driver Licensing) Regulation 2008*.

### **2 Commencement**

This Regulation commences on 1 September 2008.

### **3 Amendment of Road Rules 2008**

The *Road Rules 2008* are amended as set out in Schedule 1.

Road Rules Amendment (Driver Licensing) Regulation 2008

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 3)

- [1] **Rule 271–1 NSW rule: passengers on motor bikes not permitted unless rider holds licence for at least 12 months**  
Omit “12 (2) (a)” wherever occurring in subrule (2) and Note 1.  
Insert instead “17 (1) (a)”.
- [2] **Rules 271–1 (2) and Note 1, 271–2 (3) and 300–5, Note 3 and Dictionary, definitions of “Provisional P1 licence” and “Provisional P2 licence”**  
Omit “*Road Transport (Driver Licensing) Regulation 1999*” wherever occurring.  
Insert instead “*Road Transport (Driver Licensing) Regulation 2008*”.
- [3] **Rule 300–5, Note 3**  
Omit “Clause 55 (5)”. Insert instead “Clause 99 (7)”.



New South Wales

# Road Transport (Driver Licensing) Regulation 2008

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 remake, with some changes, the provisions of the *Road Transport (Driver Licensing) Regulation 1999*, which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the classes of driver licences and the form of those licences,
- (b) learner licences, provisional licences and heavy vehicle learner licences,
- (c) the eligibility requirements for the different classes of driver licences,
- (d) procedures relating to applications for the issue or variation of driver licences,
- (e) the requirement that holders of driver licences submit to testing of driving ability and knowledge of safe driving practices and road law and undergo medical examinations,
- (f) the expiration, renewal and surrender of driver licences,
- (g) the variation, suspension, cancellation and downgrading of driver licences and the offences for which demerit points are incurred,
- (h) the motorcycle licence riding and testing scheme,
- (i) interlock driver licences and devices,
- (j) exemptions of drivers from requirements to hold driver licences,
- (k) miscellaneous provisions, including provisions relating to the administration of the driver licensing scheme and fees payable,
- (l) savings, transitional and formal matters.

Road Transport (Driver Licensing) Regulation 2008

Explanatory note

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This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature, matters of a savings nature and matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory.

This Regulation is made under the *Road Transport (Driver Licensing) Act 1998*, including sections 9, 11, 12, 13, 14, 15, 17, 19 (the general regulation-making power), 20, 21C, 25, 25A, 40 and 41.

## Road Transport (Driver Licensing) Regulation 2008

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Clause 1

Preliminary

Part 1

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## Road Transport (Driver Licensing) Regulation 2008

under the

Road Transport (Driver Licensing) Act 1998

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Road Transport (Driver Licensing) Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Road Transport (Driver Licensing) Regulation 1999* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Object

The object of this Regulation is to assist in providing for the consistent administration and enforcement of a driver licensing system throughout Australia.

#### 4 Definitions

(1) In this Regulation:

**alcohol interlock program**, in relation to a person, means an interlock program referred to in Chapter 5 of the *Road Transport (General) Act 2005* the participants in which are holders of interlock driver licences.

**allied professional practitioner** means a clinical psychologist, an optometrist or occupational therapist registered or licensed under a State or Territory law that provides for the registration or licensing of such persons.

**applicable fee**—see clause 111.

**articulated bus** means a bus consisting of more than one rigid section with passenger access between the sections and the sections connected to one another so as to allow rotary movement between the sections.

**Assessing Fitness to Drive** means the publication *Assessing Fitness to Drive* published by Austroads Inc and approved by the Australian Transport Council, as in force from time to time.

Clause 4	Road Transport (Driver Licensing) Regulation 2008
Part 1	Preliminary

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**car licence** means a licence referred to in clause 7 (3).

**car-based motor tricycle** means a motor trike that:

- (a) has displayed on it a compliance plate issued by the Australian Transport Safety Bureau, with the category LEM, LEP or LEG, and
- (b) has a GVM that is not greater than 1 tonne, and
- (c) is constructed or equipped to seat not more than 3 adult persons including the driver, and
- (d) has a rear mounted engine of a kind manufactured for a motor car, and
- (e) has a transmission of a kind manufactured for a motor car with direct drive to the rear wheels, and
- (f) has at least 2 of the following characteristics:
  - (i) pedal operated clutch or automatic transmission,
  - (ii) pedal operated fully integrated braking system,
  - (iii) left-hand operated gear stick not mounted on the handlebars.

**class B motor vehicle** means:

- (a) a motor vehicle with a GVM exceeding 4.5 tonnes but not exceeding 12 tonnes, or
- (b) a motor vehicle and trailer combination with a GCM exceeding 4.5 tonnes but not exceeding 12 tonnes.

**class C motor vehicle** means a coach (within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*) or a motor vehicle with a GVM of more than 12 tonnes.

**Contracting State** means a foreign country that is a signatory to the *United Nations Convention on Road Traffic, Geneva, 1949*.

**converter dolly** means a trailer with one axle group or single axle and a fifth wheel coupling designed to convert a semi-trailer into a dog trailer.

**foreign driver licence** means a licence to drive a motor vehicle held by an international visitor and issued in the country in which the person is ordinarily resident.

**GCM** and **GVM** have the same meanings as they have in the *Road Transport (Safety and Traffic Management) Act 1999*.

**heavy combination vehicle licence** means a licence referred to in clause 7 (9).

**heavy rigid vehicle licence** means a licence referred to in clause 7 (8).

**implement** means a motor vehicle (other than a mobile crane) that comprises an excavator, road grader, road roller, bulldozer, forklift

Road Transport (Driver Licensing) Regulation 2008

Clause 4

Preliminary

Part 1

truck or other machinery or apparatus and is not constructed on a chassis of a type normally used in the construction of a motor lorry.

**international driving permit** means a permit issued by:

- (a) a competent authority of a Contracting State or a subdivision of such a State, or
- (b) an association duly empowered by such an authority in accordance with the *United Nations Convention on Road Traffic, Geneva, 1949*.

**international visitor** means a person who:

- (a) is ordinarily resident in a foreign country, and
- (b) is not a permanent resident of Australia.

**licence class**—see clause 5.

**licence expiry date** means the date recorded in the driver licence register, in accordance with clause 103 (1) (f), as the date on which the driver licence expires.

**light rigid vehicle licence** means a licence referred to in clause 7 (6).

**medical practitioner** means a person registered or licensed as a medical practitioner under a State or Territory law that provides for the registration or licensing of such persons.

**medium rigid vehicle licence** means a licence referred to in clause 7 (7).

**motor bike** means a motor vehicle with two wheels and includes a two wheeled motor vehicle with a side car attached to it and supported by a third wheel.

**motor trike** means a motor vehicle with three wheels, but does not include a two wheeled motor vehicle with a side car attached to it and supported by a third wheel.

**motorcycle licence** means a licence referred to in clause 7 (2).

**multi-combination vehicle licence** means a licence referred to in clause 7 (10).

**prime mover** means a motor vehicle built to tow a semi-trailer.

**provisional P1 licence** means a provisional licence issued in accordance with clause 20.

**provisional P2 licence** means a provisional licence issued in accordance with clause 27.

**rigid** means not articulated, other than in respect of an articulated bus.

**road transport legislation** has the same meaning as in the *Road Transport (General) Act 2005*.

**Safe-T-Cam sign** means a traffic sign bearing the words "SAFE-T-CAM MANAGING SPEED AND FATIGUE".

Clause 4	Road Transport (Driver Licensing) Regulation 2008
Part 1	Preliminary

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**Safe-T-Cam zone** means a length of road to which a Safe-T-Cam sign applies, being a length of road beginning at a Safe-T-Cam sign and ending 300 metres along the length of road in the direction driven by a driver on the road who faces the sign before passing it.

**school zone** means a school zone (as defined in rule 23 of the *Road Rules 2008*), but only during any period in which the speed limit indicated by a school zone sign has effect, as referred to in rule 318 (3–1) of those Rules.

**semi-trailer** means a trailer (including a pole-type trailer) that has:

- (a) one axle group or single axle towards the rear, and
- (b) a means of attachment to a prime mover that would result in some of the load being imposed on the prime mover.

**the Act** means the *Road Transport (Driver Licensing) Act 1998*.

**trailer** means a vehicle that is built to be towed, or is towed, by a motor vehicle but does not include a motor vehicle being towed.

**1999 Reg** means the *Road Transport (Driver Licensing) Regulation 1999*.

**Note.** Other expressions are defined in the Dictionary to the Act.

- (2) Notes included in this Regulation do not form part of this Regulation.

Road Transport (Driver Licensing) Regulation 2008

Clause 5

Driver licences generally

Part 2

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## Part 2 Driver licences generally

### 5 Licence classes and class codes (cf cl 26 1999 Reg)

- (1) For the purposes of this Regulation, the classes of driver licence are as follows:
- (a) car licence (being a car licence other than an interlock driver licence or a car licence that is an interlock driver licence),
  - (b) motorcycle licence,
  - (c) light rigid vehicle licence,
  - (d) medium rigid vehicle licence,
  - (e) heavy rigid vehicle licence,
  - (f) heavy combination vehicle licence,
  - (g) multi-combination vehicle licence.
- (2) A licence class may be shown on a driver licence by means of a symbol or by the code (the *licence code*) shown opposite the relevant licence class in the following table.

Licence class	Licence code
motorcycle licence	R
car licence	C
light rigid vehicle licence	LR
medium rigid vehicle licence	MR
heavy rigid vehicle licence	HR
heavy combination vehicle licence	HC
multi-combination vehicle licence	MC

- (3) A licence class may be described by reference to its licence code.

### 6 Hierarchy of licence classes (cf cl 27 1999 Reg)

- (1) For the purposes of this Regulation, the hierarchy of licence classes, ordered from the lowest to the highest class, is as follows:
- (a) car licence,
  - (b) light rigid vehicle licence,
  - (c) medium rigid vehicle licence,
  - (d) heavy rigid vehicle licence,

Clause 7 Road Transport (Driver Licensing) Regulation 2008

Part 2 Driver licences generally

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- (e) heavy combination vehicle licence,
- (f) multi-combination vehicle licence.

(2) A motorcycle licence is not included in the hierarchy.

**7 Vehicles authorised to be driven in licence classes** (cf cl 26 1999 Reg)

- (1) The holder of a licence of a particular class may drive motor vehicles of a particular kind, as set out in this clause, and motor vehicles in any lower class according to the hierarchy of licence classes.
- (2) The holder of a motorcycle licence may drive a motor bike or motor trike, other than a motor trike that has a body type commonly known as, or similar to, a sedan, station wagon, coupe, convertible, roadster, utility, tray top or van.
- (3) The holder of a car licence (other than an interlock driver licence) may drive any of the following:
  - (a) a motor vehicle with a GVM that is not greater than 4.5 tonnes and that is constructed or equipped to seat not more than 12 adults (including the driver),
  - (b) a car-based motor tricycle,
  - (c) any tractor or implement.
- (4) However, the authority conferred by a car licence (other than an interlock driver licence) does not entitle the holder to drive:
  - (a) a motor bike, or
  - (b) a motor trike (other than a car-based motor tricycle) that does not have a body type commonly known as, or similar to, a sedan, station wagon, coupe, convertible, roadster, utility, tray top or van.
- (5) The holder of a car licence that is an interlock driver licence may drive a motor vehicle with a GVM that is not greater than 4.5 tonnes and that is constructed or equipped to seat not more than 12 adults (including the driver).
- (6) The holder of a light rigid vehicle licence may drive a motor vehicle that:
  - (a) has a GVM greater than 4.5 tonnes but not greater than 8 tonnes, or
  - (b) seats more than 12 adults (including the driver) and has a GVM not greater than 8 tonnes.
- (7) The holder of a medium rigid vehicle licence may drive a motor vehicle that has 2 axles and a GVM greater than 8 tonnes.



Road Transport (Driver Licensing) Regulation 2008

Clause 8

Driver licences generally

Part 2

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- (8) The holder of a heavy rigid vehicle licence may drive a motor vehicle (including an articulated bus, but not including any other articulated vehicle) that has 3 or more axles and a GVM greater than 8 tonnes.
  - (9) The holder of a heavy combination vehicle licence may drive:
    - (a) a prime mover to which is attached a single semi-trailer plus any unladen converter dolly, or
    - (b) a rigid motor vehicle to which is attached a trailer that has a GVM greater than 9 tonnes plus any unladen converter dolly.
  - (10) The holder of a multi-combination vehicle licence may drive any motor vehicle or combination of vehicles other than a motor bike or motor trike described in subclause (2).

**8 Authorisation to tow trailers and semi-trailers** (cf 26 (10)–(12) 1999 Reg)

- (1) The holder of a car licence or light rigid vehicle licence may drive a motor vehicle covered by that licence class that is towing a single trailer with a GVM not greater than 9 tonnes, but only if:
  - (a) in the case of a motor vehicle that has a GVM of up to 4.5 tonnes, the requirements of any law in force in this State in relation to the mass limits for combinations of light vehicles are met, or
  - (b) in the case of a motor vehicle that has a GVM greater than 4.5 tonnes, the mass limits for combinations specified in the *Road Transport (Mass, Loading and Access) Regulation 2005* are met.
- (2) The holder of a medium rigid vehicle licence or heavy rigid vehicle licence may drive a motor vehicle covered by that licence class that is towing a single trailer (other than a trailer commonly known as a semi-trailer) that has a GVM not greater than 9 tonnes, but only if the mass limits for combinations specified in the *Road Transport (Mass, Loading and Access) Regulation 2005* are met.
- (3) Nothing in subclause (2) prevents the holder of a medium rigid vehicle licence or heavy rigid vehicle licence from towing a car carrier, horse float or like trailer that has a GVM not greater than 9 tonnes.
- (4) The driver of a vehicle towing a semi-trailer must hold a heavy combination vehicle licence.

**9 Conditional licences and condition codes** (cf cl 28 and 57 (2) 1999 Reg)

- (1) A condition to which a driver licence is subject may be shown on the driver licence by means of a code or symbol.

Clause 9 Road Transport (Driver Licensing) Regulation 2008  
 Part 2 Driver licences generally

- 
- (2) If a condition is shown by a code or symbol, the driver licence must bear a note to the effect that the condition can be found out by inquiry of the Authority.
- (3) The holder of a conditional licence must, if required to do so by the Authority, carry, when driving, any notice issued by the Authority containing a full explanation of the conditions to which the licence is subject.  
 Maximum penalty: 20 penalty units.
- (4) The holder of an Australian driver licence issued in another jurisdiction that is a conditional licence bearing the code X, and that refers to a condition imposed under a provision of a law of that jurisdiction corresponding to this clause or clause 55, must carry a notice issued by the Authority containing a full explanation of the conditions to which the licence is subject when driving in this State.  
 Maximum penalty: 20 penalty units.
- (5) A condition code in Column 1 of the Table to this subclause may be used on a driver licence to indicate that the licence is subject to the licence condition set out in Column 2 opposite that code.

<b>Condition code</b>	<b>Licence condition</b>
A	The holder must drive only a motor vehicle fitted with an automatic transmission.
B	If the holder drives a heavy vehicle, the vehicle must be fitted with a synchromesh transmission or automatic transmission.
E	If the holder is the rider of a motor bike or motor trike, the motor bike or motor trike must be of restricted engine capacity as notified in writing by the Authority to the holder on issue or variation of the licence.
I	The holder must drive only a motor vehicle fitted with an approved interlock device within the meaning of Part 2A of the Act.
S	The holder must wear corrective lenses at all times while driving.
V	The holder must drive only a motor vehicle fitted with specified driver aids, or modified as directed in writing by the Authority or printed on the licence.

Road Transport (Driver Licensing) Regulation 2008

Clause 10

Driver licences generally

Part 2

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Condition code	Licence condition
X	The holder must comply with any condition of which the holder has been notified in writing by the Authority on issue or variation of the licence or that is printed on the licence.
Z	The holder must not drive with a breath or blood alcohol concentration of 0.02 grams or more of alcohol in 210 litres of breath or 100 mls of blood.

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- (6) A short description of a licence condition may be printed on a driver licence.

**10 Form of driver licence** (cf cl 22 1999 Reg)

- (1) A driver licence must show:
- a licence number for the person to whom it is issued, and
  - the full name of the person, and
  - a photograph of the person, and
  - the person's date of birth, and
  - the person's residential address, and
  - the person's signature (or a reproduction of that signature), and
  - the class or classes of licence held by the person, and
  - the expiry date of the licence, and
  - the code of any condition to which the licence is subject.
- (2) Despite subclause (1) (e), the Authority may issue a driver licence showing an alternative address to any of the following persons:
- a judicial officer within the meaning of the *Judicial Officers Act 1986*,
  - a Crown Prosecutor appointed under the *Crown Prosecutors Act 1986*,
  - a person who lives at the same residential address as a person referred to in paragraph (a) or (b).

**11 Code on licences issued to temporary overseas visitors** (cf cl 22 (3) 1999 Reg)

The Authority may include on a driver licence issued subject to clause 43 (Special eligibility criteria for temporary overseas visitors) a code or symbol, together with a statement, to indicate that the licensee has not provided the Authority with evidence of permanent resident status.

Clause 12 Road Transport (Driver Licensing) Regulation 2008

Part 3 Learner licences, provisional licences and heavy vehicle learners

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## **Part 3 Learner licences, provisional licences and heavy vehicle learners**

### **Division 1 Learner licences**

#### **Subdivision 1 Eligibility for, conditions of, and cancellation or suspension of learner licence**

##### **12 Eligibility to apply for learner licence** (cf cl 10 1999 Reg)

- (1) A person is eligible to apply for a learner licence if the person meets the relevant eligibility requirements set out in this clause, or is exempted from being required to do so:
  - (a) in any case (including a learner licence that is a motorcycle licence)—by the Authority under Part 4, or
  - (b) in the case of a learner licence that is a motorcycle licence—under clause 69.
- (2) The relevant eligibility requirement for a learner licence that is a car licence is that the person is at least 16 years of age.
- (3) The relevant eligibility requirements for a learner licence that is a motorcycle licence are:
  - (a) that the person is at least 16 years and 9 months of age, and
  - (b) that the person is the holder of a certificate of satisfactory completion of a learner licence rider training course under Part 9 (being a certificate that is not more than 3 months old when the person applies for the licence).
- (4) The Authority may grant a learner licence to an applicant who is under the required age, but only if the Authority is satisfied that special circumstances exist that justify the granting of a learner licence to the person.
- (5) Despite any other provision of this clause, a learner licence may be granted for any period to a person whose provisional licence, not being a motorcycle licence, has been cancelled.

##### **13 Conditions of learner licences** (cf cl 11 1999 Reg)

A learner licence may be subject to any of the following conditions:

- (a) a condition specifying the minimum period for which a learner licence must be held before a provisional licence will be issued to the holder,
- (b) a condition limiting the hours during which and locality in which the learner may drive a motor vehicle.

Road Transport (Driver Licensing) Regulation 2008

Clause 14

Learner licences, provisional licences and heavy vehicle learners

Part 3

**14 Cancellation or suspension of learner licence** (cf cl 12A 1999 Reg)

In addition to any other ground on which a learner licence may be cancelled or suspended by the Authority, a learner licence may be immediately cancelled or suspended by the Authority in the event of any of the following:

- (a) the holder of the learner licence is convicted of an offence under the Act or this Regulation or of an offence set out in Schedule 1,
- (b) the holder of the learner licence pays a penalty pursuant to section 183 of the *Road Transport (General) Act 2005* in respect of any such offence,
- (c) an order under Division 4 of Part 3 of the *Fines Act 1996* has been made, or is taken to be made, against the holder of the learner licence in respect of any such offence.

**Subdivision 2 Restrictions relating to learner licences**

**15 Learner licence holder must be supervised in vehicle and display “L” plates** (cf cl 12 (1) and (2A) 1999 Reg)

- (1) The holder of a learner licence must not drive a motor vehicle (other than a motor bike or motor trike) on a road or road related area unless:
  - (a) the seat next to the learner is occupied by a person who holds an Australian driver licence (not being an Australian learner licence or provisional licence) authorising the holder to drive such a vehicle, or by a police officer or a person authorised by the Authority to test drivers who is submitting the learner to a driving test for the purposes of this Regulation, and
  - (b) a sign, issued or authorised by the Authority and displaying the letter “L” in black on a yellow background, is displayed:
    - (i) on the exterior of the vehicle in a conspicuous position at the front and the rear of the vehicle, or a conspicuous position on the roof of the vehicle, and
    - (ii) in such a manner as to be clearly visible and not to in any way obscure the letter “L” on the sign when viewed from ahead of or behind the vehicle.

Maximum penalty: 20 penalty units.

- (2) The offence under subclause (1) (a) is the offence of being the holder of a learner licence driving unaccompanied by a supervising driver for the purposes of section 19A of the Act and sections 205 and 206 of the *Road Transport (General) Act 2005*.

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- (3) If a person is convicted of an offence under subclause (1) (a), the person is disqualified by the conviction (and without any specific order) from holding a driver licence:
- (a) for a period of 3 months, or
  - (b) if the court on the conviction thinks fit to order a different period of disqualification determined in accordance with subclause (4), for the period specified in the order.

**Note.** Section 189 of the *Road Transport (General) Act 2005* provides for the effect of a disqualification (whether or not by order of a court).

- (4) In determining a different period of disqualification under subclause (3), the court may specify a period that is:
- (a) more than 3 months but no more than 12 months, or
  - (b) less than 3 months, but only if:
    - (i) the person's driver licence or authority to drive in New South Wales has been suspended for a period (*the suspension period*) under section 205 or 206 of the *Road Transport (General) Act 2005* for that offence, and
    - (ii) the specified disqualification period when added to the suspension period results in a total period of not less than 3 months.
- (5) The disqualification referred to in subclause (3) is in addition to any other penalty imposed for the offence.
- (6) A period of disqualification imposed under subclause (3) commences on the date of conviction for the offence to which it relates.
- (7) The Authority may exempt a person from a requirement in subclause (1) (b) if the person, having held a licence other than a learner licence, currently holds a learner licence because of failing a test of driving ability that the Authority required the person to take.
- (8) In this clause, a reference to a learner licence includes a reference to a foreign driver licence that has the same or similar effect as a learner licence.

**16 Responsibility of person supervising holder of learner licence** (cf cl 12 (5) 1999 Reg)

A person accompanying a learner in a vehicle being driven by the learner on a road or road related area (other than a person submitting the learner to a driving test for any of the purposes of this Regulation) must:

- (a) supervise the learner with respect to the driving of the vehicle, and

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- (b) take all reasonable precautions to prevent a contravention of the road transport legislation.

Maximum penalty: 20 penalty units.

**17 Motor bikes and motor trikes** (cf cl 12 (2), (2A) and (3) 1999 Reg)

- (1) The holder of a learner licence must not ride a motor bike or motor trike on a road or road related area:
  - (a) if the motor bike or motor trike is being used for the carriage of any person except the learner, and
  - (b) unless a sign, issued or authorised by the Authority and displaying the letter “L” in black on a yellow background, is displayed:
    - (i) in a conspicuous position at the rear of the motor bike or motor trike, and
    - (ii) in such a manner as to be clearly visible and not to in any way obscure the letter “L” on the sign when viewed from behind the motor bike or motor trike.

Maximum penalty: 20 penalty units.

- (2) The holder of a learner licence must not ride a motor bike or motor trike on a road or road related area unless, at the time it is ridden, the motor bike or motor trike:
  - (a) is listed for the time being in the Authority’s publication *Approved motorcycles for novice riders*, published on the Authority’s website and available from motor registries, and
  - (b) has an engine capacity that is not greater than 660 ml and a power to weight ratio that is not greater than 150 kilowatts per tonne.

Maximum penalty: 20 penalty units.

- (3) The Authority may exempt a person from a requirement in subclause (1) (b) if the person, having held a licence other than a learner licence, currently holds a learner licence because of failing a test of riding ability that the Authority required the person to take.
- (4) In this clause, a reference to a learner licence includes a reference to a foreign driver licence that has the same or similar effect as a learner licence.

**18 Restrictions on towing** (cf cl 13 1999 Reg)

The holder of a learner licence must not drive a motor vehicle on a road or road related area if the vehicle:

- (a) is towing any other vehicle (whether or not a trailer), or

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(b) is being towed by any other vehicle.

Maximum penalty: 20 penalty units.

**19 Owner of vehicle must take steps to prevent breach of this Subdivision**

(cf cl 12 (4) 1999 Reg)

Without limiting the liability of any other person, the owner or person in charge of a motor vehicle is guilty of an offence if the person causes, permits or allows, or fails to take reasonable precautions to prevent, a contravention of this Subdivision.

Maximum penalty: 20 penalty units.

**Division 2 Provisional licences**

**Subdivision 1 First-stage provisional licences (provisional P1)**

**20 Issue of provisional P1 licence** (cf cl 15 (1), (2) and (3) 1999 Reg)

(1) Except as provided by Division 1, a driver licence issued to an applicant who has not previously held, for a continuous period of at least 12 months (not including any period of suspension), any of the following licences:

- (a) a car licence or motorcycle licence, or
- (b) an Australian driver licence of a class considered appropriate by the Authority, or
- (c) a foreign driver licence of a type considered appropriate by the Authority,

must be a provisional licence of class C or class R, to be known as a provisional P1 licence.

- (2) A provisional P1 licence is to be issued for a period of up to 18 months.
- (3) However, the period for which a provisional P1 licence is to be issued to a person who is a licence holder transferring from being a licence holder in another State, Territory or country may be reduced by the Authority by the amount of time that the person held the licence in the other State, Territory or country.

**21 Conditions to which provisional P1 licence of class C is subject** (cf cl 15 (4) 1999 Reg)

A provisional P1 licence of class C is subject to the following conditions (in addition to any other conditions that may be attached to the licence):

- (a) the holder must not drive any motor vehicle unless a sign, issued or authorised by the Authority and displaying the letter "P" in red on a white background, is displayed:



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- (i) in the case of a vehicle not towing a trailer—on the exterior of the vehicle in a conspicuous position at the front and the rear of the vehicle, or a conspicuous position on the roof of the vehicle, and
  - (ii) in the case of a vehicle towing a trailer—on the exterior of the vehicle and trailer in a conspicuous position at the front of the vehicle and the rear of the trailer, or a conspicuous position on the roof of the vehicle, and
  - (iii) in such a manner as to be clearly visible and not to in any way obscure the letter “P” on the sign when viewed from ahead of or behind the vehicle,
- (b) the holder must not drive a car-based motor tricycle.

**22 Conditions to which provisional P1 licence of class R is subject**

(cf cl 15 (4) 1999 Reg)

A provisional P1 licence of class R is subject to the following conditions (in addition to any other conditions that may be attached to the licence):

- (a) the holder must not drive any motor bike or motor trike unless a sign, issued or authorised by the Authority and displaying the letter “P” in red on a white background, is displayed:
  - (i) in a conspicuous position at the rear of the motor bike or motor trike, and
  - (ii) in such a manner as to be clearly visible and not to in any way obscure the letter “P” on the sign when viewed from behind the motor bike or motor trike,
- (b) the holder must not drive a motor bike or motor trike on a road or road related area unless, at the time it is driven, the motor bike or motor trike:
  - (i) is listed for the time being in the Authority’s publication *Approved motorcycles for novice riders*, published on the Authority’s website and available from motor registries, and
  - (ii) has an engine capacity that is not greater than 660 ml and a power to weight ratio that is not greater than 150 kilowatts per tonne.

**23 Restrictions on towing** (cf cl 15 (6) 1999 Reg)

The holder of a provisional P1 licence must not drive a motor vehicle on a road or road related area if:

- (a) in the case of a provisional P1 licence of class C—the motor vehicle is towing any other motor vehicle (whether or not a trailer) having an unladen mass in excess of 250 kg, or

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- (b) in the case of a provisional P1 licence of class R—the motor bike or motor trike is towing any other vehicle (whether or not a trailer).

Maximum penalty: 20 penalty units.

**24 Cancellation or suspension of provisional P1 licence** (cf cl 15 (5) and (8) 1999 Reg)

- (1) In addition to any other ground on which a licence may be cancelled or suspended by the Authority, a provisional P1 licence may be cancelled or suspended immediately by the Authority in the event of any of the following:
- (a) the holder of the licence is convicted of an offence under the Act or this Regulation or of an offence set out in Schedule 1,
  - (b) the holder of the licence pays a penalty pursuant to section 183 of the *Road Transport (General) Act 2005* in respect of any such offence,
  - (c) an order under Division 4 of Part 3 of the *Fines Act 1996* has been made, or is taken to be made, against the licence holder in respect of any such offence,
  - (d) the holder of the licence fails to observe any term or condition of the licence.
- (2) If a provisional P1 licence held by a person is cancelled by the operation of section 189 of the *Road Transport (General) Act 2005*, the Authority may issue another provisional P1 licence to the person and require the person to hold the licence for a period of 12 months before being eligible to apply for a provisional P2 licence or an unrestricted licence of any class.

**25 Demerit points and speeding offences—eligibility for provisional P2 or unrestricted licence** (cf cl 15 (7) 1999 Reg)

A person who holds a provisional P1 licence of class C is not eligible to apply for a provisional P2 licence of class C, and a person who holds a provisional P1 licence of class R is not eligible to apply for an unrestricted licence of class R, if:

- (a) the person has incurred 4 or more demerit points while holding the provisional P1 licence, and action under section 17 of the Act to suspend or cancel the licence as a consequence has not been taken or completed, or
- (b) the person has committed speeding offences, within the meaning of section 33 of the Act, while holding the provisional P1 licence, and action under that section to cancel or suspend the licence as a consequence has not been taken or completed.

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**26 Provisional P1 licence ceases to be in force on issue of other licence**

(cf cl 15 (9) and (10) 1999 Reg)

- (1) On the issue to a person of a provisional P2 licence of class C, LR, MR or HR, any provisional P1 licence of the same class previously issued to the person ceases to be in force.
- (2) On the issue to a person of an unrestricted licence of class R, any provisional P1 licence of the same class previously issued to the person ceases to be in force.

**Subdivision 2 Second-stage provisional licences (provisional P2)**

**27 Issue of provisional P2 licence** (cf cl 15A (1), (2) and (3)1999 Reg)

- (1) Except as provided by Division 1 and Subdivision 1, a licence (other than a motorcycle licence) that is issued to an applicant who has not previously held, for a period or periods totalling at least 36 months (not including any period of suspension), any of the following:
  - (a) a car licence, or
  - (b) an Australian driver licence of a class considered appropriate by the Authority, or
  - (c) a foreign driver licence of a type considered appropriate by the Authority,must be a provisional P2 licence of class C, class LR, class MR or class HR.
- (2) A provisional P2 licence is to be issued for a period of up to 30 months.
- (3) However, the period for which a provisional P2 licence is to be issued to a person who is a licence holder transferring from being a licence holder in another State, Territory or country may be reduced by the Authority by the amount of time that the person held the licence in the other State, Territory or country.

**28 Conditions to which provisional P2 licence is subject** (cf cl 15A (4), (4A) and (5) 1999 Reg)

- (1) A provisional P2 licence is subject to the condition (in addition to any others that may be attached to the licence) that the holder must not drive any motor vehicle unless a sign, issued or authorised by the Authority and displaying the letter "P" in green on a white background, is displayed:
  - (a) in the case of a vehicle not towing a trailer—on the exterior of the vehicle in a conspicuous position at the front and the rear of the vehicle, or a conspicuous position on the roof of the vehicle, and

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(b) in the case of a vehicle towing a trailer—on the exterior of the vehicle and trailer in a conspicuous position at the front of the vehicle and the rear of the trailer, or a conspicuous position on the roof of the vehicle, and

(c) in such a manner as to be clearly visible and not to in any way obscure the letter “P” on the sign when viewed from ahead of or behind the vehicle.

(2) However, the driver of an emergency vehicle, within the meaning of the *Road Rules 2008*, is exempt from that condition while driving the vehicle in the performance of his or her duty.

(3) A provisional P2 licence is subject to the condition that the holder must not drive a car-based motor tricycle in addition to any other conditions that may be attached to the licence.

**29 Cancellation or suspension of provisional P2 licence** (cf cl 15A (6) and (8) 1999 Reg)

(1) In addition to any other ground on which a licence may be cancelled or suspended by the Authority, a provisional P2 licence may be cancelled or suspended immediately by the Authority on any of the following grounds:

(a) the holder of the licence is convicted of an offence under the Act or this Regulation or of an offence set out in Schedule 1,

(b) the holder of the licence pays a penalty pursuant to section 183 of the *Road Transport (General) Act 2005* in respect of any such offence,

(c) an order under Division 4 of Part 3 of the *Fines Act 1996* has been made, or is taken to be made, against the licence holder in respect of any such offence,

(d) the holder of the licence fails to observe any term or condition of the licence.

(2) If a provisional P2 licence held by a person is cancelled by the operation of section 189 of the *Road Transport (General) Act 2005*, the Authority may issue another provisional P2 licence to the person and require the person to hold the licence for a period of 24 months before being eligible to apply for an unrestricted licence of any class.

**30 Demerit points and speeding offences—eligibility for unrestricted licence** (cf cl 15A (7) 1999 Reg)

A person who holds a provisional P2 licence is not eligible to apply for an unrestricted licence of the same class if:

(a) the person has incurred 7 or more demerit points while holding the licence, and action under section 17 of the Act to cancel or

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suspend the licence as a consequence has not been taken or completed, or

- (b) the person has committed speeding offences, within the meaning of section 33 of the Act, while holding the licence, and action under that section to cancel or suspend the licence as a consequence has not been taken or completed.

**31 Provisional P2 licence ceases to be in force on issue of other licence**

(cf cl 15A (9) 1999 Reg)

On the issue to a person of an unrestricted licence (other than a motorcycle licence), any provisional P2 licence previously issued to the person ceases to be in force.

**Subdivision 3 Restrictions on provisional P1 and P2 licences**

**32 High performance vehicle restrictions** (cf cl 15B 1999 Reg)

- (1) In addition to any other conditions that may be attached to a provisional licence, such a licence (other than a motorcycle licence) is subject to the condition that the holder must not drive a high performance vehicle.
- (2) For the purposes of this clause, a **high performance vehicle** is a vehicle:
  - (a) with an engine having 8 or more cylinders, or
  - (b) the engine of which is turbocharged or supercharged (other than a diesel powered vehicle), or
  - (c) that has had any substantial modification made to the engine of the vehicle to increase the performance of the vehicle (not being a modification made by the manufacturer of the vehicle in the course of manufacture of the vehicle), or
  - (d) that has had any modification made to the vehicle that is listed for the time being in the Authority's publication *Novice Driver—High performance vehicle restrictions* as a high performance modification for the purposes of this clause, or
  - (e) that is listed for the time being in the Authority's publication *Novice Driver—High performance vehicle restrictions* as a high performance vehicle for the purposes of this clause.
- (3) A vehicle is not a **high performance vehicle** for the purposes of this clause if it is listed for the time being in the Authority's publication *Novice Driver—High performance vehicle restrictions* as a vehicle that is not a high performance vehicle.

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- (4) This clause applies only to a provisional licence issued after 16 December 2005 and applies only if:
  - (a) the person to whom the licence is issued had not held a provisional licence at any time before that date, or
  - (b) the person to whom the licence is issued had held a provisional licence at a time before that date and the licence issued after that date is issued after a disqualification for an offence committed on or after 11 July 2005.
- (5) Nothing in subclause (4) affects a condition imposed on a provisional licence under clause 15B of the *Road Transport (Driver Licensing) Regulation 1999* on or before 16 December 2005.
- (6) The Authority's publication *Novice Drivers—High Performance Vehicle Restrictions* is to be published on the Authority's website and is to be available for perusal free of charge at each motor registry.

**33 12 month passenger restrictions after licence disqualification** (cf cl 15C 1999 Reg)

- (1) In addition to any other conditions that may be attached to a provisional licence, such a licence (other than a motorcycle licence) that is issued to a person by the Authority after a licence disqualification is subject to the condition that the person must not drive a vehicle with more than one passenger in or on the vehicle.
- (2) The condition applies only:
  - (a) for the first 12 months of the term of the first provisional licence issued to the person after the licence disqualification or (if that licence is issued for a term of less than 12 months) for the term of that first provisional licence, or
  - (b) if that first provisional licence is issued for a term of less than 12 months, for the term of that first provisional licence and for such part of the term of any provisional licence issued subsequently or by way of renewal of that first provisional licence as will result in the condition applying for a total period of 12 months.
- (3) This clause applies only to a provisional licence issued after 11 July 2005 and applies only if the licence disqualification concerned relates to a conviction for an offence committed after that date.
- (4) In this clause:

***licence disqualification*** means disqualification of a person from holding a driver licence (whether or not by an order of a court) as a consequence of the person being convicted of an offence by a court under the road transport legislation.

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*passenger* means any person in or on a vehicle other than the driver.

**34 Restrictions on passengers under 21** (cf cl 15CA 1999 Reg)

- (1) In addition to any other conditions that may be attached to a provisional P1 licence, such a licence (other than a class R licence) is subject to the condition that, if the holder is less than 25 years of age, the holder must not drive a vehicle at any time between 11 pm on one day and 5 am on the following day with more than one passenger in or on the vehicle who is less than 21 years of age.
- (2) However, the driver of an emergency vehicle, within the meaning of the *Road Rules 2008*, is exempt from that condition while driving the vehicle in the performance of his or her duty.
- (3) In this clause:  
*passenger* means any person in or on a vehicle other than the driver.

**35 Exemptions from provisional P1 and P2 vehicle and passenger restrictions** (cf cl 15D 1999 Reg)

- (1) The Authority may exempt the holder of a provisional licence from the operation of a provision of this Subdivision if the Authority is satisfied that exceptional circumstances exist that justify the exemption.
- (2) An exemption under this clause is to be granted by the issue of an instrument in writing (which is referred to in this clause as an *exemption letter*).
- (3) An exemption may be granted subject to conditions or unconditionally. Any conditions of an exemption have effect as conditions of the licence to which the exemption relates.
- (4) The Authority may revoke a person's exemption at any time by notice in writing sent to the person.
- (5) An exemption under this clause ceases to be in force:
  - (a) when notice of revocation of the exemption is sent to the person or on such later date as the Authority may specify in the notice, or
  - (b) when the person ceases to be the holder of a provisional licence that would (were it not for the exemption) be subject to the condition to which the exemption relates.
- (6) The driver of a vehicle who has an exemption under this clause must produce the driver's exemption letter on demand by a police officer acting in the execution of the police officer's functions under the road transport legislation.  
Maximum penalty: 20 penalty units.

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- (7) A person must not:
- (a) by any false statement, misrepresentation or other dishonest means, obtain or attempt to obtain an exemption under this clause or an exemption letter, or
  - (b) by any statement made to a police officer falsely claim to have been granted an exemption under this clause, or
  - (c) forge or fraudulently alter an exemption letter, or
  - (d) be in possession of an exemption letter knowing it to have been forged or fraudulently altered or knowing it to have been obtained by any false statement, misrepresentation or other dishonest means, or
  - (e) without lawful authority or reasonable excuse be in possession of an exemption letter or an article resembling an exemption letter, or
  - (f) give or lend an exemption letter to another person knowing or having reasonable cause to suspect that the exemption letter may be fraudulently used by that person or another person as evidence of the grant of an exemption under this clause, or
  - (g) fraudulently use or allow another person to fraudulently use an exemption letter or article resembling an exemption letter as evidence of the grant of an exemption under this clause.

Maximum penalty: 20 penalty units.

- (8) A person to whom an exemption is granted under this clause must surrender the exemption letter to the Authority within 14 days after the exemption ceases to be in force.

Maximum penalty: 20 penalty units.

### **Division 3 Heavy vehicle learner licences**

#### **36 Heavy vehicle learners** (cf cl 14 1999 Reg)

The holder of an Australian driver licence (other than a learner licence) for a motor vehicle (other than a motor bike or motor trike) may drive a motor vehicle for which a higher class of driver licence is required if:

- (a) the higher class is one the holder would be eligible to apply for in accordance with this Regulation, and
- (b) the holder is receiving tuition from, and is accompanied by, a person who has held that higher class of driver licence (other than a provisional licence of that class) for a period of, or periods totalling, at least 12 months and is providing tuition in accordance with the laws of this State concerning driver instruction.



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Eligibility to apply for issue or variation of driver licences

Part 4

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## **Part 4 Eligibility to apply for issue or variation of driver licences**

### **37 Application of Part to learner licences**

This Part (except for clauses 40, 41 and 42) does not apply in respect of learner licences.

### **38 Eligibility to apply for licences in classes C, LR, MR, HR, HC and MC**

(cf cl 6 1999 Reg)

- (1) A person is eligible to apply for a car licence if the person is 17 years of age or over.
- (2) A person is eligible to apply for a driver licence that is not a car licence, a motorcycle licence or a provisional licence if the person meets the relevant eligibility requirements set out in this clause for the class of licence sought, or is exempted by the Authority under this Part from being required to do so.
- (3) The relevant eligibility requirements are:
  - (a) for a light rigid vehicle licence or medium rigid vehicle licence—that the person has, at any time, held an Australian driver licence (including a provisional licence) of class C for a period of, or periods totalling, at least 12 months, and
  - (b) for a heavy rigid vehicle licence—that the person has, at any time, held an Australian driver licence (including a provisional licence) of class C for a period of, or periods totalling, at least 24 months, and
  - (c) for a heavy combination vehicle licence—that the person has, at any time, held an Australian driver licence of class MR or HR for a period of, or periods totalling, at least 12 months, and
  - (d) for a multi-combination vehicle licence—that the person has, at any time, held an Australian driver licence of class HR or HC for a period of, or periods totalling, at least 12 months, and the Authority is satisfied that the person has passed a training course, or has satisfied any other assessment, approved by the Authority.
- (4) In determining the period or periods for which a person has held a licence for the purposes of subclause (3), any period for which the person's driver licence has been suspended (other than a suspension on medical grounds) or the person has been disqualified from driving must be excluded.

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- (5) A person who holds a provisional P1 licence is not eligible to apply for a light rigid vehicle licence, medium rigid vehicle licence, heavy rigid vehicle licence, heavy combination vehicle licence or multi-combination vehicle licence.
- (6) A person who holds a provisional P2 licence is not eligible to apply for a heavy combination vehicle licence or multi-combination vehicle licence unless the Authority, in its discretion, being satisfied that special circumstances exist in the particular case, determines that such a person is eligible to apply for one or the other of those unrestricted licences.

**39 Eligibility to apply for issue of motorcycle licence** (cf cl 7 1999 Reg)

- (1) A person is eligible to apply for a motorcycle licence if the person:
  - (a) is 17 years of age or over, and
  - (b) meets the relevant eligibility requirements set out in this clause, or is exempted from being required to do so:
    - (i) by the Authority under this Part, or
    - (ii) under clause 69.
- (2) The relevant eligibility requirements are:
  - (a) that the person has, at any time, held an Australian driver licence of class R, or
  - (b) that the person:
    - (i) is the holder of a current learner licence, and has held the licence for not less than 3 months (or such shorter period as the Authority may determine in respect of applicants over 30 years of age), and
    - (ii) has demonstrated to the Authority riding competence, and
    - (iii) has held an unrestricted Australian or New Zealand driver licence continuously for the previous 5 years, or
  - (c) that the person is the holder of a certificate of satisfactory completion of a provisional licence rider training course under Part 9 (being a certificate that is not more than 3 months old when the person applies for the licence).
- (3) Despite any other provision of this clause, the Authority may, in a particular case or class of cases, require a person applying for a motorcycle licence:
  - (a) to undertake an appropriate authorised rider training course referred to in Part 9 even if the person has previously undertaken such a course, and

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- (b) to be the holder of a certificate of satisfactory completion of that course (being a certificate that is not more than 3 months old when the person applies for the licence).

**40 Eligibility to apply for additional licence class** (cf cl 6 (3) 1999 Reg)

A person is eligible to apply for variation of the person's driver licence to include an additional licence class if the person:

- (a) meets the relevant eligibility requirements for that class, or
- (b) is exempted by the Authority under this Part from meeting those requirements.

**41 Exemptions from eligibility criteria** (cf cl 8 1999 Reg)

- (1) The Authority must exempt a person from a relevant eligibility requirement for a driver licence if the person holds an Australian driver licence of an equivalent class.
- (2) The Authority may exempt a person from a relevant eligibility requirement for a driver licence if the person satisfies the Authority that, because of age, experience, occupation or special circumstances, the person is fit to be granted the licence or variation sought.
- (3) If a person has held a licence to drive a motor vehicle in an external Territory or another country, the Authority may take into account some or all of that period for the purposes of determining the period for which a person has previously held a licence.
- (4) Nothing in subclause (2) limits the application of clause 69 to a requirement to hold a certificate issued under Part 9.

**42 Suspended or disqualified persons not eligible** (cf cl 9, 38 (3) 1999 Reg)

- (1) A person whose Australian driver licence has been suspended is not eligible to apply for a driver licence for the duration of the suspension.
- (2) A person is not eligible to apply for a driver licence if:
  - (a) the person is, at the time of application, disqualified from driving in any part of Australia or another country, and
  - (b) in the case of a disqualification imposed in another jurisdiction or another country, the offence giving rise to the disqualification, if committed in this State, would have resulted in the person being disqualified from driving.
- (3) Subclauses (1) and (2) do not apply to an application for renewal of an interlock driver licence by a person whose interlock driver licence is suspended (unless the licence is suspended under Division 3 of Part 4 of the *Fines Act 1996*).

Clause 43 Road Transport (Driver Licensing) Regulation 2008

Part 4 Eligibility to apply for issue or variation of driver licences

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- (4) A person whose licence is suspended under section 16 or 16A of the Act, and who (before the expiration of the period of licence suspension) is subsequently disqualified from driving, remains ineligible to apply for a driver licence, after the period of disqualification ends, for a further period equivalent to the unexpired portion of the period of licence suspension.
- (5) A person whose driver licence expires during a period of suspension for the licence imposed under section 17 of the Act or this Regulation, is not eligible to apply for another driver licence during the unexpired portion of the period of licence suspension.

**43 Special eligibility criteria for temporary overseas visitors** (cf cl 6A 1999 Reg)

- (1) A temporary overseas visitor is not eligible to be issued a driver licence until the person has been a resident of Australia as a temporary overseas visitor for a continuous period of at least 6 months immediately prior to applying for the licence.
- (2) A temporary overseas visitor is not eligible to be issued a driver licence that will be in force for a period of more than 12 months and is not eligible to have a driver licence renewed for a period of more than 12 months. A driver licence renewed before its expiry may be renewed for a period of up to 12 months beyond the expiry of the licence being renewed.
- (3) This clause is subject to the following exceptions:
  - (a) this clause does not apply to a person who holds, or has ever held, a NSW driver licence issued before the commencement of this clause,
  - (b) this clause does not apply to the issue of a driver licence to a person who holds, or held within the previous 2 years, an interstate driver licence or learner licence (including a New Zealand driver licence or learner licence), unless the person is already recorded as a temporary overseas visitor on a driver licence register maintained by the Authority,
  - (c) this clause does not apply to the renewal of a NSW driver licence issued under the exemption provided by paragraph (b),
  - (d) the Authority may exempt a person from the operation of a provision of this clause in such circumstances as the Authority considers appropriate.
- (4) In this clause:  
*interstate driver licence or learner licence* means an Australian driver licence, or a learner licence, issued in another Australian jurisdiction.

Road Transport (Driver Licensing) Regulation 2008

Clause 43

Eligibility to apply for issue or variation of driver licences

Part 4

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*NSW driver licence* means an Australian driver licence issued in New South Wales.

*temporary overseas visitor* means a person who:

- (a) is not an Australian or New Zealand citizen, and
- (b) is not a permanent resident of Australia.

Clause 44 Road Transport (Driver Licensing) Regulation 2008

Part 5 Applications for issue or variation of driver licences

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## Part 5 Applications for issue or variation of driver licences

### 44 Procedure to obtain or vary driver licences (cf cl 16 (1) and (3)–(5) and 30 (4) 1999 Reg)

- (1) An applicant for issue or variation of a driver licence must give the Authority:
  - (a) a completed application in a form approved by the Authority, and
  - (b) personal particulars necessary to identify the applicant and the applicant's residential address, including any evidence that the Authority may reasonably require to verify those particulars (for example, evidence of the person's address on the electoral roll), and
  - (c) the applicable fee.
- (2) If there is no postal service to the applicant's residential address, the applicant must also provide an address for the service of notices.
- (3) The Authority may require an applicant for issue or variation of a driver licence to do any one or more of the following:
  - (a) undergo tests or assessments, or provide other evidence of the applicant's knowledge of road law, driving ability, training, experience or suitability to hold a driver licence,
  - (b) provide evidence of the applicant's compliance with the requirements of a law applying to licence applicants and relating to the assessment of drivers convicted of offences involving alcohol or other drugs in force in the jurisdiction in which the applicant had last been disqualified from driving,
  - (c) undergo, at the applicant's own cost, a medical examination, or produce evidence of compliance with the medical standards contained in *Assessing Fitness to Drive*,
  - (d) attend a specified medical practitioner or allied professional practitioner for the purpose of that examination,
  - (e) provide evidence that the applicant is eligible to be granted the class of licence sought,
  - (f) have the applicant's photograph taken, or provide a photograph in a form specified by the Authority,
  - (g) provide a specimen signature.
- (4) The Authority may accept evidence of compliance with a requirement in subclause (3) (a), (b) or (c) obtained by an applicant in another jurisdiction.

Road Transport (Driver Licensing) Regulation 2008

Clause 45

Applications for issue or variation of driver licences

Part 5

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- (5) If the Authority is satisfied that it is not practicable for the applicant to comply with the requirements in subclause (3) (b) of another jurisdiction, the Authority may require the applicant to comply with the requirements of an equivalent assessment.

**45 Requirement for surrender of current licence before issue or variation**

(cf cl 17 1999 Reg)

- (1) If an applicant for issue or a variation of a driver licence, holds a current Australian driver licence, or a current licence to drive a motor vehicle issued in another country, the applicant must surrender that licence to the Authority before the issue of a driver licence or varied driver licence.
- (2) The Authority may exempt the applicant from surrendering a licence issued in another country if satisfied that the Authority has obtained, or has access to, sufficient information about the licence and licence holder to make the surrender of the licence unnecessary.

**46 When application for driver licence can be refused** (cf cl 18 1999 Reg)

- (1) The Authority may refuse an application for issue or variation of a driver licence if the Authority is satisfied that:
- (a) the applicant is not eligible for the licence or variation, or
  - (b) the applicant does not have sufficient driving ability or knowledge of road law, or
  - (c) the applicant is not a fit and proper person to hold a driver licence, or
  - (d) the applicant does not have sufficient knowledge of safe driving practices, or
  - (e) the applicant does not meet the medical standards contained in *Assessing Fitness to Drive* that are applicable to the driver licence, or
  - (f) the applicant has not complied with the requirements of a law applying to licence applicants and relating to the assessment of drivers convicted of offences involving alcohol or other drugs in force in the jurisdiction in which the applicant had last been disqualified from driving, or
  - (g) a provision of the Act or this Regulation prevents approval of the application, or
  - (h) the applicant has not complied with a requirement of the Act or this Regulation relating to the application.

Clause 47 Road Transport (Driver Licensing) Regulation 2008

Part 5 Applications for issue or variation of driver licences

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- (2) The Authority may refuse an application for issue or variation of a driver licence:
- (a) in accordance with an order made by a court in Australia, or
  - (b) in accordance with a law in force in this State relating to the non-payment of fines, or
  - (c) if the applicant is a person who, if already licensed, would be liable to have his or her licence cancelled under section 33 of the Act, or
  - (d) if the applicant is a person who, if already licensed, would be liable to have action taken against the person under section 16 (9) or 16A (8) of the Act.

**47 Issue and variation of driver licence** (cf cl 19 and 19AA 1999 Reg)

- (1) If the Authority approves an application, it must issue a driver licence of the class or kind applied for by the applicant.
- (2) However, if an applicant for a driver licence holds a current Photo Card issued under the *Photo Card Act 2005*, the Authority must not issue a driver licence unless the applicant surrenders the Photo Card by returning the Photo Card to the Authority.
- (3) The driver licence may be issued subject to conditions, including any of the conditions to which a provisional licence is subject.
- (4) In determining whether to issue a driver licence subject to a condition, the Authority must have regard to the objects of the Act in relation to the regulation of drivers of motor vehicles in the interests of road safety.
- (5) If the Authority approves an application for variation of a driver licence, it may vary the licence either conditionally or unconditionally.

**48 Issue of driver licence receipt as interim measure** (cf cl 20 1999 Reg)

- (1) As an interim measure, the Authority may issue a driver licence receipt.
- (2) A driver licence receipt has the same force and effect as a driver licence except that a driver licence receipt ceases to be in force on the expiry date indicated on it, or the day on which a driver licence in respect of the same licence class is given to the holder, whichever is the sooner.
- (3) A driver licence receipt must contain the particulars required to be shown on a driver licence under clause 10 (other than a photograph of the person to whom it is issued).

**49 Competency based assessment** (cf cl 21 1999 Reg)

- (1) The Authority may approve a scheme (to be known as *competency based assessment*) under which a person's competency may be assessed



Road Transport (Driver Licensing) Regulation 2008

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Applications for issue or variation of driver licences

Part 5

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for the purposes of a determination in relation to an application for the issue or variation of a driver licence held or to be held by a person. The scheme applies to the extent approved by the Authority.

- (2) The Authority may request the person's participation in the scheme as a prerequisite to the making of the determination, or may instead offer participation in the scheme as an alternative to other means of testing (or provision of information) for the purposes of the determination.
- (3) The Authority may, on application by a person requesting entry into the scheme, issue to the person the log book appropriate to the class of driver licence in which the person is interested together with documentation explaining the operation of the scheme and its relationship to the issue of driver licences.
- (4) An applicant for entry into the scheme must give the Authority:
  - (a) a completed application form in the form approved by the Authority, and
  - (b) personal particulars necessary to identify the applicant and the applicant's residential address, including any evidence that the Authority may reasonably require to verify those particulars, and
  - (c) the applicable fee.
- (5) An applicant for entry into the scheme must hold a driver licence of the class required by the Authority, or satisfy such other requirements as the Authority may impose, with regard to the purpose for which the applicant desires entry into the scheme.
- (6) The Authority may issue a replacement log book, on payment of the appropriate administrative fee, if it is satisfied that a log book has been lost, stolen or damaged.
- (7) In this clause:

**log book** means a book, in a form approved by the Authority in relation to a particular class of driver licence:

  - (a) listing the driving competencies to be achieved in order to obtain a licence of that class, and
  - (b) providing for the recording and authentication, in space provided in the book of particulars of assessment, in relation to those competencies of the person to whom the book is issued.

Clause 50	Road Transport (Driver Licensing) Regulation 2008
Part 6	Tests and medical examinations of licensed drivers

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## **Part 6 Tests and medical examinations of licensed drivers**

### **50 Tests and medical examinations of licensed drivers** (cf cl 31 1999 Reg)

- (1) The Authority may, by notice in writing, require the holder of a driver licence, within a time specified in the notice:
  - (a) to submit to tests of the holder's knowledge of safe driving practices and road law, or
  - (b) to submit to tests or assessments of driving ability, or
  - (c) to undergo a medical examination, conducted in accordance with *Assessing Fitness to Drive*, by a medical practitioner or allied professional practitioner, or produce evidence of compliance with the medical standards set out in that publication, to determine the holder's medical fitness to hold a driver licence, or a licence of a particular class, or
  - (d) to attend a specified medical practitioner or allied professional practitioner for the purpose of that examination.
- (2) The Authority may require the holder of a driver licence to provide to it any documents relevant to the holder's medical fitness to hold a driver licence.
- (3) The Authority must accept, for the purposes of this clause, a certificate, in a form approved by the Authority, of the results of a medical examination conducted in another jurisdiction if that examination otherwise complies with this clause.

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Clause 51

Expiry and surrender of driver licences

Part 7

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## Part 7 Expiry and surrender of driver licences

### 51 Licence expiry date (cf cl 33 1999 Reg)

A driver licence expires at the end of the day that is recorded in the driver licence register as the licence expiry date.

### 52 Notice of renewal of driver licence (cf cl 34 1999 Reg)

- (1) A notice of renewal of a driver licence is a notice:
  - (a) addressed and sent to the holder of the driver licence, and
  - (b) stating that, if the driver licence is not renewed on or before a date specified in the notice, the driver licence will expire.
- (2) If the Authority fails to send a notice of renewal of a driver licence, or if the notice is not received by the holder of the driver licence, that failure or non-receipt does not affect:
  - (a) the expiry of the driver licence, or
  - (b) the obligation of the licence holder to renew the licence if the licence holder wishes to continue to drive a motor vehicle on a road or road related area after the expiry of the licence holder's existing licence.

### 53 Renewal of driver licence (cf cl 35 1999 Reg)

- (1) The holder of a driver licence may apply to the Authority to renew the driver licence at any time within 5 years after the licence expiry date by giving the Authority:
  - (a) an application for renewal of the driver licence in the form approved by the Authority, and
  - (b) personal particulars necessary to identify the applicant, including any evidence that the Authority may reasonably require to verify those particulars, and
  - (c) the applicable fee.
- (2) The Authority may require the applicant to comply with any of the requirements of clause 44 (3) in addition to the requirements specified in subclause (1).
- (3) The Authority may refuse to renew the driver licence only if:
  - (a) the circumstances are such that, if the applicant for renewal were applying for a new licence, the Authority would refuse that application under Part 5, or
  - (b) the Authority is satisfied that the photograph contained in the previous driver licence is no longer a true likeness of the applicant.

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Part 7 Expiry and surrender of driver licences

- (4) If a driver licence (the *old licence*) is renewed, the expiry date of the new licence may be calculated from:
- (a) in the case of renewal before or on, or within six months after, the licence expiry date of the old licence—that expiry date of the old licence, or
  - (b) in the case of renewal within 5 years after the licence expiry date of the old licence—the day the licence is renewed.
- (5) A person whose driver licence is not renewed within 5 years after the licence expiry date is not entitled to apply for a renewal, but may apply for a new licence in accordance with the requirements of Part 5.

**54 Application for surrender of driver licence** (cf cl 37 1999 Reg)

- (1) The holder of a driver licence may apply, personally or by an agent who produces written evidence of his or her appointment as agent, to the Authority to surrender the licence.
- (2) The holder of a driver licence who applies for surrender of the licence must:
  - (a) return the licence to the Authority, or
  - (b) if the licence has been lost or destroyed, give the Authority a statement signed by the licence holder or agent that the licence has been lost or destroyed.
- (3) The Authority must approve an application for the surrender of a driver licence unless:
  - (a) the holder of the licence has failed to meet the requirements of this clause, or
  - (b) the Authority is taking action to suspend or cancel the licence under section 16, 16A, 17 or 33 of the Act or clause 55 or 57, or
  - (c) the licence is suspended under section 16, 16A, 17 or 33 of the Act, section 204 or 205 of the *Road Transport (General) Act 2005*, Division 3 of Part 4 of the *Fines Act 1996* or clause 55 or 57.
- (4) If the holder of a driver licence surrenders the licence, the Authority may refund part of the fee for the issue of the licence, calculated in accordance with the formula:

$$\frac{\text{number of days}}{\text{licence period}} \times \text{fee paid}$$

where:

*fee paid* is the amount, other than the administrative fee, paid for the issue of the driver licence.

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Clause 54

Expiry and surrender of driver licences

Part 7

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*number of days* is the number of unexpired whole days remaining of the licence period for which the fee was paid, from the day on which the Authority approves the application to surrender the licence.

*licence period* is the total number of days for which the licence was issued.

- (5) The Authority may deduct from the refund the amount of any unpaid administrative fees incurred in respect of the driver licence.
- (6) If the amount of the refund (less any deduction) would comprise an amount that is not a whole number of dollars, the amount is to be adjusted downwards to the next whole number of dollars.
- (7) The holder of a driver licence that has been suspended under a provision referred to in subclause (3) (c) may give custody of the licence to the Authority. If the holder of the driver licence does so:
  - (a) the holder of the driver licence is not eligible for a refund under this clause of any part of the licence fee, and
  - (b) the Authority may dispose of the licence as it thinks fit.

Clause 55 Road Transport (Driver Licensing) Regulation 2008

Part 8 Variation, suspension or cancellation of driver licences

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## **Part 8 Variation, suspension or cancellation of driver licences**

### **55 Variation, suspension or cancellation of driver licence by Authority**

(cf cl 38 1999 Reg)

- (1) The Authority may vary, suspend or cancel a person's driver licence if it appears to the Authority that:
  - (a) the person has failed or refused to submit to a test or medical examination required under or in accordance with the Act or this Regulation, or has failed such a test or examination, or
  - (b) it would be dangerous for the person to drive a motor vehicle because of illness or incapacity, or because of the effects of treatment for such conditions, or
  - (c) the person does not have sufficient driving ability or knowledge of road law, or
  - (d) the person is not a fit and proper person to hold a driver licence, or
  - (e) the person has not complied with the requirements of a law applying to licence applicants and relating to the assessment of drivers convicted of offences involving alcohol or drugs in force in the jurisdiction in which the person had last been disqualified from driving, or
  - (f) the person is no longer eligible, in accordance with the Act or this Regulation, for a particular class or classes of licence, or
  - (g) the licence was issued or renewed in error, or
  - (h) the licence is incorrect in any respect, or
  - (i) a non-cash payment submitted to the Authority as payment of an applicable fee has been dishonoured, or
  - (j) the person has been convicted in another jurisdiction or another country of any offence which, if the person had been licensed in that jurisdiction or country, would have enabled the driver licensing authority of that jurisdiction or country to vary, suspend or cancel the person's licence, or
  - (k) the person has failed to comply with a condition of the licence, or
  - (l) the photograph contained in the licence is no longer a true likeness of the person.
- (2) Without limiting subclause (1), the Authority:
  - (a) may suspend a person's driver licence if it appears to the Authority that, while driving a motor vehicle, the person has occasioned death or grievous bodily harm to some other person

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Variation, suspension or cancellation of driver licences

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as a result of having become incapable of controlling the motor vehicle (for example, as a result of sleep or loss of consciousness), and

- (b) may do so regardless of whether the circumstances in which this has occurred have given rise to the person being prosecuted for an offence.
- (3) In deciding whether to do so, the Authority need not inquire into the likelihood of the person again becoming incapable of controlling a motor vehicle in similar circumstances.
- (4) The Authority must suspend or cancel a person's driver licence in accordance with:
  - (a) an order made by a court in Australia, or
  - (b) a law in force in this State.

**56 Prescribed speeding offences for suspension or cancellation of licences** (cf cl 38A 1999 Reg)

For the purposes of the definition of *speeding offence* in section 33 (5) of the Act, any offence that involves exceeding a speed limit fixed by or under the *Road Transport (Safety and Traffic Management) Act 1999* applicable to the relevant driver or vehicle by more than 30 kilometres per hour is prescribed.

**57 Procedures for variation, suspension or cancellation of driver licence** (cf cl 39 1999 Reg)

- (1) If the Authority decides to vary, suspend or cancel a person's driver licence, the Authority must give the person notice in writing of:
  - (a) the reasons for the proposed variation, suspension or cancellation, and
  - (b) any action that must be taken by the licence holder in order to avoid or reverse the variation, suspension or cancellation, and
  - (c) the date after service of the notice on which the variation, suspension or cancellation takes effect.
- (2) The notice must also state:
  - (a) in the case of a notice to vary a person's driver licence, that if the licence is varied as set out in the notice, the person will no longer be authorised to drive a motor vehicle of a kind specified in the notice on a road or road related area, or
  - (b) in the case of a notice to suspend a person's driver licence, that if the licence is suspended, the person will not be authorised to drive a motor vehicle on a road or road related area for the period of suspension specified in the notice, or

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Part 8	Variation, suspension or cancellation of driver licences

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- (c) in the case of a notice to cancel a person's driver licence, that if the licence is cancelled, the person will no longer be authorised to drive a motor vehicle on a road or road related area.
- (3) Despite subclause (1) (c), if the Authority decides to vary, suspend or cancel a person's driver licence on the ground that the person has failed or refused to submit to a test or medical examination required under or in accordance with the Act or this Regulation, or has failed such a test or examination, the Authority may determine that the variation, suspension or cancellation is to take effect on the service of the notice.
- (4) A notice to vary, suspend or cancel a person's driver licence must also state whether the licence is required to be returned to the Authority and, if so, specify the date by which the licence must be returned and the place to which it is to be returned.
- (5) A driver licence is varied, suspended or cancelled in accordance with the terms of a notice served under this clause unless the Authority, by further notice in writing, withdraws the notice.
- (6) A notice to suspend a person's driver licence under clause 55 (2) may not be withdrawn except on the order of a Local Court in respect of an appeal under Division 3 of Part 3 of the *Road Transport (General) Regulation 2005*.
- (7) If a person's driver licence is varied, suspended or cancelled by the Authority, the person must, if required to do so, return the licence to the Authority within the time required by the notice served under this clause.
- (8) The Authority may decide to vary, suspend or cancel a driver licence under this Regulation without the holder of the licence having been provided with an opportunity to show cause why the licence should not be varied, suspended or cancelled.

**58 Notice of suspension or cancellation of driver licence** (cf cl 39A 1999 Reg)

- (1) An authorised officer may give a person notice in writing that the person's driver licence is suspended or cancelled if the records of the Authority indicate that the person's driver licence is suspended or cancelled.
- (2) A notice under this clause:
- (a) must be in a form approved by the Authority, and
  - (b) must identify the person to whom it is given and state that the Authority's records show that the person's driver licence has been suspended or cancelled, and
  - (c) must state the date and time that the notice was given to the person.



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Variation, suspension or cancellation of driver licences

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- (3) Where a notice is given by a police officer under this clause, particulars of the notice are to be forwarded to the Authority immediately after the notice is given.
- (4) The giving of a notice to a person under this clause does not preclude any other action against the person in relation to an offence or alleged offence under any Act or regulation (including proceedings for an offence against section 25A of the Act).
- (5) In this clause:  
*authorised officer* means:
- (a) a police officer, and
  - (b) a person who is appointed by the Authority as an authorised officer for the purposes of this clause.

**59 Downgrading of driver licence** (cf cl 40 1999 Reg)

- (1) If a driver licence is cancelled:
- (a) by the operation of the road transport legislation as a result of the imposition on the holder of the licence of a period of disqualification, or
  - (b) by the Authority under section 33 of the Act,  
the Authority may, if the offence or offences (or alleged offence or offences) that gave rise to the cancellation arise wholly or mainly out of the use of a motor vehicle or trailer of a class approved in writing by the Authority for the purposes of this clause, issue the former holder with another driver licence, being one that does not authorise the driving of motor vehicles or trailers of that class, in substitution for the cancelled licence.
- (2) Nothing in this clause:
- (a) limits any discretion of the Authority to decline to issue a licence to a person, or
  - (b) permits the issue of any licence to a person who for the time being is disqualified from holding one.

**60 Demerit points and offences** (cf cl 36 1999 Reg)

- (1) For the purposes of section 15 (1) (a) of the Act, the national schedule of demerit points comprises the offences set out in Columns 1 and 2 of Schedule 1, and the points specified in relation to each offence set out in Column 3 of Schedule 1.
- (2) For the purposes of section 15 (1) (b) of the Act, the offences set out in Columns 1 and 2 of Schedule 2, and the points specified in relation to each offence set out in Column 3 of Schedule 2, are prescribed.

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Part 8	Variation, suspension or cancellation of driver licences

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- (3) Despite subclauses (1) and (2), the number of demerit points to be allocated to an offence committed over a long weekend (other than an offence of another jurisdiction) is the number of points specified in Column 4 of Schedule 1 or 2, as the case may be, in respect of the offence.
- (4) Despite subclauses (1) and (2), the number of demerit points to be allocated to an offence referred to in either of those subclauses (being an offence under a law of another jurisdiction) committed over a long weekend is a number determined by the Authority (not being a number higher than the number applying under subclause (3) to the New South Wales offence with which the Authority has determined it corresponds).
- (5) In this clause:  
***long weekend*** means a period of consecutive days consisting of:
- (a) a Saturday and Sunday (the ***weekend***), and
  - (b) one or more days that have been declared to be public holidays (or part of which have been declared to be public holidays) throughout the State and that are any of the following:
    - (i) the Thursday or Friday immediately before the weekend,
    - (ii) the Monday or Tuesday immediately after the weekend, and
  - (c) if the Thursday (but not the Friday) immediately before the weekend is such a public holiday—the Friday, and
  - (d) if the Tuesday (but not the Monday) immediately after the weekend is such a public holiday—the Monday.
- over a long weekend*** means during:
- (a) the period commencing on the day immediately before the first day of a long weekend and ending with the last day of a long weekend (inclusive), or
  - (b) the following periods in a year:
    - (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),

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Variation, suspension or cancellation of driver licences

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- (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).

Clause 61	Road Transport (Driver Licensing) Regulation 2008
Part 9	Motorcycle licence training and testing scheme

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## Part 9 Motorcycle licence training and testing scheme

### 61 Definitions (cf cl 41 1999 Reg)

In this Part:

*authorised rider training course* means:

- (a) a learner licence rider training course, or
  - (b) a provisional P1 licence rider training course,
- provided under a rider training agreement.

*rider training agreement* means an agreement referred to in clause 62.

*rider training centre* means premises that a rider training operator is authorised to use for the purpose of providing an authorised rider training course.

*rider training instructor* means a person accredited under clause 63.

*rider training operator* means a person authorised, under a rider training agreement, to provide an authorised rider training course.

*testing officer* means a person accredited under clause 64.

### 62 Authorisation of rider training operators (cf cl 42 1999 Reg)

The Authority may enter into an agreement with a person under which the person is authorised to provide a rider training course at a rider training centre specified in the agreement.

### 63 Accreditation of rider training instructors (cf cl 43 1999 Reg)

The Authority may, by instrument in writing, accredit a person as a rider training instructor if the person:

- (a) is the holder of a valid and unexpired licence issued under the *Driving Instructors Act 1992* authorising the person to act as a driving instructor, within the meaning of that Act, in respect of motor bikes and motor trikes, and
- (b) satisfies the Authority that the person is otherwise qualified to conduct an authorised rider training course.

### 64 Accreditation of testing officers (cf cl 44 1999 Reg)

The Authority may, by instrument in writing, accredit a person as a testing officer if the person:

- (a) is a riding training instructor, and
- (b) satisfies the Authority that the person is otherwise qualified to be a testing officer.

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Clause 65

Motorcycle licence training and testing scheme

Part 9

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**65 Objects of authorised rider training course** (cf cl 45 1999 Reg)

- (1) The Authority must not enter into a rider training agreement unless the Authority is satisfied that the rider training course the subject of the agreement is to be directed to ensuring that a person who desires to hold:
  - (a) a motorcycle learner licence, or
  - (b) a provisional P1 licence of class R,has sufficient knowledge and skills to warrant the granting of the licence concerned.
- (2) For that purpose, any such course is to include:
  - (a) the training of applicants in the necessary skills, and
  - (b) the instruction of applicants in the relevant law and safe riding practices, and
  - (c) the testing of applicants' skills and knowledge, and
  - (d) provision for the issue of certificates, in a form approved by the Authority and signed by a rider training instructor or testing officer (or, if the Authority so requires, by both an instructor and testing officer), attesting the satisfactory completion of the course by persons undertaking it.

**66 Application to undertake authorised rider training course** (cf cl 46 1999 Reg)

- (1) A person who wishes to undertake an authorised rider training course must:
  - (a) apply in writing to the Authority, in the form approved by the Authority, and
  - (b) pay to the Authority the applicable fee.
- (2) Despite subclause (1) (a), the Authority may accept an application made to the Authority by telephone.
- (3) The Authority may refund all or part of the applicable fee if:
  - (a) the person does not complete the course, and
  - (b) the Authority is satisfied that the circumstances warrant a refund.

**67 Mandatory training areas** (cf cl 47 1999 Reg)

The Authority may, by instrument in writing, identify any area within the State, being an area in which a rider training centre is situated, as a mandatory training area.

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Part 9 Motorcycle licence training and testing scheme

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**68 Exemption from requirements of this Part** (cf cl 48 (2)–(4) 1999 Reg)

- (1) The Authority may, by notice in writing, exempt any person or class of persons from all or any of the requirements of this Part.
- (2) An exemption may be unconditional or may be subject to conditions specified in the exemption.
- (3) An exemption that is subject to conditions ceases to be in force as soon as the conditions are not complied with.

**69 Exemption from compulsory training** (cf cl 48 (1) and (5) 1999 Reg)

- (1) The Authority may exempt a person from a requirement under this Regulation to hold a certificate issued under this Part for such reasons as it thinks fit.
- (2) A person who satisfies the Authority that the person's usual residential address is not within a mandatory training area is exempt from any requirement under this Regulation to hold a certificate issued under this Part.
- (3) A person is exempt from any requirement of this Regulation to hold a certificate issued under this Part if:
  - (a) the person applies for the issue of a learner licence to learn to ride a motor bike or motor trike, and
  - (b) the person is, at the time of applying, the holder of a learner licence to learn to ride a motor bike or motor trike, or the equivalent of such a licence, issued under the law in force in another jurisdiction.

**70 Exemption from licensing and other provisions** (cf cl 49 1999 Reg)

A person is exempt from the requirement to hold a licence in respect of any motor bike or motor trike while it is being ridden, as part of an authorised rider training course at a rider training centre referred to in this Part, by an applicant for a learner licence who is 16 years and 6 months of age or older.

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Clause 71

Interlock driver licences and devices

Part 10

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## Part 10 Interlock driver licences and devices

### Division 1 Definitions

#### 71 Definitions (cf cl 50 1999 Reg)

In this Part:

**approval** means an approval as an approved interlock installer or approved interlock service provider under section 21B of the Act and this Part.

**approved interlock device** has the same meaning as in Part 2A of the Act.

**interlock device** has the same meaning as in Part 2A of the Act.

**labelled approved interlock device** means an approved interlock device labelled with the words “NSW approved interlock device”.

**maintenance**, in relation to an interlock device, has the same meaning as in Part 2A of the Act.

### Division 2 Interlock driver licences

#### 72 Authority may issue interlock driver licence (cf cl 19A (1) 1999 Reg)

Without limiting clause 47, the Authority may approve an application for, and issue, a conditional licence (an **interlock driver licence**) that authorises the holder of the licence to drive a motor vehicle on a road or road related area subject to the condition that the vehicle must be fitted with an approved interlock device that has been installed by an approved interlock installer in accordance with this Part.

**Note.** Under section 194 of the *Road Transport (General) Act 2005*, a person in respect of whom an order suspending a disqualification to hold a licence is made is entitled to apply for an interlock driver licence.

#### 73 Additional application procedures (cf cl 16 (6) 1999 Reg)

In addition to any other requirement applying to an applicant under Part 5, an applicant for issue of an interlock driver licence who is a person referred to in section 194 (1) of the *Road Transport (General) Act 2005* must:

- (a) undergo, at the applicant’s own cost, a consultation with a medical practitioner nominated by the Authority for the purpose of discussing and giving brief advice to the applicant about the risks of alcohol consumption, and
- (b) provide to the Authority a certificate from that medical practitioner confirming that the applicant has undergone the consultation, and

Clause 74 Road Transport (Driver Licensing) Regulation 2008

Part 10 Interlock driver licences and devices

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- (c) provide to the Authority a certificate, in a form approved by the Authority, from an approved interlock installer certifying that, at the request of the applicant, the installer has installed an approved interlock device (identified in the certificate) in a vehicle (identified in the certificate), and
- (d) give authority in writing for the collection, use and disclosure by an approved interlock installer, approved interlock service provider, the Authority or any person on behalf of the Authority of information obtained as a result of the applicant's participation in the alcohol interlock program.

**74 Additional interlock driver licence conditions** (cf cl 19A (2)–(4) 1999 Reg)

- (1) An interlock driver licence is subject to the following conditions in addition to the condition set out in clause 72:
  - (a) the holder of the licence must not drive a motor vehicle with a breath or blood alcohol concentration of:
    - (i) more than zero grams of alcohol in 210 litres of breath or 100 millilitres of blood if the licence is a learner licence, a provisional P1 licence or a provisional P2 licence, or
    - (ii) 0.02 or more grams of alcohol in 210 litres of breath or 100 millilitres of blood in any other case,
  - (b) the holder of the licence may drive only a motor vehicle with a GVM that is not greater than 4.5 tonnes and that is constructed or equipped to seat not more than 12 adults (including the driver),
  - (c) the holder of the licence must not drive a public passenger vehicle or a motor vehicle loaded or partly loaded with any dangerous goods,
  - (d) for the purpose of counselling the holder of the licence with respect to the consumption of alcohol, the holder must (at the holder's own cost) undergo such medical consultations, with such medical practitioners and at such times, as may be required by the Authority,
  - (e) the holder of the licence must ensure that maintenance is carried out as and when required by the Authority (at the holder's own cost) on the approved interlock device identified in the certificate the holder provided to the Authority under clause 73 (c),
  - (f) the holder of the licence must not, without the approval of the Authority, remove or cause or permit to be removed the approved interlock device from the motor vehicle specified in that certificate or from any other motor vehicle in which it is subsequently installed,



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- (g) the holder of the licence must not drive any motor vehicle in which the approved interlock device is installed if the holder knows, or could reasonably be expected to know, that the approved interlock device installed is not functioning properly,
  - (h) the holder of the licence must use the approved interlock device in accordance with the instructions (if any) for the proper use of the device supplied to the holder by its manufacturer and the Authority,
  - (i) the holder of the licence must not interfere, or cause or permit any person (other than an approved interlock installer or approved interlock service provider installing, maintaining or removing the approved interlock device) to interfere with the proper operation of the device,
  - (j) the holder of the licence must, if required to do so by the Authority, authorise the Authority in writing (or any persons nominated by the Authority) to provide any data or other information collected by the approved interlock device to persons carrying out functions for the purposes of the alcohol interlock program during the period the licence is in force,
  - (k) the holder of the licence must permit a police officer to inspect the approved interlock device if the police officer asks to inspect the device.
- (2) The Authority may, by notice in writing given to the holder of an interlock driver licence, impose such other conditions relating to the use of an interlock device installed in a motor vehicle driven by the licence holder as the Authority considers appropriate.
  - (3) The Authority may, by notice in writing to the holder of the licence, vary or revoke any such conditions.
  - (4) In this clause:
    - dangerous goods* has the same meaning as in the *Road and Rail Transport (Dangerous Goods) Act 1997*.
    - public passenger vehicle* has the same meaning as in the *Passenger Transport Act 1990*.

**75 Converted interlock driver licences** (cf cl 19A (5) and 19B 1999 Reg)

- (1) An interlock driver licence is taken, at the end of the day on which its holder ceases to participate in the alcohol interlock program because the holder has completed the interlock participation period applicable to the holder under section 192 of the *Road Transport (General) Act 2005*, to be a car licence other than an interlock driver licence (in this clause referred to as a *converted interlock driver licence*).

Clause 76 Road Transport (Driver Licensing) Regulation 2008

Part 10 Interlock driver licences and devices

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- (2) The holder of a converted interlock driver licence is not required to observe any of the conditions to which the interlock driver licence was subject under this Division.
- (3) The converted interlock driver licence expires on the day recorded in the driver licence register as the licence expiry date for the interlock driver licence.

**Note.** This provision enables a person who has been issued with an interlock driver licence for a period that exceeds the period the person is required to participate in an alcohol interlock program to continue to drive under the authority of the licence for the duration of the licence.

### Division 3 Approvals relating to interlock devices

#### 76 Fit and proper persons (cf cl 53 1999 Reg)

- (1) For the purposes of this Part, a person is not a fit and proper person to be an approved interlock installer or an approved interlock service provider if:
- (a) a court in this State or elsewhere has convicted the person of a relevant offence within the period of 5 years immediately before the person applies for the approval, or
  - (b) the person is an undischarged bankrupt, or
  - (c) the person has at any time had an interlock driver licence suspended or cancelled under the Act or this Regulation or has had the person's participation in a program that is similar to the alcohol interlock program that is established under the law of another jurisdiction suspended or cancelled.
- (2) In this clause:
- relevant offence** means any of the following offences committed after the commencement of this clause:
- (a) an offence involving dishonesty,
  - (b) a major offence within the meaning of the *Road Transport (General) Act 2005*,
  - (c) an offence in another jurisdiction that would have been an offence referred to in paragraph (a) or (b) if committed in this State.

#### 77 Eligibility for approval as approved interlock installer (cf cl 51 1999 Reg)

- (1) A person is eligible to apply to be approved as a person who may install and remove approved interlock devices in motor vehicles for the purposes of Part 2A of the Act (an **approved interlock installer**) if the person:
- (a) is at least 18 years of age, and

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- (b) is a fit and proper person to be an approved interlock installer, and
  - (c) is suitably qualified to perform the functions of an approved interlock installer, and
  - (d) is capable of performing the functions of an approved interlock installer, and
  - (e) has access to equipment and facilities necessary to enable the person to install and remove approved interlock devices in motor vehicles.
- (2) A person is not eligible to apply to be approved as an approved interlock installer if:
- (a) in the opinion of the Authority, the person is unable to perform the functions of an approved interlock installer because of illness or mental or physical disability, or
  - (b) the person has at any time had an approval as an approved interlock installer revoked, or
  - (c) in the opinion of the Authority, the person has failed to properly perform the functions of an approved interlock installer under the Act or this Regulation, or to properly perform functions under a program that is similar to the alcohol interlock program established under the law of another jurisdiction, in a significant respect.

**78 Eligibility for approval as approved interlock service provider** (cf cl 52 1999 Reg)

- (1) A person is eligible to apply to be approved as a person who may carry out maintenance to ensure the proper operation of approved interlock devices, or conduct inspections of such devices, for the purposes of Part 2A of the Act (an ***approved interlock service provider***) if the person:
- (a) is at least 18 years of age, and
  - (b) is a fit and proper person to be an approved interlock service provider, and
  - (c) is suitably qualified to perform the functions of an approved interlock service provider, and
  - (d) is capable of performing the functions of an approved interlock service provider, and
  - (e) has access to equipment and facilities necessary to enable the person to carry out maintenance to ensure the proper operation of approved interlock devices or to conduct inspections of such devices.

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- (2) A person is not eligible to apply to be approved as an approved interlock service provider if:
- (a) in the opinion of the Authority, the person is unable to perform the functions of an approved interlock service provider because of illness or mental or physical disability, or
  - (b) the person has at any time had an approval as an approved interlock service provider revoked, or
  - (c) in the opinion of the Authority, the person has failed to properly perform the functions of an approved interlock service provider under the Act or this Regulation, or failed to properly perform functions under a program that is similar to the alcohol interlock program established under the law of another jurisdiction, in a significant respect.

**79 Application for approval as interlock installer or service provider**

(cf cl 53A 1999 Reg)

- (1) An application for approval is to be made to the Authority in the form approved by the Authority and is to be accompanied by the applicable fee (if any).
- (2) The Authority may require an applicant for approval to submit evidence, in a form approved by the Authority:
  - (a) that the applicant is eligible for approval, or
  - (b) verifying any particulars set out in an application.
- (3) The Authority may require an applicant for approval to provide to the Authority information about any other matter relevant to the decision whether to approve the application.

**80 Determination of applications for approval** (cf cl 53B 1999 Reg)

- (1) The Authority may determine an application for approval by granting or refusing the application.
- (2) Without limiting subclause (1), the Authority may refuse an application for approval as an approved interlock installer if, in the opinion of the Authority, the applicant does not meet any of the eligibility requirements set out in clause 77.
- (3) Without limiting subclause (1), the Authority may refuse an application for approval as an approved interlock service provider if, in the opinion of the Authority, the applicant does not meet any of the eligibility requirements set out in clause 78.

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**81 Conditions of approvals** (cf cl 53C 1999 Reg)

- (1) An approval may be granted unconditionally or subject to conditions specified in the approval.
- (2) After granting an approval, the Authority may, by notice in writing to the holder of the approval:
  - (a) impose conditions or further conditions on the approval, or
  - (b) vary or revoke any of the conditions to which the approval is subject.
- (3) Conditions may include (but are not limited to) conditions of the following kind:
  - (a) conditions relating to the installation, removal, inspection or carrying out of maintenance on approved interlock devices,
  - (b) conditions relating to the compiling and furnishing to the Authority, persons nominated by the Authority and to the holders of interlock driver licences of information obtained by the holder of the approval in carrying out functions for the purposes of Part 2A of the Act.

**82 Duration of approvals** (cf cl 53D 1999 Reg)

An approval takes effect on the date on which it is granted or on such later date as may be specified in the approval and (unless it is sooner revoked) remains in force for the period (not exceeding 3 years) specified in the approval.

**83 Subsequent approvals** (cf cl 53E 1999 Reg)

- (1) An approval may be renewed by making an application in accordance with this Division for a new approval (referred to in this clause as a *subsequent approval*).
- (2) If a person applies for a subsequent approval before the term of the person's current approval expires (referred to in this clause as the *old approval*) and the application has not been dealt with by the time the old approval expires, the authority conferred by the old approval continues until such time as the person is notified of the grant, or refusal of, the subsequent approval.

**84 Show cause notice** (cf cl 53F 1999 Reg)

- (1) The Authority may serve a show cause notice on the holder of an approval if the Authority is of the opinion that there is reasonable cause to believe that there are grounds for revoking the approval under section 21B (4) of the Act.

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- (2) A show cause notice is a notice requiring the holder of the approval to show cause why the approval should not be revoked on the grounds specified in the notice.
- (3) Without limiting the grounds that may be specified in the notice, grounds include the following:
  - (a) that the holder of the approval has failed to comply with the Act, this Regulation or a condition of the approval,
  - (b) that the holder of the approval does not satisfy any of the eligibility requirements for the approval set out in clause 77 or 78.
- (4) A show cause notice is to be in writing and is to specify a period of not less than 21 days after service of the notice as the period that the holder has to show cause as required by the notice.
- (5) The holder on whom a show cause notice is served may, within the period allowed by the notice, make written submissions to the Authority in respect of the matters to which the notice relates.
- (6) The Authority may conduct such enquiries and make such investigations in relation to the matters to which a show cause notice relates and the submissions, if any, made by or on behalf of the holder of the approval concerned as the Authority thinks fit.
- (7) This clause does not apply to a revocation of an approval if the Authority has reasonable grounds to believe that the holder of the approval has wilfully failed to comply with the Act, this Regulation or the conditions of the approval and is likely to continue to do so.

**85 Notice of revocation of approval** (cf cl 53G 1999 Reg)

- (1) The Authority is to include a statement of the reasons for its decision to revoke an approval when giving notice under section 21B (4) of the Act.
- (2) Revocation of an approval takes effect on the day notice of the revocation is given under section 21B (4) of the Act or on a later day specified in the notice.

**Division 4 Offences**

**86 Failure to comply with condition of approval** (cf cl 59 1999 Reg)

The holder of an approval who fails to comply with a condition of the approval is guilty of an offence.

Maximum penalty: 20 penalty units.

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**87 Installation or removal of approved interlock devices without approval**

(cf cl 59B 1999 Reg)

A person must not install an approved interlock device in, or remove an approved interlock device from, a motor vehicle for the purposes of Part 2A of the Act unless the person is the holder of an approval as an approved interlock installer that is in force.

Maximum penalty: 20 penalty units.

**88 Installation or removal of unlabelled approved interlock devices**

(cf cl 59C 1999 Reg)

An approved interlock installer must not install an approved interlock device in, or remove an approved interlock device from, a motor vehicle for the purposes of Part 2A of the Act unless the device is clearly labelled in a form approved by the Authority with the words “NSW approved interlock device”.

Maximum penalty: 20 penalty units.

**89 Maintenance or inspection of interlock devices without approval**

(cf cl 59D 1999 Reg)

A person must not carry out maintenance on, or conduct an inspection of, an approved interlock device for the purposes of Part 2A of the Act unless the person is the holder of an approval as an approved interlock service provider that is in force.

Maximum penalty: 20 penalty units.

**90 Maintenance or inspection of unlabelled approved interlock devices**

(cf cl 59E 1999 Reg)

An approved interlock service provider must not carry out maintenance on, or conduct an inspection of, an approved interlock device in a motor vehicle for the purposes of Part 2A of the Act unless the device is clearly labelled in a form approved by the Authority with the words “NSW approved interlock device”.

Maximum penalty: 20 penalty units.

**91 Labelling approved interlock devices** (cf cl 59F 1999 Reg)

(1) A person must not label an interlock device with the words “NSW approved interlock device” unless:

- (a) the device is an approved interlock device, and
- (b) the person is an approved interlock installer or an approved interlock service provider.

Maximum penalty: 20 penalty units.

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- (2) A person must not remove a label bearing the words “NSW approved interlock device” from an interlock device unless:
- (a) the person is an approved interlock installer or approved interlock service provider, and
  - (b) the person for whom the interlock device was installed has ceased to participate in the alcohol interlock program in respect of which it was installed or the label is to be immediately replaced with another such label.

Maximum penalty: 20 penalty units.

**92 Notification of removal of approved interlock devices** (cf cl 59G 1999 Reg)

An approved interlock installer who removes a labelled approved interlock device from a motor vehicle must give the Authority written notice of the removal not later than at the end of the day of the removal.

Maximum penalty: 20 penalty units.

**93 Tampering or otherwise interfering with labelled approved interlock device** (cf cl 59H 1999 Reg)

- (1) A person who, without reasonable excuse, tampers or otherwise interferes with a labelled approved interlock device installed in a motor vehicle is guilty of an offence.

Maximum penalty: 20 penalty units.

- (2) A person who aids, abets or causes or permits the commission of an offence referred to in subclause (1) is guilty of an offence.

Maximum penalty: 20 penalty units.

**94 Notification of suspected tampering or otherwise interfering with labelled approved interlock devices** (cf cl 59I 1999 Reg)

An approved interlock installer or approved interlock service provider who becomes aware that a labelled approved interlock device has been tampered or otherwise interfered with must give the Authority written notice of that interference or tampering not later than at the end of the day on which he or she becomes aware of the interference or tampering.

Maximum penalty: 20 penalty units.

**95 False or misleading information** (cf cl 59A 1999 Reg)

A person must not, in purported compliance with clause 92 or 94, provide data or information that the person knows is false or misleading in a material particular.

Maximum penalty: 20 penalty units.



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## **Division 5      Miscellaneous**

### **96    Police may seize motor vehicle or device** (cf cl 53H 1999 Reg)

- (1) A police officer may stop and inspect a motor vehicle driven on a road or road related area if the officer reasonably suspects that the motor vehicle may be fitted with an interlock device.
- (2) A police officer may seize a motor vehicle driven by the holder of an interlock driver licence in which an interlock device is installed if the officer reasonably suspects that the device has been used in contravention of the Act or the regulations.

### **97    Agreements relating to interlock devices** (cf cl 53I 1999 Reg)

The Authority may enter into an agreement with a person (not being inconsistent with the Act or this Regulation) with respect to the supply, or provision of services relating to the installation, removal, maintenance and inspection of, interlock devices for the purposes of the alcohol interlock program.

Clause 98 Road Transport (Driver Licensing) Regulation 2008

Part 11 Exemptions from requirement to hold driver licence

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## Part 11 Exemptions from requirement to hold driver licence

### 98 Authority may exempt certain classes of driver from requirement to hold licence (cf cl 54 1999 Reg)

- (1) The Authority may exempt a driver or class of drivers from the requirement to hold a driver licence, or a particular class of driver licence.
- (2) An exemption under this clause may be subject to conditions specified by the Authority.
- (3) The Authority must cause notice of an exemption under this clause to be published in the Gazette.

### 99 Interstate and international visitors (cf cl 55 1999 Reg)

- (1) A visiting driver who holds:
  - (a) a current Australian driver licence or learner licence (including a New Zealand driver licence or learner licence) issued in another jurisdiction, or
  - (b) a current foreign driver licence and international driving permit, or
  - (c) a current foreign driver licence that is written in English or is accompanied by an English translation,that authorises him or her to drive a motor vehicle of a particular kind may drive a motor vehicle of that kind in this State, and is exempt from the requirements of the Act and this Regulation (other than this clause).
- (2) A visiting driver who holds:
  - (a) a current foreign driver licence and international driving permit, or
  - (b) a current foreign driver licence that is written in English or is accompanied by an English translation,that authorises its holder to drive a motor vehicle may, in this State, drive a motor vehicle with a GVM that is not greater than 4.5 tonnes and that is constructed or equipped to seat not more than 12 adults (including the driver), and is exempt from the requirements of the Act and this Regulation (other than this clause).
- (3) Subclause (2) applies to any driver licence, regardless of the kind of motor vehicle it authorises its holder to drive, except for a driver licence that authorises its holder to drive only a motor bike, motor trike or motor vehicle referred to in clause 102 (1) (c) or (d).

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Exemptions from requirement to hold driver licence

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- (4) A visiting driver ceases to be exempt under this clause from any requirements of the Act and this Regulation if any of the following happen:
- (a) in the case of a visiting driver who is the holder of an Australian driver licence or learner licence or New Zealand driver licence or learner licence—the driver has resided in this State for a continuous period of more than 3 months, unless the driver also holds a valid Driver Identification Document issued by the Department of Defence of the Commonwealth,
  - (b) in the case of a visiting driver who is an international visitor—the driver has held a permanent visa under the *Migration Act 1958* of the Commonwealth for more than 3 months,
  - (c) the visiting driver is suspended or disqualified from driving a motor vehicle on a road or road related area in any part of Australia or another country,
  - (d) the visiting driver would, if the driver applied for a driver licence, be refused because of a failure to meet the conditions of reinstatement of a driver licence after cancellation,
  - (e) the visiting driver is charged with an offence specified under another law of this State relating to visiting drivers,
  - (f) if, in the reasonable opinion of the Authority, the visiting driver is not a fit and proper person to drive a motor vehicle in this State,
  - (g) if, in the reasonable opinion of the Authority, the visiting driver's ability to drive safely is impaired due to a permanent or long term injury or illness.
- (5) Subclause (4) (e) ceases to have effect in relation to a visiting driver if the charge is withdrawn or dismissed.
- (6) If the Authority forms an opinion that subclause (4) (f) or (g) applies to a visiting driver, the Authority must give the visiting driver notice in writing stating:
- (a) that the visiting driver is no longer exempt from the requirement to hold a driver licence in this State, and
  - (b) that the visiting driver must not drive a motor vehicle on a road or road related area in this State, and
  - (c) the reasons why the visiting driver is no longer exempt, and
  - (d) any action that may be taken by the visiting driver in order to regain the exemption, and
  - (e) the date by which the visiting driver must take that action.

Clause 100 Road Transport (Driver Licensing) Regulation 2008

Part 11 Exemptions from requirement to hold driver licence

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- (7) A visiting driver exempted under this clause must, when driving a motor vehicle or a trailer on a road or road related area:
- (a) carry the licence held by the visiting driver and referred to in subclause (1) or (2), and
  - (b) if requested to do so by a police officer, produce the licence to the police officer.

Maximum penalty: 20 penalty units.

**100 Golf and green keeping vehicles used on roads or road related areas**

(cf cl 55A 1999 Reg)

- (1) A person is exempted from the requirements of section 25 (1) of the Act in respect of the driving of any golf vehicle or green keeping vehicle directly across a road or road related area that intersects with or traverses a golf course if the vehicle:

- (a) is being used in the course of, or as an incident to, a game of golf or to observe any such game, or
- (b) is proceeding to or from the golf course to be used for or in connection with the rolling or maintenance or surface improvement of any part of the golf course, or
- (c) is proceeding to or from a car park or storage building that is separated from the golf course by the road or road related area.

- (2) In this clause:

***golf course*** means an area of land (which includes tees, fairways, greens, rough, pathways, bunkers and bridges) designed and used for the playing of golf.

***golf vehicle*** means:

- (a) a motorised buggy or cart that is designed and used to carry any golfer, spectator or golfing equipment on a golf course, or
- (b) a motor bike having an engine capacity not exceeding 50 ml that is used to carry a golfer, spectator or golf equipment on a golf course, or
- (c) any trailer that is being drawn by any such vehicle.

***green keeping vehicle*** means any vehicle used solely or principally for or in connection with the rolling or maintenance or surface improvement of any part of a golf course.

**101 Drivers of light rail vehicles** (cf cl 55C 1999 Reg)

A person is exempted from the requirements of section 25 (2) of the Act in respect of the driving of a light rail vehicle within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*.

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Clause 102

Exemptions from requirement to hold driver licence

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**102 Other exemptions from licensing** (cf cl 55D 1999 Reg)

- (1) A person is exempted from the requirements of section 25 (1) of the Act in respect of the driving of any of the following vehicles:
- (a) any motor vehicle or trailer while it is being driven by the person who is being submitted (as an applicant for a licence) to a driving test by a police officer or a person authorised by the Authority or by the Commissioner of Police to test drivers,
  - (b) any motor vehicle or trailer, weighing not more than 250 kg when unladen, that is constructed or used solely for cutting grass or for purposes incidental to cutting grass,
  - (c) any motor vehicle or trailer comprising a pedal cycle to which is attached one or more auxiliary propulsion motors having a combined maximum power output not exceeding 200 watts,
  - (d) any motor vehicle or trailer that:
    - (i) is specially constructed to be used, and while on a road or road related area is used, solely for the conveyance of an invalid, and
    - (ii) is not capable of travelling at more than 10 km/h.
- (2) Section 25A (1) (a) and (3) (a) of the Act does not apply to the driving of any of the following vehicles:
- (a) any motor vehicle or trailer while it is being driven by a person who is being submitted (as an applicant for a licence) to a driving test by a police officer or a person authorised by the Authority or by the Commissioner of Police to test drivers,
  - (b) any motor vehicle or trailer, weighing not more than 250 kg when unladen, that is constructed or used solely for cutting grass or for purposes incidental to cutting grass,
  - (c) any motor vehicle or trailer comprising a pedal cycle to which is attached one or more auxiliary propulsion motors having a combined maximum power output not exceeding 200 watts,
  - (d) any motor vehicle or trailer that is specially constructed to be used, and while on a road or road related area is used, solely for the conveyance of an invalid and is not capable of travelling at more than 10 km/h.

Clause 103 Road Transport (Driver Licensing) Regulation 2008

Part 12 Miscellaneous

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## Part 12 Miscellaneous

### Division 1 Administration

#### 103 Driver licence register (cf cl 24 1999 Reg)

- (1) The Authority must record the following matters in the driver licence register, in respect of each driver licence:
  - (a) the identification number allocated to the person to whom the licence was issued,
  - (b) the full name of the person,
  - (c) the person's gender and date of birth,
  - (d) the person's residential address and address for service of notices (if any),
  - (e) the class or classes of the licence,
  - (f) the commencement and expiry dates of the licence,
  - (g) any conditions to which the licence is subject.
- (2) The Authority may record, in the driver licence register, other information for:
  - (a) the purposes of the Act and this Regulation, or
  - (b) the purposes of another Act, or
  - (c) other purposes, as the Authority considers appropriate.
- (3) The holder of a driver licence is entitled to request a search of the driver licence register, and to obtain a certificate as to any matter appearing in the register in relation to him or her, on payment of the applicable fee.
- (4) The Authority may correct any mistake or error in, or omission of, matter recorded in the driver licence register, subject to any requirements of the Act or this Regulation.

#### 104 Release of information to Australian Electoral Commission (cf cl 25 1999 Reg)

- (1) The Authority may provide to the Australian Electoral Commission any information recorded in the driver licence register for the purpose of assisting the Australian Electoral Commission to carry out its functions under the *Commonwealth Electoral Act 1918* of the Commonwealth.
- (2) The Authority may provide the information to the Australian Electoral Commission on such conditions as are agreed between the Authority and the Commission, or if there is no agreement, as are determined by the Authority.

Road Transport (Driver Licensing) Regulation 2008

Clause 105

Miscellaneous

Part 12

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**105 Release of certain information for publication by Authority** (cf cl 25A 1999 Reg)

The Authority may cause the following information recorded in the driver licence register to be published:

- (a) the name of any driving school (within the meaning of the *Driving Instructors Act 1992*) that has presented persons to the Authority for submission to a driving test for a learner licence of class C, being a driving test:
  - (i) conducted in a vehicle of the driving school, and
  - (ii) to which the student has not previously submitted,
- (b) the percentage of those persons who passed the driving test on their first attempt.

**106 Release of information relating to alcohol interlock program** (cf cl 25B 1999 Reg)

The Authority may, for the purpose of enabling the Authority to perform functions conferred or imposed on the Authority by or under the Act in relation to the alcohol interlock program, disclose to the following persons data or information recorded in the driver licence register:

- (a) a person approved under section 21B of the Act and Part 10 as an approved interlock installer or an approved interlock service provider,
- (b) a person who has entered into an agreement with the Authority under clause 97,
- (c) a person who provides any services to a person who has entered into such an agreement in connection with the alcohol interlock program.

**107 Release of driver licence photographs to Crime Commission and ASIO** (cf cl 60 1999 Reg)

- (1) A driver licence photograph, and any photographic image or other matter contained in any database of such photographs, may be released by the Authority:
  - (a) to the New South Wales Crime Commission for the purposes of an investigation of a terrorist act or a threat of a terrorist act, or
  - (b) to the Australian Security Intelligence Organisation for the purposes of an investigation of a terrorism offence.

**Note.** Release of this material to the NSW Police Force is already authorised under section 41 of the Act so long as the release is in accordance with any protocol approved by the Privacy Commissioner.

Clause 108 Road Transport (Driver Licensing) Regulation 2008

Part 12 Miscellaneous

(2) Any release of material under subclause (1) must be in accordance with any protocol approved by the Privacy Commissioner, as required by section 41 (2) of the Act.

(3) In this clause:

**driver licence photograph** means a photograph taken or provided in relation to an application for the issue or renewal by the Authority of a driver licence.

**terrorism offence** has the same meaning as in the *Australian Security Intelligence Organisation Act 1979* of the Commonwealth.

**terrorist act** has the same meaning as in the *Terrorism (Police Powers) Act 2002*.

**108 Purposes for which photographs may be kept and used** (cf cl 60A 1999 Reg)

For the purposes of section 40 (1) (g) of the Act, the Authority may keep or use a photograph for any purpose for which a photograph of a person taken for the purposes of a mobility parking scheme authority may be kept and used by the Authority under regulations made under the *Road Transport (Safety and Traffic Management) Act 1999*.

**109 Disclosure of demerit points information to CTP insurers**

(1) The Authority may enter into an agreement with a CTP insurer (a **points disclosure agreement**) that provides for the disclosure to the CTP insurer with the consent of a person of information as to the number of demerit points recorded against the person on the demerit points register.

(2) The Authority must consult with the Privacy Commissioner before entering into a points disclosure agreement.

(3) The Authority is authorised to disclose information on the demerits point register in accordance with a points disclosure agreement.

(4) A points disclosure agreement may provide for the payment of fees by a CTP insurer to the Authority in connection with the agreement, including fees for the disclosure of information in accordance with the agreement.

(5) In this clause:

**CTP insurer** means a licensed insurer under the *Motor Accidents Compensation Act 1999*.



Road Transport (Driver Licensing) Regulation 2008

Clause 110

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Part 12

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**110 Delegation of Authority's powers** (cf cl 61 1999 Reg)

The Authority may delegate all or any of its powers under the Act or this Regulation to the following persons:

- (a) a statutory authority,
- (b) the holder of a statutory office,
- (c) an officer or employee of a government department or statutory authority,
- (d) a police officer,
- (e) a local council or other local government authority,
- (f) an officer or employee of a local council or other local government authority,
- (g) any other person who, in the opinion of the Authority, has appropriate qualifications for the exercise of the power delegated.

**Division 2 Fees**

**111 Applicable fees** (cf cl 62 1999 Reg)

The applicable fee for a service provided by the Authority under the Act or this Regulation is:

- (a) the fee specified for that service in Schedule 3, or
- (b) the fee fixed for that service by the Authority under section 10 (1) of the Act.

**112 Waiver of fees** (cf cl 63 1999 Reg)

- (1) The Authority may waive the payment of a fee payable under the Act or this Regulation, or both, in a particular case if the Authority is of the opinion that in the particular case it is appropriate to do so.
- (2) Without limiting subclause (1), the Authority may waive payment of a fee in relation to a learner licence if the applicant is, when making the application, the holder of a learner licence issued by another jurisdiction.

**113 Fee exemption for eligible pensioners** (cf cl 64 1999 Reg)

- (1) An eligible pensioner is not required to pay a fee in respect of the pensioner's driver licence.
- (2) In this clause:  
*eligible pensioner* means a person:
  - (a) who is the holder of a Pensioner Concession Card that is in force issued by the Commonwealth Department of Families, Housing,

Clause 114 Road Transport (Driver Licensing) Regulation 2008

Part 12 Miscellaneous

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- Community Services and Indigenous Affairs or the Commonwealth Department of Veterans' Affairs, or
- (b) who is in receipt of a pension or other amount paid by the Commonwealth Department of Veterans' Affairs in respect of a war-caused disability seriously affecting the person's powers of movement, being a pension or other amount (or a pension or other amount below a rate) approved by the Authority for the purposes of this paragraph, or
  - (c) who is an armed services widow within the meaning of the *Social Security Act 1991* of the Commonwealth, and:
    - (i) who is in receipt of a pension under Part II or IV of the *Veterans' Entitlements Act 1986* of the Commonwealth at the maximum rate applicable under section 1064 (5) of the *Social Security Act 1991* of the Commonwealth, and
    - (ii) who is under the pension age for the person set out in section 5QA of the *Veterans' Entitlements Act 1986* of the Commonwealth, and
  - (d) who is the holder of a current driver licence, being a licence for which no fee was payable under this Regulation or the *Road Transport (Driver Licensing) Regulation 1999*, or
  - (e) who is not the holder of any such current driver licence, but:
    - (i) who has satisfied the Authority, by the production of a certificate from a medical practitioner, that the person is not medically unfit to drive a motor vehicle, or
    - (ii) who has otherwise satisfied the Authority that the person should be treated as an eligible pensioner for the purposes of this clause.

### Division 3 Other

#### 114 Failure to comply with licence conditions (cf cl 56 1999 Reg)

- (1) The holder of a conditional licence or provisional licence who fails to comply with a condition of that licence is guilty of an offence.  
Maximum penalty: 20 penalty units.
- (2) Subclause (1) does not apply to the holder of a provisional licence who is driving a motor vehicle contrary to a condition of that licence restricting the holder to driving motor vehicles with automatic transmissions if the seat next to the holder of the licence is occupied by a person who holds an Australian driver licence (not being an Australian learner licence or provisional licence) authorising him or her to drive such a vehicle.

Road Transport (Driver Licensing) Regulation 2008

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Part 12

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- (3) For the purposes of this clause, a person does not hold an Australian driver licence if (whether under a law of this or another jurisdiction):
- (a) the licence has been suspended, or
  - (b) the person has been disqualified from holding a licence.

**115 Failure to return driver licence to Authority** (cf cl 57 (1) 1999 Reg)

The holder of a driver licence who fails to return a driver licence to the Authority when required by or in accordance with this Regulation to do so is guilty of an offence.

Maximum penalty: 20 penalty units.

**116 Notification offence** (cf cl 58 1999 Reg)

A person who does not give information to the Authority when required by this Regulation to do so is guilty of an offence.

Maximum penalty: 20 penalty units.

**117 Change of name, address or medical condition** (cf cl 30 1999 Reg)

- (1) The holder of a driver licence must advise the Authority, not more than 14 days after the change, about any change in the holder's:

- (a) name, or
- (b) residential address, or address for service of notices.

Maximum penalty: 20 penalty units.

- (2) Unless required by the Authority, the advice need not be in writing.
- (3) The new residential address advised of by the licence holder must be an address in this State at which the Authority may ordinarily make personal contact with the holder.
- (4) If there is no postal service to the licence holder's new residential address, the licence holder must also provide an address for the service of notices.
- (5) The holder of a driver licence must, as soon as practicable, notify the Authority of any permanent or long term injury or illness that may impair the licence holder's ability to drive safely.

**118 Verification of information in driver licence register and monitoring of compliance** (cf cl 32 and 57 (3) 1999 Reg)

- (1) If there are reasonable grounds for believing that information contained in the driver licence register is inaccurate or misleading, the Authority may by written notice require the holder of a driver licence to provide

Clause 119 Road Transport (Driver Licensing) Regulation 2008

Part 12 Miscellaneous

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evidence to the Authority, in a form specified by the Authority, relating to anything relevant to the issuing, variation or continuation of the licence, including:

- (a) the licence holder's personal details, and
  - (b) the licence holder's residential address.
- (2) If the licence holder fails to comply with the notice, the licence holder is guilty of an offence.  
Maximum penalty: 20 penalty units.
- (3) For the purposes of this clause, the Authority may require the licence holder:
- (a) to provide specified documents for inspection, and
  - (b) to attend at a time and place specified by the Authority for identification.
- (4) If a licence holder who is required to attend for identification requests a change to the time or place specified in the notice, the Authority must give consideration to that request and may change the time or place in accordance with the request.

**119 Damaged or lost licences** (cf cl 29 1999 Reg)

- (1) A licence is of no effect if it is so damaged, or is in such a condition, that the particulars in the licence cannot be read.
- (2) The holder of a driver licence whose licence is damaged, stolen, lost or destroyed must notify the Authority as soon as practicable.

**120 Issue of replacement driver licence** (cf cl 23 1999 Reg)

- (1) The Authority may, on payment by the holder of a driver licence of the applicable fee, issue a driver licence to replace a driver licence that:
  - (a) has been stolen, lost, damaged or destroyed, or
  - (b) has been cancelled under clause 55 (1) (i) or (j).
- (2) A licence holder who seeks a replacement driver licence must provide to the Authority personal particulars necessary to identify the applicant, including any evidence that the Authority may reasonably require to verify those particulars.
- (3) The Authority may require a licence holder who seeks a replacement driver licence to comply with any of the requirements of clause 44 (3) in addition to the requirements of this clause.
- (4) On the issue of a replacement licence, the licence it replaces is of no effect.

Road Transport (Driver Licensing) Regulation 2008	Clause 121
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**121 Savings**

Any act, matter or thing that had effect under the *Road Transport (Driver Licensing) Regulation 1999* immediately before the repeal of that Regulation is taken to have effect under this Regulation.

**122 Application of prescribed conditions imposed by amendment to Regulation** (cf cl 28A 1999 Reg)

If this Regulation is amended so as to impose a new condition on a driver licence (whether or not of a particular class) or to amend an existing condition applying to such a licence:

- (a) the new condition or amended condition applies to all such licences, regardless of when they were issued, unless this Regulation expressly or by necessary implication provides otherwise, and
- (b) the new condition or amended condition applies only in respect of conduct occurring after the new condition or amendment to the condition takes effect.

## Road Transport (Driver Licensing) Regulation 2008

Schedule 1 National schedule of demerit point offences

## Schedule 1 National schedule of demerit point offences

(Clause 60 (1) and (3))

## Road Rules 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Rule 20 (except in a school zone or where the applicable speed limit is specified by rule 24-1, 24-2, 24-3 or 24-4)	Exceeding speed limit:		
	(a) where the speed limit is exceeded by more than 45km/h	6	12
	(b) where the speed limit is exceeded by more than 30km/h but not exceeded by more than 45km/h	4	8
	(c) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (otherwise than by the holder of a provisional P1 licence)	3	6
	(d) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (in the case of the holder of a provisional P1 licence)	4	8
	(e) where the speed limit is exceeded by not more than 15km/h (otherwise than by the holder of a provisional P1 licence)	3	6
	(f) where the speed limit is exceeded by not more than 15km/h (in the case of the holder of a provisional P1 licence)	4	8

## Road Transport (Driver Licensing) Regulation 2008

National schedule of demerit point offences

Schedule 1

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 20 (in school zone, except where the applicable speed limit is specified by rule 24-1, 24-2, 24-3 or 24-4)	Exceeding speed limit:		
	(a) where the speed limit is exceeded by more than 45km/h	7	14
	(b) where the speed limit is exceeded by more than 30km/h but not exceeded by more than 45km/h	5	10
	(c) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (otherwise than by the holder of a provisional P1 licence)	4	8
	(d) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (in the case of the holder of a provisional P1 licence)	5	10
	(e) where the speed limit is exceeded by not more than 15km/h (otherwise than by the holder of a provisional P1 licence)	4	8
	(f) where the speed limit is exceeded by not more than 15km/h (in the case of the holder of a provisional P1 licence)	5	10
Rule 27, 28 (1), 29, 31, 32 (1) or 33	Turning improperly	2	2
Rule 37, 39, 40, 41 or 42 (except in school zone)	Make unlawful U-turn	2	2
Rule 37, 39, 40, 41 or 42 (in school zone)	Make unlawful U-turn	3	3

## Road Transport (Driver Licensing) Regulation 2008

## Schedule 1 National schedule of demerit point offences

<b>Road Rules 2008</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 38, 62, 63 (3) or 64 (except in school zone)	Failing to give way	3	3
Rule 38, 62, 63 (3) or 64 (in school zone)	Failing to give way	4	4
Rule 46 (1) or 48 (1), but only in the circumstances referred to in rule 46 (3) or 48 (3) respectively	Not give proper signal when driving out from side of road	2	2
Rule 46 (1) or 48 (1) (but only in the circumstances referred to in rule 46 (2) or 48 (2) respectively), 53, 112, 113, 117 or 118 (1)	Changing direction or stopping without signalling	2	2
Rule 56 or 59, but only at traffic lights other than traffic lights at toll booths or in school zones	Disobeying traffic light	3	3
Rule 56 or 59, but only at traffic lights in school zones, other than traffic lights at toll booths	Disobeying traffic light	4	4
Rule 57, 60, 61 or 63 (2) (except at level crossing or in school zone)	Disobeying traffic light	3	3
Rule 57, 60, 61 or 63 (2) (in school zone but not at level crossing)	Disobeying traffic light	4	4
Rule 66 (except at level crossing) or Part 17	Disobeying traffic light	3	3



## Road Transport (Driver Licensing) Regulation 2008

National schedule of demerit point offences

Schedule 1

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 65 (2) (a), 80 or 81 (2) (except in school zone)	Failing to stop or give way at pedestrian, children's or marked crossing	3	3
Rule 65 (2) (a), 80 or 81 (2) (in school zone)	Failing to stop or give way at pedestrian, children's or marked crossing	4	4
Rule 65 (2) (b) (except in school zone)	Obstruct pedestrian—flashing yellow light	3	3
Rule 65 (2) (b) (in school zone)	Obstruct pedestrian—flashing yellow light	4	4
Rule 65 (2) (c) (except in school zone)	Overtake/pass vehicle—flashing yellow light	3	3
Rule 65 (2) (c) (in school zone)	Overtake/pass vehicle—flashing yellow light	4	4
Rule 67, 68, 69, 71 or 101 (except in school zone)	Disobeying stop (including hand-held stop) or give way sign or line	3	3
Rule 67, 68, 69, 71 or 101 (in school zone)	Disobeying stop (including hand-held stop) or give way sign or line	4	4
Rule 70 (except in school zone)	Disobey give way sign on bridge/narrow road	3	3
Rule 70 (in school zone)	Disobey give way sign on bridge/narrow road	4	4
Rule 72 (1), 73, 74, 75, 84, 87, 114, 148 or 149	Failing to give way	3	3
Rule 76 (1)	Drive into path of approaching tram	3	3
Rule 76 (2)	Not move out of path of approaching tram	3	3
Rule 77 (1)	Drive in left lane/traffic line not give way to bus	3	3
Rule 78 (1)	Move into path of police or emergency vehicle	3	3

## Road Transport (Driver Licensing) Regulation 2008

## Schedule 1 National schedule of demerit point offences

<b>Road Rules 2008</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 78 (2)	Not move out of path of police or emergency vehicle	3	3
Rule 79 (1)	Not give way to police or emergency vehicle	3	3
Rule 81 (1) (except in school zone)	Approach pedestrian crossing too quickly to stop safely if necessary	3	3
Rule 81 (1) (in school zone)	Approach pedestrian crossing too quickly to stop safely if necessary	4	4
Rule 82 (except in school zone)	Overtake or pass vehicle—children's or pedestrian crossing	3	3
Rule 82 (in school zone)	Overtake or pass vehicle—children's or pedestrian crossing	4	4
Rule 83	Not give way to pedestrian in shared zone	3	3
Rule 85	Not give way to vehicle in/entering turning lane	3	3
Rule 86 (1)	Not give way to vehicle (median turning bay)	3	3
Rule 88, 89, 90 or 91	Disobey traffic sign	2	2
Rule 93, 94 or 143	Overtake/pass vehicle contrary to sign	2	2
Rule 115	Not drive to left of central traffic island in the roundabout	2	2
Rule 121 or 122	Failing to stop or give way at level crossing	3	3
Rule 123 (a)	Enter a level crossing when warning lights or bells operating	3	3
Rule 123 (b)	Enter a level crossing when gate, boom or barrier is closed, opening or closing	3	3
Rule 123 (c)	Enter a level crossing when a train or tram is on or entering the crossing	3	3
Rule 123 (d)	Enter a level crossing when a train or tram is approaching the crossing	3	3

## Road Transport (Driver Licensing) Regulation 2008

National schedule of demerit point offences

Schedule 1

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 123 (e)	Enter a level crossing when crossing or road beyond is blocked	3	3
Rule 126	Following too closely	3	3
Rule 129	Not drive far left side of road	2	2
Rule 130, 131, 132 (1) or (2) or 135	Failing to keep left	3	3
Rule 140	Overtake vehicle when unsafe	3	3
Rule 141 (1)	Overtake to left of vehicle	2	2
Rule 142 (1)	Overtake to right of vehicle turning right/making U-turn	3	3
Rule 144	Fail to keep safe distance when overtaking	3	3
Rule 152	Disobey overhead lane control device	3	3
Rule 162, 163 or 164	Unlawfully driving past safety zone or stopped tram or failing to give way to pedestrian crossing near stopped tram	2	2
Rule 218	Failure to dip headlights	1	1
Rule 219	Use lights to dazzle another road user	1	1
Rule 264	Driver not wearing seat belt	3	6
Rule 266	Drive with unrestrained passengers under the age of 16 years	3	6
Rule 270 (1) (a)	Ride motor bike without helmet (rider alone)	3	6
Rule 288 (4) (except in school zone)	Driver not give way to user/animal on path	3	3
Rule 288 (4) (in school zone)	Driver not give way to user/animal on path	4	4
Rule 289 (2) (except in school zone)	Driver not give way to road user/animal on nature strip	3	3
Rule 289 (2) (in school zone)	Driver not give way to road user/animal on nature strip	4	4

## Road Transport (Driver Licensing) Regulation 2008

Schedule 1 National schedule of demerit point offences

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 304	Fail to obey police direction	3	3

**Road Transport (Safety and Traffic Management) Act 1999**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Section 42 (1) (c)	Negligent driving (but not occasioning death or grievous bodily harm)	3	3

**Road Transport (Vehicle Registration) Regulation 2007**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Clause 84 (2)	Use vehicle contrary to a defect notice:		
	(a) in case of a major defect	3	3
	(b) in case of a minor defect	1	1

Road Transport (Driver Licensing) Regulation 2008

Additional demerit point offences

Schedule 2

## Schedule 2 Additional demerit point offences

(Clause 60 (2) and (3))

### Protection of the Environment Operations (Noise Control) Regulation 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Clause 17 (1)	Driver of a motor vehicle with a sound system driving or using the motor vehicle on a road or road related area where the sound system emits offensive noise	2	2

### Road Rules 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Rule 20 (where the applicable speed limit is specified by rule 24-1 (2) or (3), except in a school zone)	Exceeding speed limit for provisional driver: <ul style="list-style-type: none"> <li>(a) where the speed limit is exceeded by more than 45km/h</li> <li>(b) where the speed limit is exceeded by more than 30km/h but not exceeded by more than 45km/h</li> <li>(c) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (otherwise than by the holder of a provisional P1 licence)</li> <li>(d) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (in the case of the holder of a provisional P1 licence)</li> </ul>	6	12
		4	8
		3	6
		4	8

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## Road Transport (Driver Licensing) Regulation 2008

## Schedule 2 Additional demerit point offences

<b>Road Rules 2008</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
	(e) where the speed limit is exceeded by not more than 15km/h (otherwise than by the holder of a provisional P1 licence)	3	6
	(f) where the speed limit is exceeded by not more than 15km/h (in the case of the holder of a provisional P1 licence)	4	8
Rule 20 (in a school zone where the applicable speed limit is specified by rule 24-1 (2) or (3))	Exceeding speed limit for provisional driver:		
	(a) where the speed limit is exceeded by more than 45km/h	7	14
	(b) where the speed limit is exceeded by more than 30km/h but not exceeded by more than 45km/h	5	10
	(c) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (otherwise than by the holder of a provisional P1 licence)	4	8
	(d) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (in the case of the holder of a provisional P1 licence)	5	10
	(e) where the speed limit is exceeded by not more than 15km/h (otherwise than by the holder of a provisional P1 licence)	4	8
	(f) where the speed limit is exceeded by not more than 15km/h (in the case of the holder of a provisional P1 licence)	5	10

## Road Transport (Driver Licensing) Regulation 2008

## Additional demerit point offences

Schedule 2

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 20 (where the applicable speed limit is specified by rule 24-2)	Exceeding speed limit on Lord Howe Island:		
	(a) where the speed limit is exceeded by more than 45km/h	6	12
	(b) where the speed limit is exceeded by more than 30km/h but not exceeded by more than 45km/h	4	8
	(c) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h	3	6
	(d) where the speed limit is exceeded by not more than 15km/h	3	6
Rule 20 (where the applicable speed limit is specified by rule 24-3)	Pass bus at speed in excess of 40km/h:		
	(a) where the motor vehicle is driven at a speed that exceeds 85km/h	6	12
	(b) where the motor vehicle is driven at a speed that exceeds 70km/h but does not exceed 85km/h	4	8
	(c) where the motor vehicle is driven at a speed that exceeds 55km/h but does not exceed 70km/h (otherwise than by the holder of a provisional P1 licence)	3	6
	(d) where the motor vehicle is driven at a speed that exceeds 55km/h but does not exceed 70km/h (in the case of the holder of a provisional P1 licence)	4	8

## Road Transport (Driver Licensing) Regulation 2008

## Schedule 2 Additional demerit point offences

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
	(e) where the motor vehicle is driven at a speed that exceeds 40km/h but does not exceed 55km/h (otherwise than by the holder of a provisional P1 licence)	3	6
	(f) where the motor vehicle is driven at a speed that exceeds 40km/h but does not exceed 55km/h (in the case of the holder of a provisional P1 licence)	4	8
Rule 28 (1A)	Turning left improperly at intersection from a multi-lane road with slip lane	2	2
Rule 46 (1) or 48 (1), but only in the circumstances referred to in rule 46 (4) or 48 (4) respectively	Not stop change of direction signal after change	2	2
Rule 51	Operate indicator light unlawfully	2	2
Rule 60A (except in school zone)	Disobey a red traffic light or arrow when proceeding through bicycle storage area	3	3
Rule 60A (in school zone)	Disobey a red traffic light or arrow when proceeding through bicycle storage area	4	4
Rule 92 (1)	Disobey traffic sign/road marking at intersection	2	2
Rule 95 (1)	Drive in emergency stopping lane	2	2
Rule 96 (1)	Stop on area marked with keep clear marking	2	2
Rule 97 (1)	Disobey road access sign	2	2
Rule 98 (1)	Disobey one-way sign	2	2
Rule 99	Disobey keep left/right sign	2	2
Rule 100	Disobey no entry sign	2	2



## Road Transport (Driver Licensing) Regulation 2008

Additional demerit point offences

Schedule 2

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 108	Disobey trucks and buses low gear sign	3	3
Rule 111 (1), 116 or 118 (2)	Drive contrary to roundabout rules	2	2
Rule 124	Fail to leave a level crossing	3	3
Rule 127	Long vehicle following other long vehicle too closely, otherwise than where following long vehicle is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	3	3
Rule 127	Long vehicle following other long vehicle too closely, where following long vehicle is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	4	4
Rule 128A (except in school zone)	Enter blocked crossing	2	2
Rule 128A (in school zone)	Enter blocked crossing	3	3
Rule 132 (2A)	Drive across dividing lines to perform a U-turn	3	3
Rule 136	Drive wrong way on one-way service road	3	3
Rule 137	Drive on dividing strip	2	2
Rule 138 (1)	Drive on/over continuous line near painted island	2	2
Rule 145	Increase speed while being overtaken	3	3

## Road Transport (Driver Licensing) Regulation 2008

## Schedule 2 Additional demerit point offences

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 146	Not drive within single marked lane or line of traffic, otherwise than where vehicle not driven within single marked lane or line of traffic is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	2	2
Rule 146	Not drive within single marked lane or line of traffic, where vehicle not driven within single marked lane or line of traffic is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	4	4
Rule 147	Cross continuous line separating marked lanes, otherwise than where vehicle crossing line is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	2	2
Rule 147	Cross continuous line separating marked lanes, where vehicle crossing line is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	4	4
Rule 148A	Fail to give way when moving within single marked lane	3	3
Rule 150	Drive on/over continuous white edge line, where vehicle driven is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	4	4

## Road Transport (Driver Licensing) Regulation 2008

Additional demerit point offences

Schedule 2

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 150	Drive on/over continuous white edge line, where vehicle driven is: (a) not a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	2	2
Rule 150	Drive on/over continuous white edge line, where vehicle driven is not in a Safe-T-Cam zone	2	2
Rule 154	Drive in bus lane	3	3
Rule 155 (1)	Drive in tram lane	3	3
Rule 157	Drive in truck lane	3	3
Rule 157-1 (1)	Drive in T-Way lane	3	3
Rule 159	Bus or truck driver fail to drive in bus lane or in truck lane where required	3	3
Rule 167 (in school zone)	Disobey no stopping sign	2	2
Rule 168 (1) (in school zone)	Disobey no parking sign	2	2
Rule 171 (1) (except in school zone)	Stop on/near children's crossing	1	1
Rule 171 (1) (in school zone)	Stop on/near children's crossing	2	2
Rule 172 (1) (except in school zone)	Stop on/near pedestrian crossing	1	1
Rule 172 (1) (in school zone)	Stop on/near pedestrian crossing	2	2
Rule 173 (1) (except in school zone)	Stop on/near marked foot crossing	1	1
Rule 173 (1) (in school zone)	Stop on/near marked foot crossing	2	2
Rule 175 (1)	Stop on/near level crossing	1	1

## Road Transport (Driver Licensing) Regulation 2008

## Schedule 2 Additional demerit point offences

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 183 (1) (in school zone)	Stop in bus zone	2	2
Rule 189 (1) (in school zone)	Double park	2	2
Rule 195 (1) (in school zone)	Stop at/near bus stop	2	2
Rule 197 (1) (in school zone)	Stop on path/strip in built-up area	2	2
Rule 198 (2) (in school zone)	Stop on/across driveway/other access to/from adjacent land	2	2
Rule 215-1 (1)	Driving at night/dark without headlight alight, otherwise than where vehicle driven is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	1	1
Rule 215-1 (1)	Driving at night/dark without headlight alight, where vehicle driven is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	4	4
Rule 265 (3)	Drive with 1 unrestrained passenger	3	6
Rule 265 (3)	Drive with 2 or more unrestrained passengers	6	12
Rule 267-1 (2)	Learner or P1 or P2 driver drive vehicle unrestrained (no restraint fitted)	3	6
Rule 267-1 (2)	Learner or P1 or P2 driver drive vehicle with unrestrained passenger	3	6
Rule 267-2 (1)	Use vehicle when child is in child restraint in front seat position where airbag fitted	3	6
Rule 268 (3)	Part of body outside vehicle window/door (driver)	3	3

## Road Transport (Driver Licensing) Regulation 2008

Additional demerit point offences

Schedule 2

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 268 (4)	Drive with part of passenger's body outside window/door	3	3
Rule 268 (4A)	Drive with passenger in part of vehicle that is not designed for carriage of passengers or goods	3	3
Rule 268 (4B)	Drive with passenger not in properly enclosed part of vehicle	3	3
Rule 268-2 (2)	Drive with person in or on the boot of motor vehicle	3	6
Rule 270 (1)	Ride motor bike without helmet and with one passenger only not wearing helmet	6	12
Rule 270 (1)	Ride motor bike without helmet and with 2 or more passengers not wearing helmets	9	18
Rule 270 (1) (b)	Ride motor bike with one passenger not wearing helmet	3	6
Rule 270 (1) (b)	Ride motor bike with 2 or more passengers not wearing helmets	6	12
Rule 271 (1) (a)	Not sit astride on motor bike rider's seat	3	3
Rule 271 (4), 271-1 (1) or 271-2 (1)	Unauthorised carriage of pillion passenger on motor bike or motor trike	3	3
Rule 271 (5)	Exceed number of passengers in motor bike side car	3	3
Rule 271 (5A)	Ride with passenger under 8 years not in sidecar	3	3
Rule 271 (5C)	Ride with unsafely seated passenger in sidecar	3	3
Rule 287	Not stop and supply required particulars at scene of crash	3	3
Rule 288 (1) (except in school zone)	Drive on path	3	3

## Road Transport (Driver Licensing) Regulation 2008

## Schedule 2 Additional demerit point offences

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 288 (1) (in school zone)	Drive on path	4	4
Rule 289 (1) (except in school zone)	Drive on nature strip	3	3
Rule 289 (1) (in school zone)	Drive on nature strip	4	4
Rule 290 (except in school zone)	Drive on traffic island	3	3
Rule 290 (in school zone)	Drive on traffic island	4	4
Rule 291	Start or drive a vehicle causing unnecessary noise or smoke	3	3
Rule 292 (a)	Drive/tow vehicle with unsecured load	3	3
Rule 292 (b)	Drive/tow vehicle with load causing instability	3	3
Rule 292 (c)	Drive/tow vehicle with overhanging load	3	3
Rule 293 (2)	Not remove/have removed any thing fallen/put upon road	3	3
Rule 294 (1)	Tow without appropriate control of towed vehicle	3	3
Rule 294 (2) (a)	Tow without control of trailer	3	3
Rule 294 (2) (b)	Tow trailer when unsafe	3	3
Rule 294-1 (1) (a)	Articulated vehicle tow other vehicle	3	3
Rule 294-1 (1) (b)	Motor vehicle tow more than one vehicle	3	3
Rule 294-2 (1) (a)	Towed vehicle exceed towing capacity	3	3
Rule 294-2 (1) (b)	Towed vehicle exceed maximum laden weight	3	3
Rule 294-3 (1) (a)	Not keep required distance (towing with towline)	2	2

## Road Transport (Driver Licensing) Regulation 2008

Additional demerit point offences

Schedule 2

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 294-3 (1) (e)	Not display warning flag as required	2	2
Rule 296 (1) (except in school zone)	Not reverse vehicle safely	2	2
Rule 296 (1) (in school zone)	Not reverse vehicle safely	3	3
Rule 297 (1) (except in school zone)	Not have proper control of vehicle	3	3
Rule 297 (1) (in school zone)	Not have proper control of vehicle	4	4
Rule 297 (1A) (except in school zone)	Drive with person or animal in lap	3	3
Rule 297 (1A) (in school zone)	Drive with person or animal in lap	4	4
Rule 297 (2) (except in school zone)	Drive without clear view	3	3
Rule 297 (2) (in school zone)	Drive without clear view	4	4
Rule 297 (3) (except in school zone)	Ride with animal on petrol tank	3	3
Rule 297 (3) (in school zone)	Ride with animal on petrol tank	4	4
Rule 298	Tow trailer with person in/on trailer	3	3
Rule 298-1	Driver consume alcohol while driving	3	3
Rule 299 (1) (a) (except in school zone)	Drive vehicle with TV/VDU image visible	3	3
Rule 299 (1) (a) (in school zone)	Drive vehicle with TV/VDU image visible	4	4
Rule 300 (except in school zone)	Driver (other than learner or P1 driver) use hand-held mobile phone while driving	3	3
Rule 300 (in school zone)	Driver (other than learner or P1 driver) use hand-held mobile phone while driving	4	4

## Road Transport (Driver Licensing) Regulation 2008

## Schedule 2 Additional demerit point offences

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 300–1 (except in school zone)	Learner or P1 driver use mobile phone while driving	3	3
Rule 300–1 (in school zone)	Learner or P1 driver use mobile phone while driving	4	4

**Road Transport (Driver Licensing) Regulation 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Clause 15 (1) (b)	Learner driver not display “L” plates as required	2	2
Clause 17 (1) (a)	Unauthorised carriage of pillion passenger	2	2
Clause 17 (1) (b)	Learner rider not display “L” plate as required	2	2
Clause 17 (2)	Ride motorcycle of prohibited capacity/power	4	4
Clause 18	Learner tow or be towed by other vehicle	2	2
Clause 23 (a)	Drive vehicle towing excess weight	2	2
Clause 23 (b)	Ride motor bike or motor trike towing other vehicle	2	2
Clause 114 (except in respect of a condition under clause 22 (b), 32, 33 or 34)	Not comply with conditions of licence	2	2
Clause 114 (in respect of a condition under clause 22 (b))	Not comply with P1 (class R) restriction on capacity/power	4	4



## Road Transport (Driver Licensing) Regulation 2008

Additional demerit point offences

Schedule 2

<b>Road Transport (Driver Licensing) Regulation 2008</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Clause 114 (in respect of a condition under clause 32)	Not comply with P1/P2 high performance vehicle restriction	7	7
Clause 114 (in respect of a condition under clause 33)	Not comply with P1/P2 passenger restriction	7	7
Clause 114 (in respect of a condition under clause 34)	Not comply with P1 passenger restriction	3	3

<b>Road Transport (Safety and Traffic Management) Act 1999</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Section 41 (1)	Burnout	3	3
Section 48 (2)	Stand/drive vehicle with speed evasion article	9	9

<b>Road Transport (Vehicle Registration) Act 1997</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Section 18 (1), in relation only to a class B or class C motor vehicle	Use unregistered vehicle	4	4

## Road Transport (Driver Licensing) Regulation 2008

Schedule 2 Additional demerit point offences

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<b>Road Transport (Vehicle Registration) Regulation 2007</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Clause 52 (1) (a)	Use vehicle with defective brakes	3	3
Clause 52 (1) (a)	Use vehicle with defective steering	3	3
Clause 52 (1) (a)	Use vehicle with seatbelt missing/defective	3	3
Clause 52 (1) (a)	Use vehicle with defective seating	3	3
Clause 52 (1) (a)	Use vehicle not fitted/equipped with seatbelts/anchorages	3	3
Clause 52 (1) (a)	Use vehicle with dangerous protrusion on bullbar	3	3
Clause 52 (1) (a)	Use vehicle with obscured/defaced/illegible number-plate or number-plate not displayed or affixed in accordance with Regulation	3	3
Clause 85 (1) (a)	Use vehicle with unauthorised number-plate	3	3
Clause 85 (2) (a)	Use vehicle displaying altered number-plate	3	3
Clause 85 (2) (b)	Use vehicle displaying misleading number-plate	3	3

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## Road Transport (Driver Licensing) Regulation 2008

## Fees

## Schedule 3

**Schedule 3 Fees**

(Clause 111)

	<b>\$</b>
1 Issue or renewal of driver licence:	
(a) 1-year	46
(b) 3-year	108
(c) 5-year	145
(d) provisional P1 licence	46
(e) provisional P2 licence	72
(f) learner licence	20
(g) in the case of a temporary overseas visitor to whom clause 43 applies—a driver licence (other than a provisional P1 licence, a provisional P2 licence or learner licence)	46
(h) in the case of a temporary overseas visitor to whom clause 43 applies—a provisional P1 licence	46
(i) in the case of a temporary overseas visitor to whom clause 43 applies—a provisional P2 licence	46
(j) in the case of a temporary overseas visitor to whom clause 43 applies—a learner licence	20
<b>Note.</b> Clause 43 provides (with some exceptions) that a temporary overseas visitor is not eligible to be issued a driver licence (which includes a provisional or learner licence) that will be in force for a period of more than 12 months and is not eligible to have a driver licence held by the person renewed for a period of more than 12 months.	
2 Replacement or duplicate licence:	
(a) learner licence	18
(b) any other licence	21
3 Application for driving or riding test	44
4 Competency based assessment:	
(a) scheme participation fee	21
(b) replacement log book	7

## Road Transport (Driver Licensing) Regulation 2008

## Schedule 3 Fees

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5	Entry fee for authorised rider training course:
	(a) provisional licence rider training course 110
	(b) learner licence rider training course 73
6	Certificate from Authority's records 25
7	Information from Authority's records (other than a certificate) 18
8	Hazard Perception Test 36
9	Driver Qualification Test 36
10	Driver Knowledge Test 36
11	Fee per copy for provision of handbook:
	(a) Road Users' Handbook (including any foreign language version of that handbook) 10
	(b) Heavy vehicle drivers' handbook 10
	(c) Motorcycle riders' handbook 10
	(d) Hazard Perception Handbook 10
	(e) Driver qualification handbook 10

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New South Wales

## Road Transport (General) Amendment (Driver Licensing) Regulation 2008

under the

Road Transport (General) Act 2005

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (General) Act 2005*.

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

### Explanatory note

The object of this Regulation is to amend the *Road Transport (General) Regulation 2005* as a consequence of the repeal of the *Road Transport (Driver Licensing) Regulation 1999* and its replacement by the *Road Transport (Driver Licensing) Regulation 2008*.

This Regulation is made under the *Road Transport (General) Act 2005*, including sections 10 (the general regulation-making power), 183, 239 (3) and 242 (1) and (2).

Clause 1 Road Transport (General) Amendment (Driver Licensing) Regulation 2008

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## **Road Transport (General) Amendment (Driver Licensing) Regulation 2008**

under the

Road Transport (General) Act 2005

### **1 Name of Regulation**

This Regulation is the *Road Transport (General) Amendment (Driver Licensing) Regulation 2008*.

### **2 Commencement**

This Regulation commences on 1 September 2008.

### **3 Amendment of Road Transport (General) Regulation 2005**

The *Road Transport (General) Regulation 2005* is amended as set out in Schedule 1.

Road Transport (General) Amendment (Driver Licensing) Regulation 2008

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 3)

- [1] **Clause 6 Service of notices on persons under Road Transport (Driver Licensing) Act 1998**  
Insert after clause 6 (5):  
(5A) A notice given for the purposes of clause 58 of the *Road Transport (Driver Licensing) Regulation 2008* may only be given personally.
- [2] **Clauses 11, definition of “foreign driver licence”, 18 (1) (a), (b), (d) and (e), (2) and (3), 20 (2) and (4) and 25 (2)**  
Omit “*Road Transport (Driver Licensing) Regulation 1999*” wherever occurring.  
Insert instead “*Road Transport (Driver Licensing) Regulation 2008*”.
- [3] **Clause 18 (1) (a)**  
Omit “clause 8 (3)”. Insert instead “clause 41 (3)”.
- [4] **Clause 18 (1) (b)**  
Omit “clause 18 (2) (d)”. Insert instead “clause 46 (2) (d)”.
- [5] **Clause 18 (1) (d)**  
Omit “clause 19 or 38”. Insert instead “clause 47 or 55”.
- [6] **Clause 18 (1) (e)**  
Omit “clause 15, 15A or 38”. Insert instead “clause 24, 29 or 55”.
- [7] **Clause 18 (3)**  
Omit “clause 55 (2) (e) or (f)”. Insert instead “99 (4) (f) or (g)”.
- [8] **Clause 20 (2)**  
Omit “clause 38 (1A)”. Insert instead “clause 55 (2)”.
- [9] **Clause 25 (2)**  
Omit “Part 7 (Interlock devices)”.  
Insert instead “Part 10 (Interlock driver licences and devices)”.

## Road Transport (General) Amendment (Driver Licensing) Regulation 2008

## Schedule 1 Amendments

**[10] Clause 52 Transitional provisions**

Insert at the end of the clause:

- (2) Clause 18, as in force before it was amended by the *Road Transport (General) Amendment (Driver Licensing) Regulation 2008*, continues to apply in respect of a decision made under the *Road Transport (Driver Licensing) Regulation 1999* before the repeal of that Regulation.

**[11] Schedule 3 Penalty notice offences**

Omit the matter relating to the *Road Transport (Driver Licensing) Regulation 1999*.

Insert instead:

**Road Transport (Driver Licensing) Regulation 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Authorised officer</b>	<b>Penalty</b>
Clause 9 (3); Clause 9 (4)	Class 1, 2	Level 2
Clause 15 (1) (a)	Class 1	Level 9
Clause 15 (1) (b); Clause 17 (1) (a); Clause 17 (1) (b); Clause 18 (a); Clause 18 (b); Clause 23 (a); Clause 23 (b)	Class 1	Level 4
Clause 17 (2)	Class 1	Level 7
Clause 16 (a); Clause 16 (b); Clause 19; Clause 35 (6); Clause 35 (8); Clause 99 (7); Clause 117 (1) (a); Clause 117 (1) (b)	Class 1	Level 2
Clause 35 (7)	Class 1	Level 5
Clause 114 (1) (where the licence concerned is a provisional P1 licence of class R and the holder of the licence drives a motor cycle with engine capacity greater than 260 ml or a power to weight ratio greater than 150 kilowatts per tonne but otherwise than in relation to a condition relating to a 90 km/h speed limit):		
(a) for the first offence, or the first offence within the last 5 years	Class 1	Level 7
(b) for the second or subsequent offence within the last 5 years	Class 1	Level 9



## Road Transport (General) Amendment (Driver Licensing) Regulation 2008

Amendments

Schedule 1

**Road Transport (Driver Licensing) Regulation 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Authorised officer</b>	<b>Penalty</b>
Clause 114 (1) (otherwise than where the licence concerned is an interlock driver licence or where the licence is a provisional P1 licence of class R and the holder of the licence drives a motor cycle with engine capacity greater than 260 ml or a power to weight ratio greater than 150 kilowatts per tonne and otherwise than in relation to a condition relating to a 90 km/h speed limit):		
(a) in relation to licence conditions generally	Class 1	Level 4
(b) in relation to P plates for holders of P1 licences of class C	Class 1	Level 4
(c) in relation to P plates for holders of P1 licences of class R	Class 1	Level 4
(d) in relation to P plates for holders of P2 licences	Class 1	Level 4
(e) in relation to a condition imposed by clause 32, 33 or 34	Class 1	Level 7
Clause 114 (1), in relation to a condition relating to a 90 km/h speed limit	Class 1	Level 4
Clause 115; Clause 116; Clause 118 (2)	Class 1, 2	Level 2



New South Wales

# Swimming Pools Regulation 2008

under the

Swimming Pools Act 1992

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Swimming Pools Act 1992*.

PAUL LYNCH, M.P.,  
Minister for Local Government

## Explanatory note

The object of this Regulation is to remake, with some changes, the provisions of the *Swimming Pools Regulation 1998*. That Regulation is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The current *Swimming Pools Regulation 1998* includes provisions prescribing standards of design, construction, installation and maintenance of fences and gates for, or means of access to, swimming pools that are based on an Australian Standard published in 1986. That standard has been replaced. The most up-to-date standard is Australian Standard AS 1926.1–2007 *Swimming Pool Safety, Part 1: Safety barriers for swimming pools*, which is applied by this Regulation.

Under this Regulation:

- (a) new swimming pools will be required to comply with the standards set out in the new Australian Standard, and
- (b) existing swimming pools may continue to comply with the older Australian Standard, and the other standards in the *Swimming Pools Regulation 1998*, but may comply with the new Australian Standard (see clause 23).

This Regulation contains provisions dealing with the following matters under the *Swimming Pools Act 1992* (*the Act*):

- (a) standards of design, construction, installation and maintenance of child-resistant barriers that are required to surround outdoor swimming pools and doors and windows leading to outdoor swimming pools (clauses 5–7),
- (b) standards of restricting access to indoor swimming pools (clause 8),
- (c) standards of restricting access to the water contained in spa pools (clause 9),

## Swimming Pools Regulation 2008

## Explanatory note

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- (d) the erection of warning signs near swimming pools, and the contents of such signs (Part 3),
  - (e) applications to local authorities (such as councils) for exemptions from barrier requirements that are impracticable or unreasonable in particular cases (Part 4),
  - (f) certificates of compliance that a swimming pool complies with the Act's requirements regarding the restriction of access to swimming pools (Part 5),
  - (g) the contents of directions made by local authorities to order compliance with the Act (clause 19),
  - (h) the form of certificates of identification to be issued by local authorities to inspectors (clause 20 and Schedule 1),
  - (i) public access to the Australian Standard, and to a guideline, referred to in the Regulation (clause 21),
  - (j) penalty notices for offences under the Act (clause 22),
  - (k) savings and formal matters (clauses 1–4 and 24).

This Regulation refers to Australian Standard AS 1926.1–2007 *Swimming Pool Safety*, Part 1: *Safety barriers for swimming pools* and to *Guideline 7: Cardiopulmonary Resuscitation*, published by the Australian Resuscitation Council (copies of which can be inspected at the head office of the Department of Local Government or at the office of any local government council or other local authority—see clause 21).

This Regulation is made under the *Swimming Pools Act 1992*, including sections 7 (1) (b), 8 (2), 9 (2), 10 (2), 12 (d), 14, 17, 20, 22, 23, 24, 27 (2), 35 and 38 (the general regulation-making power).

## Swimming Pools Regulation 2008

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## Swimming Pools Regulation 2008

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Swimming Pools Regulation 2008

Clause 1

Preliminary

Part 1

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## Swimming Pools Regulation 2008

under the

Swimming Pools Act 1992

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Swimming Pools Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note** This Regulation replaces the *Swimming Pools Regulation 1998* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**AS 1926.1—2007** means the provisions of AS 1926.1—2007 *Swimming Pool Safety*, Part 1: *Safety barriers for swimming pools* as published by Standards Australia on 12 July 2007, other than clause 2.10.

**Department** means the Department of Local Government.

**the Cardiopulmonary Resuscitation Guideline** means the document entitled *Guideline 7: Cardiopulmonary Resuscitation* published in February 2006 by the Australian Resuscitation Council.

**testing apparatus** means a cylindrical test object having a diameter of 105 millimetres, plus or minus 1 millimetre, and having at least one solid flat-faced end.

**the Act** means the *Swimming Pools Act 1992*.

(2) Notes included in this Regulation do not form part of this Regulation.

#### 4 References to compliance with AS 1926.1—2007

For the purposes of this Regulation, a child-resistant barrier, window or doorway is taken to comply with the standards set out in a clause in AS 1926.1—2007 so long as it complies with the minimum requirements for that clause.

Clause 5	Swimming Pools Regulation 2008
Part 2	Restriction of access to swimming pools

---

## Part 2 Restriction of access to swimming pools

**Note.** This Part prescribes standards for the restriction of access to new swimming pools. Clause 25 deals with swimming pools completed before 1 September 2008.

### Division 1 Restriction of access to outdoor swimming pools

#### 5 General requirements for outdoor swimming pools

For the purposes of sections 7 (1) (b) and 12 (d) of the Act, the prescribed standards in accordance with which a child-resistant barrier surrounding a swimming pool is to be designed, constructed, installed and maintained are the standards set out in AS 1926.1—2007 (excluding Clause 2.8).

**Note.** The provisions of AS 1926.1—2007 about doorsets are inapplicable to child-resistant barriers required by section 7, since that section requires the owner of the premises on which the swimming pool is situated to ensure that the swimming pool is at all times surrounded by a child-resistant barrier that separates the swimming pool from any residential building situated on the premises and from any place adjoining the premises.

#### 6 Standards required for certain swimming pools to be exempt from requirement to separate swimming pool from residential building

- (1) For the purposes of section 8 (2) of the Act, the prescribed standards in accordance with which the means of access to a swimming pool from a residential building are to be restricted are that:
  - (a) each doorway, and each opening portion of a window, that gives access to the swimming pool is to be designed, constructed, installed and maintained in accordance with the standards set out in AS 1926.1—2007, and
  - (b) in relation to each opening portion of a window giving access to the swimming pool—there must not be any footholds wider than 10 millimetres between the bottom of the lowest opening panel of the window and any point within 1.1 metres below the bottom of that panel.
- (2) Subclause (1) (b) does not apply to a window that is:
  - (a) of substantial construction and is so fixed (by means of a keyed locking device or other child-resistant device) that it has no opening through which it is possible to pass a testing apparatus, or
  - (b) totally enclosed by a grille (including a fixed grille) that is of substantial construction and is so fixed (by means of a keyed locking device or other child-resistant device) that it has no opening through which it is possible to pass a testing apparatus.

Swimming Pools Regulation 2008

Clause 7

Restriction of access to swimming pools

Part 2

---

**7 Standards required for swimming pools on large or waterfront properties to be exempt from requirement to surround swimming pool**

For the purposes of sections 9 (2) and 10 (2) of the Act, the prescribed standards in accordance with which the means of access to a swimming pool from a residential building are to be restricted are the standards set out in AS 1926.1—2007.

**Division 2 Restriction of access to indoor swimming pools**

**8 General requirements for indoor swimming pools**

For the purposes of section 14 of the Act, the prescribed standards in accordance with which the means of access to an indoor swimming pool is to be restricted are that each doorway, and each opening portion of a window, giving access to the swimming pool must be designed, constructed, installed and maintained in accordance with AS 1926.1—2007.

**Division 3 Restriction of access to spa pools**

**9 Standards required to be exempt from requirement to surround spa pool**

For the purposes of section 20 of the Act, the prescribed standards in accordance with which access to the water contained in a spa pool is to be restricted are that the spa pool must be covered and secured by a lockable child-safe structure (such as a door, lid, grille or mesh) that is:

- (a) of substantial construction and having no opening through which it is possible to pass a testing apparatus, and
- (b) fastened to the spa pool by a device that is itself of substantial construction and having no opening through which it is possible to pass a testing apparatus.



Clause 10      Swimming Pools Regulation 2008

Part 3          Warning notices

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## Part 3    Warning notices

### 10    Contents of warning notices

- (1) For the purposes of section 17 (1) of the Act, the sign referred to in that subsection must bear a notice that contains all of the following:
- (a) the words:
    - (i) “YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL”, and
    - (ii) “POOL GATES MUST BE KEPT CLOSED AT ALL TIMES”, and
    - (iii) “KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES”,
  - (b) a simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults):
    - (i) that are set out in accordance with the relevant provisions of that Guideline, and
    - (ii) that comply with the other relevant guidelines of the Australian Resuscitation Council, and
    - (iii) that are illustrated by drawings with key words only in bold print,
  - (c) a statement to the effect that formal instruction in resuscitation is essential,
  - (d) the name of the teaching organisation or other body that published the sign and the date of its publication.
- (2) However, any sign erected between 1 September 1995 and 31 August 2008 that bears a notice in accordance with clause 9 (a) and (b) of the *Swimming Pools Regulation 1998* (as in force immediately before its repeal) is taken to comply with this clause.

### 11    Legibility of warning notices

For the purposes of section 17 (1) of the Act, the sign referred to in that subsection:

- (a) must be legible from a distance of at least 3 metres, and
- (b) must be maintained in a clearly legible condition.

Swimming Pools Regulation 2008

Clause 12

Exemptions from barrier requirements granted by local authorities

Part 4

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## **Part 4 Exemptions from barrier requirements granted by local authorities**

### **12 Application for exemption**

- (1) An application made to a local authority under section 22 of the Act is to be in the form approved by that authority.
- (2) That form must contain statements to the effect that:
  - (a) if the local authority fails to finally determine the application within 6 weeks after it is made, then the local authority is taken, for the purposes of any appeal proceedings, to have refused the application, and
  - (b) if the local authority refuses the application for an exemption, or is taken to have refused the application, or imposes a condition on an exemption, the owner of the premises on which the relevant swimming pool is situated is entitled to appeal to the Land and Environment Court against the local authority's refusal or against the condition.

### **13 Fee for application for exemption**

- (1) A local authority may impose a fee of up to \$70 on an application for an exemption under section 22 of the Act.
- (2) An application made to a local authority that has imposed a fee must be accompanied by that fee.

### **14 Circumstances that justify an exemption**

For the purposes of section 22 (1) (a) of the Act, the fact that an adult occupier of the premises in or on which a swimming pool is situated would (because of a physical disability or impairment of the occupier) be significantly impeded in gaining access to the swimming pool if the requirements of Part 2 of the Act were complied with is a special circumstance that justifies the granting of an exemption from those requirements.

### **15 Notice concerning certain decisions on exemptions**

- (1) A local authority:
  - (a) that refuses to grant an exemption under section 22 of the Act in respect of a swimming pool, or
  - (b) that imposes conditions on an exemption under section 22 of the Act in respect of a swimming pool,must cause notice of the decision to be served on the owner of the premises in or on which the swimming pool is situated.

Clause 15      Swimming Pools Regulation 2008

Part 4          Exemptions from barrier requirements granted by local authorities

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- (2) Such a notice:
- (a) must give reasons for the decision, and
  - (b) must state that the owner of the premises is entitled to appeal to the Land and Environment Court from the decision.

Swimming Pools Regulation 2008

Clause 16

Certificates of compliance granted by local authorities

Part 5

---

## **Part 5 Certificates of compliance granted by local authorities**

### **16 Application for certificate of compliance**

- (1) An application made to a local authority under section 24 of the Act must be in the form approved by that local authority.
- (2) That form must contain statements to the effect that:
  - (a) if the local authority fails to finally determine the application within 6 weeks after it is made, then the local authority is taken, for the purposes of any appeal proceedings, to have refused the application, and
  - (b) if the local authority refuses the application for a certificate of compliance, or is taken to have refused the application, the owner of the premises on which the relevant swimming pool is situated is entitled to appeal to the Land and Environment Court against the local authority's refusal.

### **17 Fee for application for certificate of compliance**

- (1) A local authority may impose a fee of up to \$70 on an application for a certificate of compliance under section 24 of the Act.
- (2) An application made to a local authority that has imposed a fee must be accompanied by that fee.

### **18 Notice concerning refusal to grant certificate of compliance**

- (1) A local authority that refuses to grant a certificate of compliance under section 24 of the Act in respect of a swimming pool must cause notice of the decision to be served on the owner of the premises in or on which the swimming pool is situated.
- (2) Such a notice:
  - (a) must give reasons for the decision to refuse to grant the certificate, and
  - (b) must state that the owner of the premises on which the relevant swimming pool is situated is entitled to appeal against the decision to the Land and Environment Court.

Clause 19 Swimming Pools Regulation 2008

Part 6 Miscellaneous

## Part 6 Miscellaneous

### 19 Directions by local authorities

A local authority that gives a direction under section 23 of the Act to the owner of any premises must include in the direction:

- (a) the reasons for its decision to give the direction, and
- (b) a statement to the effect that the owner of the premises is entitled to appeal to the Land and Environment Court against the decision.

### 20 Certificates of identification

For the purposes of section 27 (2) of the Act, the prescribed form of certificate of identification is the form set out in Schedule 1.

### 21 Public access to AS 1926.1—2007 and Cardiopulmonary Resuscitation Guideline

- (1) The Department must ensure that a paper copy or electronic version of AS 1926.1—2007 and the Cardiopulmonary Resuscitation Guideline are made available for public inspection at no cost at each public office of the Department during ordinary business hours.
- (2) Each local authority must ensure that a paper copy or electronic version of AS 1926.1—2007 and the Cardiopulmonary Resuscitation Guideline are made available for public inspection at no cost at each public office of the local authority during ordinary business hours.
- (3) The Department and each local authority must ensure that the Cardiopulmonary Resuscitation Guideline is available for viewing on its website.

### 22 Penalty notices

For the purposes of section 35 of the Act:

- (a) each offence under each section of the Act referred to in the Table to this clause is a prescribed offence, and
- (b) the penalty specified in that Table in respect of each such offence is the prescribed penalty for that offence.

**Table**

Offence under the Act	Penalty
section 7 (1)	\$220
section 12	\$220
section 14	\$220

Swimming Pools Regulation 2008

Clause 23

Miscellaneous

Part 6

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Offence under the Act	Penalty
section 15 (1)	\$220
section 16	\$220
section 17 (1)	\$55
section 23 (3)	\$220

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**23 Existing complying swimming pools may continue to comply with earlier standards**

- (1) This clause applies to a swimming pool the construction or installation of which was completed before 1 September 2008.
- (2) It is sufficient compliance with Part 2 of the Act for a swimming pool to comply with that Part on the basis of the requirements of Part 2 of the *Swimming Pools Regulation 1998* (as an alternative to compliance on the basis of the requirements of Part 2 of this Regulation).
- (3) However, this clause does not apply:
  - (a) in relation to an outdoor swimming pool—if the child-resistant barrier by which access to the swimming pool is restricted is substantially altered or rebuilt, and
  - (b) in relation to an indoor swimming pool—if the premises in which the swimming pool is situated are substantially altered or rebuilt in a way that affects the means of access to the swimming pool.

**24 Savings**

Any act, matter or thing that, immediately before the repeal of the *Swimming Pools Regulation 1998*, had effect under that Regulation is taken to have effect under this Regulation.

Swimming Pools Regulation 2008

Schedule 1 Certificate of identification

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**Schedule 1 Certificate of identification**

(Clause 20)

**Certificate of identification**

(*Swimming Pools Act 1992*)

This certifies that [*insert name of inspector*], whose photograph and signature appear below, is an inspector for [*insert name of local authority*] for the purposes of the *Swimming Pools Act 1992*.

(attach  
photograph  
here)

.....  
(signature of inspector)  
(seal of local authority)

The holder of this certificate is empowered, by section 28 of the *Swimming Pools Act 1992*, to enter any premises in or on which he or she suspects that a swimming pool is situated and to examine the premises and, in particular, any swimming pool, and any barrier or other means of restricting access to any swimming pool, situated in or on the premises.

This power may be exercised with the consent of the occupier of the premises or, if that consent cannot be obtained, at any time (between 9.00 a.m. and sunset) after 24 hours' notice of the proposed exercise of the power has been given to the occupier of the premises.

The holder of this certificate is not empowered to enter such part of any building as is used for residential purposes, or any moveable dwelling, otherwise than with the consent of the occupier of the building or dwelling or under a search warrant.



New South Wales

# Sydney Water Catchment Management Regulation 2008

under the

Sydney Water Catchment Management Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Sydney Water Catchment Management Act 1998*.

NATHAN REES, M.P.,  
Minister for Water

## Explanatory note

The object of this Regulation is to remake, with changes, the *Sydney Water Catchment Management (Environment Protection) Regulation 2001* and the *Sydney Water Catchment Management (General) Regulation 2000*, which are repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) conferring on the Sydney Catchment Authority (SCA) various functions under the *Protection of the Environment Operations Act 1997*,
- (b) the regulation of conduct on land in a special area or a controlled area by the creation of a number of offences including (but not limited to) offences relating to the taking of water, pollution, entering certain land (including with vehicles or animals), lighting fires and causing harm to flora, fauna or buildings, structures or fixtures,
- (c) how a notification that a public agency is proposing to carry out functions in a special area is to be given to the SCA,
- (d) the delegation of functions conferred on the SCA under this Regulation,
- (e) the prescription of councils to which the SCA is to supply water,
- (f) the prescription of fees,
- (g) the offences under the *Sydney Water Catchment Management Act 1998* and this Regulation that may be dealt with by way of a penalty notice and the prescribed penalties payable for those offences when dealt with in that manner,
- (h) savings and formal matters.



Sydney Water Catchment Management Regulation 2008

Explanatory note

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This Regulation is made under the *Sydney Water Catchment Management Act 1998*, including sections 16 (1) (b), 19, 24E (1), 48, 52, 65 and 74 (the general regulation-making power).

Sydney Water Catchment Management Regulation 2008

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Clause 1 Sydney Water Catchment Management Regulation 2008

Part 1 Preliminary

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## Sydney Water Catchment Management Regulation 2008

under the

Sydney Water Catchment Management Act 1998

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Sydney Water Catchment Management Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Sydney Water Catchment Management (Environment Protection) Regulation 2001* and the *Sydney Water Catchment Management (General) Regulation 2000* which are repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**aircraft** means any airborne craft, including a fixed wing craft, helicopter, gyrocopter, glider, hang glider, hot air balloon or airship.

**animal** means any non-human mammal or any bird, fish, reptile, amphibian, crustacean, arthropod or mollusc.

**Crown land** means:

- (a) Crown land within the meaning of the *Crown Lands Act 1989*, or
- (b) land reserved under the *National Parks and Wildlife Act 1974*.

**environment protection licence** has the same meaning as in the *Protection of the Environment Operations Act 1997*.

**EPA** means the Environment Protection Authority.

**plant** means any aquatic or terrestrial plant and includes a shrub or tree.

**private land** means land other than:

- (a) SCA land, or
- (b) Crown land.

**SCA land** means land owned by or vested in the SCA.

**the Act** means the *Sydney Water Catchment Management Act 1998*.

Clause 3	Sydney Water Catchment Management Regulation 2008
Part 1	Preliminary

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**vehicle** includes the following:

- (a) a motor vehicle within the meaning of the *Road Transport (General) Act 2005*,
- (b) a trailer or caravan, whether or not it is in the course of being towed,
- (c) an apparatus (other than a wheelchair, pram or stroller) that is propelled by human, animal or mechanical power, or by the wind, and is used wholly or partly for the conveyance of persons or things,
- (d) a vessel.

**vessel** has the same meaning as in the *Marine Safety Act 1998*.

- (2) Notes included in this Regulation do not form part of this Regulation.

Sydney Water Catchment Management Regulation 2008

Clause 4

Environment protection functions to be exercised by SCA

Part 2

## Part 2 Environment protection functions to be exercised by SCA

### 4 SCA may exercise powers of EPA and other regulatory authorities

- (1) The SCA has the same functions as the EPA or any other regulatory authority (including the functions of the appropriate regulatory authority) under the following provisions of the *Protection of the Environment Operations Act 1997* in relation to relevant non-scheduled activities and in relation to an offence set out in Part 3 of this Regulation:
  - (a) Chapter 4 (Environment protection notices),
  - (b) Chapter 7 (Investigation) other than section 186,
  - (c) Division 2 of Part 8.2 (Proceedings for offences).
- (2) Non-scheduled activities within the meaning of the *Protection of the Environment Operations Act 1997* are **relevant non-scheduled activities** for the purposes of this clause if the activities are carried out or proposed to be carried out:
  - (a) within a catchment area, or
  - (b) outside a catchment area but being of such a nature as affect or may affect a catchment area.

**Note.** Non-scheduled activities are activities that do not require an environment protection licence under the *Protection of the Environment Operations Act 1997*.
- (3) The SCA has the same functions as the EPA under Part 8.2 of the *Protection of the Environment Operations Act 1997* with respect to an offence against section 145, 145A, 146, 146A, 146B or 146C of that Act that is committed or alleged to have been committed in a catchment area.
 

**Note.** Sections 145 to 146C of the *Protection of the Environment Operations Act 1997* create offences related to littering.
- (4) The SCA has the same functions as the EPA under section 316 of the *Protection of the Environment Operations Act 1997* with respect to a dispute between the SCA and a public authority and that section applies to the SCA in the same way as it applies to the EPA.
 

**Note.** Section 316 provides for the resolution of disputes between the EPA and public authorities.
- (5) The SCA has the same functions as a regulatory authority under sections 319 and 320 of the *Protection of the Environment Operations Act 1997* and those sections apply to the SCA in the same way as they apply to a regulatory authority.
 

**Note.** Section 319 provides for the disclosure of information. Section 320 provides for the disclosure of monitoring data.

Clause 5	Sydney Water Catchment Management Regulation 2008
Part 2	Environment protection functions to be exercised by SCA

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- (6) If the SCA exercises a function of the EPA or another regulatory authority (including the appropriate regulatory authority) under the *Protection of the Environment Operations Act 1997*:
- that Act applies in respect of the exercise of that function (including any provisions relating to the exercise of those functions, any offences under that Act, any provisions relating to proceedings for offences and any appeal provisions), and
  - references in that Act to the EPA or another regulatory authority (including the appropriate regulatory authority) are taken to include the SCA, and
  - references in that Act to an authorised officer are taken to include an authorised officer within the meaning of the *Sydney Water Catchment Management Act 1998*.

#### 5 Purposes for which functions may be exercised

The SCA may exercise the functions conferred on it by this Part only for the purposes of:

- protecting catchment areas, or
- protecting and enhancing the quality of water in catchment areas.

#### 6 Limitations on SCA's functions

The SCA may not exercise the functions of a regulatory authority in relation to the following:

- premises defined in an environment protection licence as the premises to which the licence applies, and all activities carried on at those premises,
- non-scheduled activities that are authorised or controlled by an environment protection licence,
- activities carried on by the SCA.

**Note.** The appropriate regulatory authority in respect of the activities listed in this clause will generally be the EPA.

#### 7 Inconsistency with directions given by other regulatory authorities

If the SCA, when exercising the functions conferred on it by this Part, and another regulatory authority both give an environment protection notice in respect of the same pollution incident, premises or activity and it is not possible to comply with the requirements of both notices:

- if the other regulatory authority is the EPA—the notice given by the EPA prevails and the notice given by the SCA does not have to be complied with, to the extent that it is not possible to comply with that notice and the notice given by the EPA, and

Sydney Water Catchment Management Regulation 2008

Clause 8

Environment protection functions to be exercised by SCA

Part 2

- 
- (b) in any other case—the notice given by the SCA prevails and the notice given by the other regulatory authority does not have to be complied with, to the extent that it is not possible to comply with that notice and the notice given by the SCA.

**Note.** The powers conferred on the SCA by this Regulation overlap with the powers of local authorities (such as local councils) under section 6 (3) of the *Protection of the Environment Operations Act 1997*.

#### 8 SCA to keep register

- (1) The SCA is to keep, in such form as it may determine, a register of the following:
- (a) details of each environment protection notice given by the SCA,
  - (b) details of convictions in prosecutions under the *Protection of the Environment Operations Act 1997* instituted by the SCA,
  - (c) the results of civil proceedings before the Land and Environment Court under the *Protection of the Environment Operations Act 1997* by or against the SCA,
  - (d) such other matters as the SCA considers appropriate, having regard to the purposes of the *Protection of the Environment Operations Act 1997*.
- (2) A copy of the register is to be available for inspection at the principal office of the SCA during ordinary office hours and on the Internet site maintained by the SCA.
- (3) A copy of any part of the register may be obtained by members of the public from the SCA on payment of a fee to be determined by the SCA.
- (4) For the purposes of this clause, *details* of a matter means:
- (a) particulars of the matter, or
  - (b) a copy of the matter, or
  - (c) any electronic or other reproduction of the matter.



Clause 9 Sydney Water Catchment Management Regulation 2008

Part 3 Regulation of conduct

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## **Part 3 Regulation of conduct**

### **Division 1 Consent of SCA**

#### **9 SCA's consent**

- (1) A person does not commit an offence under this Part (other than an offence under clause 16, 17 or 18) by reason of anything done with the consent of the SCA and in accordance with any conditions to which that consent is subject.
- (2) The SCA may grant its consent by means of:
  - (a) a sign or notice displayed on the land or part of the land to which the sign or notice relates, or
  - (b) a written notice to a person.
- (3) The SCA may grant its consent:
  - (a) either generally or in a particular case, and
  - (b) either to a particular person or to persons belonging to a particular class of persons, and
  - (c) either unconditionally or subject to conditions specified by the SCA when granting its consent, and
  - (d) either for a specified period of time or until such time as the consent is revoked by the SCA.
- (4) The SCA may revoke or modify its consent at any time by any of the means specified in subclause (2).
- (5) A consent issued by a body other than the SCA, including a consent issued by Sydney Water Corporation, is not, for the purposes of this Regulation, to be taken as the consent of the SCA.

#### **10 Divisions of this Part not exhaustive**

A Division in this Part does not limit the operation of any other provision of this Regulation in the provision's application to any land referred to in that Division.

### **Division 2 Regulation of conduct generally on land in a special area or a controlled area**

#### **11 No interference with water**

- (1) A person must not dam, divert or take any water that:
  - (a) is water from which the SCA draws its supply or that is available for supply by the SCA, and

Sydney Water Catchment Management Regulation 2008

Clause 12

Regulation of conduct

Part 3

(b) is located on land in a special area or a controlled area.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (2) A person does not commit an offence under subclause (1) by reason of anything done with lawful authority, including (but not limited to) any licence or approval under the *Water Management Act 2000* or the *Water Act 1912*.

## 12 Control of pollution in special areas and controlled areas

- (1) A person must not:
- (a) bring into or leave on land in a special area or a controlled area any waste, or
  - (b) cause the pollution of waters on land in a special area or a controlled area.
- (2) A person does not commit an offence under subclause (1) by reason of anything done in accordance with a licence granted under the *Protection of the Environment Operations Act 1997*.
- (3) The owner or occupier of land in a special area or a controlled area must not erect, install or operate any on-site sewage management facility on the land unless the person does so in accordance with:
- (a) a development consent granted under the *Environmental Planning and Assessment Act 1979*, or
  - (b) an approval granted under the *Local Government Act 1993*, or
  - (c) an environment protection licence granted under the *Protection of the Environment Operations Act 1997*.
- (4) A person must comply with any direction given by the SCA or an authorised officer for:
- (a) the disposal of any pollutant or waste on land in a special area or a controlled area, or of any other substance that is on land in a special area or a controlled area and that the SCA considers may detrimentally affect any water in the area, or
  - (b) the removal of any such pollutant, waste or other substance from land in a special area or a controlled area.

Maximum penalty (subclauses (1), (3) and (4)): 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (5) In this clause:  
*pollution of waters* and *waste* have the same meanings as in the *Protection of the Environment Operations Act 1997*.

Clause 13 Sydney Water Catchment Management Regulation 2008

Part 3 Regulation of conduct

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### **Division 3 Regulation of conduct on Crown land or SCA land in a special area or a controlled area**

#### **13 Stock control in special areas and controlled areas**

- (1) The owner or person in charge of any stock must ensure that the stock does not enter any Crown land or SCA land that is in a special area or a controlled area.  
Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (2) An authorised officer may take any of the following actions if stock enters any such land without the SCA's consent:
  - (a) drive the stock away, or remove the stock, from the land,
  - (b) impound, sell, destroy or otherwise dispose of the stock.
- (3) If an authorised officer takes any such action:
  - (a) the owner and person in charge of the stock are jointly and severally liable to the SCA for all costs incurred by the SCA as a result of the action being taken, and
  - (b) the SCA may recover the amount of those costs from the owner or person in charge as a debt in a court of competent jurisdiction.
- (4) In this clause:  
*stock* means cattle, horses, donkeys, mules, asses, camels, sheep, goats, pigs or deer.

#### **14 Investigation of suspected contraventions**

- (1) An authorised officer who has reason to believe that a person, on Crown land or SCA land that is in a special area or a controlled area, has in his or her possession or control, in contravention or because of a contravention or intended contravention of the Act or this Regulation, any matter or thing may direct the person:
  - (a) to surrender the matter or thing into the authorised officer's possession and control, or
  - (b) to make any article in the person's possession or control available for inspection by the authorised officer for the purpose of investigating the suspected contravention or intended contravention.
- (2) A person given a direction referred to in subclause (1) must comply with it.  
Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

Sydney Water Catchment Management Regulation 2008

Clause 15

Regulation of conduct

Part 3

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- (3) Nothing in this clause limits any function an authorised officer may have under the Act or any other Act.
  - (4) In this clause:  
*article* includes any equipment, vehicle, aircraft or other thing of any description.

**15 Signs prohibiting persons entering or remaining on certain land**

- (1) The SCA may erect a sign or notice on Crown land or SCA land that is in a special area or a controlled area requiring persons not to enter or remain on the land to which the sign relates.
- (2) A person must not enter or remain on any land in contravention of a sign or notice erected under this clause.  
Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

**16 Directions to leave land in emergencies**

- (1) An authorised officer may direct a person to leave Crown land or SCA land that is in a special area or a controlled area if the authorised officer reasonably believes that such a direction is necessary to prevent injury to a person.
- (2) A person must leave land immediately when directed to do so by an authorised officer under this clause.  
Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (3) A person is not guilty of an offence against this clause unless it is established that the authorised officer warned the person that the failure to comply with the direction is an offence.

**17 Removal of certain persons who contravene Act or Regulation**

- (1) A person who contravenes any provision of the Act or this Regulation on Crown land or SCA land that is in a special area or a controlled area must leave the land concerned immediately when directed to do so by an authorised officer.
- (2) A person who fails to comply with such a direction may be removed from the land concerned by an authorised officer.
- (3) Reasonable force (including by means of passive restraints) may be used to effect the person's removal.

Clause 18 Sydney Water Catchment Management Regulation 2008

Part 3 Regulation of conduct

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- (4) A person who leaves or is removed from land under this clause must remove any equipment, vehicle or animal, or any other item belonging to or associated with the person, from the land concerned.

Maximum penalty (subclauses (2) and (4)): 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (5) A person is not guilty of an offence against this clause unless it is established that the authorised officer warned the person that the failure to comply with the directions is an offence.

#### **18 Fees and charges for entry on SCA land**

- (1) The SCA may from time to time determine the fees or charges payable in respect of the entry by persons or vehicles on SCA land in a special area or a controlled area.
- (2) A person who is liable to pay fees or charges so determined may be denied entry to the land concerned unless the fees or charges are paid on request by an authorised officer.
- (3) An authorised officer may direct a person who has entered such land without paying the relevant fees or charges to leave the land.
- (4) A person must leave the land immediately when directed to do so by an authorised officer under this clause.

Maximum penalty: 5 penalty units.

### **Division 4 Regulation of conduct on Schedule 1 land and Schedule 2 land**

#### **19 Meaning of “Schedule 1 land” and “Schedule 2 land”**

In this Division:

*Schedule 1 land* means the special areas and controlled areas identified in Schedule 1 other than land that is private land or land that is identified in that Schedule as excluded land.

*Schedule 2 land* means the special areas identified in Schedule 2 other than land that is private land.

#### **20 Prohibited activities on Schedule 1 land**

- (1) A person must not:
- (a) enter or remain on any Schedule 1 land, or
  - (b) fish or swim in water on Schedule 1 land, or
  - (c) camp on Schedule 1 land, or

Sydney Water Catchment Management Regulation 2008

Clause 21

Regulation of conduct

Part 3

(d) light, maintain or use a fire on Schedule 1 land.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

(2) In this clause:

*fish* includes catching, or attempting to catch, any fish within the meaning of the *Fisheries Management Act 1994*.

## 21 Lighting of fires on Schedule 2 land

(1) A person must not on any Schedule 2 land (whether or not it is land to which subclause (2) applies):

(a) light, maintain or use a fire in the open:

(i) if there are public fireplaces—elsewhere than in such a fireplace, or

(ii) if there are no public fireplaces—elsewhere than in a temporary fireplace situated at least 4.5 metres from any log or stump and at least 1.5 metres from any other flammable material, or

(iii) in any case—in contravention of a notice posted by the SCA or the National Parks and Wildlife Service regulating the use of fire on that land, or

(b) leave unattended any fire that the person has lit, maintained or used, or

(c) fail to call for help to control or extinguish a fire that the person has lit, maintained or used and that is beyond the person's power to control or extinguish, or

(d) handle any flammable substance (such as petrol, matches or cigarettes) in a manner that is likely to cause a fire.

(2) If any part of Schedule 2 land has been declared under section 8 of the *Wilderness Act 1987* to be a wilderness area, a person must not light a fire in the wilderness area unless the fire is lit in accordance with:

(a) any provision of that Act (or of regulations made under that Act) relating to the lighting of fires in wilderness areas, or

(b) the terms of any wilderness protection agreement (within the meaning of that Act) or conservation agreement (within the meaning of the *National Parks and Wildlife Act 1974*) that contains terms relating to the lighting of fires in the wilderness area concerned.

Maximum penalty (subclauses (1) and (2)): 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

Clause 22 Sydney Water Catchment Management Regulation 2008

Part 3 Regulation of conduct

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- (3) This clause applies to Schedule 2 land whether or not the land has been reserved under the *National Parks and Wildlife Act 1974*.

**22 Gates or barriers on or to Schedule 1 land or Schedule 2 land**

- (1) A person must not open, pass, remove, interfere with, damage or obstruct any gate or barrier on or to Schedule 1 land or Schedule 2 land. Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (2) In this clause:  
*barrier* includes any obstruction that has been positioned or created, by any means, so as to restrict or obstruct access to any road, track, trail, path or the like.

**23 Certain conduct prohibited on Schedule 1 land and Schedule 2 land**

- (1) A person must not do any of the following on Schedule 1 land or Schedule 2 land:
- (a) drive, ride or be a passenger in or on any vehicle,
  - (b) lead or ride any animal,
  - (c) land any aircraft,
  - (d) sell or offer for sale any goods on or by any public road,
  - (e) damage, deface, disturb or otherwise interfere with any building, structure, sign, fixture, animal trap, bait or plant rehabilitation measure (such as seedlings, matting or survey pegs and tapes marking out rehabilitation areas),
  - (f) damage or remove any plant or part of a plant,
  - (g) remove any rock, soil, sand, stone or similar substance,
  - (h) destroy, capture, injure or otherwise interfere with any animal, or damage or interfere with the habitat of any animal.
- (2) A person must not bring onto or have in the person's possession on Schedule 1 land or Schedule 2 land:
- (a) any plant or part of a plant, or
  - (b) any animal, or
  - (c) any firearm or a prohibited weapon (within the meaning of the *National Parks and Wildlife Act 1974*) unless the person is a police officer acting in connection with the performance of that person's duties as such an officer.

Sydney Water Catchment Management Regulation 2008

Clause 24

Regulation of conduct

Part 3

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- (3) A person must not allow any unrestrained animal for which the person is responsible to enter or remain on Schedule 1 land or Schedule 2 land. Maximum penalty (subclauses (1), (2) and (3)): 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (4) In this clause:  
*fixture* includes, but is not limited to, picnic tables, seats, fences, fireplaces, barbecues and monitoring devices (including rain gauges) and associated infrastructure.

#### **24 Use of water on Schedule 1 land and Schedule 2 land**

- (1) A person must not:
- (a) use any vessel on water on Schedule 1 land or Schedule 2 land, or
  - (b) wash in water on Schedule 1 land or Schedule 2 land, or
  - (c) cause any animal, animal matter, plant or plant matter to enter or remain in water on Schedule 1 land or Schedule 2 land.
- Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (2) Despite subclause (1), a person may:
- (a) use, on water on Schedule 2 land, any vessel that is propelled solely by human power or the wind, and
  - (b) take, on Schedule 2 land, such amount of water as is necessary for the person's use (including use for the purpose of washing) while on that land.

#### **25 Pesticides and pest control on Schedule 1 land and Schedule 2 land**

- (1) A person must not:
- (a) bring onto, or use or keep on, Schedule 1 land or Schedule 2 land any pesticide, or
  - (b) take steps to control or eradicate by the use of pesticides any feral animal, animal pest or noxious weed on Schedule 1 land or Schedule 2 land.
- Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (2) A person does not commit an offence under subclause (1):
- (a) by reason of the person bringing onto, or using or keeping on, Schedule 1 land or Schedule 2 land, quantities of pesticide solely for household or domestic purposes, or
  - (b) by reason of any thing done in accordance with an environment protection licence.



Clause 26	Sydney Water Catchment Management Regulation 2008
Part 3	Regulation of conduct

(3) Nothing in subclause (2) is to be taken to authorise a person to use a pesticide in contravention of the *Pesticides Act 1999*.

(4) In this clause:

**Agvet Code** means the provisions applying because of section 5 of the *Agricultural and Veterinary Chemicals (New South Wales) Act 1994*.

**pesticide** means:

- (a) an agricultural chemical product within the meaning of the Agvet Code, or
- (b) a veterinary chemical product (within the meaning of the Agvet Code) that is represented as being suitable for, or is manufactured, supplied or used for, the external control of ectoparasites of animals.

**Note.** The Agvet Code defines an “agricultural chemical product” to be a substance or a mixture of substances that is represented, imported, manufactured, supplied or used as a means of directly or indirectly:

- (a) destroying, stupefying, repelling, inhibiting the feeding of, or preventing infestation by or attacks of, any pest in relation to a plant, a place or a thing, or
- (b) destroying a plant, or
- (c) modifying the physiology of a plant or pest so as to alter its natural development, productivity, quality or reproductive capacity, or
- (d) modifying an effect of another agricultural chemical product, or
- (e) attracting a pest for the purpose of destroying it.

The term also includes insect repellents for use on human beings.

## Division 5 Regulation of conduct on other land

### 26 Animal management on land identified in Schedule 1 or Schedule 2

- (1) This clause applies to all land identified in Schedule 1 or Schedule 2 (including private land) other than land that is identified in Schedule 1 as excluded land.
- (2) A person must not, on land to which this clause applies, erect, maintain or use any building or structure for the purposes of an intensive animal feed lot, intensive poultry operation, trout farm or other concentrated animal husbandry activity identified by the SCA by publication of a notice in the Gazette as a hazard to water to be supplied by the SCA.
- (3) A person must not, within 100 metres of any stream, reservoir or water course on land to which this clause applies:
  - (a) erect, maintain or use any building or structure for the purposes of a cow yard, poultry house, animal feed lot, stockyard or stable, or

Sydney Water Catchment Management Regulation 2008

Clause 26

Regulation of conduct

Part 3

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- (b) leave the carcass of a dead animal, or cause or permit the carcass of a dead animal to be left, or
  - (c) bury, or otherwise dispose of, the carcass of a dead animal, or cause or permit the carcass of a dead animal to be buried or disposed of.

Maximum penalty (subclauses (2) and (3)): 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

Clause 27 Sydney Water Catchment Management Regulation 2008

Part 4 Miscellaneous

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## Part 4 Miscellaneous

### 27 Notice by public agencies

Notice given to the SCA for the purposes of section 47 (1) of the Act:

- (a) must be in writing, and
- (b) must be served on the SCA by post addressed to the SCA or by lodging it at an office of the SCA, and
- (c) must contain a full description of the functions proposed to be exercised and a statement of the objectives of the exercise of those functions, and
- (d) must give at least 28 days' notice of the commencement of the exercise of those functions.

### 28 Exercise of functions conferred by this Regulation

Any function that is conferred on the SCA by this Regulation may be exercised by the SCA or by any person authorised by the SCA to exercise that function.

### 29 Prescribed local councils

The following local councils are prescribed for the purposes of section 16 (1) (b) of the Act:

Wingecarribee Shire Council  
Shoalhaven City Council

### 30 Fees

- (1) For the purposes of section 24E of the Act, the fees chargeable by the SCA:
  - (a) for water supplied to prescribed local councils, as referred to in section 16 (1) (b) of the Act, and
  - (b) for water supplied to other persons and bodies, as referred to in section 16 (1) (c) of the Act,are the fees fixed in that regard by the Independent Pricing and Regulatory Tribunal in Determination No 7, 2005, made under the *Independent Pricing and Regulatory Tribunal Act 1992* and published in Gazette No 120 of 30 September 2005 at pages 8142 to 8152.
- (2) The SCA may waive, reduce or remit any such fee in such circumstances as it considers appropriate.

Sydney Water Catchment Management Regulation 2008

Clause 31

Miscellaneous

Part 4

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### 31 Penalty notices

For the purposes of section 65 of the Act:

- (a) each offence created by a provision of the Act or this Regulation specified in Column 1 of Schedule 3 is declared to be a penalty notice offence, and
- (b) the prescribed penalty for such an offence is:
  - (i) the amount specified in Column 2 of Schedule 3 if the person alleged to have committed the offence is an individual, or
  - (ii) the amount specified in Column 3 of Schedule 3 if the person alleged to have committed the offence is a corporation.

**Note.** The *Protection of the Environment Operations (Penalty Notices) Regulation 2004* provides that an officer or employee of the Sydney Catchment Authority may issue a penalty notice in respect of a number of offences under the *Protection of the Environment Operations Act 1997* including sections 120 (Prohibition of pollution of waters), 143 (Unlawful transporting or depositing of waste) and 144 (Use of land as waste facility without lawful authority).

### 32 Savings

Any act, matter or thing that had effect under the *Sydney Water Catchment Management (General) Regulation 2000* or the *Sydney Water Catchment Management (Environment Protection) Regulation 2001* immediately before the repeal of the Regulation concerned continues to have effect under this Regulation.

## Sydney Water Catchment Management Regulation 2008

Schedule 1 Schedule 1 land

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**Schedule 1 Schedule 1 land**

(Clauses 19 and 26)

**Special Areas**

The following special areas, being portions of land, as shown coloured pink on the map marked "Schedule 1 Areas" deposited in the office of the SCA:

- (a) the area of land surrounding the stored water in Lake Burragorang extending from the full supply level of the lake for a distance of 3 kilometres,
- (b) the catchment areas of Broughton's Pass Weir, Pheasant's Nest Weir and Lake Woronora to the extent that they are not contained in the proclamations referred to in paragraphs (c) and (d),
- (c) Metropolitan Catchment Area as proclaimed in Gazette No 79 of 13 July 1923 and amended by proclamation published in Gazette No 79 of 26 May 1933,
- (d) Woronora Catchment Area as proclaimed in Gazette No 37 of 21 March 1941,
- (e) Wingecarribee Catchment Area as proclaimed in Gazette No 156 of 14 December 1973,
- (f) Blackheath Special Area proclaimed 6 March 1991,
- (g) Katoomba Special Area proclaimed 6 March 1991,
- (h) Woodford Special Area proclaimed 6 March 1991,
- (i) Richmond Catchment Area as proclaimed in Gazette No 113 of 8 October 1971,
- (j) Prospect Special Area, being the area of land declared to be a special area by the *Sydney Water Catchment Management (Prospect Special Area) Order 2008* published in Gazette No 92 of 25 July 2008.

**Controlled areas**

All SCA land on or in which there are any one or more of the following:

- (a) water transfer structures (being canals, tunnels, pipelines, water mains or drainage channels),
- (b) roads,
- (c) a device that is used to monitor water and infrastructure associated with that device.

**Excluded land**

So much of the land listed in this Schedule as consists of a part of the township of Nattai Village, Yerrinbool, Woodford or Medlow Bath (being the land identified as such on the map marked "Schedule 1 Areas" deposited at the office of the SCA) is excluded from this Schedule.

Sydney Water Catchment Management Regulation 2008

Schedule 2 land

Schedule 2

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## Schedule 2 Schedule 2 land

(Clauses 19 and 26)

### Special Areas

The following special areas:

- (a) Fitzroy Falls Catchment Area as proclaimed in Gazette No 11 of 4 February 1977,
- (b) Shoalhaven Catchment Area as proclaimed in Gazette No 14 of 8 February 1974,
- (c) Warragamba Catchment Area as proclaimed in Gazette No 122 of 4 September 1942 and amended by proclamations published in Gazette Nos 1 of 1 January 1944 and 77 of 4 August 1944,
- (d) O'Hares Creek Catchment Area as proclaimed in Gazette No 51 of 14 April 1927 and amended by proclamation published in Gazette No 178 of 21 September 1934,

except the parts of those areas that are listed in Schedule 1.

## Sydney Water Catchment Management Regulation 2008

## Schedule 3 Penalty notice offences

**Schedule 3 Penalty notice offences**

(Clause 31)

**Offences under the Act**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Offence</b>	<b>Penalty (Individual)</b>	<b>Penalty (Corporation)</b>
Section 62B (5)	\$750	\$1,500
Section 62F (6)	\$750	\$1,500
Section 62R (4)	\$750	\$1,500
Section 62S (2)	\$750	\$1,500
Section 62V (2)	\$750	\$1,500
Section 63	\$750	\$1,500
Section 64 (1)	\$750	\$1,500

**Offences under this Regulation**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Offence</b>	<b>Penalty (Individual)</b>	<b>Penalty (Corporation)</b>
Clause 11 (1)	\$750	\$1,500
Clause 12 (1), (3) or (4)	\$750	\$1,500
Clause 13 (1)	\$750	\$1,500
Clause 14 (2)	\$750	\$1,500
Clause 15 (2)	\$750	\$1,500
Clause 16 (2)	\$750	\$1,500
Clause 17 (2) or (4)	\$750	\$1,500
Clause 20 (1) (a)	\$300	\$1,000
Clause 20 (1) (b), (c) or (d)	\$750	\$1,500
Clause 21 (1) or (2)	\$300	\$1000
Clause 22 (1)	\$750	\$1,500
Clause 23 (1), (2) or (3)	\$750	\$1,500
Clause 24 (1)	\$750	\$1,500
Clause 26 (2) or (3)	\$750	\$1,500



New South Wales

# Water Management (Benerembah Irrigation District Environment Protection Trust) Amendment Regulation 2008

under the

Water Management Act 2000

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Water Management Act 2000*.

NATHAN REES, M.P.,  
Minister for Water

## Explanatory note

The object of this Regulation is to postpone the repeal of the *Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2007* from 31 August 2008 to 31 March 2009.

This Regulation is made under the *Water Management Act 2000*, including section 322 (the power to make regulations with respect to water supply authorities) and section 400 (the general power to make regulations).



Clause 1 Water Management (Benerembah Irrigation District Environment Protection Trust) Amendment Regulation 2008

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## **Water Management (Benerembah Irrigation District Environment Protection Trust) Amendment Regulation 2008**

under the

Water Management Act 2000

### **1 Name of Regulation**

This Regulation is the *Water Management (Benerembah Irrigation District Environment Protection Trust) Amendment Regulation 2008*.

### **2 Amendment of Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2007**

The *Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2007* is amended by omitting “31 August 2008” from clause 7 and by inserting instead “31 March 2009”.

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# OFFICIAL NOTICES

## Appointments

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### **TRANSPORT ADMINISTRATION ACT 1988**

Appointments to the Rail Infrastructure Corporation Board

HER Excellency the Governor, with the advice of the Executive Council, pursuant to section 19NA of the Transport Administration Act 1988, has approved the reappointment of Mr Grahame PARKER (Chair), Mr Gary SEABURY, Mr Roger JOWETT and Mr Terry LAWLER to the Rail Infrastructure Corporation Board for a term of one year commencing from date of Governor's approval.

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## Department of Lands

### GRAFTON OFFICE

**76 Victoria Street (Locked Bag 10), Grafton NSW 2460**

**Phone: (02) 6640 3400**

**Fax: (02) 6642 5375**

#### NOTIFICATION OF CLOSING OF ROADS

IN pursuance of the provisions of the Roads Act 1993, the roads hereunder described are 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 roads are extinguished. On road closing, title to the land comprising the former public road vests in the body specified in the Schedules hereunder.

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

#### Description

*Land District – Bellingen; L.G.A. – Bellingen*

Road Closed: Lots 1, DP 1127873 at North Dorrigo, Parish Leigh, County Fitzroy.

File No.: GF05 H 568.

#### Schedule

On closing, the land within Lots 1, DP 1127873 remains vested in the State of New South Wales as Crown Land.

#### Description

*Land District – Taree; L.G.A. – Greater Taree*

Road Closed: Lot 1, DP 1128291 at Belbora, Parish Belbora, County Gloucester.

File No.: TE05 H 29.

#### Schedule

On closing, the land within Lot 1, DP 1128291 remains vested in the State of New South Wales as Crown Land.

#### Description

*Land District – Grafton; L.G.A. – Clarence Valley*

Road Closed: Lot 1, DP 1128277 at Rushforth, Parish Rushforth, County Clarence.

File No.: GF05 H 391.

#### Schedule

On closing, the land within Lot 1, DP 1128277 remains vested in the State of New South Wales as Crown Land.

#### Description

*Land District – Murwillumbah; L.G.A. – Byron*

Road Closed: Lot 1, DP 1128991 at Ewingsdale, Parish Brunswick, County Rous.

File No.: GF04 H 90.

#### Schedule

On closing, the land within Lot 1, DP 1128991 remains vested in the State of New South Wales as Crown Land.

#### Description

*Land District – Grafton; L.G.A. – Clarence Valley*

Road Closed: Lot 1, DP 1129157 at Shannondale, Parish Toothill, County Fitzroy.

File No.: GF05 H 441.

#### Schedule

On closing, the land within Lot 1, DP 1129157 remains vested in the State of New South Wales as Crown Land.

#### Description

*Land District – Bellingen; L.G.A. – Bellingen*

Road Closed: Lot 1, DP 1127896 at Kalang, Parish Belmore, County Raleigh.

File No.: GF05 H 662.

#### Schedule

On closing, the land within Lot 1, DP 1127896 remains vested in the State of New South Wales as Crown Land.

#### Description

*Land District – Grafton; L.G.A. – Clarence Valley*

Road Closed: Lot 1, DP 1127882 at Buccarumbi, Parish Boyd, County Gresham.

File No.: GF04 H 486.

#### Schedule

On closing, the land within Lot 1, DP 1127882 remains vested in the State of New South Wales as Crown Land.

#### Description

*Land District – Grafton; L.G.A. – Clarence Valley*

Road Closed: Lots 1 and 2, DP 1127900 at Glenreagh, Parish Tallawudjah, County Fitzroy.

File No.: GF05 H 127.

#### Schedule

On closing, the land within Lots 1 and 2, DP 1127900 remains vested in the State of New South Wales as Crown Land.

### CROWN LANDS ACT 1989

#### Erratum

IN the notice appearing in the *New South Wales Government Gazette* No. 100 of the 22 August 2008, Folio 7911, under the heading "NOTIFICATION OF CLOSING OF ROAD", in respect of Road Closed: Lot 1, DP 1127883 the description should be

*Land District – Casino; L.G.A. – Richmond Valley*

Road Closed: Lot 1, DP 1127883 at Casino, Parish North Casino, County Rous.

File No.: GF05 H 741.

**MAITLAND OFFICE****Corner Newcastle Road and Banks Street (PO Box 6), East Maitland NSW 2323****Phone: (02) 4937 9300 Fax: (02) 4934 2252****AUTHORISATION OF ADDITIONAL PURPOSE**

IT is hereby notified pursuant to section 121A of the Crown Lands Act 1989, that the purpose specified in Column 1 of the Schedule hereunder, is applied to the whole of the reserve specified opposite thereto in Column 2.

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

**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>
Community Purposes.	Reserve No.: 170168. Public Purpose: Environmental protection and public recreation. Notified: 16 February 1996. File No.: MD81 R 62.

**MOREE OFFICE****Frome Street (PO Box 388), Moree NSW 2400****Phone: (02) 6750 6400 Fax: (02) 6752 1707****NOTIFICATION OF CLOSING OF 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 public road and the rights of passage and access that previously existed in relation to this road is extinguished.

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

## Description

*Land District – Narrabri; Council – Narrabri Shire;  
Parish – Dampier; County – White*

Lot 1 in DP 1127217.

File No.: ME05 H 98.

Note: Upon closure the land remains vested in the Crown as Crown Land.

## Description

*Land District – Wyallda; Council – Gwydir Shire;  
Parish – Wyallda; County – Burnett*

Lot 1 in DP 1129833.

File No.: ME06 H 157.

Note: On closing, the land within Lot 1 in DP 1129833 remains vested in the State of New South Wales as Crown Land.

## Description

*Land District – Narrabri; Council – Narrabri Shire;  
Parishes – Dangar and Thalaba; County – Jamison*

Roads Closed: Lots 1 and 2 in DP 1127725.

File No.: ME05 H 517.

Note: On closing, the land within Lots 1 and 2 in DP 1127725 remains vested in the State of New South Wales as Crown Land.

## Description

*Land District – Moree; Council – Moree Plains Shire;  
Parish – Tiela; County – Benarba*

Lot 1 in DP 1128089.

File No.: ME02 H 157.

Note: On closing, the land within Lot 1 in DP 1128089 remains vested in the State of New South Wales as Crown Land.

## NEWCASTLE OFFICE

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

Phone: (02) 4920 5000 Fax: (02) 4925 3489

## NOTICE OF PUBLIC PURPOSE PURSUANT TO SECTION 34A (2) (b) OF THE CROWN LANDS ACT 1989

PURSUANT to section 34A(2)(b) of the Crown Lands Act 1989, the Crown reserve specified in Column 1 of the Schedule is to be occupied for the additional purpose specified in Column 2 of the Schedule.

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

## SCHEDULE

*Column 1*

Reserve No.: 84154.  
Public Purpose: Access.  
Notified: 8 February 1963.  
Locality: Broadwater.

Reserve No.: 1010168.  
Public Purpose: Reservoir.  
Notified: 10 February 1967.  
Locality: Murwillumbah.

Reserve No.: 87267.  
Public Purpose: Preservation  
of fauna and public  
recreation.  
Notified: 11 July 1969.  
Locality: Bombala.

Reserve No.: 36470.  
Public Purpose: Trigonometrical  
purposes.  
Notified: 17 October 1903.  
Locality: Wyangala.

Reserve No.: 10045.  
Public Purpose: Trigonometrical  
purposes.  
Notified: 9 November 1889.  
Locality: Woolgarlo.

Reserve No.: 100010.  
Public Purpose: Public  
recreation.  
Notified: 8 August 1986.  
Locality: Jannali.

*Column 2*

Communication Facilities.

Communication Facilities.

Communication Facilities.

Communication Facilities.

Communication Facilities.

Communication Facilities.

*Column 1*

Reserve No.: 90674.  
Public Purpose: Public  
recreation.  
Notified: 24 December 1976.  
Locality: Oberon.

Reserve No.: 77087.  
Public Purpose: Public  
recreation.  
Notified: 1 October 1954.  
Locality: Sutherland.

Reserve No.: 91141.  
Public Purpose: Public  
recreation.  
Notified: 19 May 1978.  
Locality: Wahroonga.

Reserve No.: 752017.  
Public Purpose: Future public  
requirements.  
Notified: 29 June 2007.  
Locality: Broken Bay.

Reserve No.: 753204  
Public Purpose: Future public  
requirements.  
Notified: 18 July 2008.  
Locality: Nelson Bay.

Reserve No.: 752067.  
Public Purpose: Future public  
requirements.  
Notified: 29 June 2007.  
Locality: Willoughby.

File No.: 08/6163.

*Column 2*

Communication Facilities.

Communication Facilities.

Communication Facilities.

Communication Facilities.

Communication Facilities.

Communication Facilities.

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

**REVOCATION OF RESERVATION OF CROWN  
 LAND**

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

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

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Land District: Molong.	The part being Lot 14,
Local Government Area: Cabonne Council.	section 69, DP No. 758693, Parish Molong, County
Locality: Molong.	Ashburnham, of an area of
Reserve No.: 90557.	1921 square metres.
Public Purpose: After auction purchase.	
Notified: 22 November 1974.	
Lot 3, section 18, DP No. 758693, Parish Molong, County Ashburnham;	
Lot 12, section 69, DP No. 758693, Parish Molong, County Ashburnham;	
Lot 14, section 69, DP No. 758693, Parish Molong, County Ashburnham;	
Lot 2, section 18, DP No. 758693, Parish Molong, County Ashburnham;	
Lot 11, section 69, DP No. 758693, Parish Molong, County Ashburnham;	
Lot 11, section 12, DP No. 758693, Parish Molong, County Ashburnham;	
Lot 3, section 19, DP No. 758693, Parish Molong, County Ashburnham;	
Lot 17, section 12, DP No. 758693, Parish Molong, County Ashburnham;	
Lot 7, section 32, DP No. 758693, Parish Molong, County Ashburnham.	
File No.: 08/7534.	

**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**

**AUTHORISATION OF ADDITIONAL PURPOSE**

IT is hereby notified pursuant to section 121A of the Crown Lands Act 1989, that the purpose specified in Column 1 of the Schedule hereunder, is applied to the whole of the reserve specified opposite thereto in Column 2.

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

**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>
Community Purposes.	Reserve No.: 89199. Public Purpose: Public recreation. Notified: 17 May 1974. File No.: MN94 R 20.
Community Purposes.	Dedication No.: 500194. Public Purpose: Public recreation and access to water. Notified: 5 May 1876. File No.: MN84 R 49.

**ERRATUM**

IN the notification appearing in the *New South Wales Government Gazette* of the 22nd August 2008, Folio 7916, under the heading "Notification of Closing of Roads" should be withdrawn completely.

File No.: MN07 H 16.

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

**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, 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>
James Harold PLUMMER.	Glenbrook Native Plant Reserve Trust.	Reserve No.: 86305. Public Purpose: Preservation of native flora. Notified: 9 June 1967. File No.: MN80 R 288/2.

For a term commencing the date of this notice and expiring 28 February 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

*Locality – Willow Tree; Land District – Quirindi;  
L.G.A. – Liverpool Plains*

Road Closed: Lot 1 in Deposited Plan 1126497, Parish Temi, County Buckland.

File No.: TH05 H 380.

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

**ROADS ACT 1993****ORDER**

Transfer of Crown Road to Council

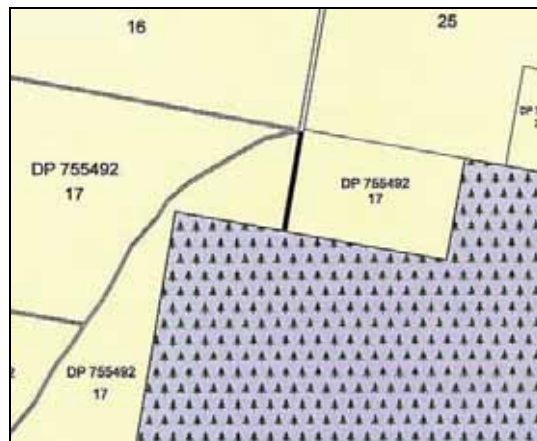
IN pursuance of provisions of section 151, Roads Act 1993, the Crown public roads specified in Schedule 1 are transferred to the Roads Authority specified in Schedule 2 hereunder, as from the date of publication of this notice and as from that date, the roads specified in Schedule 1 cease to be Crown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

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

**SCHEDULE 1**

*Parish – Denison West; County – Pottinger;  
Land District – Tamworth; L.G.A. – Tamworth Regional*

Crown public road as shown on diagram hereunder.

**SCHEDULE 2**

Roads Authority: Gunnedah Shire Council.

File No.: TH04 H 103.



**TAREE OFFICE****98 Victoria Street (PO Box 440), Taree NSW 2430****Phone: (02) 6591 3500 Fax: (02) 6552 2816****APPOINTMENT OF RESERVE TRUST AS TRUSTEE OF A RESERVE**

PURSUANT to section 92(1) of the Crown Lands Act 1989, the reserve trust specified in Column 1 of the Schedule hereunder, is appointed as trustee of the reserve 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>
Crown Lands Reserve Trust.	Reserve No.: 83636. Public Purpose: Public recreation. Notified: 15 December 1961. File No.: TE80 R 442.

**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 City Council*

Road Closed: Lot 1, DP 1127225 at Rainbow Flat, Parish of Beryan, County of Gloucester.

File No.: 08/0346.

Note: In accordance with section 44 of the Roads Act 1993, the Crown consents to the land in lot(s) being vested in the Council as operational land, to be given by the Council as compensation for other land acquired by the Council for the purposes of the Roads Act.  
Council's Reference: GT5569.

**RESIGNATION FROM OFFICE OF CORPORATION MANAGER OF RESERVE TRUST**

PURSUANT to section 96(1)(a) of the Crown Lands Act 1989, the corporation specified in Schedule 1 hereunder, has resigned from the office of manager of the reserve trust specified in Schedule 2, which is trustee of the reserve referred to in Schedule 3.

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

\_\_\_\_\_  
SCHEDULE 1

Great Lakes Council.

\_\_\_\_\_  
SCHEDULE 2

Forster Public Recreation (R83636) Reserve Trust.

\_\_\_\_\_  
SCHEDULE 3

Reserve No.: 83636.

Public Purpose: Public recreation.

Notified: 15 December 1961.

File No.: TE80 R 442.

**WAGGA WAGGA OFFICE****Corner Johnston and Tarcutta Streets (PO Box 60), Wagga Wagga NSW 2650****Phone: (02) 6937 2700 Fax: (02) 6921 1851****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: Tumbarumba.	Reserve No.: 1005408.
Local Government Area: Tumbarumba Shire Council.	Public Purpose: Environmental protection and public recreation.
Locality: Mannus Lake. Lot 7001, DP No. 1064233#, Parish Mannus, County Selwyn.	
Area: About 6.011 hectares.	
File No.: WA03 R 19.	

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

**REVOCATION OF RESERVATION OF CROWN LAND**

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

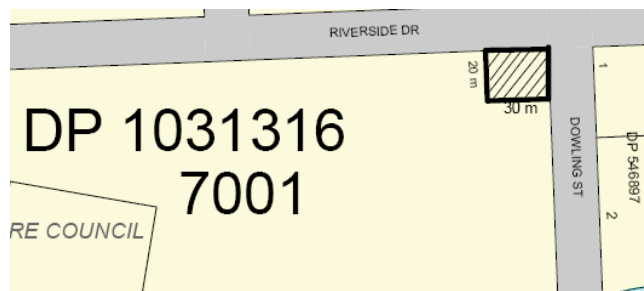
TONY KELLY, M.L.C.,  
Minister for Lands

**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>
Land District: Gundagai.	The part being Lot PT 7001,
Local Government Area: Harden Shire Council.	DP No. 1031316#, Parish Jugiong, County Harden, of an area of 600 square metres shown by hatching in diagram herewith.
Locality: Jugiong.	
Reserve No.: 44486.	
Public Purpose: Public recreation and racecourse.	
Notified: 20 October 1909.	
Lot 7001, DP No. 1031316#, Parish Jugiong, County Harden;	
Lot 160, DP No. 753621, Parish Jugiong, County Harden.	
File No.: WA79 R 71.	

Note: To reserve the area for Rural Services - Rural Fire Station and Council as Trustee.

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

**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: Gundagai.	Reserve No.: 1014448.
Local Government Area: Harden Shire Council.	Public Purpose: Rural services.
Locality: Jugiong.	
Lot PT 7001, DP No. 1031316#, Parish Jugiong, County Harden.	
Area: About 600 square metres being that area revoked from R 44486 for public recreation and racecourse this day.	
File No.: 08/0862.	

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

**APPOINTMENT OF RESERVE TRUST AS TRUSTEE OF A RESERVE**

PURSUANT to section 92(1) of the Crown Lands Act 1989, the reserve trust specified in Column 1 of the Schedule hereunder, is appointed as trustee of the reserve 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>
Harden Council Crown Reserves Reserve Trust.	Reserve No.: 1014448. Public Purpose: Rural services. Notified: This day. File No.: 08/862.

**REVOCATION OF APPOINTMENT OF RESERVE TRUST**

PURSUANT to section 92(3)(c) of the Crown Lands Act 1989, the appointment of the reserve trust specified in Column 1 of the Schedule hereunder, as trustee of the reserve(s), or part(s) of the reserve(s), specified opposite thereto in Column 2 of the Schedule, is revoked.

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

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Wagga Wagga City Council Crown Reserves Reserve Trust.	Reserve No.: 91353. Public Purpose: Public recreation. Notified: 22 December 1978. File No.: LB76/560.

**NOTIFICATION OF CLOSING OF A ROAD**

IN pursuance of the provisions of the Roads Act 1993, the road hereunder specified is closed, the road 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

*Parish – Tara; County – Bourke;  
Land District – Temora; Shire – Temora*

Road Closed: Lot 1 in DP 1127095 at Betric and Tara.

File No.: WA05 H 217.

Note: On closing, the land within Lot 1 in DP 1127095 remains vested in the State of New South Wales as Crown Land.

Description

*Parish – Brocklesby; County – Hume;  
Land District – Albury; Shire – Greater Hume*

Road Closed: Lot 1 in DP 1128634 at Brocklesby.

File No.: WA05 H 165.

Note: On closing, the land within Lot 1 in DP 1128634 remains vested in the State of New South Wales as Crown Land.

Description

*Parish – Gobbagombalin; County – Clarendon;  
Land District – Wagga Wagga; City – Wagga Wagga*

Road Closed: Lot 1 in DP 1108162 at Gobbagombalin.

File No.: WA05 H 78.

Note: On closing, the land within Lot 1 in DP 1108162 remains vested in the State of New South Wales as Crown Land.

Description

*Parish – Kinilabah; County – Bourke;  
Land District – Wagga Wagga; Shire – Coolamon*

Road Closed: Lot 1 in DP 1128196 at Marrar.

File No.: WA05 H 252.

Note: On closing, the land within Lot 1 in DP 1128196 remains vested in the State of New South Wales as Crown Land.

Description

*Parish – Brookong; County – Urana;  
Land District – Urana; Shire – Lockhart*

Road Closed: Lot 1 in DP 1120080 at Brookong.

File No.: WA05 H 174.

Note: On closing, the land within Lot 1 in DP 1120080 remains vested in the State of New South Wales as Crown Land.

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

**ALTERATION OF PURPOSE/CONDITIONS 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.

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

*Administrative District and Shire – Wentworth;  
Parish – Cliffs; County – Wentworth*

The purpose/conditions of Western Lands Lease 9568, being the land contained within Folio Identifier 2/1128099 has been altered from "Grazing and Access to Water" to "Grazing" effective from 25 August 2008.

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

The conditions previously annexed to Western Lands Lease 9568 have been revoked and the following conditions have been annexed thereto.

**CONDITIONS AND RESERVATIONS ATTACHED TO  
WESTERN LANDS LEASE 9568.**

- (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 Lands 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.
- (4) 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 Act 2003.
- (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, comply with the routine agricultural management activities listed in the Native Vegetation Act 2003.
- (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 approval has been issued in accordance with the Native Vegetation Act 2003, 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) 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.

---

#### ALTERATION OF PURPOSE/CONDITIONS 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.

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

*Administrative District and Shire – Wentworth;  
Parish – Cliffs; County – Wentworth*

The purpose/conditions of Western Lands Lease 14586, being the land contained within Folio Identifier 1/1128099 has been altered from "Grazing and Access to Water" to "Rural Residential" effective from 25 August, 2008.

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

CONDITIONS AND RESERVATIONS ATTACHED TO  
WESTERN LANDS LEASE 14586

- (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 Lands 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 Rural Residential.
- (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, within 12 months from the date of commencement of the lease or such further period as the Minister may allow, erect a dwelling on the land 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 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.
- (20) 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.
- (21) 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.
- (22) 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.
- (23) 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.
- (24) The Crown shall not be responsible to the lessee or the lessee's successors in title for provision of access to the land leased.
- (25) The Lessee shall comply with the provisions of the Native Vegetation Act 2003 and any regulations made in pursuance of that Act.
- (26) 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.
- (27) 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.
- (28) Notwithstanding any other condition annexed to the lease, the lessee shall, in removing timber for the purpose of building, fencing or firewood, comply with the routine agricultural management activities listed in the Native Vegetation Act 2003.
- (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.
- (29) 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 approval has been issued in accordance with the Native Vegetation Act 2003, 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.
- (30) The lessee shall take all necessary steps to protect the land leased from bush fire.
- (31) 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.
- (32) 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.
- (33) 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.
- (34) 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.
- (35) 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.
- (36) 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.
- (37) 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 licence 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.
- (38) 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.

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#### ERRATUM

IN the *New South Wales Government Gazette* of 30 September 1960, under the heading "Notification of Dedication of Lands for Public Purposes Under the Crown Lands Consolidation Act, 1913", the Portion number in the Parish of Picton, County of Yancowinna, dedicated for the purpose of War Veteran's Home, should read 5613.

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

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## Department of Planning

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New South Wales

### **Leichhardt Local Environmental Plan 2000 (Amendment No 16)**

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*. (9043144/PC)

FRANK SARTOR, M.P.,  
Minister for Planning

Clause 1            Leichhardt Local Environmental Plan 2000 (Amendment No 16)

---

## **Leichhardt Local Environmental Plan 2000 (Amendment No 16)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of plan**

This plan is *Leichhardt Local Environmental Plan 2000 (Amendment No 16)*.

### **2 Aims of plan**

This plan aims to amend *Leichhardt Local Environmental Plan 2000* to allow higher density mixed used development comprising residential, commercial and retail development on the land to which this plan applies, but only if certain development standards and objectives are met, including in relation to floor space ratio, land uses and building heights.

### **3 Land to which plan applies**

This plan applies to the following land (known as the “Balmain Leagues Club Precinct”):

- (a) 138–152 Victoria Road, Rozelle (being Lot 1, DP 528045),
- (b) 154–156 Victoria Road, Rozelle (being Lot 1, DP 109047),
- (c) 697 Darling Street, Rozelle (being Lot 104, DP 733658),
- (d) 1–7 Waterloo Street, Rozelle (being Lots 101 and 102, DP 629133, Lots 37 and 38, DP 421 and Lot 36, DP 190866),

as shown edged heavy black and lettered “SSP” on the map marked “Leichhardt Local Environmental Plan 2000 (Amendment No 16)” deposited in the office of Leichhardt Municipal Council.

### **4 Amendment of Leichhardt Local Environmental Plan 2000**

*Leichhardt Local Environmental Plan 2000* is amended as set out in Schedule 1.

Leichhardt Local Environmental Plan 2000 (Amendment No 16)

Amendments

Schedule 1

---

## Schedule 1 Amendments

(Clause 4)

### [1] Schedule 1 Additional uses and controls for certain land

Insert after Part 2:

### Part 3 Amended controls on specific sites

#### Balmain Leagues Club Precinct site

- (1) For the purposes of this Part:

**building height** (or **height of building**) means the vertical distance between ground level at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**mixed use development** means a building or place comprising 2 or more different land uses that are permissible in the Business Zone.

**the site** means the site comprising all of the following land:

- (a) 138–152 Victoria Road, Rozelle (being Lot 1, DP 528045),
- (b) 154–156 Victoria Road, Rozelle (being Lot 1, DP 109047),
- (c) 697 Darling Street, Rozelle (being Lot 104, DP 733658),
- (d) 1–7 Waterloo Street, Rozelle (being Lots 101 and 102, DP 629133, Lots 37 and 38, DP 421 and Lot 36, DP 190866),

as shown edged heavy black and lettered “SSP” on the map marked “Leichhardt Local Environmental Plan 2000 (Amendment No 16)” deposited in the office of Leichhardt Municipal Council.

- (2) Despite any other provision of this Plan (except clause 19 (6) and (7) or a provision of this Part), consent may be granted for mixed use development on the site, but only if, in the opinion of the Council, the following objectives are met:
- (a) the development integrates suitable business, office, residential, retail and other uses so as to maximise public transport patronage and encourage walking and cycling,

## Leichhardt Local Environmental Plan 2000 (Amendment No 16)

## Schedule 1 Amendments

- 
- (b) the development contributes to the vibrancy and prosperity of the Rozelle Commercial Centre with an active street life while maintaining residential amenity,
  - (c) the development is well designed with articulated height and massing providing a high quality transition to the existing streetscape,
  - (d) the traffic generated by the development does not have an unacceptable impact on pedestrian or motor vehicle traffic on Darling Street, Waterloo Street and Victoria Road, Rozelle,
  - (e) any residential development at street level has a frontage to Waterloo Street, Rozelle and, when viewed from the street, has the appearance of no more than three storeys.
- (3) A consent under subclause (2) must not be granted if the application for the development does not apply to the whole of the site.
- (4) A consent under subclause (2) must not be granted if the development will result in any of the following:
- (a) the floor space ratio for the site exceeds 3.9:1,
  - (b) the floor space ratio for all shops on the site exceeds 1.3:1,
  - (c) the floor space ratio for all commercial premises on the site exceeds 0.2:1,
  - (d) the floor space ratio for all clubs on the site exceeds 0.5:1,
  - (e) the floor space ratio for all residential development on the site exceeds 1.9:1,
  - (f) in relation to a building on the site that is less than 10 metres from Waterloo Street, Rozelle—the building height exceeds 12.5 metres above the existing road level,
  - (g) in relation to a building on the site that is less than 36 metres from Darling Street, Rozelle—the building height exceeds a reduced level of 52.0 metres relative to the Australian Height Datum or exceeds two storeys,
  - (h) a building height on the site exceeds a reduced level of 82.0 metres relative to the Australian Height Datum or exceeds twelve storeys.

**[2] Schedule 3 Glossary**

Insert in appropriate order in the definition of *Zoning Map*:

Leichhardt Local Environmental Plan 2000 (Amendment No 16)—Zoning Map



New South Wales

## Liverpool Local Environmental Plan 2008

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, pursuant to section 33A of the *Environmental Planning and Assessment Act 1979*, adopt the mandatory provisions of the *Standard Instrument (Local Environmental Plans) Order 2006* and prescribe matters required or permitted by that Order so as to make a local environmental plan as follows. (S07/01249)

FRANK SARTOR, M.P.,  
Minister for Planning

Liverpool Local Environmental Plan 2008

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Clause 1.1

Preliminary

Part 1

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## Liverpool Local Environmental Plan 2008

under the

Environmental Planning and Assessment Act 1979

### Part 1 Preliminary

#### 1.1 Name of Plan

This Plan is *Liverpool Local Environmental Plan 2008*.

#### 1.2 Aims of Plan

- (1) This Plan aims to make local environmental planning provisions for land in Liverpool in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
  - (a) to encourage a range of housing, employment, recreation and services to meet the needs of existing and future residents of Liverpool,
  - (b) to foster economic, environmental and social well-being so that Liverpool continues to develop as a sustainable and prosperous place to live, work and visit,
  - (c) to provide community and recreation facilities, maintain suitable amenity and offer a variety of quality lifestyle opportunities to a diverse population,
  - (d) to strengthen the regional position of the Liverpool city centre as the service and employment centre for Sydney's south west region,
  - (e) to concentrate intensive land uses and trip-generating activities in locations most accessible to transport and centres,
  - (f) to promote the efficient and equitable provision of public services, infrastructure and amenities,
  - (g) to conserve, protect and enhance the environmental and cultural heritage of Liverpool,
  - (h) to protect and enhance the natural environment in Liverpool, incorporating ecologically sustainable development,

Clause 1.3      Liverpool Local Environmental Plan 2008  
Part 1            Preliminary

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- (i) to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bush fires,
- (j) to promote a high standard of urban design that responds appropriately to the existing or desired future character of areas.

### 1.3 Land to which Plan applies

This Plan applies to the land identified on the Land Application Map.

### 1.4 Definitions

The Dictionary at the end of this Plan defines words and expressions for the purposes of this Plan.

### 1.5 Notes

Notes in this Plan are provided for guidance and do not form part of this Plan.

### 1.6 Consent authority

The consent authority for the purposes of this Plan is (subject to the Act) the Council.

### 1.7 Maps

- (1) A reference in this Plan to a named map adopted by this Plan is a reference to a map by that name:
  - (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Plan to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Plan, a map may be in, and may be kept and made available in, electronic or paper form, or both.

**Note.** The maps adopted by this Plan are to be made available on the official NSW legislation website in connection with this Plan. Requirements relating to the maps are set out in the documents entitled *Standard technical requirements for LEP maps* and *Standard requirements for LEP GIS data* which are available on the Department of Planning's website.

Liverpool Local Environmental Plan 2008

Clause 1.8

Preliminary

Part 1

**1.8 Repeal of other local planning instruments applying to land**

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.

**Note.** The following local environmental plans are repealed under this provision:

- (a) *Liverpool Local Environmental Plan 1997,*  
 (b) *Liverpool City Centre Local Environmental Plan 2007.*

- (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.

**1.8A Savings provision relating to pending development approvals**

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had been exhibited but had not commenced.

**1.9 Application of SEPPs and REPs**

- (1) This Plan is subject to the provisions of any State environmental planning policy and any regional environmental plan that prevail over this Plan as provided by section 36 of the Act.

**Note.** Section 36 of the Act generally provides that SEPPs prevail over REPs and LEPs and that REPs prevail over LEPs. However, a LEP may (by an additional provision included in the Plan) displace or amend a SEPP or REP to deal specifically with the relationship between this Plan and the SEPP or REP.

- (2) The following State environmental planning policies and regional environmental plans (or provisions) do not apply to the land to which this Plan applies:

*State Environmental Planning Policy No 1—Development Standards*

*State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*  
 (clause 6 and Parts 3 and 4)

*State Environmental Planning Policy No 9—Group Homes*

*State Environmental Planning Policy No 60—Exempt and Complying Development*

**1.9A Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a development consent granted under the Act, any agreement, covenant or other similar

Clause 1.9      Liverpool Local Environmental Plan 2008

Part 1          Preliminary

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instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.

- (2) This clause does not apply:
- (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
  - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
  - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (d) to any trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
  - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
  - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

Liverpool Local Environmental Plan 2008

Clause 2.1

Permitted or prohibited development

Part 2

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## **Part 2 Permitted or prohibited development**

### **2.1 Land use zones**

The land use zones under this Plan are as follows:

#### **Rural Zones**

- RU1 Primary Production
- RU2 Rural Landscape
- RU4 Rural Small Holdings

#### **Residential Zones**

- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- R4 High Density Residential
- R5 Large Lot Residential

#### **Business Zones**

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- B6 Enterprise Corridor

#### **Industrial Zones**

- IN1 General Industrial
- IN2 Light Industrial
- IN3 Heavy Industrial

#### **Special Purpose Zones**

- SP1 Special Activities
- SP2 Infrastructure

#### **Recreation Zones**

- RE1 Public Recreation
- RE2 Private Recreation

#### **Environment Protection Zones**

- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E3 Environmental Management

Clause 2.2	Liverpool Local Environmental Plan 2008
Part 2	Permitted or prohibited development

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### **Waterway Zones**

#### W1 Natural Waterways

## **2.2 Zoning of land to which Plan applies**

For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.

## **2.3 Zone objectives and land use table**

- (1) The Table at the end of this Part specifies for each zone:
  - (a) the objectives for development, and
  - (b) development that may be carried out without consent, and
  - (c) development that may be carried out only with consent, and
  - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Table at the end of this Part:
  - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
  - (b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.
- (4) This clause is subject to the other provisions of this Plan.

### **Notes.**

- 1 Schedule 1 sets out additional permitted uses for particular land.
- 2 Schedule 2 sets out exempt development (which is generally exempt from both Parts 4 and 5 of the Act). Development in the land use table that may be carried out without consent is nevertheless subject to the environmental assessment and approval requirements of Part 5 of the Act or, if applicable, Part 3A of the Act.
- 3 Schedule 3 sets out complying development (for which a complying development certificate may be issued as an alternative to obtaining development consent).
- 4 Clause 2.6 requires consent for subdivision of land.
- 5 Part 5 contains other provisions which require consent for particular development [see clauses 5.7, 5.8, 5.9 and 5.10].
- 5A Part 7 also contains other provisions which require consent for particular development.



Liverpool Local Environmental Plan 2008

Clause 2.4

Permitted or prohibited development

Part 2

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**2.4 Unzoned land**

- (1) Development may be carried out on unzoned land only with consent.
- (2) Before granting consent, the consent authority:
  - (a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and
  - (b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

**2.5 Additional permitted uses for particular land**

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out:
  - (a) with consent, or
  - (b) if the Schedule so provides—without consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.
- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

**2.6 Subdivision—consent requirements**

- (1) Land to which this Plan applies may be subdivided, but only with consent.
- (2) However, consent is not required for a subdivision for the purpose only of any one or more of the following:
  - (a) widening a public road,
  - (b) a minor realignment of boundaries that does not create:
    - (i) additional lots or the opportunity for additional dwellings, or
    - (ii) lots that are smaller than the minimum size shown on the Lot Size Map in relation to the land concerned,
  - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (d) rectifying an encroachment on a lot,
  - (e) creating a public reserve,
  - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

**Note.** If a subdivision is exempt development, the Act enables the subdivision to be carried out without consent.

Clause 2.6A	Liverpool Local Environmental Plan 2008
Part 2	Permitted or prohibited development

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### **2.6A Demolition requires consent**

The demolition of a building or work may be carried out only with consent.

**Note.** If the demolition of a building or work is identified in this Plan as exempt development, the Act enables it to be carried out without consent.

### **2.6B Temporary use of land**

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Plan, development consent may be granted to development on land in any zone for any temporary purpose for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any such other instrument, and
  - (b) the temporary use does not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period, the site will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

Liverpool Local Environmental Plan 2008

Clause 2.6B

Land Use Table

Part 2

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## Land Use Table

**Note.** This Table does not provide an exhaustive list of all uses that may be permissible in a particular zone. Other uses may be provided for elsewhere in this Plan or in other planning instruments such as the *State Environmental Planning Policy (Infrastructure) 2007*.

### Zone RU1 Primary Production

#### 1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure that development does not unreasonably increase the demand for public services or public facilities.
- To ensure that development does not hinder the development or operation of an airport on Commonwealth land in Badgery's Creek.
- To preserve bushland, wildlife corridors and natural habitat.

#### 2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations

#### 3 Permitted with consent

Agriculture; Airstrips; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cemeteries; Community facilities; Crematoria; Drainage; Dual occupancies; Dwelling houses; Earthworks; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Hazardous storage establishments; Health consulting rooms; Helipads; Heliports; Home businesses; Home industries; Landscape and garden supplies; Offensive storage establishments; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Veterinary hospitals; Water recreation structures

#### 4 Prohibited

Any development not specified in item 2 or 3

Clause 2.6B      Liverpool Local Environmental Plan 2008

Part 2            Land Use Table

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## **Zone RU2 Rural Landscape**

### **1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To ensure that development is compatible with the rural character of the land and maintains the feasibility of agricultural uses.
- To preserve bushland, wildlife corridors and natural habitat.

### **2 Permitted without consent**

Extensive agriculture; Home-based child care; Home occupations

### **3 Permitted with consent**

Aquaculture; Bed and breakfast accommodation; Building identification signs; Business identification signs; Community facilities; Dairies (pasture-based); Drainage; Dual occupancies; Dwelling houses; Earthworks; Environmental facilities; Environmental protection works; Farm buildings; Farm stay accommodation; Flood mitigation works; Helipads; Home businesses; Home industries; Horticulture; Places of public worship; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone RU4 Rural Small Holdings**

### **1 Objectives of zone**

- To enable sustainable primary industry and other compatible land uses.
- To maintain the rural and scenic character of the land.
- To ensure that development does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure that development is compatible with the rural character of the land and maintains the feasibility of agricultural uses.

Liverpool Local Environmental Plan 2008

Clause 2.6B

Land Use Table

Part 2

---

**2 Permitted without consent**

Extensive agriculture; Home-based child care; Home occupations

**3 Permitted with consent**

Agriculture; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cemeteries; Community facilities; Crematoria; Drainage; Dual occupancies; Dwelling houses; Earthworks; Entertainment facilities; Environmental facilities; Environmental protection works; Farm buildings; Farm stay accommodation; Flood mitigation works; Helipads; Home businesses; Home industries; Horticulture; Landscape and garden supplies; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone R1 General Residential****1 Objectives of zone**

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that housing densities are broadly concentrated in locations accessible to public transport, employment, services and facilities.
- To facilitate development of social and community infrastructure to meet the needs of future residents.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Drainage; Dwelling houses; Earthworks; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Home businesses; Home industries; Hostels; Multi dwelling housing; Neighbourhood

Clause 2.6B Liverpool Local Environmental Plan 2008

Part 2 Land Use Table

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shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone R2 Low Density Residential**

**1 Objectives of zone**

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide a suitable low scale residential character commensurate with a low dwelling density.
- To ensure that a high level of residential amenity is achieved and maintained.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Building identification signs; Business identification signs; Child care centres; Community facilities; Drainage; Dwelling houses; Earthworks; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Places of public worship; Recreation areas; Roads; Secondary dwellings; Semi-detached dwellings

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone R3 Medium Density Residential**

**1 Objectives of zone**

- To provide for the housing needs of the community within a medium density residential environment.

Liverpool Local Environmental Plan 2008

Clause 2.6B

Land Use Table

Part 2

- 
- To provide a variety of housing types within a medium density residential environment.
  - To enable other land uses that provide facilities or services to meet the day to day needs of residents.
  - To provide for a concentration of housing with access to services and facilities.
  - To provide for a suitable visual transition between high density residential areas and lower density areas.
  - To ensure that a high level of residential amenity is achieved and maintained.

## **2 Permitted without consent**

Home-based child care; Home occupations

## **3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Drainage; Dwelling houses; Earthworks; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Multi dwelling housing; Neighbourhood shops; Places of public worship; Public administration buildings; Recreation areas; Residential care facilities; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shop top housing

## **4 Prohibited**

Any development not specified in item 2 or 3

### **Zone R4 High Density Residential**

#### **1 Objectives of zone**

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a high concentration of housing with good access to transport, services and facilities.

Clause 2.6B      Liverpool Local Environmental Plan 2008  
 Part 2            Land Use Table

- 
- To minimise the fragmentation of land that would prevent the achievement of high density residential development.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Drainage; Dwelling houses; Earthworks; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Kiosks; Multi dwelling housing; Neighbourhood shops; Places of public worship; Public administration buildings; Recreation areas; Residential care facilities; Residential flat buildings; Roads; Secondary dwellings; Serviced apartments; Shop top housing

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone R5 Large Lot Residential**

**1 Objectives of zone**

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential allotments do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure that a high level of residential amenity is achieved and maintained.
- To provide for complementary uses that are of low impact and do not unreasonably increase the demand for public services or public facilities.

**2 Permitted without consent**

Home-based child care; Home occupations



Liverpool Local Environmental Plan 2008

Clause 2.6B

Land Use Table

Part 2

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**3 Permitted with consent**

Bed and breakfast accommodation; Building identification signs; Business identification signs; Dairies (pasture-based); Drainage; Dual occupancies; Dwelling houses; Earthworks; Educational establishments; Environmental facilities; Environmental protection works; Extensive agriculture; Farm buildings; Flood mitigation works; Helipads; Home businesses; Home industries; Places of public worship; Public administration buildings; Recreation areas; Roads; Veterinary hospitals

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone B1 Neighbourhood Centre****1 Objectives of zone**

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To provide the opportunity for a small scale supermarket that will provide goods for the day-to-day needs of people who live and work in the surrounding neighbourhood.
- To allow for residential and other accommodation while maintaining active retail, business or other non-residential uses at street level.

**2 Permitted without consent**

Environmental protection works; Home-based child care; Home occupations

**3 Permitted with consent**

Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Business premises; Child care centres; Community facilities; Drainage; Earthworks; Educational establishments; Environmental facilities; Environmental protection works; Flood mitigation works; Food and drink premises; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Kiosks; Neighbourhood shops; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Roads; Service stations; Serviced apartments; Shop top housing; Shops; Veterinary hospitals

Clause 2.6B      Liverpool Local Environmental Plan 2008  
Part 2              Land Use Table

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#### **4 Prohibited**

Any development not specified in item 2 or 3

### **Zone B2 Local Centre**

#### **1 Objectives of zone**

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To allow for residential and other accommodation while maintaining active retail, business or other non-residential uses at street level.
- To facilitate a high standard of urban design and a unique character that contributes to achieving a sense of place for the local community.

#### **2 Permitted without consent**

Home-based child care; Home occupations

#### **3 Permitted with consent**

Boarding houses; Building identification signs; Business identification signs; Business premises; Child care centres; Community facilities; Depots; Drainage; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Flood mitigation works; Function centres; Helipads; Home businesses; Home industries; Hostels; Information and education facilities; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Retail premises; Residential flat buildings (but only as part of a mixed use development that contains a non-residential use permitted in the zone); Roads; Service stations; Shop top housing; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals

#### **4 Prohibited**

Any development not specified in item 2 or 3

Liverpool Local Environmental Plan 2008

Clause 2.6B

Land Use Table

Part 2

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**Zone B3 Commercial Core****1 Objectives of zone**

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To strengthen the role of Liverpool city centre as the regional business, retail and cultural centre of south western Sydney.
- To ensure that, for key land in the Liverpool city centre, opportunities for retail, business and office uses exist in the longer term.
- To facilitate a high standard of urban design and exceptional public amenity.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Building identification signs; Business identification signs; Business premises; Child care centres; Community facilities; Drainage; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Group homes; Helipads; Heliports; Hotel or motel accommodation; Information and education facilities; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Retail premises; Roads; Sex services premises; Veterinary hospitals; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone B4 Mixed Use****1 Objectives of zone**

- To provide a mixture of compatible land uses.

Clause 2.6B Liverpool Local Environmental Plan 2008

Part 2 Land Use Table

- 
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
  - To allow for residential and other accommodation in the Liverpool city centre, while maintaining active retail, business or other non-residential uses at street level.
  - To facilitate a high standard of urban design, convenient urban living and exceptional public amenity.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Boarding houses; Building identification signs; Business identification signs; Business premises; Car parks; Child care centres; Community facilities; Depots; Drainage; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Helipads; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Information and education facilities; Multi dwelling housing; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Residential flat buildings (but only as part of a mixed use development that contains a non-residential use permitted in the zone); Retail premises; Roads; Seniors housing; Service stations; Shop top housing; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone B5 Business Development**

**1 Objectives of zone**

- To enable a mix of business and warehouse uses, and specialised retail uses that require a large floor area, in locations that are close to, and that support the viability of, centres.
- To maintain the economic strength of centres by limiting the retailing of food and clothing.
- To provide for a larger regionally significant business development centre in a location that is highly accessible to the region.

Liverpool Local Environmental Plan 2008

Clause 2.6B

Land Use Table

Part 2

- 
- To ensure a reasonable concentration of business activity.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Building identification signs; Bulky goods premises; Business identification signs; Car parks; Child care centres; Community facilities; Drainage; Earthworks; Environmental facilities; Environmental protection works; Flood mitigation works; Food and drink premises; Hotel or motel accommodation; Landscape and garden supplies; Light industries; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Pubs; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Restaurants; Roads; Storage premises (other than offensive storage establishments or hazardous storage establishments); Timber and building supplies; Vehicle sales or hire premises; Warehouse or distribution centres

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone B6 Enterprise Corridor****1 Objectives of zone**

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses) and residential uses (but only as part of a mixed use development).
- To maintain the economic strength of centres by limiting the retailing activity.
- To provide primarily for businesses along key corridors entering Liverpool city centre, major local centres or retail centres.
- To ensure residential development is limited to land where it does not undermine the viability or operation of businesses.

**2 Permitted without consent**

Home-based child care; Home occupations

Clause 2.6B Liverpool Local Environmental Plan 2008

Part 2 Land Use Table

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### 3 Permitted with consent

Building identification signs; Bulky goods premises; Business identification signs; Business premises; Car parks; Community facilities; Crematoria; Depots; Drainage; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Helipads; Home businesses; Home industries; Hotel or motel accommodation; Information and education facilities; Landscape and garden supplies; Light industries; Multi dwelling housing; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Retail premises; Roads; Service stations; Shop top housing; Storage premises (other than offensive storage establishments or hazardous storage establishments); Timber and building supplies; Transport depots; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres

### 4 Prohibited

Any development not specified in item 2 or 3

## Zone IN1 General Industrial

### 1 Objectives of zone

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To particularly encourage research and development industries by prohibiting land uses that are typically unsightly or unpleasant.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

### 2 Permitted without consent

Home occupations

### 3 Permitted with consent

Boat sheds; Building identification signs; Business identification signs; Car parks; Cemeteries; Child care centres; Community facilities; Crematoria; Depots; Drainage; Earthworks; Environmental facilities; Environmental protection works; Flood mitigation works; Freight transport facilities; Helipads; Heliports; Hotel or motel accommodation; Industries (other than heavy industries); Industrial

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retail outlets; Information and education facilities; Kiosks; Light industries; Mortuaries; Neighbourhood shops; Passenger transport facilities; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Restaurants; Roads; Sex services premises; Storage premises (other than offensive storage establishments or hazardous storage establishments); Swimming pools; Take away food and drink premises; Tank-based aquaculture; Transport depots; Warehouse or distribution centres

#### **4 Prohibited**

Any development not specified in item 2 or 3

### **Zone IN2 Light Industrial**

#### **1 Objectives of zone**

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To allow other land uses that are compatible with industry and that can buffer heavy industrial zones while not detracting from centres of activity.

#### **2 Permitted without consent**

Home occupations

#### **3 Permitted with consent**

Animal boarding or training establishments; Boat repair facilities; Boat sheds; Building identification signs; Business identification signs; Car parks; Cemeteries; Child care centres; Community facilities; Depots; Drainage; Earthworks; Educational establishments; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Helipads; Heliports; Hotel or motel accommodation; Industrial retail outlets; Information and education facilities; Kiosks; Landscape and garden supplies; Light industries; Neighbourhood shops; Passenger transport facilities; Places of public worship; Pubs; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Restaurants; Roads; Service stations; Sex services premises; Storage premises (other than offensive storage

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establishments or hazardous storage establishments); Take away food and drink premises; Timber and building supplies; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone IN3 Heavy Industrial**

**1 Objectives of zone**

- To provide suitable areas for those industries that need to be separated from other land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of heavy industry on other land uses.
- To preserve opportunities for a wide range of industries and similar land uses by prohibiting land uses that detract from or undermine such opportunities.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Boat repair facilities; Boat sheds; Building identification signs; Business identification signs; Cemeteries; Crematoria; Depots; Drainage; Earthworks; Environmental facilities; Environmental protection works; Flood mitigation works; Freight transport facilities; Hazardous industries; Hazardous storage establishments; Heavy industries; Helipads; Horticulture; Industries; Kiosks; Light industries; Liquid fuel depots; Mortuaries; Offensive industries; Offensive storage establishments; Passenger transport facilities; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Resource recovery facilities; Roads; Rural industries; Sex services premises; Storage premises; Tank-based aquaculture; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres

**4 Prohibited**

Any development not specified in item 2 or 3



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**Zone SP1 Special Activities****1 Objectives of zone**

- To provide for special land uses that are not provided for in other zones.
- To provide for sites with special natural characteristics that are not provided for in other zones.
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone SP2 Infrastructure****1 Objectives of zone**

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To reserve land for the provision of infrastructure.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Drainage; Environmental protection works; Roads

**4 Prohibited**

Any other development not specified in item 2 or 3

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Part 2            Land Use Table

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## **Zone RE1 Public Recreation**

### **1 Objectives of zone**

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To provide sufficient and equitable distribution of public open space to meet the needs of residents.
- To ensure the suitable preservation and maintenance of environmentally significant or environmentally sensitive land.

### **2 Permitted without consent**

Environmental protection works; Home occupations

### **3 Permitted with consent**

Boat sheds; Building identification signs; Business identification signs; Caravan parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Community facilities; Drainage; Earthworks; Entertainment facilities; Environmental facilities; Flood mitigation works; Information and education facilities; Kiosks; Marinas; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major) (other than racecourses and motor racing tracks); Recreation facilities (outdoor) (other than paint-ball centres, go-kart tracks, rifle ranges and water-ski centres); Roads; Water recreation structures

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone RE2 Private Recreation**

### **1 Objectives of zone**

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

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Land Use Table

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- To enable land uses that are compatible with, and complimentary to, recreational uses.

**2 Permitted without consent**

Environmental protection works; Home occupations

**3 Permitted with consent**

Animal boarding or training establishments; Boat sheds; Building identification signs; Business identification signs; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Community facilities; Drainage; Earthworks; Entertainment facilities; Environmental facilities; Flood mitigation works; Function centres; Information and education facilities; Kiosks; Landscape and garden supplies; Marinas; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Roads; Veterinary hospitals; Water recreation structures

**4 Prohibited**

Any other development not specified in item 2 or 3

**Zone E1 National Parks and Nature Reserves****1 Objectives of zone**

- To enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act.
- To enable uses authorised under the *National Parks and Wildlife Act 1974*.
- To identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and to protect the environmental significance of that land.

**2 Permitted without consent**Uses authorised under the *National Parks and Wildlife Act 1974***3 Permitted with consent**

Nil

**4 Prohibited**

Any development not specified in item 2 or 3

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Part 2            Land Use Table

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## **Zone E2 Environmental Conservation**

### **1 Objectives of zone**

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To enable the recreational enjoyment, cultural interpretation or scientific study of the natural environment.

### **2 Permitted without consent**

Environmental protection works; Home occupations

### **3 Permitted with consent**

Building identification signs; Drainage; Earthworks; Environmental facilities; Flood mitigation works; Information and education facilities; Roads

### **4 Prohibited**

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

## **Zone E3 Environmental Management**

### **1 Objectives of zone**

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To enable the recreational enjoyment or scientific study of the natural environment.

### **2 Permitted without consent**

Environmental protection works; Home occupations

### **3 Permitted with consent**

Building identification signs; Drainage; Dwelling houses; Earthworks; Environmental facilities; Flood mitigation works; Home businesses; Home industries; Information and education facilities; Roads

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**4 Prohibited**

Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

**Zone W1 Natural Waterways****1 Objectives of zone**

- To protect the ecological and scenic values of natural waterways.
- To prevent development that would have an adverse effect on the natural values of waterways in this zone.
- To provide for sustainable fishing industries and recreational fishing.
- To enable the recreational enjoyment or scientific study of the natural environment.
- To allow development for water recreation purposes that does not have a significant adverse effect on the natural values of waterways in this zone.

**2 Permitted without consent**

Environmental protection works; Home occupations

**3 Permitted with consent**

Boat sheds; Building identification signs; Business identification signs; Drainage; Earthworks; Environmental facilities; Flood mitigation works; Information and education facilities; Marinas; Moorings; Recreation areas; Roads; Water recreation structures

**4 Prohibited**

Business premises; Canal estate development; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Clause 3.1	Liverpool Local Environmental Plan 2008
Part 3	Exempt and complying development

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## Part 3 Exempt and complying development

### 3.1 Exempt development

**Note.** Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and
  - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
  - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
  - (2) Development specified in Schedule 2 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.
  - (3) To be exempt development, the development:
    - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
    - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
    - (c) must not be designated development, and
    - (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*, and
    - (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 3.3).
  - (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:
    - (a) the building has a current fire safety certificate or fire safety statement, or
    - (b) no fire safety measures are currently implemented, required or proposed for the building.
  - (4A) A heading to an item in Schedule 2 is taken to be part of that Schedule.

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Clause 3.2

Exempt and complying development

Part 3

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### 3.2 Complying development

**Note.** Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
  - (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
  - (c) the development is designated development, or
  - (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or in Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*), or
  - (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Climate Change in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*), or
  - (f) the development is on land identified as an environmentally sensitive area.
- (1) The objective of this clause is to identify development as complying development.
  - (2) Development specified in Part 1 of Schedule 3 that is carried out in compliance with:
    - (a) the development standards specified in relation to that development, and
    - (b) the requirements of this Part,
 is complying development.
 

**Note.** See also clause 5.8 (3) which provides that the conversion of fire alarms is complying development in certain circumstances.
  - (3) To be complying development, the development must:
    - (a) be permissible, with consent, in the zone in which it is carried out, and
    - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
    - (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.

Clause 3.3      Liverpool Local Environmental Plan 2008  
 Part 3            Exempt and complying development

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- (3A) To be complying development, the development must also:
- (a) be consistent with any plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat Protection* that applies to the land, and
  - (b) not be carried out on land subject to any easement for a public sewer main, and
  - (c) be undertaken in accordance with any relevant Sydney Water requirements that relate to building over sewers, and
  - (d) not require a tree to be removed, and
  - (e) not be carried out on land that has been used for any one or more of the following purposes unless notice of completion of remediation work for the proposed use has been given to the Council in accordance with *State Environmental Planning Policy No 55—Remediation of Land*:
    - asbestos or asbestos products, extractive industries, intensive livestock agriculture, manufacturing of chemicals, mining, service stations, sheep or cattle dips, waste disposal land fill operations, waste management facilities, and
  - (f) not be carried out on land:
    - (i) that is within 40 metres of a waterway, or
    - (ii) that is in the flood planning area, or
    - (iii) that is bush fire prone land, or
    - (iv) that is subject to subsidence, slip or erosion, or
    - (v) that is in Zone E2 Environmental Conservation or Zone E3 Environmental Management, or
    - (vi) that is environmentally significant land, or
    - (vii) that is a special area or outer catchment area within the meaning of the *Sydney Water Catchment Management Act 1998*, or
    - (viii) that is within 200 metres of a poultry farm.
- (4) A complying development certificate for development specified in Part 1 of Schedule 3 is subject to the conditions (if any) set out in Part 2 of that Schedule.
- (4A) A heading to an item in Schedule 3 is taken to be part of that Schedule.

### 3.3 Environmentally sensitive areas excluded

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.



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Clause 3.3

Exempt and complying development

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- (2) For the purposes of this clause:  
***environmentally sensitive area for exempt or complying development*** means any of the following:
- (a) the coastal waters of the State,
  - (b) a coastal lake,
  - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
  - (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
  - (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
  - (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
  - (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
  - (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,
  - (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
  - (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

Clause 4.1      Liverpool Local Environmental Plan 2008  
Part 4            Principal development standards

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## **Part 4    Principal development standards**

### **4.1    Minimum subdivision lot size**

- (1) The objectives of this clause are as follows:
  - (a) to ensure that lot sizes are consistent with the desired residential density for different locations,
  - (b) to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls,
  - (c) to prevent fragmentation of land which would prevent the achievement of the extent of development and nature of uses envisioned for particular locations,
  - (d) to minimise traffic impacts resulting from any increase in the number of lots on classified roads,
  - (e) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,
  - (f) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area,
  - (g) to ensure that lot sizes allow buildings to be sited to protect natural or cultural features including heritage items and retain special features such as trees and views.
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.
- (4A) Despite subclause (3), the size of any lot resulting from the subdivision of land shown on the Lot Size Map to be within Area 1, Area 2 or Area 3 for the purposes of:
  - (a) a dual occupancy that was approved before the making of this Plan and that satisfies any conditions of that approval, or
  - (b) multi dwelling housing, or
  - (c) attached dwellings, or
  - (d) semi-detached dwellings,must not be less than the area shown in Column 2 of the Table to this subclause opposite the relevant Area, or if the lot adjoins a rear or side

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Clause 4.1A

Principal development standards

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lane that provides vehicular access to the lot, not less than the area shown in Column 3 of the Table opposite the relevant Area.

Column 1	Column 2	Column 3
Area 1	225m <sup>2</sup>	180m <sup>2</sup>
Area 2	250m <sup>2</sup>	200m <sup>2</sup>
Area 3	300m <sup>2</sup>	240m <sup>2</sup>

#### 4.1A Minimum subdivision lot size community title schemes

- (1) The objectives of this clause are as follows:
  - (a) to ensure that lot sizes in community title schemes are consistent with the desired residential density for different locations,
  - (b) to ensure that lot sizes in community title schemes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls,
  - (c) to prevent fragmentation of land which would prevent the achievement of the extent of development and nature of uses envisioned for particular locations,
  - (d) to prevent an increased traffic and safety impact as a result of increased lots on classified roads,
  - (e) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,
  - (f) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area,
  - (g) to ensure that lot sizes in community title schemes allow buildings to be sited to protect natural or cultural features including heritage items and retain special features such as trees and views.
- (2) This clause applies to a subdivision under a community title scheme of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) Despite subclause (3), the size of any lot resulting from the subdivision of land shown on the Lot Size Map to be within Area 1, Area 2 or Area 3 for the purposes of:

Clause 4.2      Liverpool Local Environmental Plan 2008  
 Part 4          Principal development standards

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- (a) a dual occupancy that was approved before the making of this Plan and that satisfies any conditions of that approval, or
  - (b) 3 or more dwellings, or
  - (c) attached dwellings, or
  - (d) semi-detached dwellings,

must not be less than the area shown in Column 2 of the Table to this subclause opposite the relevant Area, or if the lot adjoins a rear or side lane that provides vehicular access to the lot, not less than the area shown in Column 3 of the Table opposite the relevant Area.

Column 1	Column 2	Column 3
Area 1	225m <sup>2</sup>	180m <sup>2</sup>
Area 2	250m <sup>2</sup>	200m <sup>2</sup>
Area 3	300m <sup>2</sup>	240m <sup>2</sup>

#### 4.2 Rural subdivision

- (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.
- (2) This clause applies to the following rural zones:
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU2 Rural Landscape,
  - (c) Zone RU4 Rural Small Holdings,
  - (d) Zone RU6 Transition.
- (3) Land in a zone to which this clause applies may, with consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.
- (5) A dwelling cannot be erected on such a lot.  
**Note.** A dwelling includes a rural worker's dwelling (see definition of that term in the Dictionary).

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Clause 4.2A

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**4.2A Restrictions on strata or community title subdivisions in certain rural or environmental protection zones**

- (1) The objective of this clause is to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.
- (2) This clause applies to land in the following zones that is used, or proposed to be used, for residential accommodation or tourist and visitor accommodation:
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU2 Rural Landscape,
  - (c) Zone RU4 Rural Small Holdings,
  - (d) Zone E1 National Parks and Nature Reserves,
  - (e) Zone E2 Environmental Conservation,
  - (f) Zone E3 Environmental Management.
- (3) Development consent must not be granted for the subdivision of land to which this clause applies for a strata plan or community title scheme that would create a lot that is less than the minimum size shown on the Lot Size Map for that land.

**4.3 Height of buildings**

- (1) The objectives of this clause are as follows:
  - (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,
  - (b) to permit building heights that encourage high quality urban form,
  - (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,
  - (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

**Note.** Clauses 5.6, 7.2 and 7.5 provide for circumstances under which a building in the Liverpool city centre may exceed the maximum height shown for the land on the Height of Buildings Map.

Clause 4.4      Liverpool Local Environmental Plan 2008  
Part 4            Principal development standards

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#### 4.4 Floor space ratio

- (1) The objectives of this clause are as follows:
- (a) to establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic,
  - (b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different locations,
  - (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
  - (d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,
  - (e) to provide an appropriate correlation between the size of a site and the extent of any development on that site,
  - (f) to facilitate design excellence in the Liverpool city centre by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.
- (2A) Despite subclause (2):
- (a) a 3 storey building containing dwellings, or
  - (b) a building used for the purposes of an attached dwelling, multi dwelling housing or a secondary dwelling,
- that is on land shown to be within Area 2 or Area 3 on the Floor Space Ratio Map, may have a maximum floor space ratio of:
- (c) up to 0.05:1 greater than that shown on the Map, or
  - (d) if the building is on a lot that adjoins a rear or side lane that provides vehicular access to the lot, up to 0.1:1 greater than that shown on the Map.
- (2B) Despite subclause (2), the maximum floor space ratio of a building in the Liverpool city centre that is:
- (a) on a site area greater than 1,000 square metres, and
  - (b) on land in a zone specified in the Table to this clause, and
  - (c) on land for which the maximum building height shown on the Height of Buildings Map is as specified in Column 1 of the Table under the heading for that zone,

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Clause 4.5

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is the amount specified opposite that height in:

- (d) Column 2 of the Table, if the site area for the building is greater than 1,000 square metres but less than 2,500 square metres, or
  - (e) Column 3 of the Table, if the site area for the development is equal to, or greater than 2,500 square metres.
- (2C) For the purposes of Column 2 of the Table to this clause, X is to be calculated in accordance with the following formula:

$$X = (\text{the number of square metres of the site area} - 1000) / 1500$$

Column 1	Column 2	Column 3
<b>Zone B3 Commercial Core</b>		
21m	(3 + 0.5X):1	3.5:1
28m	(3 + X):1	4:1
35m	(4 + X):1	5:1
45m	(4.5 + 1.5X):1	6:1
100m	(5 + 3X):1	8:1
<b>Zone B1 Neighbourhood Centre, B4 Mixed Use, SP1 Special Activities or SP2 Infrastructure</b>		
18m	(1.5 + 0.5X):1	2:1
24m	(2 + X):1	3:1
35m	(2.5 + X):1	3.5:1
45m	(2.5 + 1.5X):1	4:1
80m	(2.5 + 3.5X):1	6:1
<b>Zone R4 High Density Residential</b>		
18m	(1 + X):1	2:1
24m	(1.5 + X):1	2.5:1
35m	(2 + X):1	3:1
45m	(2 + 1.5X):1	3.5:1

#### 4.5 Calculation of floor space ratio and site area

##### (1) Objectives

The objectives of this clause are as follows:

- (a) to define *floor space ratio*,

Clause 4.5      Liverpool Local Environmental Plan 2008  
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- (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to:
- (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and
  - (ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and
  - (iii) require community land and public places to be dealt with separately.

(2) **Definition of “floor space ratio”**

The *floor space ratio* of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

(3) **Site area**

In determining the site area of proposed development for the purpose of applying a floor space ratio, the *site area* is taken to be:

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

(4) **Exclusions from site area**

The following land must be excluded from the site area:

- (a) land on which the proposed development is prohibited, whether under this Plan or any other law,
- (b) community land or a public place (except as provided by subclause (7)).

(5) **Strata subdivisions**

The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.

(6) **Only significant development to be included**

The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the



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proposed development includes significant development on that additional lot.

(7) **Certain public land to be separately considered**

For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.

(8) **Existing buildings**

The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.

(9) **Covenants to prevent “double dipping”**

When consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.

(10) **Covenants affect consolidated sites**

If:

- (a) a covenant of the kind referred to in subclause (9) applies to any land (*affected land*), and
- (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,

the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Plan is reduced by the quantity of floor space area the covenant prevents being created on the affected land.

(11) **Definition**

In this clause, *public place* has the same meaning as it has in the *Local Government Act 1993*.

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#### **4.6 Exceptions to development standards**

- (1) The objectives of this clause are:
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

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- (6) Consent must not be granted under this clause for a subdivision of land in Zone RU1, RU2, RU3, RU4, RU6, R5, E2, E3 or E4 if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
  - (c) clause 5.4,
  - (ca) clause 6.4, 6.5, 6.6, 7.22, 7.23, 7.24, 7.25, 7.26, 7.27, 7.28, 7.29 or 7.30.

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Part 5 Miscellaneous provisions

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## Part 5 Miscellaneous provisions

### 5.1 Relevant acquisition authority

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated acquisition provisions**).

**Note.** If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the Land Reservation Acquisition Map (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

Type of land shown on Map	Authority of the State
Zone B2 Local Centre and marked "Community facilities"	Council
Zone RE1 Public Recreation and marked "Local open space"	Council
Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted under section 8 of the Act
Zone SP2 Infrastructure and marked "Classified road"	Roads and Traffic Authority
Zone SP2 Infrastructure and marked "Local road"	Council
Zone SP2 Infrastructure and marked "Drainage"	Council
Zone SP2 Infrastructure and marked "Railway"	The corporation constituted under section 8 of the Act
Zone E1 National Parks and Nature Reserves and marked "National Park"	Minister administering the <i>National Parks and Wildlife Act 1974</i>

- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the

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purpose for which it is reserved, be carried out, with development consent, for any purpose.

**Note.** If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning is required to take action to enable the designation of the acquiring authority under this Part. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

### 5.1A Development on land intended to be acquired for a public purpose

- (1) The objective of this clause is to limit development on certain land intended to be acquired for a public purpose.
- (2) This clause applies to land shown on the Land Reservation Acquisition Map and specified in Column 1 of the Table to this clause and that has not been acquired by the authority of the State specified opposite that land in Column 2 of the Table.
- (3) Development consent must not be granted to any development on land to which this clause applies other than development for a purpose specified opposite that land in Column 3 of the Table to this clause.

Column 1	Column 2	Column 3
Land	Authority	Development
Zone RE1 Public Recreation and marked "Local open space"	Council	Earthworks; Recreation areas
Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted under section 8 of the Act	Earthworks; Recreation areas
Zone B2 Local Centre and marked "Community facilities"	Council	Earthworks; Community facilities

### 5.2 Classification and reclassification of public land

- (1) The objective of this clause is to enable the Council to classify or reclassify public land as "operational land" or "community land" in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.

**Note.** Under the *Local Government Act 1993*, "public land" is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Plan to discharge trusts on which public reserves are held if the land is reclassified under this Plan as operational land.

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- (2) The public land described in Part 1 or Part 2 of Schedule 4 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
  - (3) The public land described in Part 3 of Schedule 4 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
  - (4) The public land described in Part 1 of Schedule 4:
    - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
    - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
  - (5) The public land described in Part 2 of Schedule 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
    - (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4, and
    - (b) any reservations that except land out of the Crown grant relating to the land, and
    - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).

**Note.** In accordance with section 30 (2) of the *Local Government Act 1993*, the approval of the Governor to subclause (5) applying to the public land concerned is required before the description of the land is inserted in Part 2 of Schedule 4.

### 5.3 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 10 metres from any zone boundary shared with Zone IN3 Heavy Industrial and 25 metres from any other zone boundary.

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- (3) This clause does not apply to:
- (a) land zoned B3 Commercial Core, RE1 Public Recreation, E1 National Parks and Nature Reserves, E2 Environmental Conservation, E3 Environmental Management or W1 Natural Waterways, or
  - (b) land within the coastal zone, or
  - (c) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
- (a) the development is not inconsistent with the objectives for development in both zones, and
  - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (5) The clause does not prescribe a development standard that may be varied under this Plan.

#### 5.4 Controls relating to miscellaneous permissible uses

(1) **Bed and breakfast accommodation**

If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 4 bedrooms.

(2) **Home businesses**

If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than 50 square metres of floor area.

(3) **Home industries**

If development for the purposes of a home industry is permitted under this Plan, the carrying on of the light industry must not involve the use of more than 50 square metres of floor area.

(4) **Industrial retail outlets**

If development for the purposes of an industrial retail outlet is permitted under this Plan, the retail floor area must not exceed:

Clause 5.5      Liverpool Local Environmental Plan 2008  
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(a) 30% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or

(b) 400 square metres,  
whichever is the lesser.

(5) **Farm stay accommodation**

If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 5 bedrooms.

(6) **Kiosks**

If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 30 square metres.

(7) **Neighbourhood shops**

If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 100 square metres.

(8) **Roadside stalls**

If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed 20 square metres.

(9) **Secondary dwellings**

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

(a) 60 square metres,

(b) 20% of the total floor area of both the self-contained dwelling and the principal dwelling.

**5.5 Development within the coastal zone**

Not applicable.

**5.6 Architectural roof features**

(1) The objectives of this clause are:

(a) to permit variations to maximum building height standards for roof features of visual interest, and

(b) to ensure that roof features are decorative elements and that the majority of the roof is contained within the maximum building height standard.



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- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with consent.
  - (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:
    - (a) the architectural roof feature:
      - (i) comprises a decorative element on the uppermost portion of a building, and
      - (ii) is not an advertising structure, and
      - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
      - (iv) will cause minimal overshadowing, and
    - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

**5.7 Development below mean high water mark**

- (1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.
- (2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).

**5.8 Conversion of fire alarms**

- (1) This clause applies to a fire alarm system that can be monitored by New South Wales Fire Brigades or by a private service provider.
- (2) The following development may be carried out, but only with consent:
  - (a) converting a fire alarm system from connection with the alarm monitoring system of New South Wales Fire Brigades to connection with the alarm monitoring system of a private service provider,
  - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
  - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.

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- (3) Development to which subclause (2) applies is complying development if it consists only of:
- internal alterations to a building, or
  - internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm x 100mm x 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this clause:
- private service provider* means a person or body that has entered into an agreement that is in force with New South Wales Fire Brigades to monitor fire alarm systems.

#### 5.9 Preservation of trees or vegetation

- The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.
- This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.  
**Note.** A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.
- A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
  - development consent, or
  - a permit granted by the Council.
- The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.
- This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.
- This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.

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- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:
- (a) that is or forms part of a heritage item, or
  - (b) that is within a heritage conservation area.
- Note.** As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.
- (8) This clause does not apply to or in respect of:
- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
  - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
  - (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
  - (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
  - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

#### 5.10 Heritage conservation

**Note.** Heritage items, heritage conservation areas and archaeological sites (if any) are shown on the Heritage Map. The location and nature of any such item, area or site is also described in Schedule 5.

##### (1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of Liverpool, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve archaeological sites, and
- (d) to conserve places of Aboriginal heritage significance.

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**(2) Requirement for consent**

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,
- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

**(3) When consent not required**

However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
  - (i) is of a minor nature, or is for the maintenance of the heritage item, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and
  - (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
  - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
  - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or

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- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.
- (4) **Effect on heritage significance**
- The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).
- (5) **Heritage impact assessment**
- The consent authority may, before granting consent to any development on land:
- (a) on which a heritage item is situated, or
- (b) within a heritage conservation area, or
- (c) within the vicinity of land referred to in paragraph (a) or (b),
- require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (6) **Heritage conservation management plans**
- The consent authority may require, after considering the significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.
- (7) **Archaeological sites**
- The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):
- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.
- (8) **Places of Aboriginal heritage significance**
- The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:
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- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
- (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

(9) **Demolition of item of State significance**

The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 5 as being of State significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) **Conservation incentives**

The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

**5.11 Bush fire hazard reduction**

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

**Note.** The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

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**5.12 Infrastructure development and use of existing buildings of the Crown**

- (1) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out without consent under the *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

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Part 6	Urban release areas

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## **Part 6 Urban release areas**

### **6.1 Aims of Part**

This Part aims:

- (a) to allow for future urban development and the conservation of ecological and riparian corridors and areas of visual significance on land in urban release areas, and
- (b) to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of such land to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes, and
- (c) to ensure that development on such land occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan including specific controls has been prepared for the land.

### **6.2 Relationship between Part and remainder of Plan**

A provision of this Part prevails over any other provision of this Plan to the extent of any inconsistency.

### **6.3 Application of Part**

This Part applies to land in an urban release area, but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).

### **6.4 Arrangements for designated State public infrastructure**

- (1) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.
- (2) Subclause (1) does not apply to:
  - (a) any lot identified in the certificate as a residue lot, or
  - (b) any lot created by a subdivision consented to in accordance with this clause, or



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- (c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities, or any other public purpose, or
  - (d) a subdivision for the purpose only of rectifying an encroachment on any existing allotment.

#### **6.5 Public utility infrastructure**

- (1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

#### **6.6 Development control plan**

- (1) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (2) has been prepared for the land.
- (2) The development control plan must provide for all of the following:
  - (a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (d) a network of passive and active recreational areas,
  - (e) stormwater and water quality management controls,
  - (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination,
  - (g) detailed urban design controls for significant development sites,
  - (h) measures to encourage higher density living around transport, open space and service nodes,

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- (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
- (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.

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## **Part 7 Additional local provisions**

### **Division 1 Liverpool city centre provisions**

#### **7.1 Objectives for development in Liverpool city centre**

Before granting consent for development on land in the Liverpool city centre, the consent authority must be satisfied that the proposed development is consistent with such of the following objectives for the redevelopment of the city centre as are relevant to that development:

- (a) to preserve the existing street layout and reinforce the street character through consistent building alignments,
- (b) to allow sunlight to reach buildings and areas of high pedestrian activity,
- (c) to reduce the potential for pedestrian and traffic conflicts on the Hume Highway,
- (d) to improve the quality of public spaces in the city centre,
- (e) to reinforce Liverpool railway station and interchange as a major passenger transport facility, including by the visual enhancement of the surrounding environment and the development of a public plaza at the station entry,
- (f) to enhance the natural river foreshore and places of heritage significance,
- (g) to provide direct, convenient and safe pedestrian links between the city centre (west of the rail line) and the Georges River foreshore.

#### **7.2 Sun access in Liverpool city centre**

- (1) The objective of this clause is to protect specified public open space from excessive overshadowing.
- (2) This clause applies to certain land in the Liverpool city centre, as specified in the Table to this clause.
- (3) Despite clause 4.3, development on land to which this clause applies is prohibited if the development results in any part of a building on land specified in Column 1 of the Table to this clause projecting above the height specified opposite that land in Column 2 of the Table.
- (4) This clause does not apply to development resulting only in refurbishment of a building.

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<b>Column 1</b>	<b>Column 2</b>
<b>Location</b>	<b>Maximum height</b>
Land within 9m of the public right of way on the northern side of Elizabeth Street, opposite Bigge Park, between Bigge Street and College Street	20m
Land within 9m of the public right of way on the northern side of Elizabeth Drive, opposite St Luke's Church Grounds between Northumberland Street and Macquarie Street	20m
Land within 9m of the public right of way on either side of Macquarie Street, between Elizabeth Street and Memorial Avenue (except the most southern 60m)	15m
Land within 17m of the northern boundary of Apex Park between the Hume Highway and Castlereagh Street	15m
Land within 9m of the public right of way on the western side of Northumberland Street opposite Liverpool Pioneers' Memorial Park between Lachlan and Campbell Streets	30m
Land within 9m of the public right of way on the eastern side of Macquarie Street opposite Liverpool Pioneers' Memorial Park between Lachlan and Campbell Streets	30m

### 7.3 Car parking in Liverpool city centre

- (1) The objective of this clause is to ensure that adequate car parking is provided for new or extended buildings on land in the Liverpool city centre that is commensurate with the traffic likely to be generated by the development and is appropriate for the road network capacity and proposed mix of transport modes for the city centre.
- (2) Development consent must not be granted to development on land in the Liverpool city centre that is in Zone B3 Commercial Core or B4 Mixed Use that involves the erection of a new building or an alteration to an existing building that increases the gross floor area of the building unless:
  - (a) at least one car parking space is provided for every 200 square metres of any new gross floor area that is on the ground floor level of the building, and

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- (b) in respect of any other part of the building:
    - (i) at least one car parking space is provided for every 100 square metres of any new gross floor area that is to be used for the purposes of retail premises, and
    - (ii) at least one car parking space is provided for every 150 square metres of any new gross floor area that is to be used for any other purpose.
  - (3) Despite subclause (2), development consent may be granted to a development with less or no on site car parking if the consent authority is satisfied that the provision of car parking on site is not feasible.
  - (4) In this clause, the following are to be included as part of a building's gross floor area:
    - (a) any area of the building that is used for car parking and is at or above ground level (existing), except to the extent permitted by a development control plan made by the Council,
    - (b) any area of the building that is used for car parking below ground level (existing), except where the car parking is provided as required by this clause.
  - (5) Council owned public car parking and parts of a building used for residential purposes must not be included as part of a building's gross floor area for the purposes of this clause.

#### **7.4 Building separation in Liverpool city centre**

- (1) The objective of this clause is to ensure minimum sufficient separation of buildings for reasons of visual appearance, privacy and solar access.
- (2) Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least:
  - (a) 9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished) on land in Zone R4 High Density Residential, and
  - (b) 12 metres for parts of buildings between 25 metres and 35 metres above ground level (finished) on land in Zone R4 High Density Residential, and
  - (c) 18 metres for parts of buildings above 35 metres on land in Zone R4 High Density Residential and
  - (d) 12 metres for parts of buildings between 25 metres and 45 metres above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use, and

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- (e) 28 metres for parts of buildings 45 metres or more above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use.

#### **7.5 Design excellence in Liverpool city centre**

- (1) The objective of this clause is to deliver the highest standard of architectural and urban design.
- (2) Development consent must not be granted to development involving the construction of a new building or external alterations to an existing building in the Liverpool city centre unless the consent authority considers that the development exhibits design excellence.
- (3) In considering whether development exhibits design excellence, the consent authority must have regard to the following matters:
  - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
  - (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,
  - (c) whether the proposed development detrimentally impacts on view corridors,
  - (d) whether the proposed development detrimentally overshadows Bigge Park, Liverpool Pioneers' Memorial Park, Apex Park, St Luke's Church Grounds and Macquarie Street Mall (between Elizabeth Street and Memorial Avenue),
  - (e) any relevant requirements of applicable development control plans,
  - (f) how the proposed development addresses the following matters:
    - (i) the suitability of the site for development,
    - (ii) existing and proposed uses and use mix,
    - (iii) heritage issues and streetscape constraints,
    - (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
    - (v) bulk, massing and modulation of buildings,
    - (vi) street frontage heights,
    - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,

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- (viii) the achievement of the principles of ecologically sustainable development,
  - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,
  - (x) the impact on, and any proposed improvements to, the public domain.
- (4) Development consent must not be granted to the following development in the Liverpool city centre unless an architectural design competition has been held in relation to the proposed development:
- (a) development for which an architectural design competition is required as part of a concept plan approved by the Minister under Division 3 of Part 3A of the Act,
  - (b) development having a capital value of more than \$1,000,000 on a key site, being a site shown coloured blue on the Key Sites Map,
  - (c) development for which the applicant has chosen to have such a competition.
- (5) Subclause (4) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required.
- (6) The consent authority may grant consent to the erection or alteration of a building in the Liverpool city centre that has a floor space ratio of up to 10% greater than that allowed by clause 4.4 or a height of up to 10% greater than that allowed by clause 4.3 (or both), but only if:
- (a) the design of the building or alteration is the result of an architectural design competition, and
  - (b) the concurrence of the Director-General has been obtained to the granting of consent.
- (7) In determining whether to provide his or her concurrence to the granting of consent, the Director-General is to take into account the matters set out in subclause (3) and whether he or she is of the opinion that the development that is the subject of the application has exhibited design excellence.
- (8) In this clause:
- architectural design competition*** means a competitive process conducted in accordance with procedures approved by the Director-General from time to time.

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## **Division 2 General provisions**

### **7.6 Environmentally significant land**

- (1) The objectives of this clause are as follows:
  - (a) to maintain bushland, wetlands and wildlife corridors of high conservation value,
  - (b) to identify areas of significance for revegetation to connect to or buffer bushland, wetlands and wildlife corridors,
  - (c) to protect rare and threatened native flora and native fauna,
  - (d) to ensure consideration of the significance of vegetation, the sensitivity of the land and the impact of development on the environment prior to the giving of any development consent.
- (2) Before determining an application to carry out development on environmentally significant land, the consent authority must consider such of the following as are relevant:
  - (a) the condition and significance of the vegetation on the land and whether it should be substantially retained in that location,
  - (b) the importance of the vegetation in that particular location to native fauna,
  - (c) the sensitivity of the land and the effect of clearing vegetation,
  - (d) the relative stability of the bed and banks of any waterbody that may be affected by the development, whether on the site, upstream or downstream,
  - (e) the effect of the development on water quality, stream flow and the functions of aquatic ecosystems (such as habitat and connectivity),
  - (f) the effect of the development on public access to, and use of, any waterbody and its foreshores.

### **7.7 Acid sulfate soils**

- (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.
- (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.



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Class of land	Works
1	Any works.
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

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- (3) Development consent must not be granted under this clause for the carrying out of works unless:
- (a) an acid sulfate soils management plan has been prepared for the proposed works in accordance with the *Acid Sulfate Soils Manual* and has been provided to the consent authority, and
  - (b) a copy of the plan and a copy of the development application have been provided to the Director-General of the Department of Environment and Climate Change and the consent authority has considered any comments of the Director-General made within 21 days after those copies were provided to the Director-General.
- (4) Development consent is not required under this clause for the carrying out of works if:
- (a) a preliminary assessment of the proposed works prepared in accordance with the *Acid Sulfate Soils Manual* indicates that an acid sulfate soils management plan need not be carried out for the works, and
  - (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.

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- (5) Also, development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):
- (a) emergency work, being the repair or replacement of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,
  - (b) routine management work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),
  - (c) minor work, being work that costs less than \$20,000 (other than drainage work).
- (6) Development consent is not required under this clause to carry out any works unless:
- (a) the works involve the disturbance of more than 1 tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins) or foundations or flood mitigation works, or
  - (b) the works are likely to lower the watertable.
- (7) Clause 10 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* does not apply to development that requires development consent under this clause.

### **7.8 Development on flood prone land**

- (1) The objectives of this clause are:
- (a) to maintain the existing flood regime and flow conveyance capacity, and
  - (b) to avoid significant adverse impacts on flood behaviour, and
  - (c) to limit uses to those compatible with flow conveyance function and flood hazard, and
  - (d) to minimise the risk to human life and damage to property from flooding.
- (2) Despite any other provision of this Plan, development consent is required for development for the following purposes on land in a flood planning area:

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- (a) earthworks,
  - (b) the erection of a building,
  - (c) the carrying out of a work,
  - (d) flood mitigation works (other than those carried out by a public authority).
- (3) Development consent must not be granted to development on flood prone land (other than development for the purposes of residential accommodation) unless the consent authority is satisfied that the development:
- (a) will not adversely affect flood behaviour and increase the potential for flooding to detrimentally affect other development or properties, and
  - (b) will not significantly alter flow distributions and velocities to the detriment of other properties or the environment, and
  - (c) will enable the safe occupation and evacuation of the land, and
  - (d) will not have a significant detrimental affect on the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of any riverbank or watercourse, and
  - (e) will not be likely to result in unsustainable social and economic costs to the flood affected community or general community as a consequence of flooding, and
  - (f) if located in the floodway, will be compatible with the flow of flood waters and with any flood hazard on that floodway.

#### **7.9 Foreshore building line**

- (1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.
- (2) Subject to the other provisions of this Plan, development may be carried out, with development consent, for the purposes of a building on land in the foreshore area only if:
  - (a) the levels, depth or other exceptional features of the site make it appropriate to do so, or
  - (b) the development involves the extension, alteration or rebuilding of an existing building that is erected wholly or partly in the foreshore area and the consent authority is satisfied that the building as extended, altered or rebuilt will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, or

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- (c) the development is for the purposes of any of the following:
  - (i) boat sheds,
  - (ii) sea walls,
  - (iii) wharves, slipways, jetties,
  - (iv) waterway access stairs,
  - (v) swimming pools at or below ground level (existing),
  - (vi) fences,
  - (vii) picnic facilities, cycleways, walking trails or other outdoor recreation facilities.
- (3) Development consent must not be granted to development referred to in subclause (2) unless the consent authority is satisfied that the development:
  - (a) will contribute to achieving the objectives for development in the zone in which it is to be carried out, and
  - (b) will be compatible in its appearance with the surrounding area, as viewed from both the waterway concerned and the adjacent foreshore areas, and
  - (c) will not cause environmental harm, such as:
    - (i) pollution or siltation of the waterway, or
    - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, flora or fauna habitats, or
    - (iii) an adverse effect on drainage patterns, and
  - (d) will not cause congestion of, or generate conflicts between, people using open space areas or the waterway, and
  - (e) will not compromise opportunities for the provision of continuous public access along the foreshore and to the waterway, and
  - (f) will maintain any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land.

#### **7.10 Minimum allotment size for dual occupancies in rural zones**

- (1) The objective of this clause is to maintain opportunities for productive rural and urban fringe uses by providing certainty about the land area required for two dwellings to be on a single lot in rural zones.
- (2) Development consent for the purposes of a dual occupancy on land in Zone RU1 Primary Production, RU2 Rural Landscape or RU4 Rural Small Holdings may be granted only if the lot:

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- (a) is a lot on which a dwelling house can lawfully be erected, and
  - (b) has an area of not less than:
    - (i) 10 hectares, if in Zone RU1 Primary Production, or
    - (ii) 2 hectares, if in Zone RU2 Rural Landscape or Zone RU4 Rural Small Holdings.

#### 7.11 Minimum dwelling density

- (1) The objectives of this Plan for the control of dwelling densities are as follows:
  - (a) to contribute toward the efficient use of land resources,
  - (b) to ensure the viability of public transport and other services planned for the area,
  - (c) to ensure adequate funds for the recreation and community facilities planned for the area.
- (2) Development consent must not be granted for the subdivision of land shown on the Dwelling Density Map unless the consent authority is satisfied that the dwelling density likely to be achieved by the subdivision is not less than the dwelling density shown for the land on that Map.
- (3) In this clause:  
*dwelling density* means the ratio of the number of dwellings to the area of the land to be occupied by the development, including internal streets and half the width of any roads adjoining the development that provide vehicular access to the development but excluding land used for public open space and non-residential purposes.

#### 7.12 Maximum number of lots

The total number of lots created by the subdivision of land in an area of land shown as restricted lot yield and bound by a heavy red line on the Dwelling Density Map must not exceed the number shown on that map for that area.

#### 7.13 Minimum lot width in Zones R1, R2, R3 and R4

- (1) The objective of this clause is to ensure that lot dimensions are able to accommodate residential development that is suitable for its purpose and is consistent with relevant development controls.
- (2) This clause applies to the subdivision of land in Zone R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential or R4 High Density Residential.

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- (3) The width of any lot, resulting from a subdivision of land to which this clause applies, that is capable of accommodating residential development but is not the subject of a development application for that purpose, must not be less than 10 metres except as provided by subclause (4).
- (4) An irregular shaped lot with an area of 450 square metres or more that has an average width of more than 10m may have a minimum width of not less than 5 metres.
- (5) This clause does not apply in relation to the subdivision of individual lots in a strata plan.

#### **7.14 Minimum building street frontage**

- (1) The objectives of this clause for the control of building frontage to streets are as follows:
  - (a) to ensure that, visually, buildings have an appropriate overall horizontal proportion compared to their vertical proportions,
  - (b) to ensure that vehicular access is reasonably spaced and separated along roads and lanes,
  - (c) to provide appropriate dimensions for the design of car parking levels,
  - (d) to encourage larger development of commercial office, business, residential and mixed use buildings provided for under this Plan.
- (2) Development consent must not be granted to development for the purposes of any of the following buildings, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres:
  - (a) any building on land in Zone B3 Commercial Core or B4 Mixed Use, or
  - (b) any building of more than 2 storeys on land in Zone R4 High Density Residential, B1 Neighbourhood Centre or B2 Local Centre, or
  - (c) any residential flat building.

#### **7.15 Minimum building street frontage in Zone B6**

- (1) The objectives of this clause for the control of building frontage to streets are as follows:
  - (a) to ensure that acceptable vehicular access arrangements to a classified road are capable of being achieved,
  - (b) to ensure that vehicular access is reasonably spaced and separated along roads and lanes,

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- (c) to ensure suitable business exposure in a visually uncomplicated and ordered environment.
  - (2) Development consent must not be granted to the erection of a new building or to an addition to an existing building on land in Zone B6 Enterprise Corridor unless any frontage of the site to a classified road is at least:
    - (a) 90 metres, or
    - (b) if the site also fronts a road other than the classified road, 30 metres.
  - (3) Subclause (2) does not apply in the case of an addition to an existing building if the addition will increase the gross floor area of the building by less than 10%.

**7.16 Ground floor development in Zones B1, B2, B4 and B6**

- (1) The objective of this clause is to ensure active uses are provided at the street level to encourage the presence and movement of people.
- (2) This clause applies to the following land:
  - (a) land in Zone B1 Neighbourhood Centre, B2 Local Centre or B4 Mixed Use,
  - (b) land in Zone B6 Enterprise Corridor that is within 100 metres of a classified road.
- (3) This clause does not apply to land at Edmondson Park.
- (4) Development consent must not be granted for development for the purposes of a building on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building:
  - (a) will not be used for the purposes of residential accommodation, and
  - (b) will have at least one entrance and at least one other door or window on the front of the building facing a street other than a service lane.

**7.17 Development in flight paths**

- (1) The objectives of this clause are:
  - (a) to provide for the effective and on-going operation of airports, and
  - (b) to ensure that any such operation is not compromised by proposed development in the flight path of an airport.
- (2) Development consent must not be granted to erect a building on land in the flight path of Bankstown Airport or Hoxton Park Aerodrome if the

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proposed height of the building would exceed the obstacle height limit determined by the relevant Commonwealth body.

- (3) Before granting development consent to the erection of a building on land in the flight path of Bankstown Airport or Hoxton Park Aerodrome, the consent authority must:
- (a) give notice of the proposed development to the relevant Commonwealth body, and
  - (b) consider any comment made by the relevant Commonwealth body within 28 days of its having been given notice of the proposed development, and
  - (c) consider whether the proposed use of the building will be adversely affected by exposure to aircraft noise.

- (4) In this clause:  
 land is in the *flight path of an airport* if the relevant Commonwealth body has notified the consent authority that the land is in such a flight path.

*relevant Commonwealth body* means the Department or other body of the Commonwealth having responsibility for airports.

#### **7.18 Development in areas subject to potential airport noise**

- (1) The objectives of this clause are to ensure that development in the vicinity of Bankstown Airport, Hoxton Park Airport and the proposed Badgery's Creek airport site:
  - (a) has regard to the use or potential future use of each site as an airport, and
  - (b) does not hinder or have any other adverse impact on the development or operation of the airports on those sites.
- (2) Development consent is required for the erection of a building on land where the ANEF exceeds 20 if it is erected for residential purposes or for any other purpose involving regular human occupation.
- (3) The following development is prohibited unless it meets the requirements of AS 2021–2000, *Acoustics—Aircraft noise intrusion—Building siting and construction* with respect to interior noise levels:
  - (a) residential accommodation on land where the ANEF exceeds 20,
  - (b) business premises, entertainment facilities, office premises, public administration buildings, retail premises and tourist and visitor accommodation on land where the ANEF exceeds 25.



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- (4) The following development is prohibited:
- (a) educational establishments, hospitals and places of public worship on land where the ANEF exceeds 20,
  - (b) dwellings on land where the ANEF exceeds 25 (other than development consisting of the alteration, extension or replacement of an existing dwelling house where the development is consistent with the objectives of this clause),
  - (c) business premises, entertainment facilities, office premises, public administration buildings, retail premises and tourist and visitor accommodation on land where the ANEF exceeds 30.
- (5) In this clause:  
*ANEF* means Australian Noise Exposure Forecast as shown on the Airport Noise Map.

#### **7.19 Serviced apartments**

- (1) The objective of this clause is to prevent substandard residential building design occurring by way of converted serviced apartment development.
- (2) Development consent must not be granted for the subdivision under a strata scheme of a building or part of a building that is being, or has been, used for serviced apartments unless the consent authority is satisfied that the following are achieved for the development as if it were a residential flat development:
  - (a) the design quality principles set out in Part 2 of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development*,
  - (b) the design principles of the *Residential Flat Design Code* (a publication of the Department of Planning, September 2002).

#### **7.20 Council infrastructure development**

- (1) Development may be carried out by or on behalf of the Council without development consent on any land, other than land in a heritage conservation area, land containing a heritage item or land that is an environmentally sensitive area for exempt and complying development.
- (2) Development may be carried out by or on behalf of the Council without development consent on land in a heritage conservation area or land containing a heritage item if the development is in accordance with a heritage conservation management plan that has been approved by the Council.

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- (3) Subclauses (1) and (2) do not apply to development for the following:
- (a) the erection of a class 1–9 building under the *Building Code of Australia*,
  - (b) development having a capital value of more than \$1,000,000.

**7.21 Delayed rezoning of certain land**

- (1) The objectives of this clause are:
- (a) to ensure that land identified for a National Park or Regional Park during a rezoning is dedicated and held for reservation prior to development under the new zones commencing, and
  - (b) to ensure that existing airport operations cease prior to development under new zones commencing on land used as an airport.
- (2) The zoning of the following land does not commence until a date specified by the Minister by order published in the Gazette:
- (a) land shown as “National or Regional Park Dedication Required” by a heavy black line on the Delayed Rezoning Map,
  - (b) land shown as “Airport Cessation Required” by a dashed heavy black line on the Delayed Rezoning Map.
- (3) The Minister must not make such an order in respect of land referred to in subclause (2) (a) unless the Minister is satisfied that the land:
- (a) is vested in the State of New South Wales or a public authority of the State of New South Wales, and
  - (b) is reserved under the *National Parks and Wildlife Act 1974* or is held for the purpose of being so reserved.
- (4) The Minister must not make such an order in respect of land referred to in subclause (2) (b) unless the Minister is satisfied that ownership of the land has been transferred to HPAL Freehold Pty Limited (ACN 105 905 673) and that the land is no longer being used for the purposes of an airport.
- (5) Until such time as the Minister makes an order under this clause, the zone applying to any land shown on the Delayed Rezoning Map remains the zone applying to that land shown on the Land Zoning Map.
- (6) On the publication in the Gazette of an order of the Minister under this clause, the Land Zoning Map is, despite clause 7.1, amended by the relevant sheet of the Delayed Rezoning Map.

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### **7.22 Development in Zone B6**

- (1) The objectives of this clause are:
  - (a) to maintain opportunities for business and retail types that are suited to high exposure locations while ensuring that centres remain the focus for business and retail activity, and
  - (b) to protect residents who live near classified roads from the noise generated by those roads.
- (2) This clause applies to land in Zone B6 Enterprise Corridor.
- (3) Except as provided by subclause (4), development consent must not be granted to development for the purposes of a dwelling unless the dwelling is at least 50 metres from any boundary of the land that adjoins a classified road.
- (4) Development consent must not be granted to development for the purposes of a dwelling on land shown edged heavy green on the Key Sites Map and that adjoins the Hume Highway or Elizabeth Drive unless the dwelling is at least 8 metres from any boundary of the land that adjoins either of those roads.
- (5) Development consent must not be granted to development that would result in total gross floor area of all retail premises (other than timber and building supplies, landscape and garden supplies or vehicle sales or hire premises) in a single building being more than 8,000 square metres.

### **7.23 Bulky goods premises and retail premises in Zone B6**

- (1) Development consent must not be granted to development for the purposes of bulky goods premises on land in Zone B6 Enterprise Corridor if the gross floor area of the bulky goods premises is more than 2,500 square metres.
- (2) Development consent must not be granted to development for the purposes of retail premises on land in Zone B6 Enterprise Corridor if the gross floor area of the retail premises is more than 1,000 square metres.

### **7.24 Dual occupancies in Zone RU1, RU2 and RU4**

- (1) Development consent must not be granted to development for the purposes of a dual occupancy on land in Zone RU1 Primary Production or Zone RU4 Rural Small Holdings if the gross floor area of either or both of the dwellings is more than 150 square metres.
- (2) Development consent must not be granted to development for the purposes of a dual occupancy on land in Zone RU2 Rural Landscape if the gross floor area of either or both of the dwellings is more than 60 square metres.

Clause 7.25      Liverpool Local Environmental Plan 2008  
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**7.25 Food and drink premises and shops in Zone B1**

- (1) Development consent must not be granted to development for the purposes of food and drink premises on land in Zone B1 Neighbourhood Centre if the gross floor area of the food and drink premises is more than 300 square metres.
- (2) Development consent must not be granted to development for the purposes of a shop on land in Zone B1 Neighbourhood Centre if the gross floor area of the shop is more than 1,500 square metres.

**7.26 Restaurants, take away food and drink premises, child care centres and hotel or motel accommodation in Zones IN1 and IN2**

- (1) Development consent must not be granted to development for the purposes of a restaurant or take away food and drink premises on land in Zone IN1 General Industrial or IN2 Light Industrial if the gross floor area of the restaurant or take away food or drink premises is more than 200 square metres.
- (2) Development consent must not be granted to development for the purposes of a child care centre or hotel or motel accommodation on land in Zone IN1 General Industrial or IN2 Light Industrial unless:
  - (a) the proposed development is at least 150 metres from any land in Zone IN3 Heavy Industrial, and
  - (b) if any heavy industry is in the vicinity of proposed development, the consent authority has considered whether the development will be sited, designed and constructed so as to minimise any impact from that heavy industry.

**7.27 Development of certain land at Moorebank**

- (1) The objective of this clause is to ensure development is supportive of the future provision of appropriate regional public transport measures to reduce the demand for travel by private car and commercial vehicle.
- (2) This clause applies to land shown edged heavy blue and marked "Moorebank South Industrial Precinct" on the Key Sites Map.
- (3) Before granting consent to development on the land to which this clause applies, the consent authority must be satisfied that the proposed development is consistent with the following objectives in so far as they are relevant to that development:
  - (a) to provide a street pattern that enables direct public transport links between the M5 Motorway Moorebank Avenue interchange, the East Hills rail line at the Moorebank Avenue bridge and Anzac Road, Wattle Grove,

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- (b) to provide a subdivision pattern that enables ready access through the precinct by pedestrians and cyclists,
  - (c) to orientate entrances, windows and other active frontages toward the street or paths to contribute toward creating a safer pedestrian environment,
  - (d) to provide facilities that encourage walking and cycling between the development and existing or potential public transport.

**7.28 Minimum rear setbacks at Georges Fair Moorebank**

- (1) This clause applies to land at Moorebank shown coloured orange on the Key Sites Map.
- (2) Despite any other provision of this Plan, a dwelling on a lot on land to which this clause applies must have a setback of at least 10 metres from the rear boundary of the lot.

**7.29 Maximum floor area that may be used for business premises for certain land in Zone B2 at Middleton Grange**

For development of a site on land shown as being within Area 4 on the Floor Space Ratio Map, no more than 25% of the gross floor area of all buildings on the site may be used for the purposes of business premises.

**7.30 Maximum floor area that may be used for retail premises for certain land in Zone B1 at Hoxton Park**

For development of a site on land shown as being within Area 5 on the Floor Space Ratio Map, no more than 35% of the gross floor area of all buildings on the site may be used for the purposes of retail premises.

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Schedule 1 Additional permitted uses

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## Schedule 1 Additional permitted uses

(Clause 2.5)

### 1 Use of certain land at Bringelly in Zone RU1

- (1) This clause applies to Lots 5 and 6, DP 2650 and Lots 1 and 2, DP 128613 in Zone RU1 Primary Production on the northern corner of Dart Road, Bringelly.
- (2) Development, being the temporary use of the land for the purpose of industry (but only with respect to the manufacturing of mobile homes and prefabricated dwelling additions), is permitted with consent if no part of the development is less than 60m from the southern property boundary.
- (3) Despite clause 2.6B of this Plan, consent may be granted to development referred to in subclause (2) for a maximum period of 3 years.

### 2 Use of certain land at Casula in Zone R2

- (1) This clause applies to Part Lot 86, DP 2031 in Zone R2 Low Density Residential at 2295 Camden Valley Way, Casula.
- (2) Development for the purposes of emergency services facilities is permitted with consent.

### 3 Use of certain land at Casula and Moorebank in Zone B6

- (1) This clause applies to the following land, being land in Zone B6 Enterprise Corridor:
  - (a) 2415 Camden Valley Way, Casula,
  - (b) 633–639 Hume Highway, Casula,
  - (c) 696 Hume Highway, Casula,
  - (d) 124 Newbridge Road, Moorebank.
- (2) Development for the purpose of multi dwelling housing is permitted with consent but not on any part of the land that is within 100m of a boundary of the land that adjoins a classified road.

### 4 Use of certain land at Cecil Park

- (1) This clause applies to land at Cecil Park referred to in clause 7.21 (2) (b) of this Plan that has been subject to an order of the Minister under that clause.
- (2) Development for a purpose that is otherwise permitted with consent on the land and that has been approved in respect of the land under the

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*Airports Act 1996* of the Commonwealth is permitted without consent if carried out in accordance with that approval.

**5 Use of certain land at Edmondson Park in Zone B2**

- (1) This clause applies to land in Zone B2 Local Centre at Edmondson Park.
- (2) Development for the purposes of residential flat buildings is permitted with consent.

**6 Use of certain land in Liverpool city centre in Zone B1**

- (1) This clause applies to land in Zone B1 Neighbourhood Centre in the Liverpool city centre adjacent to the Hume Highway between Forbes Street and Goulburn Street.
- (2) Development for the purpose of residential flat buildings is permitted with consent if part of a mixed use development that contains retail premises.

**7 Use of certain land at Moorebank in Zone R4**

- (1) This clause applies to land shown coloured pink on the Key Sites Map.
- (2) Development for the purposes of entertainment facilities and restaurants is permitted with consent if it is part of a mixed use development that contains multi dwelling housing.

**8 Use of certain land in Liverpool city centre in Zone RE1**

- (1) This clause applies to land in Zone RE1 Public Recreation in the Liverpool city centre, bounded by the Hume Highway, Macquarie Street, Campbell Street and Northumberland Street.
- (2) Development for the purposes of restaurants is permitted with consent if the gross floor area of any restaurant is not greater than 125m<sup>2</sup>.

**9 Use of certain land for service stations and take away food and drink premises**

- (1) This clause applies to land shown coloured yellow on the Key Sites Map.
- (2) Development for the following purposes is permitted with consent:
  - (a) service stations,
  - (b) take away food and drink premises if:
    - (i) there will be no more than 1 take away food and drink premises at each of the areas shown coloured yellow on the Key Sites Map, and

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- (ii) the gross floor area of the take away food and drink premises is not greater than 300m<sup>2</sup>.

**10 Use of certain land in Liverpool city centre in Zone R4**

- (1) This clause applies to land in Zone R4 High Density Residential in the Liverpool city centre, bounded by Campbell Street, Bigge Street, Lachlan Street and Goulburn Street.
- (2) Development for the purposes of light industry is permitted with consent but only if the industry is medical research and development.
- (3) Development for the purposes of office premises is permitted with consent but only with respect to the medical or health industries.

**11 Use of certain land at Moorebank in Zone E2**

- (1) This clause applies to Lot 6, DP 1065574 in Zone E2 Environmental Conservation at Newbridge Road, Moorebank.
- (2) Development for the purposes of a resource recovery facility is permitted with consent.
- (3) This clause is repealed on 1 September 2018.

**12 Use of certain land at Voyager Point in Zone R2**

- (1) This clause applies to Lot 11, DP 803038 in Zone R2 Low Density Residential at The Avenue, Voyager Point.
- (2) Development for the purposes of neighbourhood shops is permitted with consent.

**13 Use of certain land at Warwick Farm in Zone B5**

- (1) This clause applies to land in Zone B5 Business Development at Warwick Farm.
- (2) Development for the purposes of markets is permitted with consent but only if the markets operate no more than 2 days in any week.

**14 Use of certain land at Warwick Farm in Zone IN1**

- (1) This clause applies to Lot 10, DP 788368 in Zone IN1 General Industrial at Sappho Road Warwick Farm, known as "Hometown Bulky Goods Centre".
- (2) Development for the purposes of bulky goods premises is permitted with consent but only if the gross floor area of the premises is not greater than 4,000m<sup>2</sup>.



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**15 Use of certain land at Warwick Farm in Zone IN1**

- (1) This clause applies to land in Zone IN1 General Industrial in the following locations:
  - (a) north of the Hume Highway and east of the southern rail line at Warwick Farm,
  - (b) east of Orange Grove Road and north of the Hume Highway at Warwick Farm.
- (2) Development for the following purposes is permitted with consent:
  - (a) service stations,
  - (b) vehicle showrooms.

**16 Use of certain land at Warwick Farm in Zone R2**

- (1) This clause applies to land in Zone R2 Low Density Residential, east of the southern rail line at Warwick Farm.
- (2) Development for the following purposes is permitted with consent:
  - (a) animal boarding or training establishments,
  - (b) farm buildings,
  - (c) veterinary hospitals.

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Schedule 2 Exempt development

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## Schedule 2 Exempt development

(Clause 3.1)

**Note.** A person may carry out an activity specified in this Schedule without obtaining consent from the consent authority, if the person complies with the exemption criteria that applies to the activity (which includes the deemed-to-satisfy provisions of the *Building Code of Australia*). However, the activity must not contravene any condition of a development consent already applying to the land and adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities not specifically set out in this Schedule still apply. (For example, requirements relevant to this Schedule are contained in the Act, the Regulation, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993* and the *Swimming Pools Act 1992* etc).

### Access ramps

- (1) Maximum height—600mm.
- (2) Maximum grade—1:14.
- (3) Maximum length—9m.
- (4) Maximum width—1.2m.
- (5) Must be at least 500mm from any property boundary.
- (6) If the ramp is to be used to provide access for persons with a disability, it must comply with AS 1428.1—2001, *Design for access and mobility*, Part 1: *General requirements for access—New building work*.

### Advertisements—general requirements

- (1) Must be non-moving.
- (2) Must be at least 600mm from any public road.
- (3) Must be at least 2.6m above any public footpath.
- (4) Must relate to the lawful use of the building (except for temporary signs).
- (5) Must be within the boundary of the property to which it applies, unless in a business or an industrial zone.
- (6) Must reflect the character and style of any building to which it is attached.
- (7) Must not be detrimental to the character and functioning of the building.
- (8) Must not be on walls facing or adjoining residential premises.
- (9) Must not be an “A” frame sign.
- (10) Must have the consent of the owner of the property on which the sign is located.

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**Advertisements—business identification signs for businesses other than brothels in business zones**

(1) **Underawning sign**

Sign attached to the underside of an awning other than a fascia or return end:

- (a) must meet the general requirements for advertisements, and
- (b) 1 sign per ground floor premises with street frontage, and
- (c) maximum length—2.5m, and
- (d) maximum height—0.5m, and
- (e) must not be flashing.

(2) **Projecting wall sign (excluding underawning signs)**

Sign attached to the wall of a building (other than the transom of a doorway or display window) and projecting more than 300mm:

- (a) must meet the general requirements for advertisements, and
- (b) 1 sign per premises or 1 per street frontage, whichever is greater, and
- (c) maximum projection—1.5m, and
- (d) maximum area—1.5m<sup>2</sup>, and
- (e) must not be flashing.

(3) **Flush wall sign**

Sign attached to the wall of a building (other than the transom of a doorway or display window) and not projecting more than 300mm:

- (a) must meet the general requirements for advertisements, and
- (b) maximum area—2.5m<sup>2</sup>, and
- (c) must not be flashing.

(4) **Top hamper sign**

Sign attached to the transom of a doorway or display window of a building:

- (a) must meet the general requirements for advertisements, and
- (b) maximum area—2.5m<sup>2</sup>, and
- (c) must not be flashing.

(5) **Fascia signs**

Sign attached to the fascia or return of the awning:

- (a) must meet the general requirements for advertisements, and

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- (b) 1 sign per premises, and
- (c) must not project above or below, or more than 300mm from the fascia or return end of the awning to which it is attached, and
- (d) must not be flashing.

**Advertisements—business identification signs for businesses other than brothels in industrial zones**

- (1) Must meet the general requirements for advertisements.
- (2) 1 pole or pylon sign per premises (including any directory board for multiple occupancies).
- (3) Maximum height—5m.
- (4) Must be within 5m of any public entry point to the premises.
- (5) Must not obstruct the sight line of vehicle or pedestrian traffic.
- (6) For multiple occupancy premises, 1 additional business identification sign is permitted at the entrance to each occupied unit, maximum dimensions—1.2m<sup>2</sup>.
- (7) For single occupancy premises, 1 additional business identification sign is permitted, maximum area—50m<sup>2</sup> or 1m<sup>2</sup> per 3m of street frontage, whichever is the lesser.

**Advertisements—business identification signs in residential zones**

- (1) Must meet the general requirements for advertisements.
- (2) 1 sign per premises.
- (3) Maximum area—0.75m<sup>2</sup>.
- (4) If a pole or pylon sign, maximum height—2m.
- (5) Must not be illuminated or flashing.

**Advertisements—business identification signs in rural zones**

- (1) Must meet the general requirements for advertisements.
- (2) 1 sign per premises.
- (3) Maximum area—0.75m<sup>2</sup> (except if a pole or pylon sign).
- (4) If a pole or pylon sign, maximum area—2m<sup>2</sup> and maximum height—2m.
- (5) Must not be illuminated or flashing.

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**Advertisements—public notices displayed by a public body giving information or direction about the services provided**

- (1) Must meet the general requirements for advertisements.
- (2) Maximum height—5m.
- (3) Maximum area—5m<sup>2</sup>.
- (4) Must not obstruct the sight line of vehicle or pedestrian traffic.
- (5) Must not be flashing.

**Advertisements—real estate signs (advertising land development)**

- (1) Must meet the general requirements for advertisements.
- (2) Maximum area—6m<sup>2</sup> for each 25 lots.

**Advertisements—real estate signs (advertising premises or land for sale or rent) in business or industrial zones**

- (1) Must meet the general requirements for advertisements.
- (2) Maximum area—4.5m<sup>2</sup>.
- (3) Must be within the boundary of the advertised property.
- (4) Must not be flashing.
- (5) Must be removed within 14 days after the premises or land is sold or let.

**Advertisements—real estate signs (advertising premises or land for sale or rent) in residential or rural zones**

- (1) Must meet the general requirements for advertisements.
- (2) Maximum area—2.5m<sup>2</sup>.
- (3) Must not be flashing.
- (4) Must be removed within 14 days after the premises or land is sold or let.

**Advertisements—signs behind the glass line of a shop window in Zone B1, B3, B4, B6 or IN2 (other than brothels)**

- (1) Must meet the general requirements for advertisements.
- (2) Must not occupy more than 25% of the area of the window.
- (3) Must not be flashing.

**Advertisements—temporary signs for religious, cultural, political, social or recreational events**

- (1) Must meet the general requirements for advertisements.

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- (2) 1 per street frontage.
  - (3) Maximum area—1.5m<sup>2</sup> and maximum height—1.5m in residential and rural zones.
  - (4) Maximum area—3.5m<sup>2</sup> and maximum height—2m in commercial and industrial zones.
  - (5) Must not include commercial advertising apart from name of event sponsor.
  - (6) Must not be displayed earlier than 28 days before, or later than 14 days after, the event.
  - (7) Must not be used in relation to recurring events.
  - (8) Must not be flashing.

**Advertisements—in a site, but not visible from outside of that site (other than brothels)**

Must meet the general requirements for advertisements.

**Aerials and antennae (other than satellite dishes or microwave antennas)**

- (1) Must not be used for transmission purposes.
- (2) 1 per dwelling house or multi dwelling complex.
- (3) Maximum height—3m above the ridge line of the building.
- (4) Must be for television reception only.

**Air conditioning units for dwelling houses in rural or residential zones**

- (1) Must be at least 3m from any property boundary.
- (2) Must not be in the front setback, unless behind a Council approved fence that is at least 1.8m high.
- (3) Maximum sound power level—60 dB.
- (4) Any opening created must be adequately weatherproofed.
- (5) Must be attached to external wall or ground mounted.
- (6) 1 per premises.

**Aviaries in residential zones**

- (1) Maximum cumulative area—5m<sup>2</sup>.
- (2) Maximum height—1.8m.
- (3) Must be constructed with non-reflective finishes.

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- (4) Must be on the rear half of the property and be at least 1m from any property boundary.
  - (5) Must not be for chickens, pheasant, partridge, quail, pea fowl or pigeons.
  - (6) Must have a concrete floor graded to a waste collection point, that satisfies any relevant requirements of Sydney Water.

**Aviaries in rural zones**

- (1) Maximum floor area—20m<sup>2</sup>.
- (2) Maximum height—2.4m.
- (3) Must not be in the front setback.
- (4) Must be at least 3m from any property boundary.
- (5) Must be at least 450mm from any other structure.
- (6) Must not be used for habitable or commercial purposes.
- (7) Must be constructed with non-reflective finishes.
- (8) Must be freestanding.
- (9) Maximum number of chickens, partridges, pea fowl, pheasants, pigeons or quails able to be housed—2.
- (10) If roof area is 12m<sup>2</sup> or more, must have guttering and downpipes discharging into:
  - (a) the street gutter fronting the land, or
  - (b) an inter-allotment stormwater drainage system on the land, or
  - (c) rainwater tanks used for domestic and fire fighting purposes.

**Awnings, pergolas, carports and canopies**

- (1) Must be in a residential zone on a property that contains a dwelling house.
- (2) Must be at least 500mm from any property boundary.
- (3) Maximum height—2.7m, or if no part of the structure is within 900mm of any property boundary—3m.
- (4) Must not have roller doors or panel lift doors installed.
- (5) Steel structures must be designed by a qualified engineer.
- (6) Must not be in front setback.
- (7) Maximum area—20m<sup>2</sup>.

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- (8) Maximum cumulative area of all awnings, carports, canopies, cabanas, gazebos, greenhouses and pergolas on the site—30m<sup>2</sup> in residential zones and 75m<sup>2</sup> in rural zones.
  - (9) Must be constructed with non-reflective finishes.
  - (10) If roof area is 12m<sup>2</sup> or more (except in the case of canopies), must have guttering and downpipes discharging into:
    - (a) the street gutter fronting the land, or
    - (b) an inter-allotment stormwater drainage system on the land, or
    - (c) rainwater tanks used for domestic and fire fighting purposes.
  - (11) Water from canopies must be directed to a surface water collection point and must not cause a nuisance to any adjoining property.

**Barbecues**

- (1) Maximum area—2m<sup>2</sup>.
- (2) Maximum chimney height—2m.
- (3) Must be in rear yard area or, behind a courtyard wall, with no greater than 200mm of the chimney above the wall.
- (4) Must be at least 1.2m from any pool safety fence.
- (5) Must be at least 450mm from any property boundary.
- (6) Must not create a nuisance to any adjoining property.

**Change of use—light industrial premises, office and business premises and shops—general requirements**

- (1) Must not involve the carrying out of any alterations other than alterations that are themselves exempt development.
- (2) The new use must be permissible in the zone.
- (3) Must not use curtilage of the premises for storage or display purposes.
- (4) Must not extend the existing hours of operation.

**Change of use—light industrial premises in business and industrial zones**

- (1) Must meet the general requirements for change of use.
- (2) Must be in a business or industrial zone.
- (3) New use must be for light industrial purposes but not for the purposes of an industrial retail outlet.
- (4) The premises must have a previous approval for light industrial use.
- (5) Maximum gross floor area—1,000m<sup>2</sup>.



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- (6) Must have space for loading and unloading vehicles on the premises.
  - (7) Must not operate outside the hours of 6.00am to 6.00pm.

**Change of use—office and business premises in business zones**

- (1) Must meet the general requirements for change of use.
- (2) Must be in a business zone.
- (3) Must use the premises for the purposes of office premises or business premises.
- (4) The premises must have a previous approval for use as office premises or business premises.
- (5) Maximum gross floor area—1,000m<sup>2</sup>.

**Change of use—shops in business zones**

- (1) Must meet the general requirements for change of use.
- (2) Must be in a business zone.
- (3) Must use the premises for the purposes of a shop.
- (4) The premises must have a previous approval for use as a shop.
- (5) Maximum gross floor area—1,000m<sup>2</sup>.
- (6) Must not result in premises being used for the purposes of food and drink premises, beauty salons, hairdressing salons or be used for the purposes of skin penetration.

**Clothes hoists and clothes lines**

- (1) Must not be in the front setback.
- (2) Must be installed to the manufacturer's specifications.
- (3) Maximum height—3m.
- (4) Maximum—2 per property.

**Concreting or paving**

- (1) Must be on a property that contains a dwelling house.
- (2) Must be within the property boundary.
- (3) Must not adversely affect the flow of water onto adjoining properties.
- (4) Must take appropriate measures to collect and dispose of any stormwater.

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- (5) Must be at least 100mm below the base of any weepholes on any structure.
  - (6) Must not be on the front setback except for pathways with a maximum width of 1.2m, driveways and concrete or paved private open space.
  - (7) Maximum area of concrete and paving—33% of private open space.
  - (8) Maximum level by which the ground level (existing) may be raised or lowered—150mm.

**Decks**

- (1) Must be on a property that contains a dwelling house.
- (2) Maximum area—12m<sup>2</sup>.
- (3) 1 per property.
- (4) Maximum cumulative area of all decks and patios on the site—50m<sup>2</sup> in residential zones and 75m<sup>2</sup> in rural zones.
- (5) Must not be forward of the dwelling unless behind an existing Council approved fence with a minimum height of 1.8m.
- (6) Maximum height of deck—400mm.
- (7) Must be at least 900mm from any property boundary.
- (8) Maximum height of any handrail associated with the deck—1m.

**Demolition**

- (1) Must be demolition of a structure, the erection of which would be exempt development under this Plan.
- (2) Activity must be carried out within the property boundary.
- (3) Must be demolition of an entire structure, not part of a structure.
- (4) Must be carried out in accordance with AS 2601—2001, *Demolition of structures* and any relevant WorkCover guidelines.
- (5) If a structure is likely to have been treated with pesticides, must avoid contact with the top 10–20mm of soil.

**Fences (other than fences covered by the Swimming Pools Act 1992)**

- (1) Must be constructed so that they do not prevent the natural flow of stormwater drainage or runoff.
- (2) Maximum height if constructed, in whole or in part, of masonry—1m.

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- (3) Maximum height if constructed of timber, metal or lightweight materials:
- (a) if in the front setback—1.2m, or
  - (b) if elsewhere—1.8m or 1.5m if on a retaining wall.

### Filming

- (1) May only be carried out:
  - (a) on private land, or
  - (b) in the Sydney Olympic Park within the meaning of the *Sydney Olympic Park Authority Act 2001*, or
  - (c) on Trust lands within the meaning of the *Royal Botanic Gardens and Domain Trust Act 1980*, or
  - (d) on Trust lands within the meaning of the *Centennial Park and Moore Park Trust Act 1983*, or
  - (e) on part of the foreshore area within the meaning of the *Sydney Harbour Foreshore Authority Act 1998*, or
  - (f) on Crown land.
- (2) May only be carried out on land:
  - (a) on which there is a heritage item, or
  - (b) within a heritage conservation area, or
  - (c) identified in clause 3.3 as an environmentally sensitive area for exempt development,
 if the filming does not involve or result in any of the following:
  - (d) any changes or additions that are not merely superficial and temporary to any part of a heritage item, a heritage conservation area or an environmentally sensitive area,
  - (e) the mounting or fixing of any object or article on any part of such an item or area (including any building or structure),
  - (f) the movement, parking or standing of any vehicle or equipment on or over any part of such an item or area that is not specifically designed for the movement, parking or standing of a vehicle or equipment on or over it,
  - (g) any changes to the vegetation on, or level of, such an item or area or any changes to any other natural or physical feature of the item or area.
- (3) Must not create significant interference with the neighbourhood.

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- (4) The person carrying out the filming must obtain a policy of insurance that adequately covers the public liability of the person in respect of the filming for an amount of not less than \$10,000,000.
- (5) If the filming is carried out on private land, the filming must not be carried out for more than 30 days within a 12-month period at the particular location.
- (6) A filming management plan must be prepared and lodged with the consent authority for the location at least 5 days before the commencement of filming at the location. The plan must contain the following information and be accompanied by the following documents (without limiting the information or documents that may be submitted):
- (a) the name, address and telephone number of the person carrying out the filming (such as a production company) and of the producer for the filming,
  - (b) a brief description of the filming to be carried out (for example, a television commercial, a television series, a feature film or a documentary),
  - (c) the proposed location of the filming,
  - (d) the proposed commencement and completion dates for the filming at the location,
  - (e) the proposed daily length of filming at the location,
  - (f) the number of persons to be involved in the filming,
  - (g) details of any temporary structures (for example, tents or marquees) to be erected at the location for the purposes of the filming,
  - (h) the type of filming equipment to be used in the filming (such as a hand-held or mounted camera),
  - (i) proposed arrangements for parking vehicles associated with the filming during the filming,
  - (j) whether there will be any disruption to the location of the filming or the surrounding area and the amenity of the neighbourhood (for example, by the discharge of firearms or explosives, the production of offensive noise, vibrations, disruption to traffic flow or the release of smells, fumes, vapour, steam, soot, ash, dust, waste water, grit or oil),
  - (k) whether the filming will involve the use of outdoor lighting or any other special effects equipment,
  - (l) a copy of the public liability insurance policy that covers the filming at the location,

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- (m) a copy of any approval given by a public or local authority to carry out an activity associated with the proposed filming at the location, such as the following:
- (i) an approval by the Roads and Traffic Authority for the closure of a road,
  - (ii) an approval by the Council for the erection of a temporary structure, closure of a road or a public footpath, or a restriction in pedestrian access,
  - (iii) an approval by the Environment Protection Authority for an open fire,
  - (iv) an approval by the NSW Police Force for the discharge of firearms,
  - (v) an approval by the Department of Lands for the use of Crown land.
- (7) The person carrying out the filming must, at least 5 days before the commencement of filming at the particular location, give notice in writing (by way of a letter-box drop) of the filming to residents within a 50m radius of the location. The notice must contain the following information:
- (a) the name and telephone number of the person carrying out the filming (such as a production company) and of a contact representative of that person,
  - (b) a brief description of the filming to be carried out at the location, and any proposed disruptions to the location or the surrounding area or the amenity of the neighbourhood,
  - (c) the proposed commencement and completion dates for the filming at the location,
  - (d) the proposed daily length of filming at the location.

#### **Flagpoles**

- (1) Maximum flag area—2m<sup>2</sup>.
- (2) Maximum height—6m.
- (3) Must not project beyond property boundary.
- (4) Must be installed to the manufacturer's specifications.
- (5) Must not be used to display an advertisement.
- (6) Only 1 per property.
- (7) 1 flag per flagpole.
- (8) Must not cause an audible nuisance.

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**Garden sheds and greenhouses**

- (1) Maximum floor area—20m<sup>2</sup>.
- (2) Maximum cumulative area of all garden sheds and greenhouses on the site—20m<sup>2</sup> in residential zones and 40m<sup>2</sup> in rural zones.
- (3) Maximum height—2.4m.
- (4) Must not be in the front setback.
- (5) Must be at least 500mm from any property boundary in a residential zone and at least 3m from any property boundary in a rural zone.
- (6) Must be at least 450mm from any other structure.
- (7) Must not be used for habitable or commercial purposes.
- (8) Must be constructed with non-reflective finishes.
- (9) Must be freestanding.
- (10) If roof area is 12m<sup>2</sup> or more, must have guttering and downpipes discharging into:
  - (a) the street gutter fronting the land, or
  - (b) an inter-allotment stormwater drainage system on the land, or
  - (c) rainwater tanks used for domestic and fire fighting purposes.

**Hoardings**

- (1) Maximum height—2.1m.
- (2) Must not encroach on any footpath, public thoroughfare or adjoining property.
- (3) Must be dismantled on completion of all construction works.

**Letter boxes**

- (1) Maximum height—1m.
- (2) Must be erected in accordance with any relevant guidelines for letter box construction issued by Australia Post.
- (3) Must be within the property boundary.
- (4) 1 per dwelling house and a maximum of 2 per property.

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**Minor alterations to buildings**

- (1) Must only involve the replacement of doors, walls, ceiling linings, floor linings, windows, frame members or roofing materials, with equivalent or improved quality materials, or renovations of bathrooms, kitchens, inclusion of built-in fixtures such as vanities, cupboards, wardrobes and the like.
- (2) Must not include changes to the external configuration of the building.
- (3) Must not increase the total floor area of the building.
- (4) If residential premises, must not involve the removal or replacement of a load-bearing member.
- (5) If residential premises, must not involve the conversion of a non-habitable room to a habitable room.

**Playground equipment for domestic use**

- (1) Maximum height—2.4m.
- (2) Maximum area—10m<sup>2</sup>.
- (3) Maximum floor height for cubby houses and similar structures—600mm.
- (4) Must not be in a swimming pool area or less than 1.2m from a pool safety fence.
- (5) Must not be in the front setback, unless behind a Council approved fence that is at least 1.8m high.

**Privacy screens**

- (1) Maximum height above ground level (existing)—2.1m.
- (2) Maximum length—10m.
- (3) Must not be in the front setback.
- (4) Must be constructed of timber or lattice.
- (5) Screening material must be at least 30% transparent if over 1.8m above ground level (existing).
- (6) Must not be attached to any boundary fence.

**Rainwater tanks**

- (1) Must not be installed or erected on land:
  - (a) that is within a heritage conservation area or within the curtilage of a heritage item, or

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- (b) that is within 40m of a perennial watercourse identified by a 1:50,000 topographic map held by the Department of Lands, or
  - (c) the surface of which has a slope greater than 18 degrees from the horizontal, or
  - (d) that is a lot within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.
- (2) Must be located:
- (a) behind the front alignment to the street of the building to which the tank is connected (or in the case of a building on a corner block, behind both the street front and the street side alignments of the building), and
  - (b) at least 450mm from any property boundary.
- (3) Must not be installed or erected:
- (a) over or immediately adjacent to a water main or sewer main unless it is installed in accordance with any requirements of the public authority that has responsibility for the main, or
  - (b) over any structure or fitting used by a public authority to maintain a water main or sewer main, or
  - (c) on a footing of any building or other structure, including a retaining wall.
- (4) The installation or erection of the rainwater tank must not:
- (a) require a tree to be removed, or
  - (b) involve the excavation of more than 1m from the existing ground level, or the filling of more than 1m above the existing ground level.
- (5) Subject to this clause, the capacity of the rainwater tank, or the combined capacity of the tanks, on a lot must not exceed 10,000L (or in the case of a tank or tanks used for an educational establishment, 25,000L).
- (6) The rainwater tank must:
- (a) be designed to capture and store roof water from gutters or downpipes on a building, and
  - (b) be fitted with a first-flush device, being a device that causes the initial run-off of any rain to bypass the tank to reduce pollutants entering the tank, and
  - (c) be structurally sound, and



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- (d) be prefabricated, or be constructed from prefabricated elements that were designed and manufactured for the purpose of the construction of a rainwater tank, and
  - (e) be assembled and installed in accordance with the manufacturer's or tank designer's specifications, and
  - (f) be installed and maintained (including any stand for the tank) in accordance with any requirements of the public authority that has responsibility for the supply of water to the premises on which the tank is installed, and
  - (g) be enclosed, and any inlet to the tank must be screened or filtered, to prevent the entry of foreign matter or creatures, and
  - (h) be maintained at all times so as not to cause a nuisance with respect to mosquito breeding or overland flow of water, and
  - (i) have a sign affixed to it clearly stating that the water in the tank is rainwater.
- (7) The rainwater tank must not:
- (a) collect water from a source other than gutters or downpipes on a building or a water supply service pipe, or
  - (b) exceed 3m in height above ground level, including any stand for the tank.
- (8) Any overflow from the rainwater tank must be directed into an existing stormwater system.
- (9) Any plumbing work undertaken on or for the rainwater tank that affects a water supply service pipe or a water main must be undertaken:
- (a) with the consent of the public authority that has responsibility for the water supply service pipe or water main, and
  - (b) in accordance with any requirements by the public authority for the plumbing work, and
  - (c) by a licensed plumber in accordance with the *New South Wales Code of Practice for Plumbing and Drainage* produced by the Committee on Uniformity of Plumbing and Drainage Regulations in NSW.
- (10) Any motorised or electric pump used to draw water from the rainwater tank or to transfer water between rainwater tanks:
- (a) must not create an offensive noise, and
  - (b) in the case of a permanent electric pump, must be installed by a licensed electrician.

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**Re-cladding of roofs and walls**

- (1) Must only involve replacing existing materials with similar materials that are compatible with the existing building and finishes.
- (2) Must not involve structural alterations or change to the external configuration of a building.
- (3) Must be constructed with non-reflective finishes.

**Retaining walls**

- (1) The footing, wall and associated drainage must be within the property boundary.
- (2) Must provide a drain connected to a stormwater disposal system along the wall.
- (3) If not associated with the construction of a dwelling, maximum height—300mm in residential, commercial and industrial zones and 600mm in rural zones.

**Satellite TV dishes**

- (1) Must not be installed or erected:
  - (a) on land within a heritage conservation area or within the curtilage of a heritage item, or
  - (b) less than 1m from any easement or sewer main.
- (2) Must be installed or erected wholly within the boundaries of a property.
- (3) If roof mounted, must have a diameter not exceeding 90cm (excluding any projecting feed element) and its height at any point must not exceed the highest point of the roof (if the roof is peaked) or 1.2m above the roof (if the roof is flat).
- (4) If ground mounted, must have a diameter not exceeding 90cm (excluding any projecting feed element) and its height must not exceed 1.2m above the highest point of the roof of the dwelling on which, or adjacent to which, it is erected.
- (5) If installed or erected on land within a Business or Industrial zone, must comply with the following:
  - (a) if roof mounted, must have a diameter not exceeding 1.8m (excluding any projecting feed element) and its height at any point must not exceed 1.8m above the highest point of the roof structure,

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- (b) if ground mounted, must have a diameter not exceeding 1.8m (excluding any projecting feed element) and its height must not exceed 1.8m above the highest point of the roof of any building on which, or adjacent to which, it is erected.
  - (6) Must be installed in accordance with the manufacturer's specifications and any relevant standard specified by Standards Australia.
  - (7) Must not affect the structural integrity of any building on which it is erected.

#### **Scaffolding**

Must not encroach on any public road or footpath or public thoroughfare.

#### **Skylights and roof windows in dwellings**

- (1) Maximum total cumulative area of light wells or skylights—5% of the total roof area of the dwelling.
- (2) Must be at least 900mm from any property boundary or any wall separating attached dwellings.
- (3) Minimum height above the floor level of the room to which it serves—2.4m.
- (4) Associated building work must not reduce the structural integrity of the building.
- (5) Must weatherproof any opening created.
- (6) Must be installed to the manufacturer's specifications.

#### **Solar water heaters**

- (1) Must be installed to the manufacturer's specifications.
- (2) Associated building work must not reduce the structural integrity of the building.
- (3) Must adequately weatherproof any opening created.
- (4) If roof mounted, the base must be flush with the roofline.

#### **Storm blinds**

**Note.** A retractable roof like shelter, over a window or door for protection from the weather.

- (1) Maximum area of each blind—10m<sup>2</sup>.
- (2) Must be within the property boundary.

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**Temporary buildings (other than temporary work sheds)**

- (1) Must not be erected for more than 72 hours.
- (2) Must be within the property boundary.
- (3) Must be at least 6m from any public street.
- (4) Must not be used for commercial or industrial purposes.
- (5) Must not be used for a recurring use or a use that would otherwise require development consent.

**Temporary work sheds**

- (1) Must be a temporary structure erected for the purposes of storing building materials that are used in association with the construction of another structure.
- (2) Must not obstruct the line of sight of traffic.
- (3) Must be removed on completion of the construction works.
- (4) Must not be erected in residential zones for more than 12 months if the structure is visible from any street.
- (5) Must not cause a nuisance to any other property.
- (6) Must not be used for residential purposes or for the storage or handling of inflammable materials.
- (7) Must be within the property boundary.

**Tents or marquees used solely for filming purposes**

- (1) May only be used in connection with filming that is exempt development.
- (2) Total floor area of all tents or marquees on location at the same time must not exceed 200m<sup>2</sup>.
- (3) Must be located within at least 3m from any boundary adjoining a public road and at least 1m from any other boundary.
- (4) Must have the following number of exits arranged so as to afford a ready means of egress from all parts of the tent or marquee to open space or a road:
  - (a) 1 exit if the floor area of the tent or marquee does not exceed 25m<sup>2</sup>,
  - (b) 2 exits in any other case.

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- (5) Width of each exit must be at least:
    - (a) 800mm if the floor area of the tent or marquee is less than 150m<sup>2</sup>,  
or
    - (b) 1m in any other case.
  - (6) Height of the walls must not exceed:
    - (a) 4m if erected on private land, or
    - (b) 5m in any other case.
  - (7) Height as measured from the surface on which the tent or marquee is erected to the highest point of the tent or marquee must not exceed 6m.
  - (8) Must resist loads determined in accordance with the following Australian and New Zealand Standards entitled:
    - (a) AS/NZS 1170.0:2002, *Structural design actions—General principles*,
    - (b) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*,
    - (c) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*.
  - (9) Must not remain at the location more than 2 days after the completion of the filming at the location.

**Water heaters (excluding solar water systems)**

Associated work must not reduce the structural integrity of the building.

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## Schedule 3 Complying development

(Clause 3.2)

### Part 1 Types of Development

**Note.** A person may carry out an activity specified in this Schedule without getting a development approval from the consent authority, if the person obtains a complying development certificate and complies with the criteria that applies to the activity (which includes the deemed-to-satisfy provisions of the *Building Code of Australia*). However, the activity must not contravene any condition of a development consent already applying to the land and adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities not specifically set out in this Schedule still apply. (For example, requirements relevant to this Schedule are contained in the Act, the Regulation, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993* and the *Swimming Pools Act 1992* etc).

#### Alterations and additions to industrial and warehouse buildings in industrial zones

- (1) Must not be on lots that are adjacent to land in residential or recreation zones.
- (2) Must not involve change to the use of the premises.
- (3) Maximum additional floor area—1,000m<sup>2</sup> or 25% of existing floor area (whichever is the lesser).
- (4) Maximum floor space ratio—1:1.
- (5) Maximum height of any structure—8.5m.
- (6) Minimum setback for any structure:
  - (a) from an arterial road (or arterial road widening)—20m, or
  - (b) from a local road (or local road widening)—10m, or
  - (c) from other boundaries—5m.
- (7) Minimum setback for any paved area wider than 1.5m:
  - (a) from an arterial road (or arterial road widening)—5m, or
  - (b) from a local road (or local road widening)—5m, or
  - (c) from other boundaries—3.5m.
- (8) Must have at least one window opening, door opening or other wall variation of more than 50mm for every 20m of wall length facing the front boundary.
- (9) Earthworks must not extend more than:
  - (a) 900mm above ground level (existing), or
  - (b) 600mm below ground level (existing).

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- (10) Any roof or surface drainage area must have a drainage system that:
- (a) captures the roof or surface water, and
  - (b) discharges that water into the inter-allotment or street stormwater drainage system, and
  - (c) limits the rate of discharge into Council's kerb and gutter to less than 20 litres per second without using on-site detention systems, and
  - (d) caters for a 1 in 20 year storm event and directs excess water over land to the street.
- (11) Must provide and maintain, adjacent to any street, a landscaped area with a minimum width of 5m that is designed by a suitably qualified landscape architect and that has mounding to a height of at least 600mm along the majority of any frontage to an arterial road.
- (12) Must ensure that there are in each landscaped area at least 3 trees (that grow to a mature height of over 5m and are not exempt trees), 6 shrubs (that grow to a mature height of over 1.5m) and 20 smaller plants.
- (13) Must provide a landscaped bay with a minimum width of 1.5m containing at least 1 tree that is not an exempt tree, at the end of, at least, every 10 car parking spaces in the front setback.
- (14) Must provide at least 1 car parking space for every 40m<sup>2</sup> of gross floor area of any building used for the purpose of office premises and at least 1 car parking space for every 70m<sup>2</sup> of gross floor of any building used for any other purpose.
- (15) Must not reduce any vehicle loading area or remove any such area.
- (16) Must not change the location or number of driveway entries onto the property.
- (17) Driveways must:
- (a) be at least 10m from any road intersection, and
  - (b) be no wider than 7m crossing any landscaped strip to the front street or a side street, and
  - (c) permit all vehicles to enter and exit the site in a forward direction.
- (18) Must locate garbage and storage areas behind the building line for each street frontage.

**Bed and breakfast accommodation in rural or residential zones**

- (1) Must be carried out in a lawfully existing dwelling house.
- (2) Maximum number of guest bedrooms—3.
- (3) Minimum number of bathrooms—2.

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- (4) Must have a fire extinguisher and fire blanket in the kitchen.
  - (5) Must not be in a dwelling house subject to the *Strata Schemes Management Act 1996* or the *Community Land Management Act 1989*.

**Changes to commercial premises in business zones**

- (1) Must be either:
  - (a) minor internal alterations (and any associated demolition), or
  - (b) the change of use from retail premises, business premises or office premises to any other one of those uses.
- (2) Maximum floor area involved—1,000m<sup>2</sup>.
- (3) Must not increase the total floor area of the building.
- (4) Any new use:
  - (a) must be permissible in the relevant zone, and
  - (b) must replace a former lawful use, and
  - (c) must comply with any applicable existing conditions of development consent, and
  - (d) must not be for the purposes of food and drink premises, a beauty salon, hairdressing salon or skin penetration premises.

**Demolition of single storey dwelling houses and outbuildings**

- (1) Must be demolition of a building or structure, the demolition of which is necessary to enable the erection of a dwelling house under this Schedule.
- (2) Must not involve the demolition of a building or structure that has more than one storey.
- (3) Must be undertaken in accordance with AS 2601—2001, *Demolition of structures*.

**Dwelling houses in Zones R1, R2, R3 and R4**

- (1) Must be the construction of a dwelling house including any ancillary development related to that house (such as garages, awnings or swimming pools).
- (2) Must be entirely in a residential zone other than Zone R5 Large Lot Residential.
- (3) Minimum width of property street frontage—12m.
- (4) Minimum area of property—400m<sup>2</sup>.
- (5) Maximum floor space ratio—0.5:1.



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- (6) The setback from the front property boundary:
    - (a) to the dwelling house must be between 4.5m and 7m or at least 7m if the front property boundary fronts a classified road, and
    - (b) to any part of a second storey of the dwelling house must be at least 5.5m.
  - (7) Minimum setback from the rear property boundary:
    - (a) to the rear ground floor walls of the dwelling house—5m, and
    - (b) to the rear second storey walls of the dwelling house—8m.
  - (8) Maximum height of any structure (other than a structure that is exempt development)—8.5m.
  - (9) Maximum height of a single storey structure (other than a structure that is exempt development)—5m.
  - (10) Maximum height of a structure in the front setback—1.2m.
  - (11) Maximum height of a structure within 2.5m of the rear property boundary—2.4m.
  - (12) Maximum height of a structure within 3m of a side property boundary—7m.
  - (13) Maximum height of a structure within 900mm of a side property boundary—3.3m.
  - (14) Maximum height of a structure within 450mm of side or rear property boundary—2.1m.
  - (15) Must not prevent at least 3 hours of direct sunlight between 9:00 am and 5:00 pm on 21 June:
    - (a) to the main living area windows of any dwelling on adjoining properties, and
    - (b) to at least 50% of the main area of private open space on the property or any neighbouring properties.
  - (16) Maximum number of storeys—2.
  - (17) Maximum height of the ground floor level—800mm above ground level (existing).
  - (18) Maximum height of any raised platform (associated with a deck, retaining wall, fill or otherwise) behind the front setback—800mm but if within 3m of any property boundary—300mm.
  - (19) Earthworks must not extend more than:
    - (a) 300mm above ground level (existing), or
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- (b) 500mm above ground level (existing) if retained behind an edge beam wall of the dwelling, or
  - (c) 500mm below ground level (existing).
- (20) Maximum width of any second storey wall facing the front boundary—70% of the building's total width.
  - (21) Maximum second storey depth within 5m of either side boundary (not including balconies)—12m.
  - (22) Maximum depth of any second storey balcony—2.2m.
  - (23) Any second storey balcony more than 9m from the front property boundary must be at least 5m from any side property boundary.
  - (24) Any second storey balcony must be at least 8m from the rear property boundary.
  - (25) Maximum height between a floor and the ceiling above—4.5m.
  - (26) Minimum height between a floor in a habitable area and the ceiling above—2.4m.
  - (27) Minimum window sill heights for windows on the second storey that face, or are less than 3m from, a side boundary—1.5m.
  - (28) Materials, colours and finishes must be visually compatible with those existing in the surrounding area.
  - (29) Must provide and maintain, on the rear half of the property, a soft landscaped area of at least 50m<sup>2</sup> with a minimum width of 3m that has no hard paved surface other than garden edging, retaining structure or similar.
  - (30) Must ensure that there are at least 1 tree (that grows to a mature height of over 5m and is not an exempt tree), 5 shrubs (that grow to a mature height of over 1.5m) and 15 smaller plants.
  - (31) Must provide and maintain at least 2 car parking spaces, 1 that is behind the building line and is at least 3m wide and 5.5m long (that must be covered) and 1 that is at least 2.5m wide and 5.5m long (that may be covered but only if it is behind the building line).
  - (32) Maximum width of driveways at the property boundary:
    - (a) if to the front street—3.5m, or
    - (b) if to a side or rear street—6m.
  - (33) Minimum distance of driveways from any road intersection—6m.
  - (34) Driveways outside the property boundary must be constructed at right angles to the kerb and guttering, and must be at least 500mm from any telegraph pole, street furniture or drainage structure.
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- (35) Maximum gradient of driveways—1:5.
  - (36) Driveways with a gradient of more than 1:12 must have (within the property boundary) a transition zone of at least 2m that has a maximum average gradient of 1:12.
  - (37) Any covered outdoor area (including awnings, pergolas, gazebos, verandahs, entry foyers or similar) must be open for at least 50% of its perimeter between 1m and 2m above the inside floor level.
  - (38) Any structure with a roof area of more than 10m<sup>2</sup> must have guttering and downpipes that capture the water from the roofed area and discharge that water:
    - (a) into the inter-allotment or street stormwater drainage system, or
    - (b) into rainwater tanks that discharge any overflow into any such stormwater system.
  - (39) Maximum area of any swimming pool or spa pool—30m<sup>2</sup>.
  - (40) Any swimming pool or spa pool:
    - (a) must be on the rear half of the property, and
    - (b) must be at least 1.2m from any side or rear property boundary, and
    - (c) must be at least 4m from the principal access point to the main living areas of the dwelling, and
    - (d) must be surrounded by a graded surface that diverts water away from the pool, buildings and neighbouring properties,
  - (41) Maximum height of any coping or decking around a swimming pool or spa pool—800mm above ground level (natural) or if within 3m of any side or rear property boundary—300mm above ground level (natural).
  - (42) Maximum noise level of any mechanical equipment associated with a swimming pool or spa pool (including pool filters, water tank pumps, air conditioning units or similar) at any property boundary—5dBA above ambient background noise level.

**Dwelling houses in Zones R1, R2, R3 and R4—additional standards if on a property that is equal to or greater than 400m<sup>2</sup> and less than 600m<sup>2</sup>**

- (1) The minimum setback from any side property boundary:
  - (a) to one ground floor wall of the dwelling that is less than 6m in length—450mm, and
  - (b) to other ground floor walls of the dwelling—900mm or if the side property boundary fronts a secondary street—2.5m, and
  - (c) to the second storey walls of the dwelling—1.3m or if the side property boundary fronts a secondary street—4m.

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- (2) Must provide and maintain, on the rear half of the property, private open space of at least 100m<sup>2</sup> with a minimum width of 4m.
  - (3) Must provide and maintain, on the front setback, a soft landscaped area of at least 20m<sup>2</sup> with a minimum width of 3m that has no hard paved surface other than garden edging, retaining structure or similar.
  - (4) Maximum width of any garage or carport (including walls)—6.2m or if on the front half of a property that is less than 13m wide—4.5m.
  - (5) Any garage or carport must be set back at least 1m behind the front wall of the dwelling closest to the street.

**Dwelling houses in Zones R1, R2, R3 and R4—additional standards if on a property that is equal to or greater than 600m<sup>2</sup> and less than 1,000m<sup>2</sup>**

- (1) The minimum setback from any side property boundary:
  - (a) to the ground floor walls of the dwelling—900mm or if the side property boundary fronts a secondary street—3m, and
  - (b) to the second storey walls of the dwelling—1.3m or if the side property boundary fronts a secondary street—4m.
- (2) Must provide and maintain, on the rear half of the property, private open space of at least 200m<sup>2</sup> with a minimum width of 4.5m.
- (3) Must provide and maintain, on the front half of the property, a soft landscaped area of at least 50m<sup>2</sup> with a minimum width of 5m that has no hard paved surface other than garden edging, retaining structure or similar.
- (4) Maximum width of any garage or carport (including walls)—6.2m or if on the front half of a property that is less than 13m wide—4.5m.
- (5) Any garage or carport must be set back at least 1m behind the front wall of the dwelling closest to the street.

**Dwelling houses in Zone R5 Large Lot Residential**

- (1) Must be the construction of a dwelling house including any ancillary development related to that house (such as garages, awnings or swimming pools).
- (2) Must be entirely in Zone R5 Large Lot Residential.
- (3) The property must have a street frontage width of at least 20m and an area of at least 2,500m<sup>2</sup>.
- (4) Maximum floor space ratio—0.1:1.

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Complying development

Schedule 3

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- (5) The setback from the front property boundary:
    - (a) to the front wall of the dwelling house closest to the street must be between 12m and 25m, and
    - (b) to any other front walls of the dwelling house that are over 2m wide must be between 4.5m and 8m.
  - (6) Maximum width of the dwelling (not including ancillary components)—20m.
  - (7) Maximum depth of the dwelling (not including ancillary components)—20m.
  - (8) Minimum setback from the rear property boundary to the rear walls of the dwelling—12m.
  - (9) Minimum setback from side property boundaries to the walls of the dwelling—5m.
  - (10) Maximum height of any structure (other than a structure that is exempt development)—8.5m.
  - (11) Maximum height of a single storey structure (other than a structure that is exempt development)—5m.
  - (12) Maximum number of storeys—2.
  - (13) Maximum height of the ground floor level—800mm above ground level (existing).
  - (14) Maximum height of any raised platform (associated with a deck, retaining wall, fill or otherwise) behind the front setback—800mm but if within 3m of any property boundary—300mm.
  - (15) Earthworks must not extend more than:
    - (a) 300mm above ground level (existing), or
    - (b) 500mm above ground level (existing) if retained behind an edge beam wall of the dwelling, or
    - (c) 500mm below ground level (existing).
  - (16) Maximum depth of any second storey balcony—3m.
  - (17) Any second storey balcony must be at least 10m from the rear property boundary.
  - (18) Maximum height between a floor and the ceiling above—4.5m.
  - (19) Minimum height between a floor in a habitable area and the ceiling above—2.4m.
  - (20) Materials, colours and finishes must be visually compatible with those existing in the surrounding area.
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## Schedule 3 Complying development

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- (21) Must provide and maintain, on the rear half of the property, private open space of at least 300m<sup>2</sup> with a minimum width of 6m.
- (22) Must provide and maintain, on the rear half of the property, a soft landscaped area of at least 100m<sup>2</sup> with a minimum width of 5m that has no hard paved surface other than garden edging, retaining structure or similar.
- (23) Must provide and maintain, on the front setback, a soft landscaped area of at least 15m<sup>2</sup> with a minimum width of 2.5m that has no hard paved surface other than garden edging, retaining structure or similar.
- (24) Must ensure that there are at least 3 trees (that grow to a mature height of over 5m and are not exempt trees), 6 shrubs (that grow to a mature height of over 1.5m) and 20 smaller plants.
- (25) Must provide and maintain at least 2 car parking spaces, 1 that is behind the building line and is at least 3m wide and 5.5m long (that must be covered) and 1 that is at least 2.5m wide and 5.5m long (that may be covered but only if behind the building line).
- (26) Maximum width of any garage or carport (including walls)—7m (unless entirely behind the dwelling).
- (27) Any garage or carport must be set back at least 1m behind the front wall of the dwelling closest to the street.
- (28) Maximum width of driveways at the property boundary—6m.
- (29) Minimum distance of driveways from any road intersection—6m.
- (30) Driveways outside the property boundary must be constructed at right angles to the kerb and guttering and must be at least 500mm from any telegraph pole, street furniture or drainage structure.
- (31) Any covered outdoor area (including awnings, pergolas, gazebos, verandahs, entry foyers or similar) must be open for at least 50% of its perimeter between 1m and 2m above the inside floor level.
- (32) Any structure with a roof area of more than 10m<sup>2</sup> must have guttering and downpipes that capture the water from the roofed area and discharge that water:
- (a) into the inter-allotment or street stormwater drainage system, or
  - (b) into rainwater tanks that discharge any overflow into any such stormwater system.
- (33) Maximum area of any swimming pool or spa pool—50m<sup>2</sup>.
- (34) Any swimming pool or spa pool:
- (a) must be behind the dwelling, and

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- (b) must be at least 1.2m from any side or rear property boundary, and
  - (c) must be at least 4m from the principal access point to the main living areas of the dwelling, and
  - (d) must be surrounded by a graded surface that diverts water away from the pool, buildings and neighbouring properties.
- (35) Maximum height of any coping or decking around a swimming pool or spa pool—900mm above ground level (natural) or if within 3m of any side or rear property boundary—400mm above ground level (natural).
- (36) Maximum noise level of any mechanical equipment associated with a swimming pool or spa pool (including pool filters, water tank pumps, air conditioning units or similar) at any property boundary—5dBA above ambient background noise level.

**Garden sheds ancillary to multi dwelling housing and residential flat buildings**

- (1) 1 per building.
- (2) Must not be attached to a dwelling.
- (3) Must not be in the front setback.
- (4) Maximum height:
  - (a) 3m, or
  - (b) if within 900mm, but not within 450mm, of any property boundary—2.7m, or
  - (c) if within 450mm of any property boundary—2.1m.
- (5) Maximum roof area—12m<sup>2</sup>.
- (6) Maximum floor height—150mm.
- (7) Windows or glazed panels must be at least 900mm from any property boundary.

**Part 2 Complying development certificate conditions**

**Note.**Information relevant to this Part is also contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, the *Protection of the Environment Operations Act 1997* and the *Roads Act 1993*.

**Conditions that apply before work begins**

The person having the benefit of the complying development certificate must:

- (a) give any occupier of adjoining premises at least 2 days' notice before work begins, and

## Liverpool Local Environmental Plan 2008

Schedule 3 Complying development

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- (b) provide a temporary on-site toilet or access to an existing toilet on site, and
- (c) protect and support any neighbouring buildings that might be affected by the proposed development, and
- (d) protect any public place from obstruction or inconvenience caused by the carrying out of the proposed development, and
- (e) set up barriers sufficient to prevent any substance from the site falling onto a public place.

**Hours of work**

Construction or demolition work that is audible in adjoining premises must be carried out only between the following hours:

- (a) Monday–Friday—7.00am and 6.00pm,
- (b) Saturday—8.00am and 1.00pm,

and no such work must be carried out at any time on a Sunday or a public holiday.

**Demolition**

- (1) The person having the benefit of the complying development certificate must ensure that demolition work does not adversely affect any neighbouring properties with dust, noise, traffic, falling objects or underpinning.
- (2) The person having the benefit of the complying development certificate must ensure that sedimentation and erosion preventative measures are undertaken in respect of demolition work in accordance with the Council's *Erosion and Sediment Control Policy* available from the Council and as in force on the commencement of this Plan.

**Survey certificate**

In order to ensure compliance with approved plans, a survey certificate, to Australian Height Datum, must be prepared by a registered surveyor, as follows:

- (a) on completion of floor slab framework before concrete is poured, detailing the location of the structure to the boundaries, and
- (b) at completion of the lowest floor, confirming that levels are in accordance with the certificate. (Levels must relate to the datum on the certificate.)



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Complying development

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**Required payments**

If payments are required in relation to any of the following, evidence of those payments must be provided to the Council on or before the lodging of the complying development certificate with the Council:

- (a) road reserve deposits,
- (b) opening of roads,
- (c) inspections,
- (d) registration.

**Notification to Council on completion**

The Council must be notified that all works have been completed within a reasonable time after the completion of the works.

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Schedule 4 Classification and reclassification of public land

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## **Schedule 4 Classification and reclassification of public land**

(Clause 5.2)

### **Part 1 Land classified, or reclassified, as operational land—no interests changed**

<b>Column 1</b>	<b>Column 2</b>
<b>Locality</b>	<b>Description</b>
Nil	

### **Part 2 Land classified, or reclassified, as operational land—interests changed**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Locality</b>	<b>Description</b>	<b>Any trust etc not discharged</b>
Nil		

### **Part 3 Land classified, or reclassified, as community land**

<b>Column 1</b>	<b>Column 2</b>
<b>Locality</b>	<b>Description</b>
Nil	

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Environmental heritage

Schedule 5

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## Schedule 5 Environmental heritage

(Clause 5.10)

### Part 1 Heritage items

#### Division 1 Liverpool other than Liverpool city centre

Suburb	Item name	Address	Property description	Significance	Item No
Ashcroft	Memorial gates, Ashcroft High School (former Ashcroft Homestead, St Luke's Rectory gates)	108–130 Maxwells Avenue	Lot 904, DP 225306	Local	1
Badgerys Creek	St John's Anglican Church Group, including church and cemetery (former Badgerys Creek Anglican Church Group)	Pitt Street	Lot 1, DP 838361	Local	2
Badgerys Creek	Badgerys Creek Public School	Corner of Pitt Street and Badgerys Creek Road	Lot 1, DP 838361	Local	3
Bringelly	Two water tanks (former water supply to OTC staff)	Badgerys Creek Road	Lot 2, DP 109666	Local	4
Bringelly	Former OTC Site Group, including radio receiving station and site of former staff housing	Badgerys Creek Road	Lot 1, DP 109666	Local	5

## Liverpool Local Environmental Plan 2008

## Schedule 5 Environmental heritage

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item No</b>
Bringelly	Dwelling and rural lot ("Mount Pleasant")	3 Shannon Road	Lot 44, DP 581187	Local	6
Bringelly	Bringelly Public School Group, including schoolhouse and former headmaster's residence	1205 The Northern Road	Lot 50, DP 746911	Local	7
Bringelly	Kelvin Park Group, including site landscaping, homestead, kitchen wing, servant's quarters, coach house, 2 slab barns and other works and relics (former "The Retreat", cottage vale, stables and lock-up)	30 The Retreat	Lot 271, DP 803167	State	8
Casula	Dwelling	28 Canberra Avenue	Lot 4, Sec C, DP 7633	Local	9
Casula	Casula Powerhouse (former power station)	Casula Road	Lots 1 and 2, DP 106957; Lot 1, DP 1115187	Local	10
Casula	Railway Viaduct	300m south of Casula Powerhouse, Main Southern Railway Line		Local	11
Casula	Two railway viaducts	Woodbrook Road, Main Southern Railway Line		Local	12

## Liverpool Local Environmental Plan 2008

## Environmental heritage

## Schedule 5

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item No</b>
Casula	Dwelling ("Dockra")	8 Dunmore Crescent	Lot 1, DP 530893	Local	13
Casula	Glenfield Farm Group, including homestead, barn (former dairy and stables)	Leacocks Lane	Lot 22, DP 552488	State	14
Cecil Hills	Sydney Water Supply Upper Canal	Denham Court to Cecil Hills	Lot B, DP 392726; Lot 1, DP 596355; Lot 21, DP 1109551; Lot 12, DP 1055232; Lot 1, DP 613552; Lots 1 and 2, DP 1086645; Lot 2, DP 596352; Lot 1, DP 725231; Lots 1-4, DP 596351	State	15
Cecil Hills	Cecil Hills Farm Group, including site landscaping, homestead, shearing shed, archaeological sites, garage, stables, cow bails, outbuildings, sheep dip, gallows and stockyards (former kitchen and dairy)	Sandringham Drive	Lots 162 and 163, DP 880335	State	16
Cecil Park	Liverpool Offtake Reservoir	Elizabeth Drive, Liverpool Dam	Lot 11, DP 1055232	State	17

## Liverpool Local Environmental Plan 2008

## Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item No
Chipping Norton	Chipping Norton Public School	4 Central Avenue	Lot 1, DP 194411; Lot 1, DP 601876; Lot 299, DP 752034	Local	18
Chipping Norton	The Homestead Group, including main house and remnant landscape features and cistern	Charlton Avenue	Part Lot 354, DP 752034; Lot 1, DP 644571	State	19
Chipping Norton	Dwelling	2 and 4 Epsom Road	Lots 200 and 201, DP 712984	Local	20
Chipping Norton	Palm trees ( <i>Phoenix canariensis</i> )	Corner of Governor Macquarie Drive and Epsom Road	Adjacent to Lot 3, DP 602936	Local	21
Chipping Norton	Avenue of trees	Riverside Park, fronting Riverside Road	Lots 62 and 63, Sec 2, DP 2411; Lot 7017, DP 1028106; Lot 17, DP 662900	Local	22
Denham Court	St Mary the Virgin Church and Cemetery Group, including church and churchyard	Church Road	Lot 19, DP 725739	State	23
Greendale	Shadforth Monument (former pioneer's monument)	Greendale Road	Lot 1, DP 520904	Local	24

## Liverpool Local Environmental Plan 2008

## Environmental heritage

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<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item No</b>
Greendale	Private dwelling (former St Mark's Anglican Church Group, including church cemetery)	Greendale Road	Lot 1, DP 742417	State	25
Greendale	Greendale Roman Catholic Cemetery	Greendale Road	Lot 1, DP 195955	State	26
Greendale	Remnants of former farm homestead ("Pemberton")	Greendale Road	Lots 1 and 2, DP 1115589	Local	27
Greendale	Bents Basin Inn site	Wolstenholme Avenue	Lots 203 and 204, DP 249320; Lots 84 and 85, DP 751294	State	28
Hammondville	Hammondville Home for Senior Citizens	Judd Avenue	Lot 931, DP 1102273; Lot 152, DP 717956	Local	29
Hammondville	St Anne's Anglican Church	Corner of Walder Road and Stewart Avenue	Lot 4, DP 238694	Local	30
Holsworthy	Holsworthy pedestrian bridge (former railway bridge)	Harris Creek and Heathcote Road		Local	31

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## Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item No
Holsworthy	Holsworthy Group, including powder magazine and former officers' mess, corporals' club, internment camp, Holsworthy railway station lock-up/gaol, German concentration camp	Heathcote Road (off)	Lot 1, DP 825745; Part Lot 820, DP 1011240; Lot 2, DP 1048198; Part Lot 32, DP 848597; Part Lot 10, DP 1091209	State	32
Holsworthy	Remount Park	Heathcote Road	Lot 1, DP 825754; Part Lot 1, DP 610116; Lot 100, DP 852860; Lot 100, DP 752034	Local	33
Holsworthy	Cubbitch Barta National Estate	Old Illawarra Road	Lot 1, DP 825754	State	34
Horningsea Park	Horningsea Park Group, including site, main house and archaeological features	Camden Valley Way	Lots 1 and 2, DP 1018964	State	35
Ingleburn	Ingleburn village site and lecture hall building (Nissen hut)	Campbelltown Road	Part Lots 1 and 2, DP 831152	Local	36
Ingleburn	Ingleburn Military Heritage Precinct	Campbelltown Road	Part Lot 2, DP 831152	State	37
Kemps Creek	Kemps Creek forest	Gurners Avenue (off)	Lot 11, DP 806494	Local	38



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## Environmental heritage

## Schedule 5

Suburb	Item name	Address	Property description	Significance	Item No
Leppington	Row of Bunya Pines	Bringelly Road	Lot 18, DP 19406	Local	39
Leppington	Brown Memorial and water trough	145 Bringelly Road	Lot 1, DP 725231	Local	40
Leppington	Dwelling and rural lot	1720 Camden Valley Way	Lot 6, DP 205472	Local	41
Liverpool	Obelisk and milestone, Discovery Park, Collingwood Heritage Precinct	40 Atkinson Street	Lot 77, DP 27242	Local	42
Liverpool	Collingwood Heritage Precinct Group, including homestead service wing, horse trough and cistern (former Captain Bunker's Cottage and kitchen block)	Birkdale Crescent (off)	Lot 803, DP 244820; Lot 77, DP 27242; Lots 100 and 101, DP 788434; Lot 2, DP 730829; Lot 781, DP 244820; Lot 184, DP 241158	State	43
Liverpool	2 railway viaducts	Adjacent to 71 and 79A Congressional Drive		Local	44
Liverpool	Mainsbridge School (former "Maryvale")	118 Flowerdale Road	Lot 1, DP 441857	Local	45
Liverpool	Dwelling	443 Hume Highway	Lot 9, DP 4158	Local	46

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Suburb	Item name	Address	Property description	Significance	Item No
Liverpool	Liverpool General Cemetery	Moore and McLean Streets and Flowerdale Road	Lots 6, 7 and 13, Ms 652 Sy; Lots 3 and 10 and Part Lots 4 and 5, Ms 10005 Sy; Lot 14, Ms 22433 Sy; Lot 11, Ms 20611 Sy; Lots 16 and 17, DP 40453; Lots 425 and 426, DP 48284; Lots 443-445, DP 822281; Lot 7030, DP 1059048; Lot 7044, DP 1045353; Lots 7047 and 7048, DP 1059864	Local	47
Liverpool	Dwelling	10 Passefield Street	Lot 1, DP 129637	Local	48
Liverpool	Dwelling	20 Webster Road	Lot 2, DP 519683	Local	49
Luddenham	Willmington Reserve	17 Jamison Street	Lot 7004, DP 93052	Local	50
Luddenham	Vicary's Winery Group, including woolshed, slab horse shed, land area and main house and garden	The Northern Road	Lot 1, DP 838361 (former Lots 10 and 11, DP 251656)	Local	51
Luddenham	Luddenham Public School	The Northern Road	Lot 1, DP 194409	Local	52
Luddenham	Lawson's Inn site (former "The Thistle" site)	2155 The Northern Road	Lots 1 and 2, DP 851626	Local	53

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<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item No</b>
Lurnea	Dwelling	147 Reilly Street	Lot 7, DP 26166	Local	54
Miller	Bridge (former Pitt Street Road Bridge)	Cabramatta Avenue	Lots 100 and 101, DP 1118802	Local	55
Moorebank	Clinch's Pond	Heathcote and Church Roads	Lot 1, DP 664816	Local	56
Moorebank	Australian Army Engineers Group, including RAE Memorial Chapel, RAE Monument, Major General Sir Clive Steele Memorial Gates, Cust Hut	Moorebank Avenue	Lot 500, DP 1075886	Local	57
Moorebank	Kitchener House (formerly "Arpafeelie")	Moorebank Avenue	Lot 1001, DP 1050177	Local	58
Prestons	Remnants of former sandstone cottage ("Benera")	Yarrunga Road	Lot 34, DP 2359	Local	59
Rossmore	Church of the Holy Innocents Group, including church and churchyard	Church Road	Lots 1-4, DP 117688	State	60
Rossmore	Bellfield Farm Group, including homestead, slab kitchen, slab cottage and smoke house	33 Rossmore Avenue	Lot 1, DP 580979	State	61
Sadleir	Memorial stone and plaque	147 Cartwright Avenue (corner of Maxwells Avenue)	Part Lot 735, DP 533701	Local	62

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## Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item No
Voyager Point	Sandstone Weir	Williams Creek		State	63
Warwick Farm	Milestone	Hume Highway (southern side of Hume Highway between George Street and Browne Parade)		State	64
Warwick Farm	Milestone	Hume Highway (southern side of Hume Highway between Warwick Farm Racecourse Gates A and B)		State	65
Warwick Farm	Warwick farm Racecourse Group	Hume Highway	Lot 1, DP 250138; Lots 2 and 3, DP 1040353; Lot 14, DP 578199; Part Lot 1, DP 1040353; Lots 1-3, DP 581034; Lot 1 DP 970591; Lots 1-3, DP 249818; Part Lot 2, DP 581037	State	66
West Hoxton	Kirkpatrick and Boyland Park	225 Fifteenth Avenue	Lot 1, DP 307334	Local	67
West Hoxton	West Hoxton Union Church	Kirkpatrick Avenue	Lot 474, DP 666892	Local	68
West Hoxton	Carnes Hill Vegetation Group	Twenty Fifth Avenue	Lot 8, DP 231528	Local	69

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Schedule 5

**Division 2 Liverpool city centre**

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Liverpool	Light Horse Park	Atkinson Street	Lot 1, DP 234608; Lot 2, DP 579808	Local	70
Liverpool	Liverpool Public School	Bigge Street	Lots 8 and 9, Sec 61, DP 758620; Lots 1, 2 and 4, DP 878452; Lot 1, DP 50779; Lot 1, DP 178206; Lot 1, DP 178665; Lot 10, DP 303625; Lot 1, DP 956168; Lot 4, DP 797682; Lots 30 and 31 DP 1117676	Local	71
Liverpool	Liverpool Railway Station Group, including station building, goods shed and jib crane	Bigge Street (off)	Lot 31, DP 859887; Part Lot 5, DP 226933	State	72
Liverpool	Former Liverpool Court House	Corner of Bigge and Moore Streets	Lot 442, DP 831058	State	73
Liverpool	Commercial Hotel (former Marsden's Hotel)	Bigge and Scott Streets	Lot 17, DP 1050799; Lots 15, 16 and 18, DP 979379	State	74
Liverpool	Dwelling	13 Bigge Street	Lots 1 and 2, DP 13930	Local	75
Liverpool	Pirelli Power Cables and Systems Building (formerly MM Cables Factory, and Cable Makers Australia Factory Pty Ltd)	3 Bridges Road	Lot 200, DP 1009044	Local	76

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## Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item no
Liverpool	Dwelling	115 Castlereagh Street	Lot 4, SP 39972	Local	77
Liverpool	Lyndeer House and stables	2 Charles Street	Lot 2527, DP 1111436	Local	78
Liverpool	Cast-iron letterbox	College Street	Adjacent to north-west corner of Lot 1, DP 863491	Local	79
Liverpool	Liverpool College (TAFE) site, including Blocks A–G, chimneystack, fences, gatehouses and archaeological features (formerly Liverpool Hospital and Benevolent Asylum)	College Street	Lot 1, DP 863491	State	80
Liverpool	Apex Park (first Liverpool Cemetery)	Elizabeth Drive and Castlereagh Street	Lot 7027, DP 1027999	State	81
Liverpool	Bigge Park	Elizabeth, College, Moore and Bigge Streets	Lot 702, DP 1056246	State	82
Liverpool	Milestone	Corner of Elizabeth Drive and George Street		Local	83
Liverpool	St Luke's Anglican Church Group, including landscaping, church, hall, headstone and memorial gates (former St Luke's Church of England)	Elizabeth Drive and Macquarie and Northumberland Streets	Lot 111, DP 552031	State	84

## Liverpool Local Environmental Plan 2008

## Environmental heritage

## Schedule 5

Suburb	Item name	Address	Property description	Significance	Item no
Liverpool	All Saints Roman Catholic School	George Street	Lot 1, DP 782355	Local	85
Liverpool	Pylons (former Liverpool railway bridge)	Georges River (near Haig Avenue)	Near Lot 7002, DP 1073063	Local	86
Liverpool	Liverpool Weir	Georges River (near Haig Avenue)	Near Lot 7002, DP 1073063	State	87
Liverpool	Collingwood Inn Hotel	Hume Highway	Lot 1, DP 83770; Lots 1 and 2, DP 563488; Lot 5, DP 701018; Lot D, DP 374057	Local	88
Liverpool	Plan of Town of Liverpool (early town centre street layout—Hoddle 1827)	Streets in the area bounded by the Hume Highway, Copeland Street, Memorial Avenue, Scott Street, Georges River and Main Southern Railway Line (excluding Tindall Avenue and service ways)		Local	89
Liverpool	Liverpool Memorial Pioneer's Park, (formerly St Luke's Cemetery and Liverpool Cemetery)	Macquarie, Campbell and Northumberland Streets and the Hume Highway	Lots 7035–7037, DP 1073993; Part Lots 1 and 2, Sec 24, DP 758620; Lots 1– 4, Sec 34, DP 758620	State	90
Liverpool	Commercial building (formerly Rural Bank and State Bank)	Macquarie Street and Memorial Avenue	Lot 11, DP 20730	Local	91

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## Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item no
Liverpool	Boer War Memorial, including memorial to Private A.E Smith	Corner of Macquarie Street and Memorial Avenue (Macquarie Street public footpath adjacent to 297 Macquarie Street)		Local	92
Liverpool	Macquarie Monument	Corner of Macquarie and Scott Streets (Macquarie Street public footpath adjacent to 296 Macquarie Street)		Local	93
Liverpool	Row of 3 palm trees	Macquarie Street median strip, opposite 306 Macquarie Street	Lot 1, DP 119905	Local	94
Liverpool	The Corner Pub (former Liverpool Hotel)	214 Macquarie Street (corner of Moore Street)	Lot 1, DP 111765	Local	95
Liverpool	Commercial building	261–263 Macquarie Street	Lot 1, DP 200052; Lot 8, DP 1103087	Local	96
Liverpool	Legend Hotel	269 Macquarie Street	Lot 1, DP 519133	Local	97
Liverpool	Commercial building	275–277 Macquarie Street	Lot 2, DP 519133	Local	98
Liverpool	Memorial School of Arts	306 Macquarie Street	Lot 1, DP 119905	Local	99
Liverpool	Dr James Pirie Child Welfare Centre Building (formerly Child Welfare Centre)	Moore and Bigge Streets	Lot 701, DP 1056246	Local	100
Liverpool	Commercial building	14 Scott Street	Lot 1, DP 208270	Local	101



## Liverpool Local Environmental Plan 2008

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## Schedule 5

Suburb	Item name	Address	Property description	Significance	Item no
Liverpool	Commercial building (former out-building to former Golden Fleece Hotel and former Eugene's laundry)	16 Scott Street	Lot 3, DP 588103	Local	102
Liverpool	Golden Fleece Hotel	Corner of Scott and Terminus Streets	Lot 100, DP 716185	Local	103
Liverpool	McGrath Services Centre Building (formerly Challenge Woollen Mills, and Australian Paper Company's Mill)	Shepherd and Atkinson Streets	Lot 1, DP 247485	Local	104
Liverpool	Railway Viaduct	Shepherd Street and Mill Road, Main Southern Railway Line		Local	105
Liverpool	Residential building ("Del Rosa")	7 Speed Street	Lots 13 and 14, DP 13536	Local	106
Liverpool	Residential building ("Rosebank") (former Queen's College)	17 Speed Street	Lot 1, DP 567283	State	107
Liverpool	Cottage	27 Speed Street	Lot 40, DP 1091733	Local	108
Liverpool	Liverpool Fire Station	70-78 Terminus Street	Lot 1, DP 91748	Local	109
Warwick Farm	Berryman Reserve	4 Remembrance Drive	Lot 1, DP 744448; Lot A, DP 432628	Local	110

## Liverpool Local Environmental Plan 2008

Schedule 5 Environmental heritage

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**Part 2 Heritage conservation areas****Division 1 Liverpool other than Liverpool city centre**

Suburb	Item name	Address	Property description	Significance	Item no
Warwick Farm	Warwick Farm Conservation Area (group of 8 dwellings)	Area bounded by Munday, Warwick and Manning Streets as shown hatched red on the Heritage Map		Local	

**Division 2 Liverpool city centre**

Suburb	Item name	Address	Property description	Significance	Item no
Liverpool	Bigge Park Conservation Area	Area bounded by and including College, Goulburn, Railway, Scott and Bigge Streets as shown hatched red on the Heritage Map	Lot 1, DP 234608; Lot 2, DP 579808	State	

**Part 3 Archaeological sites**

Suburb	Item Name	Address	Property Description
	Nil		

Liverpool Local Environmental Plan 2008

Exempt trees

Schedule 6

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## Schedule 6 Exempt trees

(Dictionary)

<b>Botanical Name</b>	<b>Common Name</b>
<i>Salix</i> species	Willow
<i>Populus</i> species	Poplar
<i>Acacia baileyana</i>	Cootamundra Wattle
<i>Erythrina x sykesii</i>	Coral Tree
<i>Ficus elastica</i> and hybrids	Ornamental Rubber Tree
<i>Cupressus macrocarpa</i>	Golden Cypress
<i>Lagunaria patersonia</i>	Norfolk Island Hibiscus
<i>Ligustrum lucidum</i> species	Large-leaved Privet
<i>Ligustrum sinense</i> species	Small-leaved Privet
<i>Olea africana</i>	African Olive
<i>Cinnamomum camphora</i>	Camphor Laurel
<i>Schefflera actinophylla</i>	Umbrella Tree
<i>Syagrus romanzoffiana</i>	Cocos Palm
<i>Toxicodendron succedaneum</i>	Rhus Tree
<i>Gleditsia triacanthos</i>	Honey Locust

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Dictionary

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## Dictionary

(Clause 1.4)

**Aboriginal object** means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

**acid sulfate soils** means naturally occurring sediments and soils containing iron sulfides (principally pyrite) or their precursors or oxidation products, whose exposure to oxygen leads to the generation of sulfuric acid (for example, by drainage or excavation).

**Acid Sulfate Soils Manual** means the manual by that name published by the Acid Sulfate Soils Management Advisory Committee and made publicly available.

**Acid Sulfate Soils Map** means the Liverpool Local Environmental Plan 2008 Acid Sulfate Soils Map.

**advertisement** has the same meaning as in the Act.

**Note.**The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

**advertising structure** has the same meaning as in the Act.

**Note.**The term is defined as a structure used or to be used principally for the display of an advertisement.

**affordable housing** has the same meaning as in the Act.

**Note.**The term is defined as housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

**agricultural produce industry** means an industry involving the handling, treating, processing or packing of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry.

**agriculture** means any of the following:

- (a) animal boarding or training establishments,
- (b) aquaculture,
- (c) extensive agriculture,
- (d) farm forestry,
- (e) intensive livestock agriculture,
- (f) intensive plant agriculture.

**air transport facility** means an airport or a heliport that is not part of an airport, and includes associated communication and air traffic control facilities or structures.

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**airport** means a place used for the landing, taking off, parking, maintenance or repair of aeroplanes (including associated buildings, installations, facilities and movement areas and any heliport that is part of the airport).

**Airport Noise Map** means the Liverpool Local Environmental Plan 2008 Airport Noise Map.

**airstrip** means a single runway for the landing, taking off or parking of aeroplanes for private aviation only, but does not include an airport, heliport or helipad.

**amusement centre** means a building or place (not being part of a pub or registered club) used principally for playing:

- (a) billiards, pool or other like games, or
- (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.

**animal boarding or training establishment** means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

**aquaculture** has the same meaning as in the *Fisheries Management Act 1994*.

**Note.** The term is defined as follows:

**aquaculture** means:

- (a) cultivating fish or marine vegetation for the purposes of harvesting the fish or marine vegetation or their progeny with a view to sale, or
- (b) keeping fish or marine vegetation in a confined area for a commercial purpose (such as a fish-out pond),

but does not include:

- (c) keeping anything in a pet shop for sale or in an aquarium for exhibition (including an aquarium operated commercially), or
- (d) anything done for the purposes of maintaining a collection of fish or marine vegetation otherwise than for a commercial purpose, or
- (e) any other thing prescribed by the regulations (made under the *Fisheries Management Act 1994*).

This Dictionary also contains definitions of **natural water-based aquaculture**, **pond-based aquaculture** and **tank-based aquaculture**.

**archaeological site** means an area of land:

- (a) shown on the Heritage Map as an archaeological site, and
- (b) the location and nature of which is described in Schedule 5, and
- (c) that contains one or more relics.

**attached dwelling** means a building containing 3 or more dwellings, where:

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land (not being an individual lot in a strata plan or community title scheme), and

## Liverpool Local Environmental Plan 2008

## Dictionary

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(c) none of the dwellings is located above any part of another dwelling.

**attic** means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.

**backpackers' accommodation** means tourist and visitor accommodation:

- (a) that has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (b) that will generally provide accommodation on a bed basis (rather than by room).

**basement** means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

**bed and breakfast accommodation** means tourist and visitor accommodation comprising a dwelling (and any ancillary buildings and parking) where the accommodation is provided by the permanent residents of the dwelling and:

- (a) meals are provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided.

**Note.** See clause 5.4 for controls relating to the number of bedrooms.

**biodiversity** means biological diversity.

**biological diversity** has the same meaning as in the *Threatened Species Conservation Act 1995*.

**Note.** The term is defined as follows:

**biological diversity** means the diversity of life and is made up of the following 3 components:

- (a) genetic diversity—the variety of genes (or units of heredity) in any population,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

**biosolid waste application** means the application of sludge or other semi-solid products of human sewage treatment plants to land for the purpose of improving land productivity, that is undertaken in accordance with the NSW Environment Protection Authority's guidelines titled *Environmental Guidelines: Use and Disposal of Biosolids Products* (EPA 1997) and *Addendum to Environmental Guidelines: Use and Disposal of Biosolids Products* (EPA 2000a).

**biosolids treatment facility** means a building or place used as a facility for the treatment of biosolids from a sewage treatment plant or from a water recycling facility.

**boarding house** means a building:

- (a) that is wholly or partly let in lodgings, and

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- (b) that provides lodgers with a principal place of residence for 3 months or more, and
  - (c) that generally has shared facilities, such as a communal bathroom, kitchen or laundry, and
  - (d) that has rooms that accommodate one or more lodgers,

but does not include backpackers' accommodation, a group home, a serviced apartment, seniors housing or hotel or motel accommodation.

**boat launching ramp** means a structure designed primarily for the launching of trailer borne recreational vessels, and includes associated car parking facilities.

**boat repair facility** means any facility (including a building or other structure) used primarily for the construction, maintenance or repair of boats, whether or not including the storage, sale or hire of boats, but does not include a marina or boat shed.

**boat shed** means a building or other structure used for the storage and routine maintenance of a boat or boats and that is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure.

**brothel** has the same meaning as in the Act.

**building** has the same meaning as in the Act.

**Note.** The term is defined to include part of a building and any structure or part of a structure, but not including a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure).

**building height (or height of building)** means the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**building identification sign** means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol, but that does not include general advertising of products, goods or services.

**building line** or **setback** means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or
- (c) the supporting posts of a carport or verandah roof,

whichever distance is the shortest.

**bulky goods premises** means a building or place used primarily for the sale by retail, wholesale or auction of (or for the hire or display of) bulky goods, being goods that are of such size or weight as to require:

- (a) a large area for handling, display or storage, or

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- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,

but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire or display of bulky goods.

**bush fire hazard reduction work** has the same meaning as in the *Rural Fires Act 1997*.

**Note.** The term is defined as follows:

**bush fire hazard reduction work** means:

- (a) the establishment or maintenance of fire breaks on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire,

but does not include construction of a track, trail or road.

**bush fire prone land** has the same meaning as in the Act.

**Note.** The term is defined, in relation to an area, as land recorded for the time being as bush fire prone land on a map for the area certified as referred to in section 146 (2) of the Act.

**bush fire risk management plan** means a plan prepared under Division 4 of Part 3 of the *Rural Fires Act 1997* for the purpose referred to in section 54 of that Act.

**business identification sign** means a sign:

- (a) that indicates:
- (i) the name of the person or business, and
- (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not include any advertising relating to a person who does not carry on business at the premises or place.

**business premises** means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis,

and may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.

**canal estate development** means development that incorporates wholly or in part a constructed canal, or other waterway or waterbody, that is inundated by or drains to a natural waterway or natural waterbody by surface water or groundwater movement (not being works of drainage, or for the supply or treatment of water, that are constructed by or with the authority of a person or body responsible for those



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functions and that are limited to the minimal reasonable size and capacity to meet a demonstrated need for the works), and that either:

- (a) includes the construction of dwellings (which may include tourist and visitor accommodation) of a kind other than, or in addition to:
  - (i) dwellings that are permitted on rural land, and
  - (ii) dwellings that are used for caretaker or staff purposes, or
- (b) requires the use of a sufficient depth of fill material to raise the level of all or part of that land on which the dwellings are (or are proposed to be) located in order to comply with requirements relating to residential development on flood prone land.

**car park** means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

**caravan park** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

**catchment action plan** has the same meaning as in the *Catchment Management Authorities Act 2003*.

**Note.** The term is defined as a catchment action plan of an authority that has been approved by the Minister under Part 4 of the *Catchment Management Authorities Act 2003*.

**cellar door premises** means retail premises that sell wine by retail and that are situated on land on which there is a commercial vineyard, where all of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

**cemetery** means a building or place for the interment of deceased persons or their ashes.

**charter and tourism boating facility** means any facility (including a building or other structure) used for charter boating or tourism boating purposes, being a facility that is used only by the operators of the facility and that has a direct structural connection between the foreshore and the waterway, but does not include a marina.

**child care centre** means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or

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- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
  - (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
  - (h) a service that is concerned primarily with the provision of:
    - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
    - (ii) private tutoring, or
  - (i) a school, or
  - (j) a service provided at exempt premises (within the meaning of section 200 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

**classified road** has the same meaning as in the *Roads Act 1993*.

**Note.**The term is defined as follows:

**classified road** means any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,
- (h) a transitway,
- (i) a State work.

(see *Roads Act 1993* for meanings of these terms).

**clearing native vegetation** has the same meaning as in the *Native Vegetation Act 2003*.

**Note.**The term is defined as follows:

**clearing native vegetation** means any one or more of the following:

- (a) cutting down, felling, thinning, logging or removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

(See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities.)

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**coastal foreshore** means land with frontage to a beach, estuary, coastal lake, headland, cliff or rock platform.

**coastal lake** means a body of water specified in Schedule 1 to the *State Environmental Planning Policy No 71—Coastal Protection*.

**coastal waters of the State**—see section 58 of the *Interpretation Act 1987*.

**coastal zone** has the same meaning as in the *Coastal Protection Act 1979*.

**Note.** The term is defined as follows:

**coastal zone** means:

- (a) the area within the coastal waters of the State as defined in Part 10 of the *Interpretation Act 1987* (including any land within those waters), and
- (b) the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, and
- (c) the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).

The coastal zone consists of the area between the western boundary of the coastal zone shown on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the State. The coastal waters of the State extend, generally, to 3 nautical miles from the coastline of the State.

**community facility** means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

**community land** has the same meaning as in the *Local Government Act 1993*.

**correctional centre** means:

- (a) any premises declared to be a correctional centre by a proclamation in force under section 225 of the *Crimes (Administration of Sentences) Act 1999*, including any juvenile correctional centre or periodic detention centre, and
- (b) any premises declared to be a detention centre by an order in force under section 5 (1) of the *Children (Detention Centres) Act 1987*,

but does not include any police station or court cell complex in which a person is held in custody in accordance with any Act.

**Council** means the Liverpool City Council.

**crematorium** means a building in which deceased persons or pets are cremated, and includes a funeral chapel.

**Crown reserve** means:

- (a) a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or
- (b) a common within the meaning of the *Commons Management Act 1989*, or

## Liverpool Local Environmental Plan 2008

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(c) lands within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*, but does not include land that forms any part of a reserve under Part 5 of the *Crown Lands Act 1989* provided for accommodation.

**curtilage**, in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, that contributes to its heritage significance.

**dairy (pasture-based)** means a dairy where the only restriction facilities present are the milking sheds and holding yards and where cattle are constrained for no more than 10 hours in any 24 hour period (excluding during any period of drought or similar emergency relief).

**Delayed Rezoning Map** means the Liverpool Local Environmental Plan 2008 Delayed Rezoning Map.

**demolish**, in relation to a heritage item, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, relic or tree.

**depot** means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use.

**designated State public infrastructure** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) rail infrastructure and land,
- (d) land required for regional open space,
- (e) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

**drainage** means any activity that intentionally alters the hydrological regime of any locality by facilitating the removal of surface or ground water. It may include the construction, deepening, extending, opening, installation or laying of any canal, drain or pipe, either on the land or in such a manner as to encourage drainage of adjoining land.

**dual occupancy** means 2 dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme), but does not include a secondary dwelling.

**dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

**Dwelling Density Map** means the Liverpool Local Environmental Plan 2008 Dwelling Density Map.

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***dwelling house*** means a building containing only one dwelling.

***earthworks*** means excavation or filling.

***ecologically sustainable development*** has the same meaning as in the Act.

***educational establishment*** means a building or place used for education (including teaching), being:

- (a) a school, or
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

***electricity generating works*** means a building or place used for the purpose of making or generating electricity.

***emergency services facility*** means a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.

***emergency services organisation*** means any of the following:

- (a) the Ambulance Service of New South Wales,
- (b) New South Wales Fire Brigades,
- (c) the NSW Rural Fire Service,
- (d) the NSW Police Force,
- (e) the State Emergency Service,
- (f) the New South Wales Volunteer Rescue Association Incorporated,
- (g) the New South Wales Mines Rescue Brigade established under the *Coal Industry Act 2001*,
- (h) an accredited rescue unit within the meaning of the *State Emergency and Rescue Management Act 1989*.

***entertainment facility*** means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub, nightclub or registered club.

***environmental facility*** means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

***environmental protection works*** means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like.

***environmentally significant land*** means the land identified as environmentally significant on the Environmentally Significant Land Map.

***Environmentally Significant Land Map*** means the Liverpool Local Environmental Plan 2008 Environmentally Significant Land Map.

***estuary*** has the same meaning as in the *Water Management Act 2000*.

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**Note.** The term is defined as follows:

**estuary** means:

- (a) any part of a river whose level is periodically or intermittently affected by coastal tides, or
- (b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or
- (c) anything declared by the regulations (under the *Water Management Act 2000*) to be an estuary,

but does not include anything declared by the regulations (under the *Water Management Act 2000*) not to be an estuary.

**excavation** means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.

**exempt tree** means any tree of a species listed in Schedule 6.

**exhibition home** means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.

**exhibition village** means 2 or more exhibition homes and associated buildings and places used for house and land sales, site offices, advisory services, car parking, food and drink sales and other associated purposes.

**extensive agriculture** means:

- (a) the production of crops or fodder (including irrigated pasture and fodder crops), or
- (b) the grazing of livestock, or
- (c) bee keeping,

for commercial purposes, but does not include any of the following:

- (d) animal boarding or training establishments,
- (e) aquaculture,
- (f) farm forestry,
- (g) intensive livestock agriculture,
- (h) intensive plant agriculture.

**extractive industry** means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

**extractive material** means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the *Mining Act 1992*.

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***farm building*** means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

***farm stay accommodation*** means tourist and visitor accommodation provided to paying guests on a working farm as a secondary business to primary production.

**Note.** See clause 5.4 for controls relating to the number of bedrooms.

***feedlot*** means a confined or restricted area used to rear and fatten cattle, sheep or other animals for the purpose of meat production, fed (wholly or substantially) on prepared and manufactured feed, but does not include a poultry farm, dairy or piggery.

***fill*** means the depositing of soil, rock or other similar extractive material obtained from the same or another site, but does not include:

- (a) the depositing of topsoil or feature rock imported to the site that is intended for use in garden landscaping, turf or garden bed establishment or top dressing of lawns and that does not significantly alter the shape, natural form or drainage of the land, or
- (b) the use of land as a waste disposal facility.

***filming*** means recording images (whether on film or video tape or electronically or by other means) for exhibition or broadcast (such as by cinema, television or the internet or by other means), but does not include:

- (a) still photography, or
- (b) recording images of a wedding ceremony or other private celebration or event principally for the purpose of making a record for the participants in the ceremony, celebration or event, or
- (c) recording images as a visitor or tourist for non-commercial purposes, or
- (d) recording for the immediate purposes of a television program that provides information by way of current affairs or daily news.

***fish*** has the same meaning as in the *Fisheries Management Act 1994*.

**Note.** The term is defined as follows:

**Definition of “fish”**

- (1) ***Fish*** means marine, estuarine or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead).
- (2) ***Fish*** includes:
  - (a) oysters and other aquatic molluscs, and
  - (b) crustaceans, and
  - (c) echinoderms, and
  - (d) beachworms and other aquatic polychaetes.
- (3) ***Fish*** also includes any part of a fish.



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- (4) However, **fish** does not include whales, mammals, reptiles, birds, amphibians or other things excluded from the definition by the regulations under the *Fisheries Management Act 1994*.

**flood mitigation work** means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

**flood planning area** means an area of land that is shown to be in a flood planning area on the Flood Planning Area Map.

**Flood Planning Area Map** means the Liverpool Local Environmental Plan 2008 Flood Planning Area Map.

**flood prone land** is land susceptible to flooding by the largest flood that could conceivably occur at a particular location estimated from the probable maximum precipitation.

**floor space ratio**—see clause 23.

**Floor Space Ratio Map** means the Liverpool Local Environmental Plan 2008 Floor Space Ratio Map.

**food and drink premises** means retail premises used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes restaurants, cafes, take away food and drink premises, milk bars and pubs.

**foreshore area** means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody.

**foreshore building line** means the foreshore building line shown on the Foreshore Building Line Map.

**Foreshore Building Line Map** means the Liverpool Local Environmental Plan 2008 Foreshore Building Line Map.

**forestry** has the same meaning as **forestry operations** in the *Forestry and National Park Estate Act 1998*.

**Note.** The term is defined as follows:

**forestry operations** means:

- (a) logging operations, namely, the cutting and removal of timber from land for the purpose of timber production, or
- (b) forest products operations, namely, the harvesting of products of trees, shrubs and other vegetation (other than timber) that are of economic value, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning, bush fire hazard reduction, bee-keeping, grazing and other silvicultural activities, or
- (d) ancillary road construction, namely, the provision of roads and fire trails, and the maintenance of existing railways, to enable or assist in the above operations.



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***freight transport facility*** means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved.

***function centre*** means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

***funeral chapel*** means premises used to arrange, conduct and cater for funerals and memorial services, and includes facilities for the short-term storage, dressing and viewing of bodies of deceased persons, but does not include premises with mortuary facilities.

***funeral home*** means premises used to arrange and conduct funerals and memorial services, and includes facilities for the short-term storage, dressing and viewing of bodies of deceased persons and premises with mortuary facilities.

***gross floor area*** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
  - (i) storage, and
  - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

***ground level (existing)*** means the existing level of a site at any point.

***ground level (finished)*** means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.

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**ground level (mean)** means, for any site on which a building is situated or proposed, one half of the sum of the highest and lowest levels at ground level (finished) of the outer surface of the external walls of the building.

**group home** means a dwelling that is a permanent group home or a transitional group home.

**group home (permanent) or permanent group home** means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

**group home (transitional) or transitional group home** means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

**hazardous industry** means development for the purpose of an industry that, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

**hazardous storage establishment** means any establishment where goods, materials or products are stored that, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

**headland** includes a promontory extending from the general line of the coastline into a large body of water, such as a sea, coastal lake or bay.

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**health care professional** means any person registered under an Act for the purpose of providing health care.

**health consulting rooms** means a medical centre that comprises one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals who practise in partnership (if there is more than one such professional) who provide professional health care services to members of the public.

**health services facility** means a building or place used as a facility to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

- (a) day surgeries and medical centres,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helipads and ambulance facilities,
- (e) hospitals.

**heavy industry** means an industry that requires separation from other land uses because of the nature of the processes involved, or the materials used, stored or produced. It may consist of or include a hazardous or offensive industry or involve the use of a hazardous or offensive storage establishment.

**Height of Buildings Map** means the Liverpool Local Environmental Plan 2008 Height of Buildings Map.

**helipad** means a place not open to the public used for the taking off and landing of helicopters.

**heliport** means a place open to the public used for the taking off and landing of helicopters, whether or not it includes:

- (a) a terminal building, or
- (b) facilities for the parking, storage or repair of helicopters.

**heritage conservation area** means an area of land:

- (a) shown on the Heritage Map as a heritage conservation area or as a place of Aboriginal heritage significance, and
- (b) the location and nature of which is described in Schedule 5,

and includes any heritage items situated on or within that area.

**heritage conservation management plan** means a document prepared in accordance with guidelines prepared by the Department of Planning that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

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**heritage impact statement** means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item, archaeological site, place of Aboriginal heritage significance or other heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

**heritage item** means a building, work, archaeological site, tree, place or Aboriginal object:

- (a) shown on the Heritage Map as a heritage item, and
- (b) the location and nature of which is described in Schedule 5, and
- (c) specified in an inventory of heritage items that is available at the office of the Council.

**Heritage Map** means the Liverpool Local Environmental Plan 2008 Heritage Map.

**heritage significance** means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

**highway service centre** means a building or place used as a facility to provide refreshments and vehicle services to highway users, and which may include any one or more of the following:

- (a) restaurants or take away food and drink premises,
- (b) service stations and facilities for emergency vehicle towing and repairs,
- (c) parking for vehicles,
- (d) rest areas and public amenities.

**home-based child care** means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and that satisfies the following conditions:

- (a) the service is appropriately licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

**home business** means a business carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or

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- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
  - (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), or
  - (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

**Note.** See clause 5.4 for controls relating to the floor area used to carry on the business.

**home industry** means a light industry carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the light industry carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation or sex services premises.

**Note.** See clause 5.4 for controls relating to the floor area used to carry on the light industry.

**home occupation** means an occupation carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the occupation carried on in the dwelling), or

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- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include bed and breakfast accommodation, a brothel or home occupation (sex services).

**home occupation (sex services)** means the provision of sex services in a dwelling that is a brothel, or in a building that is a brothel and is ancillary to such a dwelling, by no more than 2 permanent residents of the dwelling and that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
- (c) the exhibition of any notice, advertisement or sign, or
- (d) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include a home business or sex services premises.

**horticulture** means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include retail sales or viticulture.

**hospital** means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:

- (a) day surgery, day procedures or health consulting rooms,
- (b) accommodation for nurses or other health care workers,
- (c) accommodation for persons receiving health care or for their visitors,
- (d) shops or refreshment rooms,
- (e) transport of patients, including helipads, ambulance facilities and car parking,
- (f) educational purposes or any other health-related use,
- (g) research purposes (whether or not it is carried out by hospital staff or health care workers or for commercial purposes),
- (h) chapels,
- (i) hospices,
- (j) mortuaries.

**hostel** means premises that are generally staffed by social workers or support providers and at which:

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and

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- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

**hotel or motel accommodation** means tourist and visitor accommodation (whether or not licensed premises under the *Liquor Act 1982*):

- (a) comprising rooms or self-contained suites, and
- (b) that may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

**industrial retail outlet** means a building or place that:

- (a) is used in conjunction with an industry (including a light industry) but not in conjunction with a warehouse or distribution centre, and
- (b) is situated on the land on which the industry is carried out, and
- (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry is carried out.

**Note.** See clause 5.4 for controls relating to the retail floor area.

**industry** means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing or adapting, or the research and development of any goods, chemical substances, food, agricultural or beverage products, or articles for commercial purposes, but does not include extractive industry or a mine.

**information and education facility** means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

**intensive livestock agriculture** means the keeping or breeding, for commercial purposes, of cattle, poultry, goats, horses or other livestock, that are fed wholly or substantially on externally-sourced feed, and includes the operation of feed lots, piggeries, poultry farms or restricted dairies, but does not include the operation of facilities for drought or similar emergency relief or extensive agriculture or aquaculture.

**intensive plant agriculture** means any of the following carried out for commercial purposes:

- (a) the cultivation of irrigated crops (other than irrigated pasture or fodder crops),
- (b) horticulture,
- (c) turf farming,
- (d) viticulture.

**jetty** means a horizontal decked walkway providing access from the shore to the waterway and is generally constructed on a piered or piled foundation.

**Key Sites Map** means the Liverpool Local Environmental Plan 2008 Key Sites Map.



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**kiosk** means retail premises used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.

**Note.** See clause 5.4 for controls relating to the gross floor area.

**Land Application Map** means the Liverpool Local Environmental Plan 2008 Land Application Map.

**Land Reservation Acquisition Map** means the Liverpool Local Environmental Plan 2008 Land Reservation Acquisition Map.

**Land Zoning Map** means the Liverpool Local Environmental Plan 2008 Land Zoning Map.

**landscape and garden supplies** means a building or place where trees, shrubs, plants, bulbs, seeds and propagating material are offered for sale (whether by retail or wholesale), and may include the sale of landscape supplies (including earth products or other landscape and horticulture products) and the carrying out of horticulture.

**landscaped area** means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

**light industry** means an industry, not being a hazardous or offensive industry or involving use of a hazardous or offensive storage establishment, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

**liquid fuel depot** means storage premises that are used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquid and at which no retail trade is conducted.

**Liverpool city centre** means the land shown edged heavy broken red and marked "Liverpool city centre" on the Key Sites Map.

**livestock processing industry** means an industry that involves the commercial production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals, derived principally from surrounding districts, and includes such activities as abattoirs, knackeries, tanneries, woollscours and rendering plants.

**Lot Size Map** means the Liverpool Local Environmental Plan 2008 Lot Size Map.

**maintenance**, in relation to a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care. It does not include the removal or disturbance of existing fabric, alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

**marina** means a permanent boat storage facility (whether located wholly on land, wholly on the waterway or partly on land and partly on the waterway) together with any associated facilities, including:

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and



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- (b) any facility for providing fuelling, sewage pump-out or other services for boats, and
  - (c) any facility for launching or landing boats, such as slipways or hoists, and
  - (d) any associated car parking, commercial, tourist or recreational or club facility that is ancillary to a boat storage facility, and
  - (e) any associated single mooring.

**market** means retail premises comprising an open-air area or an existing building used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

**mean high water mark** means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore, being 1.44m above the zero of Fort Denison Tide Gauge and 0.515m Australian Height Datum.

**medical centre** means business premises used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals, and may include the ancillary provision of other health services.

**mezzanine** means an intermediate floor within a room.

**mine** means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.

**mine subsidence district** means a mine subsidence district proclaimed under section 15 of the *Mine Subsidence Compensation Act 1961*.

**mining** means mining carried out under the *Mining Act 1992* or the recovery of minerals under the *Offshore Minerals Act 1999*, and includes:

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.

**mixed use development** means a building or place comprising 2 or more different land uses.

**mooring** means a detached or freestanding apparatus located on or in a waterway and that is capable of securing a vessel.

**mortuary** means premises that are used, or intended to be used, for the receiving, preparation, embalming and storage of bodies of deceased persons pending their interment or cremation.

**moveable dwelling** has the same meaning as in the *Local Government Act 1993*.

**Note.** The term is defined as follows:

**moveable dwelling** means:

- (a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or

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- (b) a manufactured home, or  
 (c) any conveyance, structure or thing of a class or description prescribed by the regulations (under the *Local Government Act 1993*) for the purposes of this definition.

**multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme) each with access at ground level, but does not include a residential flat building.

**native fauna** means any animal-life that is indigenous to New South Wales or is known to periodically or occasionally migrate to New South Wales, whether vertebrate (including fish) or invertebrate and in any stage of biological development, but does not include humans.

**native flora** means any plant-life that is indigenous to New South Wales, whether vascular or non-vascular and in any stage of biological development, and includes fungi and lichens, and marine vegetation within the meaning of Part 7A of the *Fisheries Management Act 1994*.

**native vegetation** has the same meaning as in the *Native Vegetation Act 2003*.

**Note.** The term is defined as follows:

**Meaning of “native vegetation”**

- (1) **Native vegetation** means any of the following types of indigenous vegetation:
  - (a) trees (including any sapling or shrub, or any scrub),
  - (b) understorey plants,
  - (c) groundcover (being any type of herbaceous vegetation),
  - (d) plants occurring in a wetland.
- (2) Vegetation is **indigenous** if it is of a species of vegetation, or if it comprises species of vegetation, that existed in the State before European settlement.
- (3) **Native vegetation** does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the *Fisheries Management Act 1994* applies.

**natural water-based aquaculture** means aquaculture undertaken in natural waterbodies (including any part of the aquaculture undertaken in tanks, ponds or other facilities such as during hatchery or depuration phases).

**Note.** Typical natural water-based aquaculture is fin fish culture in cages and oyster, mussel or scallop culture on or in racks, lines or cages.

**navigable waterway** means any waterway that is from time to time capable of navigation and is open to or used by the public for navigation, but does not include flood waters that have temporarily flowed over the established bank of a watercourse.

**neighbourhood shop** means retail premises used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

**Note.** See clause 5.4 for controls relating to the retail floor area.

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**nightclub** means premises specified in a nightclub licence under the *Liquor Act 1982*.

**non-potable water** means water that does not meet the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

**NSW Coastal Policy** means the publication titled *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*, published by the Government.

**offensive industry** means any development for the purpose of an industry that would, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

**offensive storage establishment** means any establishment where goods, materials or products are stored and that would, when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

**office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

**operational land** has the same meaning as in the *Local Government Act 1993*.

**parking space** means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park.

**passenger transport facility** means a building or place used for the assembly or dispersal of passengers by any form of transport, including facilities required for parking, manoeuvring, storage or routine servicing of any vehicle that uses the building or place.

**place of Aboriginal heritage significance** means an area of land shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or

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- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

**place of public entertainment** has the same meaning as in the Act.

**Note.** The term is defined as follows:

**place of public entertainment** means:

- (a) any theatre or cinema (including a drive-in or open-air theatre or cinema) that is used or intended to be used for the purpose of providing public entertainment, or
- (b) any premises the subject of a licence under the *Liquor Act 1982* or a certificate of registration under the *Registered Clubs Act 1976*, that are used or intended to be used for the purpose of providing entertainment, including public entertainment, but not including amusement provided by means of an approved gaming machine within the meaning of the *Gaming Machines Act 2001*, or
- (c) any public hall that is used or intended to be used for the purpose of providing public entertainment.

**place of public worship** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

**pond-based aquaculture** means aquaculture undertaken in structures that are constructed by excavating and reshaping earth, which may be earthen or lined, and includes any part of the aquaculture undertaken in tanks, such as during the hatchery or pre-market conditioning phases, but does not include natural water-based aquaculture.

**Note.** Typical pond-based aquaculture is the pond culture of prawns, yabbies or silver perch.

**port facilities** means any of the following facilities at or in the vicinity of a designated port within the meaning of section 47 of the *Ports and Maritime Administration Act 1995*:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

**potable water** means water that meets the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

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**private open space** means an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building.

**property vegetation plan** has the same meaning as in the *Native Vegetation Act 2003*.

**Note.**The term is defined as follows:

**property vegetation plan** means a property vegetation plan that has been approved under Part 4 of the *Native Vegetation Act 2003*.

**pub** means licensed premises under the *Liquor Act 1982* the principal purpose of which is the sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold on the premises.

**public administration building** means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.

**public authority** has the same meaning as in the Act.

**public entertainment** has the same meaning as in the Act.

**Note.**The term is defined as follows:

**public entertainment** means entertainment to which admission may ordinarily be gained by members of the public on payment of money or other consideration:

- (a) whether or not some (but not all) persons are admitted free of charge, and
- (b) whether or not the money or other consideration is demanded:
  - (i) as a charge for a meal or other refreshment before admission is granted, or
  - (ii) as a charge for the entertainment after admission is granted.

**public land** has the same meaning as in the *Local Government Act 1993*.

**Note.**The term is defined as follows:

**public land** means any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the *Crown Lands Act 1989* applies, or
- (c) a common, or
- (d) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
- (e) a regional park under the *National Parks and Wildlife Act 1974*.

**public reserve** has the same meaning as in the *Local Government Act 1993*.

**public utility infrastructure** includes infrastructure for any of the following:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage.

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**public utility undertaking** means any of the following undertakings carried on or permitted to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, electricity supply authority, Government Department, corporation, firm or authority carrying on the undertaking.

**rainwater tank** means a tank designed for the storage of rainwater gathered on the land on which the tank is situated.

**recreation area** means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

**recreation facility (major)** means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes sports stadiums, showgrounds, racecourses and motor racing tracks.

**recreation facility (outdoor)** means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

**Reduced Level (RL)** means height above the Australian Height Datum, being the datum surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971.

**registered club** means a club in respect of which a certificate of registration under the *Registered Clubs Act 1976* is in force.

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**relic** means any deposit, object or other material evidence of human habitation:

- (a) that relates to the settlement of the area of Liverpool, not being Aboriginal settlement, and
- (b) that is more than 50 years old, and
- (c) that is a fixture or is wholly or partly within the ground.

**research station** means a building or place operated by a public authority for the principal purpose of agricultural, environmental, fisheries, forestry, minerals or soil conservation research, and includes any associated facility for education, training, administration or accommodation.

**residential accommodation** means a building or place used predominantly as a place of residence, but does not include tourist and visitor accommodation.

**residential care facility** means accommodation for seniors (people aged 55 years or more) or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hospital or psychiatric facility.

**residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

**resource recovery facility** means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

**restaurant** means a building or place the principal purpose of which is the provision of food or beverages to people for consumption on the premises and that may also provide takeaway meals and beverages.

**restricted dairy** means a dairy (other than a dairy (pasture-based)) where restriction facilities are present in addition to milking sheds and holding yards, and where cattle have access to grazing for less than 10 hours in any 24 hour period (excluding during periods of drought or similar emergency relief). A restricted dairy may comprise the whole or part of a restriction facility.

**restricted premises** means business premises or retail premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises but does not include hotel or motel accommodation, a pub, home occupation (sex services) or sex services premises.

**restriction facilities** means facilities where animals are constrained for management purposes, including milking sheds, pads, feed stalls, holding yards and paddocks where the number of livestock exceeds the ability of vegetation to recover from the



## Liverpool Local Environmental Plan 2008

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effects of grazing in a normal growing season, but does not include facilities for drought or similar emergency relief.

**retail premises** means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

**road** means a public road or a private road within the meaning of the *Roads Act 1993*, and includes a classified road.

**roadside stall** means a place or temporary structure used for retail selling of agricultural produce or hand crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property.

**Note.** See clause 5.4 for controls relating to the gross floor area.

**rural industry** means an industry that involves the handling, treating, production, processing or packing of animal or plant agricultural products, and includes:

- (a) agricultural produce industry, or
- (b) livestock processing industry, or
- (c) use of composting facilities and works (including to produce mushroom substrate), or
- (d) use of sawmill or log processing works, or
- (e) use of stock and sale yards, or
- (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise,

undertaken for commercial purposes.

**rural supplies** means a building or place used for the display, sale (whether by retail or wholesale) or hire of stockfeeds, grains, seed, fertilizers, veterinary supplies and other goods or materials used in farming and primary industry production.

**rural worker's dwelling** means a dwelling, ancillary to a dwelling house on the same landholding, used as the principal place of residence by persons employed for the purpose of agriculture or a rural industry on that land.

**sawmill or log processing works** means a building or place used for handling, cutting, chipping, pulping or otherwise processing logs, baulks, branches or stumps, principally derived from surrounding districts, into timber or other products derived from wood.

**school** means a government school or non-government school within the meaning of the *Education Act 1990*.

**secondary dwelling** means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and



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(c) is located within, or is attached to, or is separate from, the principal dwelling.

**Note.** See clause 5.4 for controls relating to the total floor area.

**self-storage units** means storage premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

**semi-detached dwelling** means a dwelling that is on its own lot of land (not being an individual lot in a strata plan or community title scheme) and is attached to only one other dwelling.

**seniors housing** means residential accommodation that consists of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

and that is, or is intended to be, used permanently for:

- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the residential accommodation or in the provision of services to persons living in the accommodation,

but does not include a hospital.

**service station** means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

**serviced apartment** means a building or part of a building providing self-contained tourist and visitor accommodation that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

**sewage reticulation system** means a building or place used for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of the treated waste for use or disposal, including associated:

- (a) pipelines and tunnels, and
- (b) pumping stations, and
- (c) dosing facilities, and

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- (d) odour control works, and
  - (e) sewage overflow structures, and
  - (f) vent stacks.

**sewage treatment plant** means a building or place used for the treatment and disposal of sewage, whether or not the facility supplies recycled water for use as an alternative water supply.

**sewerage system** means a biosolids treatment facility, sewage reticulation system, sewage treatment plant, water recycling facility, or any combination of these.

**sex services** means sexual acts or sexual services in exchange for payment.

**sex services premises** means a brothel, but does not include home occupation (sex services).

**shop** means retail premises that sell groceries, personal care products, clothing, music, homewares, stationary, electrical goods or other items of general merchandise, and may include a neighbourhood shop, but does not include food and drink premises or restricted premises.

**shop top housing** means one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises.

**signage** means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes:

- (a) building identification signs, and
- (b) business identification signs, and
- (c) advertisements,

but does not include traffic signs or traffic control facilities.

**site area** means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Plan.

**Note.** The effect of this definition is varied by clause 4.5 for the purpose of the determination of permitted floor space area for proposed development.

**site coverage** means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- (a) any basement,
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (c) any eaves,
- (d) unenclosed balconies, decks, pergolas and the like.

**spa pool** has the same meaning as in the *Swimming Pools Act 1992*.

**Note.** The term is defined to include any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.

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***stock and sale yard*** means a building or place used on a commercial basis for the purpose of offering livestock or poultry for sale and may be used for the short-term storage and watering of stock.

***storage premises*** means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any business premises or retail premises on the same parcel of land.

***storey*** means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic.

***swimming pool*** has the same meaning as in the *Swimming Pools Act 1992*.

**Note.** The term is defined as follows:

***swimming pool*** means an excavation, structure or vessel:

- (a) that is capable of being filled with water to a depth of 300 millimetres or more, and
- (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,

and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations made under the *Swimming Pools Act 1992* not to be a swimming pool for the purposes of that Act.

***take away food and drink premises*** means food and drink premises that are predominantly used for the preparation and sale of food or drink (or both) for immediate consumption away from the premises.

***tank-based aquaculture*** means aquaculture utilising structures that are constructed from materials such as fibreglass, plastics, concrete, glass or metals, are usually situated either wholly or partly above ground, and may be contained within a purpose built farm or industrial style sheds or plastic covered hothouse to assist in controlling environmental factors.

***telecommunications facility*** means:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, equipment, apparatus, tower, mast, antenna, tunnel, duct, hole, pit, pole or other structure or thing used, or to be used, in or in connection with a telecommunications network.

***telecommunications network*** means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

***temporary structure*** has the same meaning as in the Act.

**Note.** The term is defined as follows:

***temporary structure*** includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

## Liverpool Local Environmental Plan 2008

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**the Act** means the *Environmental Planning and Assessment Act 1979*.

**timber and building supplies** means a building or place used for the display, sale (whether by retail or wholesale) or hire of goods or materials that are used in the construction and maintenance of buildings.

**tourist and visitor accommodation** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel or motel accommodation, serviced apartments, bed and breakfast accommodation and backpackers' accommodation.

**transport depot** means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a passenger transport undertaking, business, industry or shop.

**truck depot** means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.

**turf farming** means the commercial cultivation of turf for sale and the removal of turf for that purpose.

**urban release area** means an area of land shown hatched and lettered "Urban Release Area" on the Urban Release Area Map.

**Urban Release Area Map** means the Liverpool Local Environmental Plan 2008 Urban Release Area Map.

**vehicle body repair workshop** means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration.

**vehicle repair station** means a building or place used for the purpose of carrying out repairs or the selling of, and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop.

**vehicle sales or hire premises** means a building or place used for the display, sale (whether by retail or wholesale) or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there.

**veterinary hospital** means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

**viticulture** means the cultivation of grapes for commercial purposes for use in the production of fresh or dried fruit or wine.

**warehouse or distribution centre** means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

**waste disposal facility** means a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling, resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

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**waste management facility** means a facility used for the storage, treatment, purifying or disposal of waste, whether or not it is also used for the sorting, processing, recycling, recovering, use or reuse of material from that waste, and whether or not any such operations are carried out on a commercial basis. It may include but is not limited to:

- (a) an extractive industry ancillary to, required for or associated with the preparation or remediation of the site for such storage, treatment, purifying or disposal, and
- (b) eco-generating works ancillary to or associated with such storage, treatment, purifying or disposal.

**waste or resource management facility** means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

**waste or resource transfer station** means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

**water recreation structure** means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

**water recycling facility** means a building or place used for the treatment of sewage effluent, stormwater or waste water for use as an alternative supply to mains water, groundwater or river water (including, in particular, sewer mining works), whether the facility stands alone or is associated with other development, and includes associated:

- (a) retention structures, and
- (b) treatment works, and
- (c) irrigation schemes.

**water reticulation system** means a building or place used for the transport of water, including pipes, tunnels, canals, pumping stations, related electricity infrastructure, dosing facilities and water supply reservoirs.

**water storage facility** means a dam, weir or reservoir for the collection and storage of water, and includes associated monitoring or gauging equipment.

**water supply system** means a water reticulation system, water storage facility, water treatment facility, or any combination of these.

**water treatment facility** means a building or place used for the treatment of water (such as a desalination plant or a recycled or reclaimed water plant) whether the water produced is potable or not, and includes residuals treatment, storage and disposal facilities, but does not include a water recycling facility.

**waterbody** means a waterbody (artificial) or waterbody (natural).

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**waterbody (artificial)** or **artificial waterbody** means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

**waterbody (natural)** or **natural waterbody** means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

**watercourse** means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

**waterway** means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

**wetland** means:

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or
- (b) artificial wetland, including marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

**wholesale supplies** means a building or place used for the display, sale or hire of goods or materials by wholesale only to businesses that have an Australian Business Number registered under the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth.



## Department of Primary Industries

### COAL MINE HEALTH AND SAFETY ACT 2002

#### Instrument of Appointment

I, ALAN COUTTS, Deputy Director-General, Mineral Resources, pursuant to section 148 of the Coal Mine Health and Safety Act 2002 ("the Act") and with the delegated authority of the Minister for Mineral Resources and the Director-General of the NSW Department of Primary Industries pursuant to sections 212 and 214 of the Act, hereby appoint William BARRACLOUGH, an inspector appointed under the Act, to exercise the functions of the Chief Inspector under the Act, from midnight Friday, 22 August 2008, to midnight Tuesday, 3 September 2008.

Dated this 22nd day of August 2008.

ALAN COUTTS,  
Deputy Director-General,  
Mineral Resources,  
NSW Department of Primary Industries

### FISHERIES MANAGEMENT ACT 1994

#### FISHERIES MANAGEMENT (AQUACULTURE) REGULATION 2007

##### Notice of Receipt of Application for Aquaculture Lease

Notification under s.163 (7) of the Fisheries Management Act 1994 and cl.33 of the Fisheries Management (Aquaculture) Regulation 2007

NSW Department of Primary Industries (NSW DPI) advises an application has been received for five (5) new aquaculture leases over public water land for the purpose of cultivating Sydney rock and triploid Pacific oysters. Location is the Hawkesbury River, described as follows:

- 2.3719 hectares over former oyster lease OL60/062
- 1.65 hectares over former oyster lease OL60/133
- 4.9078 hectares over former oyster lease OL68/103
- 0.2018 hectares over former oyster lease OL78/153
- 0.5712 hectares over former oyster lease OL88/038

NSW DPI is calling for written submissions from any person supporting or objecting to the oyster lease proposals, citing reasons for the support/objection. NSW DPI is also calling for expressions of interest from persons or corporations interested in leasing the areas specified above, for the purpose of aquaculture. An expression of interest must be in the form of a written response referring to lease numbers OL60/062, OL60/133, OL68/103, OL78/153 and/or OL88/038 to be signed and dated with a return address. If additional expressions of interest are received, NSW DPI may offer the areas for leasing through a competitive public tender process, auction or ballot.

If granted the leases will be subject to standard covenants and conditions of an aquaculture lease and aquaculture permit, under the Fisheries Management Act 1994. Specific details of the proposed leases can be obtained, or enquiries made with NSW DPI, Aquaculture Administration Section, Port Stephens on (02) 4982 1232. Objections or expressions

of interest for consideration in the determination of the applications must be received at the address below, within 30 days from the date of publication of this notification.

Director,  
Fisheries Conservation and Aquaculture Branch,  
Aquaculture Administration Section,  
Port Stephens Fisheries Centre,  
Locked Bag 1, Nelson Bay NSW 2315.

BILL TALBOT,  
Director,  
Fisheries Conservation and Aquaculture,  
Fisheries, Compliance and Regional Relations,  
NSW Department of Primary Industries

### FISHERIES MANAGEMENT ACT 1994

#### FISHERIES MANAGEMENT (AQUACULTURE) REGULATION 2007

##### Notice of Receipt of Application for Aquaculture Lease

Notification under s.163 (7) of the Fisheries Management Act 1994 and cl.33 of the Fisheries Management (Aquaculture) Regulation 2007

NSW Department of Primary Industries (NSW DPI) advises an application has been received for a new aquaculture lease over public water land for the purpose of cultivating Sydney rock oysters. Location is the Pambula River, described as follows:

- 0.0709 hectares over former oyster lease OL59/257

NSW DPI is calling for written submissions from any person supporting or objecting to the oyster lease proposal, citing reasons for the support/objection. NSW DPI is also calling for expressions of interest from persons or corporations interested in leasing the area specified above, for the purpose of aquaculture. An expression of interest must be in the form of a written response referring to lease number OL59/257 to be signed and dated with a return address. If additional expressions of interest are received, NSW DPI may offer the area for leasing through a competitive public tender process, auction or ballot.

If granted the lease will be subject to standard covenants and conditions of an aquaculture lease and aquaculture permit, under the Fisheries Management Act 1994. Specific details of the proposed lease can be obtained, or enquiries made with NSW DPI, Aquaculture Administration Section, Port Stephens on (02) 4982 1232. Objections or expressions of interest for consideration in the determination of the application must be received at the address below, within 30 days from the date of publication of this notification.

Director,  
Fisheries Conservation and Aquaculture Branch,  
Aquaculture Administration Section,  
Port Stephens Fisheries Centre,  
Locked Bag 1, Nelson Bay NSW 2315.

BILL TALBOT,  
Director,  
Fisheries Conservation and Aquaculture,  
Fisheries, Compliance and Regional Relations,  
NSW Department of Primary Industries

**FISHERIES MANAGEMENT ACT 1994****FISHERIES MANAGEMENT (AQUACULTURE)  
REGULATION 2007**

Notice of Receipt of Application for Aquaculture Lease  
Notification under s.163 (7) of the Fisheries Management  
Act 1994 and Cl.33 of the Fisheries Management  
(Aquaculture) Regulation 2007

NSW Department of Primary Industries (NSW DPI) advises an application has been received for a new aquaculture lease over public water land for the purpose of cultivating Sydney rock oysters. Location is the Hastings River, described as follows:

- Approx. 0.2 hectares over previously unleased ground, north of oyster lease OL57/194 (to be known as AL08/017, if granted)

NSW DPI is calling for written submissions from any person supporting or objecting to the oyster lease proposal, citing reasons for the support/objection. NSW DPI is also calling for expressions of interest from persons or corporations interested in leasing the area specified above, for the purpose of aquaculture. An expression of interest must be in the form of a written response referring to lease number AL08/017 to be signed and dated with a return address.

If additional expressions of interest are received, NSW DPI may offer the area for leasing through a competitive public tender process, auction or ballot. The applicant will be required to obtain development consent from Council under Part 4 of the Environmental Planning and Assessment Act 1979. If granted, the lease will be subject to standard covenants and conditions of an aquaculture lease and aquaculture permit, under the Fisheries Management Act 1994, and any conditions of consent as imposed by Council.

Specific details of the proposed lease can be obtained, or enquiries made with NSW DPI, Aquaculture Administration Section, Port Stephens on (02) 4982 1232. Objections or expressions of interest for consideration in the determination of the application must be received at the address below, within 30 days from the date of publication of this notification.

Director,  
Fisheries Conservation and Aquaculture Branch,  
Aquaculture Administration Section,  
Port Stephens Fisheries Centre,  
Locked Bag 1, Nelson Bay NSW 2315.

BILL TALBOT,  
Director,  
Fisheries Conservation and Aquaculture,  
Fisheries, Compliance and Regional Relations,  
NSW Department of Primary Industries

**FISHERIES MANAGEMENT ACT 1994**

Section 8 Notification – Fishing Closure

Pipis, Cockles and Whelks  
Simpson's Bay Beach to Costens Point

I, DOUGLAS FRAZER HOCKING, Executive Director, Fisheries, Compliance and Regional Relations, pursuant to section 8 of the Fisheries Management Act 1994 (“the Act”) and with the delegated authority of the Minister for Primary Industries and the Director-General of the NSW Department

of Primary Industries pursuant to sections 227 and 228 of the Act, do by this notification, prohibit the taking of pipis (of any species), cockles (of any species) and whelks (of any species) by all methods, from the waters described below.

This Notification is effective for a period of 5 years from the date of publication.

Dated: 25 August 2008.

D. F. HOCKING,  
Executive Director,  
Fisheries, Compliance and Regional Relations,  
NSW Department of Primary Industries

**Waters**

The whole of the foreshore of Port Hacking from the east end of Simpson's Bay Beach generally west to the most northern end of Costens Point. This area includes the foreshore extending from the mean high water mark to 100 metres horizontally seaward from the mean low water mark.

**MINE HEALTH AND SAFETY ACT 2004**

## Instrument of Delegation

I, RICHARD SHELDRAKE, Director-General, NSW Department of Primary Industries, do by this instrument:

1. pursuant to section 184(1) of the Mine Health and Safety Act 2004 (“the Act”) delegate the functions conferred or imposed on me
  - a. by the provisions of the Act specified in Column 1 of Schedule 1 to this instrument of delegation to the authorised persons who from time to time hold, occupy or perform the duties of the NSW Department of Primary Industries positions listed opposite in Column 3 of Schedule 1; and
  - b. by the provisions of the Mine Health and Safety Regulation 2007 (“the Regulation”) specified in Column 1 of Schedule 2 to this instrument of delegation to the authorised persons who from time to time hold, occupy or perform the duties of the NSW Department of Primary Industries positions listed opposite in Column 3 of Schedule 2.
2. pursuant to section 184(2) of the Act, subdelegate the functions delegated to me by the Minister for Primary Industries pursuant to section 182 of the Act and:
  - (a) by the provisions of the Act specified in Column 1 of Schedule 3 to this instrument of delegation to the authorised persons who from time to time hold, occupy or perform the duties of the NSW Department of Primary Industries positions listed opposite in Column 3 of Schedule 3
  - (b) by the provisions of the Regulation specified in Column 1 of Schedule 4 to this instrument of delegation to the authorised persons who from time to time hold, occupy or perform the duties of the NSW Department of Primary Industries positions listed opposite in Column 3 of Schedule 4;

In this instrument of delegation –

- “function” includes power, authority or duty, and



- the description of "Subject" in Column 2 of the Schedules below is for general explanation and does not limit the delegation of functions under the provisions of the Act and Regulation specified in Column 1 of the Schedules.

## Schedule 1

<i>Column 1 Section</i>	<i>Column 2 Subject</i>	<i>Column 3 Delegate</i>
103	Consultation about modification of action affected by stop work order	Deputy Director-General NSW Department of Primary Industries - Mineral Resources Chief Inspector
162	Publication, commencement and availability of codes of practice	Deputy Director-General NSW Department of Primary Industries - Mineral Resources Chief Inspector

## Schedule 2

<i>Column 1 Clause</i>	<i>Column 2 Subject</i>	<i>Column 3 Delegate</i>
28	Director General to establish register of production permits	Chief Inspector
103	Plans of mines to be abandoned to be sent to the Director General	Chief Inspector Manager, Mineral Titles and Lightning Ridge.
125(3)(b) & (4)	Declaration that a person's competence is not recognised	Deputy Director-General NSW Department of Primary Industries - Mineral Resources.

## Schedule 3

<i>Column 1 Section</i>	<i>Column 2 Subject</i>	<i>Column 3 Delegate</i>
85	Issue of tourist and educational permits	Chief Inspector
86	Revocation or variation of permits	Chief Inspector
100(5)	Delegate authority to give notice or provide or affix notice of stop work order	Chief Inspector
118	Minister may grant certificates of competence	Chief Inspector
127	Appointment of Government Officials	Deputy Director-General NSW Department of Primary Industries - Mineral Resources

128	Minister considers qualification of inspectors	Deputy Director-General NSW Department of Primary Industries - Mineral Resources
129	Appointment of consultants as investigators	Deputy Director-General NSW Department of Primary Industries - Mineral Resources
159	Minister may prepare, or cause to be prepared draft codes of practice	Deputy Director-General NSW Department of Primary Industries - Mineral Resources Chief Inspector
160	Minister may arrange consultation on draft codes of practice	Deputy Director-General NSW Department of Primary Industries - Mineral Resources Chief Inspector
188	Minister may determine fees and charges payable	Deputy Director-General NSW Department of Primary Industries - Mineral Resources

## Schedule 4

<i>Column 1 Clause</i>	<i>Column 2 Subject</i>	<i>Column 3 Delegate</i>
118	Replacement of certificates of competence	Chief Inspector
121	Suspension or cancellation of certificates of competence	Chief Inspector
124	Application for restoration of certificate of competence	Chief Inspector
168	Determination of fees and charges by the Minister	Deputy Director-General NSW Department of Primary Industries - Mineral Resources

This instrument takes effect on 1 September 2008.

Dated this 27th day of August 2008.

RICHARD SHELDRAKE,  
Director-General,  
NSW Department of Primary Industries

**MINE HEALTH AND SAFETY ACT 2004**

Instrument of Delegation from the Minister to an Inspector I, IAN MACDONALD, M.L.C., Minister for Mineral Resources, pursuant to section 100(5) of the Mine Health and Safety Act 2004 (the Act), delegate to an inspector appointed

under section 127 of the Act the function of giving notice or providing or affixing copies of an order under section 100 of the Act.

This instrument is effective from the 1st September 2008, being the commencement of the Mine Health and Safety Act 2004.

Dated this 25th day of August 2008.

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

#### MINE HEALTH AND SAFETY ACT 2004

Instrument of Delegation from the Minister to the Metalliferous Mines and Extractive Industries Competence Board

I, IAN MACDONALD, M.L.C., Minister for Mineral Resources, pursuant to section 182(2) of the Mine Health and Safety Act 2004 ("the Act"), do by this instrument delegate to the Metalliferous Mines and Extractive Industries Competence Board constituted under section 112 of the Act, the functions conferred or imposed on me:

1. under the Act as specified in Column 1 of Schedule 1 to this instrument of delegation; and
2. under the Mine Health and Safety Regulation 2007 as specified in Column 1 of Schedule 2 to this instrument of delegation.

In this instrument of delegation—

- "function" includes power, authority or duty, and
- the description of "Subject" in Column 2 of Schedules 1 and 2 below is for general explanation and does not limit the delegation of functions under the provisions of the Act and Regulation specified in Column 1.

#### Schedule 1

<i>Column 1 Section</i>	<i>Column 2 Subject</i>
118	Minister may grant certificates of competence

#### Schedule 2

<i>Column 1 Clause</i>	<i>Column 2 Subject</i>
118	Replacement of certificates of competence
121	Suspension or cancellation of certificates of competence
124	Application for restoration of certificate of competence

This instrument is effective from the 1st September 2008 being the commencement of the *Mine Health and Safety Act 2004*.

Dated this 25th day of August 2008.

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

#### MINE HEALTH AND SAFETY ACT 2004

Instrument of Delegation from the Minister to the Director-General

I, IAN MACDONALD, M.L.C., Minister for Mineral Resources, do by this instrument:

1. pursuant to section 182(1) of the Mine Health and Safety Act 2004 ("the Act"), delegate to the Director-General, NSW Department of Primary Industries the functions conferred or imposed on me:
  - (a) under the Act as specified in Column 1 of Schedule 1 to this instrument of delegation;
  - (b) under the Mine Health and Safety Regulation 2007 as specified in Column 1 of Schedule 2 to this instrument of delegation;
2. pursuant to section 184(2) of the Act, authorise the Director-General, NSW Department of Primary Industries to subdelegate to any authorised person any function delegated to the Director-General under this instrument of delegation.

In this instrument of delegation –

- "authorised person" has the same meaning as in section 184(3) of the Act,
- "function" includes power, authority or duty, and
- the description of "Subject" in column 2 of Schedule 1 and 2 below is for general explanation and does not limit the delegation of (or authorisation to subdelegate) functions under the provisions of the Act and Regulation specified in Column 1.

#### Schedule 1

<i>Column 1 Section</i>	<i>Column 2 Subject</i>
85	Issue of tourist and educational permits
86	Revocation or variation of permits
100(5)	Giving notice or providing or affixing notice of stop work order
118	Minister may grant certificates of competence
127	Appointment of Government Officials
128	Minister considers qualification of inspectors
129	Appointment of consultants as investigators
159	Minister may prepare, or cause to be prepared draft codes of practice
160	Minister may arrange consultation on draft codes of practice
188	Minister may determine fees and charges payable

#### Schedule 2

<i>Column 1 Clause</i>	<i>Column 2 Summary of function</i>
118	Replacement of certificates of competence
121	Suspension or cancellation of certificates of competence

124	Restoration of certificates of competence
168	Determination of fees and charges by the Minister

This instrument is effective from the 1st September 2008 being the commencement of the Mine Health and Safety Act 2004.

Dated this 25th day of August 2008.

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

#### MINE HEALTH AND SAFETY ACT 2004

#### MINE HEALTH AND SAFETY REGULATION 2007

##### Exemption – Appointment of a Production Manager Order No. 2

I, ROBERT REGAN, Chief Inspector under the Mines Health and Safety Act 2004, pursuant to Clause 166 (1) and (2) of the Mine Health and Safety Regulation 2007 (the Regulation), make the following Exemption Order as specified in the Schedule below.

Words and expressions used in this Order have the same meanings as in relevant provisions of the Mine Health and Safety Act 2004 (the Act) and the Regulation.

#### SCHEDULE

##### 1.0 Exemption

Subject to the conditions and for the period (if any, as applicable to the matter) specified in 2.0, this Order exempts an operator of a mine from complying with clause 16(1), to the extent that that provision requires a production manager to be appointed for the mine to supervise any extraction.

##### 2.0 Application, conditions and duration of exemptions

2.1 This exemption applies to the appointment of a production manager at a mine only if a person who holds the specified evidence of competence required to perform the functions of a production manager (as specified in clause 109 of the Regulation), is not available to supervise the extraction at the mine.

##### 2.2 The operator of a mine must:

- (a) ensure that a competent person is nominated in the management structure (as required under section 35 of the Act), for the purposes of supervising the extraction at that mine, and
- (b) be satisfied that the nominated person is competent to supervise the extraction at the mine and is eligible for a permit pursuant to clause 21(a) and clause 21(b), and
- (c) notify the Chief Inspector in writing in the specified form.

2.3 Supervision of extraction at a mine by a person other than a person who holds the specified evidence of competence to perform the functions of a production manager, must not be for a period exceeding two months (whether consecutive or non-consecutive) in any one year.

2.4 The exemption in clause 1.0 does not apply if a notice served on the operator pursuant to clause 17 of the Regulation, is in force in respect of the mine.

2.5 The exemption made by this Order remains in force for five years from the date of its commencement.

This Order commences on 1 September 2008.

Dated this 19th day of August 2008.

ROBERT REGAN,  
Chief Inspector,  
Department of Primary Industries

#### MINE HEALTH AND SAFETY ACT 2004

#### MINE HEALTH AND SAFETY REGULATION 2007

##### Exemption – Return of Production Managers Permits to the Chief Inspector Order No. 1

I, ROBERT REGAN, Chief Inspector under the Mine Health and Safety Act 2004 (“the Act”), pursuant to clause 166 (1) and (2) of the Mine Health and Safety Regulation 2007 (“the Regulation”), make the following Exemption Order as specified in the Schedule below.

Words and expressions used in this Order have the same meanings as in relevant provisions of the Act and the Regulation.

#### SCHEDULE

##### 1.0 Exemption

Subject to the conditions and for the period (if any, as applicable to the matter) specified in 2.0, this Order exempts a person who is the holder of a production manager permit, from complying with clause 26(a), to the extent that that provision requires the holder to return the permit to the Chief Inspector within four weeks after ceasing to perform the functions of a production manager at the mine in relation to which the permit was issued.

This exemption allows more than one person to hold a production manager permit in respect of a mine at any one time.

##### 2.0 Application, conditions and duration of exemptions

2.1 This exemption only applies in relation to a permit that has not, at a date subsequent to when the holder ceased to perform the functions of a production manager at the relevant mine:

- (a) had any condition amended, or a further condition imposed, pursuant to clause 24 of the Regulation, or
- (b) been cancelled pursuant to clause 25 of the Regulation.

2.2 The exemption made by this Order remains in force for five years from the date of its commencement.

This Order commences on 1 September 2008.

Dated this 19th day of August 2008.

ROBERT REGAN,  
Chief Inspector,  
Department of Primary Industries

**STOCK DISEASES ACT 1923**

## Notification No. 1815

## Footrot Protected and Protected (Control) Areas – Goats

I, IAN MACDONALD, M.L.C., Minister for Primary Industries, pursuant to sections 3 (2) and 11A of the Stock Diseases Act 1923 (“the Act”):

- (a) revoke Stock Diseases Notification No. 1813 published in the *New South Wales Government Gazette* No. 87, of 11 July 2008, pages 6697-6698, and any Notification revived as a result of this revocation;
- (b) declare the lands described in Schedule A to be protected areas as regards the disease footrot in goats (those lands are referred to as “Footrot Protected Areas”, and are represented generally on the map titled “NSW Footrot Areas July 2008”);
- (c) declare the lands described in Schedule B to be protected (control) areas as regards the disease footrot in goats (those lands are referred to as “Footrot Protected (Control) Areas”, and are represented generally on the map titled “NSW Footrot Areas July 2008”);
- (d) prohibit a person from moving goats into any protected area or protected (control) area referred to in paragraphs(b) and (c), unless:
  - (i) the goats are moved in accordance with a permit under section 7 (6) of the Act; or
  - (ii) the goats are moved in accordance with an order under section 8 (1) (b) of the Act; or
  - (iii) all the requirements of section 20C (3) of the Act have been satisfied; or
  - (iv) the goats are infected with footrot but are being moved to a feedlot that:
    - transports all of its stock directly to slaughter; and
    - has been authorised in writing by the Director-General as a feedlot to which infected stock may be moved; or
  - (v) the goats are not infected with footrot and one or more of the following conditions are satisfied:
    - the goats are transported in a vehicle from any protected area referred to in paragraph (b) directly to any other protected area referred to in paragraph (b);
    - the goats are transported in a vehicle from any protected (control) area referred to in paragraph (c) directly to any other protected (control) area referred to in paragraph (c);
    - the goats are accompanied by a completed Owner/Vendor Declaration of Footrot Freedom form, as approved by the Deputy Director-General, Agriculture, Biosecurity and Mine Safety (“the declaration”), and that declaration is given to the person to whom the goats are delivered;
- (e) declare that, unless otherwise specified, in this Notification, a reference to a Rural Lands Protection District includes all land in that district, and a reference to a Division or part of a Division of a Rural Lands Protection District includes all land

in that Division or part of a Division. Rural Lands Protection Districts are established under the Rural Lands Protection Act 1998.

**SCHEDULE A**

## NSW Footrot Protected Areas – Goats

## North East Footrot Protected Area

The Rural Lands Protection Districts of Casino, Grafton, Kempsey and Tweed/Lismore.

## New England Footrot Protected Area

The Armidale Rural Lands Protection District and the Northern New England Rural Lands Protection District.

## North West Footrot Protected Area

The Rural Lands Protection Districts of Moree, Narrabri, Northern Slopes and Tamworth.

## Orana Footrot Protected Area

The Rural Lands Protection Districts of Coonabarabran, Coonamble, Dubbo, Mudgee/Merriwa, Nyngan and Walgett

## Central West Footrot Protected Area

The Rural Lands Protection Districts of Condobolin, Forbes, Molong, Young and Division A of the Central Tablelands Rural Lands Protection District.

## Hunter Footrot Protected Area

The Rural Lands Protection Districts of Gloucester, Hunter and Maitland.

## South East Footrot Protected Area

The Rural Lands Protection Districts of Bombala, Braidwood, Cooma, Goulburn, Moss Vale, South Coast and Yass.

## Riverina Footrot Protected Area

The Rural Lands Protection Districts of Hay, Hume, Riverina, Narrandera, Murray and Wagga Wagga, and Division A, and the parts of Divisions C and D that are within the Kosciuszko National Park, of the Gundagai Rural Lands Protection District.

## Western Division Footrot Protected Area

The Rural Lands Protection Districts of Balranald, Bourke, Brewarrina, Broken Hill, Cobar, Hillston, Milparinka, Wanaaring, Wentworth and Wilcannia.

**SCHEDULE B**

## NSW Footrot Protected (Control) Areas – Goats

## Central West Footrot Protected (Control) Area

Divisions B, C, D, E, F, G and H of the Central Tablelands Rural Lands Protection District.

## Riverina Footrot Protected (Control) Area

Division B, and the parts of Divisions C and D that are not within the Kosciuszko National Park, of the Gundagai Rural Lands Protection District.

## Notes

It is an offence under section 20H (1) (a) of the Act to contravene a provision of this Notification.

Maximum penalty for such an offence is \$11,000.



A Protected (Control) Area is an area with a moderate prevalence of a disease (section 11A (1A) of the Act). This is different to a Protected area, where there is a lower prevalence of a disease (section 11A (1B) of the Act).

A map of the Protected Areas and the Protected (Control) Areas with respect to footrot in sheep and goats is published on the NSW Department of Primary Industries internet website at <http://www.dpi.nsw.gov.au/agriculture/livestock/sheep/health/footrot/map>.

A person who receives a completed Owner/Vendor Declaration of Footrot Freedom form is advised to retain it as evidence of compliance with this Notification.

Notification No. 1815 is the NSW Department of Primary Industries' reference.

For further information, contact the NSW Department of Primary Industries on (02) 6391 3248.

Dated this 20th day of August 2008.

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

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### MINERAL RESOURCES

NOTICE is given that the following applications have been received:

#### PETROLEUM EXPLORATION LICENCE APPLICATIONS

(08-4934)

No. 104, NORWEST HYDROCARBONS PTY LTD (ACN 129 874 951), area of 136 blocks, dated 16 June 2008. (Eromanga Basin).

(T08-0153)

No. 105, LEICHHARDT RESOURCES PTY LTD (ACN 125 844 448), area of 24 blocks, dated 25 June 2008. (Sydney Onshore Basin).

(T08-0154)

No. 106, LEICHHARDT RESOURCES PTY LTD (ACN 125 844 448), area of 45 blocks, dated 25 June 2008. (Sydney Onshore Basin).

(T08-0155)

No. 107, LEICHHARDT RESOURCES PTY LTD (ACN 125 844 448), area of 10 blocks, dated 25 June 2008. (Gunnedah Basin).

(T08-0159)

No. 108, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042), area of 140 blocks, dated 18 July 2008. (Murray Darling Basin).

(T08-0160)

No. 109, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042), area of 140 blocks, dated 18 July 2008. (Murray Darling Basin).

(T08-0161)

No. 110, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042), area of 140 blocks, dated 18 July 2008. (Murray Darling Basin).

#### PETROLEUM SPECIAL PROSPECTING AUTHORITY APPLICATIONS

(08-4754)

No. 36, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042), area of 36 blocks, dated 13 June 2008. (Not located within an identified Basin).

(T08-0156)

No. 37, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042), area of 63 blocks, dated 27 June 2008. (Murray Basin).

(T08-0158)

No. 38, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042), area of 197 blocks, dated 15 July 2008. (Murray Darling Basin).

#### PETROLEUM ASSESSMENT LEASE APPLICATIONS

(T08-0162)

No. 5, AUSTRALIAN COALBED METHANE PTY LIMITED (ACN 002 606 288), area of 250 square kilometres, dated 12 August 2008. (Gunnedah Basin).

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

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### EXPLORATION LICENCE APPLICATIONS

(T08-0102)

No. 3504, ORESUM LIMITED (ACN 129 712 465), area of 92 units, for Group 1 and Group 2, dated 6 June 2008. (Inverell Mining Division).

(T08-0205)

No. 3579, AUSTRALIAN BAUXITE (INVERELL) PTY LTD (ACN 008701255), area of 68 units, for Group 2, dated 13 August 2008. (Inverell Mining Division).

(T08-0206)

No. 3580, BLUEKEBBLE PTY LTD (ACN 116 958 508), area of 10 units, for Group 2, dated 14 August 2008. (Sydney Mining Division).

(T08-0207)

No. 3581, HUDSON RESOURCES LIMITED (ACN 008 720 965), area of 99 units, for Group 2, dated 20 August 2008. (Sydney Mining Division).

(T08-0208)

No. 3582, HUDSON RESOURCES LIMITED (ACN 008 720 965), area of 90 units, for Group 2, dated 20 August 2008. (Sydney Mining Division).

(T08-0209)

No. 3583, HUDSON RESOURCES LIMITED (ACN 008 720 965), area of 78 units, for Group 2, dated 20 August 2008. (Sydney Mining Division).

(T08-0210)

No. 3584, SILVER CITY MINING LIMITED (ACN 130 933 309), area of 41 units, for Group 1, dated 22 August 2008. (Broken Hill Mining Division).

(T08-0211)

No. 3585, SILVER CITY MINING LIMITED (ACN 130 933 309), area of 48 units, for Group 1, dated 22 August 2008. (Broken Hill Mining Division).

(T08-0212)

No. 3586, SILVER CITY MINING LIMITED (ACN 130 933 309), area of 73 units, for Group 1, dated 22 August 2008. (Broken Hill Mining Division).

(T08-0213)

No. 3587, RIMFIRE AUSTRALIA PTY LTD (ACN 121 382 554), area of 33 units, for Group 1, dated 25 August 2008. (Orange Mining Division).

(T08-0214)

No. 3588, BANLONA PTY LIMITED (ACN 106 665 767), area of 23 units, for Group 1, dated 26 August 2008. (Inverell Mining Division).

#### **MINING LEASE APPLICATION**

(08-3604)

No. 323, COAL AND ALLIED OPERATIONS PTY LIMITED (ACN 000 023 656), area of about 45.1 square kilometres, to mine for coal, dated 12 August 2008. (Singleton Mining Division).

NOTICE is given that the following application has been received:

#### **CANCELLATION**

T03-0032

Application for cancellation of Exploration Licence No 6283 (Act 1992), by the holder WILSON GEMS & INVESTMENTS PTY LTD (ACN 001 155 755), was received on 6 August 2008.

06-4195

Application for cancellation of Exploration Licence No 6756 (Act 1992), by the holder NEWCREST OPERATIONS LIMITED (ACN 009 221 505), was received on 25 August 2008.

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

NOTICE is given that the following applications have been granted:

#### **ASSESSMENT LEASE APPLICATION**

(07-344)

Broken Hill No. 42, now Assessment Lease No. 16, ILUKA RESOURCES LIMITED (ACN 008 675 018), Parish of Bingoo, County of Wentworth; Parish of Emu, County of Wentworth; Parish of Merche, County of Wentworth; Parish of Palinyewah, County of Wentworth; and Parish of Tugima, County of Wentworth, area of about 79.68 square kilometres, for ilmenite, leucogene, rutile and zircon, dated 9 July 2008, for a term until 9 July 2013. As a result of the grant of this title, Exploration Licence No. 5542 and Exploration Licence No. 5544 have partly ceased to have effect.

#### **EXPLORATION LICENCE APPLICATIONS**

(07-345)

No. 3243, now Exploration Licence No. 7189, TASMAN GOLDFIELDS NSW PTY LTD (ACN 124 228 473), Counties of Buccleuch, Clarendon, Harden and Wynyard, Map Sheet (8527), area of 100 units, for Group 1, dated 15 August 2008, for a term until 15 August 2010.

(07-346)

No. 3244, now Exploration Licence No. 7190, TASMAN GOLDFIELDS NSW PTY LTD (ACN 124 228 473), Counties of Clarendon and Wynyard, Map Sheet (8427, 8527), area of 80 units, for Group 1, dated 15 August 2008, for a term until 15 August 2010.

(T07-0464)

No. 3323, now Exploration Licence No. 7191, Nejat MACKALI, Counties of Barrona, Irrara, Thoulcanna and Ularara, Map Sheet (7638, 7738), area of 375 units, for Group 8, dated 21 August 2008, for a term until 21 August 2010.

(T07-0479)

No. 3338, now Exploration Licence No. 7183, RIDGE EXPLORATION PTY LTD (ACN 127215132), County of Rous, Map Sheet (9540, 9541), area of 23 units, for Group 1, dated 31 July 2008, for a term until 31 July 2010.

(T08-0040)

No. 3440, now Exploration Licence No. 7182, ST BARBARA LIMITED (ACN 009 165 066), Counties of Gowen, Lincoln and Napier, Map Sheet (8734), area of 100 units, for Group 1, dated 5 August 2008, for a term until 5 August 2010.

(T08-0042)

No. 3442, now Exploration Licence No. 7188, M. A. ROCHE GROUP PTY LTD (ACN 060 536 441) and Wallace George SAUL, Counties of Hawes and Macquarie, Map Sheet (9234, 9235, 9334, 9335), area of 73 units, for Group 1, dated 14 August 2008, for a term until 14 August 2010.

(T08-0072)

No. 3472, now Exploration Licence No. 7184, SCORPIO RESOURCES PTY LTD (ACN 109 158 769), County of Clarke, Map Sheet (9237, 9337), area of 89 units, for Group 1, dated 31 July 2008, for a term until 31 July 2010.

(T08-0073)

No. 3473, now Exploration Licence No. 7185, SCORPIO RESOURCES PTY LTD (ACN 109 158 769), County of Dudley, Map Sheet (9436), area of 48 units, for Group 1, dated 31 July 2008, for a term until 31 July 2010.

(T08-0079)

No. 3481, now Exploration Licence No. 7187, CALIBRE MINING (AUSTRALIA) PTY LTD (ACN 117 327 429), County of Cunningham, Map Sheet (8432), area of 7 units, for Group 1, dated 12 August 2008, for a term until 12 August 2010.

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

NOTICE is given that the following application has been refused:

#### **EXPLORATION LICENCE APPLICATION**

(07-241)

No. 3138, MUDGEES STONE CO. PTY LIMITED (ACN 100 974 365), County of Cook, County of Roxburgh and County of Westmoreland, Map Sheet (8830, 8831, 8930, 8931). Refusal took effect on 15 August 2008.

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

NOTICE is given that the following applications have been withdrawn:

**EXPLORATION LICENCE APPLICATIONS**

(T08-0061)

No. 3460, AUGUR RESOURCES LTD (ACN 106 879 690), County of Cunningham and County of Gipps, Map Sheet (8331). Withdrawal took effect on 18 August 2008.

(T08-0062)

No. 3461, AUGUR RESOURCES LTD (ACN 106 879 690), County of Gipps, Map Sheet (8331). Withdrawal took effect on 18 August 2008.

(T08-0088)

No. 3490, VOLCAN ALUMINA CORPORATION PTY LTD (ACN 130 185 885), County of Arrawatta, County of Burnett, County of Gough, County of Hardinge and County of Murchison, Map Sheet (9038, 9039, 9138, 9139). Withdrawal took effect on 2 July 2008.

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

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

(T04-0005)

Exploration Licence No. 6263, MALACHITE RESOURCES NL (ACN 075 613 268), area of 50 units. Application for renewal received 23 May 2008.

(05-5354)

Petroleum Exploration Licence No. 451, RED SKY ENERGY LIMITED (ACN 099 116 275), area of 105 blocks. Application for renewal received 3 July 2008.

(T98-1075)

Exploration Licence No. 5524, NEWCREST OPERATIONS LIMITED (ACN 009 221 505), area of 53 units. Application for renewal received 15 August 2008.

(08-6630)

Exploration Licence No. 5525, MARUBENI THERMAL COAL PTY LTD (ACN 061 468 620), ANGLO COAL (DARTBROOK) PTY LTD (ACN 000 012 813) and SSANGYONG RESOURCES PTY LIMITED (ACN 071 744 986), area of 692 hectares. Application for renewal received 20 August 2008.

(T00-0056)

Exploration Licence No. 5785, COBAR OPERATIONS PTY LTD (ACN 103 555 853), area of 264 units. Application for renewal received 25 August 2008.

(05-2323)

Exploration Licence No. 5899, BOULDER MINING PTY LTD (ACN 112 796 308), area of 76 hectares. Application for renewal received 25 August 2008.

(T02-0093)

Exploration Licence No. 5997, STRAITS (HILLGROVE) GOLD PTY LTD (ACN 102 660 506), area of 13 units. Application for renewal received 25 August 2008.

(T02-0065)

Exploration Licence No. 5998, PAN GEM RESOURCES (AUST) PTY LTD (ACN 064 972 621), area of 3 units. Application for renewal received 15 August 2008.

(T03-0009)

Exploration Licence No. 6292, GOLDEN CROSS OPERATIONS PTY LTD (ACN 050 212 827), area of 26 units. Application for renewal received 15 August 2008.

(04-515)

Exploration Licence No. 6295, COMET RESOURCES LIMITED (ACN 060 628 202), area of 9 units. Application for renewal received 14 August 2008.

(04-501)

Exploration Licence No. 6302, COBAR CONSOLIDATED RESOURCES LIMITED (ACN 118 684 576), area of 192 units. Application for renewal received 22 August 2008.

(04-523)

Exploration Licence No. 6304, Donald John PERKIN and MINEXCHANGE PROPRIETARY LIMITED (ACN 086 042 524), area of 49 units. Application for renewal received 21 August 2008.

(04-525)

Exploration Licence No. 6305, Donald John PERKIN and MINEXCHANGE PROPRIETARY LIMITED (ACN 086 042 524), area of 28 units. Application for renewal received 21 August 2008.

(06-64)

Exploration Licence No. 6625, OROYA MINING LIMITED (ACN 009 146 794), area of 50 units. Application for renewal received 25 August 2008.

(06-65)

Exploration Licence No. 6626, OROYA MINING LIMITED (ACN 009 146 794), area of 53 units. Application for renewal received 25 August 2008.

(06-66)

Exploration Licence No. 6627, OROYA MINING LIMITED (ACN 009 146 794), area of 53 units. Application for renewal received 25 August 2008.

(06-67)

Exploration Licence No. 6628, OROYA MINING LIMITED (ACN 009 146 794), area of 52 units. Application for renewal received 25 August 2008.

(06-68)

Exploration Licence No. 6629, OROYA MINING LIMITED (ACN 009 146 794), area of 46 units. Application for renewal received 25 August 2008.

(06-226)

Exploration Licence No. 6637, TECK COMINCO AUSTRALIA PTY LTD (ACN 091 271 911), area of 91 units. Application for renewal received 21 August 2008.

(06-4076)

Exploration Licence No. 6638, BEMAX RESOURCES LIMITED (ACN 009 247 858), area of 70 units. Application for renewal received 22 August 2008.

(T02-0674)

Mining Purposes Lease No. 317 (Act 1973), Peter David HALL, area of 9370 square metres. Application for renewal received 14 August 2008.

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

**RENEWAL OF CERTAIN AUTHORITIES**

NOTICE is given that the following authorities have been renewed:

(T01-0604)

Petroleum Exploration Licence No. 12, AUSTRALIAN COALBED METHANE PTY LIMITED (ACN 002 606 288), area of about 31 blocks, for a further term until 26 September 2011. Renewal effective on and from 31 January 2008.

(C92-0624)

Petroleum Exploration Licence No. 238, EASTERN STAR GAS LIMITED (ACN 094 269 780), area of about 121 blocks, for a further term until 2 August 2011. Renewal effective on and from 5 March 2008.

(T93-0814)

Exploration Licence No. 4657, PLATSEARCH NL (ACN 003 254 395), County of Yancowinna, Map Sheet (7134), area of 2 units, for a further term until 20 April 2010. Renewal effective on and from 5 August 2008.

(05-682)

Exploration Licence No. 5939, ATLAS RESOURCES PTY LIMITED (ACN 003 463 036), County of Beresford, Map Sheet (8725, 8726), area of 12 units, for a further term until 29 April 2009. Renewal effective on and from 14 August 2008.

(T03-0856)

Exploration Licence No. 6190, THE COLONIAL COPPER COMPANY PTY LTD (ACN 007 930 243), County of Farnell, Map Sheet (7134, 7135), area of 15 units, for a further term until 3 February 2010. Renewal effective on and from 14 August 2008.

(T03-0995)

Exploration Licence No. 6228, PLATINA RESOURCES LIMITED (ACN 119 007 939), Counties of Cunningham and Kennedy, Map Sheet (8332, 8432), area of 26 units, for a further term until 14 April 2010. Renewal effective on and from 25 August 2008.

(T04-0020)

Exploration Licence No. 6241, RIMFIRE PACIFIC MINING NL (ACN 006 911 744), Counties of Cunningham and Kennedy, Map Sheet (8332, 8432), area of 15 units, for a further term until 16 May 2010. Renewal effective on and from 22 August 2008.

(T04-0018)

Exploration Licence No. 6246, CARPENTARIA EXPLORATION LIMITED (ACN 095 117 981), County of Narromine, Map Sheet (8532), area of 12 units, for a further term until 24 May 2010. Renewal effective on and from 19 August 2008.

(05-277)

Exploration Licence No. 6559, ICON RESOURCES LTD (ACN 115 009 106), County of Monteagle, Map Sheet (8529, 8530), area of 10 units, for a further term until 12 April 2010. Renewal effective on and from 19 August 2008.

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

**CANCELLATION OF AUTHORITIES AT REQUEST OF HOLDERS**

NOTICE is given that the following authorities have been cancelled:

(T03-0032)

Exploration Licence No. 6283, WILSON GEMS & INVESTMENTS PTY LTD (ACN 001 155 755), County of Arrawatta, Map Sheet (9138), area of 3 units. Cancellation took effect on 14 August 2008.

(06-4200)

Exploration Licence No. 6779, RIMFIRE AUSTRALIA PTY LTD (ACN 121 382 554), County of Ashburnham and County of Forbes, Map Sheet (8431), area of 12 units. Cancellation took effect on 15 August 2008.

(06-4201)

Exploration Licence No. 6780, RIMFIRE AUSTRALIA PTY LTD (ACN 121 382 554), County of Forbes, Map Sheet (8630), area of 20 units. Cancellation took effect on 15 August 2008.

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

**TRANSFERS**

(08-4417)

Exploration Licence No. 4512, formerly held by WESTERN PLAINS RESOURCES LTD (ACN 109 426 502) has been transferred to CALIBRE MINING (AUSTRALIA) PTY LTD (ACN 117 327 429). The transfer was registered on 14 August 2008.

(T00-0059)

Exploration Licence No. 5793, formerly held by TRIAKO RESOURCES LIMITED (ACN 008 498 119) has been transferred to GOLDEN REEF ENTERPRISES PTY LTD (ACN 008 138 136) and TRIAKO RESOURCES LIMITED (ACN 008 498 119). The transfer was registered on 13 August 2008.

(T03-0065)

Exploration Licence No. 6172, formerly held by DART RESOURCES PTY LTD (ACN 050 030 245) has been transferred to DART MINING NL (ACN 119 904 880). The transfer was registered on 1 August 2008.

(07-85)

Exploration Licence No. 6281, formerly held by CONARCO MINERALS PTY LTD (ACN 102 750 890) has been transferred to JACARANDA MINERALS LTD. The transfer was registered on 18 August 2008.

(07-85)

Exploration Licence No. 6835, formerly held by CONARCO MINERALS PTY LTD (ACN 102 750 890) has been transferred to JACARANDA MINERALS LTD. The transfer was registered on 18 August 2008.

(07-85)

Exploration Licence No. 6985, formerly held by CONARCO MINERALS PTY LTD (ACN 102 750 890) has been transferred to JACARANDA MINERALS LTD. The transfer was registered on 18 August 2008.



(C01-0006)

Petroleum Exploration Licence No. 437 formerly held by PANGAEA OIL & GAS PTY LIMITED (ACN 068 812 171) has been transferred to PANGAEA PEL 437 PTY LIMITED (ACN 121 204 322). The transfer was registered on 19 June 2008.

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

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#### **EXPIRY**

Mining Lease No. 1193 (Act 1973), Frederick Theodore GULSON, Parish of Vernon, County of Dudley. This title expired on 18 August, 2008.

(06-3322)

Petroleum Special Prospecting Authority No. 19, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042). This title expired on 19 July 2008.

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

#### **WITHDRAWAL OF APPLICATIONS FOR RENEWAL**

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

(05-5712)

Petroleum Special Prospecting Authority No. 12, HARDIE INFRASTRUCTURE PTY LTD (ACN 105 959 804), area of 2388 blocks. The authority ceased to have effect on 22 July 2008.

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

## Roads and Traffic Authority

### ROAD TRANSPORT (GENERAL) ACT 2005

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

TWEED SHIRE 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 25 metre B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

PATRICK KNIGHT,  
Acting General Manager,  
Tweed Shire Council  
(by delegation from the Minister for Roads)  
Dated: 26 June 2008

#### SCHEDULE

**1. Citation**

This Notice may be cited as Tweed Shire Council 25 Metre B-Double route Notice No. 01/2008.

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30th September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those 25 metre B-Double vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 2 of the Road Transport (Vehicle Registration) Regulation 2007.

**5. Routes**

<i>Type</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>
25.	Lundberg Drive.	Quarry Road.	Wardrop Valley Road 650m.

### ROAD TRANSPORT (GENERAL) ACT 2005

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

GILGANDRA SHIRE COUNCIL 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.

P. A. MANN,  
General Manager,  
Gilgandra Shire Council  
(by delegation from the Minister for Roads)  
Dated: 19 August 2008

#### SCHEDULE

**1. Citation**

This Notice may be cited as Gilgandra Shire Council B-Double route Notice No. 4/2008.

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30th September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those 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>
25.	572.	N/A.	N/A.	N/A.	The entire length of Regional Road 572 within Gilgandra Shire is off limits to B Doubles.

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

Notice of Compulsory Acquisition of Land at  
Wentworth Falls in the Blue Mountains City 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

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SCHEDULE

ALL those pieces or parcels of land situated in the Blue Mountains City Council area, Parish of Jamison and County of Cook, shown as:

Lot 415 Deposited Plan 1122777 and Lot B Deposited Plan 430665, being part of the land in Certificate of Title Auto Consol 7808-1 and said to be in the possession of A O I Development Co Pty Limited;

Lot 414 Deposited Plan 1122777, being part of the land in Certificate of Title 58/7145 and said to be in the possession of G S A Enterprises Pty Limited (registered proprietor) and National Australia Bank Limited (mortgagee); and

Lots 5 and 6 Section A Deposited Plan 8845, being the whole of the land in Certificate of Title Auto Consol 8372-92 and said to be in the possession of Roma Eileen Bourke;

excluding any existing easements from the compulsory acquisition of the land listed above.

(RTA Papers: FPP 8M1622)

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

Notice of Compulsory Acquisition of Land  
at Edmondson Park in the Liverpool City 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

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SCHEDULE

ALL those pieces or parcels of land situated in the Liverpool City Council area, Parish of Minto and County of Cumberland, shown as:

Lot 12 Deposited Plan 1081934, being part of the land in Certificate of Title 1/520965 and said to be in the possession of Slobodan Petrovic and Rita Petrovic; and

Lots 112 and 113 Deposited Plan 1081794, being parts of the land in Certificate of Title Auto Consol 11391-19 and said to be in the possession of Garry Wayne O'Neill and Robyn Anne O'Neill (registered proprietors), National Australia Bank Limited (mortgagee) and Landcom (caveator);

excluding any existing easements from the compulsory acquisition of the land listed above.

(RTA Papers: FPP 8M1621)

**ROADS ACT 1993**

Notice of Dedication of Land as Public Road  
at Pambula, South Pambula and Greigs Flat  
in the Bega Valley 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

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**SCHEDULE**

All those pieces or parcels of land situated in the Bega Valley Shire Council area, Parishes of Pambula and Yowaka, County of Auckland, shown as:

Lots 10 to 17 inclusive Deposited Plan 1104996;

Lot 320 Deposited Plan 1098908; and

Lot 952 Deposited Plan 1103736.

(RTA Papers: 1/32.1250)

**ROADS ACT 1993**

Order – Section 31

Fixing or Varying of Levels  
of part of Main Road No. 92 (Braidwood Road)  
in the Local Government Area of Shoalhaven City

The Roads and Traffic Authority of New South Wales by this Order under Section 31 of the Roads Act 1993, fixes or varies the levels of a part of Main Road No. 92- Braidwood Road from Tianjara to Billy's Hill (23.6 km to 44.2km west of Hames Road, Nowra), as shown on Roads and Traffic Authority plans No. 0092 404 RC 2732, 0092 404 RC 2729 and 0092 404 RC 2733.

R Watson  
Project Services Manager  
Roads and Traffic Authority of New South Wales  
Level 4, 90 Crown Street,  
Wollongong, NSW 2500

(RTA Papers: FPP 7M4032; RO 404.1371)

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

Notice of Compulsory Acquisition of Land  
at Baulkham Hills, Winston Hills, North Rocks, Carlingford and West Pennant Hills  
in the Baulkham Hills Shire 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, exclusive of the interests detailed in the third column thereof, 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.

Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

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**SCHEDULE**

ALL those pieces or parcels of land situated in the Baulkham Hills Shire Council area, Parishes of Castle Hill, St John and Field of Mars, County of Cumberland, shown as:

<u>Description</u>	<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 6 DP872526	Folio Identifier 6/872526	
Lot 7 DP872526	Folio Identifier 7/872526	DP1013284- Easement for Drainage of Water 1 metre wide
Lot 8 DP872526	Folio Identifier 8/872526	
Lot 6 DP1100798	Folio Identifier 6/1100798	
Lot 8 DP1100798	Folio Identifier 8/1100798	
Lot 9 DP1100798	Folio Identifier 9/1100798	
Lot 7 DP1100798	Folio Identifier 7/1100798	
Lot 225 DP238584	Folio Identifier 225/238584	
Lot 11 DP871664	Folio Identifier 11/871664	
Lot 12 DP871664	Folio Identifier 12/871664	
Lot 13 DP871664	Folio Identifier 13/871664	
Lot 3 DP565881	Folio Identifier 3/565881	
Lot 10 DP235612	Folio Identifier 10/235612	
Lot 2 DP1087470	Folio Identifier 2/1087470	S499253- Easement for Watermain 5 metres wide- DP599465
Lot 4 DP871024	Folio Identifier 4/871024	
Lot 9 DP871024	Folio Identifier 9/871024	
Lot 10 DP871024	Folio Identifier 10/871024	
Lot 11 DP871024	Folio Identifier 11/871024	
Lot 5 DP871024	Folio Identifier 5/871024	
Lot 6 DP871024	Folio Identifier 6/871024	
Lot 1 DP856432	Folio Identifier 1/856432	

<u>Description</u>		<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 3	DP871024	Folio Identifier 3/871024	
Lot 7	DP871024	Folio Identifier 7/871024	
Lot 3	DP856432	Folio Identifier 3/856432	
Lot 5	DP875380	Folio Identifier 5/875380	
Lot A	DP420155	Folio Identifier A/420155	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 1	DP213888	Folio Identifier 1/213888	
Lot 2	DP213888	Folio Identifier 2/231888	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 11	DP873386	Folio Identifier 11/873386	
Lot 12	DP873386	Folio Identifier 12/873386	2268337- Easement for Rock Anchors in Stratum- DP266332 5076864- Easement for Rock Anchors in Stratum- DP873386 5076864- Right of Access- DP873386
Lot 6	DP506413	Folio Identifier 6/506413	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 4	DP506413	Folio Identifier 4/506413	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 5	DP506413	Folio Identifier 5/506413	
Lot 13	DP873386	Folio Identifier 13/873386	
Lot 1	DP38443	Folio Identifier 1/38443	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 2	DP38443	Folio Identifier 2/38443	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 3	DP88735	Folio Identifier 3/88735	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 4	DP38443	Folio Identifier 4/38443	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 5	DP38443	Folio Identifier 5/38443	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 6	DP38443	Folio Identifier 6/38443	
Lot 7	DP38443	Folio Identifier 7/38443	
Lot 8	DP38443	Folio Identifier 8/38443	
Lot 9	DP38443	Folio Identifier 9/38443	
Lot 10	DP38443	Folio Identifier 10/38443	
Lot 11	DP38443	Folio Identifier 11/38443	
Lot 12	DP38443	Folio Identifier 12/38443	
Lot 13	DP38443	Folio Identifier 13/38443	
Lot 14	DP876337	Folio Identifier 14/876337	5964448- Right of Access- DP876337 5497521- Right of Access- DP876337 6293765- Right of Access- DP876337 5621640- Right of Access- DP876337 5242449- Right of Access- DP876337
Lot 1	DP27805	Folio Identifier 1/27805	
Lot 1	DP512679	Folio Identifier 1/512679	
Lot A	DP163569	Folio Identifier A/163569	
Lot B	DP163569	Folio Identifier B/163569	
Lot 15	DP876337	Folio Identifier 15/876337	
Lot 303	DP863790	Folio Identifier 303/863790	
Lot 2	DP38914	Folio Identifier 2/38914	
Lot 3	DP38914	Folio Identifier 3/38914	
Lot 8	DP879535	Folio Identifier 8/879535	

<u>Description</u>		<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 11	DP879535	Folio Identifier 11/879535	
Lot A	DP163249	Folio Identifier A/163249	
Lot B	DP163249	Folio Identifier B/163249	
Lot C	DP163249	Folio Identifier C/163249	
Lot D	DP163249	Folio Identifier D/163249	
Lot B	DP399100	Folio Identifier B/399100	
Lot 1	DP20994	Folio Identifier 1/20994	
Lot 2	DP20994	Folio Identifier 2/20994	
Lot 3	DP20994	Folio Identifier 3/20994	
Lot 4	DP20994	Folio Identifier 4/20994	
Lot C	DP380661	Folio Identifier C/380661	
Lot D	DP380661	Folio Identifier D/380661	
Lot 9	DP879535	Folio Identifier 9/879535	
Lot 10	DP879535	Folio Identifier 10/879535	
Lot 18	DP875893	Folio Identifier 18/875893	
Lot 19	DP875893	Folio Identifier 19/875893	
Lot 20	DP875893	Folio Identifier 20/875893	
Lot 21	DP875893	Folio Identifier 21/875893	
Lot 22	DP875893	Folio Identifier 22/875893	
Lot 23	DP875893	Folio Identifier 23/875893	
Lot 24	DP875893	Folio Identifier 24/875893	
Lot 25	DP875893	Folio Identifier 25/875893	
Lot 26	DP875893	Folio Identifier 26/875893	
Lot 7	DP866897	Folio Identifier 7/866897	
Lot 133	DP13443	Folio Identifier 133/13443	
Lot 8	DP866897	Folio Identifier 8/866897	
Lot 131	DP13443	Folio Identifier 131/13443	
Lot 9	DP866897	Folio Identifier 9/866897	
Lot 10	DP866897	Folio Identifier 10/866897	
Lot 11	DP866897	Folio Identifier 11/866897	
Lot 33	DP842944	Folio Identifier 33/842944	DP201089- Easement for Drainage
Lot 34	DP842944	Folio Identifier 34/842944	
Lot 5	DP874876	Folio Identifier 5/874876	5522750- Easement to Drain Water- DP874876 5522750- Right of Access- DP874876
Lot 6	DP874876	Folio Identifier 6/874876	
Lot 7	DP874876	Folio Identifier 7/874876	5947058- Easement to Drain Water- DP874876 5947058- Right of Access- DP874876 6017582- Easement to Drain Water- DP874876 6017582- Right of Access- DP874876 6351415- Easement to Drain Water- DP874876 6351415- Right of Access- DP874876
Lot 3	DP882594	Folio Identifier 3/882594	
Lot 11	DP201089	Folio Identifier 11/201089	

<u>Description</u>		<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 13	DP881862	Folio Identifier 13/881862	
Lot 14	DP881862	Folio Identifier 14/881862	AD335888- Easement for Drainage- DP881862 AD335888- Right of Access- DP881862
Lot 15	DP881862	Folio Identifier 15/881862	DP1114923- Easement to Permit Encroachment DP1114923- Right of Access AD335889- Easement for Drainage- DP881862 AD335889- Right of Access- DP881862
Lot 46	DP842944	Folio Identifier 46/842944	
Lot 47	DP842944	Folio Identifier 47/842944	
Lot 48	DP842944	Folio Identifier 48/842944	
Lot 49	DP842944	Folio Identifier 49/842944	
Lot 2	DP242541	Folio Identifier 2/242541	
Lot 1	DP246648	Folio Identifier 1/246648	
Lot 3	DP875420	Folio Identifier 3/875420	
Lot 4	DP875420	Folio Identifier 4/875420	
Lot 7	DP875420	Folio Identifier 7/875420	
Lot 6	DP875420	Folio Identifier 6/875420	
Lot 5	DP875420	Folio Identifier 5/875420	
Lot 70	DP841121	Folio Identifier 70/841121	
Lot 59	DP841121	Folio Identifier 59/841121	
Lot 60	DP841121	Folio Identifier 60/841121	
Lot 36	Section 3 DP979720	Folio Identifier 36/3/979720	
Lot 35	Section 3 DP979720	Folio Identifier 35/3/979720	
Lot 34	Section 3 DP979720	Folio Identifier 34/3/979720	
Lot 33	Section 3 DP979720	Folio Identifier 33/3/979720	
Lot 32	Section 3 DP979720	Folio Identifier 32/3/979720	
Lot 31	Section 3 DP979720	Folio Identifier 31/3/979720	
Lot 30	Section 3 DP979720	Folio Identifier 30/3/979720	
Lot 29	Section 3 DP979720	Folio Identifier 29/3/979720	
Lot 28	Section 3 DP979720	Folio Identifier 28/3/979720	
Lot 27	Section 3 DP979720	Folio Identifier 27/3/979720	
Lot 26	Section 3 DP979720	Folio Identifier 26/3/979720	
Lot 25	Section 3 DP979720	Folio Identifier 25/3/979720	
Lot 24	Section 3 DP979720	Folio Identifier 24/3/979720	
Lot 23	Section 3 DP979720	Folio Identifier 23/3/979720	
Lot 22	Section 3 DP979720	Folio Identifier 22/3/979720	
Lot 21	Section 3 DP979720	Folio Identifier 21/3/979720	
Lot 38	DP841121	Folio Identifier 38/841121	
Lot 61	DP841121	Folio Identifier 61/841121	
Lot 62	DP841121	Folio Identifier 62/841121	
Lot 63	DP841121	Folio Identifier 63/841121	



<u>Description</u>		<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 64	DP841121	Folio Identifier 64/841121	
Lot 65	DP841121	Folio Identifier 65/841121	
Lot 66	DP841121	Folio Identifier 66/841121	
Lot 67	DP841121	Folio Identifier 67/841121	
Lot 31	DP841121	Folio Identifier 31/841121	
Lot 32	DP841121	Folio Identifier 32/841121	
Lot 33	DP841121	Folio Identifier 33/841121	
Lot 34	DP841121	Folio Identifier 34/841121	
Lot 35	DP841121	Folio Identifier 35/841121	
Lot 36	DP841121	Folio Identifier 36/841121	
Lot 37	DP841121	Folio Identifier 37/841121	
Lot 94	Section 3DP979720	Folio Identifier 94/3/979720	
Lot 95	Section 3DP979720	Folio Identifier 95/3/979720	
Lot 96	Section 3DP979720	Folio Identifier 96/3/979720	
Lot 71	DP841121	Folio Identifier 71/841121	
Lot 39	DP841121	Folio Identifier 39/841121	
Lot 40	DP841121	Folio Identifier 40/841121	
Lot 41	DP841121	Folio Identifier 41/841121	
Lot 42	DP841121	Folio Identifier 42/841121	
Lot 43	DP841121	Folio Identifier 43/841121	
Lot 44	DP841121	Folio Identifier 44/841121	
Lot 45	DP841121	Folio Identifier 45/841121	
Lot 46	DP841121	Folio Identifier 46/841121	
Lot 47	DP841121	Folio Identifier 47/841121	
Lot 48	DP841121	Folio Identifier 48/841121	
Lot 49	DP841121	Folio Identifier 49/841121	
Lot 50	DP841121	Folio Identifier 50/841121	
Lot 51	DP841121	Folio Identifier 51/841121	
Lot 52	DP841121	Folio Identifier 52/841121	
Lot 53	DP841121	Folio Identifier 53/841121	
Lot 54	DP841121	Folio Identifier 54/841121	
Lot 24	DP880779	Folio Identifier 24/880779	
Lot 25	DP880779	Folio Identifier 25/880779	
Lot 26	DP880779	Folio Identifier 26/880779	
Lot 27	DP880779	Folio Identifier 27/880779	
Lot 28	DP880779	Folio Identifier 28/880779	
Lot 29	DP880779	Folio Identifier 29/880779	
Lot 30	DP880779	Folio Identifier 30/880779	
Lot 31	DP880779	Folio Identifier 31/880779	

<u>Description</u>	<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 32 DP880779	Folio Identifier 32/880779	
Lot 33 DP880779	Folio Identifier 33/880779	
Lot 34 DP880779	Folio Identifier 34/880779	
Lot 35 DP880779	Folio Identifier 35/880779	
Lot 36 DP880779	Folio Identifier 36/880779	
Lot 37 DP880779	Folio Identifier 37/880779	
Lot 28 DP841121	Folio Identifier 28/841121	
Lot 25 DP841121	Folio Identifier 25/841121	
Lot 29 DP841121	Folio Identifier 29/841121	
Lot 55 DP841121	Folio Identifier 55/841121	
Lot 56 DP841121	Folio Identifier 56/841121	
Lot 57 DP841121	Folio Identifier 57/841121	
Lot 58 DP841121	Folio Identifier 58/841121	
Lot 10 DP841630	Folio Identifier 10/841630	
Lot 14 DP841630	Folio Identifier 14/841630	
Lot 17 DP843588	Folio Identifier 17/843588	
Lot 3 DP881040	Folio Identifier 3/881040	
Lot 17 DP841630	Folio Identifier 17/841630	
Lot 18 DP841630	Folio Identifier 18/841630	
Lot 19 DP841630	Folio Identifier 19/841630	
Lot 5 DP877235	Folio Identifier 5/877235	
Lot 6 DP877235	Folio Identifier 6/877235	
Lot 22 DP843588	Folio Identifier 22/843588	
Lot 7 DP877235	Folio Identifier 7/877235	
Lot 8 DP877235	Folio Identifier 8/877235	
Lot 9 DP877235	Folio Identifier 9/877235	
Lot 72 DP735582	Folio Identifier 72/735582	
Lot 16 DP873480	Folio Identifier 16/873480	
Lot 6 DP237780	Folio Identifier 6/237780	
Lot 5 DP237780	Folio Identifier 5/237780	
Lot 4 DP237780	Folio Identifier 4/237780	
Lot 3 DP237780	Folio Identifier 3/237780	
Lot 2 DP237780	Folio Identifier 2/237780	
Lot 1 DP237780	Folio Identifier 1/237780	
Lot 23 DP841778	Folio Identifier 23/841778	
Lot 22 DP841778	Folio Identifier 22/841778	
Lot 24 DP841778	Folio Identifier 24/841778	
Lot 16 DP841778	Folio Identifier 16/841778	
Lot 10 DP841778	Folio Identifier 10/841778	

<u>Description</u>		<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 17	DP841778	Folio Identifier 17/841778	
Lot 3	DP880936	Folio Identifier 3/880936	
Lot 4	DP880936	Folio Identifier 4/880936	
Lot 1	DP238045	Folio Identifier 1/238045	
Lot 2	DP238045	Folio Identifier 2/238045	
Lot 3	DP238045	Folio Identifier 3/238045	
Lot 4	DP238045	Folio Identifier 4/238045	
Lot 5	DP238045	Folio Identifier 5/238045	
Lot 6	DP238045	Folio Identifier 6/238045	L545977- Easement to Drain Water- DP238045
Lot 7	DP238045	Folio Identifier 7/238045	
Lot 8	DP238045	Folio Identifier 8/238045	
Lot 9	DP238045	Folio Identifier 9/238045	
Lot 11	DP229081	Folio Identifier 11/229081	
Lot 10	DP229081	Folio Identifier 10/229081	
Lot 9	DP229081	Folio Identifier 9/229081	
Lot 8	DP229081	Folio Identifier 8/229081	
Lot 7	DP229081	Folio Identifier 7/229081	
Lot 6	DP229081	Folio Identifier 6/229081	
Lot 5	DP229081	Folio Identifier 5/229081	
Lot 41	DP609776	Folio Identifier 41/609776	
Lot 42	DP609776	Folio Identifier 42/609776	
Lot 50	DP1100635	Folio Identifier 50/1100635	
Lot 2	DP875677	Folio Identifier 2/875677	
Lot 12	DP875681	Folio Identifier 12/875681	
Lot 19	DP841778	Folio Identifier 19/841778	F454602- Easement for Transmission Line K741021- Easement for Transmission Line M758377- Easement for Batter- DP242673
Lot 12	DP841778	Folio Identifier 12/841778	
Lot 13	DP841778	Folio Identifier 13/841778	
Lot 14	DP841778	Folio Identifier 14/841778	
Lot 20	DP841778	Folio Identifier 20/841778	
Lot 21	DP841778	Folio Identifier 21/841778	
Lot 9	DP219892	Folio Identifier 9/219892	Easement for Transmission Line- Govt Gaz. dated 24 April 1952 Folio 1436
Lot 10	DP219892	Folio Identifier 10/219892	Easement for Transmission Line- Govt Gaz. dated 24 April 1952 Folio 1436
Lot 20	DP222301	Folio Identifier 20/222301	
Lot 19	DP222301	Folio Identifier 19/222301	
Lot 18	DP222301	Folio Identifier 18/222301	
Lot 8	DP219892	Folio Identifier 8/219892	
Lot 7	DP219892	Folio Identifier 7/219892	
Lot 6	DP219892	Folio Identifier 6/219892	
Lot 5	DP219892	Folio Identifier 5/219892	
Lot 4	DP219892	Folio Identifier 4/219892	

<u>Description</u>		<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 3	DP219892	Folio Identifier 3/219892	
Lot 2	DP219892	Folio Identifier 2/219892	
Lot 1	DP219892	Folio Identifier 1/219892	
Lot B	DP388801	Folio Identifier B/388801	
Lot C	DP388801	Folio Identifier C/388801	
Lot 1	DP234860	Folio Identifier 1/234860	
Lot 2	DP234860	Folio Identifier 2/234860	
Lot 3	DP234860	Folio Identifier 3/234860	
Lot 4	DP234860	Folio Identifier 4/234860	
Lot 5	DP234860	Folio Identifier 5/234860	
Lot 8	DP228807	Folio Identifier 8/228807	
Lot 7	DP228807	Folio Identifier 7/228807	
Lot 6	DP228807	Folio Identifier 6/228807	
Lot 5	DP228807	Folio Identifier 5/228807	
Lot 4	DP228807	Folio Identifier 4/228807	
Lot 11	DP875681	Folio Identifier 11/875681	
Lot 13	DP875681	Folio Identifier 13/875681	
Lot 14	DP875681	Folio Identifier 14/875681	
Lot 3	DP228807	Folio Identifier 3/228807	
Lot 2	DP228807	Folio Identifier 2/228807	
Lot 1	DP228807	Folio Identifier 1/228807	
Lot 15	DP228807	Folio Identifier 15/228807	
Lot 16	DP228807	Folio Identifier 16/228807	
Lot 5	DP231600	Folio Identifier 5/231600	
Lot 4	DP231600	Folio Identifier 4/231600	
Lot 3	DP231600	Folio Identifier 3/231600	
Lot 2	DP512645	Folio Identifier 2/512645	
Lot 61	DP773701	Folio Identifier 61/773701	
Lot 62	DP773701	Folio Identifier 62/773701	
Lot 15	DP875681	Folio Identifier 15/875681	
Lot 16	DP875681	Folio Identifier 16/875681	
Lot 1	DP748143	Folio Identifier 1/748143	
Lot 10	DP879078	Folio Identifier 10/879078	
Lot 11	DP879078	Folio Identifier 11/879078	
Lot 12	DP879078	Folio Identifier 12/879078	
Lot 13	DP879078	Folio Identifier 13/879078	
Lot 14	DP879078	Folio Identifier 14/879078	
Lot 16	DP879078	Folio Identifier 16/879078	
Lot 17	DP879078	Folio Identifier 17/879078	
Lot 18	DP879078	Folio Identifier 18/879078	

The land is said to be in the possession of the Roads and Traffic Authority of New South Wales.

(RTA Papers: FPP F2/31.1705)

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## Department of Water and Energy

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### WATER ACT 1912

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

Gurdial Singh RAI and Satvinder Singh RAI for 1 pump on Coffs Creek on Lot 1, DP 774470, Parish Coff, County Fitzroy, for irrigation of 2 hectares (Blueberries) (13 ML) (new licence by way of permanent transfer) (Reference: 30SL067029).

Written objections to the application specifying the grounds thereof must be lodged with the Department of Water and Energy, PO Box 796, Murwillumbah NSW 2484, within 28 days of the date of publication.

DENNIS MILLING,  
Manager,  
Licensing North

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### WATER ACT 1912

APPLICATIONS for a licence under Part 2, section 10 of the Water Act 1912, being within a proclaimed (declared) local area under section 5(4) has been received as follows:

*Border Rivers Valley*

HOWARD HALL PTY LTD for a pump on the Mole River on Lot 2, DP 751515, Parish Gibraltar, County Clive, for irrigation purposes (warehousing of water) (replacement licence – splitting existing entitlement 90SL100861) (Reference: 90SL100987).

Raymond Morris HARRISON and Charmaine Rose HARRISON for a pump on the Mole River on Lots 26 and 40, DP 751515, Parish Gibraltar, County Clive, for irrigation of 2 hectares (improved pasture) (new licence – water obtained by permanent transfer scheme) (Reference: 90SL100988).

Written objections to the applications specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed local area whose interests may be affected and must be lodged with the Department of Water and Energy, PO Box 796, Murwillumbah NSW 2484, within 28 days of the date of publication.

DENNIS MILLING,  
Manager,  
Licensing North

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### WATER ACT 1912

AN application under Part 2 within a proclaimed (declared) local area under section 5(4) of the Water Act 1912.

An application for a licence under section 10 for works within a proclaimed (declared) local area as generally described hereunder have been received from:

*Murrumbidgee Valley*

Michael Andrew SPINKS and Helen Mary SPINKS for 2 pumps on Lake Tala, Lot 1, DP 825421, Parish Tala, County Cairn, for stock and domestic purposes and irrigation of 162 hectares (pasture and cereal crops) (application to replace existing licence to include an additional pump – no increase in area or allocation) (Reference: 40SL71139) (GA2:538549).

Any enquiries regarding the above should be directed to the undersigned on (02) 6953 0700.

Written objections, from any local occupier or statutory authority, specifying grounds and how their interests are affected must be lodged with the Department of Water and Energy, PO Box 156, Leeton NSW 2705, within 28 days of the date of this publication.

S. F. WEBB,  
Licensing Manager

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## Other Notices

### APPRENTICESHIP AND TRAINEESHIP ACT 2001

NOTICE is given that the Commissioner for Vocational Training has made Vocational Training Orders for the recognised traineeship vocations of:

- Business Services (Business)
- Business Services (Business Administration)
- Business Services (Customer Contact)
- Business Services (Recordkeeping)
- Business Services (Frontline Management)
- Business Services (Small Business Management)
- Business Services (Business Sales)
- Business Services (Human Resources)
- Business Services (Legal Services)
- Business Services (Marketing)
- Business Services (Unionism and Industrial Relations),

under Section 6 of the Apprenticeship and Traineeship Act 2001.

The Orders specify a number of matters relating to the required training for these vocations, including the term/s of training, probationary period/s, competency outcome/s and course/s of study to be undertaken.

The Orders will take effect from the date of publication in the NSW Government Gazette.

A copy of the Orders may be inspected at any State Training Services Centre of the Department of Education and Training or on the Internet at <http://apprenticeship.det.nsw.edu.au/html/cibs/374.htm>

Notice is also given that the recognised traineeship vocation of Business Services is now repealed.

### ASSOCIATIONS INCORPORATION ACT 1984

Transfer of Incorporation Pursuant to Section 48(4)(a)

TAKE NOTICE that the company

AUSTRALIA JAPAN SOCIETY OF NSW (INC)

formerly registered under the provisions of the Corporations Act 2001 is now incorporated under the Associations Incorporation Act 1984 as

AUSTRALIA JAPAN SOCIETY OF NSW  
INCORPORATED

Effective 27 August 2008.

KERRI GRANT,  
Delegate of Commissioner  
Office of Fair Trading  
21 August 08

### ASSOCIATIONS INCORPORATION ACT 1984

Cancellation of Incorporation pursuant to Section 54

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to section 54 of the Associations Incorporation Act 1984.

Cancellation is effective as at the date of gazettal.

Blue Mountains Cricket Umpires' Association Inc -  
Y0957206

The Dataease Users Group Inc - Y1086922  
Feral Ski Klubb Inc - Y1052015  
Jukambal Group Inc - Y1007510  
Kincumber Sketch Group Incorporated -  
INC9880529  
Kempsey-Macleay Greyhound Racing Club Inc -  
Y0770229  
The Northern Rivers Cultural Centre Foundation Inc  
- Y1078136  
Transit Pistol Club Inc - Y1135548  
University of Wollongong Ski Club Incorporated -  
Y3022309  
All One Voice Inc - Y0794846  
The Australian Thalassaemia Action Committee Inc -  
Y0950227  
Association of University Graduates of Turkey Inc -  
Y0529428  
Australian Association of Art and Sport Development  
Incorporated - Y1018601  
Bandidos Motorcycle Club Australia Mid State Chapter  
Incorporated - Y1818806  
Concern NSW Inc - Y0643531  
Central Coast Mountain Bike Club Inc - Y0847411  
Child Psychoanalytic Foundation Inc - Y0997239  
Enfey's Charitable Social Association Sydney Inc -  
Y1050217  
European-Australian Chamber of Industry and  
Commerce Inc - Y0978832  
Griffith Theatre Company Inc - Y1108747  
Junior Jets Toy Library Inc - Y1030715  
Kengugro Australian-Hungarian Folklore Ensemble  
Inc - Y1108600  
The Lismore and District Workers' Club Fishing Club  
Incorporated - Y0827125  
Lions Club of Urunga Inc - Y0571628  
Meehan Drive Rehabilitation Craft Group Inc -  
Y0899434  
Moroccan/Australian Association Inc - Y1055447  
Narwan United Football Club Inc - Y0907324  
New Welcome Fairfield Juniors Club Inc - Y0953708  
Newcastle Olympic Soccer Football Club Inc -  
Y0935612  
Promise City Church Inc - Y0714241  
Penrith Electric Youth Inc - Y0756807  
Primrose Valley Pony Club Incorporated - Y1030813  
Parramatta Tax Child Care Inc - Y0933422  
Rotary Club of Drummoyne Inc - Y0850526  
Rotary Club of Seven Hills Incorporated - Y1133848  
The Saint Charbel Community Nurses Inc -  
Y1098716  
The Sydney Amateur Television Group Inc -  
Y1034703  
Tokura Association Incorporated - Y0981114  
Uralla Rugby League Football Club Inc - Y0890412  
Warrumbungle Motorcycle Club Inc - Y1052603

CHRISTINE GOWLAND,  
Manager,  
Financial Analysis,  
Registry of Co-operatives and Associations,  
Office of Fair Trading,  
Department of Commerce  
21 August 2008



**ASSOCIATIONS INCORPORATION ACT 1984**

Cancellation of Incorporation pursuant to Section 54

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to section 54 of the Associations Incorporation Act 1984.

Cancellation is effective as at the date of gazettal.

Australian Serviced Offices Association Inc - Y0024615  
 Jugoslav Australian Social Club (Jugo Kolo) Inc - Y0999723  
 Hrvatsko Hercegovacki Centar Siroki Brijeg Inc - Y0223510  
 Hornsby Ku-Ring-Gai Community Youth Support Scheme Inc - Y0181007  
 Boggabri Bushmens Carnival Association Inc - Y0579604  
 Molong People's Welfare Association Inc - Y1130318  
 Eurunderee Provisional School Foundation Inc - Y0856704  
 Lithgow Boating Club Inc - Y0645329  
 Topcat Shopping Inc - Y1254244  
 Barooga Citizens Action Group Inc - Y1311803  
 Elong Social Committee Inc - Y1285327  
 Gerogery West Small Schools Sports Association Inc - Y1182439  
 Sawdus J.R.L.F.C. Inc - Y1263929  
 Port Macquarie Australian Rules Football Club Inc - Y1287419  
 Seigokan Goju Ryu Karate Do Association of Australia Incorporated - Y1238338  
 Orange Fire Brigade (Volunteers) Social Club Inc - Y1163738  
 Ferrero Social Club Inc - Y1262246  
 Wellington Motor Cycle Club Inc - Y1354533  
 Barwell Garden Poet's Union Incorporated - INC9876782  
 Byron Bay Game & Sport Fishing Club Inc - Y0961416  
 Employees' Industrial Council Incorporated - Y0660826  
 East Cessnock Community Centre Inc - Y0768601  
 Fil-Aust Tenpin Bowlers Association Inc - Y0852618  
 Helepeku Tongan Community Club Inc - Y0876010  
 Muswellbrook Softball Association Inc - Y0845025  
 Pambula Beach Little Athletics Centre Inc - Y1136741  
 Playbox Productions Inc - Y0911044  
 Romanian Penticostal Church "Emanuel" Mudgee Incorporated - INC9877188  
 Tamworth Rugby Football Club Inc - Y0743722  
 Whitlam Accommodation Service (WAS) Inc - Y0858747  
 Wurringah Support Group Inc - Y0959004  
 Wagga City Rugby Union Football Club Inc - Y1048246

CHRISTINE GOWLAND,  
 Manager,  
 Financial Analysis,  
 Registry of Co-operatives and Associations,  
 Office of Fair Trading,  
 Department of Commerce  
 26 August 2008

**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.

AWOLL Incorporated - INC9884191

CHRISTINE GOWLAND,  
 Manager,  
 Financial Analysis Branch,  
 Registry of Co-operatives and Associations,  
 Office of Fair Trading,  
 Department of Commerce  
 25 August 2008

**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.

Como Jannali Little Athletics Club Incorporated - Y1099811  
 Emmanuel Renewal Centre Incorporated - Y2693401  
 The Great Southern Ball Committee Incorporated - Y2715226  
 Australian Association for Humane Research Inc - Y1250648  
 New Directions Life Development Incorporated - Y2487501  
 Orange Swimming Club Incorporated - Y1064936  
 Hay Community Church Incorporated - INC9878376  
 Dangarsleigh Landcare Group Incorporated - Y2140308  
 Blast Cleaning and Coating Association of New South Wales Incorporated - Y1940029  
 The Exchange Hotel Fishing Club Incorporated - INC9876910  
 Murwillumbah Day Centre Inc - Y1077433  
 UTS Alumni Association Incorporated - Y2091143  
 Goulburn Youth Projects Inc - Y0384135  
 Moss Vale Volleyball Association Incorporated - INC9879584

CHRISTINE GOWLAND,  
 Manager,  
 Financial Analysis Branch,  
 Registry of Co-operatives and Associations,  
 Office of Fair Trading,  
 Department of Commerce  
 25 August 2008

**ASSOCIATIONS INCORPORATION ACT 1984**

Reinstatement of Cancelled Association pursuant to Section 54A

The incorporation of Mosman Football Club Incorporated cancelled on 11 July 2008, is reinstated pursuant to section 54A of the Associations Incorporation Act 1984.

Dated: 23rd day of July 2008.

CHRISTINE GOWLAND,  
Manager,  
Financial Analysis Branch,  
Registry of Co-operatives and Associations,  
Office of Fair Trading,  
Department of Commerce

NPWS office at 75 Main Street, Alstonville NSW 2478  
(phone 6627 0217).

The plans are also available on the NPWS web site: [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au).

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### LORD HOWE ISLAND ACT 1953

Revocation of Reservation of Crown Land for a Public Purpose

IN pursuance of the requirements of the Lord Howe Island Act 1953, the land described hereunder be revoked for public purposes.

Part Lagoon Road Reserve adjacent to Portions 142 and 197 being no greater than 430 square metres in area.

VERITY FIRTH, M.P.,  
Minister for Climate Change Environment and Water

Dated this 1st day of August 2008,  
Department of Environment and Climate Change

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### NATIONAL PARKS AND WILDLIFE ACT 1974

Burrinjuck Nature Reserve  
Jerilderie Nature Reserve  
Marshalls Creek Nature Reserve  
Draft Plans of Management

DRAFT plans of management for the above reserves have been prepared and are available on the website: [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au).

Copies of the Burrinjuck plan are available free of charge from the NPWS office at 11 Farrer Place, Queanbeyan (phone 6299 2929) and can also be viewed at Yass Valley Council Office, 209 Comur Street, Yass. Copies of the Jerilderie plan are available from the NPWS office at 200 Yambil Street, Griffith (phone 6966 8100). Copies of the Marshalls Creek plan are available from the NPWS office at 75 Main Street, Alstonville (phone 6627 0200) and the World Heritage Rainforest Centre, Cnr Alma Street and Tweed Valley Way, Murwillumbah (phone 6670 8600).

Written submissions on these plans must be received at the address in the Invitation to Comment section of the relevant plan by 1 December 2008.

All submissions received by NPWS are a matter of public record and are available for public inspection upon request to NPWS. Your comments on these 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.

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### MENTAL HEALTH ACT 2007

Section 109

I, Professor DEBORA PICONE, AM, Director-General of the NSW Department of Health, pursuant to section 109 of the Mental Health Act 2007 and section 43 of the Interpretation Act 1987, DO HEREBY REPEAL the Order, published in *New South Wales Government Gazette* No. 9 of 23 January 1998, at page 390, declaring the Richmond Clinic of Lismore Base Hospital to be a hospital for the purposes of the Mental Health Act 1990, which was taken to be a declared mental health facility in accordance with Clause 5(1) of Schedule 6 of the Mental Health Act 2007.

Signed this 22nd day of August 2008.

Professor DEBORA PICONE, AM,  
Director-General

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### NATIONAL PARKS AND WILDLIFE ACT 1974

PROCLAMATION

I, Professor MARIE BASHIR, AC, Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of the powers vested in me under section 68 of the National Parks and Wildlife Act 1974, with the consent of every owner and occupier do, on the recommendation of the Director-General of National Parks and Wildlife, by this my Proclamation declare the lands described hereunder to be a wildlife refuge for the purposes of the abovementioned Act.

To be known as "Rose Road Wildlife Refuge".

Signed and sealed at Sydney, this 13th day of August 2008.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

VERITY FIRTH, M.P.,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

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### NATIONAL PARKS AND WILDLIFE ACT 1974

Broulee Island Nature Reserve  
Illawong Nature Reserve  
Brundee Swamp and Saltwater Swamp Nature Reserves  
Mudjarn Nature Reserve  
Tucki Tucki Nature Reserve  
Plans of Management

PLANS of management for the above nature reserves were adopted by the Minister for Climate Change and the Environment on 21 July 2008.

Copies of the Broulee Island and Illawong plans may be obtained from the NPWS office at the corner of Field Street and Princes Highway, Narooma NSW 2546 (phone 4476 2888). Copies of the Brundee Swamp and Saltwater Swamp plan may be obtained from the NPWS office at 55 Graham Street, Nowra NSW 2541 (phone 4423 2170). Copies of the Mudjarn plan may be obtained from the NPWS office at 7A Adelong Road, Tumut NSW 2720 (phone 6947 7000). Copies of the Tucki Tucki plan may be obtained from the



## Description

*Land District – Lismore; Council – Lismore*

County of Rous, Parish of Nimbin, 10.12 hectares, being Lot 3, DP 571900.

NPWS FIL08/6447.

**NATIONAL PARKS AND WILDLIFE ACT 1974**

## PROCLAMATION

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 the powers vested in me under section 68 of the National Parks and Wildlife Act 1974, with the consent of every owner and occupier do, on the recommendation of the Director-General of the Department of Environment and Climate Change, by this my Proclamation declare the lands described hereunder to be a wildlife refuge for the purposes of the abovementioned Act.

To be known as “Melaleuca Wildlife Refuge”.

Signed and sealed at Sydney, this 13th day of August 2008.

MARIE BASHIR,  
Governor

By Her Excellency’s Command,

VERITY FIRTH, M.P.,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

## Description

*Land District – Moruya; Council – Eurobodalla*

County of Dampier, Parish of Burra, 41.28 hectares, being Lot 2, DP 805910.

NPWS 08/7173.

**PIPELINES ACT 1967**

## Notification of Vesting of Lands and Easements

Bamarang Gas Pipeline  
Pipeline Licence No. 36

I, IAN MICHAEL MACDONALD, M.L.C., Minister for Energy, pursuant to the provisions of sections 21 and 61 of the Pipelines Act 1967, hereby declare that the land and easement over the land described in Schedule 1 hereto are vested in Delta Electricity (ABN 67 139 819 642) for the purposes of and incidental to the construction and operation of a pipeline subject to the restrictions as to user set out in Schedule 2 hereto.

Dated this 14th day of August 2008.

IAN MACDONALD, M.L.C.,  
Minister for Energy

## SCHEDULE 1

## Lands Acquired or Affected by Easements for Pipeline

All those pieces or parcels of land described as Deposited Plan DP 1126601 lodged and registered at the Sydney office of Land and Property Information NSW.

## SCHEDULE 2

## Restrictions as to User

Without affecting the generality of any requirement imposed by the Pipelines Act 1967 or regulations thereunder, the owner or occupier of land over which there is an easement for pipeline must not within the easement, except with the prior consent in writing of the person in whom the easement is vested:

- (a) Excavate (including blasting), drill or dig.
- (b) Erect, place or permit to be erected or placed any building, structure (including fence posts), plant, apparatus or equipment, earthworks, utility services or other improvements whether permanent or temporary on, over or under the land.
- (c) Alter or disturb existing levels, contours or gradients.
- (d) Plant or cultivate any tree within 3 metres of the pipeline or any apparatus or works.
- (e) Place on or use any part of the servient tenement for the transport, carriage or support of any heavy object, vehicle or implement, which could in any way cause or be likely to cause damage to the pipeline.
- (f) Undertake any other activity that represents a danger to the pipeline or is a danger to the operation of the pipeline or its apparatus or works including signs, vent pipes and cathodic protection systems including anode beds and electrolysis test points.

**PIPELINES ACT 1967**

## Grant of Pipeline Licence

Licence No. 36

DELTA ELECTRICITY (ABN 67 139 819 642), having its registered office at Level 12, Tower 1, 201 Sussex Street, Sydney NSW 2000, has applied in accordance with the provisions of section 12 of the Pipelines Act 1967 and Pipeline Regulation 2005, for a Licence to operate a pipeline to convey Natural Gas between the Alinta “Eastern Gas Pipeline” Pipeline Licence Number 26 at Bamarang and the proposed Bamarang Gas Turbine facility.

The application complies with the provisions of the Act and Regulation and therefore I, IAN MACDONALD, M.L.C., Minister for Energy, do grant Licence No. 36 effective from my signing of this Licence.

The lands affected by the pipeline licence area are indicated in DP 1126601 and Lot 1, Deposited Plan 127482 including associated instruments, lodged and registered at the Sydney office of Land and Property Information, Department of Lands.

The Licence is granted subject to the requirements of and conditions set forth in Annexure B.

Signed at Sydney, New South Wales this 14th day of August 2008.

IAN MACDONALD, M.L.C.,  
Minister for Energy

**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 Dr Douglas Williment, DE 0053805, of 1799 Pittwater Rd, Mona Vale 2103, prohibiting him until further notice, as a dentist from supplying or having possession of drugs of addiction as authorised by clause 101 of the Regulation and issuing a prescription for a drug of addiction as authorised by clause 76 of the Regulation.

This order is to take effect on and from 29 August 2008.

Professor DEBORA PICONE, AM,  
Director-General

Department of Health, New South Wales  
Sydney 25 August 2008.

**RACING ADMINISTRATION REGULATION 2005****Order – Clause 15(1)(e)**

I, GRAHAM WEST, M.P., Minister for Gaming and Racing, in pursuance of Clause 15(1)(e) of the Racing Administration Regulation 2005, on the recommendation of Racing NSW, by this Order authorise the following class of publications:

- (A) A publication of a NSW race field relating to a NSW thoroughbred race by Racing Information Services Australia Pty Limited (ACN 105 994 330) which is authorised under the “Participation Agreement” dated on or about 27 November 2003 (as amended from time to time) between parties including Racing Information Services Australia Pty Limited and Racing NSW.
- (B) A publication of a NSW race field relating to a NSW thoroughbred race which:
  - (a) occurs at a time when the “Participation Agreement” dated on or about 27 November 2003 (as amended from time to time) is in effect as between Racing Information Services Australia Pty Limited and Racing NSW;
  - (b) is not made by or on behalf of a wagering operator as defined in clause 14(1) of the Racing Administration Regulation 2005;
  - (c) is not made in the course of wagering operations or for the purpose of a wagering business conducted by a person making or authorising the publication or by a close associate of such person; and
  - (d) is authorised by, and conducted in accordance with, a written agreement between the publisher and:
    - (i) Racing Information Services Australia Pty Limited; or
    - (ii) a person who, under a written agreement with Racing Information Services Australia Pty Limited, is authorised to grant to the publisher the right to publish the NSW race field in the manner and for the purpose for which the publication is made.

For the avoidance of any doubt, nothing in this Order authorises any publication of a NSW race field:

- (1) by a wagering operator;
- (2) in the course of wagering operations; or
- (3) for the purpose of a wagering business conducted by a person making or authorising the publication or by a close associate of such a person.

GRAHAM WEST, M.P.,  
Minister for Gaming and Racing

**RACING ADMINISTRATION REGULATION 2005****Order – Clause 15(1)(e)**

I, GRAHAM WEST, M.P., Minister for Gaming and Racing, in pursuance of Clause 15(1)(e) of the Racing Administration Regulation 2005, on the recommendation of Racing NSW, Harness Racing NSW and Greyhound Racing NSW, by this Order authorise the following class of publications:

- (1) Publication of NSW race fields by a trainer licensed by Racing NSW, Harness Racing NSW, Greyhound Racing NSW or a controlling body of racing in another State or Territory, made solely to the owners of a horse or greyhound trained by that trainer for the purpose of training and racing of that horse or greyhound and for managing the relationship between the trainer and the owners of the horse or greyhound.
- (2) Publication of NSW race fields in which a horse or greyhound is entered made solely between the registered co-owners of that horse or the co-owners of that greyhound.
- (3) Publication of NSW race fields in which a horse or greyhound is entered made by a syndicator or syndicate manager of that horse or greyhound solely to syndicate members who own that horse or greyhound where the publication is made in connection with the activities of the syndicate and for the purpose of keeping syndicate members who own that horse or greyhound informed of racing matters concerning that horse or greyhound.

GRAHAM WEST, M.P.,  
Minister for Gaming and Racing

**RURAL FIRES ACT 1997****Local Bush Fire Danger Period Variation**

PURSUANT to section 82 of the Rural Fires Act 1997, as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

**Area of Variation:**

Nambucca, Incorporating:  
Nambucca Local Government Area.

The Local Bush Fire Danger period has been extended for the period 1 September until 30 September 2008.

During this period permits pursuant to section 87 of the Rural Fires Act 1997, as amended, will be required for the lighting of fire for the purposes of land clearance or fire breaks.

ROB ROGERS, AFSM,  
Assistant Commissioner,  
Director Operational Services  
(delegate)  
25 August 2008

**RURAL FIRES ACT 1997**

## Local Bush Fire Danger Period Variation

PURSUANT to section 82 of the Rural Fires Act 1997, as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

Area of Variation:

Cudgegong LGA Incorporating:  
Mid-Western Regional Council

The Local Bush Fire Danger period has been extended for the period 1 September until 30 September 2008.

During this period permits pursuant to section 87 of the Rural Fires Act 1997, as Amended, will be required for the lighting of fire for the purposes of land clearance or fire breaks.

SHANE FITZSIMMONS, AFSM,  
Commissioner

**THREATENED SPECIES CONSERVATION ACT  
1995**Notice of Preliminary Determinations  
Additions to the Schedules

THE Scientific Committee, established by the Threatened Species Conservation Act, has made Preliminary Determinations to support proposals to list the following in the relevant Schedules of the Act.

## Endangered Ecological Community (Part 3 of Schedule 1)

Grey Box - Grey Gum Wet Sclerophyll Forest in the NSW North Coast Bioregion

Hunter Valley Vine Thicket in the NSW North Coast and Sydney Basin Bioregions

## Vulnerable Species (Part 1 of Schedule 2)

Little Lorikeet *Glossopsitta pusilla* (Shaw, 1790)

## Key Threatening Process (Schedule 3)

Invasion and Establishment of Escaped Exotic Garden Plants

Predation and Hybridisation by Feral Dogs (*Canis lupus familiaris*)

Notice of Preliminary Determination  
Amendments to the Schedules

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination to support a proposal to list the mallee *Eucalyptus recurva* Crisp as a CRITICALLY ENDANGERED SPECIES in Part 1 of Schedule 1A of the Act, and as a consequence, to omit reference to *Eucalyptus recurva* Crisp from Part 1 of Schedule 1 (Endangered species) of the Act.

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination to support a proposal to list the shrub *Zieria adenophora* Blakely as a CRITICALLY ENDANGERED SPECIES in Part 1 of Schedule 1A of the Act, and as a consequence, to omit reference to *Zieria adenophora* Blakely from Part 1 of Schedule 1 (Endangered species) of the Act.

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination to support a proposal to list the shrub *Zieria buxijugum* J. D. Briggs & J. Armstr. as a CRITICALLY ENDANGERED SPECIES in Part 1 of Schedule 1A of the Act, and as a consequence, to omit reference to *Zieria buxijugum* J. D. Briggs & J.A. Armstrong from Part 1 of Schedule 1 (Endangered species).

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination to support a proposal to list the shrub *Zieria formosa* J.D. Briggs & J.A. Armstr. as a CRITICALLY ENDANGERED SPECIES in Part 1 of Schedule 1A of the Act, and as a consequence, omit reference to *Zieria formosa* J.D. Briggs & J.A. Armstrong from Part 1 of Schedule 1 (Endangered species).

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination to support a proposal to list the shrub *Zieria parrisiae* J.D. Briggs & J.A. Armstr. as a CRITICALLY ENDANGERED SPECIES in Part 1 of Schedule 1A of the Act, and as a consequence, to omit reference to *Zieria parrisiae* J.D. Briggs & J.A. Armstrong from Part 1 of Schedule 1 (Endangered species) of the Act.

## Notice of Preliminary Determination

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination NOT to support a proposal to list Yellow Gum Tall Woodland of the Murray River Floodplain as an ENDANGERED ECOLOGICAL COMMUNITY in Part 3 of Schedule 1 of the Act.

Any person may make a written submission regarding these Preliminary Determinations. Send submissions to: Scientific Committee, PO Box 1967, Hurstville NSW 1481. Attention: Suzanne Chate. Submissions must be received by 24 October 2008.

## Notice of Final Determination

The Scientific Committee has also made a Final Determination to reject a proposal to list the Hunter Valley Vine Thicket in the NSW North Coast and Sydney Basin Bioregions as a CRITICALLY ENDANGERED ECOLOGICAL COMMUNITY in Part 2 of Schedule 1A of the Act.

Copies of these Determinations, which contain the reasons for the determinations, may be obtained free of charge on the Internet [www.environment.nsw.gov.au](http://www.environment.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 Climate Change Information Centre, Level 14, 59-61 Goulburn Street, Sydney. Copies of the determinations may also be obtained from National Parks and Wildlife Service Area Offices and Visitor Centres, subject to availability.

Professor LESLEY HUGHES,  
Chairperson



Independent Pricing and Regulatory Tribunal

## **Price review of rating valuation services provided by the Valuer General to local government**

**Final Determination No. 2, 2008**

Reference no. 08/56

## Contents

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## Preliminary

### 1. Background

- (1) Section 12 of the *Independent Pricing and Regulatory Tribunal Act 1992* (**IPART Act**) provides that IPART will conduct investigations and make reports to the Minister on the determination of the pricing for a specified government monopoly service referred to IPART by the Minister.
- (2) By the *Government Pricing Tribunal (Valuer-General's Services) Order* dated 11 August 1993 and made under section 4 of the IPART Act (**Order**), the following services provided by the Valuer-General were declared as government monopoly services:
  - (a) Furnishing valuation lists and supplementary lists under Part 5 of the *Valuation of Land Act 1916* (NSW) by the Valuer-General to a council of an area under the *Local Government Act 1993* (NSW) (**Monopoly Services**).
- (3) On 26 September 1995 IPART issued Determination No 7, 1995. This pricing determination prescribed maximum prices for the Monopoly Services for the period from 1 July 1995 to 30 June 1996 and further maximum prices for the period from 1 July 1996.
- (4) On 10 December 2007, IPART received a letter from the Premier requesting that IPART, pursuant to section 12 of the IPART Act, make a new determination of the pricing for the provision of the Monopoly Services to apply for a period of 5 years. This letter attached terms of reference for the price review (the **Terms of Reference**).
- (5) In investigating and reporting on the pricing of the Monopoly Services, IPART has had regard to a broad range of matters, including:
  - (a) the issues set out in the Terms of Reference; and
  - (b) the criteria set out in section 15(1) of the IPART Act.
- (6) In accordance with section 13A of the IPART Act, IPART has fixed maximum prices for the Monopoly Services.



Preliminary

- (7) Under section 18(2) of the IPART Act, the Valuer-General may not fix a price below that determined by IPART for the Monopoly Services without the approval of the Treasurer.

## 2. Application of this determination

- (1) This determination fixes the maximum prices that the Valuer-General may charge for the Monopoly Services.
- (2) This determination commences on the later of 1 July 2009 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 2014. The maximum prices in this determination prevailing at 30 June 2014 continue to apply beyond 30 June 2014 until this determination is replaced.

## 3. Replacement of Determination No. 7 of 1995

This determination replaces Determination No 7 of 1995 from the Commencement Date. The replacement does not affect anything done or omitted to be done, or rights or obligations accrued, under Determination No 7 of 1995 prior to its replacement.

## 4. Monitoring

IPART may monitor the performance of the Valuer-General for the purposes of:

- (a) establishing and reporting on the level of compliance by the Valuer-General with this determination; and
- (b) preparing a periodic review of pricing policies in respect of the Monopoly Services supplied by the Valuer-General.

## 5. Schedule

Schedule 1 sets out the maximum prices that the Valuer-General may charge for the Monopoly Services.

## 6. Definitions and Interpretation

Definitions and interpretation provisions used in this determination are set out in Schedule 2.

## Schedule 1 – Maximum Prices for the Monopoly Services

### 1. Application

This Schedule sets the maximum prices that the Valuer-General may charge for supplying the Monopoly Services.

### 2. Categories for pricing purposes

Prices for Monopoly Services have been determined for 2 categories:

- (a) Residential Land; and
- (b) Non-Residential Land.

### 3. Charges for Monopoly Services with respect to Residential Land

The maximum price that may be levied by the Valuer-General for each entry on the Valuation Roll relating to Residential Land is a single annual charge equal to the price in Table 1 corresponding to the applicable Period in that table.

### 4. Charges for Monopoly Services with respect to Non-Residential Land

The maximum price that may be levied by the Valuer-General for each entry on the Valuation Roll relating to Non-Residential Land is a single annual charge equal to the price in Table 2 corresponding to the applicable Period in that table.

### 5. Worked example

A worked example to determine the maximum price is set out in Schedule 2.



## Tables 1 and 2

**Table 1 Maximum Prices for the Monopoly Services - Residential Land**

<b>Commencement date to 30 June 2010</b>	<b>1 July 2010 to 30 June 2011</b>	<b>1 July 2011 to 30 June 2012</b>	<b>1 July 2012 to 30 June 2013</b>	<b>1 July 2013 to 30 June 2014</b>
<b>(\$ per entry)</b>	<b>(\$ per entry)</b>	<b>(\$ per entry)</b>	<b>(\$ per entry)</b>	<b>(\$ per entry)</b>
$3.97 \times (1 + \Delta\text{CPI}_1)$	$4.12 \times (1 + \Delta\text{CPI}_2)$	$4.27 \times (1 + \Delta\text{CPI}_3)$	$4.42 \times (1 + \Delta\text{CPI}_4)$	$4.57 \times (1 + \Delta\text{CPI}_5)$

**Note:** See clause 1.1, Schedule 2 for a definition of "CPI" and an explanation of the above formulas.

**Table 2 Maximum Prices for the Monopoly Services - Non-Residential Land**

<b>Commencement date to 30 June 2010</b>	<b>1 July 2010 to 30 June 2011</b>	<b>1 July 2011 to 30 June 2012</b>	<b>1 July 2012 to 30 June 2013</b>	<b>1 July 2013 to 30 June 2014</b>
<b>(\$ per entry)</b>	<b>(\$ per entry)</b>	<b>(\$ per entry)</b>	<b>(\$ per entry)</b>	<b>(\$ per entry)</b>
$8.72 \times (1 + \Delta\text{CPI}_1)$	$9.05 \times (1 + \Delta\text{CPI}_2)$	$9.38 \times (1 + \Delta\text{CPI}_3)$	$9.71 \times (1 + \Delta\text{CPI}_4)$	$10.04 \times (1 + \Delta\text{CPI}_5)$

**Note:** See clause 1.1, Schedule 2 for a definition of "CPI" and an explanation of the above formulas.

## Schedule 2 – Definitions and Interpretation

### 1. Definitions

In this determination:

**Commencement Date** means the Commencement Date as defined in clause 2(2) of the section of this determination entitled “Preliminary”.

**Council** has the meaning given to it under the *Local Government Act 1993*.

**Gazette** means the NSW Government Gazette.

**Governor** means the governor of the State.

**IPART** means the Independent Pricing and Regulatory Tribunal of New South Wales established under the IPART Act.

**IPART Act** means the *Independent Pricing and Regulatory Tribunal Act 1992*.

**Monopoly Services** means the Monopoly Services described in clause 1(2) of the section of this determination entitled “Preliminary”.

**Non-Residential Land** means land categorised as farmland, mining or business for the purposes of ordinary rates under Chapter 15, Part 3 of the *Local Government Act 1993*.

**Order** means the *Government Pricing Tribunal (Valuer-General's Services) Order* dated 11 August 1993 and made under section 4 of the IPART Act, as described in clause 1(2) of the section of this determination entitled “Preliminary”.

**Period** means the Commencement Date to 30 June 2010, 1 July 2010 to 30 June 2011, 1 July 2011 to 30 June 2012 or 1 July 2012 to 30 June 2013 (as the case may be).

**Residential Land** means land categorised as residential for the purposes of ordinary rates under Chapter 15, Part 3 of the *Local Government Act 1993*.

**State** means the state of New South Wales.

**Terms of Reference** means the Terms of Reference described in clause 1(4) of the section of this determination entitled “Preliminary”.

## Schedule 2 – Definitions and Interpretation

**Valuation Roll** has the meaning given to it under section 53 of the *Valuation of Land Act 1916*.

**Valuer-General** means the person from time to time appointed to that position in accordance with section 8 of the *Valuation of Land Act 1916*.

### 1.1 Consumer Price Index

“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 to be determined by IPART.

$$\Delta\text{CPI}_1 = \left( \frac{\text{CPI}_{\text{Jun}2008} + \text{CPI}_{\text{Sep}2008} + \text{CPI}_{\text{Dec}2008} + \text{CPI}_{\text{Mar}2009}}{\text{CPI}_{\text{Jun}2006} + \text{CPI}_{\text{Sep}2006} + \text{CPI}_{\text{Dec}2006} + \text{CPI}_{\text{Mar}2007}} \right) - 1$$

$$\Delta\text{CPI}_2 = \left( \frac{\text{CPI}_{\text{Jun}2009} + \text{CPI}_{\text{Sep}2009} + \text{CPI}_{\text{Dec}2009} + \text{CPI}_{\text{Mar}2010}}{\text{CPI}_{\text{Jun}2006} + \text{CPI}_{\text{Sep}2006} + \text{CPI}_{\text{Dec}2006} + \text{CPI}_{\text{Mar}2007}} \right) - 1$$

$$\Delta\text{CPI}_3 = \left( \frac{\text{CPI}_{\text{Jun}2010} + \text{CPI}_{\text{Sep}2010} + \text{CPI}_{\text{Dec}2010} + \text{CPI}_{\text{Mar}2011}}{\text{CPI}_{\text{Jun}2006} + \text{CPI}_{\text{Sep}2006} + \text{CPI}_{\text{Dec}2006} + \text{CPI}_{\text{Mar}2007}} \right) - 1$$

$$\Delta\text{CPI}_4 = \left( \frac{\text{CPI}_{\text{Jun}2011} + \text{CPI}_{\text{Sep}2011} + \text{CPI}_{\text{Dec}2011} + \text{CPI}_{\text{Mar}2012}}{\text{CPI}_{\text{Jun}2006} + \text{CPI}_{\text{Sep}2006} + \text{CPI}_{\text{Dec}2006} + \text{CPI}_{\text{Mar}2007}} \right) - 1$$

$$\Delta\text{CPI}_5 = \left( \frac{\text{CPI}_{\text{Jun}2012} + \text{CPI}_{\text{Sep}2012} + \text{CPI}_{\text{Dec}2012} + \text{CPI}_{\text{Mar}2013}}{\text{CPI}_{\text{Jun}2006} + \text{CPI}_{\text{Sep}2006} + \text{CPI}_{\text{Dec}2006} + \text{CPI}_{\text{Mar}2007}} \right) - 1$$

each as calculated by IPART and notified in writing by IPART to the Valuer-General.

## **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 person includes any company, partnership, joint venture, association, corporation, other body corporate or government agency;
- (f) a reference to an officer includes a reference to the officer who replaces him or her, or who substantially succeeds to his or her powers or functions; and
- (g) a reference to a body, whether statutory or not:
  - (i) which ceases to exist; or
  - (ii) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

### **2.2 Explanatory notes and Clarification Notice**

- (a) Explanatory notes or footnotes do not form part of this determination, but in the case of uncertainty may be relied on for interpretation purposes.
- (b) IPART may publish a clarification notice in the NSW Government Gazette to correct any manifest error in this determination as if that clarification notice formed part of this determination.

### **2.3 Prices inclusive of GST**

Prices specified in this determination do not include GST.

## Schedule 2 – Definitions and Interpretation

**3. Worked Example**

To determine the actual maximum price to be charged from 1 July 2009 for Residential Land, the following formula applies:

$$\$3.97 \times (1 + \Delta\text{CPI}_1).$$

To determine  $\Delta\text{CPI}$ , the following formula applies:

$$\Delta\text{CPI}_1 = \left( \frac{\text{CPI}_{\text{Jun}2008} + \text{CPI}_{\text{Sep}2008} + \text{CPI}_{\text{Dec}2008} + \text{CPI}_{\text{Mar}2009}}{\text{CPI}_{\text{Jun}2006} + \text{CPI}_{\text{Sep}2006} + \text{CPI}_{\text{Dec}2006} + \text{CPI}_{\text{Mar}2007}} \right) - 1$$

At the time of issuing this determination, the following CPI numbers are known:

June 2006 - 154.3

September 2006 - 155.7

December 2006 - 155.5

March 2007 - 155.6

June 2008 - 164.6

Assume for the purposes of this example only, the following further CPI numbers:

September 2008 - 165.8

December 2008 - 167.1

March 2009 - 168.3

then the formula is applied as follows:

$$\Delta\text{CPI}_1 = \left( \frac{164.6 + 165.8 + 167.1 + 168.3}{154.3 + 155.7 + 155.5 + 155.6} \right) - 1$$

$$\Delta\text{CPI}_1 = \left( \frac{665.8}{621.1} \right) - 1$$

$$\Delta\text{CPI}_1 = 0.072$$

The maximum charge for Residential Land from 1 July 2009 to 30 June 2010:

$$= \$3.97 \times (1 + 0.072)$$

$$= \$4.26 (\$2009/10)$$

**NATIONAL PARK ESTATE (RESERVATIONS) ACT, 2005****AN ORDER TO EXCLUDE CERTAIN ACCESS ROADS FROM VARIOUS NATIONAL PARKS AND STATE CONSERVATION AREAS AND TO RESERVE ACCESS ROADS AS PART OF VARIOUS NATIONAL PARKS AND STATE CONSERVATION AREAS**

I, Verity Firth MP, Minister for Climate Change and the Environment, being the Minister administering the National Parks and Wildlife Act 1974, in accordance with the National Park Estate (Reservations) Act 2005 and with the concurrence of the Minister administering the Forestry Act 1916, by this my order declare, under Schedule 6 Clause 5(7)(a)&(b):-

1. The access roads described in the Schedule 1 hereunder, being access roads within the areas referred to in Schedule 1 of the National Park Estate (Reservations) Act 2005, are excluded from reservation and are vested in the Minister administering the National Parks & Wildlife Act 1974.
2. All other access roads within the areas referred to in Schedule 1 and Schedule 2 of the National Park Estate (Reservations) Act 2005 and not described in Schedule 1 hereunder are reserved as part of the adjoining national park or state conservation area.

V. FIRTH  
Minister for Climate Change and the Environment

***SCHEDULE 1*****A: Deua National Park (Schedule 1 Clause 1(1) and 1(2))**

County of Dampier, Parishes of Bergalia and Bumbo West, Shire of Eurobodalla, being part of the land designated as 47-01 on the diagram catalogued as Misc R 00275 (Third Edition) in the Department of Environment and Climate Change and 47-02 on the diagram catalogued as Misc R 00276 (Third Edition) in the Department of Environment and Climate Change and shown by heavy black lines in the Diagrams 1 and 2 following.

**B: Illawarra Escarpment State Conservation Area (Schedule 1 Clause 2)**

County of Camden, Parish of Kembla, Local Government Area of Wollongong, being roads within the land designated as 620-01 on the diagram catalogued as Misc R 00265 (Third Edition) in the Department of Environment and Climate Change and shown by heavy black lines in the Diagram 3 following.

**C: Monga National Park (Schedule 1 Clause 3)**

County of St Vincent, Parish of Monga, Shire of Palerang, being roads within the land designated as 169-01 on the diagrams catalogued as Misc R 00270 (Third Edition) and Misc R 00271 (Third Edition) in the Department of Environment and Climate Change and being:

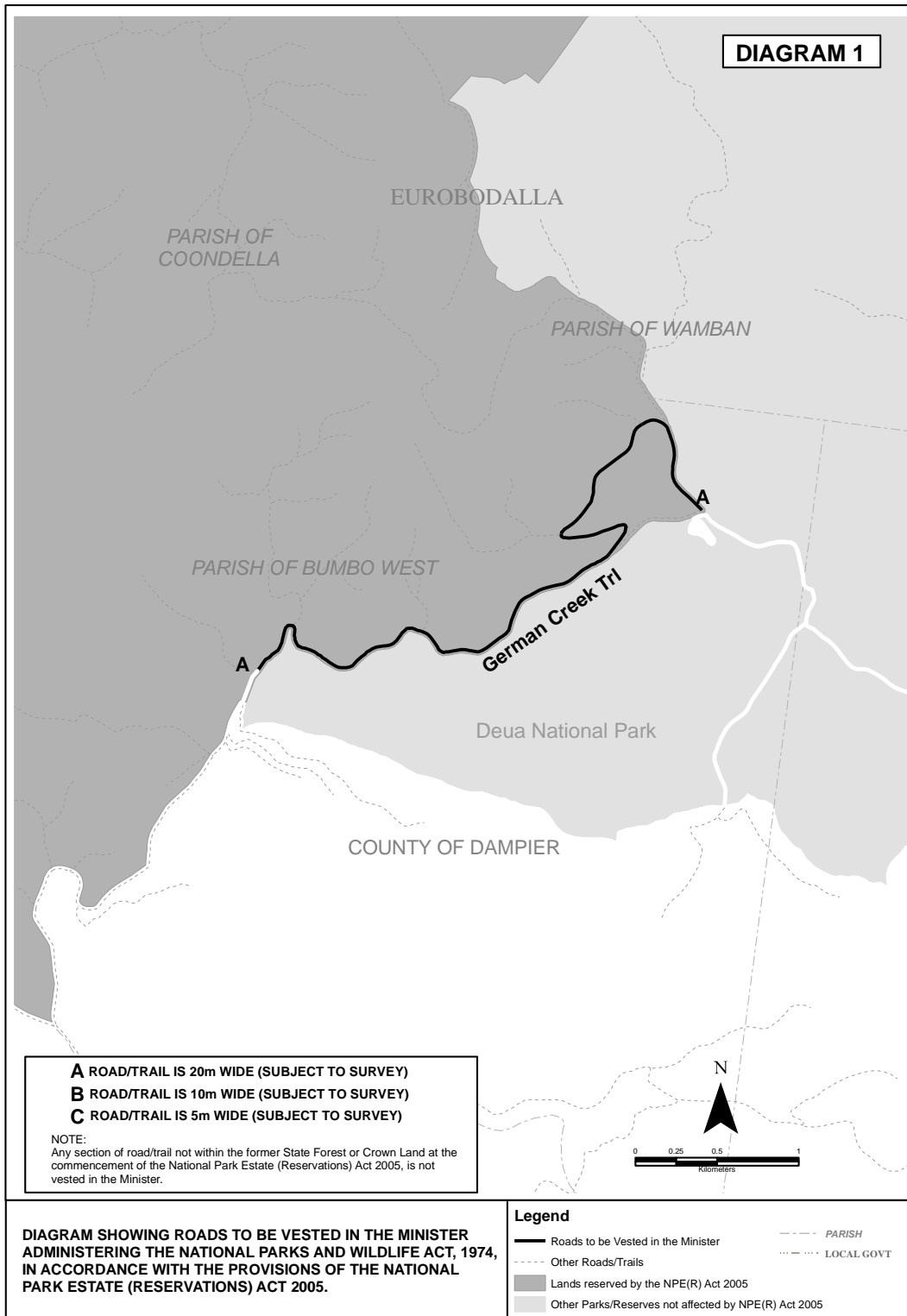
1. The roads known as Monga Mountain Rd and Old Araluen Road; and
2. The roads shown by heavy black lines in the Diagrams 4 and 5 following.

**D: Monga State Conservation Area (Schedule 1 Clause 4)**

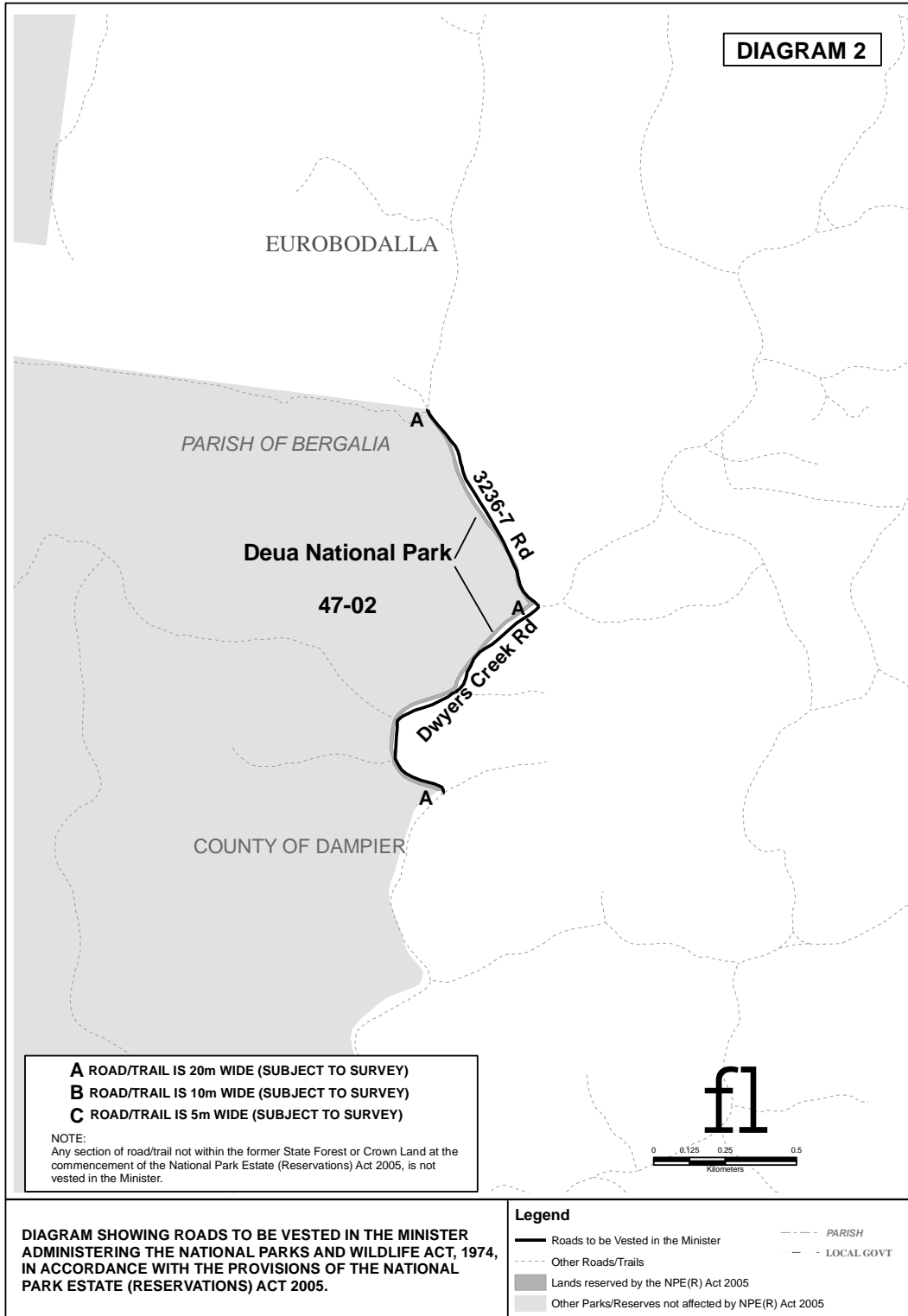
County of St Vincent, Parishes of Budawang and Coghill, Shire of Palerang, being roads within the land designated as 1026-01 on the diagram catalogued as Misc R 00270 (Third Edition) in the Department of Environment and Climate Change and being the road shown by a heavy black line in the Diagram 6 following.

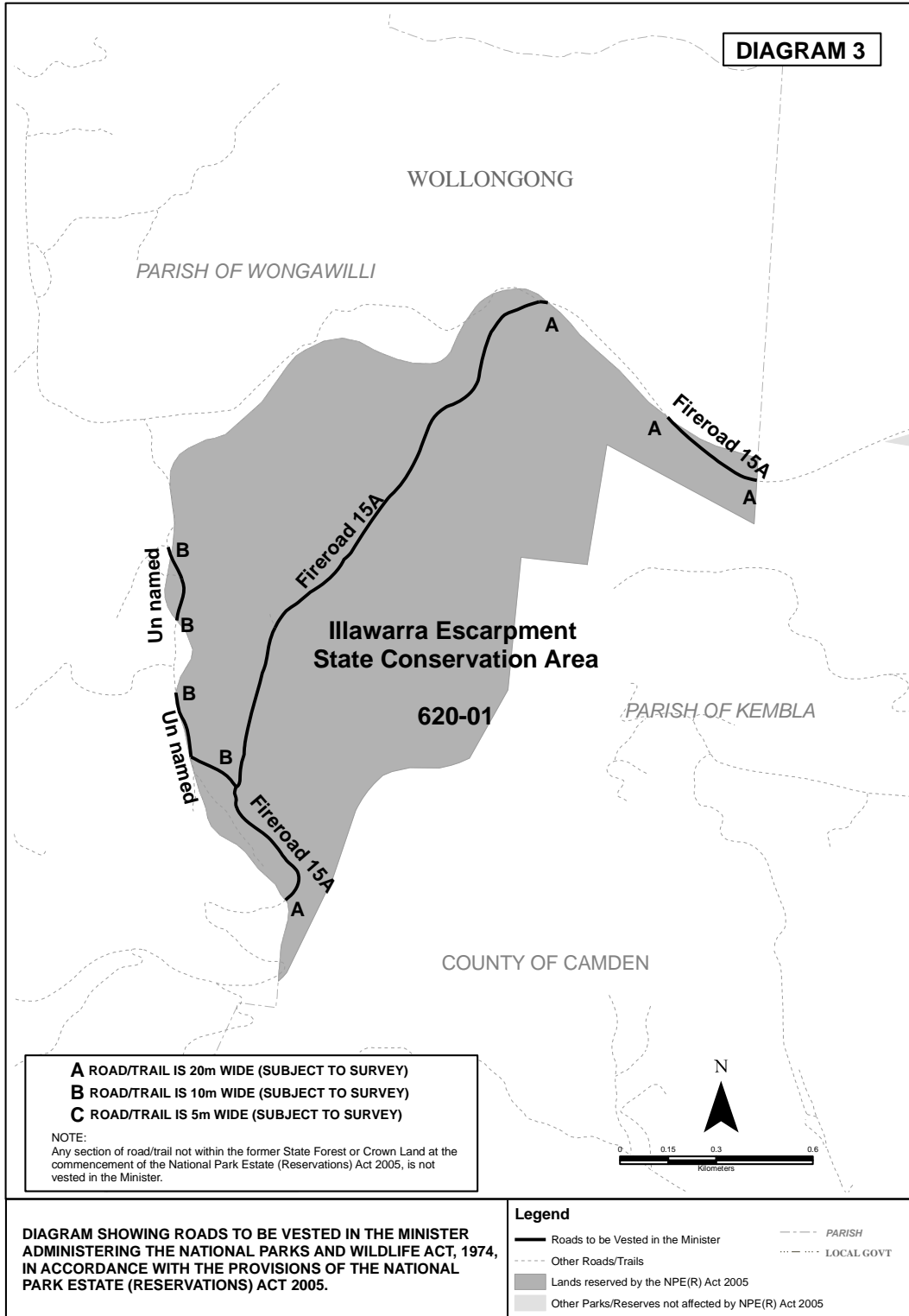
**Schedule 1 Note**

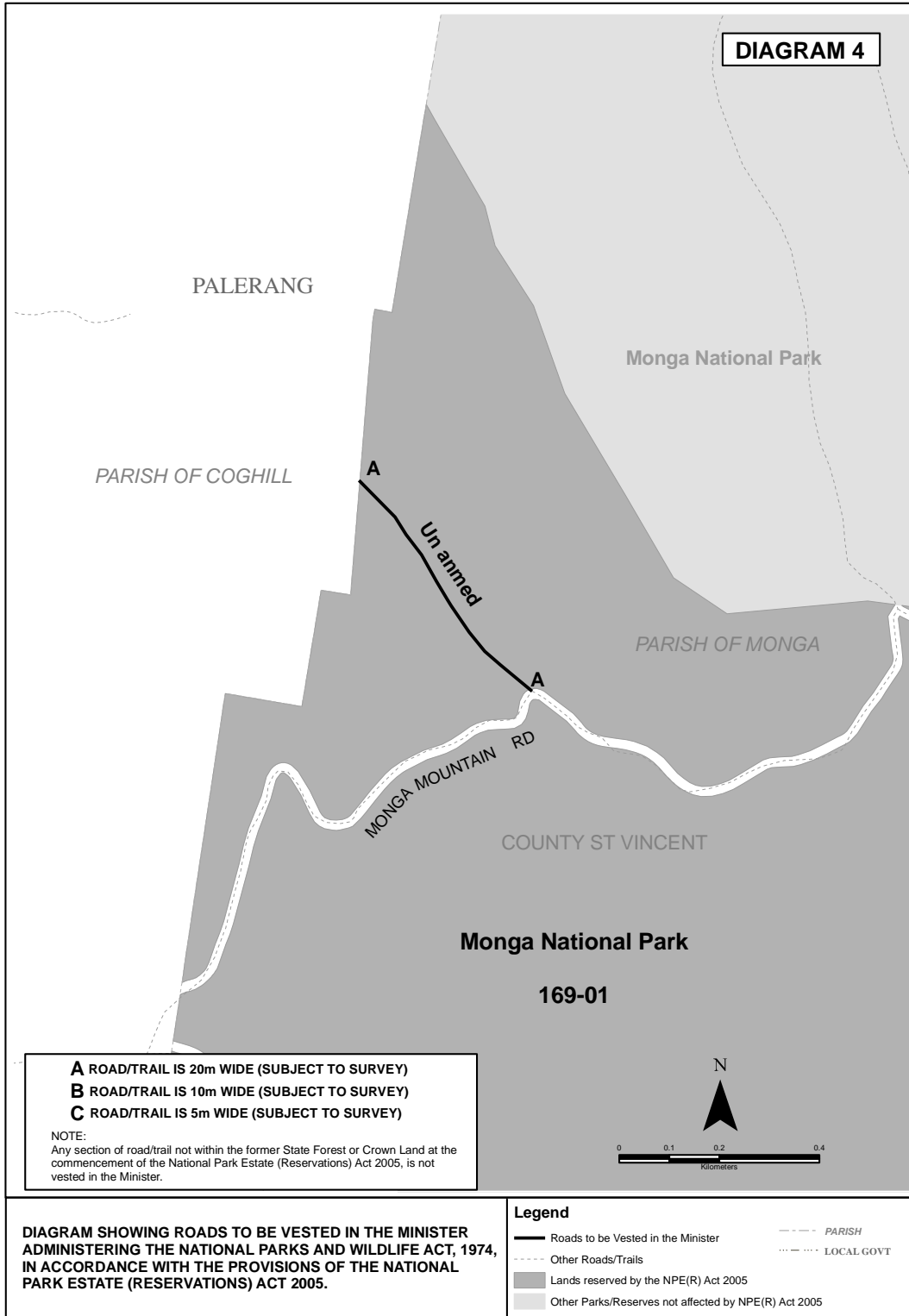
Any section of road constructed upon a public road reserve at the commencement of this Act, is not vested in the Minister. The road width for these roads is measured as an offset from the centre line of the constructed road as at 17 November 2005.

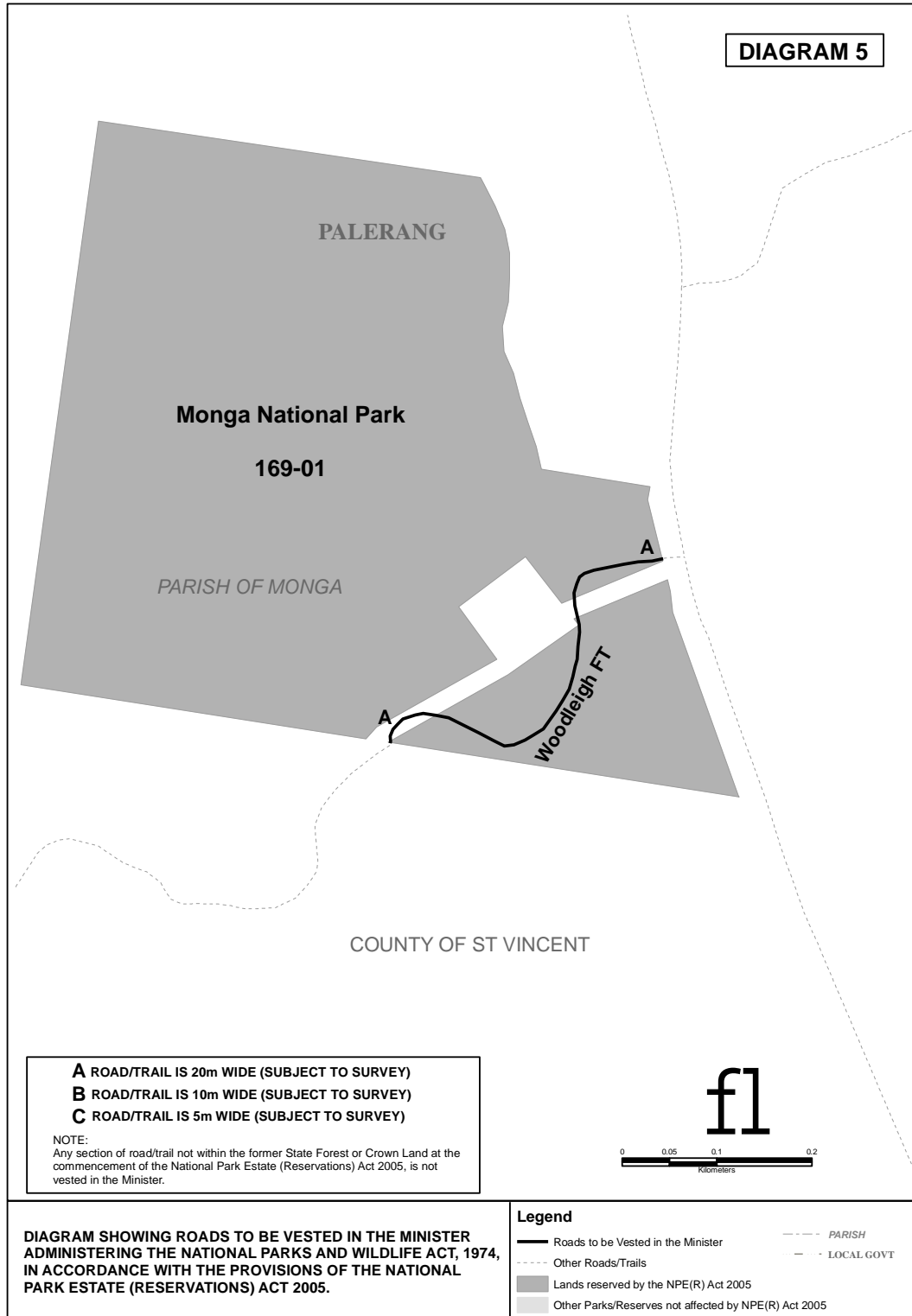


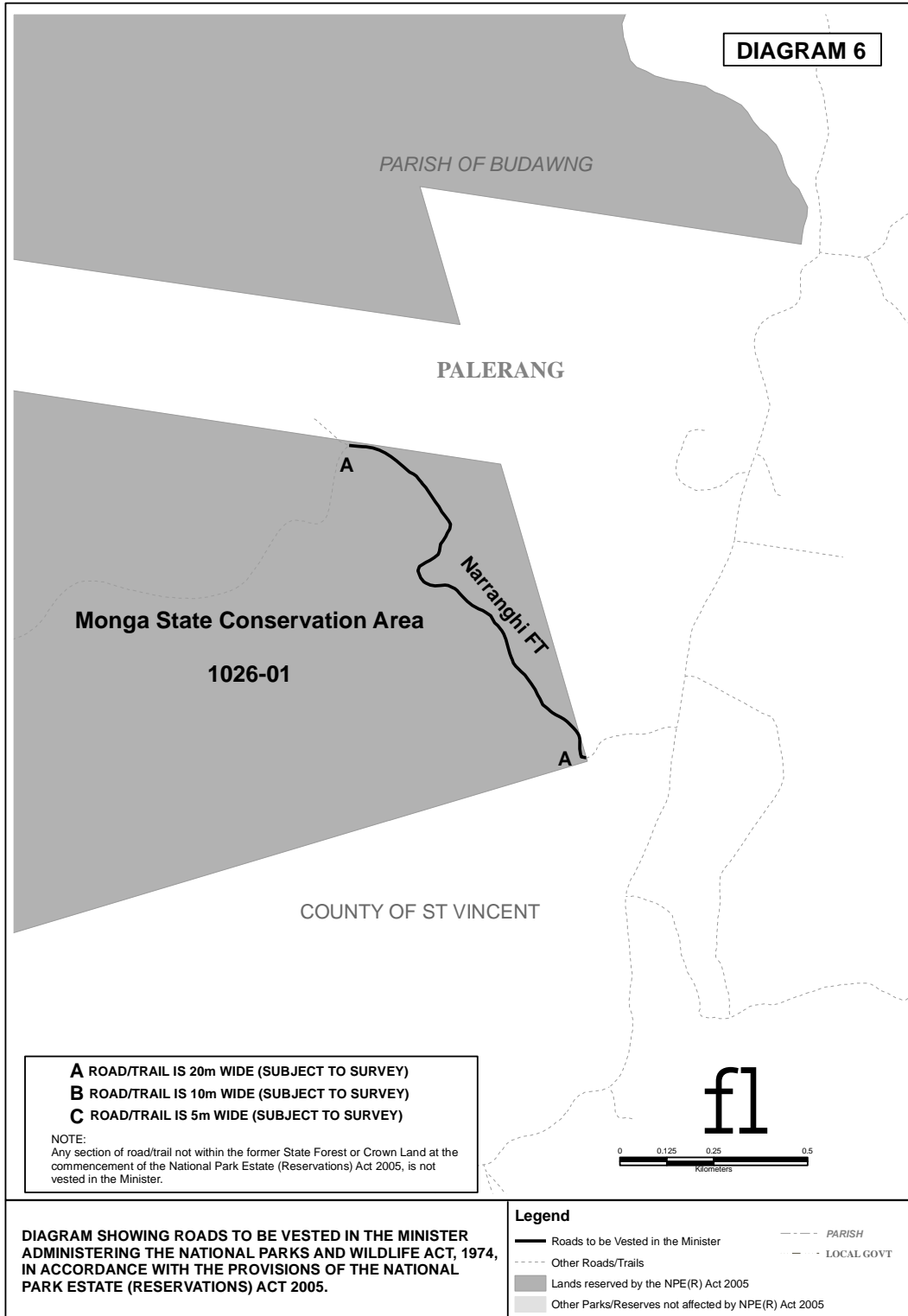












## Protection of the Environment Operations (Waste) Regulation 2005 – General Exemption Under Part 6, Clause 51 and 51A

### The recovered aggregate exemption 2008

#### Name

1. This exemption is to be known as 'The recovered aggregate exemption 2008'.

#### Commencement

2. This exemption commences on 29 August 2008. 'The recovered aggregate exemption 2008' which commenced 20 June 2008 is revoked from 29 August 2008.

#### Duration

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

#### Legislation

4. Under the *Protection of the Environment Operations (Waste) Regulation 2005* (the Regulation):
  - 4.1. Clause 51 (2) authorises the EPA to grant an exemption in relation to any matter or thing including an activity or class of activities, and
  - 4.2. Clause 51A authorises the EPA to exempt a person from any of the following provisions in relation to an activity or class of activities relating to certain waste that is to be land applied or used as a fuel:
    - the provisions of sections 47 to 49 and 88 of the *Protection of the Environment Operations Act 1997* (the Act),
    - the provisions of Schedule 1 to the Act, either in total or as they apply to a particular activity, and
    - the provisions of Part 3 and clauses 45 and 47 of the Regulation.

#### Exemption

5. In this Notice of Exemption:
  - 5.1. The responsible person listed in Column 1 of Table 1 is exempt from the provision/s listed in Column 2 of that table but only in relation to activities involving the relevant waste and only where the responsible person complies with the conditions referred to in Column 3 of the table.

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

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

Table 1

Column 1	Column 2	Column 3
Responsible person	Provisions from which the responsible person is exempt	Conditions to be met by the responsible person
Processor	section 48 of the Act in respect of clause 39 of Schedule 1 to the Act	all requirements specified in section 7 and 8
Consumer	section 48 of the Act in respect of clauses 34, 39, 41 and 42 of Schedule 1 to the Act section 88 of the Act clause 47 of the Regulation	all requirements specified in section 7 and 9

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

### Definitions

6. In this Notice of Exemption:

**Characterisation** means sampling and testing that must be conducted on the recovered aggregate for the range of chemicals and other attributes listed in Column 1 of Table 2.

**Composite sample** means a sample that combines 5 discrete sub-samples into a single sample for the purpose of analysis.

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

**Once-off sampling** means sampling and testing that must be conducted only once on a batch, truckload or stockpile of recovered aggregate that is not repeated, reproduced and does not form part of a continuous process.

**Processor** means a person who processes, mixes, blends, or otherwise incorporates recovered aggregate into a material for supply to a consumer.

**Recovered aggregate** means material comprising of concrete, brick, ceramics and asphalt processed into an engineered material. This does not include refractory bricks or associated refractory materials, or asphalt that contains coal tar.

**Relevant waste** means recovered aggregate that meets the requirements of Section 7.

**Routine sampling** means sampling and testing that must be conducted on the recovered aggregate on an ongoing and regular basis.

### General conditions

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

7.1. The chemical concentration or other attribute of the recovered aggregate listed in Column 1 of Table 2 must not exceed any of the following:

- 7.1.1. the absolute maximum concentration or other value listed in Column 4 of Table 2,
- 7.1.2. for characterisation or once-off tests, the maximum average (based on the arithmetic mean) concentration or other value listed in Column 2 of Table 2, and
- 7.1.3. for routine tests, the maximum average (based on the arithmetic mean) concentration or other value listed in Column 3 of Table 2.

- 7.2. The recovered aggregate can only be applied to land for road making activities, building, landscaping and construction works. This approval does not apply to any of the following applications:
- 7.2.1. Construction of dams or related water storage infrastructure,
  - 7.2.2. Mine site rehabilitation,
  - 7.2.3. Quarry rehabilitation,
  - 7.2.4. Sand dredge pond rehabilitation,
  - 7.2.5. Back-filling of quarry voids,
  - 7.2.6. Raising or reshaping of land used for agricultural purposes, and
  - 7.2.7. Construction of roads on private land unless:
    - (a) the relevant waste is applied to land to the minimum extent necessary for the construction of a road, and
    - (b) a development consent for the development has been granted under the relevant Environmental Planning Instrument (EPI), or
    - (c) it is to provide access (temporary or permanent) to a development approved by a Council, or
    - (d) the works undertaken are either exempt or complying development.

### **Processor responsibilities**

8. The following conditions must be met by the processor for this exemption to apply:

- 8.1. The processor must implement procedures to minimise the potential to receive or process waste containing asbestos. These procedures must be formally documented and the records of compliance must be kept for a period of three years.
- 8.2. Sampling must be undertaken in accordance with Australian Standard 1141 Methods for sampling and testing aggregates (or equivalent). Sampling and information on sample storage and preparation must be detailed in a written sampling plan.
- 8.3. Where the recovered aggregate is generated as part of a continuous process, the processor must undertake characterisation and routine sampling according to the requirements listed in Column 1 and Column 2 of Table 3.
- 8.4. Where the recovered aggregate is not generated as part of a continuous process, the processor may undertake once-off sampling of a batch, truckload or stockpile of recovered aggregate according to the requirements listed in Column 3 of Table 3, for the range of chemicals and other attributes listed in Column 1 of Table 2.
- 8.5. Where there is a change in inputs that is likely to affect the properties in the recovered aggregate, characterisation must be repeated. Characterisation samples can be used for routine testing and subsequent calculations.
- 8.6. Processors must keep a written record of all characterisation, routine and/or once-off test results for a period of three years.
- 8.7. Records of the quantity of recovered aggregate supplied to the consumer and either the consumer's name and address or the registration details of the vehicle used to transport the recovered aggregate, must be kept for a period of three years.
- 8.8. The processor of recovered aggregate must provide a written statement of compliance to the consumer with each transaction, certifying that the recovered aggregate complies with the relevant conditions of this exemption.
- 8.9. The processor of recovered aggregate must make information on the latest characterisation and routine test results available to the consumer.



### Consumer responsibilities

9. The following conditions must be met by the consumer for this exemption to apply:

- 9.1. Records of the quantity of the recovered aggregate received by the consumer and the suppliers' name and address must be kept for a period of three years.
- 9.2. The consumer must land apply the relevant waste within a reasonable period of time.

### Chemical and other material property requirements

10. This Notice of Exemption only applies to recovered aggregate where the chemical and other attributes listed in Column 1 of Table 2 comply with the chemical concentrations and other values listed in Column 2, Column 3 and Column 4 of Table 2, when analysed according to test methods specified in Column 5 of Table 2.

**Table 2**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Chemicals and other attributes</b>	<b>Maximum average concentration for characterisation</b> (mg/kg 'dry weight' unless otherwise specified)	<b>Maximum average concentration for routine testing</b> (mg/kg 'dry weight' unless otherwise specified)	<b>Absolute maximum concentration</b> (mg/kg 'dry weight' unless otherwise specified)	<b>Test method specified within Section</b>
1. Mercury	0.5	Not required	1	12.1
2. Cadmium	0.5	0.5	1	12.2
3. Lead	50	50	100	12.2
4. Arsenic	15	Not required	30	12.2
5. Chromium (total)	40	40	80	12.2
6. Copper	40	40	80	12.2
7. Nickel	25	Not required	50	12.2
8. Zinc	150	150	300	12.2
9. Electrical Conductivity	1 dS/m	1 dS/m	2 dS/m	12.3
10. Metal	1%	1%	2%	12.4
11. Plaster	0.25%	0.25%	0.5%	12.4
12. Rubber, plastic, paper, cloth, paint, wood and other vegetable matter	0.1%	0.1%	0.2%	12.4

## Sampling and testing requirements

11. This Notice of Exemption only applies to recovered aggregate sampled according to the requirements in Table 3.

**Table 3**

Column 1	Column 2	Column 3
Characterisation frequency	Routine sampling frequency	Once-off sampling frequency
20 composite samples, by taking 1 composite sample from a different batch, truckload or stockpile. This must be repeated every year.	5 composite samples per 4000 tonnes or 5 composite samples per 3 months.	10 composite samples per 4000 tonnes.

## Test methods

12. All testing must be undertaken by analytical laboratories accredited by the National Association of Testing Authorities, or equivalent. All chemicals and other attributes listed in Column 1 of Table 2 must be measured in accordance with the test methods specified below:

- 12.1. Test methods for measuring the mercury concentration in recovered aggregate:
  - 12.1.1. Particle size reduction & sample splitting may be required.
  - 12.1.2. Analysis using USEPA SW-846 Method 7471B Mercury in solid or semisolid waste (manual cold vapour technique), or an equivalent analytical method with a detection limit < 20% of the stated absolute maximum concentration in Table 2, Column 4 (i.e. 0.2 mg/kg dry weight).
  - 12.1.3. Report as mg/kg dry weight.
- 12.2. Test methods for measuring chemicals 2 - 8 in recovered aggregate:
  - 12.2.1. Particle size reduction & sample splitting may be required.
  - 12.2.2. Sample preparation by digesting using USEPA SW-846 Method 3051A Microwave assisted acid digestion of sediments, sludges, soils, and oils.
  - 12.2.3. Analysis using USEPA SW-846 Method 6010C Inductively coupled plasma - atomic emission spectrometry, or an equivalent analytical method with a detection limit < 10% of the stated absolute maximum concentration in Table 2, Column 4, (i.e. 10 mg/kg dry weight for lead).
  - 12.2.4. Report as mg/kg dry weight.
- 12.3. Test methods for measuring the electrical conductivity in recovered aggregate:
  - 12.3.1. Sample preparation by mixing 1 part recovered aggregate with 5 parts distilled water.
  - 12.3.2. Analysis using Method 104 (Electrical Conductivity). *In* Schedule B (3): Guideline on Laboratory Analysis of Potentially Contaminated Soils, National Environment Protection (Assessment of Site Contamination) Measure 1999 (or an equivalent analytical method).
  - 12.3.3. Report in deciSiemens per metre (dS/m).

- 12.4. Test method for measuring the attributes 10 - 12 in recovered aggregate:
- 12.4.1. NSW Roads & Traffic Authority Test Method T276 Foreign Materials Content of Recycled Crushed Aggregate (or an equivalent method), for the materials listed in 10 - 12 of Column 1, Table 2.
  - 12.4.2. Report as %.

### **Exemption Granted**

**Mark Gorta**  
**Manager, Waste Management Section**  
**Environment Protection Authority**  
**by delegation**

## Notes

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

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

The use of exempted material remains subject to other relevant environmental regulations within the Act and Regulations. For example, a person who pollutes land (s142A) or water (s120), or does not meet the special requirements for asbestos waste (clause 42), regardless of having an exemption, is guilty of an offence and subject to prosecution.

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

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, however, neither this exemption nor these conditions guarantee that the environment, human health or agriculture will not be harmed.

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

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

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

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

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

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

# PRIVATE ADVERTISEMENTS

## COUNCIL NOTICES

### BAULKHAM HILLS SHIRE COUNCIL

Roads Act 1993 and Roads (General) Regulation 2000

Rename a Public Road from "Burns Road" to "Memorial Avenue".

NOTICE is hereby given that pursuant to the Roads (General) Regulation 2000, as amended, and Clause 162 of the Roads Act 1993, as amended, Baulkham Hills Shire Council resolved on 12 August 2008, to rename a public road currently named "Burns Road" to "Memorial Avenue", location described below.

<i>Description</i>	<i>Name</i>
The section of road currently named Burns Road that commences at the intersection of Memorial Avenue and Balmoral Road and continues in a westerly direction until the intersection of Windsor Road.	Memorial Avenue.

For further enquiries regarding this matter please contact the Land Information Section on (02) 9843 0555. D. WALKER, General Manager, Baulkham Hills Shire Council, PO Box 75, Castle Hill NSW 1765. [4127]

### GOULBURN MULWAREE COUNCIL

Real Property Act 1900

Resumption of Land

GOULBURN MULWAREE COUNCIL declares that the land detailed in the Schedule hereto which was acquired for the purpose of the Goulburn Water Supply is hereby resumed by the Goulburn Mulwaree Council pursuant to section 31A(3) of the Real Property Act 1900. LUKE JOHNSON, General Manager, Goulburn Mulwaree Council, Locked Bag 22, Goulburn NSW 2580.

#### SCHEDULE

Interest in land Lot 10, DP 1069310.	[4128]
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### NARROMINE SHIRE COUNCIL

Naming of Roads

NOTICE is hereby given that Narromine Shire Council, in pursuance of section 162 of the Roads Act 1993, has named a road as follows:

<i>Location</i>	<i>New Name</i>
New road off Manildra Street, Narromine.	Polo Parade.

IAN ROGAN, General Manager, Narromine Shire Council, PO Box 115, Narromine NSW 2821. [4129]

### RICHMOND VALLEY COUNCIL

Roads Act 1193

Roads (general) Regulation 2000

Part 2 – Roads, Division 2 – Naming of Roads

COUNCIL at its meeting on 19 February 2008, resolved to endorse the following name of a cycleway (Minute Number 2008-15):

1. Rosolen Cycleway.

The cycleway commences at the Evans Head Surf Club, Lot 7037, DP 755624 and finishes at Camp Koinonia, Lot 1, DP 1044672. Brian Wilkinson, General Manager, Richmond Valley Council, Locked Bag 10, Casino NSW 2470. [4130]

### SNOWY RIVER SHIRE COUNCIL

Roads Act 1993, Section 162

Division 2, Part 2 – Roads (General) Regulation 2000

Naming of Public Roads – Gegedzerick Road

PURSUANT to section 162 of the Roads Act 1993, Snowy River Shire Council hereby renames Gygederick Road to Gegedzerick Road. J. VESCIO, General Manager, Snowy River Shire Council, 2 Myack Street, Berridale NSW 2628. [4131]

### TAMWORTH REGIONAL COUNCIL

The Roads Act 1993 – Section 162

Renaming of Public Road – Westdale Locality

NOTICE is hereby given in accordance with the above that the road created by the subdivision of Lot 95 DP 734373 and Lot 21 DP 746188, Westdale, under Development Application number DA0510/2004-02 has been named John Stuart Close.

The subject road is a cul-de-sac which extends from Landsborough Close, Westdale and is approximately 125 metres long.

No objections to the proposed name were received during the required 28 day exhibition period. GLEN INGLIS, General Manager, Tamworth Regional Council, PO Box 555, Tamworth NSW 2340 [4132]

### TWEED SHIRE COUNCIL

Roads Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

TWEED SHIRE COUNCIL declares with the approval of Her Excellency the Governor, that the land 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 road widening. Dated at Murwillumbah, 21 August 2008. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

## SCHEDULE

Lot 1, DP 1124429. [4133]

**TWEED SHIRE COUNCIL**

Roads Act 1993, Section 10

Dedication of Land as Public Road

NOTICE is hereby given that the Tweed Shire Council, by resolution of Council dated 13 May 2008, has resolved to dedicate the land described hereunder as public road pursuant to section 10 of the Roads Act 1993. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

## SCHEDULE

Lot 1, DP 1124429. [4134]

**TWEED SHIRE COUNCIL**

Roads Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

TWEED SHIRE COUNCIL declares with the approval of Her Excellency the Governor, that the lands and interests in 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 purpose of a public road, an easement for public access, and easement for services and for resale. Dated at Murwillumbah, 21 May 2008. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

## SCHEDULE

Lot 1, DP 240599;

Lot 3, DP 240599;

Lot 4, DP 240599;

Lot 1, DP 1118747;

Lot 2, DP 1118747;

Lot 3, DP 1118747;

Lot 5, DP 1118747;

Right of public access over Lot 7067, DP 105029, as shown marked R on DP 1118747;

Easement for services over Lot 656, DP 755740, as shown marked W on DP 1118747. [4135]

**TWEED SHIRE COUNCIL**

Roads Act 1993, Section 10

Dedication of Land as Public Road

NOTICE is hereby given that the Tweed Shire Council, by resolution of Council dated 26 September 2006, has resolved to dedicate the land described hereunder as public road pursuant to section 10 of the Roads Act 1993. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

## SCHEDULE

Lots 1, 3, and 4 in DP 240599;

Lot 5 in DP 1118747. [4136]

**TWEED SHIRE COUNCIL**

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

TWEED SHIRE COUNCIL declares with the approval of Her Excellency the Governor, that the land and the easement 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 a communications facility and an associated easement. Dated at Murwillumbah, 21 August 2008. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

## SCHEDULE

Lot 1, DP 1123498 and an easement for services 2 wide and 3 wide, shown marked D over Lot 2, D 1123498. [4137]



## COOLAMON SHIRE COUNCIL

NOTICE is hereby given to the persons named hereunder that the Council of the Shire of Coolamon has resolved in pursuance of Section 713 of the Local Government Act 1993, to sell the land described hereunder of which the persons named appear to be the owners of, or in which they appear to have an interest and on which the amounts of rates stated in each case, due as at 30 June 2008:

<i>Owners of persons having an interest in the land</i>	<i>Description of land</i>	<i>Amount of rates &amp; charges overdue for more than 5 years</i>	<i>Amount of all other rates &amp; charges due</i>	<i>Total Due</i>
JJ CHRISTOPHER	LOT 1 SEC 38 DP 758428	974.27	4,293.70	5,267.97
A DI MUNNO	LOT 1 DP 662666	2,335.88	7,415.97	9,751.85
E CLEMENT	LOTS 5-6 SEC 5 DP 6702	469.97	1,857.65	2,327.62
RA GILLESPIE	LOT 8 SEC 4 DP 758657	1,062.93	1,571.14	2,634.07
LA JENNINGS	LOT 1 DP 800825 ROAD PERMIT 1957/34	363.05	1,348.28	1,711.33
PROSPECTORS PTY LTD	LOT 1 DP 391397	964.08	1,645.44	2,609.52
EST. LATE MI SMITH	LOT 1 DP 957944	561.84	3,173.01	3,734.85
NJ SPARY	LOT Q DP 6985	193.89	1,178.10	1,371.99
E HUYER	LOT 10 SEC 4 DP 5822	597.39	1,327.77	1,925.16
S TREVASKIS	LOT 28 DP 750865	436.13	1,415.09	1,851.22

In default of payment to Council of the amount stated in the TOTAL column above and any other rates and charges becoming due and payable after the 30 June 2008 or an arrangement satisfactory to Council for payment of all such rates being entered into by the rateable person, before the time fixed for the sale, the said land will be offered by public auction at Council Chambers, Cowabbie Street, Coolamon on Thursday 4 December 2008 at 10.30am. Dated 27 August 2008. TERREY KISS, General Manager, Coolamon Shire Council, Shire Hall, Coolamon NSW 2701. [4138]

### ESTATE NOTICES

IN the Supreme Court of New South Wales, Equity Division.—Notice of intended distribution of estate.—Any person having any claim upon the estate of MYRNA ANNE KENNEDY, late of 96 Metropolitan Road, Enmore, in the State of New South Wales, who died on 22 May 2008, must send particulars of the claim to the executors, c.o. Lobban McNally Lawyers, 65 York Street, Sydney NSW 2000, within one (1) calendar month from publication of this notice. After that time the assets of the estate may be conveyed and distributed having regard only to the claims of which at the time of conveyance or distribution the executors have notice. Probate was granted in New South Wales on 11 August 2008. LOBBAN MCNALLY LAWYERS, Level 3, 65 York Street, Sydney NSW 2000, tel.: (02) 9299 8438. [4139]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of MARIE COOKSON, late of 23 Corrie Parade, Corlette, in the State of New South Wales, who died on 23 May 2008, must send particulars of his claim to the executors, c.o. John S. Fordham, Solicitor, 12 Station Street, West Ryde NSW 2114, 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 5 August 2008. JOHN S. FORDHAM, Solicitor, 12 Station

Street, West Ryde NSW 2114 (PO Box 107, West Ryde NSW 1685), (DX 27551, West Ryde), tel.: (02) 9858 1533. Reference: JSF.CT.08175. [4140]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of JEAN WILKIN, late of Unit 4, Lindfield Manor, 7 Bent Street, Lindfield, in the State of New South Wales, who died on 19 June 2008, must send particulars of his claim to the executor, c.o. John S. Fordham, Solicitor, 12 Station Street, West Ryde NSW 2114, 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 11 August 2008. JOHN S. FORDHAM, Solicitor, 12 Station Street, West Ryde NSW 2114 (PO Box 107, West Ryde NSW 1685), (DX 27551, West Ryde), tel.: (02) 9858 1533. Reference: JSF.CT.08202. [4141]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of JACK BENNETT DESBOROUGH, late of Unit 54, Southern Cross Village, Marsfield, in the State of New South Wales, who died on 9 May 2008, must send particulars of his claim to the executor, c.o. John S. Fordham, Solicitor, 12 Station Street, West Ryde NSW 2114, 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 she has notice. Probate was granted in New South Wales on 14 August 2008. JOHN S. FORDHAM, Solicitor, 12 Station Street, West Ryde NSW 2114 (PO Box 107, West Ryde NSW 1685), (DX 27551, West Ryde), tel.: (02) 9858 1533. Reference: JSF.SM.081394142]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of SARAH ELLEN LOMASNEY (known as Sadie), late of Strathfield, in the State of New South Wales, retired teacher, who died on 17 January 2008, must send particulars of his/her claim to the executor, Dean Joseph Mitchelmore, c.o. C. P. White & Sons (Burwood), Solicitors, 15 Belmore Street, Burwood NSW 2134, within one (1) calendar month from publication of this notice. After that time the assets of the estate 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 14 July 2008. C. P. WHITE & SONS (Burwood), Solicitors, 15 Belmore Street, Burwood NSW 2134 (PO Box 36, Burwood NSW 1805), (DX 8550, Burwood), tel.: (02) 9744 2198. Reference: DJM.KP.32855. [4143]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of GEORGE AHELIK, late of 55 Walter Street, Mortdale, in the State of New South Wales, who died on 3 April 2008, must send particulars of their claim to the executors, John William McCotter and Margaret Joyce McCotter, c.o. Colin J. Duff, Solicitor, 7 Morts Road, Mortdale NSW 2223, within one (1) calendar month from publication of this notice. After that time the assets of the estate 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 5 August 2008. COLIN J. DUFF, Solicitor, 7 Morts Road, Mortdale NSW 2223 (DX 11307, Hurstville), tel.: (02) 9570 2022. [4144]

## COMPANY NOTICES

NOTICE of voluntary winding up.—SHERELINE HOMES (NEWCASTLE) PTY. LTD., ACN 000 460 408.—Notice is hereby given pursuant to section 491(2) of the Corporations Act that at an extraordinary general meeting of the abovenamed company duly convened and held on 20 August 2008, the following special resolution was duly passed: “That the company be wound up voluntarily and that Robert Douglas Hillier be appointed liquidator for the purposes of the winding up and that he be authorised to draw as his remuneration his normal hourly charges in respect thereto. R. T. Burton, Director”. R. D HILLIER & CO., Chartered Accountants, 332-338 Military Road (PO Box 28), Cremorne NSW 2090, tel.: (02) 9953 7877. [4145]

NOTICE of final general meeting.—CROKER HOLDINGS PTY LTD, CAN 001 208 466.—Notice is hereby given pursuant to the Corporations Law that a final general meeting convened by the liquidator of the abovenamed company will be held on 30 September 2008. The Liquidator, Bruce Walker of Walker Lynch Petersen, PO Box 221, Taree NSW 2430, will present an account showing how the winding up of the company had been conducted and how the property of the company had been disposed of and will give any necessary explanations. B. WALKER, Liquidator, c.o. Walker Lynch Petersen, Chartered Accountants, 18th Floor, Savoy Centre, Alber Street, Taree NSW 2430, tel.: (02) 6552 3533. [4146]

NOTICE of voluntary liquidation, - Walens Pty Limited ACN 001 862 844 – Notice is hereby given that at a general meeting of members of the above named company duly convened and held at Level 1, 23 Wrights Rd, Drummoyne, NSW 2047 on 5 September, 2007 the following special resolution was passed “that the company be wound up voluntarily”. On the same day pursuant to Section 495 (1) Mr John Stephen Ovenden, Chartered Accountant, Level 1, 23 Wrights Rd, Drummoyne NSW 2047 was appointed as Liquidator Dated 27 August, 2008. Mr John Stephen Ovenden, Chartered Accountant, Level 1, 23 Wrights Rd, Drummoyne NSW 2047. [4147]

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## Department of Planning

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New South Wales

# Leichhardt Local Environmental Plan 2000 (Amendment No 16)

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*. (9043144/PC)

FRANK SARTOR, M.P.,  
Minister for Planning

Clause 1            Leichhardt Local Environmental Plan 2000 (Amendment No 16)

---

## **Leichhardt Local Environmental Plan 2000 (Amendment No 16)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of plan**

This plan is *Leichhardt Local Environmental Plan 2000 (Amendment No 16)*.

### **2 Aims of plan**

This plan aims to amend *Leichhardt Local Environmental Plan 2000* to allow higher density mixed used development comprising residential, commercial and retail development on the land to which this plan applies, but only if certain development standards and objectives are met, including in relation to floor space ratio, land uses and building heights.

### **3 Land to which plan applies**

This plan applies to the following land (known as the “Balmain Leagues Club Precinct”):

- (a) 138–152 Victoria Road, Rozelle (being Lot 1, DP 528045),
- (b) 154–156 Victoria Road, Rozelle (being Lot 1, DP 109047),
- (c) 697 Darling Street, Rozelle (being Lot 104, DP 733658),
- (d) 1–7 Waterloo Street, Rozelle (being Lots 101 and 102, DP 629133, Lots 37 and 38, DP 421 and Lot 36, DP 190866),

as shown edged heavy black and lettered “SSP” on the map marked “Leichhardt Local Environmental Plan 2000 (Amendment No 16)” deposited in the office of Leichhardt Municipal Council.

### **4 Amendment of Leichhardt Local Environmental Plan 2000**

*Leichhardt Local Environmental Plan 2000* is amended as set out in Schedule 1.

Leichhardt Local Environmental Plan 2000 (Amendment No 16)

Amendments

Schedule 1

---

## Schedule 1 Amendments

(Clause 4)

### [1] Schedule 1 Additional uses and controls for certain land

Insert after Part 2:

### Part 3 Amended controls on specific sites

#### Balmain Leagues Club Precinct site

- (1) For the purposes of this Part:

**building height** (or **height of building**) means the vertical distance between ground level at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**mixed use development** means a building or place comprising 2 or more different land uses that are permissible in the Business Zone.

**the site** means the site comprising all of the following land:

- (a) 138–152 Victoria Road, Rozelle (being Lot 1, DP 528045),
- (b) 154–156 Victoria Road, Rozelle (being Lot 1, DP 109047),
- (c) 697 Darling Street, Rozelle (being Lot 104, DP 733658),
- (d) 1–7 Waterloo Street, Rozelle (being Lots 101 and 102, DP 629133, Lots 37 and 38, DP 421 and Lot 36, DP 190866),

as shown edged heavy black and lettered “SSP” on the map marked “Leichhardt Local Environmental Plan 2000 (Amendment No 16)” deposited in the office of Leichhardt Municipal Council.

- (2) Despite any other provision of this Plan (except clause 19 (6) and (7) or a provision of this Part), consent may be granted for mixed use development on the site, but only if, in the opinion of the Council, the following objectives are met:
- (a) the development integrates suitable business, office, residential, retail and other uses so as to maximise public transport patronage and encourage walking and cycling,

## Leichhardt Local Environmental Plan 2000 (Amendment No 16)

## Schedule 1 Amendments

- 
- (b) the development contributes to the vibrancy and prosperity of the Rozelle Commercial Centre with an active street life while maintaining residential amenity,
  - (c) the development is well designed with articulated height and massing providing a high quality transition to the existing streetscape,
  - (d) the traffic generated by the development does not have an unacceptable impact on pedestrian or motor vehicle traffic on Darling Street, Waterloo Street and Victoria Road, Rozelle,
  - (e) any residential development at street level has a frontage to Waterloo Street, Rozelle and, when viewed from the street, has the appearance of no more than three storeys.
- (3) A consent under subclause (2) must not be granted if the application for the development does not apply to the whole of the site.
- (4) A consent under subclause (2) must not be granted if the development will result in any of the following:
- (a) the floor space ratio for the site exceeds 3.9:1,
  - (b) the floor space ratio for all shops on the site exceeds 1.3:1,
  - (c) the floor space ratio for all commercial premises on the site exceeds 0.2:1,
  - (d) the floor space ratio for all clubs on the site exceeds 0.5:1,
  - (e) the floor space ratio for all residential development on the site exceeds 1.9:1,
  - (f) in relation to a building on the site that is less than 10 metres from Waterloo Street, Rozelle—the building height exceeds 12.5 metres above the existing road level,
  - (g) in relation to a building on the site that is less than 36 metres from Darling Street, Rozelle—the building height exceeds a reduced level of 52.0 metres relative to the Australian Height Datum or exceeds two storeys,
  - (h) a building height on the site exceeds a reduced level of 82.0 metres relative to the Australian Height Datum or exceeds twelve storeys.

**[2] Schedule 3 Glossary**

Insert in appropriate order in the definition of *Zoning Map*:

Leichhardt Local Environmental Plan 2000 (Amendment No 16)—Zoning Map



New South Wales

## Liverpool Local Environmental Plan 2008

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, pursuant to section 33A of the *Environmental Planning and Assessment Act 1979*, adopt the mandatory provisions of the *Standard Instrument (Local Environmental Plans) Order 2006* and prescribe matters required or permitted by that Order so as to make a local environmental plan as follows. (S07/01249)

FRANK SARTOR, M.P.,  
Minister for Planning

Liverpool Local Environmental Plan 2008

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Liverpool Local Environmental Plan 2008

Clause 1.1

Preliminary

Part 1

---

## Liverpool Local Environmental Plan 2008

under the

Environmental Planning and Assessment Act 1979

### Part 1 Preliminary

#### 1.1 Name of Plan

This Plan is *Liverpool Local Environmental Plan 2008*.

#### 1.2 Aims of Plan

- (1) This Plan aims to make local environmental planning provisions for land in Liverpool in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
  - (a) to encourage a range of housing, employment, recreation and services to meet the needs of existing and future residents of Liverpool,
  - (b) to foster economic, environmental and social well-being so that Liverpool continues to develop as a sustainable and prosperous place to live, work and visit,
  - (c) to provide community and recreation facilities, maintain suitable amenity and offer a variety of quality lifestyle opportunities to a diverse population,
  - (d) to strengthen the regional position of the Liverpool city centre as the service and employment centre for Sydney's south west region,
  - (e) to concentrate intensive land uses and trip-generating activities in locations most accessible to transport and centres,
  - (f) to promote the efficient and equitable provision of public services, infrastructure and amenities,
  - (g) to conserve, protect and enhance the environmental and cultural heritage of Liverpool,
  - (h) to protect and enhance the natural environment in Liverpool, incorporating ecologically sustainable development,

Clause 1.3      Liverpool Local Environmental Plan 2008  
Part 1            Preliminary

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- (i) to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bush fires,
- (j) to promote a high standard of urban design that responds appropriately to the existing or desired future character of areas.

### 1.3 Land to which Plan applies

This Plan applies to the land identified on the Land Application Map.

### 1.4 Definitions

The Dictionary at the end of this Plan defines words and expressions for the purposes of this Plan.

### 1.5 Notes

Notes in this Plan are provided for guidance and do not form part of this Plan.

### 1.6 Consent authority

The consent authority for the purposes of this Plan is (subject to the Act) the Council.

### 1.7 Maps

- (1) A reference in this Plan to a named map adopted by this Plan is a reference to a map by that name:
  - (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Plan to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Plan, a map may be in, and may be kept and made available in, electronic or paper form, or both.

**Note.** The maps adopted by this Plan are to be made available on the official NSW legislation website in connection with this Plan. Requirements relating to the maps are set out in the documents entitled *Standard technical requirements for LEP maps* and *Standard requirements for LEP GIS data* which are available on the Department of Planning's website.

Liverpool Local Environmental Plan 2008

Clause 1.8

Preliminary

Part 1

**1.8 Repeal of other local planning instruments applying to land**

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.

**Note.** The following local environmental plans are repealed under this provision:

- (a) *Liverpool Local Environmental Plan 1997,*  
 (b) *Liverpool City Centre Local Environmental Plan 2007.*

- (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.

**1.8A Savings provision relating to pending development approvals**

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had been exhibited but had not commenced.

**1.9 Application of SEPPs and REPs**

- (1) This Plan is subject to the provisions of any State environmental planning policy and any regional environmental plan that prevail over this Plan as provided by section 36 of the Act.

**Note.** Section 36 of the Act generally provides that SEPPs prevail over REPs and LEPs and that REPs prevail over LEPs. However, a LEP may (by an additional provision included in the Plan) displace or amend a SEPP or REP to deal specifically with the relationship between this Plan and the SEPP or REP.

- (2) The following State environmental planning policies and regional environmental plans (or provisions) do not apply to the land to which this Plan applies:

*State Environmental Planning Policy No 1—Development Standards*

*State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*  
 (clause 6 and Parts 3 and 4)

*State Environmental Planning Policy No 9—Group Homes*

*State Environmental Planning Policy No 60—Exempt and Complying Development*

**1.9A Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a development consent granted under the Act, any agreement, covenant or other similar

Clause 1.9      Liverpool Local Environmental Plan 2008

Part 1          Preliminary

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instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.

- (2) This clause does not apply:
- (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
  - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
  - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (d) to any trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
  - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
  - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

Liverpool Local Environmental Plan 2008

Clause 2.1

Permitted or prohibited development

Part 2

---

## Part 2 Permitted or prohibited development

### 2.1 Land use zones

The land use zones under this Plan are as follows:

#### **Rural Zones**

- RU1 Primary Production
- RU2 Rural Landscape
- RU4 Rural Small Holdings

#### **Residential Zones**

- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- R4 High Density Residential
- R5 Large Lot Residential

#### **Business Zones**

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- B6 Enterprise Corridor

#### **Industrial Zones**

- IN1 General Industrial
- IN2 Light Industrial
- IN3 Heavy Industrial

#### **Special Purpose Zones**

- SP1 Special Activities
- SP2 Infrastructure

#### **Recreation Zones**

- RE1 Public Recreation
- RE2 Private Recreation

#### **Environment Protection Zones**

- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E3 Environmental Management

Clause 2.2	Liverpool Local Environmental Plan 2008
Part 2	Permitted or prohibited development

---

### **Waterway Zones**

#### W1 Natural Waterways

### **2.2 Zoning of land to which Plan applies**

For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.

### **2.3 Zone objectives and land use table**

- (1) The Table at the end of this Part specifies for each zone:
  - (a) the objectives for development, and
  - (b) development that may be carried out without consent, and
  - (c) development that may be carried out only with consent, and
  - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Table at the end of this Part:
  - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
  - (b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.
- (4) This clause is subject to the other provisions of this Plan.

#### **Notes.**

- 1 Schedule 1 sets out additional permitted uses for particular land.
- 2 Schedule 2 sets out exempt development (which is generally exempt from both Parts 4 and 5 of the Act). Development in the land use table that may be carried out without consent is nevertheless subject to the environmental assessment and approval requirements of Part 5 of the Act or, if applicable, Part 3A of the Act.
- 3 Schedule 3 sets out complying development (for which a complying development certificate may be issued as an alternative to obtaining development consent).
- 4 Clause 2.6 requires consent for subdivision of land.
- 5 Part 5 contains other provisions which require consent for particular development [see clauses 5.7, 5.8, 5.9 and 5.10].
- 5A Part 7 also contains other provisions which require consent for particular development.

Liverpool Local Environmental Plan 2008

Clause 2.4

Permitted or prohibited development

Part 2

---

**2.4 Unzoned land**

- (1) Development may be carried out on unzoned land only with consent.
- (2) Before granting consent, the consent authority:
  - (a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and
  - (b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

**2.5 Additional permitted uses for particular land**

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out:
  - (a) with consent, or
  - (b) if the Schedule so provides—without consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.
- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

**2.6 Subdivision—consent requirements**

- (1) Land to which this Plan applies may be subdivided, but only with consent.
- (2) However, consent is not required for a subdivision for the purpose only of any one or more of the following:
  - (a) widening a public road,
  - (b) a minor realignment of boundaries that does not create:
    - (i) additional lots or the opportunity for additional dwellings, or
    - (ii) lots that are smaller than the minimum size shown on the Lot Size Map in relation to the land concerned,
  - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (d) rectifying an encroachment on a lot,
  - (e) creating a public reserve,
  - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

**Note.** If a subdivision is exempt development, the Act enables the subdivision to be carried out without consent.

Clause 2.6A	Liverpool Local Environmental Plan 2008
Part 2	Permitted or prohibited development

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### **2.6A Demolition requires consent**

The demolition of a building or work may be carried out only with consent.

**Note.** If the demolition of a building or work is identified in this Plan as exempt development, the Act enables it to be carried out without consent.

### **2.6B Temporary use of land**

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Plan, development consent may be granted to development on land in any zone for any temporary purpose for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any such other instrument, and
  - (b) the temporary use does not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period, the site will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.



Liverpool Local Environmental Plan 2008

Clause 2.6B

Land Use Table

Part 2

---

## Land Use Table

**Note.** This Table does not provide an exhaustive list of all uses that may be permissible in a particular zone. Other uses may be provided for elsewhere in this Plan or in other planning instruments such as the *State Environmental Planning Policy (Infrastructure) 2007*.

### Zone RU1 Primary Production

#### 1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure that development does not unreasonably increase the demand for public services or public facilities.
- To ensure that development does not hinder the development or operation of an airport on Commonwealth land in Badgery's Creek.
- To preserve bushland, wildlife corridors and natural habitat.

#### 2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations

#### 3 Permitted with consent

Agriculture; Airstrips; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cemeteries; Community facilities; Crematoria; Drainage; Dual occupancies; Dwelling houses; Earthworks; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Hazardous storage establishments; Health consulting rooms; Helipads; Heliports; Home businesses; Home industries; Landscape and garden supplies; Offensive storage establishments; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Veterinary hospitals; Water recreation structures

#### 4 Prohibited

Any development not specified in item 2 or 3

Clause 2.6B Liverpool Local Environmental Plan 2008

Part 2 Land Use Table

---

## **Zone RU2 Rural Landscape**

### **1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To ensure that development is compatible with the rural character of the land and maintains the feasibility of agricultural uses.
- To preserve bushland, wildlife corridors and natural habitat.

### **2 Permitted without consent**

Extensive agriculture; Home-based child care; Home occupations

### **3 Permitted with consent**

Aquaculture; Bed and breakfast accommodation; Building identification signs; Business identification signs; Community facilities; Dairies (pasture-based); Drainage; Dual occupancies; Dwelling houses; Earthworks; Environmental facilities; Environmental protection works; Farm buildings; Farm stay accommodation; Flood mitigation works; Helipads; Home businesses; Home industries; Horticulture; Places of public worship; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone RU4 Rural Small Holdings**

### **1 Objectives of zone**

- To enable sustainable primary industry and other compatible land uses.
- To maintain the rural and scenic character of the land.
- To ensure that development does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure that development is compatible with the rural character of the land and maintains the feasibility of agricultural uses.

Liverpool Local Environmental Plan 2008

Clause 2.6B

Land Use Table

Part 2

---

**2 Permitted without consent**

Extensive agriculture; Home-based child care; Home occupations

**3 Permitted with consent**

Agriculture; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cemeteries; Community facilities; Crematoria; Drainage; Dual occupancies; Dwelling houses; Earthworks; Entertainment facilities; Environmental facilities; Environmental protection works; Farm buildings; Farm stay accommodation; Flood mitigation works; Helipads; Home businesses; Home industries; Horticulture; Landscape and garden supplies; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone R1 General Residential****1 Objectives of zone**

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that housing densities are broadly concentrated in locations accessible to public transport, employment, services and facilities.
- To facilitate development of social and community infrastructure to meet the needs of future residents.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Drainage; Dwelling houses; Earthworks; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Home businesses; Home industries; Hostels; Multi dwelling housing; Neighbourhood

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shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone R2 Low Density Residential**

**1 Objectives of zone**

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide a suitable low scale residential character commensurate with a low dwelling density.
- To ensure that a high level of residential amenity is achieved and maintained.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Building identification signs; Business identification signs; Child care centres; Community facilities; Drainage; Dwelling houses; Earthworks; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Places of public worship; Recreation areas; Roads; Secondary dwellings; Semi-detached dwellings

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone R3 Medium Density Residential**

**1 Objectives of zone**

- To provide for the housing needs of the community within a medium density residential environment.

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- 
- To provide a variety of housing types within a medium density residential environment.
  - To enable other land uses that provide facilities or services to meet the day to day needs of residents.
  - To provide for a concentration of housing with access to services and facilities.
  - To provide for a suitable visual transition between high density residential areas and lower density areas.
  - To ensure that a high level of residential amenity is achieved and maintained.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Drainage; Dwelling houses; Earthworks; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Multi dwelling housing; Neighbourhood shops; Places of public worship; Public administration buildings; Recreation areas; Residential care facilities; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shop top housing

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone R4 High Density Residential****1 Objectives of zone**

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a high concentration of housing with good access to transport, services and facilities.

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- 
- To minimise the fragmentation of land that would prevent the achievement of high density residential development.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Drainage; Dwelling houses; Earthworks; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Kiosks; Multi dwelling housing; Neighbourhood shops; Places of public worship; Public administration buildings; Recreation areas; Residential care facilities; Residential flat buildings; Roads; Secondary dwellings; Serviced apartments; Shop top housing

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone R5 Large Lot Residential**

**1 Objectives of zone**

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential allotments do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure that a high level of residential amenity is achieved and maintained.
- To provide for complementary uses that are of low impact and do not unreasonably increase the demand for public services or public facilities.

**2 Permitted without consent**

Home-based child care; Home occupations

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### **3 Permitted with consent**

Bed and breakfast accommodation; Building identification signs; Business identification signs; Dairies (pasture-based); Drainage; Dual occupancies; Dwelling houses; Earthworks; Educational establishments; Environmental facilities; Environmental protection works; Extensive agriculture; Farm buildings; Flood mitigation works; Helipads; Home businesses; Home industries; Places of public worship; Public administration buildings; Recreation areas; Roads; Veterinary hospitals

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone B1 Neighbourhood Centre**

### **1 Objectives of zone**

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To provide the opportunity for a small scale supermarket that will provide goods for the day-to-day needs of people who live and work in the surrounding neighbourhood.
- To allow for residential and other accommodation while maintaining active retail, business or other non-residential uses at street level.

### **2 Permitted without consent**

Environmental protection works; Home-based child care; Home occupations

### **3 Permitted with consent**

Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Business premises; Child care centres; Community facilities; Drainage; Earthworks; Educational establishments; Environmental facilities; Environmental protection works; Flood mitigation works; Food and drink premises; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Kiosks; Neighbourhood shops; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Roads; Service stations; Serviced apartments; Shop top housing; Shops; Veterinary hospitals

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#### **4 Prohibited**

Any development not specified in item 2 or 3

### **Zone B2 Local Centre**

#### **1 Objectives of zone**

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To allow for residential and other accommodation while maintaining active retail, business or other non-residential uses at street level.
- To facilitate a high standard of urban design and a unique character that contributes to achieving a sense of place for the local community.

#### **2 Permitted without consent**

Home-based child care; Home occupations

#### **3 Permitted with consent**

Boarding houses; Building identification signs; Business identification signs; Business premises; Child care centres; Community facilities; Depots; Drainage; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Flood mitigation works; Function centres; Helipads; Home businesses; Home industries; Hostels; Information and education facilities; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Retail premises; Residential flat buildings (but only as part of a mixed use development that contains a non-residential use permitted in the zone); Roads; Service stations; Shop top housing; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals

#### **4 Prohibited**

Any development not specified in item 2 or 3



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**Zone B3 Commercial Core****1 Objectives of zone**

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To strengthen the role of Liverpool city centre as the regional business, retail and cultural centre of south western Sydney.
- To ensure that, for key land in the Liverpool city centre, opportunities for retail, business and office uses exist in the longer term.
- To facilitate a high standard of urban design and exceptional public amenity.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Building identification signs; Business identification signs; Business premises; Child care centres; Community facilities; Drainage; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Group homes; Helipads; Heliports; Hotel or motel accommodation; Information and education facilities; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Retail premises; Roads; Sex services premises; Veterinary hospitals; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone B4 Mixed Use****1 Objectives of zone**

- To provide a mixture of compatible land uses.

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- 
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
  - To allow for residential and other accommodation in the Liverpool city centre, while maintaining active retail, business or other non-residential uses at street level.
  - To facilitate a high standard of urban design, convenient urban living and exceptional public amenity.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Boarding houses; Building identification signs; Business identification signs; Business premises; Car parks; Child care centres; Community facilities; Depots; Drainage; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Helipads; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Information and education facilities; Multi dwelling housing; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Residential flat buildings (but only as part of a mixed use development that contains a non-residential use permitted in the zone); Retail premises; Roads; Seniors housing; Service stations; Shop top housing; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone B5 Business Development**

**1 Objectives of zone**

- To enable a mix of business and warehouse uses, and specialised retail uses that require a large floor area, in locations that are close to, and that support the viability of, centres.
- To maintain the economic strength of centres by limiting the retailing of food and clothing.
- To provide for a larger regionally significant business development centre in a location that is highly accessible to the region.

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- 
- To ensure a reasonable concentration of business activity.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Building identification signs; Bulky goods premises; Business identification signs; Car parks; Child care centres; Community facilities; Drainage; Earthworks; Environmental facilities; Environmental protection works; Flood mitigation works; Food and drink premises; Hotel or motel accommodation; Landscape and garden supplies; Light industries; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Pubs; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Restaurants; Roads; Storage premises (other than offensive storage establishments or hazardous storage establishments); Timber and building supplies; Vehicle sales or hire premises; Warehouse or distribution centres

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone B6 Enterprise Corridor****1 Objectives of zone**

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses) and residential uses (but only as part of a mixed use development).
- To maintain the economic strength of centres by limiting the retailing activity.
- To provide primarily for businesses along key corridors entering Liverpool city centre, major local centres or retail centres.
- To ensure residential development is limited to land where it does not undermine the viability or operation of businesses.

**2 Permitted without consent**

Home-based child care; Home occupations

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### **3 Permitted with consent**

Building identification signs; Bulky goods premises; Business identification signs; Business premises; Car parks; Community facilities; Crematoria; Depots; Drainage; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Helipads; Home businesses; Home industries; Hotel or motel accommodation; Information and education facilities; Landscape and garden supplies; Light industries; Multi dwelling housing; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Retail premises; Roads; Service stations; Shop top housing; Storage premises (other than offensive storage establishments or hazardous storage establishments); Timber and building supplies; Transport depots; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone IN1 General Industrial**

### **1 Objectives of zone**

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To particularly encourage research and development industries by prohibiting land uses that are typically unsightly or unpleasant.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

### **2 Permitted without consent**

Home occupations

### **3 Permitted with consent**

Boat sheds; Building identification signs; Business identification signs; Car parks; Cemeteries; Child care centres; Community facilities; Crematoria; Depots; Drainage; Earthworks; Environmental facilities; Environmental protection works; Flood mitigation works; Freight transport facilities; Helipads; Heliports; Hotel or motel accommodation; Industries (other than heavy industries); Industrial

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retail outlets; Information and education facilities; Kiosks; Light industries; Mortuaries; Neighbourhood shops; Passenger transport facilities; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Restaurants; Roads; Sex services premises; Storage premises (other than offensive storage establishments or hazardous storage establishments); Swimming pools; Take away food and drink premises; Tank-based aquaculture; Transport depots; Warehouse or distribution centres

#### **4 Prohibited**

Any development not specified in item 2 or 3

### **Zone IN2 Light Industrial**

#### **1 Objectives of zone**

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To allow other land uses that are compatible with industry and that can buffer heavy industrial zones while not detracting from centres of activity.

#### **2 Permitted without consent**

Home occupations

#### **3 Permitted with consent**

Animal boarding or training establishments; Boat repair facilities; Boat sheds; Building identification signs; Business identification signs; Car parks; Cemeteries; Child care centres; Community facilities; Depots; Drainage; Earthworks; Educational establishments; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Helipads; Heliports; Hotel or motel accommodation; Industrial retail outlets; Information and education facilities; Kiosks; Landscape and garden supplies; Light industries; Neighbourhood shops; Passenger transport facilities; Places of public worship; Pubs; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Restaurants; Roads; Service stations; Sex services premises; Storage premises (other than offensive storage

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establishments or hazardous storage establishments); Take away food and drink premises; Timber and building supplies; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone IN3 Heavy Industrial**

**1 Objectives of zone**

- To provide suitable areas for those industries that need to be separated from other land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of heavy industry on other land uses.
- To preserve opportunities for a wide range of industries and similar land uses by prohibiting land uses that detract from or undermine such opportunities.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Boat repair facilities; Boat sheds; Building identification signs; Business identification signs; Cemeteries; Crematoria; Depots; Drainage; Earthworks; Environmental facilities; Environmental protection works; Flood mitigation works; Freight transport facilities; Hazardous industries; Hazardous storage establishments; Heavy industries; Helipads; Horticulture; Industries; Kiosks; Light industries; Liquid fuel depots; Mortuaries; Offensive industries; Offensive storage establishments; Passenger transport facilities; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Resource recovery facilities; Roads; Rural industries; Sex services premises; Storage premises; Tank-based aquaculture; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres

**4 Prohibited**

Any development not specified in item 2 or 3

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Land Use Table

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### **Zone SP1 Special Activities**

#### **1 Objectives of zone**

- To provide for special land uses that are not provided for in other zones.
- To provide for sites with special natural characteristics that are not provided for in other zones.
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

#### **2 Permitted without consent**

Home occupations

#### **3 Permitted with consent**

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

#### **4 Prohibited**

Any development not specified in item 2 or 3

### **Zone SP2 Infrastructure**

#### **1 Objectives of zone**

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To reserve land for the provision of infrastructure.

#### **2 Permitted without consent**

Home occupations

#### **3 Permitted with consent**

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Drainage; Environmental protection works; Roads

#### **4 Prohibited**

Any other development not specified in item 2 or 3

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## **Zone RE1 Public Recreation**

### **1 Objectives of zone**

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To provide sufficient and equitable distribution of public open space to meet the needs of residents.
- To ensure the suitable preservation and maintenance of environmentally significant or environmentally sensitive land.

### **2 Permitted without consent**

Environmental protection works; Home occupations

### **3 Permitted with consent**

Boat sheds; Building identification signs; Business identification signs; Caravan parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Community facilities; Drainage; Earthworks; Entertainment facilities; Environmental facilities; Flood mitigation works; Information and education facilities; Kiosks; Marinas; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major) (other than racecourses and motor racing tracks); Recreation facilities (outdoor) (other than paint-ball centres, go-kart tracks, rifle ranges and water-ski centres); Roads; Water recreation structures

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone RE2 Private Recreation**

### **1 Objectives of zone**

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.



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- 
- To enable land uses that are compatible with, and complimentary to, recreational uses.

**2 Permitted without consent**

Environmental protection works; Home occupations

**3 Permitted with consent**

Animal boarding or training establishments; Boat sheds; Building identification signs; Business identification signs; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Community facilities; Drainage; Earthworks; Entertainment facilities; Environmental facilities; Flood mitigation works; Function centres; Information and education facilities; Kiosks; Landscape and garden supplies; Marinas; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Roads; Veterinary hospitals; Water recreation structures

**4 Prohibited**

Any other development not specified in item 2 or 3

**Zone E1 National Parks and Nature Reserves****1 Objectives of zone**

- To enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act.
- To enable uses authorised under the *National Parks and Wildlife Act 1974*.
- To identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and to protect the environmental significance of that land.

**2 Permitted without consent**Uses authorised under the *National Parks and Wildlife Act 1974***3 Permitted with consent**

Nil

**4 Prohibited**

Any development not specified in item 2 or 3

Clause 2.6B      Liverpool Local Environmental Plan 2008

Part 2            Land Use Table

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## **Zone E2 Environmental Conservation**

### **1 Objectives of zone**

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To enable the recreational enjoyment, cultural interpretation or scientific study of the natural environment.

### **2 Permitted without consent**

Environmental protection works; Home occupations

### **3 Permitted with consent**

Building identification signs; Drainage; Earthworks; Environmental facilities; Flood mitigation works; Information and education facilities; Roads

### **4 Prohibited**

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

## **Zone E3 Environmental Management**

### **1 Objectives of zone**

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To enable the recreational enjoyment or scientific study of the natural environment.

### **2 Permitted without consent**

Environmental protection works; Home occupations

### **3 Permitted with consent**

Building identification signs; Drainage; Dwelling houses; Earthworks; Environmental facilities; Flood mitigation works; Home businesses; Home industries; Information and education facilities; Roads

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**4 Prohibited**

Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

**Zone W1 Natural Waterways****1 Objectives of zone**

- To protect the ecological and scenic values of natural waterways.
- To prevent development that would have an adverse effect on the natural values of waterways in this zone.
- To provide for sustainable fishing industries and recreational fishing.
- To enable the recreational enjoyment or scientific study of the natural environment.
- To allow development for water recreation purposes that does not have a significant adverse effect on the natural values of waterways in this zone.

**2 Permitted without consent**

Environmental protection works; Home occupations

**3 Permitted with consent**

Boat sheds; Building identification signs; Business identification signs; Drainage; Earthworks; Environmental facilities; Flood mitigation works; Information and education facilities; Marinas; Moorings; Recreation areas; Roads; Water recreation structures

**4 Prohibited**

Business premises; Canal estate development; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Clause 3.1	Liverpool Local Environmental Plan 2008
Part 3	Exempt and complying development

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## Part 3 Exempt and complying development

### 3.1 Exempt development

**Note.** Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and
  - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
  - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
  - (2) Development specified in Schedule 2 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.
  - (3) To be exempt development, the development:
    - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
    - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
    - (c) must not be designated development, and
    - (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*, and
    - (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 3.3).
  - (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:
    - (a) the building has a current fire safety certificate or fire safety statement, or
    - (b) no fire safety measures are currently implemented, required or proposed for the building.
  - (4A) A heading to an item in Schedule 2 is taken to be part of that Schedule.

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Clause 3.2

Exempt and complying development

Part 3

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### 3.2 Complying development

**Note.** Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
  - (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
  - (c) the development is designated development, or
  - (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or in Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*), or
  - (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Climate Change in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*), or
  - (f) the development is on land identified as an environmentally sensitive area.
- (1) The objective of this clause is to identify development as complying development.
  - (2) Development specified in Part 1 of Schedule 3 that is carried out in compliance with:
    - (a) the development standards specified in relation to that development, and
    - (b) the requirements of this Part,
 is complying development.
 

**Note.** See also clause 5.8 (3) which provides that the conversion of fire alarms is complying development in certain circumstances.
  - (3) To be complying development, the development must:
    - (a) be permissible, with consent, in the zone in which it is carried out, and
    - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
    - (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.

Clause 3.3      Liverpool Local Environmental Plan 2008  
 Part 3            Exempt and complying development

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- (3A) To be complying development, the development must also:
- (a) be consistent with any plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat Protection* that applies to the land, and
  - (b) not be carried out on land subject to any easement for a public sewer main, and
  - (c) be undertaken in accordance with any relevant Sydney Water requirements that relate to building over sewers, and
  - (d) not require a tree to be removed, and
  - (e) not be carried out on land that has been used for any one or more of the following purposes unless notice of completion of remediation work for the proposed use has been given to the Council in accordance with *State Environmental Planning Policy No 55—Remediation of Land*:
    - asbestos or asbestos products, extractive industries, intensive livestock agriculture, manufacturing of chemicals, mining, service stations, sheep or cattle dips, waste disposal land fill operations, waste management facilities, and
  - (f) not be carried out on land:
    - (i) that is within 40 metres of a waterway, or
    - (ii) that is in the flood planning area, or
    - (iii) that is bush fire prone land, or
    - (iv) that is subject to subsidence, slip or erosion, or
    - (v) that is in Zone E2 Environmental Conservation or Zone E3 Environmental Management, or
    - (vi) that is environmentally significant land, or
    - (vii) that is a special area or outer catchment area within the meaning of the *Sydney Water Catchment Management Act 1998*, or
    - (viii) that is within 200 metres of a poultry farm.
- (4) A complying development certificate for development specified in Part 1 of Schedule 3 is subject to the conditions (if any) set out in Part 2 of that Schedule.
- (4A) A heading to an item in Schedule 3 is taken to be part of that Schedule.

### 3.3 Environmentally sensitive areas excluded

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.

Liverpool Local Environmental Plan 2008

Clause 3.3

Exempt and complying development

Part 3

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- (2) For the purposes of this clause:  
***environmentally sensitive area for exempt or complying development*** means any of the following:
- (a) the coastal waters of the State,
  - (b) a coastal lake,
  - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
  - (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
  - (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
  - (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
  - (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
  - (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,
  - (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
  - (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

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## **Part 4    Principal development standards**

### **4.1    Minimum subdivision lot size**

- (1) The objectives of this clause are as follows:
  - (a) to ensure that lot sizes are consistent with the desired residential density for different locations,
  - (b) to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls,
  - (c) to prevent fragmentation of land which would prevent the achievement of the extent of development and nature of uses envisioned for particular locations,
  - (d) to minimise traffic impacts resulting from any increase in the number of lots on classified roads,
  - (e) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,
  - (f) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area,
  - (g) to ensure that lot sizes allow buildings to be sited to protect natural or cultural features including heritage items and retain special features such as trees and views.
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.
- (4A) Despite subclause (3), the size of any lot resulting from the subdivision of land shown on the Lot Size Map to be within Area 1, Area 2 or Area 3 for the purposes of:
  - (a) a dual occupancy that was approved before the making of this Plan and that satisfies any conditions of that approval, or
  - (b) multi dwelling housing, or
  - (c) attached dwellings, or
  - (d) semi-detached dwellings,must not be less than the area shown in Column 2 of the Table to this subclause opposite the relevant Area, or if the lot adjoins a rear or side



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lane that provides vehicular access to the lot, not less than the area shown in Column 3 of the Table opposite the relevant Area.

Column 1	Column 2	Column 3
Area 1	225m <sup>2</sup>	180m <sup>2</sup>
Area 2	250m <sup>2</sup>	200m <sup>2</sup>
Area 3	300m <sup>2</sup>	240m <sup>2</sup>

#### 4.1A Minimum subdivision lot size community title schemes

- (1) The objectives of this clause are as follows:
  - (a) to ensure that lot sizes in community title schemes are consistent with the desired residential density for different locations,
  - (b) to ensure that lot sizes in community title schemes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls,
  - (c) to prevent fragmentation of land which would prevent the achievement of the extent of development and nature of uses envisioned for particular locations,
  - (d) to prevent an increased traffic and safety impact as a result of increased lots on classified roads,
  - (e) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,
  - (f) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area,
  - (g) to ensure that lot sizes in community title schemes allow buildings to be sited to protect natural or cultural features including heritage items and retain special features such as trees and views.
- (2) This clause applies to a subdivision under a community title scheme of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) Despite subclause (3), the size of any lot resulting from the subdivision of land shown on the Lot Size Map to be within Area 1, Area 2 or Area 3 for the purposes of:

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- (a) a dual occupancy that was approved before the making of this Plan and that satisfies any conditions of that approval, or
  - (b) 3 or more dwellings, or
  - (c) attached dwellings, or
  - (d) semi-detached dwellings,

must not be less than the area shown in Column 2 of the Table to this subclause opposite the relevant Area, or if the lot adjoins a rear or side lane that provides vehicular access to the lot, not less than the area shown in Column 3 of the Table opposite the relevant Area.

Column 1	Column 2	Column 3
Area 1	225m <sup>2</sup>	180m <sup>2</sup>
Area 2	250m <sup>2</sup>	200m <sup>2</sup>
Area 3	300m <sup>2</sup>	240m <sup>2</sup>

#### 4.2 Rural subdivision

- (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.
- (2) This clause applies to the following rural zones:
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU2 Rural Landscape,
  - (c) Zone RU4 Rural Small Holdings,
  - (d) Zone RU6 Transition.
- (3) Land in a zone to which this clause applies may, with consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.
- (5) A dwelling cannot be erected on such a lot.
 

**Note.** A dwelling includes a rural worker's dwelling (see definition of that term in the Dictionary).

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#### **4.2A Restrictions on strata or community title subdivisions in certain rural or environmental protection zones**

- (1) The objective of this clause is to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.
- (2) This clause applies to land in the following zones that is used, or proposed to be used, for residential accommodation or tourist and visitor accommodation:
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU2 Rural Landscape,
  - (c) Zone RU4 Rural Small Holdings,
  - (d) Zone E1 National Parks and Nature Reserves,
  - (e) Zone E2 Environmental Conservation,
  - (f) Zone E3 Environmental Management.
- (3) Development consent must not be granted for the subdivision of land to which this clause applies for a strata plan or community title scheme that would create a lot that is less than the minimum size shown on the Lot Size Map for that land.

#### **4.3 Height of buildings**

- (1) The objectives of this clause are as follows:
  - (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,
  - (b) to permit building heights that encourage high quality urban form,
  - (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,
  - (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

**Note.** Clauses 5.6, 7.2 and 7.5 provide for circumstances under which a building in the Liverpool city centre may exceed the maximum height shown for the land on the Height of Buildings Map.

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#### 4.4 Floor space ratio

- (1) The objectives of this clause are as follows:
- (a) to establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic,
  - (b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different locations,
  - (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
  - (d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,
  - (e) to provide an appropriate correlation between the size of a site and the extent of any development on that site,
  - (f) to facilitate design excellence in the Liverpool city centre by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.
- (2A) Despite subclause (2):
- (a) a 3 storey building containing dwellings, or
  - (b) a building used for the purposes of an attached dwelling, multi dwelling housing or a secondary dwelling,
- that is on land shown to be within Area 2 or Area 3 on the Floor Space Ratio Map, may have a maximum floor space ratio of:
- (c) up to 0.05:1 greater than that shown on the Map, or
  - (d) if the building is on a lot that adjoins a rear or side lane that provides vehicular access to the lot, up to 0.1:1 greater than that shown on the Map.
- (2B) Despite subclause (2), the maximum floor space ratio of a building in the Liverpool city centre that is:
- (a) on a site area greater than 1,000 square metres, and
  - (b) on land in a zone specified in the Table to this clause, and
  - (c) on land for which the maximum building height shown on the Height of Buildings Map is as specified in Column 1 of the Table under the heading for that zone,

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is the amount specified opposite that height in:

- (d) Column 2 of the Table, if the site area for the building is greater than 1,000 square metres but less than 2,500 square metres, or
  - (e) Column 3 of the Table, if the site area for the development is equal to, or greater than 2,500 square metres.
- (2C) For the purposes of Column 2 of the Table to this clause, X is to be calculated in accordance with the following formula:

$$X = (\text{the number of square metres of the site area} - 1000) / 1500$$

Column 1	Column 2	Column 3
<b>Zone B3 Commercial Core</b>		
21m	(3 + 0.5X):1	3.5:1
28m	(3 + X):1	4:1
35m	(4 + X):1	5:1
45m	(4.5 + 1.5X):1	6:1
100m	(5 + 3X):1	8:1
<b>Zone B1 Neighbourhood Centre, B4 Mixed Use, SP1 Special Activities or SP2 Infrastructure</b>		
18m	(1.5 + 0.5X):1	2:1
24m	(2 + X):1	3:1
35m	(2.5 + X):1	3.5:1
45m	(2.5 + 1.5X):1	4:1
80m	(2.5 + 3.5X):1	6:1
<b>Zone R4 High Density Residential</b>		
18m	(1 + X):1	2:1
24m	(1.5 + X):1	2.5:1
35m	(2 + X):1	3:1
45m	(2 + 1.5X):1	3.5:1

#### 4.5 Calculation of floor space ratio and site area

##### (1) Objectives

The objectives of this clause are as follows:

- (a) to define *floor space ratio*,

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- (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to:
- (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and
  - (ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and
  - (iii) require community land and public places to be dealt with separately.

(2) **Definition of “floor space ratio”**

The *floor space ratio* of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

(3) **Site area**

In determining the site area of proposed development for the purpose of applying a floor space ratio, the *site area* is taken to be:

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

(4) **Exclusions from site area**

The following land must be excluded from the site area:

- (a) land on which the proposed development is prohibited, whether under this Plan or any other law,
- (b) community land or a public place (except as provided by subclause (7)).

(5) **Strata subdivisions**

The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.

(6) **Only significant development to be included**

The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the

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proposed development includes significant development on that additional lot.

(7) **Certain public land to be separately considered**

For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.

(8) **Existing buildings**

The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.

(9) **Covenants to prevent “double dipping”**

When consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.

(10) **Covenants affect consolidated sites**

If:

- (a) a covenant of the kind referred to in subclause (9) applies to any land (*affected land*), and
- (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,

the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Plan is reduced by the quantity of floor space area the covenant prevents being created on the affected land.

(11) **Definition**

In this clause, *public place* has the same meaning as it has in the *Local Government Act 1993*.

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#### **4.6 Exceptions to development standards**

- (1) The objectives of this clause are:
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.



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- (6) Consent must not be granted under this clause for a subdivision of land in Zone RU1, RU2, RU3, RU4, RU6, R5, E2, E3 or E4 if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
  - (c) clause 5.4,
  - (ca) clause 6.4, 6.5, 6.6, 7.22, 7.23, 7.24, 7.25, 7.26, 7.27, 7.28, 7.29 or 7.30.

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## Part 5 Miscellaneous provisions

### 5.1 Relevant acquisition authority

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated acquisition provisions**).

**Note.** If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the Land Reservation Acquisition Map (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

Type of land shown on Map	Authority of the State
Zone B2 Local Centre and marked "Community facilities"	Council
Zone RE1 Public Recreation and marked "Local open space"	Council
Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted under section 8 of the Act
Zone SP2 Infrastructure and marked "Classified road"	Roads and Traffic Authority
Zone SP2 Infrastructure and marked "Local road"	Council
Zone SP2 Infrastructure and marked "Drainage"	Council
Zone SP2 Infrastructure and marked "Railway"	The corporation constituted under section 8 of the Act
Zone E1 National Parks and Nature Reserves and marked "National Park"	Minister administering the <i>National Parks and Wildlife Act 1974</i>

- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the

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purpose for which it is reserved, be carried out, with development consent, for any purpose.

**Note.** If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning is required to take action to enable the designation of the acquiring authority under this Part. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

**5.1A Development on land intended to be acquired for a public purpose**

- (1) The objective of this clause is to limit development on certain land intended to be acquired for a public purpose.
- (2) This clause applies to land shown on the Land Reservation Acquisition Map and specified in Column 1 of the Table to this clause and that has not been acquired by the authority of the State specified opposite that land in Column 2 of the Table.
- (3) Development consent must not be granted to any development on land to which this clause applies other than development for a purpose specified opposite that land in Column 3 of the Table to this clause.

Column 1 Land	Column 2 Authority	Column 3 Development
Zone RE1 Public Recreation and marked "Local open space"	Council	Earthworks; Recreation areas
Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted under section 8 of the Act	Earthworks; Recreation areas
Zone B2 Local Centre and marked "Community facilities"	Council	Earthworks; Community facilities

**5.2 Classification and reclassification of public land**

- (1) The objective of this clause is to enable the Council to classify or reclassify public land as "operational land" or "community land" in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.  
**Note.** Under the *Local Government Act 1993*, "public land" is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Plan to discharge trusts on which public reserves are held if the land is reclassified under this Plan as operational land.

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- (2) The public land described in Part 1 or Part 2 of Schedule 4 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 4 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 4:
  - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
  - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
  - (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4, and
  - (b) any reservations that except land out of the Crown grant relating to the land, and
  - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).

**Note.** In accordance with section 30 (2) of the *Local Government Act 1993*, the approval of the Governor to subclause (5) applying to the public land concerned is required before the description of the land is inserted in Part 2 of Schedule 4.

### 5.3 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 10 metres from any zone boundary shared with Zone IN3 Heavy Industrial and 25 metres from any other zone boundary.

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- (3) This clause does not apply to:
- (a) land zoned B3 Commercial Core, RE1 Public Recreation, E1 National Parks and Nature Reserves, E2 Environmental Conservation, E3 Environmental Management or W1 Natural Waterways, or
  - (b) land within the coastal zone, or
  - (c) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
- (a) the development is not inconsistent with the objectives for development in both zones, and
  - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (5) The clause does not prescribe a development standard that may be varied under this Plan.

#### 5.4 Controls relating to miscellaneous permissible uses

(1) **Bed and breakfast accommodation**

If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 4 bedrooms.

(2) **Home businesses**

If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than 50 square metres of floor area.

(3) **Home industries**

If development for the purposes of a home industry is permitted under this Plan, the carrying on of the light industry must not involve the use of more than 50 square metres of floor area.

(4) **Industrial retail outlets**

If development for the purposes of an industrial retail outlet is permitted under this Plan, the retail floor area must not exceed:

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(a) 30% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or

(b) 400 square metres,  
whichever is the lesser.

(5) **Farm stay accommodation**

If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 5 bedrooms.

(6) **Kiosks**

If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 30 square metres.

(7) **Neighbourhood shops**

If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 100 square metres.

(8) **Roadside stalls**

If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed 20 square metres.

(9) **Secondary dwellings**

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

(a) 60 square metres,

(b) 20% of the total floor area of both the self-contained dwelling and the principal dwelling.

**5.5 Development within the coastal zone**

Not applicable.

**5.6 Architectural roof features**

(1) The objectives of this clause are:

(a) to permit variations to maximum building height standards for roof features of visual interest, and

(b) to ensure that roof features are decorative elements and that the majority of the roof is contained within the maximum building height standard.

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- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with consent.
  - (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:
    - (a) the architectural roof feature:
      - (i) comprises a decorative element on the uppermost portion of a building, and
      - (ii) is not an advertising structure, and
      - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
      - (iv) will cause minimal overshadowing, and
    - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

**5.7 Development below mean high water mark**

- (1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.
- (2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).

**5.8 Conversion of fire alarms**

- (1) This clause applies to a fire alarm system that can be monitored by New South Wales Fire Brigades or by a private service provider.
- (2) The following development may be carried out, but only with consent:
  - (a) converting a fire alarm system from connection with the alarm monitoring system of New South Wales Fire Brigades to connection with the alarm monitoring system of a private service provider,
  - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
  - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.

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- (3) Development to which subclause (2) applies is complying development if it consists only of:
- internal alterations to a building, or
  - internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm x 100mm x 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this clause:  
*private service provider* means a person or body that has entered into an agreement that is in force with New South Wales Fire Brigades to monitor fire alarm systems.

#### 5.9 Preservation of trees or vegetation

- The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.
- This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.  
**Note.** A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.
- A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
  - development consent, or
  - a permit granted by the Council.
- The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.
- This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.
- This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.



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Clause 5.10

Miscellaneous provisions

Part 5

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- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:
- (a) that is or forms part of a heritage item, or
  - (b) that is within a heritage conservation area.
- Note.** As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.
- (8) This clause does not apply to or in respect of:
- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
  - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
  - (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
  - (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
  - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

#### 5.10 Heritage conservation

**Note.** Heritage items, heritage conservation areas and archaeological sites (if any) are shown on the Heritage Map. The location and nature of any such item, area or site is also described in Schedule 5.

##### (1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of Liverpool, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve archaeological sites, and
- (d) to conserve places of Aboriginal heritage significance.

Clause 5.10      Liverpool Local Environmental Plan 2008  
Part 5            Miscellaneous provisions

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**(2) Requirement for consent**

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,
- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

**(3) When consent not required**

However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
  - (i) is of a minor nature, or is for the maintenance of the heritage item, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and
  - (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
  - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
  - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or

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Clause 5.10

Miscellaneous provisions

Part 5

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- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.
- (4) **Effect on heritage significance**
- The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).
- (5) **Heritage impact assessment**
- The consent authority may, before granting consent to any development on land:
- (a) on which a heritage item is situated, or
- (b) within a heritage conservation area, or
- (c) within the vicinity of land referred to in paragraph (a) or (b),
- require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (6) **Heritage conservation management plans**
- The consent authority may require, after considering the significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.
- (7) **Archaeological sites**
- The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):
- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.
- (8) **Places of Aboriginal heritage significance**
- The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:
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Clause 5.11      Liverpool Local Environmental Plan 2008  
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- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
- (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

(9) **Demolition of item of State significance**

The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 5 as being of State significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) **Conservation incentives**

The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

**5.11 Bush fire hazard reduction**

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

**Note.** The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

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Clause 5.12

Miscellaneous provisions

Part 5

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**5.12 Infrastructure development and use of existing buildings of the Crown**

- (1) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out without consent under the *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

Clause 6.1	Liverpool Local Environmental Plan 2008
Part 6	Urban release areas

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## **Part 6 Urban release areas**

### **6.1 Aims of Part**

This Part aims:

- (a) to allow for future urban development and the conservation of ecological and riparian corridors and areas of visual significance on land in urban release areas, and
- (b) to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of such land to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes, and
- (c) to ensure that development on such land occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan including specific controls has been prepared for the land.

### **6.2 Relationship between Part and remainder of Plan**

A provision of this Part prevails over any other provision of this Plan to the extent of any inconsistency.

### **6.3 Application of Part**

This Part applies to land in an urban release area, but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).

### **6.4 Arrangements for designated State public infrastructure**

- (1) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.
- (2) Subclause (1) does not apply to:
  - (a) any lot identified in the certificate as a residue lot, or
  - (b) any lot created by a subdivision consented to in accordance with this clause, or

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Clause 6.5

Urban release areas

Part 6

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- (c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities, or any other public purpose, or
  - (d) a subdivision for the purpose only of rectifying an encroachment on any existing allotment.

#### **6.5 Public utility infrastructure**

- (1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

#### **6.6 Development control plan**

- (1) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (2) has been prepared for the land.
- (2) The development control plan must provide for all of the following:
  - (a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (d) a network of passive and active recreational areas,
  - (e) stormwater and water quality management controls,
  - (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination,
  - (g) detailed urban design controls for significant development sites,
  - (h) measures to encourage higher density living around transport, open space and service nodes,

Clause 6.6      Liverpool Local Environmental Plan 2008

Part 6            Urban release areas

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- (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
- (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.



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Clause 7.1

Additional local provisions

Part 7

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## **Part 7 Additional local provisions**

### **Division 1 Liverpool city centre provisions**

#### **7.1 Objectives for development in Liverpool city centre**

Before granting consent for development on land in the Liverpool city centre, the consent authority must be satisfied that the proposed development is consistent with such of the following objectives for the redevelopment of the city centre as are relevant to that development:

- (a) to preserve the existing street layout and reinforce the street character through consistent building alignments,
- (b) to allow sunlight to reach buildings and areas of high pedestrian activity,
- (c) to reduce the potential for pedestrian and traffic conflicts on the Hume Highway,
- (d) to improve the quality of public spaces in the city centre,
- (e) to reinforce Liverpool railway station and interchange as a major passenger transport facility, including by the visual enhancement of the surrounding environment and the development of a public plaza at the station entry,
- (f) to enhance the natural river foreshore and places of heritage significance,
- (g) to provide direct, convenient and safe pedestrian links between the city centre (west of the rail line) and the Georges River foreshore.

#### **7.2 Sun access in Liverpool city centre**

- (1) The objective of this clause is to protect specified public open space from excessive overshadowing.
- (2) This clause applies to certain land in the Liverpool city centre, as specified in the Table to this clause.
- (3) Despite clause 4.3, development on land to which this clause applies is prohibited if the development results in any part of a building on land specified in Column 1 of the Table to this clause projecting above the height specified opposite that land in Column 2 of the Table.
- (4) This clause does not apply to development resulting only in refurbishment of a building.

Clause 7.3      Liverpool Local Environmental Plan 2008  
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<b>Column 1</b>	<b>Column 2</b>
<b>Location</b>	<b>Maximum height</b>
Land within 9m of the public right of way on the northern side of Elizabeth Street, opposite Bigge Park, between Bigge Street and College Street	20m
Land within 9m of the public right of way on the northern side of Elizabeth Drive, opposite St Luke's Church Grounds between Northumberland Street and Macquarie Street	20m
Land within 9m of the public right of way on either side of Macquarie Street, between Elizabeth Street and Memorial Avenue (except the most southern 60m)	15m
Land within 17m of the northern boundary of Apex Park between the Hume Highway and Castlereagh Street	15m
Land within 9m of the public right of way on the western side of Northumberland Street opposite Liverpool Pioneers' Memorial Park between Lachlan and Campbell Streets	30m
Land within 9m of the public right of way on the eastern side of Macquarie Street opposite Liverpool Pioneers' Memorial Park between Lachlan and Campbell Streets	30m

### **7.3 Car parking in Liverpool city centre**

- (1) The objective of this clause is to ensure that adequate car parking is provided for new or extended buildings on land in the Liverpool city centre that is commensurate with the traffic likely to be generated by the development and is appropriate for the road network capacity and proposed mix of transport modes for the city centre.
- (2) Development consent must not be granted to development on land in the Liverpool city centre that is in Zone B3 Commercial Core or B4 Mixed Use that involves the erection of a new building or an alteration to an existing building that increases the gross floor area of the building unless:
  - (a) at least one car parking space is provided for every 200 square metres of any new gross floor area that is on the ground floor level of the building, and

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Clause 7.4

Additional local provisions

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- (b) in respect of any other part of the building:
    - (i) at least one car parking space is provided for every 100 square metres of any new gross floor area that is to be used for the purposes of retail premises, and
    - (ii) at least one car parking space is provided for every 150 square metres of any new gross floor area that is to be used for any other purpose.
  - (3) Despite subclause (2), development consent may be granted to a development with less or no on site car parking if the consent authority is satisfied that the provision of car parking on site is not feasible.
  - (4) In this clause, the following are to be included as part of a building's gross floor area:
    - (a) any area of the building that is used for car parking and is at or above ground level (existing), except to the extent permitted by a development control plan made by the Council,
    - (b) any area of the building that is used for car parking below ground level (existing), except where the car parking is provided as required by this clause.
  - (5) Council owned public car parking and parts of a building used for residential purposes must not be included as part of a building's gross floor area for the purposes of this clause.

#### **7.4 Building separation in Liverpool city centre**

- (1) The objective of this clause is to ensure minimum sufficient separation of buildings for reasons of visual appearance, privacy and solar access.
- (2) Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least:
  - (a) 9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished) on land in Zone R4 High Density Residential, and
  - (b) 12 metres for parts of buildings between 25 metres and 35 metres above ground level (finished) on land in Zone R4 High Density Residential, and
  - (c) 18 metres for parts of buildings above 35 metres on land in Zone R4 High Density Residential and
  - (d) 12 metres for parts of buildings between 25 metres and 45 metres above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use, and

Clause 7.5      Liverpool Local Environmental Plan 2008  
Part 7            Additional local provisions

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- (e) 28 metres for parts of buildings 45 metres or more above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use.

#### **7.5 Design excellence in Liverpool city centre**

- (1) The objective of this clause is to deliver the highest standard of architectural and urban design.
- (2) Development consent must not be granted to development involving the construction of a new building or external alterations to an existing building in the Liverpool city centre unless the consent authority considers that the development exhibits design excellence.
- (3) In considering whether development exhibits design excellence, the consent authority must have regard to the following matters:
  - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
  - (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,
  - (c) whether the proposed development detrimentally impacts on view corridors,
  - (d) whether the proposed development detrimentally overshadows Bigge Park, Liverpool Pioneers' Memorial Park, Apex Park, St Luke's Church Grounds and Macquarie Street Mall (between Elizabeth Street and Memorial Avenue),
  - (e) any relevant requirements of applicable development control plans,
  - (f) how the proposed development addresses the following matters:
    - (i) the suitability of the site for development,
    - (ii) existing and proposed uses and use mix,
    - (iii) heritage issues and streetscape constraints,
    - (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
    - (v) bulk, massing and modulation of buildings,
    - (vi) street frontage heights,
    - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,

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Clause 7.5

Additional local provisions

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- (viii) the achievement of the principles of ecologically sustainable development,
  - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,
  - (x) the impact on, and any proposed improvements to, the public domain.
- (4) Development consent must not be granted to the following development in the Liverpool city centre unless an architectural design competition has been held in relation to the proposed development:
- (a) development for which an architectural design competition is required as part of a concept plan approved by the Minister under Division 3 of Part 3A of the Act,
  - (b) development having a capital value of more than \$1,000,000 on a key site, being a site shown coloured blue on the Key Sites Map,
  - (c) development for which the applicant has chosen to have such a competition.
- (5) Subclause (4) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required.
- (6) The consent authority may grant consent to the erection or alteration of a building in the Liverpool city centre that has a floor space ratio of up to 10% greater than that allowed by clause 4.4 or a height of up to 10% greater than that allowed by clause 4.3 (or both), but only if:
- (a) the design of the building or alteration is the result of an architectural design competition, and
  - (b) the concurrence of the Director-General has been obtained to the granting of consent.
- (7) In determining whether to provide his or her concurrence to the granting of consent, the Director-General is to take into account the matters set out in subclause (3) and whether he or she is of the opinion that the development that is the subject of the application has exhibited design excellence.
- (8) In this clause:  
***architectural design competition*** means a competitive process conducted in accordance with procedures approved by the Director-General from time to time.

Clause 7.6      Liverpool Local Environmental Plan 2008  
Part 7            Additional local provisions

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## **Division 2      General provisions**

### **7.6      Environmentally significant land**

- (1) The objectives of this clause are as follows:
  - (a) to maintain bushland, wetlands and wildlife corridors of high conservation value,
  - (b) to identify areas of significance for revegetation to connect to or buffer bushland, wetlands and wildlife corridors,
  - (c) to protect rare and threatened native flora and native fauna,
  - (d) to ensure consideration of the significance of vegetation, the sensitivity of the land and the impact of development on the environment prior to the giving of any development consent.
- (2) Before determining an application to carry out development on environmentally significant land, the consent authority must consider such of the following as are relevant:
  - (a) the condition and significance of the vegetation on the land and whether it should be substantially retained in that location,
  - (b) the importance of the vegetation in that particular location to native fauna,
  - (c) the sensitivity of the land and the effect of clearing vegetation,
  - (d) the relative stability of the bed and banks of any waterbody that may be affected by the development, whether on the site, upstream or downstream,
  - (e) the effect of the development on water quality, stream flow and the functions of aquatic ecosystems (such as habitat and connectivity),
  - (f) the effect of the development on public access to, and use of, any waterbody and its foreshores.

### **7.7      Acid sulfate soils**

- (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.
- (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

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Clause 7.6

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Class of land	Works
1	Any works.
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

- (3) Development consent must not be granted under this clause for the carrying out of works unless:
  - (a) an acid sulfate soils management plan has been prepared for the proposed works in accordance with the *Acid Sulfate Soils Manual* and has been provided to the consent authority, and
  - (b) a copy of the plan and a copy of the development application have been provided to the Director-General of the Department of Environment and Climate Change and the consent authority has considered any comments of the Director-General made within 21 days after those copies were provided to the Director-General.
- (4) Development consent is not required under this clause for the carrying out of works if:
  - (a) a preliminary assessment of the proposed works prepared in accordance with the *Acid Sulfate Soils Manual* indicates that an acid sulfate soils management plan need not be carried out for the works, and
  - (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.

Clause 7.8      Liverpool Local Environmental Plan 2008  
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- (5) Also, development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):
- (a) emergency work, being the repair or replacement of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,
  - (b) routine management work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),
  - (c) minor work, being work that costs less than \$20,000 (other than drainage work).
- (6) Development consent is not required under this clause to carry out any works unless:
- (a) the works involve the disturbance of more than 1 tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins) or foundations or flood mitigation works, or
  - (b) the works are likely to lower the watertable.
- (7) Clause 10 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* does not apply to development that requires development consent under this clause.

### **7.8 Development on flood prone land**

- (1) The objectives of this clause are:
- (a) to maintain the existing flood regime and flow conveyance capacity, and
  - (b) to avoid significant adverse impacts on flood behaviour, and
  - (c) to limit uses to those compatible with flow conveyance function and flood hazard, and
  - (d) to minimise the risk to human life and damage to property from flooding.
- (2) Despite any other provision of this Plan, development consent is required for development for the following purposes on land in a flood planning area:



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Clause 7.9

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- (a) earthworks,
  - (b) the erection of a building,
  - (c) the carrying out of a work,
  - (d) flood mitigation works (other than those carried out by a public authority).
- (3) Development consent must not be granted to development on flood prone land (other than development for the purposes of residential accommodation) unless the consent authority is satisfied that the development:
- (a) will not adversely affect flood behaviour and increase the potential for flooding to detrimentally affect other development or properties, and
  - (b) will not significantly alter flow distributions and velocities to the detriment of other properties or the environment, and
  - (c) will enable the safe occupation and evacuation of the land, and
  - (d) will not have a significant detrimental affect on the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of any riverbank or watercourse, and
  - (e) will not be likely to result in unsustainable social and economic costs to the flood affected community or general community as a consequence of flooding, and
  - (f) if located in the floodway, will be compatible with the flow of flood waters and with any flood hazard on that floodway.

#### **7.9 Foreshore building line**

- (1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.
- (2) Subject to the other provisions of this Plan, development may be carried out, with development consent, for the purposes of a building on land in the foreshore area only if:
  - (a) the levels, depth or other exceptional features of the site make it appropriate to do so, or
  - (b) the development involves the extension, alteration or rebuilding of an existing building that is erected wholly or partly in the foreshore area and the consent authority is satisfied that the building as extended, altered or rebuilt will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, or

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- (c) the development is for the purposes of any of the following:
  - (i) boat sheds,
  - (ii) sea walls,
  - (iii) wharves, slipways, jetties,
  - (iv) waterway access stairs,
  - (v) swimming pools at or below ground level (existing),
  - (vi) fences,
  - (vii) picnic facilities, cycleways, walking trails or other outdoor recreation facilities.
- (3) Development consent must not be granted to development referred to in subclause (2) unless the consent authority is satisfied that the development:
  - (a) will contribute to achieving the objectives for development in the zone in which it is to be carried out, and
  - (b) will be compatible in its appearance with the surrounding area, as viewed from both the waterway concerned and the adjacent foreshore areas, and
  - (c) will not cause environmental harm, such as:
    - (i) pollution or siltation of the waterway, or
    - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, flora or fauna habitats, or
    - (iii) an adverse effect on drainage patterns, and
  - (d) will not cause congestion of, or generate conflicts between, people using open space areas or the waterway, and
  - (e) will not compromise opportunities for the provision of continuous public access along the foreshore and to the waterway, and
  - (f) will maintain any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land.

#### **7.10 Minimum allotment size for dual occupancies in rural zones**

- (1) The objective of this clause is to maintain opportunities for productive rural and urban fringe uses by providing certainty about the land area required for two dwellings to be on a single lot in rural zones.
- (2) Development consent for the purposes of a dual occupancy on land in Zone RU1 Primary Production, RU2 Rural Landscape or RU4 Rural Small Holdings may be granted only if the lot:

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- (a) is a lot on which a dwelling house can lawfully be erected, and
  - (b) has an area of not less than:
    - (i) 10 hectares, if in Zone RU1 Primary Production, or
    - (ii) 2 hectares, if in Zone RU2 Rural Landscape or Zone RU4 Rural Small Holdings.

**7.11 Minimum dwelling density**

- (1) The objectives of this Plan for the control of dwelling densities are as follows:
  - (a) to contribute toward the efficient use of land resources,
  - (b) to ensure the viability of public transport and other services planned for the area,
  - (c) to ensure adequate funds for the recreation and community facilities planned for the area.
- (2) Development consent must not be granted for the subdivision of land shown on the Dwelling Density Map unless the consent authority is satisfied that the dwelling density likely to be achieved by the subdivision is not less than the dwelling density shown for the land on that Map.
- (3) In this clause:  
*dwelling density* means the ratio of the number of dwellings to the area of the land to be occupied by the development, including internal streets and half the width of any roads adjoining the development that provide vehicular access to the development but excluding land used for public open space and non-residential purposes.

**7.12 Maximum number of lots**

The total number of lots created by the subdivision of land in an area of land shown as restricted lot yield and bound by a heavy red line on the Dwelling Density Map must not exceed the number shown on that map for that area.

**7.13 Minimum lot width in Zones R1, R2, R3 and R4**

- (1) The objective of this clause is to ensure that lot dimensions are able to accommodate residential development that is suitable for its purpose and is consistent with relevant development controls.
- (2) This clause applies to the subdivision of land in Zone R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential or R4 High Density Residential.

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- (3) The width of any lot, resulting from a subdivision of land to which this clause applies, that is capable of accommodating residential development but is not the subject of a development application for that purpose, must not be less than 10 metres except as provided by subclause (4).
- (4) An irregular shaped lot with an area of 450 square metres or more that has an average width of more than 10m may have a minimum width of not less than 5 metres.
- (5) This clause does not apply in relation to the subdivision of individual lots in a strata plan.

#### **7.14 Minimum building street frontage**

- (1) The objectives of this clause for the control of building frontage to streets are as follows:
  - (a) to ensure that, visually, buildings have an appropriate overall horizontal proportion compared to their vertical proportions,
  - (b) to ensure that vehicular access is reasonably spaced and separated along roads and lanes,
  - (c) to provide appropriate dimensions for the design of car parking levels,
  - (d) to encourage larger development of commercial office, business, residential and mixed use buildings provided for under this Plan.
- (2) Development consent must not be granted to development for the purposes of any of the following buildings, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres:
  - (a) any building on land in Zone B3 Commercial Core or B4 Mixed Use, or
  - (b) any building of more than 2 storeys on land in Zone R4 High Density Residential, B1 Neighbourhood Centre or B2 Local Centre, or
  - (c) any residential flat building.

#### **7.15 Minimum building street frontage in Zone B6**

- (1) The objectives of this clause for the control of building frontage to streets are as follows:
  - (a) to ensure that acceptable vehicular access arrangements to a classified road are capable of being achieved,
  - (b) to ensure that vehicular access is reasonably spaced and separated along roads and lanes,

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- (c) to ensure suitable business exposure in a visually uncomplicated and ordered environment.
  - (2) Development consent must not be granted to the erection of a new building or to an addition to an existing building on land in Zone B6 Enterprise Corridor unless any frontage of the site to a classified road is at least:
    - (a) 90 metres, or
    - (b) if the site also fronts a road other than the classified road, 30 metres.
  - (3) Subclause (2) does not apply in the case of an addition to an existing building if the addition will increase the gross floor area of the building by less than 10%.

**7.16 Ground floor development in Zones B1, B2, B4 and B6**

- (1) The objective of this clause is to ensure active uses are provided at the street level to encourage the presence and movement of people.
- (2) This clause applies to the following land:
  - (a) land in Zone B1 Neighbourhood Centre, B2 Local Centre or B4 Mixed Use,
  - (b) land in Zone B6 Enterprise Corridor that is within 100 metres of a classified road.
- (3) This clause does not apply to land at Edmondson Park.
- (4) Development consent must not be granted for development for the purposes of a building on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building:
  - (a) will not be used for the purposes of residential accommodation, and
  - (b) will have at least one entrance and at least one other door or window on the front of the building facing a street other than a service lane.

**7.17 Development in flight paths**

- (1) The objectives of this clause are:
  - (a) to provide for the effective and on-going operation of airports, and
  - (b) to ensure that any such operation is not compromised by proposed development in the flight path of an airport.
- (2) Development consent must not be granted to erect a building on land in the flight path of Bankstown Airport or Hoxton Park Aerodrome if the

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proposed height of the building would exceed the obstacle height limit determined by the relevant Commonwealth body.

- (3) Before granting development consent to the erection of a building on land in the flight path of Bankstown Airport or Hoxton Park Aerodrome, the consent authority must:
- (a) give notice of the proposed development to the relevant Commonwealth body, and
  - (b) consider any comment made by the relevant Commonwealth body within 28 days of its having been given notice of the proposed development, and
  - (c) consider whether the proposed use of the building will be adversely affected by exposure to aircraft noise.

- (4) In this clause:  
 land is in the *flight path of an airport* if the relevant Commonwealth body has notified the consent authority that the land is in such a flight path.

*relevant Commonwealth body* means the Department or other body of the Commonwealth having responsibility for airports.

#### **7.18 Development in areas subject to potential airport noise**

- (1) The objectives of this clause are to ensure that development in the vicinity of Bankstown Airport, Hoxton Park Airport and the proposed Badgery's Creek airport site:
  - (a) has regard to the use or potential future use of each site as an airport, and
  - (b) does not hinder or have any other adverse impact on the development or operation of the airports on those sites.
- (2) Development consent is required for the erection of a building on land where the ANEF exceeds 20 if it is erected for residential purposes or for any other purpose involving regular human occupation.
- (3) The following development is prohibited unless it meets the requirements of AS 2021–2000, *Acoustics—Aircraft noise intrusion—Building siting and construction* with respect to interior noise levels:
  - (a) residential accommodation on land where the ANEF exceeds 20,
  - (b) business premises, entertainment facilities, office premises, public administration buildings, retail premises and tourist and visitor accommodation on land where the ANEF exceeds 25.

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- (4) The following development is prohibited:
- (a) educational establishments, hospitals and places of public worship on land where the ANEF exceeds 20,
  - (b) dwellings on land where the ANEF exceeds 25 (other than development consisting of the alteration, extension or replacement of an existing dwelling house where the development is consistent with the objectives of this clause),
  - (c) business premises, entertainment facilities, office premises, public administration buildings, retail premises and tourist and visitor accommodation on land where the ANEF exceeds 30.
- (5) In this clause:  
*ANEF* means Australian Noise Exposure Forecast as shown on the Airport Noise Map.

#### **7.19 Serviced apartments**

- (1) The objective of this clause is to prevent substandard residential building design occurring by way of converted serviced apartment development.
- (2) Development consent must not be granted for the subdivision under a strata scheme of a building or part of a building that is being, or has been, used for serviced apartments unless the consent authority is satisfied that the following are achieved for the development as if it were a residential flat development:
  - (a) the design quality principles set out in Part 2 of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development*,
  - (b) the design principles of the *Residential Flat Design Code* (a publication of the Department of Planning, September 2002).

#### **7.20 Council infrastructure development**

- (1) Development may be carried out by or on behalf of the Council without development consent on any land, other than land in a heritage conservation area, land containing a heritage item or land that is an environmentally sensitive area for exempt and complying development.
- (2) Development may be carried out by or on behalf of the Council without development consent on land in a heritage conservation area or land containing a heritage item if the development is in accordance with a heritage conservation management plan that has been approved by the Council.

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- (3) Subclauses (1) and (2) do not apply to development for the following:
- (a) the erection of a class 1–9 building under the *Building Code of Australia*,
  - (b) development having a capital value of more than \$1,000,000.

**7.21 Delayed rezoning of certain land**

- (1) The objectives of this clause are:
- (a) to ensure that land identified for a National Park or Regional Park during a rezoning is dedicated and held for reservation prior to development under the new zones commencing, and
  - (b) to ensure that existing airport operations cease prior to development under new zones commencing on land used as an airport.
- (2) The zoning of the following land does not commence until a date specified by the Minister by order published in the Gazette:
- (a) land shown as “National or Regional Park Dedication Required” by a heavy black line on the Delayed Rezoning Map,
  - (b) land shown as “Airport Cessation Required” by a dashed heavy black line on the Delayed Rezoning Map.
- (3) The Minister must not make such an order in respect of land referred to in subclause (2) (a) unless the Minister is satisfied that the land:
- (a) is vested in the State of New South Wales or a public authority of the State of New South Wales, and
  - (b) is reserved under the *National Parks and Wildlife Act 1974* or is held for the purpose of being so reserved.
- (4) The Minister must not make such an order in respect of land referred to in subclause (2) (b) unless the Minister is satisfied that ownership of the land has been transferred to HPAL Freehold Pty Limited (ACN 105 905 673) and that the land is no longer being used for the purposes of an airport.
- (5) Until such time as the Minister makes an order under this clause, the zone applying to any land shown on the Delayed Rezoning Map remains the zone applying to that land shown on the Land Zoning Map.
- (6) On the publication in the Gazette of an order of the Minister under this clause, the Land Zoning Map is, despite clause 7.1, amended by the relevant sheet of the Delayed Rezoning Map.



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### 7.22 Development in Zone B6

- (1) The objectives of this clause are:
  - (a) to maintain opportunities for business and retail types that are suited to high exposure locations while ensuring that centres remain the focus for business and retail activity, and
  - (b) to protect residents who live near classified roads from the noise generated by those roads.
- (2) This clause applies to land in Zone B6 Enterprise Corridor.
- (3) Except as provided by subclause (4), development consent must not be granted to development for the purposes of a dwelling unless the dwelling is at least 50 metres from any boundary of the land that adjoins a classified road.
- (4) Development consent must not be granted to development for the purposes of a dwelling on land shown edged heavy green on the Key Sites Map and that adjoins the Hume Highway or Elizabeth Drive unless the dwelling is at least 8 metres from any boundary of the land that adjoins either of those roads.
- (5) Development consent must not be granted to development that would result in total gross floor area of all retail premises (other than timber and building supplies, landscape and garden supplies or vehicle sales or hire premises) in a single building being more than 8,000 square metres.

### 7.23 Bulky goods premises and retail premises in Zone B6

- (1) Development consent must not be granted to development for the purposes of bulky goods premises on land in Zone B6 Enterprise Corridor if the gross floor area of the bulky goods premises is more than 2,500 square metres.
- (2) Development consent must not be granted to development for the purposes of retail premises on land in Zone B6 Enterprise Corridor if the gross floor area of the retail premises is more than 1,000 square metres.

### 7.24 Dual occupancies in Zone RU1, RU2 and RU4

- (1) Development consent must not be granted to development for the purposes of a dual occupancy on land in Zone RU1 Primary Production or Zone RU4 Rural Small Holdings if the gross floor area of either or both of the dwellings is more than 150 square metres.
- (2) Development consent must not be granted to development for the purposes of a dual occupancy on land in Zone RU2 Rural Landscape if the gross floor area of either or both of the dwellings is more than 60 square metres.

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**7.25 Food and drink premises and shops in Zone B1**

- (1) Development consent must not be granted to development for the purposes of food and drink premises on land in Zone B1 Neighbourhood Centre if the gross floor area of the food and drink premises is more than 300 square metres.
- (2) Development consent must not be granted to development for the purposes of a shop on land in Zone B1 Neighbourhood Centre if the gross floor area of the shop is more than 1,500 square metres.

**7.26 Restaurants, take away food and drink premises, child care centres and hotel or motel accommodation in Zones IN1 and IN2**

- (1) Development consent must not be granted to development for the purposes of a restaurant or take away food and drink premises on land in Zone IN1 General Industrial or IN2 Light Industrial if the gross floor area of the restaurant or take away food or drink premises is more than 200 square metres.
- (2) Development consent must not be granted to development for the purposes of a child care centre or hotel or motel accommodation on land in Zone IN1 General Industrial or IN2 Light Industrial unless:
  - (a) the proposed development is at least 150 metres from any land in Zone IN3 Heavy Industrial, and
  - (b) if any heavy industry is in the vicinity of proposed development, the consent authority has considered whether the development will be sited, designed and constructed so as to minimise any impact from that heavy industry.

**7.27 Development of certain land at Moorebank**

- (1) The objective of this clause is to ensure development is supportive of the future provision of appropriate regional public transport measures to reduce the demand for travel by private car and commercial vehicle.
- (2) This clause applies to land shown edged heavy blue and marked "Moorebank South Industrial Precinct" on the Key Sites Map.
- (3) Before granting consent to development on the land to which this clause applies, the consent authority must be satisfied that the proposed development is consistent with the following objectives in so far as they are relevant to that development:
  - (a) to provide a street pattern that enables direct public transport links between the M5 Motorway Moorebank Avenue interchange, the East Hills rail line at the Moorebank Avenue bridge and Anzac Road, Wattle Grove,

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- (b) to provide a subdivision pattern that enables ready access through the precinct by pedestrians and cyclists,
  - (c) to orientate entrances, windows and other active frontages toward the street or paths to contribute toward creating a safer pedestrian environment,
  - (d) to provide facilities that encourage walking and cycling between the development and existing or potential public transport.

**7.28 Minimum rear setbacks at Georges Fair Moorebank**

- (1) This clause applies to land at Moorebank shown coloured orange on the Key Sites Map.
- (2) Despite any other provision of this Plan, a dwelling on a lot on land to which this clause applies must have a setback of at least 10 metres from the rear boundary of the lot.

**7.29 Maximum floor area that may be used for business premises for certain land in Zone B2 at Middleton Grange**

For development of a site on land shown as being within Area 4 on the Floor Space Ratio Map, no more than 25% of the gross floor area of all buildings on the site may be used for the purposes of business premises.

**7.30 Maximum floor area that may be used for retail premises for certain land in Zone B1 at Hoxton Park**

For development of a site on land shown as being within Area 5 on the Floor Space Ratio Map, no more than 35% of the gross floor area of all buildings on the site may be used for the purposes of retail premises.

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Schedule 1 Additional permitted uses

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## Schedule 1 Additional permitted uses

(Clause 2.5)

### 1 Use of certain land at Bringelly in Zone RU1

- (1) This clause applies to Lots 5 and 6, DP 2650 and Lots 1 and 2, DP 128613 in Zone RU1 Primary Production on the northern corner of Dart Road, Bringelly.
- (2) Development, being the temporary use of the land for the purpose of industry (but only with respect to the manufacturing of mobile homes and prefabricated dwelling additions), is permitted with consent if no part of the development is less than 60m from the southern property boundary.
- (3) Despite clause 2.6B of this Plan, consent may be granted to development referred to in subclause (2) for a maximum period of 3 years.

### 2 Use of certain land at Casula in Zone R2

- (1) This clause applies to Part Lot 86, DP 2031 in Zone R2 Low Density Residential at 2295 Camden Valley Way, Casula.
- (2) Development for the purposes of emergency services facilities is permitted with consent.

### 3 Use of certain land at Casula and Moorebank in Zone B6

- (1) This clause applies to the following land, being land in Zone B6 Enterprise Corridor:
  - (a) 2415 Camden Valley Way, Casula,
  - (b) 633–639 Hume Highway, Casula,
  - (c) 696 Hume Highway, Casula,
  - (d) 124 Newbridge Road, Moorebank.
- (2) Development for the purpose of multi dwelling housing is permitted with consent but not on any part of the land that is within 100m of a boundary of the land that adjoins a classified road.

### 4 Use of certain land at Cecil Park

- (1) This clause applies to land at Cecil Park referred to in clause 7.21 (2) (b) of this Plan that has been subject to an order of the Minister under that clause.
- (2) Development for a purpose that is otherwise permitted with consent on the land and that has been approved in respect of the land under the

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*Airports Act 1996* of the Commonwealth is permitted without consent if carried out in accordance with that approval.

**5 Use of certain land at Edmondson Park in Zone B2**

- (1) This clause applies to land in Zone B2 Local Centre at Edmondson Park.
- (2) Development for the purposes of residential flat buildings is permitted with consent.

**6 Use of certain land in Liverpool city centre in Zone B1**

- (1) This clause applies to land in Zone B1 Neighbourhood Centre in the Liverpool city centre adjacent to the Hume Highway between Forbes Street and Goulburn Street.
- (2) Development for the purpose of residential flat buildings is permitted with consent if part of a mixed use development that contains retail premises.

**7 Use of certain land at Moorebank in Zone R4**

- (1) This clause applies to land shown coloured pink on the Key Sites Map.
- (2) Development for the purposes of entertainment facilities and restaurants is permitted with consent if it is part of a mixed use development that contains multi dwelling housing.

**8 Use of certain land in Liverpool city centre in Zone RE1**

- (1) This clause applies to land in Zone RE1 Public Recreation in the Liverpool city centre, bounded by the Hume Highway, Macquarie Street, Campbell Street and Northumberland Street.
- (2) Development for the purposes of restaurants is permitted with consent if the gross floor area of any restaurant is not greater than 125m<sup>2</sup>.

**9 Use of certain land for service stations and take away food and drink premises**

- (1) This clause applies to land shown coloured yellow on the Key Sites Map.
- (2) Development for the following purposes is permitted with consent:
  - (a) service stations,
  - (b) take away food and drink premises if:
    - (i) there will be no more than 1 take away food and drink premises at each of the areas shown coloured yellow on the Key Sites Map, and

## Liverpool Local Environmental Plan 2008

## Schedule 1 Additional permitted uses

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- (ii) the gross floor area of the take away food and drink premises is not greater than 300m<sup>2</sup>.

**10 Use of certain land in Liverpool city centre in Zone R4**

- (1) This clause applies to land in Zone R4 High Density Residential in the Liverpool city centre, bounded by Campbell Street, Bigge Street, Lachlan Street and Goulburn Street.
- (2) Development for the purposes of light industry is permitted with consent but only if the industry is medical research and development.
- (3) Development for the purposes of office premises is permitted with consent but only with respect to the medical or health industries.

**11 Use of certain land at Moorebank in Zone E2**

- (1) This clause applies to Lot 6, DP 1065574 in Zone E2 Environmental Conservation at Newbridge Road, Moorebank.
- (2) Development for the purposes of a resource recovery facility is permitted with consent.
- (3) This clause is repealed on 1 September 2018.

**12 Use of certain land at Voyager Point in Zone R2**

- (1) This clause applies to Lot 11, DP 803038 in Zone R2 Low Density Residential at The Avenue, Voyager Point.
- (2) Development for the purposes of neighbourhood shops is permitted with consent.

**13 Use of certain land at Warwick Farm in Zone B5**

- (1) This clause applies to land in Zone B5 Business Development at Warwick Farm.
- (2) Development for the purposes of markets is permitted with consent but only if the markets operate no more than 2 days in any week.

**14 Use of certain land at Warwick Farm in Zone IN1**

- (1) This clause applies to Lot 10, DP 788368 in Zone IN1 General Industrial at Sappho Road Warwick Farm, known as "Hometown Bulky Goods Centre".
- (2) Development for the purposes of bulky goods premises is permitted with consent but only if the gross floor area of the premises is not greater than 4,000m<sup>2</sup>.

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**15 Use of certain land at Warwick Farm in Zone IN1**

- (1) This clause applies to land in Zone IN1 General Industrial in the following locations:
  - (a) north of the Hume Highway and east of the southern rail line at Warwick Farm,
  - (b) east of Orange Grove Road and north of the Hume Highway at Warwick Farm.
- (2) Development for the following purposes is permitted with consent:
  - (a) service stations,
  - (b) vehicle showrooms.

**16 Use of certain land at Warwick Farm in Zone R2**

- (1) This clause applies to land in Zone R2 Low Density Residential, east of the southern rail line at Warwick Farm.
- (2) Development for the following purposes is permitted with consent:
  - (a) animal boarding or training establishments,
  - (b) farm buildings,
  - (c) veterinary hospitals.

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Schedule 2 Exempt development

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## Schedule 2 Exempt development

(Clause 3.1)

**Note.** A person may carry out an activity specified in this Schedule without obtaining consent from the consent authority, if the person complies with the exemption criteria that applies to the activity (which includes the deemed-to-satisfy provisions of the *Building Code of Australia*). However, the activity must not contravene any condition of a development consent already applying to the land and adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities not specifically set out in this Schedule still apply. (For example, requirements relevant to this Schedule are contained in the Act, the Regulation, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993* and the *Swimming Pools Act 1992* etc).

### Access ramps

- (1) Maximum height—600mm.
- (2) Maximum grade—1:14.
- (3) Maximum length—9m.
- (4) Maximum width—1.2m.
- (5) Must be at least 500mm from any property boundary.
- (6) If the ramp is to be used to provide access for persons with a disability, it must comply with AS 1428.1—2001, *Design for access and mobility*, Part 1: *General requirements for access—New building work*.

### Advertisements—general requirements

- (1) Must be non-moving.
- (2) Must be at least 600mm from any public road.
- (3) Must be at least 2.6m above any public footpath.
- (4) Must relate to the lawful use of the building (except for temporary signs).
- (5) Must be within the boundary of the property to which it applies, unless in a business or an industrial zone.
- (6) Must reflect the character and style of any building to which it is attached.
- (7) Must not be detrimental to the character and functioning of the building.
- (8) Must not be on walls facing or adjoining residential premises.
- (9) Must not be an “A” frame sign.
- (10) Must have the consent of the owner of the property on which the sign is located.



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Exempt development

Schedule 2

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**Advertisements—business identification signs for businesses other than brothels in business zones**

(1) **Underawning sign**

Sign attached to the underside of an awning other than a fascia or return end:

- (a) must meet the general requirements for advertisements, and
- (b) 1 sign per ground floor premises with street frontage, and
- (c) maximum length—2.5m, and
- (d) maximum height—0.5m, and
- (e) must not be flashing.

(2) **Projecting wall sign (excluding underawning signs)**

Sign attached to the wall of a building (other than the transom of a doorway or display window) and projecting more than 300mm:

- (a) must meet the general requirements for advertisements, and
- (b) 1 sign per premises or 1 per street frontage, whichever is greater, and
- (c) maximum projection—1.5m, and
- (d) maximum area—1.5m<sup>2</sup>, and
- (e) must not be flashing.

(3) **Flush wall sign**

Sign attached to the wall of a building (other than the transom of a doorway or display window) and not projecting more than 300mm:

- (a) must meet the general requirements for advertisements, and
- (b) maximum area—2.5m<sup>2</sup>, and
- (c) must not be flashing.

(4) **Top hamper sign**

Sign attached to the transom of a doorway or display window of a building:

- (a) must meet the general requirements for advertisements, and
- (b) maximum area—2.5m<sup>2</sup>, and
- (c) must not be flashing.

(5) **Fascia signs**

Sign attached to the fascia or return of the awning:

- (a) must meet the general requirements for advertisements, and

## Liverpool Local Environmental Plan 2008

## Schedule 2 Exempt development

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- (b) 1 sign per premises, and
  - (c) must not project above or below, or more than 300mm from the fascia or return end of the awning to which it is attached, and
  - (d) must not be flashing.

**Advertisements—business identification signs for businesses other than brothels in industrial zones**

- (1) Must meet the general requirements for advertisements.
- (2) 1 pole or pylon sign per premises (including any directory board for multiple occupancies).
- (3) Maximum height—5m.
- (4) Must be within 5m of any public entry point to the premises.
- (5) Must not obstruct the sight line of vehicle or pedestrian traffic.
- (6) For multiple occupancy premises, 1 additional business identification sign is permitted at the entrance to each occupied unit, maximum dimensions—1.2m<sup>2</sup>.
- (7) For single occupancy premises, 1 additional business identification sign is permitted, maximum area—50m<sup>2</sup> or 1m<sup>2</sup> per 3m of street frontage, whichever is the lesser.

**Advertisements—business identification signs in residential zones**

- (1) Must meet the general requirements for advertisements.
- (2) 1 sign per premises.
- (3) Maximum area—0.75m<sup>2</sup>.
- (4) If a pole or pylon sign, maximum height—2m.
- (5) Must not be illuminated or flashing.

**Advertisements—business identification signs in rural zones**

- (1) Must meet the general requirements for advertisements.
- (2) 1 sign per premises.
- (3) Maximum area—0.75m<sup>2</sup> (except if a pole or pylon sign).
- (4) If a pole or pylon sign, maximum area—2m<sup>2</sup> and maximum height—2m.
- (5) Must not be illuminated or flashing.

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**Advertisements—public notices displayed by a public body giving information or direction about the services provided**

- (1) Must meet the general requirements for advertisements.
- (2) Maximum height—5m.
- (3) Maximum area—5m<sup>2</sup>.
- (4) Must not obstruct the sight line of vehicle or pedestrian traffic.
- (5) Must not be flashing.

**Advertisements—real estate signs (advertising land development)**

- (1) Must meet the general requirements for advertisements.
- (2) Maximum area—6m<sup>2</sup> for each 25 lots.

**Advertisements—real estate signs (advertising premises or land for sale or rent) in business or industrial zones**

- (1) Must meet the general requirements for advertisements.
- (2) Maximum area—4.5m<sup>2</sup>.
- (3) Must be within the boundary of the advertised property.
- (4) Must not be flashing.
- (5) Must be removed within 14 days after the premises or land is sold or let.

**Advertisements—real estate signs (advertising premises or land for sale or rent) in residential or rural zones**

- (1) Must meet the general requirements for advertisements.
- (2) Maximum area—2.5m<sup>2</sup>.
- (3) Must not be flashing.
- (4) Must be removed within 14 days after the premises or land is sold or let.

**Advertisements—signs behind the glass line of a shop window in Zone B1, B3, B4, B6 or IN2 (other than brothels)**

- (1) Must meet the general requirements for advertisements.
- (2) Must not occupy more than 25% of the area of the window.
- (3) Must not be flashing.

**Advertisements—temporary signs for religious, cultural, political, social or recreational events**

- (1) Must meet the general requirements for advertisements.

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- (2) 1 per street frontage.
  - (3) Maximum area—1.5m<sup>2</sup> and maximum height—1.5m in residential and rural zones.
  - (4) Maximum area—3.5m<sup>2</sup> and maximum height—2m in commercial and industrial zones.
  - (5) Must not include commercial advertising apart from name of event sponsor.
  - (6) Must not be displayed earlier than 28 days before, or later than 14 days after, the event.
  - (7) Must not be used in relation to recurring events.
  - (8) Must not be flashing.

**Advertisements—in a site, but not visible from outside of that site (other than brothels)**

Must meet the general requirements for advertisements.

**Aerials and antennae (other than satellite dishes or microwave antennas)**

- (1) Must not be used for transmission purposes.
- (2) 1 per dwelling house or multi dwelling complex.
- (3) Maximum height—3m above the ridge line of the building.
- (4) Must be for television reception only.

**Air conditioning units for dwelling houses in rural or residential zones**

- (1) Must be at least 3m from any property boundary.
- (2) Must not be in the front setback, unless behind a Council approved fence that is at least 1.8m high.
- (3) Maximum sound power level—60 dB.
- (4) Any opening created must be adequately weatherproofed.
- (5) Must be attached to external wall or ground mounted.
- (6) 1 per premises.

**Aviaries in residential zones**

- (1) Maximum cumulative area—5m<sup>2</sup>.
- (2) Maximum height—1.8m.
- (3) Must be constructed with non-reflective finishes.

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- (4) Must be on the rear half of the property and be at least 1m from any property boundary.
  - (5) Must not be for chickens, pheasant, partridge, quail, pea fowl or pigeons.
  - (6) Must have a concrete floor graded to a waste collection point, that satisfies any relevant requirements of Sydney Water.

**Aviaries in rural zones**

- (1) Maximum floor area—20m<sup>2</sup>.
- (2) Maximum height—2.4m.
- (3) Must not be in the front setback.
- (4) Must be at least 3m from any property boundary.
- (5) Must be at least 450mm from any other structure.
- (6) Must not be used for habitable or commercial purposes.
- (7) Must be constructed with non-reflective finishes.
- (8) Must be freestanding.
- (9) Maximum number of chickens, partridges, pea fowl, pheasants, pigeons or quails able to be housed—2.
- (10) If roof area is 12m<sup>2</sup> or more, must have guttering and downpipes discharging into:
  - (a) the street gutter fronting the land, or
  - (b) an inter-allotment stormwater drainage system on the land, or
  - (c) rainwater tanks used for domestic and fire fighting purposes.

**Awnings, pergolas, carports and canopies**

- (1) Must be in a residential zone on a property that contains a dwelling house.
- (2) Must be at least 500mm from any property boundary.
- (3) Maximum height—2.7m, or if no part of the structure is within 900mm of any property boundary—3m.
- (4) Must not have roller doors or panel lift doors installed.
- (5) Steel structures must be designed by a qualified engineer.
- (6) Must not be in front setback.
- (7) Maximum area—20m<sup>2</sup>.

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- (8) Maximum cumulative area of all awnings, carports, canopies, cabanas, gazebos, greenhouses and pergolas on the site—30m<sup>2</sup> in residential zones and 75m<sup>2</sup> in rural zones.
  - (9) Must be constructed with non-reflective finishes.
  - (10) If roof area is 12m<sup>2</sup> or more (except in the case of canopies), must have guttering and downpipes discharging into:
    - (a) the street gutter fronting the land, or
    - (b) an inter-allotment stormwater drainage system on the land, or
    - (c) rainwater tanks used for domestic and fire fighting purposes.
  - (11) Water from canopies must be directed to a surface water collection point and must not cause a nuisance to any adjoining property.

**Barbecues**

- (1) Maximum area—2m<sup>2</sup>.
- (2) Maximum chimney height—2m.
- (3) Must be in rear yard area or, behind a courtyard wall, with no greater than 200mm of the chimney above the wall.
- (4) Must be at least 1.2m from any pool safety fence.
- (5) Must be at least 450mm from any property boundary.
- (6) Must not create a nuisance to any adjoining property.

**Change of use—light industrial premises, office and business premises and shops—general requirements**

- (1) Must not involve the carrying out of any alterations other than alterations that are themselves exempt development.
- (2) The new use must be permissible in the zone.
- (3) Must not use curtilage of the premises for storage or display purposes.
- (4) Must not extend the existing hours of operation.

**Change of use—light industrial premises in business and industrial zones**

- (1) Must meet the general requirements for change of use.
- (2) Must be in a business or industrial zone.
- (3) New use must be for light industrial purposes but not for the purposes of an industrial retail outlet.
- (4) The premises must have a previous approval for light industrial use.
- (5) Maximum gross floor area—1,000m<sup>2</sup>.

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- (6) Must have space for loading and unloading vehicles on the premises.
  - (7) Must not operate outside the hours of 6.00am to 6.00pm.

**Change of use—office and business premises in business zones**

- (1) Must meet the general requirements for change of use.
- (2) Must be in a business zone.
- (3) Must use the premises for the purposes of office premises or business premises.
- (4) The premises must have a previous approval for use as office premises or business premises.
- (5) Maximum gross floor area—1,000m<sup>2</sup>.

**Change of use—shops in business zones**

- (1) Must meet the general requirements for change of use.
- (2) Must be in a business zone.
- (3) Must use the premises for the purposes of a shop.
- (4) The premises must have a previous approval for use as a shop.
- (5) Maximum gross floor area—1,000m<sup>2</sup>.
- (6) Must not result in premises being used for the purposes of food and drink premises, beauty salons, hairdressing salons or be used for the purposes of skin penetration.

**Clothes hoists and clothes lines**

- (1) Must not be in the front setback.
- (2) Must be installed to the manufacturer's specifications.
- (3) Maximum height—3m.
- (4) Maximum—2 per property.

**Concreting or paving**

- (1) Must be on a property that contains a dwelling house.
- (2) Must be within the property boundary.
- (3) Must not adversely affect the flow of water onto adjoining properties.
- (4) Must take appropriate measures to collect and dispose of any stormwater.

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- (5) Must be at least 100mm below the base of any weepholes on any structure.
  - (6) Must not be on the front setback except for pathways with a maximum width of 1.2m, driveways and concrete or paved private open space.
  - (7) Maximum area of concrete and paving—33% of private open space.
  - (8) Maximum level by which the ground level (existing) may be raised or lowered—150mm.

**Decks**

- (1) Must be on a property that contains a dwelling house.
- (2) Maximum area—12m<sup>2</sup>.
- (3) 1 per property.
- (4) Maximum cumulative area of all decks and patios on the site—50m<sup>2</sup> in residential zones and 75m<sup>2</sup> in rural zones.
- (5) Must not be forward of the dwelling unless behind an existing Council approved fence with a minimum height of 1.8m.
- (6) Maximum height of deck—400mm.
- (7) Must be at least 900mm from any property boundary.
- (8) Maximum height of any handrail associated with the deck—1m.

**Demolition**

- (1) Must be demolition of a structure, the erection of which would be exempt development under this Plan.
- (2) Activity must be carried out within the property boundary.
- (3) Must be demolition of an entire structure, not part of a structure.
- (4) Must be carried out in accordance with AS 2601—2001, *Demolition of structures* and any relevant WorkCover guidelines.
- (5) If a structure is likely to have been treated with pesticides, must avoid contact with the top 10–20mm of soil.

**Fences (other than fences covered by the Swimming Pools Act 1992)**

- (1) Must be constructed so that they do not prevent the natural flow of stormwater drainage or runoff.
- (2) Maximum height if constructed, in whole or in part, of masonry—1m.



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- (3) Maximum height if constructed of timber, metal or lightweight materials:
- (a) if in the front setback—1.2m, or
  - (b) if elsewhere—1.8m or 1.5m if on a retaining wall.

### Filming

- (1) May only be carried out:
- (a) on private land, or
  - (b) in the Sydney Olympic Park within the meaning of the *Sydney Olympic Park Authority Act 2001*, or
  - (c) on Trust lands within the meaning of the *Royal Botanic Gardens and Domain Trust Act 1980*, or
  - (d) on Trust lands within the meaning of the *Centennial Park and Moore Park Trust Act 1983*, or
  - (e) on part of the foreshore area within the meaning of the *Sydney Harbour Foreshore Authority Act 1998*, or
  - (f) on Crown land.
- (2) May only be carried out on land:
- (a) on which there is a heritage item, or
  - (b) within a heritage conservation area, or
  - (c) identified in clause 3.3 as an environmentally sensitive area for exempt development,
- if the filming does not involve or result in any of the following:
- (d) any changes or additions that are not merely superficial and temporary to any part of a heritage item, a heritage conservation area or an environmentally sensitive area,
  - (e) the mounting or fixing of any object or article on any part of such an item or area (including any building or structure),
  - (f) the movement, parking or standing of any vehicle or equipment on or over any part of such an item or area that is not specifically designed for the movement, parking or standing of a vehicle or equipment on or over it,
  - (g) any changes to the vegetation on, or level of, such an item or area or any changes to any other natural or physical feature of the item or area.
- (3) Must not create significant interference with the neighbourhood.

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- (4) The person carrying out the filming must obtain a policy of insurance that adequately covers the public liability of the person in respect of the filming for an amount of not less than \$10,000,000.
- (5) If the filming is carried out on private land, the filming must not be carried out for more than 30 days within a 12-month period at the particular location.
- (6) A filming management plan must be prepared and lodged with the consent authority for the location at least 5 days before the commencement of filming at the location. The plan must contain the following information and be accompanied by the following documents (without limiting the information or documents that may be submitted):
- (a) the name, address and telephone number of the person carrying out the filming (such as a production company) and of the producer for the filming,
  - (b) a brief description of the filming to be carried out (for example, a television commercial, a television series, a feature film or a documentary),
  - (c) the proposed location of the filming,
  - (d) the proposed commencement and completion dates for the filming at the location,
  - (e) the proposed daily length of filming at the location,
  - (f) the number of persons to be involved in the filming,
  - (g) details of any temporary structures (for example, tents or marquees) to be erected at the location for the purposes of the filming,
  - (h) the type of filming equipment to be used in the filming (such as a hand-held or mounted camera),
  - (i) proposed arrangements for parking vehicles associated with the filming during the filming,
  - (j) whether there will be any disruption to the location of the filming or the surrounding area and the amenity of the neighbourhood (for example, by the discharge of firearms or explosives, the production of offensive noise, vibrations, disruption to traffic flow or the release of smells, fumes, vapour, steam, soot, ash, dust, waste water, grit or oil),
  - (k) whether the filming will involve the use of outdoor lighting or any other special effects equipment,
  - (l) a copy of the public liability insurance policy that covers the filming at the location,

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- (m) a copy of any approval given by a public or local authority to carry out an activity associated with the proposed filming at the location, such as the following:
    - (i) an approval by the Roads and Traffic Authority for the closure of a road,
    - (ii) an approval by the Council for the erection of a temporary structure, closure of a road or a public footpath, or a restriction in pedestrian access,
    - (iii) an approval by the Environment Protection Authority for an open fire,
    - (iv) an approval by the NSW Police Force for the discharge of firearms,
    - (v) an approval by the Department of Lands for the use of Crown land.
  - (7) The person carrying out the filming must, at least 5 days before the commencement of filming at the particular location, give notice in writing (by way of a letter-box drop) of the filming to residents within a 50m radius of the location. The notice must contain the following information:
    - (a) the name and telephone number of the person carrying out the filming (such as a production company) and of a contact representative of that person,
    - (b) a brief description of the filming to be carried out at the location, and any proposed disruptions to the location or the surrounding area or the amenity of the neighbourhood,
    - (c) the proposed commencement and completion dates for the filming at the location,
    - (d) the proposed daily length of filming at the location.

#### **Flagpoles**

- (1) Maximum flag area—2m<sup>2</sup>.
- (2) Maximum height—6m.
- (3) Must not project beyond property boundary.
- (4) Must be installed to the manufacturer's specifications.
- (5) Must not be used to display an advertisement.
- (6) Only 1 per property.
- (7) 1 flag per flagpole.
- (8) Must not cause an audible nuisance.

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**Garden sheds and greenhouses**

- (1) Maximum floor area—20m<sup>2</sup>.
- (2) Maximum cumulative area of all garden sheds and greenhouses on the site—20m<sup>2</sup> in residential zones and 40m<sup>2</sup> in rural zones.
- (3) Maximum height—2.4m.
- (4) Must not be in the front setback.
- (5) Must be at least 500mm from any property boundary in a residential zone and at least 3m from any property boundary in a rural zone.
- (6) Must be at least 450mm from any other structure.
- (7) Must not be used for habitable or commercial purposes.
- (8) Must be constructed with non-reflective finishes.
- (9) Must be freestanding.
- (10) If roof area is 12m<sup>2</sup> or more, must have guttering and downpipes discharging into:
  - (a) the street gutter fronting the land, or
  - (b) an inter-allotment stormwater drainage system on the land, or
  - (c) rainwater tanks used for domestic and fire fighting purposes.

**Hoardings**

- (1) Maximum height—2.1m.
- (2) Must not encroach on any footpath, public thoroughfare or adjoining property.
- (3) Must be dismantled on completion of all construction works.

**Letter boxes**

- (1) Maximum height—1m.
- (2) Must be erected in accordance with any relevant guidelines for letter box construction issued by Australia Post.
- (3) Must be within the property boundary.
- (4) 1 per dwelling house and a maximum of 2 per property.

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**Minor alterations to buildings**

- (1) Must only involve the replacement of doors, walls, ceiling linings, floor linings, windows, frame members or roofing materials, with equivalent or improved quality materials, or renovations of bathrooms, kitchens, inclusion of built-in fixtures such as vanities, cupboards, wardrobes and the like.
- (2) Must not include changes to the external configuration of the building.
- (3) Must not increase the total floor area of the building.
- (4) If residential premises, must not involve the removal or replacement of a load-bearing member.
- (5) If residential premises, must not involve the conversion of a non-habitable room to a habitable room.

**Playground equipment for domestic use**

- (1) Maximum height—2.4m.
- (2) Maximum area—10m<sup>2</sup>.
- (3) Maximum floor height for cubby houses and similar structures—600mm.
- (4) Must not be in a swimming pool area or less than 1.2m from a pool safety fence.
- (5) Must not be in the front setback, unless behind a Council approved fence that is at least 1.8m high.

**Privacy screens**

- (1) Maximum height above ground level (existing)—2.1m.
- (2) Maximum length—10m.
- (3) Must not be in the front setback.
- (4) Must be constructed of timber or lattice.
- (5) Screening material must be at least 30% transparent if over 1.8m above ground level (existing).
- (6) Must not be attached to any boundary fence.

**Rainwater tanks**

- (1) Must not be installed or erected on land:
  - (a) that is within a heritage conservation area or within the curtilage of a heritage item, or

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- (b) that is within 40m of a perennial watercourse identified by a 1:50,000 topographic map held by the Department of Lands, or
  - (c) the surface of which has a slope greater than 18 degrees from the horizontal, or
  - (d) that is a lot within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.
- (2) Must be located:
- (a) behind the front alignment to the street of the building to which the tank is connected (or in the case of a building on a corner block, behind both the street front and the street side alignments of the building), and
  - (b) at least 450mm from any property boundary.
- (3) Must not be installed or erected:
- (a) over or immediately adjacent to a water main or sewer main unless it is installed in accordance with any requirements of the public authority that has responsibility for the main, or
  - (b) over any structure or fitting used by a public authority to maintain a water main or sewer main, or
  - (c) on a footing of any building or other structure, including a retaining wall.
- (4) The installation or erection of the rainwater tank must not:
- (a) require a tree to be removed, or
  - (b) involve the excavation of more than 1m from the existing ground level, or the filling of more than 1m above the existing ground level.
- (5) Subject to this clause, the capacity of the rainwater tank, or the combined capacity of the tanks, on a lot must not exceed 10,000L (or in the case of a tank or tanks used for an educational establishment, 25,000L).
- (6) The rainwater tank must:
- (a) be designed to capture and store roof water from gutters or downpipes on a building, and
  - (b) be fitted with a first-flush device, being a device that causes the initial run-off of any rain to bypass the tank to reduce pollutants entering the tank, and
  - (c) be structurally sound, and

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- (d) be prefabricated, or be constructed from prefabricated elements that were designed and manufactured for the purpose of the construction of a rainwater tank, and
  - (e) be assembled and installed in accordance with the manufacturer's or tank designer's specifications, and
  - (f) be installed and maintained (including any stand for the tank) in accordance with any requirements of the public authority that has responsibility for the supply of water to the premises on which the tank is installed, and
  - (g) be enclosed, and any inlet to the tank must be screened or filtered, to prevent the entry of foreign matter or creatures, and
  - (h) be maintained at all times so as not to cause a nuisance with respect to mosquito breeding or overland flow of water, and
  - (i) have a sign affixed to it clearly stating that the water in the tank is rainwater.
- (7) The rainwater tank must not:
- (a) collect water from a source other than gutters or downpipes on a building or a water supply service pipe, or
  - (b) exceed 3m in height above ground level, including any stand for the tank.
- (8) Any overflow from the rainwater tank must be directed into an existing stormwater system.
- (9) Any plumbing work undertaken on or for the rainwater tank that affects a water supply service pipe or a water main must be undertaken:
- (a) with the consent of the public authority that has responsibility for the water supply service pipe or water main, and
  - (b) in accordance with any requirements by the public authority for the plumbing work, and
  - (c) by a licensed plumber in accordance with the *New South Wales Code of Practice for Plumbing and Drainage* produced by the Committee on Uniformity of Plumbing and Drainage Regulations in NSW.
- (10) Any motorised or electric pump used to draw water from the rainwater tank or to transfer water between rainwater tanks:
- (a) must not create an offensive noise, and
  - (b) in the case of a permanent electric pump, must be installed by a licensed electrician.

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**Re-cladding of roofs and walls**

- (1) Must only involve replacing existing materials with similar materials that are compatible with the existing building and finishes.
- (2) Must not involve structural alterations or change to the external configuration of a building.
- (3) Must be constructed with non-reflective finishes.

**Retaining walls**

- (1) The footing, wall and associated drainage must be within the property boundary.
- (2) Must provide a drain connected to a stormwater disposal system along the wall.
- (3) If not associated with the construction of a dwelling, maximum height—300mm in residential, commercial and industrial zones and 600mm in rural zones.

**Satellite TV dishes**

- (1) Must not be installed or erected:
  - (a) on land within a heritage conservation area or within the curtilage of a heritage item, or
  - (b) less than 1m from any easement or sewer main.
- (2) Must be installed or erected wholly within the boundaries of a property.
- (3) If roof mounted, must have a diameter not exceeding 90cm (excluding any projecting feed element) and its height at any point must not exceed the highest point of the roof (if the roof is peaked) or 1.2m above the roof (if the roof is flat).
- (4) If ground mounted, must have a diameter not exceeding 90cm (excluding any projecting feed element) and its height must not exceed 1.2m above the highest point of the roof of the dwelling on which, or adjacent to which, it is erected.
- (5) If installed or erected on land within a Business or Industrial zone, must comply with the following:
  - (a) if roof mounted, must have a diameter not exceeding 1.8m (excluding any projecting feed element) and its height at any point must not exceed 1.8m above the highest point of the roof structure,



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- (b) if ground mounted, must have a diameter not exceeding 1.8m (excluding any projecting feed element) and its height must not exceed 1.8m above the highest point of the roof of any building on which, or adjacent to which, it is erected.
  - (6) Must be installed in accordance with the manufacturer's specifications and any relevant standard specified by Standards Australia.
  - (7) Must not affect the structural integrity of any building on which it is erected.

#### **Scaffolding**

Must not encroach on any public road or footpath or public thoroughfare.

#### **Skylights and roof windows in dwellings**

- (1) Maximum total cumulative area of light wells or skylights—5% of the total roof area of the dwelling.
- (2) Must be at least 900mm from any property boundary or any wall separating attached dwellings.
- (3) Minimum height above the floor level of the room to which it serves—2.4m.
- (4) Associated building work must not reduce the structural integrity of the building.
- (5) Must weatherproof any opening created.
- (6) Must be installed to the manufacturer's specifications.

#### **Solar water heaters**

- (1) Must be installed to the manufacturer's specifications.
- (2) Associated building work must not reduce the structural integrity of the building.
- (3) Must adequately weatherproof any opening created.
- (4) If roof mounted, the base must be flush with the roofline.

#### **Storm blinds**

**Note.** A retractable roof like shelter, over a window or door for protection from the weather.

- (1) Maximum area of each blind—10m<sup>2</sup>.
- (2) Must be within the property boundary.

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**Temporary buildings (other than temporary work sheds)**

- (1) Must not be erected for more than 72 hours.
- (2) Must be within the property boundary.
- (3) Must be at least 6m from any public street.
- (4) Must not be used for commercial or industrial purposes.
- (5) Must not be used for a recurring use or a use that would otherwise require development consent.

**Temporary work sheds**

- (1) Must be a temporary structure erected for the purposes of storing building materials that are used in association with the construction of another structure.
- (2) Must not obstruct the line of sight of traffic.
- (3) Must be removed on completion of the construction works.
- (4) Must not be erected in residential zones for more than 12 months if the structure is visible from any street.
- (5) Must not cause a nuisance to any other property.
- (6) Must not be used for residential purposes or for the storage or handling of inflammable materials.
- (7) Must be within the property boundary.

**Tents or marquees used solely for filming purposes**

- (1) May only be used in connection with filming that is exempt development.
- (2) Total floor area of all tents or marquees on location at the same time must not exceed 200m<sup>2</sup>.
- (3) Must be located within at least 3m from any boundary adjoining a public road and at least 1m from any other boundary.
- (4) Must have the following number of exits arranged so as to afford a ready means of egress from all parts of the tent or marquee to open space or a road:
  - (a) 1 exit if the floor area of the tent or marquee does not exceed 25m<sup>2</sup>,
  - (b) 2 exits in any other case.

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- (5) Width of each exit must be at least:
    - (a) 800mm if the floor area of the tent or marquee is less than 150m<sup>2</sup>,  
or
    - (b) 1m in any other case.
  - (6) Height of the walls must not exceed:
    - (a) 4m if erected on private land, or
    - (b) 5m in any other case.
  - (7) Height as measured from the surface on which the tent or marquee is erected to the highest point of the tent or marquee must not exceed 6m.
  - (8) Must resist loads determined in accordance with the following Australian and New Zealand Standards entitled:
    - (a) AS/NZS 1170.0:2002, *Structural design actions—General principles*,
    - (b) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*,
    - (c) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*.
  - (9) Must not remain at the location more than 2 days after the completion of the filming at the location.

**Water heaters (excluding solar water systems)**

Associated work must not reduce the structural integrity of the building.

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Schedule 3 Complying development

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## Schedule 3 Complying development

(Clause 3.2)

### Part 1 Types of Development

**Note.** A person may carry out an activity specified in this Schedule without getting a development approval from the consent authority, if the person obtains a complying development certificate and complies with the criteria that applies to the activity (which includes the deemed-to-satisfy provisions of the *Building Code of Australia*). However, the activity must not contravene any condition of a development consent already applying to the land and adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities not specifically set out in this Schedule still apply. (For example, requirements relevant to this Schedule are contained in the Act, the Regulation, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993* and the *Swimming Pools Act 1992* etc).

#### Alterations and additions to industrial and warehouse buildings in industrial zones

- (1) Must not be on lots that are adjacent to land in residential or recreation zones.
- (2) Must not involve change to the use of the premises.
- (3) Maximum additional floor area—1,000m<sup>2</sup> or 25% of existing floor area (whichever is the lesser).
- (4) Maximum floor space ratio—1:1.
- (5) Maximum height of any structure—8.5m.
- (6) Minimum setback for any structure:
  - (a) from an arterial road (or arterial road widening)—20m, or
  - (b) from a local road (or local road widening)—10m, or
  - (c) from other boundaries—5m.
- (7) Minimum setback for any paved area wider than 1.5m:
  - (a) from an arterial road (or arterial road widening)—5m, or
  - (b) from a local road (or local road widening)—5m, or
  - (c) from other boundaries—3.5m.
- (8) Must have at least one window opening, door opening or other wall variation of more than 50mm for every 20m of wall length facing the front boundary.
- (9) Earthworks must not extend more than:
  - (a) 900mm above ground level (existing), or
  - (b) 600mm below ground level (existing).

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- (10) Any roof or surface drainage area must have a drainage system that:
    - (a) captures the roof or surface water, and
    - (b) discharges that water into the inter-allotment or street stormwater drainage system, and
    - (c) limits the rate of discharge into Council's kerb and gutter to less than 20 litres per second without using on-site detention systems, and
    - (d) caters for a 1 in 20 year storm event and directs excess water over land to the street.
  - (11) Must provide and maintain, adjacent to any street, a landscaped area with a minimum width of 5m that is designed by a suitably qualified landscape architect and that has mounding to a height of at least 600mm along the majority of any frontage to an arterial road.
  - (12) Must ensure that there are in each landscaped area at least 3 trees (that grow to a mature height of over 5m and are not exempt trees), 6 shrubs (that grow to a mature height of over 1.5m) and 20 smaller plants.
  - (13) Must provide a landscaped bay with a minimum width of 1.5m containing at least 1 tree that is not an exempt tree, at the end of, at least, every 10 car parking spaces in the front setback.
  - (14) Must provide at least 1 car parking space for every 40m<sup>2</sup> of gross floor area of any building used for the purpose of office premises and at least 1 car parking space for every 70m<sup>2</sup> of gross floor of any building used for any other purpose.
  - (15) Must not reduce any vehicle loading area or remove any such area.
  - (16) Must not change the location or number of driveway entries onto the property.
  - (17) Driveways must:
    - (a) be at least 10m from any road intersection, and
    - (b) be no wider than 7m crossing any landscaped strip to the front street or a side street, and
    - (c) permit all vehicles to enter and exit the site in a forward direction.
  - (18) Must locate garbage and storage areas behind the building line for each street frontage.

**Bed and breakfast accommodation in rural or residential zones**

- (1) Must be carried out in a lawfully existing dwelling house.
- (2) Maximum number of guest bedrooms—3.
- (3) Minimum number of bathrooms—2.

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- (4) Must have a fire extinguisher and fire blanket in the kitchen.
- (5) Must not be in a dwelling house subject to the *Strata Schemes Management Act 1996* or the *Community Land Management Act 1989*.

**Changes to commercial premises in business zones**

- (1) Must be either:
  - (a) minor internal alterations (and any associated demolition), or
  - (b) the change of use from retail premises, business premises or office premises to any other one of those uses.
- (2) Maximum floor area involved—1,000m<sup>2</sup>.
- (3) Must not increase the total floor area of the building.
- (4) Any new use:
  - (a) must be permissible in the relevant zone, and
  - (b) must replace a former lawful use, and
  - (c) must comply with any applicable existing conditions of development consent, and
  - (d) must not be for the purposes of food and drink premises, a beauty salon, hairdressing salon or skin penetration premises.

**Demolition of single storey dwelling houses and outbuildings**

- (1) Must be demolition of a building or structure, the demolition of which is necessary to enable the erection of a dwelling house under this Schedule.
- (2) Must not involve the demolition of a building or structure that has more than one storey.
- (3) Must be undertaken in accordance with AS 2601—2001, *Demolition of structures*.

**Dwelling houses in Zones R1, R2, R3 and R4**

- (1) Must be the construction of a dwelling house including any ancillary development related to that house (such as garages, awnings or swimming pools).
- (2) Must be entirely in a residential zone other than Zone R5 Large Lot Residential.
- (3) Minimum width of property street frontage—12m.
- (4) Minimum area of property—400m<sup>2</sup>.
- (5) Maximum floor space ratio—0.5:1.

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- (6) The setback from the front property boundary:
- (a) to the dwelling house must be between 4.5m and 7m or at least 7m if the front property boundary fronts a classified road, and
  - (b) to any part of a second storey of the dwelling house must be at least 5.5m.
- (7) Minimum setback from the rear property boundary:
- (a) to the rear ground floor walls of the dwelling house—5m, and
  - (b) to the rear second storey walls of the dwelling house—8m.
- (8) Maximum height of any structure (other than a structure that is exempt development)—8.5m.
- (9) Maximum height of a single storey structure (other than a structure that is exempt development)—5m.
- (10) Maximum height of a structure in the front setback—1.2m.
- (11) Maximum height of a structure within 2.5m of the rear property boundary—2.4m.
- (12) Maximum height of a structure within 3m of a side property boundary—7m.
- (13) Maximum height of a structure within 900mm of a side property boundary—3.3m.
- (14) Maximum height of a structure within 450mm of side or rear property boundary—2.1m.
- (15) Must not prevent at least 3 hours of direct sunlight between 9:00 am and 5:00 pm on 21 June:
- (a) to the main living area windows of any dwelling on adjoining properties, and
  - (b) to at least 50% of the main area of private open space on the property or any neighbouring properties.
- (16) Maximum number of storeys—2.
- (17) Maximum height of the ground floor level—800mm above ground level (existing).
- (18) Maximum height of any raised platform (associated with a deck, retaining wall, fill or otherwise) behind the front setback—800mm but if within 3m of any property boundary—300mm.
- (19) Earthworks must not extend more than:
- (a) 300mm above ground level (existing), or

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- (b) 500mm above ground level (existing) if retained behind an edge beam wall of the dwelling, or
  - (c) 500mm below ground level (existing).
- (20) Maximum width of any second storey wall facing the front boundary—70% of the building's total width.
  - (21) Maximum second storey depth within 5m of either side boundary (not including balconies)—12m.
  - (22) Maximum depth of any second storey balcony—2.2m.
  - (23) Any second storey balcony more than 9m from the front property boundary must be at least 5m from any side property boundary.
  - (24) Any second storey balcony must be at least 8m from the rear property boundary.
  - (25) Maximum height between a floor and the ceiling above—4.5m.
  - (26) Minimum height between a floor in a habitable area and the ceiling above—2.4m.
  - (27) Minimum window sill heights for windows on the second storey that face, or are less than 3m from, a side boundary—1.5m.
  - (28) Materials, colours and finishes must be visually compatible with those existing in the surrounding area.
  - (29) Must provide and maintain, on the rear half of the property, a soft landscaped area of at least 50m<sup>2</sup> with a minimum width of 3m that has no hard paved surface other than garden edging, retaining structure or similar.
  - (30) Must ensure that there are at least 1 tree (that grows to a mature height of over 5m and is not an exempt tree), 5 shrubs (that grow to a mature height of over 1.5m) and 15 smaller plants.
  - (31) Must provide and maintain at least 2 car parking spaces, 1 that is behind the building line and is at least 3m wide and 5.5m long (that must be covered) and 1 that is at least 2.5m wide and 5.5m long (that may be covered but only if it is behind the building line).
  - (32) Maximum width of driveways at the property boundary:
    - (a) if to the front street—3.5m, or
    - (b) if to a side or rear street—6m.
  - (33) Minimum distance of driveways from any road intersection—6m.
  - (34) Driveways outside the property boundary must be constructed at right angles to the kerb and guttering, and must be at least 500mm from any telegraph pole, street furniture or drainage structure.
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- (35) Maximum gradient of driveways—1:5.
  - (36) Driveways with a gradient of more than 1:12 must have (within the property boundary) a transition zone of at least 2m that has a maximum average gradient of 1:12.
  - (37) Any covered outdoor area (including awnings, pergolas, gazebos, verandahs, entry foyers or similar) must be open for at least 50% of its perimeter between 1m and 2m above the inside floor level.
  - (38) Any structure with a roof area of more than 10m<sup>2</sup> must have guttering and downpipes that capture the water from the roofed area and discharge that water:
    - (a) into the inter-allotment or street stormwater drainage system, or
    - (b) into rainwater tanks that discharge any overflow into any such stormwater system.
  - (39) Maximum area of any swimming pool or spa pool—30m<sup>2</sup>.
  - (40) Any swimming pool or spa pool:
    - (a) must be on the rear half of the property, and
    - (b) must be at least 1.2m from any side or rear property boundary, and
    - (c) must be at least 4m from the principal access point to the main living areas of the dwelling, and
    - (d) must be surrounded by a graded surface that diverts water away from the pool, buildings and neighbouring properties,
  - (41) Maximum height of any coping or decking around a swimming pool or spa pool—800mm above ground level (natural) or if within 3m of any side or rear property boundary—300mm above ground level (natural).
  - (42) Maximum noise level of any mechanical equipment associated with a swimming pool or spa pool (including pool filters, water tank pumps, air conditioning units or similar) at any property boundary—5dBA above ambient background noise level.

**Dwelling houses in Zones R1, R2, R3 and R4—additional standards if on a property that is equal to or greater than 400m<sup>2</sup> and less than 600m<sup>2</sup>**

- (1) The minimum setback from any side property boundary:
  - (a) to one ground floor wall of the dwelling that is less than 6m in length—450mm, and
  - (b) to other ground floor walls of the dwelling—900mm or if the side property boundary fronts a secondary street—2.5m, and
  - (c) to the second storey walls of the dwelling—1.3m or if the side property boundary fronts a secondary street—4m.

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- (2) Must provide and maintain, on the rear half of the property, private open space of at least 100m<sup>2</sup> with a minimum width of 4m.
- (3) Must provide and maintain, on the front setback, a soft landscaped area of at least 20m<sup>2</sup> with a minimum width of 3m that has no hard paved surface other than garden edging, retaining structure or similar.
- (4) Maximum width of any garage or carport (including walls)—6.2m or if on the front half of a property that is less than 13m wide—4.5m.
- (5) Any garage or carport must be set back at least 1m behind the front wall of the dwelling closest to the street.

**Dwelling houses in Zones R1, R2, R3 and R4—additional standards if on a property that is equal to or greater than 600m<sup>2</sup> and less than 1,000m<sup>2</sup>**

- (1) The minimum setback from any side property boundary:
  - (a) to the ground floor walls of the dwelling—900mm or if the side property boundary fronts a secondary street—3m, and
  - (b) to the second storey walls of the dwelling—1.3m or if the side property boundary fronts a secondary street—4m.
- (2) Must provide and maintain, on the rear half of the property, private open space of at least 200m<sup>2</sup> with a minimum width of 4.5m.
- (3) Must provide and maintain, on the front half of the property, a soft landscaped area of at least 50m<sup>2</sup> with a minimum width of 5m that has no hard paved surface other than garden edging, retaining structure or similar.
- (4) Maximum width of any garage or carport (including walls)—6.2m or if on the front half of a property that is less than 13m wide—4.5m.
- (5) Any garage or carport must be set back at least 1m behind the front wall of the dwelling closest to the street.

**Dwelling houses in Zone R5 Large Lot Residential**

- (1) Must be the construction of a dwelling house including any ancillary development related to that house (such as garages, awnings or swimming pools).
- (2) Must be entirely in Zone R5 Large Lot Residential.
- (3) The property must have a street frontage width of at least 20m and an area of at least 2,500m<sup>2</sup>.
- (4) Maximum floor space ratio—0.1:1.

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- (5) The setback from the front property boundary:
    - (a) to the front wall of the dwelling house closest to the street must be between 12m and 25m, and
    - (b) to any other front walls of the dwelling house that are over 2m wide must be between 4.5m and 8m.
  - (6) Maximum width of the dwelling (not including ancillary components)—20m.
  - (7) Maximum depth of the dwelling (not including ancillary components)—20m.
  - (8) Minimum setback from the rear property boundary to the rear walls of the dwelling—12m.
  - (9) Minimum setback from side property boundaries to the walls of the dwelling—5m.
  - (10) Maximum height of any structure (other than a structure that is exempt development)—8.5m.
  - (11) Maximum height of a single storey structure (other than a structure that is exempt development)—5m.
  - (12) Maximum number of storeys—2.
  - (13) Maximum height of the ground floor level—800mm above ground level (existing).
  - (14) Maximum height of any raised platform (associated with a deck, retaining wall, fill or otherwise) behind the front setback—800mm but if within 3m of any property boundary—300mm.
  - (15) Earthworks must not extend more than:
    - (a) 300mm above ground level (existing), or
    - (b) 500mm above ground level (existing) if retained behind an edge beam wall of the dwelling, or
    - (c) 500mm below ground level (existing).
  - (16) Maximum depth of any second storey balcony—3m.
  - (17) Any second storey balcony must be at least 10m from the rear property boundary.
  - (18) Maximum height between a floor and the ceiling above—4.5m.
  - (19) Minimum height between a floor in a habitable area and the ceiling above—2.4m.
  - (20) Materials, colours and finishes must be visually compatible with those existing in the surrounding area.
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- (21) Must provide and maintain, on the rear half of the property, private open space of at least 300m<sup>2</sup> with a minimum width of 6m.
- (22) Must provide and maintain, on the rear half of the property, a soft landscaped area of at least 100m<sup>2</sup> with a minimum width of 5m that has no hard paved surface other than garden edging, retaining structure or similar.
- (23) Must provide and maintain, on the front setback, a soft landscaped area of at least 15m<sup>2</sup> with a minimum width of 2.5m that has no hard paved surface other than garden edging, retaining structure or similar.
- (24) Must ensure that there are at least 3 trees (that grow to a mature height of over 5m and are not exempt trees), 6 shrubs (that grow to a mature height of over 1.5m) and 20 smaller plants.
- (25) Must provide and maintain at least 2 car parking spaces, 1 that is behind the building line and is at least 3m wide and 5.5m long (that must be covered) and 1 that is at least 2.5m wide and 5.5m long (that may be covered but only if behind the building line).
- (26) Maximum width of any garage or carport (including walls)—7m (unless entirely behind the dwelling).
- (27) Any garage or carport must be set back at least 1m behind the front wall of the dwelling closest to the street.
- (28) Maximum width of driveways at the property boundary—6m.
- (29) Minimum distance of driveways from any road intersection—6m.
- (30) Driveways outside the property boundary must be constructed at right angles to the kerb and guttering and must be at least 500mm from any telegraph pole, street furniture or drainage structure.
- (31) Any covered outdoor area (including awnings, pergolas, gazebos, verandahs, entry foyers or similar) must be open for at least 50% of its perimeter between 1m and 2m above the inside floor level.
- (32) Any structure with a roof area of more than 10m<sup>2</sup> must have guttering and downpipes that capture the water from the roofed area and discharge that water:
- (a) into the inter-allotment or street stormwater drainage system, or
  - (b) into rainwater tanks that discharge any overflow into any such stormwater system.
- (33) Maximum area of any swimming pool or spa pool—50m<sup>2</sup>.
- (34) Any swimming pool or spa pool:
- (a) must be behind the dwelling, and

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- (b) must be at least 1.2m from any side or rear property boundary, and
  - (c) must be at least 4m from the principal access point to the main living areas of the dwelling, and
  - (d) must be surrounded by a graded surface that diverts water away from the pool, buildings and neighbouring properties.
- (35) Maximum height of any coping or decking around a swimming pool or spa pool—900mm above ground level (natural) or if within 3m of any side or rear property boundary—400mm above ground level (natural).
- (36) Maximum noise level of any mechanical equipment associated with a swimming pool or spa pool (including pool filters, water tank pumps, air conditioning units or similar) at any property boundary—5dBA above ambient background noise level.

**Garden sheds ancillary to multi dwelling housing and residential flat buildings**

- (1) 1 per building.
- (2) Must not be attached to a dwelling.
- (3) Must not be in the front setback.
- (4) Maximum height:
  - (a) 3m, or
  - (b) if within 900mm, but not within 450mm, of any property boundary—2.7m, or
  - (c) if within 450mm of any property boundary—2.1m.
- (5) Maximum roof area—12m<sup>2</sup>.
- (6) Maximum floor height—150mm.
- (7) Windows or glazed panels must be at least 900mm from any property boundary.

**Part 2 Complying development certificate conditions**

**Note.**Information relevant to this Part is also contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, the *Protection of the Environment Operations Act 1997* and the *Roads Act 1993*.

**Conditions that apply before work begins**

The person having the benefit of the complying development certificate must:

- (a) give any occupier of adjoining premises at least 2 days' notice before work begins, and

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- (b) provide a temporary on-site toilet or access to an existing toilet on site, and
- (c) protect and support any neighbouring buildings that might be affected by the proposed development, and
- (d) protect any public place from obstruction or inconvenience caused by the carrying out of the proposed development, and
- (e) set up barriers sufficient to prevent any substance from the site falling onto a public place.

**Hours of work**

Construction or demolition work that is audible in adjoining premises must be carried out only between the following hours:

- (a) Monday–Friday—7.00am and 6.00pm,
- (b) Saturday—8.00am and 1.00pm,

and no such work must be carried out at any time on a Sunday or a public holiday.

**Demolition**

- (1) The person having the benefit of the complying development certificate must ensure that demolition work does not adversely affect any neighbouring properties with dust, noise, traffic, falling objects or underpinning.
- (2) The person having the benefit of the complying development certificate must ensure that sedimentation and erosion preventative measures are undertaken in respect of demolition work in accordance with the Council's *Erosion and Sediment Control Policy* available from the Council and as in force on the commencement of this Plan.

**Survey certificate**

In order to ensure compliance with approved plans, a survey certificate, to Australian Height Datum, must be prepared by a registered surveyor, as follows:

- (a) on completion of floor slab framework before concrete is poured, detailing the location of the structure to the boundaries, and
- (b) at completion of the lowest floor, confirming that levels are in accordance with the certificate. (Levels must relate to the datum on the certificate.)

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**Required payments**

If payments are required in relation to any of the following, evidence of those payments must be provided to the Council on or before the lodging of the complying development certificate with the Council:

- (a) road reserve deposits,
- (b) opening of roads,
- (c) inspections,
- (d) registration.

**Notification to Council on completion**

The Council must be notified that all works have been completed within a reasonable time after the completion of the works.

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Schedule 4 Classification and reclassification of public land

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**Schedule 4 Classification and reclassification of public land**

(Clause 5.2)

**Part 1 Land classified, or reclassified, as operational land—no interests changed**

Column 1	Column 2
Locality	Description
Nil	

**Part 2 Land classified, or reclassified, as operational land—interests changed**

Column 1	Column 2	Column 3
Locality	Description	Any trust etc not discharged
Nil		

**Part 3 Land classified, or reclassified, as community land**

Column 1	Column 2
Locality	Description
Nil	



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Environmental heritage

Schedule 5

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## Schedule 5 Environmental heritage

(Clause 5.10)

### Part 1 Heritage items

#### Division 1 Liverpool other than Liverpool city centre

Suburb	Item name	Address	Property description	Significance	Item No
Ashcroft	Memorial gates, Ashcroft High School (former Ashcroft Homestead, St Luke's Rectory gates)	108–130 Maxwells Avenue	Lot 904, DP 225306	Local	1
Badgerys Creek	St John's Anglican Church Group, including church and cemetery (former Badgerys Creek Anglican Church Group)	Pitt Street	Lot 1, DP 838361	Local	2
Badgerys Creek	Badgerys Creek Public School	Corner of Pitt Street and Badgerys Creek Road	Lot 1, DP 838361	Local	3
Bringelly	Two water tanks (former water supply to OTC staff)	Badgerys Creek Road	Lot 2, DP 109666	Local	4
Bringelly	Former OTC Site Group, including radio receiving station and site of former staff housing	Badgerys Creek Road	Lot 1, DP 109666	Local	5

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<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item No</b>
Bringelly	Dwelling and rural lot ("Mount Pleasant")	3 Shannon Road	Lot 44, DP 581187	Local	6
Bringelly	Bringelly Public School Group, including schoolhouse and former headmaster's residence	1205 The Northern Road	Lot 50, DP 746911	Local	7
Bringelly	Kelvin Park Group, including site landscaping, homestead, kitchen wing, servant's quarters, coach house, 2 slab barns and other works and relics (former "The Retreat", cottage vale, stables and lock-up)	30 The Retreat	Lot 271, DP 803167	State	8
Casula	Dwelling	28 Canberra Avenue	Lot 4, Sec C, DP 7633	Local	9
Casula	Casula Powerhouse (former power station)	Casula Road	Lots 1 and 2, DP 106957; Lot 1, DP 1115187	Local	10
Casula	Railway Viaduct	300m south of Casula Powerhouse, Main Southern Railway Line		Local	11
Casula	Two railway viaducts	Woodbrook Road, Main Southern Railway Line		Local	12

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<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item No</b>
Casula	Dwelling ("Dockra")	8 Dunmore Crescent	Lot 1, DP 530893	Local	13
Casula	Glenfield Farm Group, including homestead, barn (former dairy and stables)	Leacocks Lane	Lot 22, DP 552488	State	14
Cecil Hills	Sydney Water Supply Upper Canal	Denham Court to Cecil Hills	Lot B, DP 392726; Lot 1, DP 596355; Lot 21, DP 1109551; Lot 12, DP 1055232; Lot 1, DP 613552; Lots 1 and 2, DP 1086645; Lot 2, DP 596352; Lot 1, DP 725231; Lots 1-4, DP 596351	State	15
Cecil Hills	Cecil Hills Farm Group, including site landscaping, homestead, shearing shed, archaeological sites, garage, stables, cow bails, outbuildings, sheep dip, gallows and stockyards (former kitchen and dairy)	Sandringham Drive	Lots 162 and 163, DP 880335	State	16
Cecil Park	Liverpool Offtake Reservoir	Elizabeth Drive, Liverpool Dam	Lot 11, DP 1055232	State	17

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## Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item No
Chipping Norton	Chipping Norton Public School	4 Central Avenue	Lot 1, DP 194411; Lot 1, DP 601876; Lot 299, DP 752034	Local	18
Chipping Norton	The Homestead Group, including main house and remnant landscape features and cistern	Charlton Avenue	Part Lot 354, DP 752034; Lot 1, DP 644571	State	19
Chipping Norton	Dwelling	2 and 4 Epsom Road	Lots 200 and 201, DP 712984	Local	20
Chipping Norton	Palm trees ( <i>Phoenix canariensis</i> )	Corner of Governor Macquarie Drive and Epsom Road	Adjacent to Lot 3, DP 602936	Local	21
Chipping Norton	Avenue of trees	Riverside Park, fronting Riverside Road	Lots 62 and 63, Sec 2, DP 2411; Lot 7017, DP 1028106; Lot 17, DP 662900	Local	22
Denham Court	St Mary the Virgin Church and Cemetery Group, including church and churchyard	Church Road	Lot 19, DP 725739	State	23
Greendale	Shadforth Monument (former pioneer's monument)	Greendale Road	Lot 1, DP 520904	Local	24

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<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item No</b>
Greendale	Private dwelling (former St Mark's Anglican Church Group, including church cemetery)	Greendale Road	Lot 1, DP 742417	State	25
Greendale	Greendale Roman Catholic Cemetery	Greendale Road	Lot 1, DP 195955	State	26
Greendale	Remnants of former farm homestead ("Pemberton")	Greendale Road	Lots 1 and 2, DP 1115589	Local	27
Greendale	Bents Basin Inn site	Wolstenholme Avenue	Lots 203 and 204, DP 249320; Lots 84 and 85, DP 751294	State	28
Hammondville	Hammondville Home for Senior Citizens	Judd Avenue	Lot 931, DP 1102273; Lot 152, DP 717956	Local	29
Hammondville	St Anne's Anglican Church	Corner of Walder Road and Stewart Avenue	Lot 4, DP 238694	Local	30
Holsworthy	Holsworthy pedestrian bridge (former railway bridge)	Harris Creek and Heathcote Road		Local	31

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## Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item No
Holsworthy	Holsworthy Group, including powder magazine and former officers' mess, corporals' club, internment camp, Holsworthy railway station lock-up/gaol, German concentration camp	Heathcote Road (off)	Lot 1, DP 825745; Part Lot 820, DP 1011240; Lot 2, DP 1048198; Part Lot 32, DP 848597; Part Lot 10, DP 1091209	State	32
Holsworthy	Remount Park	Heathcote Road	Lot 1, DP 825754; Part Lot 1, DP 610116; Lot 100, DP 852860; Lot 100, DP 752034	Local	33
Holsworthy	Cubbitch Barta National Estate	Old Illawarra Road	Lot 1, DP 825754	State	34
Horningsea Park	Horningsea Park Group, including site, main house and archaeological features	Camden Valley Way	Lots 1 and 2, DP 1018964	State	35
Ingleburn	Ingleburn village site and lecture hall building (Nissen hut)	Campbelltown Road	Part Lots 1 and 2, DP 831152	Local	36
Ingleburn	Ingleburn Military Heritage Precinct	Campbelltown Road	Part Lot 2, DP 831152	State	37
Kemps Creek	Kemps Creek forest	Gurners Avenue (off)	Lot 11, DP 806494	Local	38

## Liverpool Local Environmental Plan 2008

## Environmental heritage

## Schedule 5

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item No</b>
Leppington	Row of Bunya Pines	Bringelly Road	Lot 18, DP 19406	Local	39
Leppington	Brown Memorial and water trough	145 Bringelly Road	Lot 1, DP 725231	Local	40
Leppington	Dwelling and rural lot	1720 Camden Valley Way	Lot 6, DP 205472	Local	41
Liverpool	Obelisk and milestone, Discovery Park, Collingwood Heritage Precinct	40 Atkinson Street	Lot 77, DP 27242	Local	42
Liverpool	Collingwood Heritage Precinct Group, including homestead service wing, horse trough and cistern (former Captain Bunker's Cottage and kitchen block)	Birkdale Crescent (off)	Lot 803, DP 244820; Lot 77, DP 27242; Lots 100 and 101, DP 788434; Lot 2, DP 730829; Lot 781, DP 244820; Lot 184, DP 241158	State	43
Liverpool	2 railway viaducts	Adjacent to 71 and 79A Congressional Drive		Local	44
Liverpool	Mainsbridge School (former "Maryvale")	118 Flowerdale Road	Lot 1, DP 441857	Local	45
Liverpool	Dwelling	443 Hume Highway	Lot 9, DP 4158	Local	46

## Liverpool Local Environmental Plan 2008

## Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item No
Liverpool	Liverpool General Cemetery	Moore and McLean Streets and Flowerdale Road	Lots 6, 7 and 13, Ms 652 Sy; Lots 3 and 10 and Part Lots 4 and 5, Ms 10005 Sy; Lot 14, Ms 22433 Sy; Lot 11, Ms 20611 Sy; Lots 16 and 17, DP 40453; Lots 425 and 426, DP 48284; Lots 443-445, DP 822281; Lot 7030, DP 1059048; Lot 7044, DP 1045353; Lots 7047 and 7048, DP 1059864	Local	47
Liverpool	Dwelling	10 Passefield Street	Lot 1, DP 129637	Local	48
Liverpool	Dwelling	20 Webster Road	Lot 2, DP 519683	Local	49
Luddenham	Willmington Reserve	17 Jamison Street	Lot 7004, DP 93052	Local	50
Luddenham	Vicary's Winery Group, including woolshed, slab horse shed, land area and main house and garden	The Northern Road	Lot 1, DP 838361 (former Lots 10 and 11, DP 251656)	Local	51
Luddenham	Luddenham Public School	The Northern Road	Lot 1, DP 194409	Local	52
Luddenham	Lawson's Inn site (former "The Thistle" site)	2155 The Northern Road	Lots 1 and 2, DP 851626	Local	53



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## Schedule 5

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item No</b>
Lurnea	Dwelling	147 Reilly Street	Lot 7, DP 26166	Local	54
Miller	Bridge (former Pitt Street Road Bridge)	Cabramatta Avenue	Lots 100 and 101, DP 1118802	Local	55
Moorebank	Clinch's Pond	Heathcote and Church Roads	Lot 1, DP 664816	Local	56
Moorebank	Australian Army Engineers Group, including RAE Memorial Chapel, RAE Monument, Major General Sir Clive Steele Memorial Gates, Cust Hut	Moorebank Avenue	Lot 500, DP 1075886	Local	57
Moorebank	Kitchener House (formerly "Arpafeelie")	Moorebank Avenue	Lot 1001, DP 1050177	Local	58
Prestons	Remnants of former sandstone cottage ("Benera")	Yarrunga Road	Lot 34, DP 2359	Local	59
Rossmore	Church of the Holy Innocents Group, including church and churchyard	Church Road	Lots 1-4, DP 117688	State	60
Rossmore	Bellfield Farm Group, including homestead, slab kitchen, slab cottage and smoke house	33 Rossmore Avenue	Lot 1, DP 580979	State	61
Sadleir	Memorial stone and plaque	147 Cartwright Avenue (corner of Maxwells Avenue)	Part Lot 735, DP 533701	Local	62

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## Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item No
Voyager Point	Sandstone Weir	Williams Creek		State	63
Warwick Farm	Milestone	Hume Highway (southern side of Hume Highway between George Street and Browne Parade)		State	64
Warwick Farm	Milestone	Hume Highway (southern side of Hume Highway between Warwick Farm Racecourse Gates A and B)		State	65
Warwick Farm	Warwick farm Racecourse Group	Hume Highway	Lot 1, DP 250138; Lots 2 and 3, DP 1040353; Lot 14, DP 578199; Part Lot 1, DP 1040353; Lots 1-3, DP 581034; Lot 1 DP 970591; Lots 1-3, DP 249818; Part Lot 2, DP 581037	State	66
West Hoxton	Kirkpatrick and Boyland Park	225 Fifteenth Avenue	Lot 1, DP 307334	Local	67
West Hoxton	West Hoxton Union Church	Kirkpatrick Avenue	Lot 474, DP 666892	Local	68
West Hoxton	Carnes Hill Vegetation Group	Twenty Fifth Avenue	Lot 8, DP 231528	Local	69

Liverpool Local Environmental Plan 2008

Environmental heritage

Schedule 5

**Division 2 Liverpool city centre**

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Liverpool	Light Horse Park	Atkinson Street	Lot 1, DP 234608; Lot 2, DP 579808	Local	70
Liverpool	Liverpool Public School	Bigge Street	Lots 8 and 9, Sec 61, DP 758620; Lots 1, 2 and 4, DP 878452; Lot 1, DP 50779; Lot 1, DP 178206; Lot 1, DP 178665; Lot 10, DP 303625; Lot 1, DP 956168; Lot 4, DP 797682; Lots 30 and 31 DP 1117676	Local	71
Liverpool	Liverpool Railway Station Group, including station building, goods shed and jib crane	Bigge Street (off)	Lot 31, DP 859887; Part Lot 5, DP 226933	State	72
Liverpool	Former Liverpool Court House	Corner of Bigge and Moore Streets	Lot 442, DP 831058	State	73
Liverpool	Commercial Hotel (former Marsden's Hotel)	Bigge and Scott Streets	Lot 17, DP 1050799; Lots 15, 16 and 18, DP 979379	State	74
Liverpool	Dwelling	13 Bigge Street	Lots 1 and 2, DP 13930	Local	75
Liverpool	Pirelli Power Cables and Systems Building (formerly MM Cables Factory, and Cable Makers Australia Factory Pty Ltd)	3 Bridges Road	Lot 200, DP 1009044	Local	76

## Liverpool Local Environmental Plan 2008

## Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item no
Liverpool	Dwelling	115 Castlereagh Street	Lot 4, SP 39972	Local	77
Liverpool	Lyndeer House and stables	2 Charles Street	Lot 2527, DP 1111436	Local	78
Liverpool	Cast-iron letterbox	College Street	Adjacent to north-west corner of Lot 1, DP 863491	Local	79
Liverpool	Liverpool College (TAFE) site, including Blocks A–G, chimneystack, fences, gatehouses and archaeological features (formerly Liverpool Hospital and Benevolent Asylum)	College Street	Lot 1, DP 863491	State	80
Liverpool	Apex Park (first Liverpool Cemetery)	Elizabeth Drive and Castlereagh Street	Lot 7027, DP 1027999	State	81
Liverpool	Bigge Park	Elizabeth, College, Moore and Bigge Streets	Lot 702, DP 1056246	State	82
Liverpool	Milestone	Corner of Elizabeth Drive and George Street		Local	83
Liverpool	St Luke's Anglican Church Group, including landscaping, church, hall, headstone and memorial gates (former St Luke's Church of England)	Elizabeth Drive and Macquarie and Northumberland Streets	Lot 111, DP 552031	State	84

## Liverpool Local Environmental Plan 2008

## Environmental heritage

## Schedule 5

Suburb	Item name	Address	Property description	Significance	Item no
Liverpool	All Saints Roman Catholic School	George Street	Lot 1, DP 782355	Local	85
Liverpool	Pylons (former Liverpool railway bridge)	Georges River (near Haig Avenue)	Near Lot 7002, DP 1073063	Local	86
Liverpool	Liverpool Weir	Georges River (near Haig Avenue)	Near Lot 7002, DP 1073063	State	87
Liverpool	Collingwood Inn Hotel	Hume Highway	Lot 1, DP 83770; Lots 1 and 2, DP 563488; Lot 5, DP 701018; Lot D, DP 374057	Local	88
Liverpool	Plan of Town of Liverpool (early town centre street layout—Hoddle 1827)	Streets in the area bounded by the Hume Highway, Copeland Street, Memorial Avenue, Scott Street, Georges River and Main Southern Railway Line (excluding Tindall Avenue and service ways)		Local	89
Liverpool	Liverpool Memorial Pioneer's Park, (formerly St Luke's Cemetery and Liverpool Cemetery)	Macquarie, Campbell and Northumberland Streets and the Hume Highway	Lots 7035–7037, DP 1073993; Part Lots 1 and 2, Sec 24, DP 758620; Lots 1– 4, Sec 34, DP 758620	State	90
Liverpool	Commercial building (formerly Rural Bank and State Bank)	Macquarie Street and Memorial Avenue	Lot 11, DP 20730	Local	91

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## Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item no
Liverpool	Boer War Memorial, including memorial to Private A.E Smith	Corner of Macquarie Street and Memorial Avenue (Macquarie Street public footpath adjacent to 297 Macquarie Street)		Local	92
Liverpool	Macquarie Monument	Corner of Macquarie and Scott Streets (Macquarie Street public footpath adjacent to 296 Macquarie Street)		Local	93
Liverpool	Row of 3 palm trees	Macquarie Street median strip, opposite 306 Macquarie Street	Lot 1, DP 119905	Local	94
Liverpool	The Corner Pub (former Liverpool Hotel)	214 Macquarie Street (corner of Moore Street)	Lot 1, DP 111765	Local	95
Liverpool	Commercial building	261–263 Macquarie Street	Lot 1, DP 200052; Lot 8, DP 1103087	Local	96
Liverpool	Legend Hotel	269 Macquarie Street	Lot 1, DP 519133	Local	97
Liverpool	Commercial building	275–277 Macquarie Street	Lot 2, DP 519133	Local	98
Liverpool	Memorial School of Arts	306 Macquarie Street	Lot 1, DP 119905	Local	99
Liverpool	Dr James Pirie Child Welfare Centre Building (formerly Child Welfare Centre)	Moore and Bigge Streets	Lot 701, DP 1056246	Local	100
Liverpool	Commercial building	14 Scott Street	Lot 1, DP 208270	Local	101

## Liverpool Local Environmental Plan 2008

## Environmental heritage

## Schedule 5

Suburb	Item name	Address	Property description	Significance	Item no
Liverpool	Commercial building (former out-building to former Golden Fleece Hotel and former Eugene's laundry)	16 Scott Street	Lot 3, DP 588103	Local	102
Liverpool	Golden Fleece Hotel	Corner of Scott and Terminus Streets	Lot 100, DP 716185	Local	103
Liverpool	McGrath Services Centre Building (formerly Challenge Woollen Mills, and Australian Paper Company's Mill)	Shepherd and Atkinson Streets	Lot 1, DP 247485	Local	104
Liverpool	Railway Viaduct	Shepherd Street and Mill Road, Main Southern Railway Line		Local	105
Liverpool	Residential building ("Del Rosa")	7 Speed Street	Lots 13 and 14, DP 13536	Local	106
Liverpool	Residential building ("Rosebank") (former Queen's College)	17 Speed Street	Lot 1, DP 567283	State	107
Liverpool	Cottage	27 Speed Street	Lot 40, DP 1091733	Local	108
Liverpool	Liverpool Fire Station	70-78 Terminus Street	Lot 1, DP 91748	Local	109
Warwick Farm	Berryman Reserve	4 Remembrance Drive	Lot 1, DP 744448; Lot A, DP 432628	Local	110

## Liverpool Local Environmental Plan 2008

Schedule 5 Environmental heritage

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**Part 2 Heritage conservation areas****Division 1 Liverpool other than Liverpool city centre**

Suburb	Item name	Address	Property description	Significance	Item no
Warwick Farm	Warwick Farm Conservation Area (group of 8 dwellings)	Area bounded by Munday, Warwick and Manning Streets as shown hatched red on the Heritage Map		Local	

**Division 2 Liverpool city centre**

Suburb	Item name	Address	Property description	Significance	Item no
Liverpool	Bigge Park Conservation Area	Area bounded by and including College, Goulburn, Railway, Scott and Bigge Streets as shown hatched red on the Heritage Map	Lot 1, DP 234608; Lot 2, DP 579808	State	

**Part 3 Archaeological sites**

Suburb	Item Name	Address	Property Description
	Nil		



Liverpool Local Environmental Plan 2008

Exempt trees

Schedule 6

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## Schedule 6 Exempt trees

(Dictionary)

<b>Botanical Name</b>	<b>Common Name</b>
<i>Salix</i> species	Willow
<i>Populus</i> species	Poplar
<i>Acacia baileyana</i>	Cootamundra Wattle
<i>Erythrina x sykesii</i>	Coral Tree
<i>Ficus elastica</i> and hybrids	Ornamental Rubber Tree
<i>Cupressus macrocarpa</i>	Golden Cypress
<i>Lagunaria patersonia</i>	Norfolk Island Hibiscus
<i>Ligustrum lucidum</i> species	Large-leaved Privet
<i>Ligustrum sinense</i> species	Small-leaved Privet
<i>Olea africana</i>	African Olive
<i>Cinnamomum camphora</i>	Camphor Laurel
<i>Schefflera actinophylla</i>	Umbrella Tree
<i>Syagrus romanzoffiana</i>	Cocos Palm
<i>Toxicodendron succedaneum</i>	Rhus Tree
<i>Gleditsia triacanthos</i>	Honey Locust

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Dictionary

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## Dictionary

(Clause 1.4)

**Aboriginal object** means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

**acid sulfate soils** means naturally occurring sediments and soils containing iron sulfides (principally pyrite) or their precursors or oxidation products, whose exposure to oxygen leads to the generation of sulfuric acid (for example, by drainage or excavation).

**Acid Sulfate Soils Manual** means the manual by that name published by the Acid Sulfate Soils Management Advisory Committee and made publicly available.

**Acid Sulfate Soils Map** means the Liverpool Local Environmental Plan 2008 Acid Sulfate Soils Map.

**advertisement** has the same meaning as in the Act.

**Note.**The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

**advertising structure** has the same meaning as in the Act.

**Note.**The term is defined as a structure used or to be used principally for the display of an advertisement.

**affordable housing** has the same meaning as in the Act.

**Note.**The term is defined as housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

**agricultural produce industry** means an industry involving the handling, treating, processing or packing of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry.

**agriculture** means any of the following:

- (a) animal boarding or training establishments,
- (b) aquaculture,
- (c) extensive agriculture,
- (d) farm forestry,
- (e) intensive livestock agriculture,
- (f) intensive plant agriculture.

**air transport facility** means an airport or a heliport that is not part of an airport, and includes associated communication and air traffic control facilities or structures.

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**airport** means a place used for the landing, taking off, parking, maintenance or repair of aeroplanes (including associated buildings, installations, facilities and movement areas and any heliport that is part of the airport).

**Airport Noise Map** means the Liverpool Local Environmental Plan 2008 Airport Noise Map.

**airstrip** means a single runway for the landing, taking off or parking of aeroplanes for private aviation only, but does not include an airport, heliport or helipad.

**amusement centre** means a building or place (not being part of a pub or registered club) used principally for playing:

- (a) billiards, pool or other like games, or
- (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.

**animal boarding or training establishment** means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

**aquaculture** has the same meaning as in the *Fisheries Management Act 1994*.

**Note.** The term is defined as follows:

**aquaculture** means:

- (a) cultivating fish or marine vegetation for the purposes of harvesting the fish or marine vegetation or their progeny with a view to sale, or
- (b) keeping fish or marine vegetation in a confined area for a commercial purpose (such as a fish-out pond),

but does not include:

- (c) keeping anything in a pet shop for sale or in an aquarium for exhibition (including an aquarium operated commercially), or
- (d) anything done for the purposes of maintaining a collection of fish or marine vegetation otherwise than for a commercial purpose, or
- (e) any other thing prescribed by the regulations (made under the *Fisheries Management Act 1994*).

This Dictionary also contains definitions of **natural water-based aquaculture**, **pond-based aquaculture** and **tank-based aquaculture**.

**archaeological site** means an area of land:

- (a) shown on the Heritage Map as an archaeological site, and
- (b) the location and nature of which is described in Schedule 5, and
- (c) that contains one or more relics.

**attached dwelling** means a building containing 3 or more dwellings, where:

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land (not being an individual lot in a strata plan or community title scheme), and

## Liverpool Local Environmental Plan 2008

## Dictionary

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(c) none of the dwellings is located above any part of another dwelling.

**attic** means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.

**backpackers' accommodation** means tourist and visitor accommodation:

- (a) that has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (b) that will generally provide accommodation on a bed basis (rather than by room).

**basement** means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

**bed and breakfast accommodation** means tourist and visitor accommodation comprising a dwelling (and any ancillary buildings and parking) where the accommodation is provided by the permanent residents of the dwelling and:

- (a) meals are provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided.

**Note.** See clause 5.4 for controls relating to the number of bedrooms.

**biodiversity** means biological diversity.

**biological diversity** has the same meaning as in the *Threatened Species Conservation Act 1995*.

**Note.** The term is defined as follows:

**biological diversity** means the diversity of life and is made up of the following 3 components:

- (a) genetic diversity—the variety of genes (or units of heredity) in any population,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

**biosolid waste application** means the application of sludge or other semi-solid products of human sewage treatment plants to land for the purpose of improving land productivity, that is undertaken in accordance with the NSW Environment Protection Authority's guidelines titled *Environmental Guidelines: Use and Disposal of Biosolids Products* (EPA 1997) and *Addendum to Environmental Guidelines: Use and Disposal of Biosolids Products* (EPA 2000a).

**biosolids treatment facility** means a building or place used as a facility for the treatment of biosolids from a sewage treatment plant or from a water recycling facility.

**boarding house** means a building:

- (a) that is wholly or partly let in lodgings, and

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- (b) that provides lodgers with a principal place of residence for 3 months or more, and
  - (c) that generally has shared facilities, such as a communal bathroom, kitchen or laundry, and
  - (d) that has rooms that accommodate one or more lodgers,

but does not include backpackers' accommodation, a group home, a serviced apartment, seniors housing or hotel or motel accommodation.

**boat launching ramp** means a structure designed primarily for the launching of trailer borne recreational vessels, and includes associated car parking facilities.

**boat repair facility** means any facility (including a building or other structure) used primarily for the construction, maintenance or repair of boats, whether or not including the storage, sale or hire of boats, but does not include a marina or boat shed.

**boat shed** means a building or other structure used for the storage and routine maintenance of a boat or boats and that is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure.

**brothel** has the same meaning as in the Act.

**building** has the same meaning as in the Act.

**Note.** The term is defined to include part of a building and any structure or part of a structure, but not including a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure).

**building height** (or **height of building**) means the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**building identification sign** means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol, but that does not include general advertising of products, goods or services.

**building line** or **setback** means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or
- (c) the supporting posts of a carport or verandah roof,

whichever distance is the shortest.

**bulky goods premises** means a building or place used primarily for the sale by retail, wholesale or auction of (or for the hire or display of) bulky goods, being goods that are of such size or weight as to require:

- (a) a large area for handling, display or storage, or

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- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,

but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire or display of bulky goods.

**bush fire hazard reduction work** has the same meaning as in the *Rural Fires Act 1997*.

**Note.**The term is defined as follows:

**bush fire hazard reduction work** means:

- (a) the establishment or maintenance of fire breaks on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire,

but does not include construction of a track, trail or road.

**bush fire prone land** has the same meaning as in the Act.

**Note.**The term is defined, in relation to an area, as land recorded for the time being as bush fire prone land on a map for the area certified as referred to in section 146 (2) of the Act.

**bush fire risk management plan** means a plan prepared under Division 4 of Part 3 of the *Rural Fires Act 1997* for the purpose referred to in section 54 of that Act.

**business identification sign** means a sign:

- (a) that indicates:
- (i) the name of the person or business, and
- (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not include any advertising relating to a person who does not carry on business at the premises or place.

**business premises** means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis,

and may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.

**canal estate development** means development that incorporates wholly or in part a constructed canal, or other waterway or waterbody, that is inundated by or drains to a natural waterway or natural waterbody by surface water or groundwater movement (not being works of drainage, or for the supply or treatment of water, that are constructed by or with the authority of a person or body responsible for those

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functions and that are limited to the minimal reasonable size and capacity to meet a demonstrated need for the works), and that either:

- (a) includes the construction of dwellings (which may include tourist and visitor accommodation) of a kind other than, or in addition to:
  - (i) dwellings that are permitted on rural land, and
  - (ii) dwellings that are used for caretaker or staff purposes, or
- (b) requires the use of a sufficient depth of fill material to raise the level of all or part of that land on which the dwellings are (or are proposed to be) located in order to comply with requirements relating to residential development on flood prone land.

**car park** means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

**caravan park** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

**catchment action plan** has the same meaning as in the *Catchment Management Authorities Act 2003*.

**Note.** The term is defined as a catchment action plan of an authority that has been approved by the Minister under Part 4 of the *Catchment Management Authorities Act 2003*.

**cellar door premises** means retail premises that sell wine by retail and that are situated on land on which there is a commercial vineyard, where all of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

**cemetery** means a building or place for the interment of deceased persons or their ashes.

**charter and tourism boating facility** means any facility (including a building or other structure) used for charter boating or tourism boating purposes, being a facility that is used only by the operators of the facility and that has a direct structural connection between the foreshore and the waterway, but does not include a marina.

**child care centre** means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or

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- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
  - (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
  - (h) a service that is concerned primarily with the provision of:
    - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
    - (ii) private tutoring, or
  - (i) a school, or
  - (j) a service provided at exempt premises (within the meaning of section 200 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

**classified road** has the same meaning as in the *Roads Act 1993*.

**Note.** The term is defined as follows:

**classified road** means any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,
- (h) a transitway,
- (i) a State work.

(see *Roads Act 1993* for meanings of these terms).

**clearing native vegetation** has the same meaning as in the *Native Vegetation Act 2003*.

**Note.** The term is defined as follows:

**clearing native vegetation** means any one or more of the following:

- (a) cutting down, felling, thinning, logging or removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

(See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities.)



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**coastal foreshore** means land with frontage to a beach, estuary, coastal lake, headland, cliff or rock platform.

**coastal lake** means a body of water specified in Schedule 1 to the *State Environmental Planning Policy No 71—Coastal Protection*.

**coastal waters of the State**—see section 58 of the *Interpretation Act 1987*.

**coastal zone** has the same meaning as in the *Coastal Protection Act 1979*.

**Note.** The term is defined as follows:

**coastal zone** means:

- (a) the area within the coastal waters of the State as defined in Part 10 of the *Interpretation Act 1987* (including any land within those waters), and
- (b) the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, and
- (c) the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).

The coastal zone consists of the area between the western boundary of the coastal zone shown on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the State. The coastal waters of the State extend, generally, to 3 nautical miles from the coastline of the State.

**community facility** means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

**community land** has the same meaning as in the *Local Government Act 1993*.

**correctional centre** means:

- (a) any premises declared to be a correctional centre by a proclamation in force under section 225 of the *Crimes (Administration of Sentences) Act 1999*, including any juvenile correctional centre or periodic detention centre, and
- (b) any premises declared to be a detention centre by an order in force under section 5 (1) of the *Children (Detention Centres) Act 1987*,

but does not include any police station or court cell complex in which a person is held in custody in accordance with any Act.

**Council** means the Liverpool City Council.

**crematorium** means a building in which deceased persons or pets are cremated, and includes a funeral chapel.

**Crown reserve** means:

- (a) a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or
- (b) a common within the meaning of the *Commons Management Act 1989*, or

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(c) lands within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*, but does not include land that forms any part of a reserve under Part 5 of the *Crown Lands Act 1989* provided for accommodation.

**curtilage**, in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, that contributes to its heritage significance.

**dairy (pasture-based)** means a dairy where the only restriction facilities present are the milking sheds and holding yards and where cattle are constrained for no more than 10 hours in any 24 hour period (excluding during any period of drought or similar emergency relief).

**Delayed Rezoning Map** means the Liverpool Local Environmental Plan 2008 Delayed Rezoning Map.

**demolish**, in relation to a heritage item, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, relic or tree.

**depot** means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use.

**designated State public infrastructure** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) rail infrastructure and land,
- (d) land required for regional open space,
- (e) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

**drainage** means any activity that intentionally alters the hydrological regime of any locality by facilitating the removal of surface or ground water. It may include the construction, deepening, extending, opening, installation or laying of any canal, drain or pipe, either on the land or in such a manner as to encourage drainage of adjoining land.

**dual occupancy** means 2 dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme), but does not include a secondary dwelling.

**dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

**Dwelling Density Map** means the Liverpool Local Environmental Plan 2008 Dwelling Density Map.

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***dwelling house*** means a building containing only one dwelling.

***earthworks*** means excavation or filling.

***ecologically sustainable development*** has the same meaning as in the Act.

***educational establishment*** means a building or place used for education (including teaching), being:

- (a) a school, or
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

***electricity generating works*** means a building or place used for the purpose of making or generating electricity.

***emergency services facility*** means a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.

***emergency services organisation*** means any of the following:

- (a) the Ambulance Service of New South Wales,
- (b) New South Wales Fire Brigades,
- (c) the NSW Rural Fire Service,
- (d) the NSW Police Force,
- (e) the State Emergency Service,
- (f) the New South Wales Volunteer Rescue Association Incorporated,
- (g) the New South Wales Mines Rescue Brigade established under the *Coal Industry Act 2001*,
- (h) an accredited rescue unit within the meaning of the *State Emergency and Rescue Management Act 1989*.

***entertainment facility*** means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub, nightclub or registered club.

***environmental facility*** means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

***environmental protection works*** means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like.

***environmentally significant land*** means the land identified as environmentally significant on the Environmentally Significant Land Map.

***Environmentally Significant Land Map*** means the Liverpool Local Environmental Plan 2008 Environmentally Significant Land Map.

***estuary*** has the same meaning as in the *Water Management Act 2000*.

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**Note.** The term is defined as follows:

**estuary** means:

- (a) any part of a river whose level is periodically or intermittently affected by coastal tides, or
- (b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or
- (c) anything declared by the regulations (under the *Water Management Act 2000*) to be an estuary,

but does not include anything declared by the regulations (under the *Water Management Act 2000*) not to be an estuary.

**excavation** means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.

**exempt tree** means any tree of a species listed in Schedule 6.

**exhibition home** means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.

**exhibition village** means 2 or more exhibition homes and associated buildings and places used for house and land sales, site offices, advisory services, car parking, food and drink sales and other associated purposes.

**extensive agriculture** means:

- (a) the production of crops or fodder (including irrigated pasture and fodder crops), or
- (b) the grazing of livestock, or
- (c) bee keeping,

for commercial purposes, but does not include any of the following:

- (d) animal boarding or training establishments,
- (e) aquaculture,
- (f) farm forestry,
- (g) intensive livestock agriculture,
- (h) intensive plant agriculture.

**extractive industry** means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

**extractive material** means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the *Mining Act 1992*.

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***farm building*** means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

***farm stay accommodation*** means tourist and visitor accommodation provided to paying guests on a working farm as a secondary business to primary production.

**Note.** See clause 5.4 for controls relating to the number of bedrooms.

***feedlot*** means a confined or restricted area used to rear and fatten cattle, sheep or other animals for the purpose of meat production, fed (wholly or substantially) on prepared and manufactured feed, but does not include a poultry farm, dairy or piggery.

***fill*** means the depositing of soil, rock or other similar extractive material obtained from the same or another site, but does not include:

- (a) the depositing of topsoil or feature rock imported to the site that is intended for use in garden landscaping, turf or garden bed establishment or top dressing of lawns and that does not significantly alter the shape, natural form or drainage of the land, or
- (b) the use of land as a waste disposal facility.

***filming*** means recording images (whether on film or video tape or electronically or by other means) for exhibition or broadcast (such as by cinema, television or the internet or by other means), but does not include:

- (a) still photography, or
- (b) recording images of a wedding ceremony or other private celebration or event principally for the purpose of making a record for the participants in the ceremony, celebration or event, or
- (c) recording images as a visitor or tourist for non-commercial purposes, or
- (d) recording for the immediate purposes of a television program that provides information by way of current affairs or daily news.

***fish*** has the same meaning as in the *Fisheries Management Act 1994*.

**Note.** The term is defined as follows:

**Definition of “fish”**

- (1) ***Fish*** means marine, estuarine or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead).
- (2) ***Fish*** includes:
  - (a) oysters and other aquatic molluscs, and
  - (b) crustaceans, and
  - (c) echinoderms, and
  - (d) beachworms and other aquatic polychaetes.
- (3) ***Fish*** also includes any part of a fish.

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- (4) However, **fish** does not include whales, mammals, reptiles, birds, amphibians or other things excluded from the definition by the regulations under the *Fisheries Management Act 1994*.

**flood mitigation work** means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

**flood planning area** means an area of land that is shown to be in a flood planning area on the Flood Planning Area Map.

**Flood Planning Area Map** means the Liverpool Local Environmental Plan 2008 Flood Planning Area Map.

**flood prone land** is land susceptible to flooding by the largest flood that could conceivably occur at a particular location estimated from the probable maximum precipitation.

**floor space ratio**—see clause 23.

**Floor Space Ratio Map** means the Liverpool Local Environmental Plan 2008 Floor Space Ratio Map.

**food and drink premises** means retail premises used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes restaurants, cafes, take away food and drink premises, milk bars and pubs.

**foreshore area** means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody.

**foreshore building line** means the foreshore building line shown on the Foreshore Building Line Map.

**Foreshore Building Line Map** means the Liverpool Local Environmental Plan 2008 Foreshore Building Line Map.

**forestry** has the same meaning as **forestry operations** in the *Forestry and National Park Estate Act 1998*.

**Note.** The term is defined as follows:

**forestry operations** means:

- (a) logging operations, namely, the cutting and removal of timber from land for the purpose of timber production, or
- (b) forest products operations, namely, the harvesting of products of trees, shrubs and other vegetation (other than timber) that are of economic value, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning, bush fire hazard reduction, bee-keeping, grazing and other silvicultural activities, or
- (d) ancillary road construction, namely, the provision of roads and fire trails, and the maintenance of existing railways, to enable or assist in the above operations.

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***freight transport facility*** means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved.

***function centre*** means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

***funeral chapel*** means premises used to arrange, conduct and cater for funerals and memorial services, and includes facilities for the short-term storage, dressing and viewing of bodies of deceased persons, but does not include premises with mortuary facilities.

***funeral home*** means premises used to arrange and conduct funerals and memorial services, and includes facilities for the short-term storage, dressing and viewing of bodies of deceased persons and premises with mortuary facilities.

***gross floor area*** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
  - (i) storage, and
  - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

***ground level (existing)*** means the existing level of a site at any point.

***ground level (finished)*** means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.



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**ground level (mean)** means, for any site on which a building is situated or proposed, one half of the sum of the highest and lowest levels at ground level (finished) of the outer surface of the external walls of the building.

**group home** means a dwelling that is a permanent group home or a transitional group home.

**group home (permanent) or permanent group home** means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

**group home (transitional) or transitional group home** means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

**hazardous industry** means development for the purpose of an industry that, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

**hazardous storage establishment** means any establishment where goods, materials or products are stored that, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

**headland** includes a promontory extending from the general line of the coastline into a large body of water, such as a sea, coastal lake or bay.



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**health care professional** means any person registered under an Act for the purpose of providing health care.

**health consulting rooms** means a medical centre that comprises one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals who practise in partnership (if there is more than one such professional) who provide professional health care services to members of the public.

**health services facility** means a building or place used as a facility to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

- (a) day surgeries and medical centres,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helipads and ambulance facilities,
- (e) hospitals.

**heavy industry** means an industry that requires separation from other land uses because of the nature of the processes involved, or the materials used, stored or produced. It may consist of or include a hazardous or offensive industry or involve the use of a hazardous or offensive storage establishment.

**Height of Buildings Map** means the Liverpool Local Environmental Plan 2008 Height of Buildings Map.

**helipad** means a place not open to the public used for the taking off and landing of helicopters.

**heliport** means a place open to the public used for the taking off and landing of helicopters, whether or not it includes:

- (a) a terminal building, or
- (b) facilities for the parking, storage or repair of helicopters.

**heritage conservation area** means an area of land:

- (a) shown on the Heritage Map as a heritage conservation area or as a place of Aboriginal heritage significance, and
- (b) the location and nature of which is described in Schedule 5,

and includes any heritage items situated on or within that area.

**heritage conservation management plan** means a document prepared in accordance with guidelines prepared by the Department of Planning that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

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**heritage impact statement** means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item, archaeological site, place of Aboriginal heritage significance or other heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

**heritage item** means a building, work, archaeological site, tree, place or Aboriginal object:

- (a) shown on the Heritage Map as a heritage item, and
- (b) the location and nature of which is described in Schedule 5, and
- (c) specified in an inventory of heritage items that is available at the office of the Council.

**Heritage Map** means the Liverpool Local Environmental Plan 2008 Heritage Map.

**heritage significance** means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

**highway service centre** means a building or place used as a facility to provide refreshments and vehicle services to highway users, and which may include any one or more of the following:

- (a) restaurants or take away food and drink premises,
- (b) service stations and facilities for emergency vehicle towing and repairs,
- (c) parking for vehicles,
- (d) rest areas and public amenities.

**home-based child care** means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and that satisfies the following conditions:

- (a) the service is appropriately licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

**home business** means a business carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or

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- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
  - (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), or
  - (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

**Note.** See clause 5.4 for controls relating to the floor area used to carry on the business.

**home industry** means a light industry carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the light industry carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation or sex services premises.

**Note.** See clause 5.4 for controls relating to the floor area used to carry on the light industry.

**home occupation** means an occupation carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the occupation carried on in the dwelling), or

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- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include bed and breakfast accommodation, a brothel or home occupation (sex services).

**home occupation (sex services)** means the provision of sex services in a dwelling that is a brothel, or in a building that is a brothel and is ancillary to such a dwelling, by no more than 2 permanent residents of the dwelling and that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
- (c) the exhibition of any notice, advertisement or sign, or
- (d) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include a home business or sex services premises.

**horticulture** means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include retail sales or viticulture.

**hospital** means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:

- (a) day surgery, day procedures or health consulting rooms,
- (b) accommodation for nurses or other health care workers,
- (c) accommodation for persons receiving health care or for their visitors,
- (d) shops or refreshment rooms,
- (e) transport of patients, including helipads, ambulance facilities and car parking,
- (f) educational purposes or any other health-related use,
- (g) research purposes (whether or not it is carried out by hospital staff or health care workers or for commercial purposes),
- (h) chapels,
- (i) hospices,
- (j) mortuaries.

**hostel** means premises that are generally staffed by social workers or support providers and at which:

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and

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- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

**hotel or motel accommodation** means tourist and visitor accommodation (whether or not licensed premises under the *Liquor Act 1982*):

- (a) comprising rooms or self-contained suites, and
- (b) that may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

**industrial retail outlet** means a building or place that:

- (a) is used in conjunction with an industry (including a light industry) but not in conjunction with a warehouse or distribution centre, and
- (b) is situated on the land on which the industry is carried out, and
- (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry is carried out.

**Note.** See clause 5.4 for controls relating to the retail floor area.

**industry** means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing or adapting, or the research and development of any goods, chemical substances, food, agricultural or beverage products, or articles for commercial purposes, but does not include extractive industry or a mine.

**information and education facility** means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

**intensive livestock agriculture** means the keeping or breeding, for commercial purposes, of cattle, poultry, goats, horses or other livestock, that are fed wholly or substantially on externally-sourced feed, and includes the operation of feed lots, piggeries, poultry farms or restricted dairies, but does not include the operation of facilities for drought or similar emergency relief or extensive agriculture or aquaculture.

**intensive plant agriculture** means any of the following carried out for commercial purposes:

- (a) the cultivation of irrigated crops (other than irrigated pasture or fodder crops),
- (b) horticulture,
- (c) turf farming,
- (d) viticulture.

**jetty** means a horizontal decked walkway providing access from the shore to the waterway and is generally constructed on a piered or piled foundation.

**Key Sites Map** means the Liverpool Local Environmental Plan 2008 Key Sites Map.

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**kiosk** means retail premises used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.

**Note.** See clause 5.4 for controls relating to the gross floor area.

**Land Application Map** means the Liverpool Local Environmental Plan 2008 Land Application Map.

**Land Reservation Acquisition Map** means the Liverpool Local Environmental Plan 2008 Land Reservation Acquisition Map.

**Land Zoning Map** means the Liverpool Local Environmental Plan 2008 Land Zoning Map.

**landscape and garden supplies** means a building or place where trees, shrubs, plants, bulbs, seeds and propagating material are offered for sale (whether by retail or wholesale), and may include the sale of landscape supplies (including earth products or other landscape and horticulture products) and the carrying out of horticulture.

**landscaped area** means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

**light industry** means an industry, not being a hazardous or offensive industry or involving use of a hazardous or offensive storage establishment, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

**liquid fuel depot** means storage premises that are used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquid and at which no retail trade is conducted.

**Liverpool city centre** means the land shown edged heavy broken red and marked "Liverpool city centre" on the Key Sites Map.

**livestock processing industry** means an industry that involves the commercial production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals, derived principally from surrounding districts, and includes such activities as abattoirs, knackereries, tanneries, woollscours and rendering plants.

**Lot Size Map** means the Liverpool Local Environmental Plan 2008 Lot Size Map.

**maintenance**, in relation to a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care. It does not include the removal or disturbance of existing fabric, alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

**marina** means a permanent boat storage facility (whether located wholly on land, wholly on the waterway or partly on land and partly on the waterway) together with any associated facilities, including:

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and

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- (b) any facility for providing fuelling, sewage pump-out or other services for boats, and
  - (c) any facility for launching or landing boats, such as slipways or hoists, and
  - (d) any associated car parking, commercial, tourist or recreational or club facility that is ancillary to a boat storage facility, and
  - (e) any associated single mooring.

**market** means retail premises comprising an open-air area or an existing building used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

**mean high water mark** means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore, being 1.44m above the zero of Fort Denison Tide Gauge and 0.515m Australian Height Datum.

**medical centre** means business premises used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals, and may include the ancillary provision of other health services.

**mezzanine** means an intermediate floor within a room.

**mine** means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.

**mine subsidence district** means a mine subsidence district proclaimed under section 15 of the *Mine Subsidence Compensation Act 1961*.

**mining** means mining carried out under the *Mining Act 1992* or the recovery of minerals under the *Offshore Minerals Act 1999*, and includes:

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.

**mixed use development** means a building or place comprising 2 or more different land uses.

**mooring** means a detached or freestanding apparatus located on or in a waterway and that is capable of securing a vessel.

**mortuary** means premises that are used, or intended to be used, for the receiving, preparation, embalming and storage of bodies of deceased persons pending their interment or cremation.

**moveable dwelling** has the same meaning as in the *Local Government Act 1993*.

**Note.** The term is defined as follows:

**moveable dwelling** means:

- (a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or



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- (b) a manufactured home, or  
 (c) any conveyance, structure or thing of a class or description prescribed by the regulations (under the *Local Government Act 1993*) for the purposes of this definition.

**multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme) each with access at ground level, but does not include a residential flat building.

**native fauna** means any animal-life that is indigenous to New South Wales or is known to periodically or occasionally migrate to New South Wales, whether vertebrate (including fish) or invertebrate and in any stage of biological development, but does not include humans.

**native flora** means any plant-life that is indigenous to New South Wales, whether vascular or non-vascular and in any stage of biological development, and includes fungi and lichens, and marine vegetation within the meaning of Part 7A of the *Fisheries Management Act 1994*.

**native vegetation** has the same meaning as in the *Native Vegetation Act 2003*.

**Note.** The term is defined as follows:

**Meaning of “native vegetation”**

- (1) **Native vegetation** means any of the following types of indigenous vegetation:
  - (a) trees (including any sapling or shrub, or any scrub),
  - (b) understorey plants,
  - (c) groundcover (being any type of herbaceous vegetation),
  - (d) plants occurring in a wetland.
- (2) Vegetation is **indigenous** if it is of a species of vegetation, or if it comprises species of vegetation, that existed in the State before European settlement.
- (3) **Native vegetation** does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the *Fisheries Management Act 1994* applies.

**natural water-based aquaculture** means aquaculture undertaken in natural waterbodies (including any part of the aquaculture undertaken in tanks, ponds or other facilities such as during hatchery or depuration phases).

**Note.** Typical natural water-based aquaculture is fin fish culture in cages and oyster, mussel or scallop culture on or in racks, lines or cages.

**navigable waterway** means any waterway that is from time to time capable of navigation and is open to or used by the public for navigation, but does not include flood waters that have temporarily flowed over the established bank of a watercourse.

**neighbourhood shop** means retail premises used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

**Note.** See clause 5.4 for controls relating to the retail floor area.



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**nightclub** means premises specified in a nightclub licence under the *Liquor Act 1982*.

**non-potable water** means water that does not meet the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

**NSW Coastal Policy** means the publication titled *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*, published by the Government.

**offensive industry** means any development for the purpose of an industry that would, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

**offensive storage establishment** means any establishment where goods, materials or products are stored and that would, when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

**office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

**operational land** has the same meaning as in the *Local Government Act 1993*.

**parking space** means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park.

**passenger transport facility** means a building or place used for the assembly or dispersal of passengers by any form of transport, including facilities required for parking, manoeuvring, storage or routine servicing of any vehicle that uses the building or place.

**place of Aboriginal heritage significance** means an area of land shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or

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- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

**place of public entertainment** has the same meaning as in the Act.

**Note.** The term is defined as follows:

**place of public entertainment** means:

- (a) any theatre or cinema (including a drive-in or open-air theatre or cinema) that is used or intended to be used for the purpose of providing public entertainment, or
- (b) any premises the subject of a licence under the *Liquor Act 1982* or a certificate of registration under the *Registered Clubs Act 1976*, that are used or intended to be used for the purpose of providing entertainment, including public entertainment, but not including amusement provided by means of an approved gaming machine within the meaning of the *Gaming Machines Act 2001*, or
- (c) any public hall that is used or intended to be used for the purpose of providing public entertainment.

**place of public worship** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

**pond-based aquaculture** means aquaculture undertaken in structures that are constructed by excavating and reshaping earth, which may be earthen or lined, and includes any part of the aquaculture undertaken in tanks, such as during the hatchery or pre-market conditioning phases, but does not include natural water-based aquaculture.

**Note.** Typical pond-based aquaculture is the pond culture of prawns, yabbies or silver perch.

**port facilities** means any of the following facilities at or in the vicinity of a designated port within the meaning of section 47 of the *Ports and Maritime Administration Act 1995*:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

**potable water** means water that meets the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

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**private open space** means an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building.

**property vegetation plan** has the same meaning as in the *Native Vegetation Act 2003*.

**Note.**The term is defined as follows:

**property vegetation plan** means a property vegetation plan that has been approved under Part 4 of the *Native Vegetation Act 2003*.

**pub** means licensed premises under the *Liquor Act 1982* the principal purpose of which is the sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold on the premises.

**public administration building** means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.

**public authority** has the same meaning as in the Act.

**public entertainment** has the same meaning as in the Act.

**Note.**The term is defined as follows:

**public entertainment** means entertainment to which admission may ordinarily be gained by members of the public on payment of money or other consideration:

- (a) whether or not some (but not all) persons are admitted free of charge, and
- (b) whether or not the money or other consideration is demanded:
  - (i) as a charge for a meal or other refreshment before admission is granted, or
  - (ii) as a charge for the entertainment after admission is granted.

**public land** has the same meaning as in the *Local Government Act 1993*.

**Note.**The term is defined as follows:

**public land** means any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the *Crown Lands Act 1989* applies, or
- (c) a common, or
- (d) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
- (e) a regional park under the *National Parks and Wildlife Act 1974*.

**public reserve** has the same meaning as in the *Local Government Act 1993*.

**public utility infrastructure** includes infrastructure for any of the following:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage.

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**public utility undertaking** means any of the following undertakings carried on or permitted to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, electricity supply authority, Government Department, corporation, firm or authority carrying on the undertaking.

**rainwater tank** means a tank designed for the storage of rainwater gathered on the land on which the tank is situated.

**recreation area** means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

**recreation facility (major)** means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes sports stadiums, showgrounds, racecourses and motor racing tracks.

**recreation facility (outdoor)** means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

**Reduced Level (RL)** means height above the Australian Height Datum, being the datum surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971.

**registered club** means a club in respect of which a certificate of registration under the *Registered Clubs Act 1976* is in force.

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**relic** means any deposit, object or other material evidence of human habitation:

- (a) that relates to the settlement of the area of Liverpool, not being Aboriginal settlement, and
- (b) that is more than 50 years old, and
- (c) that is a fixture or is wholly or partly within the ground.

**research station** means a building or place operated by a public authority for the principal purpose of agricultural, environmental, fisheries, forestry, minerals or soil conservation research, and includes any associated facility for education, training, administration or accommodation.

**residential accommodation** means a building or place used predominantly as a place of residence, but does not include tourist and visitor accommodation.

**residential care facility** means accommodation for seniors (people aged 55 years or more) or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hospital or psychiatric facility.

**residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

**resource recovery facility** means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

**restaurant** means a building or place the principal purpose of which is the provision of food or beverages to people for consumption on the premises and that may also provide takeaway meals and beverages.

**restricted dairy** means a dairy (other than a dairy (pasture-based)) where restriction facilities are present in addition to milking sheds and holding yards, and where cattle have access to grazing for less than 10 hours in any 24 hour period (excluding during periods of drought or similar emergency relief). A restricted dairy may comprise the whole or part of a restriction facility.

**restricted premises** means business premises or retail premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises but does not include hotel or motel accommodation, a pub, home occupation (sex services) or sex services premises.

**restriction facilities** means facilities where animals are constrained for management purposes, including milking sheds, pads, feed stalls, holding yards and paddocks where the number of livestock exceeds the ability of vegetation to recover from the

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effects of grazing in a normal growing season, but does not include facilities for drought or similar emergency relief.

**retail premises** means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

**road** means a public road or a private road within the meaning of the *Roads Act 1993*, and includes a classified road.

**roadside stall** means a place or temporary structure used for retail selling of agricultural produce or hand crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property.

**Note.** See clause 5.4 for controls relating to the gross floor area.

**rural industry** means an industry that involves the handling, treating, production, processing or packing of animal or plant agricultural products, and includes:

- (a) agricultural produce industry, or
- (b) livestock processing industry, or
- (c) use of composting facilities and works (including to produce mushroom substrate), or
- (d) use of sawmill or log processing works, or
- (e) use of stock and sale yards, or
- (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise,

undertaken for commercial purposes.

**rural supplies** means a building or place used for the display, sale (whether by retail or wholesale) or hire of stockfeeds, grains, seed, fertilizers, veterinary supplies and other goods or materials used in farming and primary industry production.

**rural worker's dwelling** means a dwelling, ancillary to a dwelling house on the same landholding, used as the principal place of residence by persons employed for the purpose of agriculture or a rural industry on that land.

**sawmill or log processing works** means a building or place used for handling, cutting, chipping, pulping or otherwise processing logs, baulks, branches or stumps, principally derived from surrounding districts, into timber or other products derived from wood.

**school** means a government school or non-government school within the meaning of the *Education Act 1990*.

**secondary dwelling** means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and

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(c) is located within, or is attached to, or is separate from, the principal dwelling.

**Note.** See clause 5.4 for controls relating to the total floor area.

**self-storage units** means storage premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

**semi-detached dwelling** means a dwelling that is on its own lot of land (not being an individual lot in a strata plan or community title scheme) and is attached to only one other dwelling.

**seniors housing** means residential accommodation that consists of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

and that is, or is intended to be, used permanently for:

- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the residential accommodation or in the provision of services to persons living in the accommodation,

but does not include a hospital.

**service station** means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

**serviced apartment** means a building or part of a building providing self-contained tourist and visitor accommodation that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

**sewage reticulation system** means a building or place used for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of the treated waste for use or disposal, including associated:

- (a) pipelines and tunnels, and
- (b) pumping stations, and
- (c) dosing facilities, and



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- (d) odour control works, and
  - (e) sewage overflow structures, and
  - (f) vent stacks.

**sewage treatment plant** means a building or place used for the treatment and disposal of sewage, whether or not the facility supplies recycled water for use as an alternative water supply.

**sewerage system** means a biosolids treatment facility, sewage reticulation system, sewage treatment plant, water recycling facility, or any combination of these.

**sex services** means sexual acts or sexual services in exchange for payment.

**sex services premises** means a brothel, but does not include home occupation (sex services).

**shop** means retail premises that sell groceries, personal care products, clothing, music, homewares, stationary, electrical goods or other items of general merchandise, and may include a neighbourhood shop, but does not include food and drink premises or restricted premises.

**shop top housing** means one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises.

**signage** means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes:

- (a) building identification signs, and
- (b) business identification signs, and
- (c) advertisements,

but does not include traffic signs or traffic control facilities.

**site area** means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Plan.

**Note.** The effect of this definition is varied by clause 4.5 for the purpose of the determination of permitted floor space area for proposed development.

**site coverage** means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- (a) any basement,
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (c) any eaves,
- (d) unenclosed balconies, decks, pergolas and the like.

**spa pool** has the same meaning as in the *Swimming Pools Act 1992*.

**Note.** The term is defined to include any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.



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***stock and sale yard*** means a building or place used on a commercial basis for the purpose of offering livestock or poultry for sale and may be used for the short-term storage and watering of stock.

***storage premises*** means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any business premises or retail premises on the same parcel of land.

***storey*** means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic.

***swimming pool*** has the same meaning as in the *Swimming Pools Act 1992*.

**Note.** The term is defined as follows:

***swimming pool*** means an excavation, structure or vessel:

- (a) that is capable of being filled with water to a depth of 300 millimetres or more, and
- (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,

and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations made under the *Swimming Pools Act 1992* not to be a swimming pool for the purposes of that Act.

***take away food and drink premises*** means food and drink premises that are predominantly used for the preparation and sale of food or drink (or both) for immediate consumption away from the premises.

***tank-based aquaculture*** means aquaculture utilising structures that are constructed from materials such as fibreglass, plastics, concrete, glass or metals, are usually situated either wholly or partly above ground, and may be contained within a purpose built farm or industrial style sheds or plastic covered hothouse to assist in controlling environmental factors.

***telecommunications facility*** means:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, equipment, apparatus, tower, mast, antenna, tunnel, duct, hole, pit, pole or other structure or thing used, or to be used, in or in connection with a telecommunications network.

***telecommunications network*** means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

***temporary structure*** has the same meaning as in the Act.

**Note.** The term is defined as follows:

***temporary structure*** includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

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**the Act** means the *Environmental Planning and Assessment Act 1979*.

**timber and building supplies** means a building or place used for the display, sale (whether by retail or wholesale) or hire of goods or materials that are used in the construction and maintenance of buildings.

**tourist and visitor accommodation** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel or motel accommodation, serviced apartments, bed and breakfast accommodation and backpackers' accommodation.

**transport depot** means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a passenger transport undertaking, business, industry or shop.

**truck depot** means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.

**turf farming** means the commercial cultivation of turf for sale and the removal of turf for that purpose.

**urban release area** means an area of land shown hatched and lettered "Urban Release Area" on the Urban Release Area Map.

**Urban Release Area Map** means the Liverpool Local Environmental Plan 2008 Urban Release Area Map.

**vehicle body repair workshop** means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration.

**vehicle repair station** means a building or place used for the purpose of carrying out repairs or the selling of, and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop.

**vehicle sales or hire premises** means a building or place used for the display, sale (whether by retail or wholesale) or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there.

**veterinary hospital** means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

**viticulture** means the cultivation of grapes for commercial purposes for use in the production of fresh or dried fruit or wine.

**warehouse or distribution centre** means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

**waste disposal facility** means a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling, resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

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**waste management facility** means a facility used for the storage, treatment, purifying or disposal of waste, whether or not it is also used for the sorting, processing, recycling, recovering, use or reuse of material from that waste, and whether or not any such operations are carried out on a commercial basis. It may include but is not limited to:

- (a) an extractive industry ancillary to, required for or associated with the preparation or remediation of the site for such storage, treatment, purifying or disposal, and
- (b) eco-generating works ancillary to or associated with such storage, treatment, purifying or disposal.

**waste or resource management facility** means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

**waste or resource transfer station** means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

**water recreation structure** means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

**water recycling facility** means a building or place used for the treatment of sewage effluent, stormwater or waste water for use as an alternative supply to mains water, groundwater or river water (including, in particular, sewer mining works), whether the facility stands alone or is associated with other development, and includes associated:

- (a) retention structures, and
- (b) treatment works, and
- (c) irrigation schemes.

**water reticulation system** means a building or place used for the transport of water, including pipes, tunnels, canals, pumping stations, related electricity infrastructure, dosing facilities and water supply reservoirs.

**water storage facility** means a dam, weir or reservoir for the collection and storage of water, and includes associated monitoring or gauging equipment.

**water supply system** means a water reticulation system, water storage facility, water treatment facility, or any combination of these.

**water treatment facility** means a building or place used for the treatment of water (such as a desalination plant or a recycled or reclaimed water plant) whether the water produced is potable or not, and includes residuals treatment, storage and disposal facilities, but does not include a water recycling facility.

**waterbody** means a waterbody (artificial) or waterbody (natural).

## Liverpool Local Environmental Plan 2008

## Dictionary

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**waterbody (artificial)** or **artificial waterbody** means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

**waterbody (natural)** or **natural waterbody** means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

**watercourse** means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

**waterway** means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

**wetland** means:

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or
- (b) artificial wetland, including marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

**wholesale supplies** means a building or place used for the display, sale or hire of goods or materials by wholesale only to businesses that have an Australian Business Number registered under the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth.

## Department of Primary Industries

### COAL MINE HEALTH AND SAFETY ACT 2002

#### Instrument of Appointment

I, ALAN COUTTS, Deputy Director-General, Mineral Resources, pursuant to section 148 of the Coal Mine Health and Safety Act 2002 (“the Act”) and with the delegated authority of the Minister for Mineral Resources and the Director-General of the NSW Department of Primary Industries pursuant to sections 212 and 214 of the Act, hereby appoint William BARRACLOUGH, an inspector appointed under the Act, to exercise the functions of the Chief Inspector under the Act, from midnight Friday, 22 August 2008, to midnight Tuesday, 3 September 2008.

Dated this 22nd day of August 2008.

ALAN COUTTS,  
Deputy Director-General,  
Mineral Resources,  
NSW Department of Primary Industries

### FISHERIES MANAGEMENT ACT 1994

#### FISHERIES MANAGEMENT (AQUACULTURE) REGULATION 2007

##### Notice of Receipt of Application for Aquaculture Lease

Notification under s.163 (7) of the Fisheries Management Act 1994 and cl.33 of the Fisheries Management (Aquaculture) Regulation 2007

NSW Department of Primary Industries (NSW DPI) advises an application has been received for five (5) new aquaculture leases over public water land for the purpose of cultivating Sydney rock and triploid Pacific oysters. Location is the Hawkesbury River, described as follows:

- 2.3719 hectares over former oyster lease OL60/062
- 1.65 hectares over former oyster lease OL60/133
- 4.9078 hectares over former oyster lease OL68/103
- 0.2018 hectares over former oyster lease OL78/153
- 0.5712 hectares over former oyster lease OL88/038

NSW DPI is calling for written submissions from any person supporting or objecting to the oyster lease proposals, citing reasons for the support/objection. NSW DPI is also calling for expressions of interest from persons or corporations interested in leasing the areas specified above, for the purpose of aquaculture. An expression of interest must be in the form of a written response referring to lease numbers OL60/062, OL60/133, OL68/103, OL78/153 and/or OL88/038 to be signed and dated with a return address. If additional expressions of interest are received, NSW DPI may offer the areas for leasing through a competitive public tender process, auction or ballot.

If granted the leases will be subject to standard covenants and conditions of an aquaculture lease and aquaculture permit, under the Fisheries Management Act 1994. Specific details of the proposed leases can be obtained, or enquiries made with NSW DPI, Aquaculture Administration Section, Port Stephens on (02) 4982 1232. Objections or expressions

of interest for consideration in the determination of the applications must be received at the address below, within 30 days from the date of publication of this notification.

Director,  
Fisheries Conservation and Aquaculture Branch,  
Aquaculture Administration Section,  
Port Stephens Fisheries Centre,  
Locked Bag 1, Nelson Bay NSW 2315.

BILL TALBOT,  
Director,  
Fisheries Conservation and Aquaculture,  
Fisheries, Compliance and Regional Relations,  
NSW Department of Primary Industries

### FISHERIES MANAGEMENT ACT 1994

#### FISHERIES MANAGEMENT (AQUACULTURE) REGULATION 2007

##### Notice of Receipt of Application for Aquaculture Lease

Notification under s.163 (7) of the Fisheries Management Act 1994 and cl.33 of the Fisheries Management (Aquaculture) Regulation 2007

NSW Department of Primary Industries (NSW DPI) advises an application has been received for a new aquaculture lease over public water land for the purpose of cultivating Sydney rock oysters. Location is the Pambula River, described as follows:

- 0.0709 hectares over former oyster lease OL59/257

NSW DPI is calling for written submissions from any person supporting or objecting to the oyster lease proposal, citing reasons for the support/objection. NSW DPI is also calling for expressions of interest from persons or corporations interested in leasing the area specified above, for the purpose of aquaculture. An expression of interest must be in the form of a written response referring to lease number OL59/257 to be signed and dated with a return address. If additional expressions of interest are received, NSW DPI may offer the area for leasing through a competitive public tender process, auction or ballot.

If granted the lease will be subject to standard covenants and conditions of an aquaculture lease and aquaculture permit, under the Fisheries Management Act 1994. Specific details of the proposed lease can be obtained, or enquiries made with NSW DPI, Aquaculture Administration Section, Port Stephens on (02) 4982 1232. Objections or expressions of interest for consideration in the determination of the application must be received at the address below, within 30 days from the date of publication of this notification.

Director,  
Fisheries Conservation and Aquaculture Branch,  
Aquaculture Administration Section,  
Port Stephens Fisheries Centre,  
Locked Bag 1, Nelson Bay NSW 2315.

BILL TALBOT,  
Director,  
Fisheries Conservation and Aquaculture,  
Fisheries, Compliance and Regional Relations,  
NSW Department of Primary Industries



**FISHERIES MANAGEMENT ACT 1994****FISHERIES MANAGEMENT (AQUACULTURE)  
REGULATION 2007**

Notice of Receipt of Application for Aquaculture Lease  
Noti cation under s.163 (7) of the Fisheries Management  
Act 1994 and Cl.33 of the Fisheries Management  
(Aquaculture) Regulation 2007

NSW Department of Primary Industries (NSW DPI) advises an application has been received for a new aquaculture lease over public water land for the purpose of cultivating Sydney rock oysters. Location is the Hastings River, described as follows:

- Approx. 0.2 hectares over previously unleased ground, north of oyster lease OL57/194 (to be known as AL08/017, if granted)

NSW DPI is calling for written submissions from any person supporting or objecting to the oyster lease proposal, citing reasons for the support/objection. NSW DPI is also calling for expressions of interest from persons or corporations interested in leasing the area speci ed above, for the purpose of aquaculture. An expression of interest must be in the form of a written response referring to lease number AL08/017 to be signed and dated with a return address.

If additional expressions of interest are received, NSW DPI may offer the area for leasing through a competitive public tender process, auction or ballot. The applicant will be required to obtain development consent from Council under Part 4 of the Environmental Planning and Assessment Act 1979. If granted, the lease will be subject to standard covenants and conditions of an aquaculture lease and aquaculture permit, under the Fisheries Management Act 1994, and any conditions of consent as imposed by Council.

Speci c details of the proposed lease can be obtained, or enquiries made with NSW DPI, Aquaculture Administration Section, Port Stephens on (02) 4982 1232. Objections or expressions of interest for consideration in the determination of the application must be received at the address below, within 30 days from the date of publication of this noti cation.

Director,  
Fisheries Conservation and Aquaculture Branch,  
Aquaculture Administration Section,  
Port Stephens Fisheries Centre,  
Locked Bag 1, Nelson Bay NSW 2315.

BILL TALBOT,  
Director,  
Fisheries Conservation and Aquaculture,  
Fisheries, Compliance and Regional Relations,  
NSW Department of Primary Industries

**FISHERIES MANAGEMENT ACT 1994**

Section 8 Noti cation – Fishing Closure  
Pipis, Cockles and Whelks  
Simpson’s Bay Beach to Costens Point

I, DOUGLAS FRAZER HOCKING, Executive Director, Fisheries, Compliance and Regional Relations, pursuant to section 8 of the Fisheries Management Act 1994 (“the Act”) and with the delegated authority of the Minister for Primary Industries and the Director-General of the NSW Department

of Primary Industries pursuant to sections 227 and 228 of the Act, do by this noti cation, prohibit the taking of pipis (of any species), cockles (of any species) and whelks (of any species) by all methods, from the waters described below.

This Noti cation is effective for a period of 5 years from the date of publication.

Dated: 25 August 2008.

D. F. HOCKING,  
Executive Director,  
Fisheries, Compliance and Regional Relations,  
NSW Department of Primary Industries

**Waters**

The whole of the foreshore of Port Hacking from the east end of Simpson’s Bay Beach generally west to the most northern end of Costens Point. This area includes the foreshore extending from the mean high water mark to 100 metres horizontally seaward from the mean low water mark.

**MINE HEALTH AND SAFETY ACT 2004****Instrument of Delegation**

I, RICHARD SHELDRAKE, Director-General, NSW Department of Primary Industries, do by this instrument:

1. pursuant to section 184(1) of the Mine Health and Safety Act 2004 (“the Act”) delegate the functions conferred or imposed on me
  - a. by the provisions of the Act speci ed in Column 1 of Schedule 1 to this instrument of delegation to the authorised persons who from time to time hold, occupy or perform the duties of the NSW Department of Primary Industries positions listed opposite in Column 3 of Schedule 1; and
  - b. by the provisions of the Mine Health and Safety Regulation 2007 (“the Regulation”) speci ed in Column 1 of Schedule 2 to this instrument of delegation to the authorised persons who from time to time hold, occupy or perform the duties of the NSW Department of Primary Industries positions listed opposite in Column 3 of Schedule 2.
2. pursuant to section 184(2) of the Act, subdelegate the functions delegated to me by the Minister for Primary Industries pursuant to section 182 of the Act and:
  - (a) by the provisions of the Act speci ed in Column 1 of Schedule 3 to this instrument of delegation to the authorised persons who from time to time hold, occupy or perform the duties of the NSW Department of Primary Industries positions listed opposite in Column 3 of Schedule 3
  - (b) by the provisions of the Regulation speci ed in Column 1 of Schedule 4 to this instrument of delegation to the authorised persons who from time to time hold, occupy or perform the duties of the NSW Department of Primary Industries positions listed opposite in Column 3 of Schedule 4;

In this instrument of delegation –

- “function” includes power, authority or duty, and

- the description of "Subject" in Column 2 of the Schedules below is for general explanation and does not limit the delegation of functions under the provisions of the Act and Regulation specified in Column 1 of the Schedules.

## Schedule 1

<i>Column 1 Section</i>	<i>Column 2 Subject</i>	<i>Column 3 Delegate</i>
103	Consultation about modification of action affected by stop work order	Deputy Director-General NSW Department of Primary Industries - Mineral Resources Chief Inspector
162	Publication, commencement and availability of codes of practice	Deputy Director-General NSW Department of Primary Industries - Mineral Resources Chief Inspector

## Schedule 2

<i>Column 1 Clause</i>	<i>Column 2 Subject</i>	<i>Column 3 Delegate</i>
28	Director General to establish register of production permits	Chief Inspector
103	Plans of mines to be abandoned to be sent to the Director General	Chief Inspector Manager, Mineral Titles and Lightning Ridge.
125(3)(b) & (4)	Declaration that a person's competence is not recognised	Deputy Director-General NSW Department of Primary Industries - Mineral Resources.

## Schedule 3

<i>Column 1 Section</i>	<i>Column 2 Subject</i>	<i>Column 3 Delegate</i>
85	Issue of tourist and educational permits	Chief Inspector
86	Revocation or variation of permits	Chief Inspector
100(5)	Delegate authority to give notice or provide or affix notice of stop work order	Chief Inspector
118	Minister may grant certificates of competence	Chief Inspector
127	Appointment of Government Officials	Deputy Director-General NSW Department of Primary Industries - Mineral Resources

128	Minister considers qualification of inspectors	Deputy Director-General NSW Department of Primary Industries - Mineral Resources
129	Appointment of consultants as investigators	Deputy Director-General NSW Department of Primary Industries - Mineral Resources
159	Minister may prepare, or cause to be prepared draft codes of practice	Deputy Director-General NSW Department of Primary Industries - Mineral Resources Chief Inspector
160	Minister may arrange consultation on draft codes of practice	Deputy Director-General NSW Department of Primary Industries - Mineral Resources Chief Inspector
188	Minister may determine fees and charges payable	Deputy Director-General NSW Department of Primary Industries - Mineral Resources

## Schedule 4

<i>Column 1 Clause</i>	<i>Column 2 Subject</i>	<i>Column 3 Delegate</i>
118	Replacement of certificates of competence	Chief Inspector
121	Suspension or cancellation of certificates of competence	Chief Inspector
124	Application for restoration of certificate of competence	Chief Inspector
168	Determination of fees and charges by the Minister	Deputy Director-General NSW Department of Primary Industries - Mineral Resources

This instrument takes effect on 1 September 2008.

Dated this 27th day of August 2008.

RICHARD SHELDRAKE,  
Director-General,  
NSW Department of Primary Industries

**MINE HEALTH AND SAFETY ACT 2004**

Instrument of Delegation from the Minister to an Inspector I, IAN MACDONALD, M.L.C., Minister for Mineral Resources, pursuant to section 100(5) of the Mine Health and Safety Act 2004 (the Act), delegate to an inspector appointed

under section 127 of the Act the function of giving notice or providing or affixing copies of an order under section 100 of the Act.

This instrument is effective from the 1st September 2008, being the commencement of the Mine Health and Safety Act 2004.

Dated this 25th day of August 2008.

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

#### MINE HEALTH AND SAFETY ACT 2004

Instrument of Delegation from the Minister to the Metalliferous Mines and Extractive Industries Competence Board

I, IAN MACDONALD, M.L.C., Minister for Mineral Resources, pursuant to section 182(2) of the Mine Health and Safety Act 2004 ("the Act"), do by this instrument delegate to the Metalliferous Mines and Extractive Industries Competence Board constituted under section 112 of the Act, the functions conferred or imposed on me:

1. under the Act as specified in Column 1 of Schedule 1 to this instrument of delegation; and
2. under the Mine Health and Safety Regulation 2007 as specified in Column 1 of Schedule 2 to this instrument of delegation.

In this instrument of delegation—

- "function" includes power, authority or duty, and
- the description of "Subject" in Column 2 of Schedules 1 and 2 below is for general explanation and does not limit the delegation of functions under the provisions of the Act and Regulation specified in Column 1.

#### Schedule 1

Column 1 Section	Column 2 Subject
118	Minister may grant certificates of competence

#### Schedule 2

Column 1 Clause	Column 2 Subject
118	Replacement of certificates of competence
121	Suspension or cancellation of certificates of competence
124	Application for restoration of certificate of competence

This instrument is effective from the 1st September 2008 being the commencement of the Mine Health and Safety Act 2004.

Dated this 25th day of August 2008.

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

#### MINE HEALTH AND SAFETY ACT 2004

Instrument of Delegation from the Minister to the Director-General

I, IAN MACDONALD, M.L.C., Minister for Mineral Resources, do by this instrument:

1. pursuant to section 182(1) of the Mine Health and Safety Act 2004 ("the Act"), delegate to the Director-General, NSW Department of Primary Industries the functions conferred or imposed on me:
  - (a) under the Act as specified in Column 1 of Schedule 1 to this instrument of delegation;
  - (b) under the Mine Health and Safety Regulation 2007 as specified in Column 1 of Schedule 2 to this instrument of delegation;
2. pursuant to section 184(2) of the Act, authorise the Director-General, NSW Department of Primary Industries to subdelegate to any authorised person any function delegated to the Director-General under this instrument of delegation.

In this instrument of delegation—

- "authorised person" has the same meaning as in section 184(3) of the Act,
- "function" includes power, authority or duty, and
- the description of "Subject" in column 2 of Schedule 1 and 2 below is for general explanation and does not limit the delegation of (or authorisation to subdelegate) functions under the provisions of the Act and Regulation specified in Column 1.

#### Schedule 1

Column 1 Section	Column 2 Subject
85	Issue of tourist and educational permits
86	Revocation or variation of permits
100(5)	Giving notice or providing or affixing notice of stop work order
118	Minister may grant certificates of competence
127	Appointment of Government Officials
128	Minister considers qualification of inspectors
129	Appointment of consultants as investigators
159	Minister may prepare, or cause to be prepared draft codes of practice
160	Minister may arrange consultation on draft codes of practice
188	Minister may determine fees and charges payable

#### Schedule 2

Column 1 Clause	Column 2 Summary of function
118	Replacement of certificates of competence
121	Suspension or cancellation of certificates of competence



124	Restoration of certificates of competence
168	Determination of fees and charges by the Minister

This instrument is effective from the 1st September 2008 being the commencement of the Mine Health and Safety Act 2004.

Dated this 25th day of August 2008.

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

#### MINE HEALTH AND SAFETY ACT 2004

#### MINE HEALTH AND SAFETY REGULATION 2007

##### Exemption – Appointment of a Production Manager Order No. 2

I, ROBERT REGAN, Chief Inspector under the Mines Health and Safety Act 2004, pursuant to Clause 166 (1) and (2) of the Mine Health and Safety Regulation 2007 (the Regulation), make the following Exemption Order as specified in the Schedule below.

Words and expressions used in this Order have the same meanings as in relevant provisions of the Mine Health and Safety Act 2004 (the Act) and the Regulation.

#### SCHEDULE

##### 1.0 Exemption

Subject to the conditions and for the period (if any, as applicable to the matter) specified in 2.0, this Order exempts an operator of a mine from complying with clause 16(1), to the extent that that provision requires a production manager to be appointed for the mine to supervise any extraction.

##### 2.0 Application, conditions and duration of exemptions

2.1 This exemption applies to the appointment of a production manager at a mine only if a person who holds the specified evidence of competence required to perform the functions of a production manager (as specified in clause 109 of the Regulation), is not available to supervise the extraction at the mine.

2.2 The operator of a mine must:

- (a) ensure that a competent person is nominated in the management structure (as required under section 35 of the Act), for the purposes of supervising the extraction at that mine, and
- (b) be satisfied that the nominated person is competent to supervise the extraction at the mine and is eligible for a permit pursuant to clause 21(a) and clause 21(b), and
- (c) notify the Chief Inspector in writing in the specified form.

2.3 Supervision of extraction at a mine by a person other than a person who holds the specified evidence of competence to perform the functions of a production manager, must not be for a period exceeding two months (whether consecutive or non-consecutive) in any one year.

2.4 The exemption in clause 1.0 does not apply if a notice served on the operator pursuant to clause 17 of the Regulation, is in force in respect of the mine.

2.5 The exemption made by this Order remains in force for five years from the date of its commencement.

This Order commences on 1 September 2008.

Dated this 19th day of August 2008.

ROBERT REGAN,  
Chief Inspector,  
Department of Primary Industries

#### MINE HEALTH AND SAFETY ACT 2004

#### MINE HEALTH AND SAFETY REGULATION 2007

##### Exemption – Return of Production Managers Permits to the Chief Inspector Order No. 1

I, ROBERT REGAN, Chief Inspector under the Mine Health and Safety Act 2004 (“the Act”), pursuant to clause 166 (1) and (2) of the Mine Health and Safety Regulation 2007 (“the Regulation”), make the following Exemption Order as specified in the Schedule below.

Words and expressions used in this Order have the same meanings as in relevant provisions of the Act and the Regulation.

#### SCHEDULE

##### 1.0 Exemption

Subject to the conditions and for the period (if any, as applicable to the matter) specified in 2.0, this Order exempts a person who is the holder of a production manager permit, from complying with clause 26(a), to the extent that that provision requires the holder to return the permit to the Chief Inspector within four weeks after ceasing to perform the functions of a production manager at the mine in relation to which the permit was issued.

This exemption allows more than one person to hold a production manager permit in respect of a mine at any one time.

##### 2.0 Application, conditions and duration of exemptions

2.1 This exemption only applies in relation to a permit that has not, at a date subsequent to when the holder ceased to perform the functions of a production manager at the relevant mine:

- (a) had any condition amended, or a further condition imposed, pursuant to clause 24 of the Regulation, or
- (b) been cancelled pursuant to clause 25 of the Regulation.

2.2 The exemption made by this Order remains in force for five years from the date of its commencement.

This Order commences on 1 September 2008.

Dated this 19th day of August 2008.

ROBERT REGAN,  
Chief Inspector,  
Department of Primary Industries

**STOCK DISEASES ACT 1923**

Noti cation No. 1815

Footrot Protected and Protected (Control) Areas – Goats

I, IAN MACDONALD, M.L.C., Minister for Primary Industries, pursuant to sections 3 (2) and 11A of the Stock Diseases Act 1923 (“the Act”):

- (a) revoke Stock Diseases Notification No. 1813 published in the *New South Wales Government Gazette* No. 87, of 11 July 2008, pages 6697-6698, and any Notification revived as a result of this revocation;
- (b) declare the lands described in Schedule A to be protected areas as regards the disease footrot in goats (those lands are referred to as “Footrot Protected Areas”, and are represented generally on the map titled “NSW Footrot Areas July 2008”);
- (c) declare the lands described in Schedule B to be protected (control) areas as regards the disease footrot in goats (those lands are referred to as “Footrot Protected (Control) Areas”, and are represented generally on the map titled “NSW Footrot Areas July 2008”);
- (d) prohibit a person from moving goats into any protected area or protected (control) area referred to in paragraphs(b) and (c), unless:
  - (i) the goats are moved in accordance with a permit under section 7 (6) of the Act; or
  - (ii) the goats are moved in accordance with an order under section 8 (1) (b) of the Act; or
  - (iii) all the requirements of section 20C (3) of the Act have been satisfied; or
  - (iv) the goats are infected with footrot but are being moved to a feedlot that:
    - transports all of its stock directly to slaughter; and
    - has been authorised in writing by the Director-General as a feedlot to which infected stock may be moved; or
  - (v) the goats are not infected with footrot and one or more of the following conditions are satisfied:
    - the goats are transported in a vehicle from any protected area referred to in paragraph (b) directly to any other protected area referred to in paragraph (b);
    - the goats are transported in a vehicle from any protected (control) area referred to in paragraph (c) directly to any other protected (control) area referred to in paragraph (c);
    - the goats are accompanied by a completed Owner/Vendor Declaration of Footrot Freedom form, as approved by the Deputy Director-General, Agriculture, Biosecurity and Mine Safety (“the declaration”), and that declaration is given to the person to whom the goats are delivered;
- (e) declare that, unless otherwise specified, in this Noti cation, a reference to a Rural Lands Protection District includes all land in that district, and a reference to a Division or part of a Division of a Rural Lands Protection District includes all land

in that Division or part of a Division. Rural Lands Protection Districts are established under the Rural Lands Protection Act 1998.

**SCHEDULE A**

NSW Footrot Protected Areas – Goats

North East Footrot Protected Area

The Rural Lands Protection Districts of Casino, Grafton, Kempsey and Tweed/Lismore.

New England Footrot Protected Area

The Armidale Rural Lands Protection District and the Northern New England Rural Lands Protection District.

North West Footrot Protected Area

The Rural Lands Protection Districts of Moree, Narrabri, Northern Slopes and Tamworth.

Orana Footrot Protected Area

The Rural Lands Protection Districts of Coonabarabran, Coonamble, Dubbo, Mudgee/Merriwa, Nyngan and Walgett

Central West Footrot Protected Area

The Rural Lands Protection Districts of Condobolin, Forbes, Molong, Young and Division A of the Central Tablelands Rural Lands Protection District.

Hunter Footrot Protected Area

The Rural Lands Protection Districts of Gloucester, Hunter and Maitland.

South East Footrot Protected Area

The Rural Lands Protection Districts of Bombala, Braidwood, Cooma, Goulburn, Moss Vale, South Coast and Yass.

Riverina Footrot Protected Area

The Rural Lands Protection Districts of Hay, Hume, Riverina, Narrandera, Murray and Wagga Wagga, and Division A, and the parts of Divisions C and D that are within the Kosciuszko National Park, of the Gundagai Rural Lands Protection District.

Western Division Footrot Protected Area

The Rural Lands Protection Districts of Balranald, Bourke, Brewarrina, Broken Hill, Cobar, Hillston, Milparinka, Wanaaring, Wentworth and Wilcannia.

**SCHEDULE B**

NSW Footrot Protected (Control) Areas – Goats

Central West Footrot Protected (Control) Area

Divisions B, C, D, E, F, G and H of the Central Tablelands Rural Lands Protection District.

Riverina Footrot Protected (Control) Area

Division B, and the parts of Divisions C and D that are not within the Kosciuszko National Park, of the Gundagai Rural Lands Protection District.

Notes

It is an offence under section 20H (1) (a) of the Act to contravene a provision of this Noti cation.

Maximum penalty for such an offence is \$11,000.

A Protected (Control) Area is an area with a moderate prevalence of a disease (section 11A (1A) of the Act). This is different to a Protected area, where there is a lower prevalence of a disease (section 11A (1B) of the Act).

A map of the Protected Areas and the Protected (Control) Areas with respect to footrot in sheep and goats is published on the NSW Department of Primary Industries internet website at <http://www.dpi.nsw.gov.au/agriculture/livestock/sheep/health/footrot/map>.

A person who receives a completed Owner/Vendor Declaration of Footrot Freedom form is advised to retain it as evidence of compliance with this Notification.

Notification No. 1815 is the NSW Department of Primary Industries' reference.

For further information, contact the NSW Department of Primary Industries on (02) 6391 3248.

Dated this 20th day of August 2008.

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

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### MINERAL RESOURCES

NOTICE is given that the following applications have been received:

#### PETROLEUM EXPLORATION LICENCE APPLICATIONS

(08-4934)

No. 104, NORWEST HYDROCARBONS PTY LTD (ACN 129 874 951), area of 136 blocks, dated 16 June 2008. (Eromanga Basin).

(T08-0153)

No. 105, LEICHHARDT RESOURCES PTY LTD (ACN 125 844 448), area of 24 blocks, dated 25 June 2008. (Sydney Onshore Basin).

(T08-0154)

No. 106, LEICHHARDT RESOURCES PTY LTD (ACN 125 844 448), area of 45 blocks, dated 25 June 2008. (Sydney Onshore Basin).

(T08-0155)

No. 107, LEICHHARDT RESOURCES PTY LTD (ACN 125 844 448), area of 10 blocks, dated 25 June 2008. (Gunnedah Basin).

(T08-0159)

No. 108, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042), area of 140 blocks, dated 18 July 2008. (Murray Darling Basin).

(T08-0160)

No. 109, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042), area of 140 blocks, dated 18 July 2008. (Murray Darling Basin).

(T08-0161)

No. 110, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042), area of 140 blocks, dated 18 July 2008. (Murray Darling Basin).

#### PETROLEUM SPECIAL PROSPECTING AUTHORITY APPLICATIONS

(08-4754)

No. 36, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042), area of 36 blocks, dated 13 June 2008. (Not located within an identified Basin).

(T08-0156)

No. 37, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042), area of 63 blocks, dated 27 June 2008. (Murray Basin).

(T08-0158)

No. 38, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042), area of 197 blocks, dated 15 July 2008. (Murray Darling Basin).

#### PETROLEUM ASSESSMENT LEASE APPLICATIONS

(T08-0162)

No. 5, AUSTRALIAN COALBED METHANE PTY LIMITED (ACN 002 606 288), area of 250 square kilometres, dated 12 August 2008. (Gunnedah Basin).

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

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### EXPLORATION LICENCE APPLICATIONS

(T08-0102)

No. 3504, ORESUM LIMITED (ACN 129 712 465), area of 92 units, for Group 1 and Group 2, dated 6 June 2008. (Inverell Mining Division).

(T08-0205)

No. 3579, AUSTRALIAN BAUXITE (INVERELL) PTY LTD (ACN 008701255), area of 68 units, for Group 2, dated 13 August 2008. (Inverell Mining Division).

(T08-0206)

No. 3580, BLUEKEBBLE PTY LTD (ACN 116 958 508), area of 10 units, for Group 2, dated 14 August 2008. (Sydney Mining Division).

(T08-0207)

No. 3581, HUDSON RESOURCES LIMITED (ACN 008 720 965), area of 99 units, for Group 2, dated 20 August 2008. (Sydney Mining Division).

(T08-0208)

No. 3582, HUDSON RESOURCES LIMITED (ACN 008 720 965), area of 90 units, for Group 2, dated 20 August 2008. (Sydney Mining Division).

(T08-0209)

No. 3583, HUDSON RESOURCES LIMITED (ACN 008 720 965), area of 78 units, for Group 2, dated 20 August 2008. (Sydney Mining Division).

(T08-0210)

No. 3584, SILVER CITY MINING LIMITED (ACN 130 933 309), area of 41 units, for Group 1, dated 22 August 2008. (Broken Hill Mining Division).

(T08-0211)

No. 3585, SILVER CITY MINING LIMITED (ACN 130 933 309), area of 48 units, for Group 1, dated 22 August 2008. (Broken Hill Mining Division).

(T08-0212)

No. 3586, SILVER CITY MINING LIMITED (ACN 130 933 309), area of 73 units, for Group 1, dated 22 August 2008. (Broken Hill Mining Division).

(T08-0213)

No. 3587, RIMFIRE AUSTRALIA PTY LTD (ACN 121 382 554), area of 33 units, for Group 1, dated 25 August 2008. (Orange Mining Division).

(T08-0214)

No. 3588, BANLONA PTY LIMITED (ACN 106 665 767), area of 23 units, for Group 1, dated 26 August 2008. (Inverell Mining Division).

#### **MINING LEASE APPLICATION**

(08-3604)

No. 323, COAL AND ALLIED OPERATIONS PTY LIMITED (ACN 000 023 656), area of about 45.1 square kilometres, to mine for coal, dated 12 August 2008. (Singleton Mining Division).

NOTICE is given that the following application has been received:

#### **CANCELLATION**

T03-0032

Application for cancellation of Exploration Licence No 6283 (Act 1992), by the holder WILSON GEMS & INVESTMENTS PTY LTD (ACN 001 155 755), was received on 6 August 2008.

06-4195

Application for cancellation of Exploration Licence No 6756 (Act 1992), by the holder NEWCREST OPERATIONS LIMITED (ACN 009 221 505), was received on 25 August 2008.

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

NOTICE is given that the following applications have been granted:

#### **ASSESSMENT LEASE APPLICATION**

(07-344)

Broken Hill No. 42, now Assessment Lease No. 16, ILUKA RESOURCES LIMITED (ACN 008 675 018), Parish of Bingoo, County of Wentworth; Parish of Emu, County of Wentworth; Parish of Merche, County of Wentworth; Parish of Palinyewah, County of Wentworth; and Parish of Tugima, County of Wentworth, area of about 79.68 square kilometres, for ilmenite, leucosene, rutile and zircon, dated 9 July 2008, for a term until 9 July 2013. As a result of the grant of this title, Exploration Licence No. 5542 and Exploration Licence No. 5544 have partly ceased to have effect.

#### **EXPLORATION LICENCE APPLICATIONS**

(07-345)

No. 3243, now Exploration Licence No. 7189, TASMAN GOLDFIELDS NSW PTY LTD (ACN 124 228 473), Counties of Buccleuch, Clarendon, Harden and Wynyard, Map Sheet (8527), area of 100 units, for Group 1, dated 15 August 2008, for a term until 15 August 2010.

(07-346)

No. 3244, now Exploration Licence No. 7190, TASMAN GOLDFIELDS NSW PTY LTD (ACN 124 228 473), Counties of Clarendon and Wynyard, Map Sheet (8427, 8527), area of 80 units, for Group 1, dated 15 August 2008, for a term until 15 August 2010.

(T07-0464)

No. 3323, now Exploration Licence No. 7191, Nejat MACKALI, Counties of Barrona, Irrara, Thoulcanna and Ularara, Map Sheet (7638, 7738), area of 375 units, for Group 8, dated 21 August 2008, for a term until 21 August 2010.

(T07-0479)

No. 3338, now Exploration Licence No. 7183, RIDGE EXPLORATION PTY LTD (ACN 127215132), County of Rous, Map Sheet (9540, 9541), area of 23 units, for Group 1, dated 31 July 2008, for a term until 31 July 2010.

(T08-0040)

No. 3440, now Exploration Licence No. 7182, ST BARBARA LIMITED (ACN 009 165 066), Counties of Gowen, Lincoln and Napier, Map Sheet (8734), area of 100 units, for Group 1, dated 5 August 2008, for a term until 5 August 2010.

(T08-0042)

No. 3442, now Exploration Licence No. 7188, M. A. ROCHE GROUP PTY LTD (ACN 060 536 441) and Wallace George SAUL, Counties of Hawes and Macquarie, Map Sheet (9234, 9235, 9334, 9335), area of 73 units, for Group 1, dated 14 August 2008, for a term until 14 August 2010.

(T08-0072)

No. 3472, now Exploration Licence No. 7184, SCORPIO RESOURCES PTY LTD (ACN 109 158 769), County of Clarke, Map Sheet (9237, 9337), area of 89 units, for Group 1, dated 31 July 2008, for a term until 31 July 2010.

(T08-0073)

No. 3473, now Exploration Licence No. 7185, SCORPIO RESOURCES PTY LTD (ACN 109 158 769), County of Dudley, Map Sheet (9436), area of 48 units, for Group 1, dated 31 July 2008, for a term until 31 July 2010.

(T08-0079)

No. 3481, now Exploration Licence No. 7187, CALIBRE MINING (AUSTRALIA) PTY LTD (ACN 117 327 429), County of Cunningham, Map Sheet (8432), area of 7 units, for Group 1, dated 12 August 2008, for a term until 12 August 2010.

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

NOTICE is given that the following application has been refused:

#### **EXPLORATION LICENCE APPLICATION**

(07-241)

No. 3138, MUDGE STONE CO. PTY LIMITED (ACN 100 974 365), County of Cook, County of Roxburgh and County of Westmoreland, Map Sheet (8830, 8831, 8930, 8931). Refusal took effect on 15 August 2008.

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



NOTICE is given that the following applications have been withdrawn:

**EXPLORATION LICENCE APPLICATIONS**

(T08-0061)

No. 3460, AUGUR RESOURCES LTD (ACN 106 879 690), County of Cunningham and County of Gipps, Map Sheet (8331). Withdrawal took effect on 18 August 2008.

(T08-0062)

No. 3461, AUGUR RESOURCES LTD (ACN 106 879 690), County of Gipps, Map Sheet (8331). Withdrawal took effect on 18 August 2008.

(T08-0088)

No. 3490, VOLCAN ALUMINA CORPORATION PTY LTD (ACN 130 185 885), County of Arrawatta, County of Burnett, County of Gough, County of Hardinge and County of Murchison, Map Sheet (9038, 9039, 9138, 9139). Withdrawal took effect on 2 July 2008.

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

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

(T04-0005)

Exploration Licence No. 6263, MALACHITE RESOURCES NL (ACN 075 613 268), area of 50 units. Application for renewal received 23 May 2008.

(05-5354)

Petroleum Exploration Licence No. 451, RED SKY ENERGY LIMITED (ACN 099 116 275), area of 105 blocks. Application for renewal received 3 July 2008.

(T98-1075)

Exploration Licence No. 5524, NEWCREST OPERATIONS LIMITED (ACN 009 221 505), area of 53 units. Application for renewal received 15 August 2008.

(08-6630)

Exploration Licence No. 5525, MARUBENI THERMAL COAL PTY LTD (ACN 061 468 620), ANGLO COAL (DARTBROOK) PTY LTD (ACN 000 012 813) and SSANGYONG RESOURCES PTY LIMITED (ACN 071 744 986), area of 692 hectares. Application for renewal received 20 August 2008.

(T00-0056)

Exploration Licence No. 5785, COBAR OPERATIONS PTY LTD (ACN 103 555 853), area of 264 units. Application for renewal received 25 August 2008.

(05-2323)

Exploration Licence No. 5899, BOULDER MINING PTY LTD (ACN 112 796 308), area of 76 hectares. Application for renewal received 25 August 2008.

(T02-0093)

Exploration Licence No. 5997, STRAITS (HILLGROVE) GOLD PTY LTD (ACN 102 660 506), area of 13 units. Application for renewal received 25 August 2008.

(T02-0065)

Exploration Licence No. 5998, PAN GEM RESOURCES (AUST) PTY LTD (ACN 064 972 621), area of 3 units. Application for renewal received 15 August 2008.

(T03-0009)

Exploration Licence No. 6292, GOLDEN CROSS OPERATIONS PTY LTD (ACN 050 212 827), area of 26 units. Application for renewal received 15 August 2008.

(04-515)

Exploration Licence No. 6295, COMET RESOURCES LIMITED (ACN 060 628 202), area of 9 units. Application for renewal received 14 August 2008.

(04-501)

Exploration Licence No. 6302, COBAR CONSOLIDATED RESOURCES LIMITED (ACN 118 684 576), area of 192 units. Application for renewal received 22 August 2008.

(04-523)

Exploration Licence No. 6304, Donald John PERKIN and MINEXCHANGE PROPRIETARY LIMITED (ACN 086 042 524), area of 49 units. Application for renewal received 21 August 2008.

(04-525)

Exploration Licence No. 6305, Donald John PERKIN and MINEXCHANGE PROPRIETARY LIMITED (ACN 086 042 524), area of 28 units. Application for renewal received 21 August 2008.

(06-64)

Exploration Licence No. 6625, OROYA MINING LIMITED (ACN 009 146 794), area of 50 units. Application for renewal received 25 August 2008.

(06-65)

Exploration Licence No. 6626, OROYA MINING LIMITED (ACN 009 146 794), area of 53 units. Application for renewal received 25 August 2008.

(06-66)

Exploration Licence No. 6627, OROYA MINING LIMITED (ACN 009 146 794), area of 53 units. Application for renewal received 25 August 2008.

(06-67)

Exploration Licence No. 6628, OROYA MINING LIMITED (ACN 009 146 794), area of 52 units. Application for renewal received 25 August 2008.

(06-68)

Exploration Licence No. 6629, OROYA MINING LIMITED (ACN 009 146 794), area of 46 units. Application for renewal received 25 August 2008.

(06-226)

Exploration Licence No. 6637, TECK COMINCO AUSTRALIA PTY LTD (ACN 091 271 911), area of 91 units. Application for renewal received 21 August 2008.

(06-4076)

Exploration Licence No. 6638, BEMAX RESOURCES LIMITED (ACN 009 247 858), area of 70 units. Application for renewal received 22 August 2008.

(T02-0674)

Mining Purposes Lease No. 317 (Act 1973), Peter David HALL, area of 9370 square metres. Application for renewal received 14 August 2008.

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

**RENEWAL OF CERTAIN AUTHORITIES**

NOTICE is given that the following authorities have been renewed:

(T01-0604)

Petroleum Exploration Licence No. 12, AUSTRALIAN COALBED METHANE PTY LIMITED (ACN 002 606 288), area of about 31 blocks, for a further term until 26 September 2011. Renewal effective on and from 31 January 2008.

(C92-0624)

Petroleum Exploration Licence No. 238, EASTERN STAR GAS LIMITED (ACN 094 269 780), area of about 121 blocks, for a further term until 2 August 2011. Renewal effective on and from 5 March 2008.

(T93-0814)

Exploration Licence No. 4657, PLATSEARCH NL (ACN 003 254 395), County of Yancowinna, Map Sheet (7134), area of 2 units, for a further term until 20 April 2010. Renewal effective on and from 5 August 2008.

(05-682)

Exploration Licence No. 5939, ATLAS RESOURCES PTY LIMITED (ACN 003 463 036), County of Beresford, Map Sheet (8725, 8726), area of 12 units, for a further term until 29 April 2009. Renewal effective on and from 14 August 2008.

(T03-0856)

Exploration Licence No. 6190, THE COLONIAL COPPER COMPANY PTY LTD (ACN 007 930 243), County of Farnell, Map Sheet (7134, 7135), area of 15 units, for a further term until 3 February 2010. Renewal effective on and from 14 August 2008.

(T03-0995)

Exploration Licence No. 6228, PLATINA RESOURCES LIMITED (ACN 119 007 939), Counties of Cunningham and Kennedy, Map Sheet (8332, 8432), area of 26 units, for a further term until 14 April 2010. Renewal effective on and from 25 August 2008.

(T04-0020)

Exploration Licence No. 6241, RIMFIRE PACIFIC MINING NL (ACN 006 911 744), Counties of Cunningham and Kennedy, Map Sheet (8332, 8432), area of 15 units, for a further term until 16 May 2010. Renewal effective on and from 22 August 2008.

(T04-0018)

Exploration Licence No. 6246, CARPENTARIA EXPLORATION LIMITED (ACN 095 117 981), County of Narromine, Map Sheet (8532), area of 12 units, for a further term until 24 May 2010. Renewal effective on and from 19 August 2008.

(05-277)

Exploration Licence No. 6559, ICON RESOURCES LTD (ACN 115 009 106), County of Monteagle, Map Sheet (8529, 8530), area of 10 units, for a further term until 12 April 2010. Renewal effective on and from 19 August 2008.

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

**CANCELLATION OF AUTHORITIES AT REQUEST OF HOLDERS**

NOTICE is given that the following authorities have been cancelled:

(T03-0032)

Exploration Licence No. 6283, WILSON GEMS & INVESTMENTS PTY LTD (ACN 001 155 755), County of Arrawatta, Map Sheet (9138), area of 3 units. Cancellation took effect on 14 August 2008.

(06-4200)

Exploration Licence No. 6779, RIMFIRE AUSTRALIA PTY LTD (ACN 121 382 554), County of Ashburnham and County of Forbes, Map Sheet (8431), area of 12 units. Cancellation took effect on 15 August 2008.

(06-4201)

Exploration Licence No. 6780, RIMFIRE AUSTRALIA PTY LTD (ACN 121 382 554), County of Forbes, Map Sheet (8630), area of 20 units. Cancellation took effect on 15 August 2008.

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

**TRANSFERS**

(08-4417)

Exploration Licence No. 4512, formerly held by WESTERN PLAINS RESOURCES LTD (ACN 109 426 502) has been transferred to CALIBRE MINING (AUSTRALIA) PTY LTD (ACN 117 327 429). The transfer was registered on 14 August 2008.

(T00-0059)

Exploration Licence No. 5793, formerly held by TRIAKO RESOURCES LIMITED (ACN 008 498 119) has been transferred to GOLDEN REEF ENTERPRISES PTY LTD (ACN 008 138 136) and TRIAKO RESOURCES LIMITED (ACN 008 498 119). The transfer was registered on 13 August 2008.

(T03-0065)

Exploration Licence No. 6172, formerly held by DART RESOURCES PTY LTD (ACN 050 030 245) has been transferred to DART MINING NL (ACN 119 904 880). The transfer was registered on 1 August 2008.

(07-85)

Exploration Licence No. 6281, formerly held by CONARCO MINERALS PTY LTD (ACN 102 750 890) has been transferred to JACARANDA MINERALS LTD. The transfer was registered on 18 August 2008.

(07-85)

Exploration Licence No. 6835, formerly held by CONARCO MINERALS PTY LTD (ACN 102 750 890) has been transferred to JACARANDA MINERALS LTD. The transfer was registered on 18 August 2008.

(07-85)

Exploration Licence No. 6985, formerly held by CONARCO MINERALS PTY LTD (ACN 102 750 890) has been transferred to JACARANDA MINERALS LTD. The transfer was registered on 18 August 2008.

(C01-0006)

Petroleum Exploration Licence No. 437 formerly held by PANGAEA OIL & GAS PTY LIMITED (ACN 068 812 171) has been transferred to PANGAEA PEL 437 PTY LIMITED (ACN 121 204 322). The transfer was registered on 19 June 2008.

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

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#### EXPIRY

Mining Lease No. 1193 (Act 1973), Frederick Theodore GULSON, Parish of Vernon, County of Dudley. This title expired on 18 August, 2008.

(06-3322)

Petroleum Special Prospecting Authority No. 19, ENERGETICA RESOURCES PTY LTD (ACN 113 926 042). This title expired on 19 July 2008.

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

#### WITHDRAWAL OF APPLICATIONS FOR RENEWAL

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

(05-5712)

Petroleum Special Prospecting Authority No. 12, HARDIE INFRASTRUCTURE PTY LTD (ACN 105 959 804), area of 2388 blocks. The authority ceased to have effect on 22 July 2008.

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

## Roads and Traffic Authority

### ROAD TRANSPORT (GENERAL) ACT 2005

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

TWEED SHIRE 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 25 metre B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

PATRICK KNIGHT,  
Acting General Manager,  
Tweed Shire Council  
(by delegation from the Minister for Roads)  
Dated: 26 June 2008

#### SCHEDULE

**1. Citation**

This Notice may be cited as Tweed Shire Council 25 Metre B-Double route Notice No. 01/2008.

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30th September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those 25 metre B-Double vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 2 of the Road Transport (Vehicle Registration) Regulation 2007.

**5. Routes**

<i>Type</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>
25.	Lundberg Drive.	Quarry Road.	Wardrop Valley Road 650m.

### ROAD TRANSPORT (GENERAL) ACT 2005

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

GILGANDRA SHIRE COUNCIL 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.

P. A. MANN,  
General Manager,  
Gilgandra Shire Council  
(by delegation from the Minister for Roads)  
Dated: 19 August 2008

#### SCHEDULE

**1. Citation**

This Notice may be cited as Gilgandra Shire Council B-Double route Notice No. 4/2008.

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30th September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those 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>
25.	572.	N/A.	N/A.	N/A.	The entire length of Regional Road 572 within Gilgandra Shire is off limits to B Doubles.



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

Notice of Compulsory Acquisition of Land at  
Wentworth Falls in the Blue Mountains City 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

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SCHEDULE

ALL those pieces or parcels of land situated in the Blue Mountains City Council area, Parish of Jamison and County of Cook, shown as:

Lot 415 Deposited Plan 1122777 and Lot B Deposited Plan 430665, being part of the land in Certificate of Title Auto Consol 7808-1 and said to be in the possession of A O I Development Co Pty Limited;

Lot 414 Deposited Plan 1122777, being part of the land in Certificate of Title 58/7145 and said to be in the possession of G S A Enterprises Pty Limited (registered proprietor) and National Australia Bank Limited (mortgagee); and

Lots 5 and 6 Section A Deposited Plan 8845, being the whole of the land in Certificate of Title Auto Consol 8372-92 and said to be in the possession of Roma Eileen Bourke;

excluding any existing easements from the compulsory acquisition of the land listed above.

(RTA Papers: FPP 8M1622)

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

Notice of Compulsory Acquisition of Land  
at Edmondson Park in the Liverpool City 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

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SCHEDULE

ALL those pieces or parcels of land situated in the Liverpool City Council area, Parish of Minto and County of Cumberland, shown as:

Lot 12 Deposited Plan 1081934, being part of the land in Certificate of Title 1/520965 and said to be in the possession of Slobodan Petrovic and Rita Petrovic; and

Lots 112 and 113 Deposited Plan 1081794, being parts of the land in Certificate of Title Auto Consol 11391-19 and said to be in the possession of Garry Wayne O'Neill and Robyn Anne O'Neill (registered proprietors), National Australia Bank Limited (mortgagee) and Landcom (caveator);

excluding any existing easements from the compulsory acquisition of the land listed above.

(RTA Papers: FPP 8M1621)

**ROADS ACT 1993**

Notice of Dedication of Land as Public Road  
at Pambula, South Pambula and Greigs Flat  
in the Bega Valley 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

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**SCHEDULE**

All those pieces or parcels of land situated in the Bega Valley Shire Council area, Parishes of Pambula and Yowaka, County of Auckland, shown as:

Lots 10 to 17 inclusive Deposited Plan 1104996;

Lot 320 Deposited Plan 1098908; and

Lot 952 Deposited Plan 1103736.

(RTA Papers: 1/32.1250)

**ROADS ACT 1993**

Order – Section 31

Fixing or Varying of Levels  
of part of Main Road No. 92 (Braidwood Road)  
in the Local Government Area of Shoalhaven City

The Roads and Traffic Authority of New South Wales by this Order under Section 31 of the Roads Act 1993, fixes or varies the levels of a part of Main Road No. 92- Braidwood Road from Tianjara to Billy's Hill (23.6 km to 44.2km west of Hames Road, Nowra), as shown on Roads and Traffic Authority plans No. 0092 404 RC 2732, 0092 404 RC 2729 and 0092 404 RC 2733.

R Watson  
Project Services Manager  
Roads and Traffic Authority of New South Wales  
Level 4, 90 Crown Street,  
Wollongong, NSW 2500

(RTA Papers: FPP 7M4032; RO 404.1371)

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

Notice of Compulsory Acquisition of Land  
at Baulkham Hills, Winston Hills, North Rocks, Carlingford and West Pennant Hills  
in the Baulkham Hills Shire 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, exclusive of the interests detailed in the third column thereof, 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.

Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

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**SCHEDULE**

ALL those pieces or parcels of land situated in the Baulkham Hills Shire Council area, Parishes of Castle Hill, St John and Field of Mars, County of Cumberland, shown as:

<u>Description</u>	<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 6 DP872526	Folio Identifier 6/872526	
Lot 7 DP872526	Folio Identifier 7/872526	DP1013284- Easement for Drainage of Water 1 metre wide
Lot 8 DP872526	Folio Identifier 8/872526	
Lot 6 DP1100798	Folio Identifier 6/1100798	
Lot 8 DP1100798	Folio Identifier 8/1100798	
Lot 9 DP1100798	Folio Identifier 9/1100798	
Lot 7 DP1100798	Folio Identifier 7/1100798	
Lot 225 DP238584	Folio Identifier 225/238584	
Lot 11 DP871664	Folio Identifier 11/871664	
Lot 12 DP871664	Folio Identifier 12/871664	
Lot 13 DP871664	Folio Identifier 13/871664	
Lot 3 DP565881	Folio Identifier 3/565881	
Lot 10 DP235612	Folio Identifier 10/235612	
Lot 2 DP1087470	Folio Identifier 2/1087470	S499253- Easement for Watermain 5 metres wide- DP599465
Lot 4 DP871024	Folio Identifier 4/871024	
Lot 9 DP871024	Folio Identifier 9/871024	
Lot 10 DP871024	Folio Identifier 10/871024	
Lot 11 DP871024	Folio Identifier 11/871024	
Lot 5 DP871024	Folio Identifier 5/871024	
Lot 6 DP871024	Folio Identifier 6/871024	
Lot 1 DP856432	Folio Identifier 1/856432	

<u>Description</u>		<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 3	DP871024	Folio Identifier 3/871024	
Lot 7	DP871024	Folio Identifier 7/871024	
Lot 3	DP856432	Folio Identifier 3/856432	
Lot 5	DP875380	Folio Identifier 5/875380	
Lot A	DP420155	Folio Identifier A/420155	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 1	DP213888	Folio Identifier 1/213888	
Lot 2	DP213888	Folio Identifier 2/231888	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 11	DP873386	Folio Identifier 11/873386	
Lot 12	DP873386	Folio Identifier 12/873386	2268337- Easement for Rock Anchors in Stratum- DP266332 5076864- Easement for Rock Anchors in Stratum- DP873386 5076864- Right of Access- DP873386
Lot 6	DP506413	Folio Identifier 6/506413	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 4	DP506413	Folio Identifier 4/506413	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 5	DP506413	Folio Identifier 5/506413	
Lot 13	DP873386	Folio Identifier 13/873386	
Lot 1	DP38443	Folio Identifier 1/38443	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 2	DP38443	Folio Identifier 2/38443	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 3	DP88735	Folio Identifier 3/88735	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 4	DP38443	Folio Identifier 4/38443	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 5	DP38443	Folio Identifier 5/38443	2268337- Easement for Rock Anchors in Stratum- DP266332
Lot 6	DP38443	Folio Identifier 6/38443	
Lot 7	DP38443	Folio Identifier 7/38443	
Lot 8	DP38443	Folio Identifier 8/38443	
Lot 9	DP38443	Folio Identifier 9/38443	
Lot 10	DP38443	Folio Identifier 10/38443	
Lot 11	DP38443	Folio Identifier 11/38443	
Lot 12	DP38443	Folio Identifier 12/38443	
Lot 13	DP38443	Folio Identifier 13/38443	
Lot 14	DP876337	Folio Identifier 14/876337	5964448- Right of Access- DP876337 5497521- Right of Access- DP876337 6293765- Right of Access- DP876337 5621640- Right of Access- DP876337 5242449- Right of Access- DP876337
Lot 1	DP27805	Folio Identifier 1/27805	
Lot 1	DP512679	Folio Identifier 1/512679	
Lot A	DP163569	Folio Identifier A/163569	
Lot B	DP163569	Folio Identifier B/163569	
Lot 15	DP876337	Folio Identifier 15/876337	
Lot 303	DP863790	Folio Identifier 303/863790	
Lot 2	DP38914	Folio Identifier 2/38914	
Lot 3	DP38914	Folio Identifier 3/38914	
Lot 8	DP879535	Folio Identifier 8/879535	

<u>Description</u>		<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 11	DP879535	Folio Identifier 11/879535	
Lot A	DP163249	Folio Identifier A/163249	
Lot B	DP163249	Folio Identifier B/163249	
Lot C	DP163249	Folio Identifier C/163249	
Lot D	DP163249	Folio Identifier D/163249	
Lot B	DP399100	Folio Identifier B/399100	
Lot 1	DP20994	Folio Identifier 1/20994	
Lot 2	DP20994	Folio Identifier 2/20994	
Lot 3	DP20994	Folio Identifier 3/20994	
Lot 4	DP20994	Folio Identifier 4/20994	
Lot C	DP380661	Folio Identifier C/380661	
Lot D	DP380661	Folio Identifier D/380661	
Lot 9	DP879535	Folio Identifier 9/879535	
Lot 10	DP879535	Folio Identifier 10/879535	
Lot 18	DP875893	Folio Identifier 18/875893	
Lot 19	DP875893	Folio Identifier 19/875893	
Lot 20	DP875893	Folio Identifier 20/875893	
Lot 21	DP875893	Folio Identifier 21/875893	
Lot 22	DP875893	Folio Identifier 22/875893	
Lot 23	DP875893	Folio Identifier 23/875893	
Lot 24	DP875893	Folio Identifier 24/875893	
Lot 25	DP875893	Folio Identifier 25/875893	
Lot 26	DP875893	Folio Identifier 26/875893	
Lot 7	DP866897	Folio Identifier 7/866897	
Lot 133	DP13443	Folio Identifier 133/13443	
Lot 8	DP866897	Folio Identifier 8/866897	
Lot 131	DP13443	Folio Identifier 131/13443	
Lot 9	DP866897	Folio Identifier 9/866897	
Lot 10	DP866897	Folio Identifier 10/866897	
Lot 11	DP866897	Folio Identifier 11/866897	
Lot 33	DP842944	Folio Identifier 33/842944	DP201089- Easement for Drainage
Lot 34	DP842944	Folio Identifier 34/842944	
Lot 5	DP874876	Folio Identifier 5/874876	5522750- Easement to Drain Water- DP874876 5522750- Right of Access- DP874876
Lot 6	DP874876	Folio Identifier 6/874876	
Lot 7	DP874876	Folio Identifier 7/874876	5947058- Easement to Drain Water- DP874876 5947058- Right of Access- DP874876 6017582- Easement to Drain Water- DP874876 6017582- Right of Access- DP874876 6351415- Easement to Drain Water- DP874876 6351415- Right of Access- DP874876
Lot 3	DP882594	Folio Identifier 3/882594	
Lot 11	DP201089	Folio Identifier 11/201089	

<u>Description</u>		<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 13	DP881862	Folio Identifier 13/881862	
Lot 14	DP881862	Folio Identifier 14/881862	AD335888- Easement for Drainage- DP881862 AD335888- Right of Access- DP881862
Lot 15	DP881862	Folio Identifier 15/881862	DP1114923- Easement to Permit Encroachment DP1114923- Right of Access AD335889- Easement for Drainage- DP881862 AD335889- Right of Access- DP881862
Lot 46	DP842944	Folio Identifier 46/842944	
Lot 47	DP842944	Folio Identifier 47/842944	
Lot 48	DP842944	Folio Identifier 48/842944	
Lot 49	DP842944	Folio Identifier 49/842944	
Lot 2	DP242541	Folio Identifier 2/242541	
Lot 1	DP246648	Folio Identifier 1/246648	
Lot 3	DP875420	Folio Identifier 3/875420	
Lot 4	DP875420	Folio Identifier 4/875420	
Lot 7	DP875420	Folio Identifier 7/875420	
Lot 6	DP875420	Folio Identifier 6/875420	
Lot 5	DP875420	Folio Identifier 5/875420	
Lot 70	DP841121	Folio Identifier 70/841121	
Lot 59	DP841121	Folio Identifier 59/841121	
Lot 60	DP841121	Folio Identifier 60/841121	
Lot 36	Section 3 DP979720	Folio Identifier 36/3/979720	
Lot 35	Section 3 DP979720	Folio Identifier 35/3/979720	
Lot 34	Section 3 DP979720	Folio Identifier 34/3/979720	
Lot 33	Section 3 DP979720	Folio Identifier 33/3/979720	
Lot 32	Section 3 DP979720	Folio Identifier 32/3/979720	
Lot 31	Section 3 DP979720	Folio Identifier 31/3/979720	
Lot 30	Section 3 DP979720	Folio Identifier 30/3/979720	
Lot 29	Section 3 DP979720	Folio Identifier 29/3/979720	
Lot 28	Section 3 DP979720	Folio Identifier 28/3/979720	
Lot 27	Section 3 DP979720	Folio Identifier 27/3/979720	
Lot 26	Section 3 DP979720	Folio Identifier 26/3/979720	
Lot 25	Section 3 DP979720	Folio Identifier 25/3/979720	
Lot 24	Section 3 DP979720	Folio Identifier 24/3/979720	
Lot 23	Section 3 DP979720	Folio Identifier 23/3/979720	
Lot 22	Section 3 DP979720	Folio Identifier 22/3/979720	
Lot 21	Section 3 DP979720	Folio Identifier 21/3/979720	
Lot 38	DP841121	Folio Identifier 38/841121	
Lot 61	DP841121	Folio Identifier 61/841121	
Lot 62	DP841121	Folio Identifier 62/841121	
Lot 63	DP841121	Folio Identifier 63/841121	

<u>Description</u>		<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 64	DP841121	Folio Identifier 64/841121	
Lot 65	DP841121	Folio Identifier 65/841121	
Lot 66	DP841121	Folio Identifier 66/841121	
Lot 67	DP841121	Folio Identifier 67/841121	
Lot 31	DP841121	Folio Identifier 31/841121	
Lot 32	DP841121	Folio Identifier 32/841121	
Lot 33	DP841121	Folio Identifier 33/841121	
Lot 34	DP841121	Folio Identifier 34/841121	
Lot 35	DP841121	Folio Identifier 35/841121	
Lot 36	DP841121	Folio Identifier 36/841121	
Lot 37	DP841121	Folio Identifier 37/841121	
Lot 94	Section 3 DP979720	Folio Identifier 94/3/979720	
Lot 95	Section 3 DP979720	Folio Identifier 95/3/979720	
Lot 96	Section 3 DP979720	Folio Identifier 96/3/979720	
Lot 71	DP841121	Folio Identifier 71/841121	
Lot 39	DP841121	Folio Identifier 39/841121	
Lot 40	DP841121	Folio Identifier 40/841121	
Lot 41	DP841121	Folio Identifier 41/841121	
Lot 42	DP841121	Folio Identifier 42/841121	
Lot 43	DP841121	Folio Identifier 43/841121	
Lot 44	DP841121	Folio Identifier 44/841121	
Lot 45	DP841121	Folio Identifier 45/841121	
Lot 46	DP841121	Folio Identifier 46/841121	
Lot 47	DP841121	Folio Identifier 47/841121	
Lot 48	DP841121	Folio Identifier 48/841121	
Lot 49	DP841121	Folio Identifier 49/841121	
Lot 50	DP841121	Folio Identifier 50/841121	
Lot 51	DP841121	Folio Identifier 51/841121	
Lot 52	DP841121	Folio Identifier 52/841121	
Lot 53	DP841121	Folio Identifier 53/841121	
Lot 54	DP841121	Folio Identifier 54/841121	
Lot 24	DP880779	Folio Identifier 24/880779	
Lot 25	DP880779	Folio Identifier 25/880779	
Lot 26	DP880779	Folio Identifier 26/880779	
Lot 27	DP880779	Folio Identifier 27/880779	
Lot 28	DP880779	Folio Identifier 28/880779	
Lot 29	DP880779	Folio Identifier 29/880779	
Lot 30	DP880779	Folio Identifier 30/880779	
Lot 31	DP880779	Folio Identifier 31/880779	

<u>Description</u>	<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 32 DP880779	Folio Identifier 32/880779	
Lot 33 DP880779	Folio Identifier 33/880779	
Lot 34 DP880779	Folio Identifier 34/880779	
Lot 35 DP880779	Folio Identifier 35/880779	
Lot 36 DP880779	Folio Identifier 36/880779	
Lot 37 DP880779	Folio Identifier 37/880779	
Lot 28 DP841121	Folio Identifier 28/841121	
Lot 25 DP841121	Folio Identifier 25/841121	
Lot 29 DP841121	Folio Identifier 29/841121	
Lot 55 DP841121	Folio Identifier 55/841121	
Lot 56 DP841121	Folio Identifier 56/841121	
Lot 57 DP841121	Folio Identifier 57/841121	
Lot 58 DP841121	Folio Identifier 58/841121	
Lot 10 DP841630	Folio Identifier 10/841630	
Lot 14 DP841630	Folio Identifier 14/841630	
Lot 17 DP843588	Folio Identifier 17/843588	
Lot 3 DP881040	Folio Identifier 3/881040	
Lot 17 DP841630	Folio Identifier 17/841630	
Lot 18 DP841630	Folio Identifier 18/841630	
Lot 19 DP841630	Folio Identifier 19/841630	
Lot 5 DP877235	Folio Identifier 5/877235	
Lot 6 DP877235	Folio Identifier 6/877235	
Lot 22 DP843588	Folio Identifier 22/843588	
Lot 7 DP877235	Folio Identifier 7/877235	
Lot 8 DP877235	Folio Identifier 8/877235	
Lot 9 DP877235	Folio Identifier 9/877235	
Lot 72 DP735582	Folio Identifier 72/735582	
Lot 16 DP873480	Folio Identifier 16/873480	
Lot 6 DP237780	Folio Identifier 6/237780	
Lot 5 DP237780	Folio Identifier 5/237780	
Lot 4 DP237780	Folio Identifier 4/237780	
Lot 3 DP237780	Folio Identifier 3/237780	
Lot 2 DP237780	Folio Identifier 2/237780	
Lot 1 DP237780	Folio Identifier 1/237780	
Lot 23 DP841778	Folio Identifier 23/841778	
Lot 22 DP841778	Folio Identifier 22/841778	
Lot 24 DP841778	Folio Identifier 24/841778	
Lot 16 DP841778	Folio Identifier 16/841778	
Lot 10 DP841778	Folio Identifier 10/841778	



<u>Description</u>		<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 17	DP841778	Folio Identifier 17/841778	
Lot 3	DP880936	Folio Identifier 3/880936	
Lot 4	DP880936	Folio Identifier 4/880936	
Lot 1	DP238045	Folio Identifier 1/238045	
Lot 2	DP238045	Folio Identifier 2/238045	
Lot 3	DP238045	Folio Identifier 3/238045	
Lot 4	DP238045	Folio Identifier 4/238045	
Lot 5	DP238045	Folio Identifier 5/238045	
Lot 6	DP238045	Folio Identifier 6/238045	L545977- Easement to Drain Water- DP238045
Lot 7	DP238045	Folio Identifier 7/238045	
Lot 8	DP238045	Folio Identifier 8/238045	
Lot 9	DP238045	Folio Identifier 9/238045	
Lot 11	DP229081	Folio Identifier 11/229081	
Lot 10	DP229081	Folio Identifier 10/229081	
Lot 9	DP229081	Folio Identifier 9/229081	
Lot 8	DP229081	Folio Identifier 8/229081	
Lot 7	DP229081	Folio Identifier 7/229081	
Lot 6	DP229081	Folio Identifier 6/229081	
Lot 5	DP229081	Folio Identifier 5/229081	
Lot 41	DP609776	Folio Identifier 41/609776	
Lot 42	DP609776	Folio Identifier 42/609776	
Lot 50	DP1100635	Folio Identifier 50/1100635	
Lot 2	DP875677	Folio Identifier 2/875677	
Lot 12	DP875681	Folio Identifier 12/875681	
Lot 19	DP841778	Folio Identifier 19/841778	F454602- Easement for Transmission Line K741021- Easement for Transmission Line M758377- Easement for Batter- DP242673
Lot 12	DP841778	Folio Identifier 12/841778	
Lot 13	DP841778	Folio Identifier 13/841778	
Lot 14	DP841778	Folio Identifier 14/841778	
Lot 20	DP841778	Folio Identifier 20/841778	
Lot 21	DP841778	Folio Identifier 21/841778	
Lot 9	DP219892	Folio Identifier 9/219892	Easement for Transmission Line- Govt Gaz. dated 24 April 1952 Folio 1436
Lot 10	DP219892	Folio Identifier 10/219892	Easement for Transmission Line- Govt Gaz. dated 24 April 1952 Folio 1436
Lot 20	DP222301	Folio Identifier 20/222301	
Lot 19	DP222301	Folio Identifier 19/222301	
Lot 18	DP222301	Folio Identifier 18/222301	
Lot 8	DP219892	Folio Identifier 8/219892	
Lot 7	DP219892	Folio Identifier 7/219892	
Lot 6	DP219892	Folio Identifier 6/219892	
Lot 5	DP219892	Folio Identifier 5/219892	
Lot 4	DP219892	Folio Identifier 4/219892	

<u>Description</u>		<u>Title Particulars</u>	<u>Registered interest excluded from this compulsory acquisition</u>
Lot 3	DP219892	Folio Identifier 3/219892	
Lot 2	DP219892	Folio Identifier 2/219892	
Lot 1	DP219892	Folio Identifier 1/219892	
Lot B	DP388801	Folio Identifier B/388801	
Lot C	DP388801	Folio Identifier C/388801	
Lot 1	DP234860	Folio Identifier 1/234860	
Lot 2	DP234860	Folio Identifier 2/234860	
Lot 3	DP234860	Folio Identifier 3/234860	
Lot 4	DP234860	Folio Identifier 4/234860	
Lot 5	DP234860	Folio Identifier 5/234860	
Lot 8	DP228807	Folio Identifier 8/228807	
Lot 7	DP228807	Folio Identifier 7/228807	
Lot 6	DP228807	Folio Identifier 6/228807	
Lot 5	DP228807	Folio Identifier 5/228807	
Lot 4	DP228807	Folio Identifier 4/228807	
Lot 11	DP875681	Folio Identifier 11/875681	
Lot 13	DP875681	Folio Identifier 13/875681	
Lot 14	DP875681	Folio Identifier 14/875681	
Lot 3	DP228807	Folio Identifier 3/228807	
Lot 2	DP228807	Folio Identifier 2/228807	
Lot 1	DP228807	Folio Identifier 1/228807	
Lot 15	DP228807	Folio Identifier 15/228807	
Lot 16	DP228807	Folio Identifier 16/228807	
Lot 5	DP231600	Folio Identifier 5/231600	
Lot 4	DP231600	Folio Identifier 4/231600	
Lot 3	DP231600	Folio Identifier 3/231600	
Lot 2	DP512645	Folio Identifier 2/512645	
Lot 61	DP773701	Folio Identifier 61/773701	
Lot 62	DP773701	Folio Identifier 62/773701	
Lot 15	DP875681	Folio Identifier 15/875681	
Lot 16	DP875681	Folio Identifier 16/875681	
Lot 1	DP748143	Folio Identifier 1/748143	
Lot 10	DP879078	Folio Identifier 10/879078	
Lot 11	DP879078	Folio Identifier 11/879078	
Lot 12	DP879078	Folio Identifier 12/879078	
Lot 13	DP879078	Folio Identifier 13/879078	
Lot 14	DP879078	Folio Identifier 14/879078	
Lot 16	DP879078	Folio Identifier 16/879078	
Lot 17	DP879078	Folio Identifier 17/879078	
Lot 18	DP879078	Folio Identifier 18/879078	

The land is said to be in the possession of the Roads and Traffic Authority of New South Wales.

(RTA Papers: FPP F2/31.1705)

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## Department of Water and Energy

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### WATER ACT 1912

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

Gurdial Singh RAI and Satvinder Singh RAI for 1 pump on Coffs Creek on Lot 1, DP 774470, Parish Coff, County Fitzroy, for irrigation of 2 hectares (Blueberries) (13 ML) (new licence by way of permanent transfer) (Reference: 30SL067029).

Written objections to the application specifying the grounds thereof must be lodged with the Department of Water and Energy, PO Box 796, Murwillumbah NSW 2484, within 28 days of the date of publication.

DENNIS MILLING,  
Manager,  
Licensing North

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### WATER ACT 1912

APPLICATIONS for a licence under Part 2, section 10 of the Water Act 1912, being within a proclaimed (declared) local area under section 5(4) has been received as follows:

*Border Rivers Valley*

HOWARD HALL PTY LTD for a pump on the Mole River on Lot 2, DP 751515, Parish Gibraltar, County Clive, for irrigation purposes (warehousing of water) (replacement licence – splitting existing entitlement 90SL100861) (Reference: 90SL100987).

Raymond Morris HARRISON and Charmaine Rose HARRISON for a pump on the Mole River on Lots 26 and 40, DP 751515, Parish Gibraltar, County Clive, for irrigation of 2 hectares (improved pasture) (new licence – water obtained by permanent transfer scheme) (Reference: 90SL100988).

Written objections to the applications specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed local area whose interests may be affected and must be lodged with the Department of Water and Energy, PO Box 796, Murwillumbah NSW 2484, within 28 days of the date of publication.

DENNIS MILLING,  
Manager,  
Licensing North

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### WATER ACT 1912

AN application under Part 2 within a proclaimed (declared) local area under section 5(4) of the Water Act 1912.

An application for a licence under section 10 for works within a proclaimed (declared) local area as generally described hereunder have been received from:

*Murrumbidgee Valley*

Michael Andrew SPINKS and Helen Mary SPINKS for 2 pumps on Lake Tala, Lot 1, DP 825421, Parish Tala, County Caira, for stock and domestic purposes and irrigation of 162 hectares (pasture and cereal crops) (application to replace existing licence to include an additional pump – no increase in area or allocation) (Reference: 40SL71139) (GA2:538549).

Any enquiries regarding the above should be directed to the undersigned on (02) 6953 0700.

Written objections, from any local occupier or statutory authority, specifying grounds and how their interests are affected must be lodged with the Department of Water and Energy, PO Box 156, Leeton NSW 2705, within 28 days of the date of this publication.

S. F. WEBB,  
Licensing Manager

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## Other Notices

### APPRENTICESHIP AND TRAINEESHIP ACT 2001

NOTICE is given that the Commissioner for Vocational Training has made Vocational Training Orders for the recognised traineeship vocations of:

- Business Services (Business)
- Business Services (Business Administration)
- Business Services (Customer Contact)
- Business Services (Recordkeeping)
- Business Services (Frontline Management)
- Business Services (Small Business Management)
- Business Services (Business Sales)
- Business Services (Human Resources)
- Business Services (Legal Services)
- Business Services (Marketing)
- Business Services (Unionism and Industrial Relations),

under Section 6 of the Apprenticeship and Traineeship Act 2001.

The Orders specify a number of matters relating to the required training for these vocations, including the term/s of training, probationary period/s, competency outcome/s and course/s of study to be undertaken.

The Orders will take effect from the date of publication in the NSW Government Gazette.

A copy of the Orders may be inspected at any State Training Services Centre of the Department of Education and Training or on the Internet at <http://apprenticeship.det.nsw.edu.au/html/cibs/374.htm>

Notice is also given that the recognised traineeship vocation of Business Services is now repealed.

### ASSOCIATIONS INCORPORATION ACT 1984

Transfer of Incorporation Pursuant to Section 48(4)(a)

TAKE NOTICE that the company

AUSTRALIA JAPAN SOCIETY OF NSW (INC)

formerly registered under the provisions of the Corporations Act 2001 is now incorporated under the Associations Incorporation Act 1984 as

AUSTRALIA JAPAN SOCIETY OF NSW  
INCORPORATED

Effective 27 August 2008.

KERRI GRANT,  
Delegate of Commissioner  
Of ce of Fair Trading  
21 August 08

### ASSOCIATIONS INCORPORATION ACT 1984

Cancellation of Incorporation pursuant to Section 54

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to section 54 of the Associations Incorporation Act 1984.

Cancellation is effective as at the date of gazettal.

Blue Mountains Cricket Umpires' Association Inc -  
Y0957206

The Dataease Users Group Inc - Y1086922  
Feral Ski Klubb Inc - Y1052015  
Jukambal Group Inc - Y1007510  
Kincumber Sketch Group Incorporated -  
INC9880529  
Kempsey-Macleay Greyhound Racing Club Inc -  
Y0770229  
The Northern Rivers Cultural Centre Foundation Inc  
- Y1078136  
Transit Pistol Club Inc - Y1135548  
University of Wollongong Ski Club Incorporated -  
Y3022309  
All One Voice Inc - Y0794846  
The Australian Thalassaemia Action Committee Inc -  
Y0950227  
Association of University Graduates of Turkey Inc -  
Y0529428  
Australian Association of Art and Sport Development  
Incorporated - Y1018601  
Bandidos Motorcycle Club Australia Mid State Chapter  
Incorporated - Y1818806  
Concern NSW Inc - Y0643531  
Central Coast Mountain Bike Club Inc - Y0847411  
Child Psychoanalytic Foundation Inc - Y0997239  
Enfey's Charitable Social Association Sydney Inc -  
Y1050217  
European-Australian Chamber of Industry and  
Commerce Inc - Y0978832  
Grif th Theatre Company Inc - Y1108747  
Junior Jets Toy Library Inc - Y1030715  
Kengugro Australian-Hungarian Folklore Ensemble  
Inc - Y1108600  
The Lismore and District Workers' Club Fishing Club  
Incorporated - Y0827125  
Lions Club of Urunga Inc - Y0571628  
Meehan Drive Rehabilitation Craft Group Inc -  
Y0899434  
Moroccan/Australian Association Inc - Y1055447  
Narwan United Football Club Inc - Y0907324  
New Welcome Fair eld Juniors Club Inc - Y0953708  
Newcastle Olympic Soccer Football Club Inc -  
Y0935612  
Promise City Church Inc - Y0714241  
Penrith Electric Youth Inc - Y0756807  
Primrose Valley Pony Club Incorporated - Y1030813  
Parramatta Tax Child Care Inc - Y0933422  
Rotary Club of Drummoyne Inc - Y0850526  
Rotary Club of Seven Hills Incorporated - Y1133848  
The Saint Charbel Community Nurses Inc -  
Y1098716  
The Sydney Amateur Television Group Inc -  
Y1034703  
Tokura Association Incorporated - Y0981114  
Uralla Rugby League Football Club Inc - Y0890412  
Warrumbungle Motorcycle Club Inc - Y1052603

CHRISTINE GOWLAND,  
Manager,  
Financial Analysis,  
Registry of Co-operatives and Associations,  
Of ce of Fair Trading,  
Department of Commerce  
21 August 2008

**ASSOCIATIONS INCORPORATION ACT 1984**

Cancellation of Incorporation pursuant to Section 54

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to section 54 of the Associations Incorporation Act 1984.

Cancellation is effective as at the date of gazettal.

Australian Serviced Offices Association Inc - Y0024615  
 Jugoslav Australian Social Club (Jugo Kolo) Inc - Y0999723  
 Hrvatsko Hercegovački Centar Siroki Brijeg Inc - Y0223510  
 Hornsby Ku-Ring-Gai Community Youth Support Scheme Inc - Y0181007  
 Boggabri Bushmens Carnival Association Inc - Y0579604  
 Molong People's Welfare Association Inc - Y1130318  
 Eurunderee Provisional School Foundation Inc - Y0856704  
 Lithgow Boating Club Inc - Y0645329  
 Topcat Shopping Inc - Y1254244  
 Barooga Citizens Action Group Inc - Y1311803  
 Elong Social Committee Inc - Y1285327  
 Gerogery West Small Schools Sports Association Inc - Y1182439  
 Sawdus J.R.L.F.C. Inc - Y1263929  
 Port Macquarie Australian Rules Football Club Inc - Y1287419  
 Seigokan Goju Ryu Karate Do Association of Australia Incorporated - Y1238338  
 Orange Fire Brigade (Volunteers) Social Club Inc - Y1163738  
 Ferrero Social Club Inc - Y1262246  
 Wellington Motor Cycle Club Inc - Y1354533  
 Barwell Garden Poet's Union Incorporated - INC9876782  
 Byron Bay Game & Sport Fishing Club Inc - Y0961416  
 Employees' Industrial Council Incorporated - Y0660826  
 East Cessnock Community Centre Inc - Y0768601  
 Fil-Aust Tenpin Bowlers Association Inc - Y0852618  
 Helepeku Tongan Community Club Inc - Y0876010  
 Muswellbrook Softball Association Inc - Y0845025  
 Pambula Beach Little Athletics Centre Inc - Y1136741  
 Playbox Productions Inc - Y0911044  
 Romanian Pentecostal Church "Emanuel" Mudgee Incorporated - INC9877188  
 Tamworth Rugby Football Club Inc - Y0743722  
 Whitlam Accommodation Service (WAS) Inc - Y0858747  
 Wurringah Support Group Inc - Y0959004  
 Wagga City Rugby Union Football Club Inc - Y1048246

CHRISTINE GOWLAND,  
 Manager,  
 Financial Analysis,  
 Registry of Co-operatives and Associations,  
 Office of Fair Trading,  
 Department of Commerce  
 26 August 2008

**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.

AWOLL Incorporated - INC9884191

CHRISTINE GOWLAND,  
 Manager,  
 Financial Analysis Branch,  
 Registry of Co-operatives and Associations,  
 Office of Fair Trading,  
 Department of Commerce  
 25 August 2008

**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.

Como Jannali Little Athletics Club Incorporated - Y1099811  
 Emmanuel Renewal Centre Incorporated - Y2693401  
 The Great Southern Ball Committee Incorporated - Y2715226  
 Australian Association for Humane Research Inc - Y1250648  
 New Directions Life Development Incorporated - Y2487501  
 Orange Swimming Club Incorporated - Y1064936  
 Hay Community Church Incorporated - INC9878376  
 Dangarsleigh Landcare Group Incorporated - Y2140308  
 Blast Cleaning and Coating Association of New South Wales Incorporated - Y1940029  
 The Exchange Hotel Fishing Club Incorporated - INC9876910  
 Murwillumbah Day Centre Inc - Y1077433  
 UTS Alumni Association Incorporated - Y2091143  
 Goulburn Youth Projects Inc - Y0384135  
 Moss Vale Volleyball Association Incorporated - INC9879584

CHRISTINE GOWLAND,  
 Manager,  
 Financial Analysis Branch,  
 Registry of Co-operatives and Associations,  
 Office of Fair Trading,  
 Department of Commerce  
 25 August 2008

**ASSOCIATIONS INCORPORATION ACT 1984**

Reinstatement of Cancelled Association pursuant to Section 54A

The incorporation of Mosman Football Club Incorporated cancelled on 11 July 2008, is reinstated pursuant to section 54A of the Associations Incorporation Act 1984.



Dated: 23rd day of July 2008.

CHRISTINE GOWLAND,  
Manager,  
Financial Analysis Branch,  
Registry of Co-operatives and Associations,  
Office of Fair Trading,  
Department of Commerce

NPWS office at 75 Main Street, Alstonville NSW 2478  
(phone 6627 0217).

The plans are also available on the NPWS web site: [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au).

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### LORD HOWE ISLAND ACT 1953

Revocation of Reservation of Crown Land for a Public Purpose

IN pursuance of the requirements of the Lord Howe Island Act 1953, the land described hereunder be revoked for public purposes.

Part Lagoon Road Reserve adjacent to Portions 142 and 197 being no greater than 430 square metres in area.

VERITY FIRTH, M.P.,  
Minister for Climate Change Environment and Water

Dated this 1st day of August 2008,  
Department of Environment and Climate Change

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### NATIONAL PARKS AND WILDLIFE ACT 1974

Burrinjuck Nature Reserve  
Jerilderie Nature Reserve  
Marshalls Creek Nature Reserve  
Draft Plans of Management

DRAFT plans of management for the above reserves have been prepared and are available on the website: [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au).

Copies of the Burrinjuck plan are available free of charge from the NPWS office at 11 Farrer Place, Queanbeyan (phone 6299 2929) and can also be viewed at Yass Valley Council Office, 209 Comur Street, Yass. Copies of the Jerilderie plan are available from the NPWS office at 200 Yambil Street, Griffith (phone 6966 8100). Copies of the Marshalls Creek plan are available from the NPWS office at 75 Main Street, Alstonville (phone 6627 0200) and the World Heritage Rainforest Centre, Cnr Alma Street and Tweed Valley Way, Murwillumbah (phone 6670 8600).

Written submissions on these plans must be received at the address in the Invitation to Comment section of the relevant plan by 1 December 2008.

All submissions received by NPWS are a matter of public record and are available for public inspection upon request to NPWS. Your comments on these 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.

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### MENTAL HEALTH ACT 2007

Section 109

I, Professor DEBORA PICONE, AM, Director-General of the NSW Department of Health, pursuant to section 109 of the Mental Health Act 2007 and section 43 of the Interpretation Act 1987, DO HEREBY REPEAL the Order, published in *New South Wales Government Gazette* No. 9 of 23 January 1998, at page 390, declaring the Richmond Clinic of Lismore Base Hospital to be a hospital for the purposes of the Mental Health Act 1990, which was taken to be a declared mental health facility in accordance with Clause 5(1) of Schedule 6 of the Mental Health Act 2007.

Signed this 22nd day of August 2008.

Professor DEBORA PICONE, AM,  
Director-General

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### NATIONAL PARKS AND WILDLIFE ACT 1974

PROCLAMATION

I, Professor MARIE BASHIR, AC, Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of the powers vested in me under section 68 of the National Parks and Wildlife Act 1974, with the consent of every owner and occupier do, on the recommendation of the Director-General of National Parks and Wildlife, by this my Proclamation declare the lands described hereunder to be a wildlife refuge for the purposes of the abovementioned Act.

To be known as "Rose Road Wildlife Refuge".

Signed and sealed at Sydney, this 13th day of August 2008.

MARIE BASHIR,  
Governor

By Her Excellency's Command,

VERITY FIRTH, M.P.,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

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### NATIONAL PARKS AND WILDLIFE ACT 1974

Broulee Island Nature Reserve  
Illawong Nature Reserve  
Brundee Swamp and Saltwater Swamp Nature Reserves  
Mudjarn Nature Reserve  
Tucki Tucki Nature Reserve  
Plans of Management

PLANS of management for the above nature reserves were adopted by the Minister for Climate Change and the Environment on 21 July 2008.

Copies of the Broulee Island and Illawong plans may be obtained from the NPWS office at the corner of Field Street and Princes Highway, Narooma NSW 2546 (phone 4476 2888). Copies of the Brundee Swamp and Saltwater Swamp plan may be obtained from the NPWS office at 55 Graham Street, Nowra NSW 2541 (phone 4423 2170). Copies of the Mudjarn plan may be obtained from the NPWS office at 7A Adelong Road, Tumut NSW 2720 (phone 6947 7000). Copies of the Tucki Tucki plan may be obtained from the

## Description

*Land District – Lismore; Council – Lismore*

County of Rous, Parish of Nimbin, 10.12 hectares, being Lot 3, DP 571900.

NPWS FIL08/6447.

## SCHEDULE 2

## Restrictions as to User

Without affecting the generality of any requirement imposed by the Pipelines Act 1967 or regulations thereunder, the owner or occupier of land over which there is an easement for pipeline must not within the easement, except with the prior consent in writing of the person in whom the easement is vested:

- (a) Excavate (including blasting), drill or dig.
- (b) Erect, place or permit to be erected or placed any building, structure (including fence posts), plant, apparatus or equipment, earthworks, utility services or other improvements whether permanent or temporary on, over or under the land.
- (c) Alter or disturb existing levels, contours or gradients.
- (d) Plant or cultivate any tree within 3 metres of the pipeline or any apparatus or works.
- (e) Place on or use any part of the servient tenement for the transport, carriage or support of any heavy object, vehicle or implement, which could in any way cause or be likely to cause damage to the pipeline.
- (f) Undertake any other activity that represents a danger to the pipeline or is a danger to the operation of the pipeline or its apparatus or works including signs, vent pipes and cathodic protection systems including anode beds and electrolysis test points.

**NATIONAL PARKS AND WILDLIFE ACT 1974**

## PROCLAMATION

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 the powers vested in me under section 68 of the National Parks and Wildlife Act 1974, with the consent of every owner and occupier do, on the recommendation of the Director-General of the Department of Environment and Climate Change, by this my Proclamation declare the lands described hereunder to be a wildlife refuge for the purposes of the abovementioned Act.

To be known as “Melaleuca Wildlife Refuge”.

Signed and sealed at Sydney, this 13th day of August 2008.

MARIE BASHIR,  
Governor

By Her Excellency’s Command,

VERITY FIRTH, M.P.,  
Minister for Climate Change and the Environment

GOD SAVE THE QUEEN!

## Description

*Land District – Moruya; Council – Eurobodalla*

County of Dampier, Parish of Burra, 41.28 hectares, being Lot 2, DP 805910.

NPWS 08/7173.

**PIPELINES ACT 1967**

## Grant of Pipeline Licence

Licence No. 36

DELTA ELECTRICITY (ABN 67 139 819 642), having its registered office at Level 12, Tower 1, 201 Sussex Street, Sydney NSW 2000, has applied in accordance with the provisions of section 12 of the Pipelines Act 1967 and Pipeline Regulation 2005, for a Licence to operate a pipeline to convey Natural Gas between the Alinta “Eastern Gas Pipeline” Pipeline Licence Number 26 at Bamarang and the proposed Bamarang Gas Turbine facility.

The application complies with the provisions of the Act and Regulation and therefore I, IAN MACDONALD, M.L.C., Minister for Energy, do grant Licence No. 36 effective from my signing of this Licence.

The lands affected by the pipeline licence area are indicated in DP 1126601 and Lot 1, Deposited Plan 127482 including associated instruments, lodged and registered at the Sydney office of Land and Property Information, Department of Lands.

The Licence is granted subject to the requirements and conditions set forth in Annexure B.

Signed at Sydney, New South Wales this 14th day of August 2008.

IAN MACDONALD, M.L.C.,  
Minister for Energy

**PIPELINES ACT 1967**

## Notification of Vesting of Lands and Easements

Bamarang Gas Pipeline  
Pipeline Licence No. 36

I, IAN MICHAEL MACDONALD, M.L.C., Minister for Energy, pursuant to the provisions of sections 21 and 61 of the Pipelines Act 1967, hereby declare that the land and easement over the land described in Schedule 1 hereto are vested in Delta Electricity (ABN 67 139 819 642) for the purposes of and incidental to the construction and operation of a pipeline subject to the restrictions as to user set out in Schedule 2 hereto.

Dated this 14th day of August 2008.

IAN MACDONALD, M.L.C.,  
Minister for Energy

## SCHEDULE 1

## Lands Acquired or Affected by Easements for Pipeline

All those pieces or parcels of land described as Deposited Plan DP 1126601 lodged and registered at the Sydney office of Land and Property Information NSW.

**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 Dr Douglas Williment, DE 0053805, of 1799 Pittwater Rd, Mona Vale 2103, prohibiting him until further notice, as a dentist from supplying or having possession of drugs of addiction as authorised by clause 101 of the Regulation and issuing a prescription for a drug of addiction as authorised by clause 76 of the Regulation.

This order is to take effect on and from 29 August 2008.

Professor DEBORA PICONE, AM,  
Director-General

Department of Health, New South Wales  
Sydney 25 August 2008.

**RACING ADMINISTRATION REGULATION 2005**

## Order – Clause 15(1)(e)

I, GRAHAM WEST, M.P., Minister for Gaming and Racing, in pursuance of Clause 15(1)(e) of the Racing Administration Regulation 2005, on the recommendation of Racing NSW, by this Order authorise the following class of publications:

- (A) A publication of a NSW race field relating to a NSW thoroughbred race by Racing Information Services Australia Pty Limited (ACN 105 994 330) which is authorised under the “Participation Agreement” dated on or about 27 November 2003 (as amended from time to time) between parties including Racing Information Services Australia Pty Limited and Racing NSW.
- (B) A publication of a NSW race field relating to a NSW thoroughbred race which:
  - (a) occurs at a time when the “Participation Agreement” dated on or about 27 November 2003 (as amended from time to time) is in effect as between Racing Information Services Australia Pty Limited and Racing NSW;
  - (b) is not made by or on behalf of a wagering operator as defined in clause 14(1) of the Racing Administration Regulation 2005;
  - (c) is not made in the course of wagering operations or for the purpose of a wagering business conducted by a person making or authorising the publication or by a close associate of such person; and
  - (d) is authorised by, and conducted in accordance with, a written agreement between the publisher and:
    - (i) Racing Information Services Australia Pty Limited; or
    - (ii) a person who, under a written agreement with Racing Information Services Australia Pty Limited, is authorised to grant to the publisher the right to publish the NSW race field in the manner and for the purpose for which the publication is made.

For the avoidance of any doubt, nothing in this Order authorises any publication of a NSW race field:

- (1) by a wagering operator;
- (2) in the course of wagering operations; or
- (3) for the purpose of a wagering business conducted by a person making or authorising the publication or by a close associate of such a person.

GRAHAM WEST, M.P.,  
Minister for Gaming and Racing

**RACING ADMINISTRATION REGULATION 2005**

## Order – Clause 15(1)(e)

I, GRAHAM WEST, M.P., Minister for Gaming and Racing, in pursuance of Clause 15(1)(e) of the Racing Administration Regulation 2005, on the recommendation of Racing NSW, Harness Racing NSW and Greyhound Racing NSW, by this Order authorise the following class of publications:

- (1) Publication of NSW race fields by a trainer licensed by Racing NSW, Harness Racing NSW, Greyhound Racing NSW or a controlling body of racing in another State or Territory, made solely to the owners of a horse or greyhound trained by that trainer for the purpose of training and racing of that horse or greyhound and for managing the relationship between the trainer and the owners of the horse or greyhound.
- (2) Publication of NSW race fields in which a horse or greyhound is entered made solely between the registered co-owners of that horse or the co-owners of that greyhound.
- (3) Publication of NSW race fields in which a horse or greyhound is entered made by a syndicator or syndicate manager of that horse or greyhound solely to syndicate members who own that horse or greyhound where the publication is made in connection with the activities of the syndicate and for the purpose of keeping syndicate members who own that horse or greyhound informed of racing matters concerning that horse or greyhound.

GRAHAM WEST, M.P.,  
Minister for Gaming and Racing

**RURAL FIRES ACT 1997**

## Local Bush Fire Danger Period Variation

PURSUANT to section 82 of the Rural Fires Act 1997, as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

## Area of Variation:

Nambucca, Incorporating:  
Nambucca Local Government Area.

The Local Bush Fire Danger period has been extended for the period 1 September until 30 September 2008.

During this period permits pursuant to section 87 of the Rural Fires Act 1997, as amended, will be required for the lighting of fire for the purposes of land clearance or fire breaks.

ROB ROGERS, AFSM,  
Assistant Commissioner,  
Director Operational Services  
(delegate)  
25 August 2008



**RURAL FIRES ACT 1997**

## Local Bush Fire Danger Period Variation

PURSUANT to section 82 of the Rural Fires Act 1997, as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

Area of Variation:

Cudgegong LGA Incorporating:  
Mid-Western Regional Council

The Local Bush Fire Danger period has been extended for the period 1 September until 30 September 2008.

During this period permits pursuant to section 87 of the Rural Fires Act 1997, as Amended, will be required for the lighting of fire for the purposes of land clearance or fire breaks.

SHANE FITZSIMMONS, AFSM,  
Commissioner

**THREATENED SPECIES CONSERVATION ACT  
1995**Notice of Preliminary Determinations  
Additions to the Schedules

THE Scientific Committee, established by the Threatened Species Conservation Act, has made Preliminary Determinations to support proposals to list the following in the relevant Schedules of the Act.

## Endangered Ecological Community (Part 3 of Schedule 1)

Grey Box - Grey Gum Wet Sclerophyll Forest in the NSW North Coast Bioregion

Hunter Valley Vine Thicket in the NSW North Coast and Sydney Basin Bioregions

## Vulnerable Species (Part 1 of Schedule 2)

Little Lorikeet *Glossopsitta pusilla* (Shaw, 1790)

## Key Threatening Process (Schedule 3)

Invasion and Establishment of Escaped Exotic Garden Plants

Predation and Hybridisation by Feral Dogs (*Canis lupus familiaris*)

Notice of Preliminary Determination  
Amendments to the Schedules

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination to support a proposal to list the mallee *Eucalyptus recurva* Crisp as a CRITICALLY ENDANGERED SPECIES in Part 1 of Schedule 1A of the Act, and as a consequence, to omit reference to *Eucalyptus recurva* Crisp from Part 1 of Schedule 1 (Endangered species) of the Act.

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination to support a proposal to list the shrub *Zieria adenophora* Blakely as a CRITICALLY ENDANGERED SPECIES in Part 1 of Schedule 1A of the Act, and as a consequence, to omit reference to *Zieria adenophora* Blakely from Part 1 of Schedule 1 (Endangered species) of the Act.

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination to support a proposal to list the shrub *Zieria buxijugum* J. D. Briggs & J. Armstr. as a CRITICALLY ENDANGERED SPECIES in Part 1 of Schedule 1A of the Act, and as a consequence, to omit reference to *Zieria buxijugum* J. D. Briggs & J.A. Armstrong from Part 1 of Schedule 1 (Endangered species).

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination to support a proposal to list the shrub *Zieria formosa* J.D. Briggs & J.A. Armstr. as a CRITICALLY ENDANGERED SPECIES in Part 1 of Schedule 1A of the Act, and as a consequence, omit reference to *Zieria formosa* J.D. Briggs & J.A. Armstrong from Part 1 of Schedule 1 (Endangered species).

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination to support a proposal to list the shrub *Zieria parrisiae* J.D. Briggs & J.A. Armstr. as a CRITICALLY ENDANGERED SPECIES in Part 1 of Schedule 1A of the Act, and as a consequence, to omit reference to *Zieria parrisiae* J.D. Briggs & J.A. Armstrong from Part 1 of Schedule 1 (Endangered species) of the Act.

## Notice of Preliminary Determination

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination NOT to support a proposal to list Yellow Gum Tall Woodland of the Murray River Floodplain as an ENDANGERED ECOLOGICAL COMMUNITY in Part 3 of Schedule 1 of the Act.

Any person may make a written submission regarding these Preliminary Determinations. Send submissions to: Scientific Committee, PO Box 1967, Hurstville NSW 1481. Attention: Suzanne Chate. Submissions must be received by 24 October 2008.

## Notice of Final Determination

The Scientific Committee has also made a Final Determination to reject a proposal to list the Hunter Valley Vine Thicket in the NSW North Coast and Sydney Basin Bioregions as a CRITICALLY ENDANGERED ECOLOGICAL COMMUNITY in Part 2 of Schedule 1A of the Act.

Copies of these Determinations, which contain the reasons for the determinations, may be obtained free of charge on the Internet [www.environment.nsw.gov.au](http://www.environment.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 Climate Change Information Centre, Level 14, 59-61 Goulburn Street, Sydney. Copies of the determinations may also be obtained from National Parks and Wildlife Service Area Offices and Visitor Centres, subject to availability.

Professor LESLEY HUGHES,  
Chairperson



Independent Pricing and Regulatory Tribunal

## **Price review of rating valuation services provided by the Valuer General to local government**

**Final Determination No. 2, 2008**

Reference no. 08/56

## Contents

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## Preliminary

### 1. Background

- (1) Section 12 of the *Independent Pricing and Regulatory Tribunal Act 1992* (**IPART Act**) provides that IPART will conduct investigations and make reports to the Minister on the determination of the pricing for a specified government monopoly service referred to IPART by the Minister.
- (2) By the *Government Pricing Tribunal (Valuer-General's Services) Order* dated 11 August 1993 and made under section 4 of the IPART Act (**Order**), the following services provided by the Valuer-General were declared as government monopoly services:
  - (a) Furnishing valuation lists and supplementary lists under Part 5 of the *Valuation of Land Act 1916* (NSW) by the Valuer-General to a council of an area under the *Local Government Act 1993* (NSW) (**Monopoly Services**).
- (3) On 26 September 1995 IPART issued Determination No 7, 1995. This pricing determination prescribed maximum prices for the Monopoly Services for the period from 1 July 1995 to 30 June 1996 and further maximum prices for the period from 1 July 1996.
- (4) On 10 December 2007, IPART received a letter from the Premier requesting that IPART, pursuant to section 12 of the IPART Act, make a new determination of the pricing for the provision of the Monopoly Services to apply for a period of 5 years. This letter attached terms of reference for the price review (the **Terms of Reference**).
- (5) In investigating and reporting on the pricing of the Monopoly Services, IPART has had regard to a broad range of matters, including:
  - (a) the issues set out in the Terms of Reference; and
  - (b) the criteria set out in section 15(1) of the IPART Act.
- (6) In accordance with section 13A of the IPART Act, IPART has fixed maximum prices for the Monopoly Services.

Preliminary

- (7) Under section 18(2) of the IPART Act, the Valuer-General may not fix a price below that determined by IPART for the Monopoly Services without the approval of the Treasurer.

## 2. Application of this determination

- (1) This determination fixes the maximum prices that the Valuer-General may charge for the Monopoly Services.
- (2) This determination commences on the later of 1 July 2009 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 2014. The maximum prices in this determination prevailing at 30 June 2014 continue to apply beyond 30 June 2014 until this determination is replaced.

## 3. Replacement of Determination No. 7 of 1995

This determination replaces Determination No 7 of 1995 from the Commencement Date. The replacement does not affect anything done or omitted to be done, or rights or obligations accrued, under Determination No 7 of 1995 prior to its replacement.

## 4. Monitoring

IPART may monitor the performance of the Valuer-General for the purposes of:

- (a) establishing and reporting on the level of compliance by the Valuer-General with this determination; and
- (b) preparing a periodic review of pricing policies in respect of the Monopoly Services supplied by the Valuer-General.

## 5. Schedule

Schedule 1 sets out the maximum prices that the Valuer-General may charge for the Monopoly Services.

## 6. Definitions and Interpretation

Definitions and interpretation provisions used in this determination are set out in Schedule 2.

## Schedule 1 – Maximum Prices for the Monopoly Services

### 1. Application

This Schedule sets the maximum prices that the Valuer-General may charge for supplying the Monopoly Services.

### 2. Categories for pricing purposes

Prices for Monopoly Services have been determined for 2 categories:

- (a) Residential Land; and
- (b) Non-Residential Land.

### 3. Charges for Monopoly Services with respect to Residential Land

The maximum price that may be levied by the Valuer-General for each entry on the Valuation Roll relating to Residential Land is a single annual charge equal to the price in Table 1 corresponding to the applicable Period in that table.

### 4. Charges for Monopoly Services with respect to Non-Residential Land

The maximum price that may be levied by the Valuer-General for each entry on the Valuation Roll relating to Non-Residential Land is a single annual charge equal to the price in Table 2 corresponding to the applicable Period in that table.

### 5. Worked example

A worked example to determine the maximum price is set out in Schedule 2.

## Tables 1 and 2

**Table 1 Maximum Prices for the Monopoly Services - Residential Land**

<b>Commencement date to 30 June 2010</b>	<b>1 July 2010 to 30 June 2011</b>	<b>1 July 2011 to 30 June 2012</b>	<b>1 July 2012 to 30 June 2013</b>	<b>1 July 2013 to 30 June 2014</b>
<b>(\$ per entry)</b>	<b>(\$ per entry)</b>	<b>(\$ per entry)</b>	<b>(\$ per entry)</b>	<b>(\$ per entry)</b>
$3.97 \times (1 + \Delta\text{CPI}_1)$	$4.12 \times (1 + \Delta\text{CPI}_2)$	$4.27 \times (1 + \Delta\text{CPI}_3)$	$4.42 \times (1 + \Delta\text{CPI}_4)$	$4.57 \times (1 + \Delta\text{CPI}_5)$

**Note:** See clause 1.1, Schedule 2 for a definition of "CPI" and an explanation of the above formulas.

**Table 2 Maximum Prices for the Monopoly Services - Non-Residential Land**

<b>Commencement date to 30 June 2010</b>	<b>1 July 2010 to 30 June 2011</b>	<b>1 July 2011 to 30 June 2012</b>	<b>1 July 2012 to 30 June 2013</b>	<b>1 July 2013 to 30 June 2014</b>
<b>(\$ per entry)</b>	<b>(\$ per entry)</b>	<b>(\$ per entry)</b>	<b>(\$ per entry)</b>	<b>(\$ per entry)</b>
$8.72 \times (1 + \Delta\text{CPI}_1)$	$9.05 \times (1 + \Delta\text{CPI}_2)$	$9.38 \times (1 + \Delta\text{CPI}_3)$	$9.71 \times (1 + \Delta\text{CPI}_4)$	$10.04 \times (1 + \Delta\text{CPI}_5)$

**Note:** See clause 1.1, Schedule 2 for a definition of "CPI" and an explanation of the above formulas.

## Schedule 2 – Definitions and Interpretation

### 1. Definitions

In this determination:

**Commencement Date** means the Commencement Date as defined in clause 2(2) of the section of this determination entitled “Preliminary”.

**Council** has the meaning given to it under the *Local Government Act 1993*.

**Gazette** means the NSW Government Gazette.

**Governor** means the governor of the State.

**IPART** means the Independent Pricing and Regulatory Tribunal of New South Wales established under the IPART Act.

**IPART Act** means the *Independent Pricing and Regulatory Tribunal Act 1992*.

**Monopoly Services** means the Monopoly Services described in clause 1(2) of the section of this determination entitled “Preliminary”.

**Non-Residential Land** means land categorised as farmland, mining or business for the purposes of ordinary rates under Chapter 15, Part 3 of the *Local Government Act 1993*.

**Order** means the *Government Pricing Tribunal (Valuer-General's Services) Order* dated 11 August 1993 and made under section 4 of the IPART Act, as described in clause 1(2) of the section of this determination entitled “Preliminary”.

**Period** means the Commencement Date to 30 June 2010, 1 July 2010 to 30 June 2011, 1 July 2011 to 30 June 2012 or 1 July 2012 to 30 June 2013 (as the case may be).

**Residential Land** means land categorised as residential for the purposes of ordinary rates under Chapter 15, Part 3 of the *Local Government Act 1993*.

**State** means the state of New South Wales.

**Terms of Reference** means the Terms of Reference described in clause 1(4) of the section of this determination entitled “Preliminary”.



## Schedule 2 – Definitions and Interpretation

**Valuation Roll** has the meaning given to it under section 53 of the *Valuation of Land Act 1916*.

**Valuer-General** means the person from time to time appointed to that position in accordance with section 8 of the *Valuation of Land Act 1916*.

### 1.1 Consumer Price Index

“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 to be determined by IPART.

$$\Delta\text{CPI}_1 = \left( \frac{\text{CPI}_{\text{Jun}2008} + \text{CPI}_{\text{Sep}2008} + \text{CPI}_{\text{Dec}2008} + \text{CPI}_{\text{Mar}2009}}{\text{CPI}_{\text{Jun}2006} + \text{CPI}_{\text{Sep}2006} + \text{CPI}_{\text{Dec}2006} + \text{CPI}_{\text{Mar}2007}} \right) - 1$$

$$\Delta\text{CPI}_2 = \left( \frac{\text{CPI}_{\text{Jun}2009} + \text{CPI}_{\text{Sep}2009} + \text{CPI}_{\text{Dec}2009} + \text{CPI}_{\text{Mar}2010}}{\text{CPI}_{\text{Jun}2006} + \text{CPI}_{\text{Sep}2006} + \text{CPI}_{\text{Dec}2006} + \text{CPI}_{\text{Mar}2007}} \right) - 1$$

$$\Delta\text{CPI}_3 = \left( \frac{\text{CPI}_{\text{Jun}2010} + \text{CPI}_{\text{Sep}2010} + \text{CPI}_{\text{Dec}2010} + \text{CPI}_{\text{Mar}2011}}{\text{CPI}_{\text{Jun}2006} + \text{CPI}_{\text{Sep}2006} + \text{CPI}_{\text{Dec}2006} + \text{CPI}_{\text{Mar}2007}} \right) - 1$$

$$\Delta\text{CPI}_4 = \left( \frac{\text{CPI}_{\text{Jun}2011} + \text{CPI}_{\text{Sep}2011} + \text{CPI}_{\text{Dec}2011} + \text{CPI}_{\text{Mar}2012}}{\text{CPI}_{\text{Jun}2006} + \text{CPI}_{\text{Sep}2006} + \text{CPI}_{\text{Dec}2006} + \text{CPI}_{\text{Mar}2007}} \right) - 1$$

$$\Delta\text{CPI}_5 = \left( \frac{\text{CPI}_{\text{Jun}2012} + \text{CPI}_{\text{Sep}2012} + \text{CPI}_{\text{Dec}2012} + \text{CPI}_{\text{Mar}2013}}{\text{CPI}_{\text{Jun}2006} + \text{CPI}_{\text{Sep}2006} + \text{CPI}_{\text{Dec}2006} + \text{CPI}_{\text{Mar}2007}} \right) - 1$$

each as calculated by IPART and notified in writing by IPART to the Valuer-General.

## **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 person includes any company, partnership, joint venture, association, corporation, other body corporate or government agency;
- (f) a reference to an officer includes a reference to the officer who replaces him or her, or who substantially succeeds to his or her powers or functions; and
- (g) a reference to a body, whether statutory or not:
  - (i) which ceases to exist; or
  - (ii) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

### **2.2 Explanatory notes and Clarification Notice**

- (a) Explanatory notes or footnotes do not form part of this determination, but in the case of uncertainty may be relied on for interpretation purposes.
- (b) IPART may publish a clarification notice in the NSW Government Gazette to correct any manifest error in this determination as if that clarification notice formed part of this determination.

### **2.3 Prices inclusive of GST**

Prices specified in this determination do not include GST.

## Schedule 2 – Definitions and Interpretation

**3. Worked Example**

To determine the actual maximum price to be charged from 1 July 2009 for Residential Land, the following formula applies:

$$\$3.97 \times (1 + \Delta\text{CPI}_1).$$

To determine  $\Delta\text{CPI}$ , the following formula applies:

$$\Delta\text{CPI}_1 = \left( \frac{\text{CPI}_{\text{Jun}2008} + \text{CPI}_{\text{Sep}2008} + \text{CPI}_{\text{Dec}2008} + \text{CPI}_{\text{Mar}2009}}{\text{CPI}_{\text{Jun}2006} + \text{CPI}_{\text{Sep}2006} + \text{CPI}_{\text{Dec}2006} + \text{CPI}_{\text{Mar}2007}} \right) - 1$$

At the time of issuing this determination, the following CPI numbers are known:

June 2006 - 154.3

September 2006 - 155.7

December 2006 - 155.5

March 2007 - 155.6

June 2008 - 164.6

Assume for the purposes of this example only, the following further CPI numbers:

September 2008 - 165.8

December 2008 - 167.1

March 2009 - 168.3

then the formula is applied as follows:

$$\Delta\text{CPI}_1 = \left( \frac{164.6 + 165.8 + 167.1 + 168.3}{154.3 + 155.7 + 155.5 + 155.6} \right) - 1$$

$$\Delta\text{CPI}_1 = \left( \frac{665.8}{621.1} \right) - 1$$

$$\Delta\text{CPI}_1 = 0.072$$

The maximum charge for Residential Land from 1 July 2009 to 30 June 2010:

$$= \$3.97 \times (1 + 0.072)$$

$$= \$4.26 (\$2009/10)$$

**NATIONAL PARK ESTATE (RESERVATIONS) ACT, 2005****AN ORDER TO EXCLUDE CERTAIN ACCESS ROADS FROM VARIOUS NATIONAL PARKS AND STATE CONSERVATION AREAS AND TO RESERVE ACCESS ROADS AS PART OF VARIOUS NATIONAL PARKS AND STATE CONSERVATION AREAS**

I, Verity Firth MP, Minister for Climate Change and the Environment, being the Minister administering the National Parks and Wildlife Act 1974, in accordance with the National Park Estate (Reservations) Act 2005 and with the concurrence of the Minister administering the Forestry Act 1916, by this my order declare, under Schedule 6 Clause 5(7)(a)&(b):-

1. The access roads described in the Schedule 1 hereunder, being access roads within the areas referred to in Schedule 1 of the National Park Estate (Reservations) Act 2005, are excluded from reservation and are vested in the Minister administering the National Parks & Wildlife Act 1974.
2. All other access roads within the areas referred to in Schedule 1 and Schedule 2 of the National Park Estate (Reservations) Act 2005 and not described in Schedule 1 hereunder are reserved as part of the adjoining national park or state conservation area.

V. FIRTH  
Minister for Climate Change and the Environment

***SCHEDULE 1*****A: Deua National Park (Schedule 1 Clause 1(1) and 1(2))**

County of Dampier, Parishes of Bergalia and Bumbo West, Shire of Eurobodalla, being part of the land designated as 47-01 on the diagram catalogued as Misc R 00275 (Third Edition) in the Department of Environment and Climate Change and 47-02 on the diagram catalogued as Misc R 00276 (Third Edition) in the Department of Environment and Climate Change and shown by heavy black lines in the Diagrams 1 and 2 following.

**B: Illawarra Escarpment State Conservation Area (Schedule 1 Clause 2)**

County of Camden, Parish of Kembla, Local Government Area of Wollongong, being roads within the land designated as 620-01 on the diagram catalogued as Misc R 00265 (Third Edition) in the Department of Environment and Climate Change and shown by heavy black lines in the Diagram 3 following.

**C: Monga National Park (Schedule 1 Clause 3)**

County of St Vincent, Parish of Monga, Shire of Palerang, being roads within the land designated as 169-01 on the diagrams catalogued as Misc R 00270 (Third Edition) and Misc R 00271 (Third Edition) in the Department of Environment and Climate Change and being:

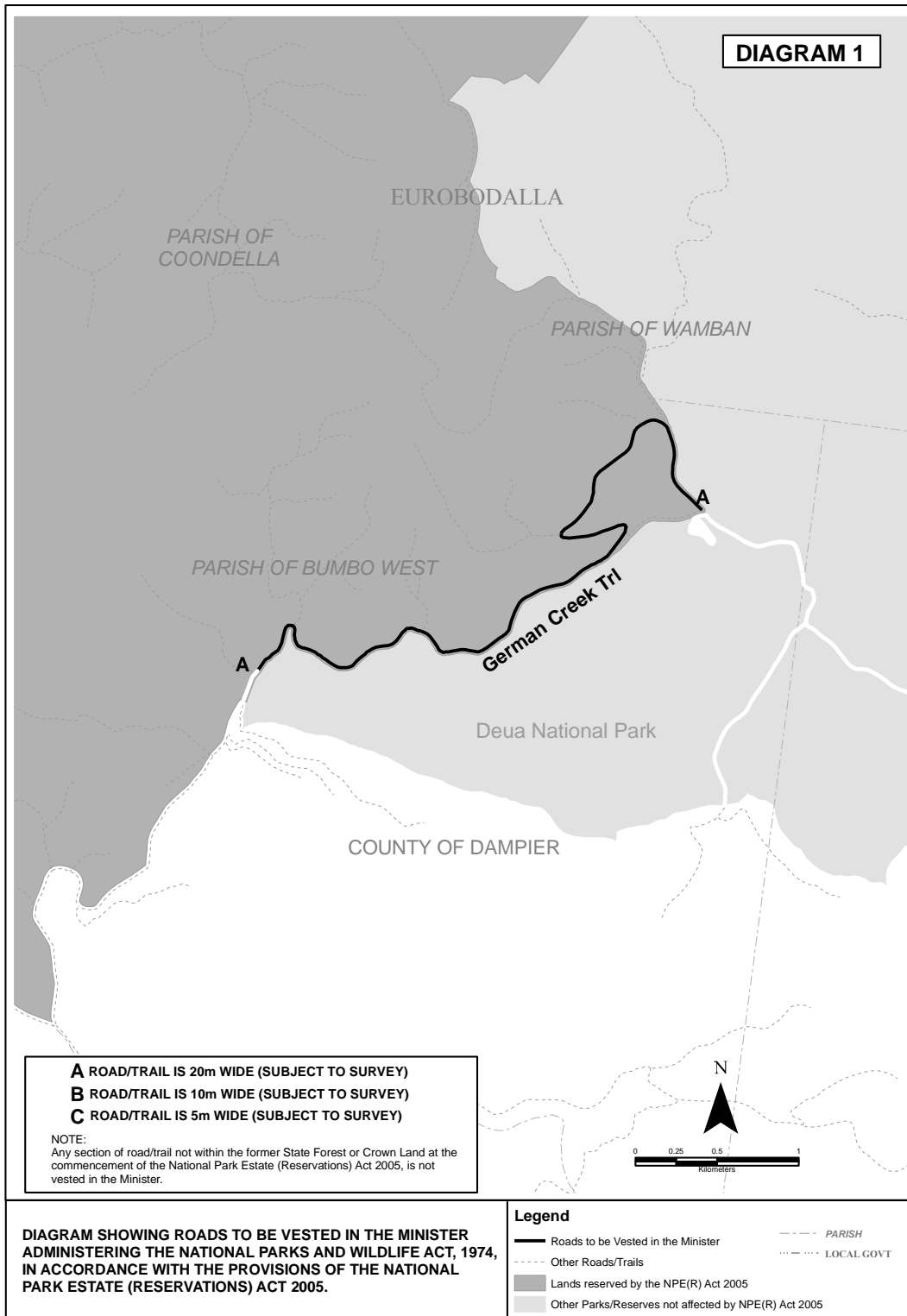
1. The roads known as Monga Mountain Rd and Old Araluen Road; and
2. The roads shown by heavy black lines in the Diagrams 4 and 5 following.

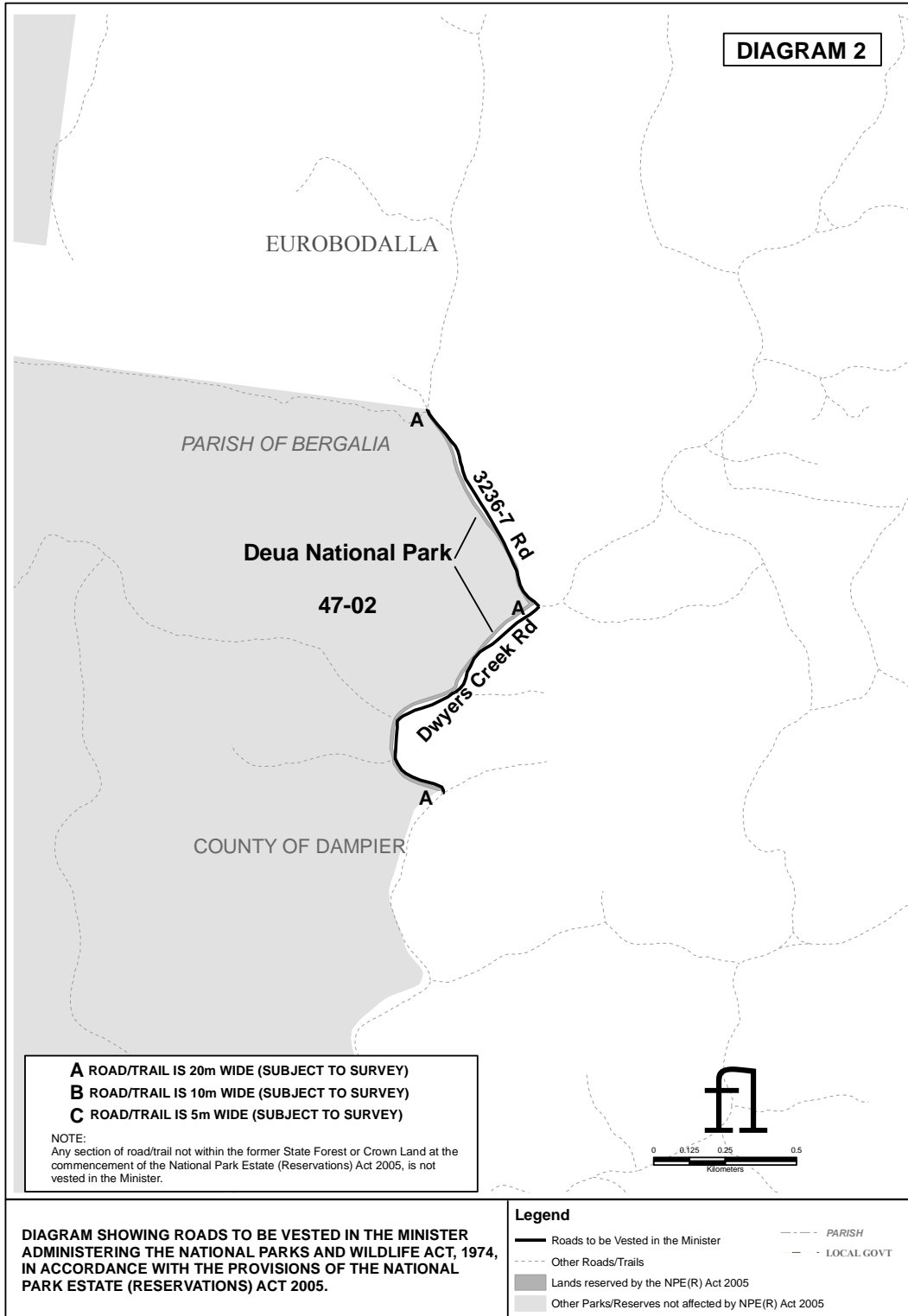
**D: Monga State Conservation Area (Schedule 1 Clause 4)**

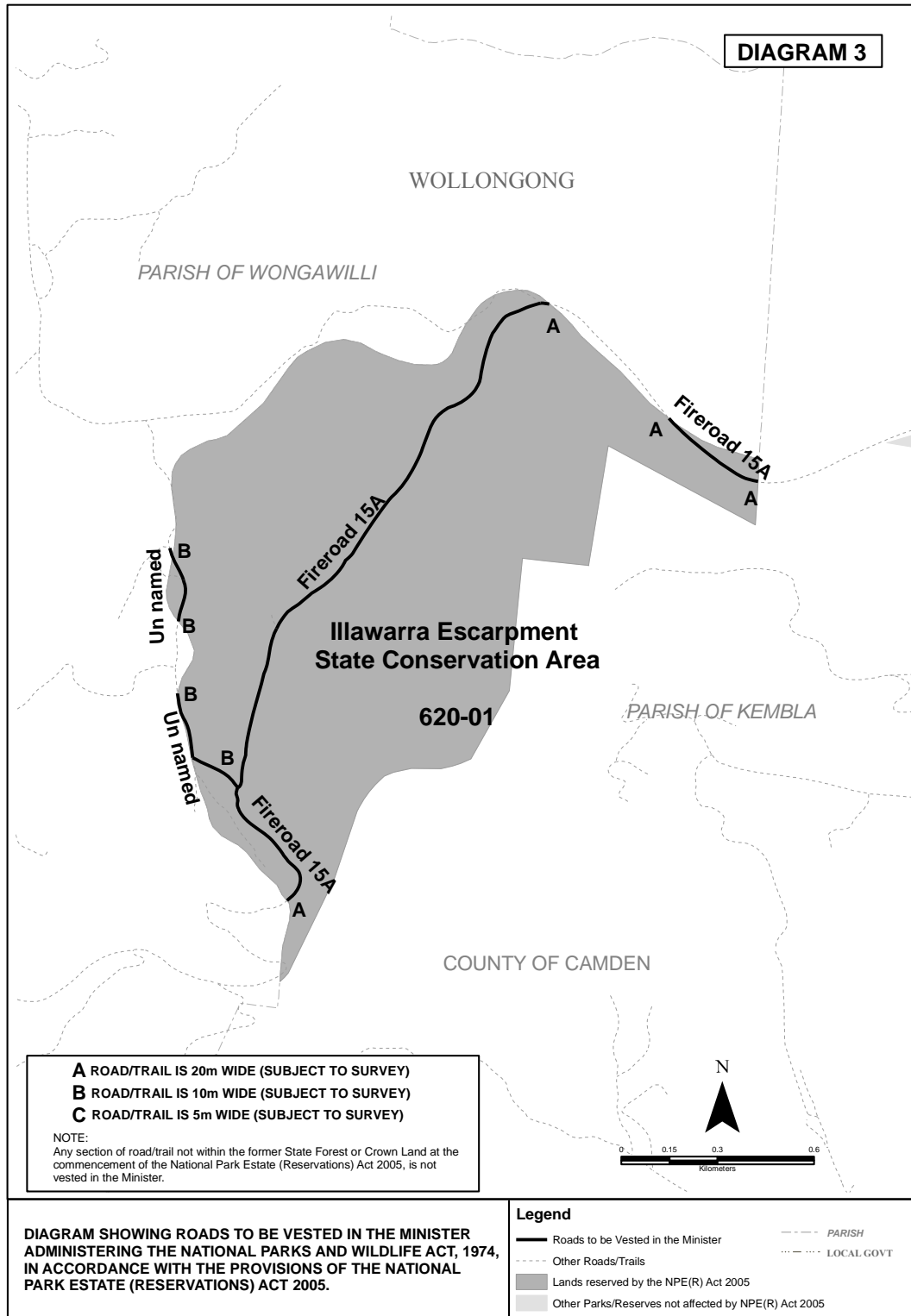
County of St Vincent, Parishes of Budawang and Coghill, Shire of Palerang, being roads within the land designated as 1026-01 on the diagram catalogued as Misc R 00270 (Third Edition) in the Department of Environment and Climate Change and being the road shown by a heavy black line in the Diagram 6 following.

**Schedule 1 Note**

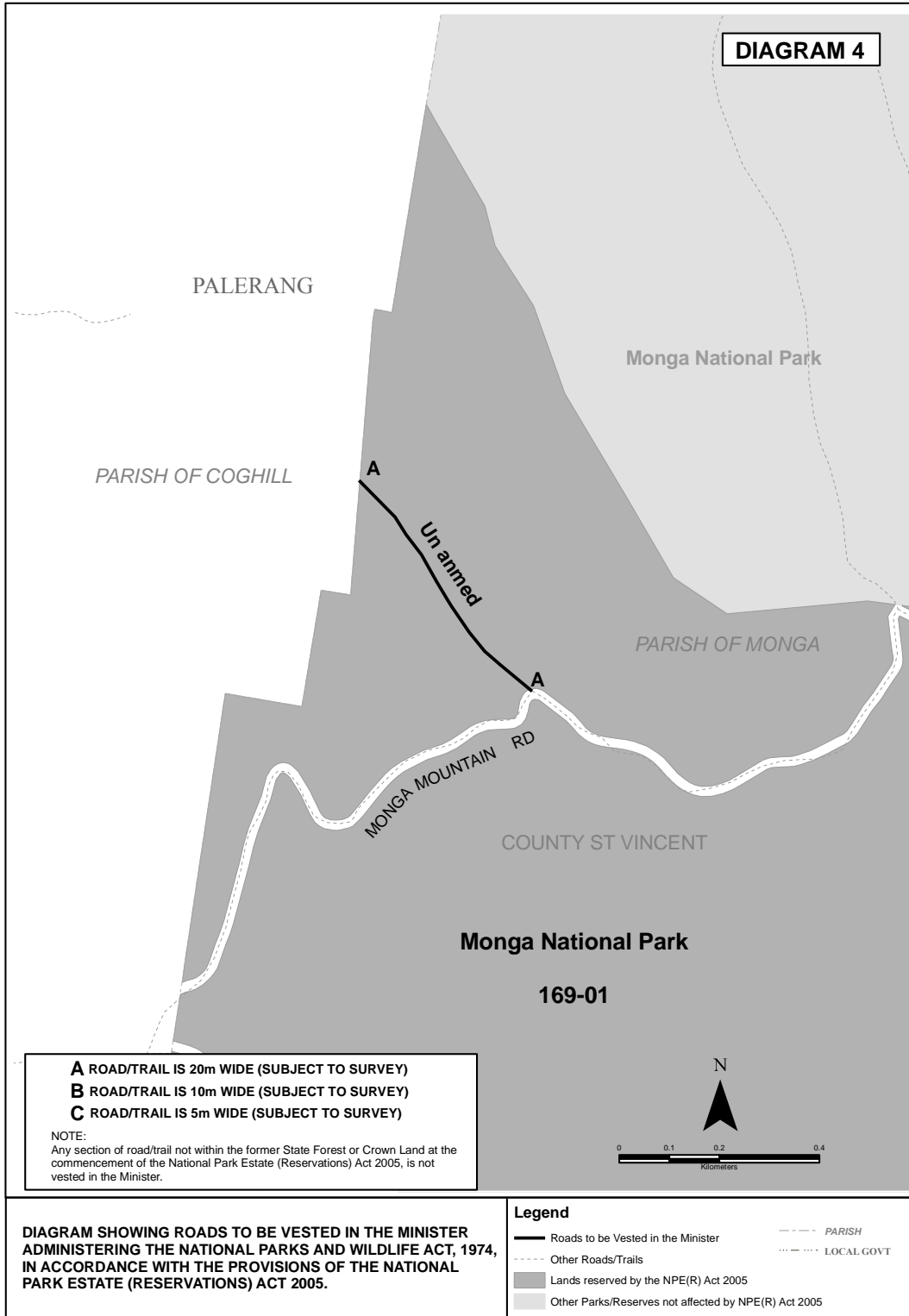
Any section of road constructed upon a public road reserve at the commencement of this Act, is not vested in the Minister. The road width for these roads is measured as an offset from the centre line of the constructed road as at 17 November 2005.

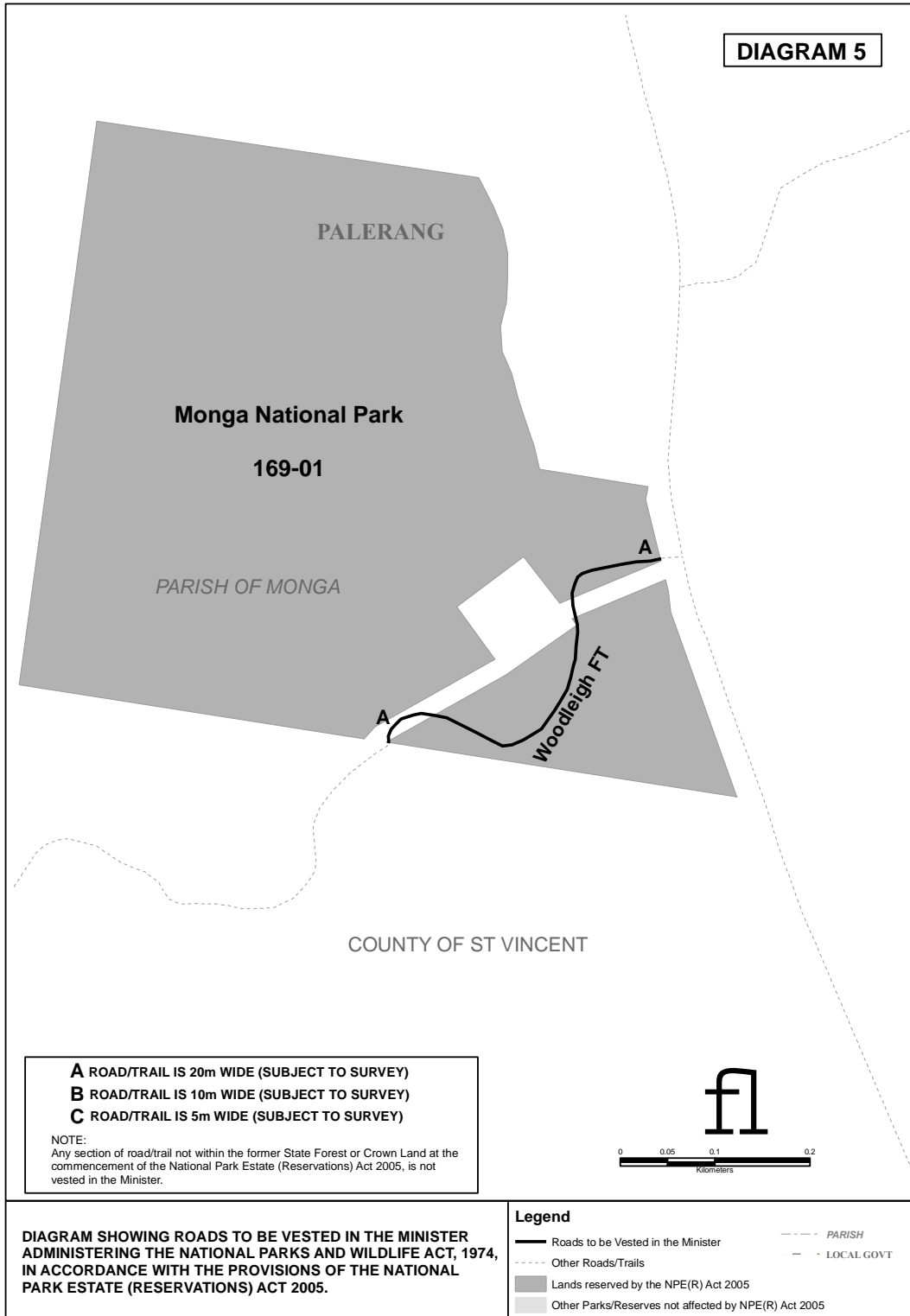


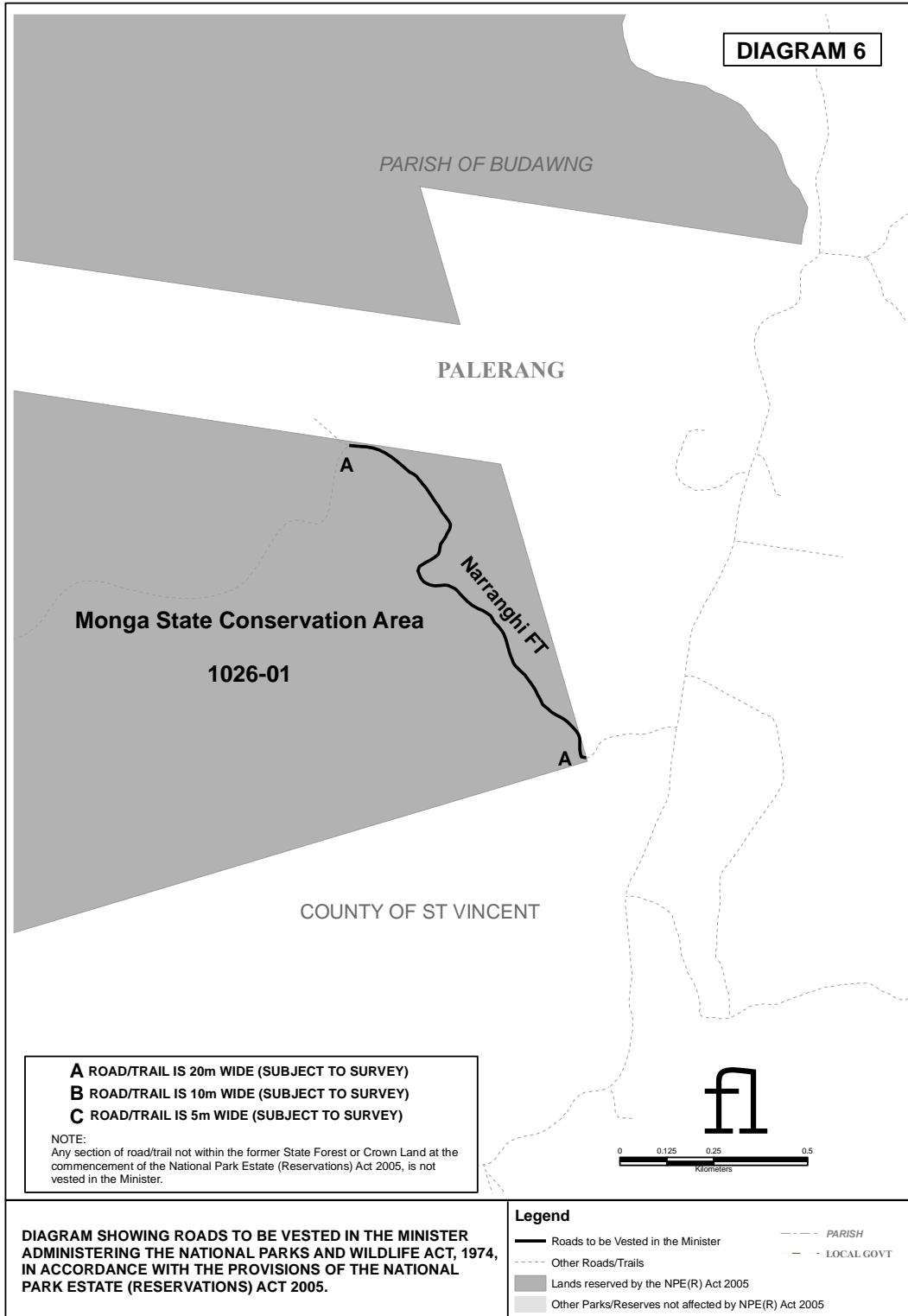












## Protection of the Environment Operations (Waste) Regulation 2005 – General Exemption Under Part 6, Clause 51 and 51A

### The recovered aggregate exemption 2008

#### Name

1. This exemption is to be known as 'The recovered aggregate exemption 2008'.

#### Commencement

2. This exemption commences on 29 August 2008. 'The recovered aggregate exemption 2008' which commenced 20 June 2008 is revoked from 29 August 2008.

#### Duration

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

#### Legislation

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

- 4.1. Clause 51 (2) authorises the EPA to grant an exemption in relation to any matter or thing including an activity or class of activities, and
- 4.2. Clause 51A authorises the EPA to exempt a person from any of the following provisions in relation to an activity or class of activities relating to certain waste that is to be land applied or used as a fuel:
  - the provisions of sections 47 to 49 and 88 of the *Protection of the Environment Operations Act 1997* (the Act),
  - the provisions of Schedule 1 to the Act, either in total or as they apply to a particular activity, and
  - the provisions of Part 3 and clauses 45 and 47 of the Regulation.

#### Exemption

5. In this Notice of Exemption:
  - 5.1. The responsible person listed in Column 1 of Table 1 is exempt from the provision/s listed in Column 2 of that table but only in relation to activities involving the relevant waste and only where the responsible person complies with the conditions referred to in Column 3 of the table.

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

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

Table 1

Column 1	Column 2	Column 3
Responsible person	Provisions from which the responsible person is exempt	Conditions to be met by the responsible person
Processor	section 48 of the Act in respect of clause 39 of Schedule 1 to the Act	all requirements specified in section 7 and 8
Consumer	section 48 of the Act in respect of clauses 34, 39, 41 and 42 of Schedule 1 to the Act section 88 of the Act clause 47 of the Regulation	all requirements specified in section 7 and 9

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

### Definitions

6. In this Notice of Exemption:

**Characterisation** means sampling and testing that must be conducted on the recovered aggregate for the range of chemicals and other attributes listed in Column 1 of Table 2.

**Composite sample** means a sample that combines 5 discrete sub-samples into a single sample for the purpose of analysis.

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

**Once-off sampling** means sampling and testing that must be conducted only once on a batch, truckload or stockpile of recovered aggregate that is not repeated, reproduced and does not form part of a continuous process.

**Processor** means a person who processes, mixes, blends, or otherwise incorporates recovered aggregate into a material for supply to a consumer.

**Recovered aggregate** means material comprising of concrete, brick, ceramics and asphalt processed into an engineered material. This does not include refractory bricks or associated refractory materials, or asphalt that contains coal tar.

**Relevant waste** means recovered aggregate that meets the requirements of Section 7.

**Routine sampling** means sampling and testing that must be conducted on the recovered aggregate on an ongoing and regular basis.

### General conditions

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

7.1. The chemical concentration or other attribute of the recovered aggregate listed in Column 1 of Table 2 must not exceed any of the following:

7.1.1. the absolute maximum concentration or other value listed in Column 4 of Table 2,

7.1.2. for characterisation or once-off tests, the maximum average (based on the arithmetic mean) concentration or other value listed in Column 2 of Table 2, and

7.1.3. for routine tests, the maximum average (based on the arithmetic mean) concentration or other value listed in Column 3 of Table 2.

- 7.2. The recovered aggregate can only be applied to land for road making activities, building, landscaping and construction works. This approval does not apply to any of the following applications:
- 7.2.1. Construction of dams or related water storage infrastructure,
  - 7.2.2. Mine site rehabilitation,
  - 7.2.3. Quarry rehabilitation,
  - 7.2.4. Sand dredge pond rehabilitation,
  - 7.2.5. Back-filling of quarry voids,
  - 7.2.6. Raising or reshaping of land used for agricultural purposes, and
  - 7.2.7. Construction of roads on private land unless:
    - (a) the relevant waste is applied to land to the minimum extent necessary for the construction of a road, and
    - (b) a development consent for the development has been granted under the relevant Environmental Planning Instrument (EPI), or
    - (c) it is to provide access (temporary or permanent) to a development approved by a Council, or
    - (d) the works undertaken are either exempt or complying development.

### **Processor responsibilities**

8. The following conditions must be met by the processor for this exemption to apply:
- 8.1. The processor must implement procedures to minimise the potential to receive or process waste containing asbestos. These procedures must be formally documented and the records of compliance must be kept for a period of three years.
  - 8.2. Sampling must be undertaken in accordance with Australian Standard 1141 Methods for sampling and testing aggregates (or equivalent). Sampling and information on sample storage and preparation must be detailed in a written sampling plan.
  - 8.3. Where the recovered aggregate is generated as part of a continuous process, the processor must undertake characterisation and routine sampling according to the requirements listed in Column 1 and Column 2 of Table 3.
  - 8.4. Where the recovered aggregate is not generated as part of a continuous process, the processor may undertake once-off sampling of a batch, truckload or stockpile of recovered aggregate according to the requirements listed in Column 3 of Table 3, for the range of chemicals and other attributes listed in Column 1 of Table 2.
  - 8.5. Where there is a change in inputs that is likely to affect the properties in the recovered aggregate, characterisation must be repeated. Characterisation samples can be used for routine testing and subsequent calculations.
  - 8.6. Processors must keep a written record of all characterisation, routine and/or once-off test results for a period of three years.
  - 8.7. Records of the quantity of recovered aggregate supplied to the consumer and either the consumer's name and address or the registration details of the vehicle used to transport the recovered aggregate, must be kept for a period of three years.
  - 8.8. The processor of recovered aggregate must provide a written statement of compliance to the consumer with each transaction, certifying that the recovered aggregate complies with the relevant conditions of this exemption.
  - 8.9. The processor of recovered aggregate must make information on the latest characterisation and routine test results available to the consumer.

### Consumer responsibilities

9. The following conditions must be met by the consumer for this exemption to apply:

- 9.1. Records of the quantity of the recovered aggregate received by the consumer and the suppliers' name and address must be kept for a period of three years.
- 9.2. The consumer must land apply the relevant waste within a reasonable period of time.

### Chemical and other material property requirements

10. This Notice of Exemption only applies to recovered aggregate where the chemical and other attributes listed in Column 1 of Table 2 comply with the chemical concentrations and other values listed in Column 2, Column 3 and Column 4 of Table 2, when analysed according to test methods specified in Column 5 of Table 2.

**Table 2**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Chemicals and other attributes</b>	<b>Maximum average concentration for characterisation</b> (mg/kg 'dry weight' unless otherwise specified)	<b>Maximum average concentration for routine testing</b> (mg/kg 'dry weight' unless otherwise specified)	<b>Absolute maximum concentration</b> (mg/kg 'dry weight' unless otherwise specified)	<b>Test method specified within Section</b>
1. Mercury	0.5	Not required	1	12.1
2. Cadmium	0.5	0.5	1	12.2
3. Lead	50	50	100	12.2
4. Arsenic	15	Not required	30	12.2
5. Chromium (total)	40	40	80	12.2
6. Copper	40	40	80	12.2
7. Nickel	25	Not required	50	12.2
8. Zinc	150	150	300	12.2
9. Electrical Conductivity	1 dS/m	1 dS/m	2 dS/m	12.3
10. Metal	1%	1%	2%	12.4
11. Plaster	0.25%	0.25%	0.5%	12.4
12. Rubber, plastic, paper, cloth, paint, wood and other vegetable matter	0.1%	0.1%	0.2%	12.4

## Sampling and testing requirements

11. This Notice of Exemption only applies to recovered aggregate sampled according to the requirements in Table 3.

**Table 3**

Column 1	Column 2	Column 3
Characterisation frequency	Routine sampling frequency	Once-off sampling frequency
20 composite samples, by taking 1 composite sample from a different batch, truckload or stockpile. This must be repeated every year.	5 composite samples per 4000 tonnes or 5 composite samples per 3 months.	10 composite samples per 4000 tonnes.

## Test methods

12. All testing must be undertaken by analytical laboratories accredited by the National Association of Testing Authorities, or equivalent. All chemicals and other attributes listed in Column 1 of Table 2 must be measured in accordance with the test methods specified below:

- 12.1. Test methods for measuring the mercury concentration in recovered aggregate:
- 12.1.1. Particle size reduction & sample splitting may be required.
  - 12.1.2. Analysis using USEPA SW-846 Method 7471B Mercury in solid or semisolid waste (manual cold vapour technique), or an equivalent analytical method with a detection limit < 20% of the stated absolute maximum concentration in Table 2, Column 4 (i.e. 0.2 mg/kg dry weight).
  - 12.1.3. Report as mg/kg dry weight.
- 12.2. Test methods for measuring chemicals 2 - 8 in recovered aggregate:
- 12.2.1. Particle size reduction & sample splitting may be required.
  - 12.2.2. Sample preparation by digesting using USEPA SW-846 Method 3051A Microwave assisted acid digestion of sediments, sludges, soils, and oils.
  - 12.2.3. Analysis using USEPA SW-846 Method 6010C Inductively coupled plasma - atomic emission spectrometry, or an equivalent analytical method with a detection limit < 10% of the stated absolute maximum concentration in Table 2, Column 4, (i.e. 10 mg/kg dry weight for lead).
  - 12.2.4. Report as mg/kg dry weight.
- 12.3. Test methods for measuring the electrical conductivity in recovered aggregate:
- 12.3.1. Sample preparation by mixing 1 part recovered aggregate with 5 parts distilled water.
  - 12.3.2. Analysis using Method 104 (Electrical Conductivity). *In* Schedule B (3): Guideline on Laboratory Analysis of Potentially Contaminated Soils, National Environment Protection (Assessment of Site Contamination) Measure 1999 (or an equivalent analytical method).
  - 12.3.3. Report in deciSiemens per metre (dS/m).



- 12.4. Test method for measuring the attributes 10 - 12 in recovered aggregate:
- 12.4.1. NSW Roads & Traffic Authority Test Method T276 Foreign Materials Content of Recycled Crushed Aggregate (or an equivalent method), for the materials listed in 10 - 12 of Column 1, Table 2.
  - 12.4.2. Report as %.

### **Exemption Granted**

**Mark Gorta**  
**Manager, Waste Management Section**  
**Environment Protection Authority**  
**by delegation**

## Notes

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

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

The use of exempted material remains subject to other relevant environmental regulations within the Act and Regulations. For example, a person who pollutes land (s142A) or water (s120), or does not meet the special requirements for asbestos waste (clause 42), regardless of having an exemption, is guilty of an offence and subject to prosecution.

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

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, however, neither this exemption nor these conditions guarantee that the environment, human health or agriculture will not be harmed.

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

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

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

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

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

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

# PRIVATE ADVERTISEMENTS

## COUNCIL NOTICES

### BAULKHAM HILLS SHIRE COUNCIL

Roads Act 1993 and Roads (General) Regulation 2000

Rename a Public Road from "Burns Road" to "Memorial Avenue".

NOTICE is hereby given that pursuant to the Roads (General) Regulation 2000, as amended, and Clause 162 of the Roads Act 1993, as amended, Baulkham Hills Shire Council resolved on 12 August 2008, to rename a public road currently named "Burns Road" to "Memorial Avenue", location described below.

<i>Description</i>	<i>Name</i>
The section of road currently named Burns Road that commences at the intersection of Memorial Avenue and Balmoral Road and continues in a westerly direction until the intersection of Windsor Road.	Memorial Avenue.

For further enquiries regarding this matter please contact the Land Information Section on (02) 9843 0555. D. WALKER, General Manager, Baulkham Hills Shire Council, PO Box 75, Castle Hill NSW 1765. [4127]

### GOULBURN MULWAREE COUNCIL

Real Property Act 1900

Resumption of Land

GOULBURN MULWAREE COUNCIL declares that the land detailed in the Schedule hereto which was acquired for the purpose of the Goulburn Water Supply is hereby resumed by the Goulburn Mulwaree Council pursuant to section 31A(3) of the Real Property Act 1900. LUKE JOHNSON, General Manager, Goulburn Mulwaree Council, Locked Bag 22, Goulburn NSW 2580.

#### SCHEDULE

Interest in land Lot 10, DP 1069310.	[4128]
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### NARROMINE SHIRE COUNCIL

Naming of Roads

NOTICE is hereby given that Narromine Shire Council, in pursuance of section 162 of the Roads Act 1993, has named a road as follows:

<i>Location</i>	<i>New Name</i>
New road off Manildra Street, Narromine.	Polo Parade.

IAN ROGAN, General Manager, Narromine Shire Council, PO Box 115, Narromine NSW 2821. [4129]

### RICHMOND VALLEY COUNCIL

Roads Act 1193

Roads (general) Regulation 2000

Part 2 – Roads, Division 2 – Naming of Roads

COUNCIL at its meeting on 19 February 2008, resolved to endorse the following name of a cycleway (Minute Number 2008-15):

1. Rosolen Cycleway.

The cycleway commences at the Evans Head Surf Club, Lot 7037, DP 755624 and finishes at Camp Koinonia, Lot 1, DP 1044672. Brian Wilkinson, General Manager, Richmond Valley Council, Locked Bag 10, Casino NSW 2470. [4130]

### SNOWY RIVER SHIRE COUNCIL

Roads Act 1993, Section 162

Division 2, Part 2 – Roads (General) Regulation 2000

Naming of Public Roads – Gegendzerick Road

PURSUANT to section 162 of the Roads Act 1993, Snowy River Shire Council hereby renames Gygederick Road to Gegendzerick Road. J. VESCIO, General Manager, Snowy River Shire Council, 2 Myack Street, Berridale NSW 2628. [4131]

### TAMWORTH REGIONAL COUNCIL

The Roads Act 1993 – Section 162

Renaming of Public Road – Westdale Locality

NOTICE is hereby given in accordance with the above that the road created by the subdivision of Lot 95 DP 734373 and Lot 21 DP 746188, Westdale, under Development Application number DA0510/2004-02 has been named John Stuart Close.

The subject road is a cul-de-sac which extends from Landsborough Close, Westdale and is approximately 125 metres long.

No objections to the proposed name were received during the required 28 day exhibition period. GLEN INGLIS, General Manager, Tamworth Regional Council, PO Box 555, Tamworth NSW 2340 [4132]

### TWEED SHIRE COUNCIL

Roads Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

TWEED SHIRE COUNCIL declares with the approval of Her Excellency the Governor, that the land 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 road widening. Dated at Murwillumbah, 21 August 2008. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

## SCHEDULE

Lot 1, DP 1124429. [4133]

**TWEED SHIRE COUNCIL**

Roads Act 1993, Section 10

Dedication of Land as Public Road

NOTICE is hereby given that the Tweed Shire Council, by resolution of Council dated 13 May 2008, has resolved to dedicate the land described hereunder as public road pursuant to section 10 of the Roads Act 1993. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

## SCHEDULE

Lot 1, DP 1124429. [4134]

**TWEED SHIRE COUNCIL**

Roads Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

TWEED SHIRE COUNCIL declares with the approval of Her Excellency the Governor, that the lands and interests in 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 purpose of a public road, an easement for public access, and easement for services and for resale. Dated at Murwillumbah, 21 May 2008. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

## SCHEDULE

Lot 1, DP 240599;

Lot 3, DP 240599;

Lot 4, DP 240599;

Lot 1, DP 1118747;

Lot 2, DP 1118747;

Lot 3, DP 1118747;

Lot 5, DP 1118747;

Right of public access over Lot 7067, DP 105029, as shown marked R on DP 1118747;

Easement for services over Lot 656, DP 755740, as shown marked W on DP 1118747. [4135]

**TWEED SHIRE COUNCIL**

Roads Act 1993, Section 10

Dedication of Land as Public Road

NOTICE is hereby given that the Tweed Shire Council, by resolution of Council dated 26 September 2006, has resolved to dedicate the land described hereunder as public road pursuant to section 10 of the Roads Act 1993. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

## SCHEDULE

Lots 1, 3, and 4 in DP 240599;

Lot 5 in DP 1118747. [4136]

**TWEED SHIRE COUNCIL**

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

TWEED SHIRE COUNCIL declares with the approval of Her Excellency the Governor, that the land and the easement 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 a communications facility and an associated easement. Dated at Murwillumbah, 21 August 2008. MIKE RAYNER, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah NSW 2484.

## SCHEDULE

Lot 1, DP 1123498 and an easement for services 2 wide and 3 wide, shown marked D over Lot 2, D 1123498. [4137]

## COOLAMON SHIRE COUNCIL

NOTICE is hereby given to the persons named hereunder that the Council of the Shire of Coolamon has resolved in pursuance of Section 713 of the Local Government Act 1993, to sell the land described hereunder of which the persons named appear to be the owners of, or in which they appear to have an interest and on which the amounts of rates stated in each case, due as at 30 June 2008:

<i>Owners of persons having an interest in the land</i>	<i>Description of land</i>	<i>Amount of rates &amp; charges overdue for more than 5 years</i>	<i>Amount of all other rates &amp; charges due</i>	<i>Total Due</i>
JJ CHRISTOPHER	LOT 1 SEC 38 DP 758428	974.27	4,293.70	5,267.97
A DI MUNNO	LOT 1 DP 662666	2,335.88	7,415.97	9,751.85
E CLEMENT	LOTS 5-6 SEC 5 DP 6702	469.97	1,857.65	2,327.62
RA GILLESPIE	LOT 8 SEC 4 DP 758657	1,062.93	1,571.14	2,634.07
LA JENNINGS	LOT 1 DP 800825 ROAD PERMIT 1957/34	363.05	1,348.28	1,711.33
PROSPECTORS PTY LTD	LOT 1 DP 391397	964.08	1,645.44	2,609.52
EST. LATE MI SMITH	LOT 1 DP 957944	561.84	3,173.01	3,734.85
NJ SPARY	LOT Q DP 6985	193.89	1,178.10	1,371.99
E HUYER	LOT 10 SEC 4 DP 5822	597.39	1,327.77	1,925.16
S TREVASKIS	LOT 28 DP 750865	436.13	1,415.09	1,851.22

In default of payment to Council of the amount stated in the TOTAL column above and any other rates and charges becoming due and payable after the 30 June 2008 or an arrangement satisfactory to Council for payment of all such rates being entered into by the rateable person, before the time fixed for the sale, the said land will be offered by public auction at Council Chambers, Cowabbie Street, Coolamon on Thursday 4 December 2008 at 10.30am. Dated 27 August 2008. TERREY KISS, General Manager, Coolamon Shire Council, Shire Hall, Coolamon NSW 2701. [4138]

### ESTATE NOTICES

IN the Supreme Court of New South Wales, Equity Division.—Notice of intended distribution of estate.—Any person having any claim upon the estate of MYRNA ANNE KENNEDY, late of 96 Metropolitan Road, Enmore, in the State of New South Wales, who died on 22 May 2008, must send particulars of the claim to the executors, c.o. Lobban McNally Lawyers, 65 York Street, Sydney NSW 2000, within one (1) calendar month from publication of this notice. After that time the assets of the estate may be conveyed and distributed having regard only to the claims of which at the time of conveyance or distribution the executors have notice. Probate was granted in New South Wales on 11 August 2008. LOBBAN MCNALLY LAWYERS, Level 3, 65 York Street, Sydney NSW 2000, tel.: (02) 9299 8438. [4139]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of MARIE COOKSON, late of 23 Corrie Parade, Corlette, in the State of New South Wales, who died on 23 May 2008, must send particulars of his claim to the executors, c.o. John S. Fordham, Solicitor, 12 Station Street, West Ryde NSW 2114, 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 5 August 2008. JOHN S. FORDHAM, Solicitor, 12 Station

Street, West Ryde NSW 2114 (PO Box 107, West Ryde NSW 1685), (DX 27551, West Ryde), tel.: (02) 9858 1533. Reference: JSF.CT.08175. [4140]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of JEAN WILKIN, late of Unit 4, Lindfeld Manor, 7 Bent Street, Lindfeld, in the State of New South Wales, who died on 19 June 2008, must send particulars of his claim to the executor, c.o. John S. Fordham, Solicitor, 12 Station Street, West Ryde NSW 2114, 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 11 August 2008. JOHN S. FORDHAM, Solicitor, 12 Station Street, West Ryde NSW 2114 (PO Box 107, West Ryde NSW 1685), (DX 27551, West Ryde), tel.: (02) 9858 1533. Reference: JSF.CT.08202. [4141]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of JACK BENNETT DESBOROUGH, late of Unit 54, Southern Cross Village, Marsfield, in the State of New South Wales, who died on 9 May 2008, must send particulars of his claim to the executor, c.o. John S. Fordham, Solicitor, 12 Station Street, West Ryde NSW 2114, 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 she has notice. Probate was granted in New South Wales on 14 August 2008. JOHN S. FORDHAM, Solicitor, 12 Station Street, West Ryde NSW 2114 (PO Box 107, West Ryde NSW 1685), (DX 27551, West Ryde), tel.: (02) 9858 1533. Reference: JSF.SM.08139[4142]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of SARAH ELLEN LOMASNEY (known as Sadie), late of Strathfeld, in the State of New South Wales, retired teacher, who died on 17 January 2008, must send particulars of his/her claim to the executor, Dean Joseph Mitchelmore, c.o. C. P. White & Sons (Burwood), Solicitors, 15 Belmore Street, Burwood NSW 2134, within one (1) calendar month from publication of this notice. After that time the assets of the estate 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 14 July 2008. C. P. WHITE & SONS (Burwood), Solicitors, 15 Belmore Street, Burwood NSW 2134 (PO Box 36, Burwood NSW 1805), (DX 8550, Burwood), tel.: (02) 9744 2198. Reference: DJM.KP.32855. [4143]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of GEORGE AHELIK, late of 55 Walter Street, Mortdale, in the State of New South Wales, who died on 3 April 2008, must send particulars of their claim to the executors, John William McCotter and Margaret Joyce McCotter, c.o. Colin J. Duff, Solicitor, 7 Morts Road, Mortdale NSW 2223, within one (1) calendar month from publication of this notice. After that time the assets of the estate 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 5 August 2008. COLIN J. DUFF, Solicitor, 7 Morts Road, Mortdale NSW 2223 (DX 11307, Hurstville), tel.: (02) 9570 2022. [4144]

## COMPANY NOTICES

NOTICE of voluntary winding up.—SHERELINE HOMES (NEWCASTLE) PTY. LTD., ACN 000 460 408.—Notice is hereby given pursuant to section 491(2) of the Corporations Act that at an extraordinary general meeting of the abovenamed company duly convened and held on 20 August 2008, the following special resolution was duly passed: “That the company be wound up voluntarily and that Robert Douglas Hillier be appointed liquidator for the purposes of the winding up and that he be authorised to draw as his remuneration his normal hourly charges in respect thereto. R. T. Burton, Director”. R. D HILLIER & CO., Chartered Accountants, 332-338 Military Road (PO Box 28), Cremorne NSW 2090, tel.: (02) 9953 7877. [4145]

NOTICE of annual general meeting.—CROKER HOLDINGS PTY LTD, CAN 001 208 466.—Notice is hereby given pursuant to the Corporations Law that an annual general meeting convened by the liquidator of the abovenamed company will be held on 30 September 2008. The Liquidator, Bruce Walker of Walker Lynch Petersen, PO Box 221, Taree NSW 2430, will present an account showing how the winding up of the company had been conducted and how the property of the company had been disposed of and will give any necessary explanations. B. WALKER, Liquidator, c.o. Walker Lynch Petersen, Chartered Accountants, 18th Floor, Savoy Centre, Alber Street, Taree NSW 2430, tel.: (02) 6552 3533. [4146]

NOTICE of voluntary liquidation, - Walens Pty Limited ACN 001 862 844 – Notice is hereby given that at a general meeting of members of the above named company duly convened and held at Level 1, 23 Wrights Rd, Drummoyne, NSW 2047 on 5 September, 2007 the following special resolution was passed “that the company be wound up voluntarily”. On the same day pursuant to Section 495 (1) Mr John Stephen Ovenden, Chartered Accountant, Level 1, 23 Wrights Rd, Drummoyne NSW 2047 was appointed as Liquidator. Dated 27 August, 2008. Mr John Stephen Ovenden, Chartered Accountant, Level 1, 23 Wrights Rd, Drummoyne NSW 2047. [4147]

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