The New South Wales Government Gazette is the permanent public record of official notices issued by the New South Wales Government. It also contains local council and other notices and private advertisements.

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To submit a notice for gazettal – see Gazette Information.
ACTS OF PARLIAMENT ASSENTED TO

Legislative Assembly Office, Sydney 30 November 2017

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

Act No. 66 — An Act to make provision with respect to the election of members of Parliament; and for other purposes. [Electoral Bill]

Act No. 67 — An Act to amend the Duties Act 1997, the Land Tax Act 1956 and the Land Tax Management Act 1956 to make further provision for surcharge purchaser duty, surcharge land tax and administrative arrangements. [State Revenue Legislation Amendment (Surcharge) Bill]

Act No. 68 — An Act to provide for the supervision and detention of certain offenders posing an unacceptable risk of committing serious terrorism offences; and to make consequential and related amendments to certain legislation. [Terrorism (High Risk Offenders) Bill]

Act No. 69 — An Act to prevent the unsafe use of building products in buildings and to provide for the rectification of affected buildings; and for related purposes. [Building Products (Safety) Bill]

Helen Minnican
Clerk of the Legislative Assembly

ACT OF PARLIAMENT ASSENTED TO

Legislative Council Office Sydney 23 November 2017

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

Act No. 58, 2017 – An Act to amend the Education Act 1990 to make further provision in relation to the health and safety of school students and staff; and for other purposes. [Education Amendment (School Safety) Bill 2017]

Act No. 59, 2017 – An Act to amend the Electricity Supply Act 1995 to make provision with respect to the management of electricity supply emergencies; and for other purposes. [Electricity Supply Amendment (Emergency Management) Bill 2017]

Act No. 60, 2017 – An Act to amend the Environmental Planning and Assessment Act 1979 with respect to the system of environmental planning and assessment in New South Wales; and for other purposes. [Environmental Planning and Assessment Amendment Bill 2017]

Act No. 61, 2017 – An Act to make miscellaneous amendments to certain road transport and related legislation. [Road Transport and Related Legislation Amendment Bill 2017]

Act No. 62, 2017 – An Act to amend various Acts with respect to sentencing in cases where victims are geographically isolated, the ownership of feral goats, the mustering of stock, trespass and illegal hunting; and for other purposes. [Rural Crime Legislation Amendment Bill 2017]

Act No. 63, 2017 – An Act to repeal certain Acts and to amend certain other Acts and instruments in various respects and for the purpose of effecting statute law revision; and to make certain savings. [Statute Law (Miscellaneous Provisions) Bill (No 2) 2017]

David Blunt
Clerk of the Parliaments

ACT OF PARLIAMENT ASSENTED TO

Legislative Council Office Sydney 30 November 2017

IT is hereby notified, for general information, that His Excellency the Governor has, in the name and on behalf of Her Majesty, this day assented to the undermentioned Act passed by the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, viz.:
Act No. 64, 2017 – An Act to constitute and confer functions on the Natural Resources Access Regulator. [Natural Resources Access Regulator Bill 2017]

Act No. 65, 2017 – An Act to amend the Local Government Act 1993 with respect to joint organisations of councils; and for other purposes. [Local Government Amendment (Regional Joint Organisations) Bill 2017]

David Blunt
Clerk of the Parliaments
GOVERNMENT NOTICES
Miscellaneous Instruments

FIRE BRIGADES ACT 1989
Order under Section 5 (2)

D. HURLEY, Governor

I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in Government Gazette 107 of 26 August 2005 and reconstitute the Alstonville Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017
DAVID HURLEY,
Governor

By His Excellency's Command
TROY GRANT MP,
Minister for Emergency Services

SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

Alstonville Fire District
Comprising the existing Fire District in Ballina Shire Council, additions and deletions as delineated on Map No. 204 kept in the office of Fire & Rescue NSW.

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FIRE BRIGADES ACT 1989
Order under Section 5 (2)

D. HURLEY, Governor

I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in Government Gazette 50 of 29 April 2005 and reconstitute the Ballina Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017
DAVID HURLEY,
Governor

By His Excellency's Command
TROY GRANT MP,
Minister for Emergency Services

SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

Ballina Fire District
Comprising the existing Fire District in Ballina Shire Council, additions and deletions as delineated on Map No. 211 kept in the office of Fire & Rescue NSW.
FIRE BRIGADES ACT 1989
Order under Section 5 (2)

D. HURLEY, Governor

I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in Government Gazette 50 of 29 April 2005 and reconstitute the Bangalow Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017

DAVID HURLEY,
Governor

By His Excellency's Command

TROY GRANT MP,
Minister for Emergency Services

SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

Bangalow Fire District
Comprising the existing Fire District in Byron Shire Council, additions and deletions as delineated on Map No. 213 kept in the office of Fire & Rescue NSW.

FIRE BRIGADES ACT 1989
Order under Section 5 (2)

D. HURLEY, Governor

I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in Government Gazette 174 of 5 November 2004 and reconstitute the Berry Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017

DAVID HURLEY,
Governor

By His Excellency's Command

TROY GRANT MP,
Minister for Emergency Services

SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

Berry Fire District
Comprising the existing Fire District in Shoalhaven City Council, additions and deletions as delineated on Map No. 224 kept in the office of Fire & Rescue NSW.

FIRE BRIGADES ACT 1989
Order under Section 5 (2)

D. HURLEY, Governor

I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in Government Gazette 174 of 5 November 2004 and reconstitute the Brunswick...
Heads Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017

DAVID HURLEY,
Governor
By His Excellency's Command
TROY GRANT MP,
Minister for Emergency Services

SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

Brunswick Heads Fire District
Comprising the existing Fire District in Byron Shire Council, additions and deletions as delineated on Map No. 240 kept in the office of Fire & Rescue NSW.

FIRE BRIGADES ACT 1989
Order under Section 5 (2)

D. HURLEY, Governor
I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in Government Gazette 107 of 26 August 2005 and reconstitute the Byron Bay Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017

DAVID HURLEY,
Governor
By His Excellency's Command
TROY GRANT MP,
Minister for Emergency Services

SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

Byron Bay Fire District
Comprising the existing Fire District in Byron Shire Council, additions and deletions as delineated on Map No. 179 kept in the office of Fire & Rescue NSW.

FIRE BRIGADES ACT 1989
Order under Section 5 (2)

D. HURLEY, Governor
I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in Government Gazette 80 of 15 June 2007 and reconstitute the Griffith Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017

DAVID HURLEY,
Governor
SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

Griffith Fire District
Comprising the existing Fire District in Griffith City Council, additions and deletions as delineated on Map No. 311 kept in the office of Fire & Rescue NSW.

FIRE BRIGADES ACT 1989
Order under Section 5 (2)

D. HURLEY, Governor
I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in Government Gazette 107 of 26 August 2005 and reconstitute the Kingscliff Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017
DAVID HURLEY,
Governor
By His Excellency's Command
TROY GRANT MP,
Minister for Emergency Services

SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

Kingscliff Fire District
Comprising the existing Fire District in Tweed Shire Council, additions and deletions as delineated on Map No. 347 kept in the office of Fire & Rescue NSW.

FIRE BRIGADES ACT 1989
Order under Section 5 (2)

D. HURLEY, Governor
I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in Government Gazette 50 of 29 April 2005 and reconstitute the Murwillumbah Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017
DAVID HURLEY,
Governor
By His Excellency's Command
TROY GRANT MP,
Minister for Emergency Services
SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

**Murwillumbah Fire District**

Comprising the existing Fire District in Tweed Shire Council, additions and deletions as delineated on Map No. 391 kept in the office of Fire & Rescue NSW.

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**FIRE BRIGADES ACT 1989**

Order under Section 5 (2)

D. HURLEY, Governor

I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the *Fire Brigades Act 1989*, do, by this my Order, vary the Orders published in Government Gazette 174 of 5 November 2004 and reconstitute the Mullumbimby Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017

DAVID HURLEY,
Governor

By His Excellency's Command

TROY GRANT MP,
Minister for Emergency Services

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**SCHEDULE**

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

**Mullumbimby Fire District**

Comprising the existing Fire District in Byron Shire Council, additions and deletions as delineated on Map No. 388 kept in the office of Fire & Rescue NSW.

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**FIRE BRIGADES ACT 1989**

Order under Section 5 (2)

D. HURLEY, Governor

I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the *Fire Brigades Act 1989*, do, by this my Order, vary the Orders published in Government Gazette 174 of 5 November 2004 and reconstitute the Nowra Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017

DAVID HURLEY,
Governor

By His Excellency's Command

TROY GRANT MP,
Minister for Emergency Services

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**SCHEDULE**

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

**Nowra Fire District**

Comprising the existing Fire District in Shoalhaven City Council, additions and deletions as delineated on Map No. 405 kept in the office of Fire & Rescue NSW.
FIRE BRIGADES ACT 1989
Order under Section 5 (2)

D. HURLEY, Governor

I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in Government Gazette 107 of 26 August 2005 and reconstitute the Tweed Heads Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017

DAVID HURLEY,
Governor

By His Excellency's Command

TROY GRANT MP,
Minister for Emergency Services

SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

Tweed Heads Fire District
Comprising the existing Fire District in Tweed Shire Council, additions and deletions as delineated on Map No. 468 kept in the office of Fire & Rescue NSW.

FIRE BRIGADES ACT 1989
Order under Section 5 (2)

D. HURLEY, Governor

I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in Government Gazette 174 of 5 November 2004 and reconstitute the Ulladulla Fire District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.

Signed at Sydney, this 8th day of November 2017

DAVID HURLEY,
Governor

By His Excellency's Command

TROY GRANT MP,
Minister for Emergency Services

SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

Ulladulla Fire District
Comprising the existing Fire District in Shoalhaven City Council, additions and deletions as delineated on Map No. 477 kept in the office of Fire & Rescue NSW.

FIRE BRIGADES ACT 1989
Order under Section 5 (2)

D. HURLEY, Governor

I, General The Honourable DAVID HURLEY, AC DSC (Ret'd), Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in Government Gazette 134 of 24 October 2008 and reconstitute the Yenda Fire
District in the following Schedule and declare that the provisions of the Fire Brigades Act shall apply to the area described in the Schedule.
Signed at Sydney, this 8th day of November 2017

DAVID HURLEY,
Governor

By His Excellency's Command

TROY GRANT MP,
Minister for Emergency Services

SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the Gazette.

Yenda Fire District

Comprising the existing Fire District in Griffith City Council, additions and deletions as delineated on Map No. 512 kept in the office of Fire & Rescue NSW.
Privacy Code of Practice (General) Amendment (Document Validation Services) 2017

under the
Privacy and Personal Information Protection Act 1998

I, the Attorney General, in pursuance of section 31 of the Privacy and Personal Information Protection Act 1998, do, by this my Order, make the following Privacy Code of Practice.

Dated, this 20th day of November 2017.

MARK SPEAKMAN, MP
Attorney General

Explanatory note
The object of this Order is to amend the Privacy Code of Practice (General) 2003 to make provision with respect to the collection, use and disclosure of certain personal information by the Registry of Births, Deaths and Marriages for the purposes of the CertValid certificate validation service and the National Document Verification Service.
This Order is made under section 31 of the Privacy and Personal Information Protection Act 1998.
Privacy Code of Practice (General) Amendment (Document Validation Services) 2017

under the

Privacy and Personal Information Protection Act 1998

1 Name of Order

This Order is the Privacy Code of Practice (General) Amendment (Document Validation Services) 2017.

2 Commencement

This Order commences on the day on which it is published in the Gazette.
Schedule 1  Amendment of Privacy Code of Practice (General) 2003

Part 7

Omit the Part. Insert instead:

Part 7  Registry of Births, Deaths and Marriages

19  Collection, use and disclosure for document validation services

(1) Despite the information protection principles, the Registry of Births, Deaths and Marriages may collect, use or disclose personal information for the verification (by way of a validation service) of personal information contained in a proof of identity document issued by the Registrar of Births, Deaths and Marriages if:

(a)  the document has been presented to a government or non-government agency or organisation authorised to use the validation service, and

(b)  the collection, use or disclosure is in accordance with any applicable operating protocols of the validation service.

(2)  In this clause:

*validation service* means:

(a)  the CertValid certificate validation service operated by the Registry of Births, Deaths and Marriages, or

(b)  the National Document Verification Service managed by the Commonwealth Attorney-General’s Department.
The Queens Lake Nature Reserve and Queens Lake State Conservation Area Draft Plan of Management is on exhibition until 9 April 2018.

The plan may be viewed at:

- National Parks and Wildlife Service (NPWS) Hastings-Macleay Area Office (22 Blackbutt Road, Port Macquarie, NSW)
- Sea Acres Rainforest Centre (158 Pacific Drive, Port Macquarie, NSW)
- Laurieton Library (9 Laurie Street, Laurieton, NSW)
- Port Macquarie-Hastings Council (17 Burrawan Street Port Macquarie, NSW)
- Office of Environment and Heritage (OEH) Customer Centre (Level 14, 59–61 Goulburn St, Sydney)

Submissions on the plan must be received by 9 April 2018 by:

- email to npws.parkplanning@environment.nsw.gov.au; or
- mail to The Planner, Queens Lake SCA & NR DPOM, NPWS, PO Box 707 Nowra, NSW 2541; or
- using the online form on the OEH ‘Have your say’ website.

Your comments on the draft plan may include ‘personal information’. See www.environment.nsw.gov.au/help/privacy.htm for information on how we will treat any personal information you provide, and the ‘Have your say’ webpage for information on how we may use and publish comments provided in your submission. For more information, contact Kristy Lawrie on 0427867699.
MARINE SAFETY ACT 1998
MARINE NOTICE
Section 12(2)
REGULATION OF VESSELS – EXCLUSION ZONE

Location
Clarence River, Grafton – entire width of the river from Memorial Park to Susan Island.

Duration
7.00am to 5.00pm on the following dates:

- Saturday 9 December 2017
- Sunday 10 December 2017

Detail
A rowing regatta will be conducted on navigable waters of the Clarence River as above.

An EXCLUSION ZONE is specified during the event, which will be marked by buoys at the above location.

Unauthorised vessels and persons are prohibited from entering the exclusion zone which will be patrolled by control vessels.

All vessel operators and persons in the vicinity of the event should keep a proper lookout, keep well clear of competing and support vessels, and exercise caution.

Penalties may apply (section 12(5) – Marine Safety Act 1998)


Marine Notice: NH17123
Date: 4 December 2017

Darren Hulm
A/Manager Operations North
Delegate

MARINE SAFETY ACT 1998
MARINE NOTICE
Section 12(2)

REGULATION OF VESSELS – EXCLUSION ZONE AND SPECIAL RESTRICTIONS

Location
Sydney Harbour – Farm Cove to North Head as follows:

All navigable waters bounded by imaginary lines drawn between:

- Bennelong Point Port Hand Beacon and Kirribilli Point,
- the most northerly point of Middle Head, and Cannae Point Flagstaff,
- North Head starboard hand beacon and Hornby Light

Event Duration
Tuesday 12 December 2017, from 12:00pm to 3:00pm

Exclusion Zones
A special event, the SOLAS Big Boat Challenge 2017, will take place on Sydney Harbour at the above location. Due to the potential to affect the safety of navigation, Exclusion Zones are specified which will set aside a starting area for competing vessels and protect the course rounding buoys.

- Spectator vessels wishing to watch the start (in the vicinity of the area between Clark Island and Point Piper) are required to keep out of the exclusion zone, which will be marked by yellow buoys. Spectator
vessels are required to remain to the west of the western line of buoys and east of the eastern line of buoys.

- In the vicinity of the orange CYCA inflatable race turning mark approximately 500m south west from Cannae Point a series of exclusion buoys will be installed. Spectators are not to navigate between the exclusion buoys and the orange turning mark.

- In the vicinity of the orange CYCA inflatable race turning mark approximately 100m south east of Shark Island a series of exclusion buoys will be installed. Spectators are not to navigate between the exclusion buoys and orange turning mark.

Only competing, authorised media vessels and official control vessels are permitted in the exclusion zones. All other vessels are required to stay clear. Penalties may apply (Marine Safety Act 1998, s.12(5) – Maximum Penalty $1,100.00)

**Special Restrictions**

Pursuant to section 12(3) of the Marine Safety Act 1998, a strict 6 knot speed limit zone and a “no wash” zone will be in place within 200m of the exclusion zones from 12:20pm to 12:40pm

**Directions**

RMS advises:

1) Persons within the vicinity of the event must comply with any directions given by a Boating Safety Officer or Police Officer in relation to the Special Event or to marine safety. Failure to comply with any such direction is an offence (Marine Safety Act 1998, s.15A – Maximum Penalty $3,300.00).

2) Any vessel operator breaching the Special Restrictions above is liable to be guilty of an offence (Marine Safety Act 1998, s.12(5) – Maximum Penalty $1,100.00)

3) Vessels intending to accompany or follow the racing fleet are required to follow strict instructions from Roads and Maritime and Police control vessels and not impede the passage of ferries, ships or competing yachts.

**Maps and Charts Affected**

RMS Boating Map – 9D
RAN Hydrographic Chart AUS 200


Marine Notice SE1705

Date: 6 December 2017

Drew Jones
Senior Special Aquatic Events Officer
Delegate

**ROADS ACT 1993**

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

Notice of Compulsory Acquisition of Land at Ashfield in the Inner West Council Area

Roads and Maritime Services by its delegate declares, with the approval of His 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.

K DURIE
Manager, Compulsory Acquisition & Road Dedication
Roads and Maritime Services

**Schedule**

All those pieces or parcels of land situated in the Inner West Council area, Parish of Concord and County of Cumberland, shown as:

- Lots 10, 15 and 20 Deposited Plan 1237880, being part of the land in Certificate of Title 50/1122039;
- Lots 11, 16 and 21 Deposited Plan 1237880, being part of the land in Certificate of Title 51/1122039;
- Lots 12, 17 and 22 Deposited Plan 1237880, being part of the land in Certificate of Title 1/965245;
Government Notices

Lots 13, 18 and 23 Deposited Plan 1237880, being part of the land in Certificate of Title 2/965245; and
Lots 14, 19 and 24 Deposited Plan 1237880, being part of the land in Certificate of Title 3/965245.
The land is said to be in the possession of Fabcot Pty Limited (registered proprietor) and Roads and Maritime Services (lessee).
(RMS Papers: SF2015/68998; RO SF2014/8830)

ROADS ACT 1993

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land at Bolivia in the Tenterfield Shire Council Area

Roads and Maritime Services by its delegate declares, with the approval of His 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.

K DURIE
Manager, Compulsory Acquisition & Road Dedication
Roads and Maritime Services

Schedule

All those pieces or parcels of Crown land situated in the Tenterfield Shire Council area, Parish of Bolivia and County of Clive, shown as:

Lot 106 Deposited Plan 1233113, being part of the land in Certificate of Title 7307/1145068;
Lot 107 Deposited Plan 1233113, being part of the land in Certificate of Title 66/751498;
Lot 108 Deposited Plan 1233113, being part of the land in Certificate of Title 7001/1065779; and
Lots 109 and 111 Deposited Plan 1233113, being part of the land in Certificate of Title 7015/1065780.
The land is said to be in the possession of the Crown and Northern Tablelands Local Land Services (Reserve Trust Manager).
(RMS Papers: SF2017/129628; RO SF2015/119239)

ROADS ACT 1993

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land at South Penrith in the Penrith City Council Area

Roads and Maritime Services by its delegate declares, with the approval of His 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.

K DURIE
Manager, Compulsory Acquisition & Road Dedication
Roads and Maritime Services

Schedule

All those pieces or parcels of land situated in the Penrith City Council area, Parish of Mulgoa and County of Cumberland, shown as Lots 101 and 102 Deposited Plan 1232766, being part of the land in Certificate of Title 2/1224249.
The land is said to be in the possession of Penrith City Council.
(RMS Papers: SF2017/209164; RO SF2017/058131)
ROADS ACT 1993

Notice of Dedication of Land as Public Road at Moonee in the Coffs Harbour City Council Area

Roads and Maritime Services, by its delegate, dedicates the land described in the schedule below as public road under section 10 of the Roads Act 1993.

K DURIE
Manager, Compulsory Acquisition & Road Dedication
Roads and Maritime Services

Schedule

All those pieces or parcels of land situated in the Coffs Harbour City Council area, Parish of Moonee and County of Fitzroy, shown as:

Lots 14 and 15 Deposited Plan 1140702; and
Lot 3 Deposited Plan 1148177.

(RMS Papers: SF2017/008563)

TRANSPORT ADMINISTRATION ACT 1988

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land in the Local Government Area of Central Coast

Transport for NSW by its delegate declares, with the approval of His 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 as authorised by clause 11 of Schedule 1 of the Transport Administration Act 1988 for the purposes of the Transport Administration Act 1988.

Stephen Troughton
Deputy Secretary
Infrastructure and Services
Transport for NSW

SCHEDULE

All that piece of land situated in the Local Government Area of Central Coast, Parish of Tuggerah, County of Northumberland, shown as Lot 202 in Deposited Plan 1224649, being part of the land in Certificate of Title 1/656505, and said to be in the possession of The Estate of the Late Dorothy Helen Bullock, but excluding from the acquisition:

- P640919 Easement for Railway Purposes variable width
- S380898 Easement for Electricity Purposes 16 & 20 wide

Transport for NSW Document Number: 5638969_1
NOTICE is given that the following applications have been received:

**EXPLORATION LICENCE APPLICATIONS**

**(T17-1218)**

No. 5607, LFB RESOURCES NL (ACN 073 478 574), area of 15 units, for Group 1, dated 29 November, 2017. (Orange Mining Division).

**(T17-1219)**

No. 5608, NEW ZINC RESOURCES PTY LTD (ACN 622 780 054), area of 100 units, for Group 1, dated 30 November, 2017. (Inverell Mining Division).

**(T17-1220)**

No. 5609, NEW ZINC RESOURCES PTY LTD (ACN 622 780 054), area of 89 units, for Group 1, dated 30 November, 2017. (Broken Hill Mining Division).

**(T17-1221)**

No. 5610, AUSTRALIAN CONSOLIDATED GOLD HOLDINGS PTY LTD (ACN 619 975 405), area of 30 units, for Group 1, dated 30 November, 2017. (Cobar Mining Division).

**(T17-1222)**

No. 5611, THE AUSTRAL BRICK CO PTY LTD (ACN 000 005 550), area of 1 units, for Group 5, dated 30 November, 2017. (Sydney Mining Division).

**(T17-1223)**

No. 5612, SOLINDO PTY LTD (ACN 158 170 506), area of 50 units, for Group 1, Group 2 and Group 5, dated 1 December, 2017. (Cobar Mining Division).

**(T17-1224)**

No. 5613, AUS GOLD MINING GROUP PTY LIMITED (ACN 603 575 917), area of 9 units, for Group 1, dated 5 December, 2017. (Broken Hill Mining Division).

**MINING LEASE APPLICATION**

**(T17-1215)**

No. 551, METROMIX PTY LIMITED (ACN 002 886 839), area of about 1.4364 hectares, for the purpose of ancillary mining activity, dated 23 November, 2017. (Orange Mining Division).

The Honourable Don Harwin MLC
Minister for Resources

NOTICE is given that the following applications have been granted:

**ASSESSMENT LEASE APPLICATION**

**(Z15-1887)**

Broken Hill No. 56, now Assessment Lease No. 23, ILUKA RESOURCES LIMITED (ACN 008 675 018), Parish of Belaimong, County of Caira; Parish of Bunumburt, County of Caira; Parish of Chillichill, County of Caira; Parish of Jippay, County of Caira; Parish of Juanbung, County of Caira; Parish of Quianderry, County of Caira; Parish of Tyson, County of Caira; Parish of Yough, County of Caira; Parish of Juanbung, County of Kilfera; and Parish of Sahara, County of Kilfera, area of about 5275 hectares, for ilmenite, leucoxene, monazite, rutile, tin and zircon, dated 17 November, 2017, for a term until 17 November, 2020.

**EXPLORATION LICENCE APPLICATIONS**

**(T16-1020)**

No. 5265, now Exploration Licence No. 8674, SIOUVILLE PTY LTD (ACN 009 263 987), Counties of Menindee and Yancowinna, Map Sheet (7133, 7134), area of 105 units, for Group 1, dated 17 November, 2017, for a term until 17 November, 2022.
No. 5522, now Exploration Licence No. 8675, PANDA MINING PTY LTD (ACN 137548237), County of Yancowinna, Map Sheet (7234), area of 27 units, for Group 1 and Group 2, dated 16 November, 2017, for a term until 16 November, 2019.

No. 5529, now Exploration Licence No. 8673, AUSTRALIAN CONSOLIDATED GOLD HOLDINGS PTY LTD (ACN 619 975 405), County of Argyle, Map Sheet (8828), area of 86 units, for Group 1 and Group 2, dated 17 November, 2017, for a term until 17 November, 2023.

No. 5544, now Exploration Licence No. 8671, PANDA MINING PTY LTD (ACN 137548237), Counties of Farnell and Yancowinna, Map Sheet (7134), area of 106 units, for Group 1, dated 13 November, 2017, for a term until 13 November, 2019.

No. 5555, now Exploration Licence No. 8676, ALKANE RESOURCES LTD (ACN 000 689 216), County of Narromine, Map Sheet (8532), area of 23 units, for Group 1, dated 27 November, 2017, for a term until 27 November, 2023.

MINING LEASE APPLICATION

Orange No. 518, now Mining Lease No. 1764 (Act 1992), OMYA AUSTRALIA PTY LIMITED (ACN 001 682 533), Parish of Ponsonby, County of Bathurst, Map Sheet (8730-1-N, 8830-4-N), area of 39.51 hectares, for the purpose of ancillary mining activity, dated 17 November, 2017, for a term until 17 November, 2038.

NOTICE is given that the following application has been withdrawn:

EXPLORATION LICENCE APPLICATION

No. 5565, YELTARA PROSPECTING AND MINING CO PTY LTD (ACN 099 558 915), County of Evelyn, Map Sheet (7238). Withdrawal took effect on 6 December, 2017.

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

Exploration Licence No. 8214, ST BARBARA LIMITED (ACN 009 165 066), area of 83 units. Application for renewal received 4 December, 2017.

Exploration Licence No. 8326, PEEL MINING LIMITED (ACN 119 343 734), area of 27 units. Application for renewal received 1 December, 2017.

Exploration Licence No. 8327, RIGENT PTY. LIMITED (ACN 008 606 200), area of 4 units. Application for renewal received 30 November, 2017.
RENEWAL OF CERTAIN AUTHORITIES

Notice is given that the following authorities have been renewed:

(V17-8698)
Exploration Licence No. 7149, ROBERT PATRICK HEWETT, County of Hawes, Map Sheet (9234), area of 4 units, for a further term until 10 June, 2021. Renewal effective on and from 27 November, 2017.

(V17-1075)
Exploration Licence No. 8314, PEEL (CSP) PTY LTD (ACN 600550141), County of Mouramba, Map Sheet (8133), area of 13 units, for a further term until 16 October, 2020. Renewal effective on and from 27 November, 2017.

(V17-1050)
Exploration Licence No. 8394, BUNDARRA RESOURCES PTY LTD (ACN 147466966), County of Arrawatta, Map Sheet (9139), area of 50 units, for a further term until 6 October, 2019. Renewal effective on and from 27 November, 2017.

(V17-7863)
Mining Lease No. 86 (Act 1973), BROKEN HILL PROSPECTING LIMITED (ACN 003 453 503), Parish of Albert, County of Yancowinna, Map Sheet (7133-4-N), area of 205.9 hectares, for a further term until 5 November, 2022. Renewal effective on and from 20 November, 2017.

(V17-7871)
Mining Lease No. 87 (Act 1973), BROKEN HILL PROSPECTING LIMITED (ACN 003 453 503), Parish of Edgar, County of Yancowinna, Map Sheet (7133-4-N), area of 101.2 hectares, for a further term until 5 November, 2022. Renewal effective on and from 20 November, 2017.

(V17-7840)
Mining Lease No. 141 (Act 1973), AUSTRALIAN DOLOMITE COMPANY PTY LIMITED (ACN 000 810 551), Parish of Ponsonby, County of Bathurst, Map Sheet (8830-4-N), area of 8094 square metres, for a further term until 10 February, 2039. Renewal effective on and from 27 November, 2017.

(V17-8131)
Mining Lease No. 223 (Act 1973), AUSTRALIAN DOLOMITE COMPANY PTY LIMITED (ACN 000 810 551), Parish of Rockley, County of Georgiana, Map Sheet (8830-4-S), area of 5400 square metres, for a further term until 16 June, 2028. Renewal effective on and from 20 November, 2017.

(Z15-1929)
Mining Lease No. 1004 (Act 1973), ATHOL JOHN TAGGART, Parish of Hall, County of Darling, Map Sheet (9136-3-N), area of 1.99 hectares, for a further term until 25 August, 2027. Renewal effective on and from 17 November, 2017.

(Z13-3317)
Mining Lease No. 1558 (Act 1992), JANETTE HELEN BRYAN AND WILLIAM JOHN FRANCIS BRYAN, Parish of Dowe, County of Darling, Map Sheet (9036-4-S), area of 23.48 hectares, for a further term until 6 October, 2035. Renewal effective on and from 27 November, 2017.

The Honourable Don Harwin MLC
Minister for Resources

TRANSFERS

(V17-1041)
Exploration Licence No. 5574, formerly held by ANGLO AMERICAN EXPLORATION (AUSTRALIA) PTY LTD (ACN 006 195 982) AND ORD INVESTMENTS PTY LTD (ACN 107 735 071) has been transferred to ANGLO AMERICAN EXPLORATION (AUSTRALIA) PTY LTD (ACN 006 195 982). The transfer was registered on 29 November, 2017.
(V17-1094)

Mining Lease No. 1173 (Act 1973), formerly held by DAVID CHARLES THOMPSON AND WAYNE JOHN CROWE has been transferred to DAVID CHARLES THOMPSON. The transfer was registered on 5 December, 2017.

The Honourable Don Harwin MLC
Minister for Resources

APPLICATION FOR TRANSFER

(V17/12271)

Exploration Licence No. 8449, SRC PROPERTIES PTY LTD (ACN 166 374 652) to SRC OPERATIONS PTY LIMITED (ACN 612 974 366), County of Cumberland, Area of 1 unit.

Application for transfer was received on 29 November 2017

The Honourable Don Harwin MLC
Minister for Resources
Gazette notice for the amendment of the NSW Social Programs for Energy Code

ELECTRICITY SUPPLY ACT 1995 and GAS SUPPLY ACT 1996

The NSW Social Programs for Energy Code

I, Don Harwin MLC, Minister for Resources, Minister for Energy and Utilities, Minister for the Arts and Vice-President of the Executive Council:

1. in accordance with clause 21(5) of the *Electricity Supply (General) Regulation 2014* and clause 5(5) of the *Gas Supply (Natural Gas Retail) Regulation 2014*, revoke ‘Version 4.0’ of the NSW Social Programs for Energy Code (‘Code’), which took effect on 1 July 2017 (*NSW Government Gazette* No 61 of 9 June 2017 of pg 2437), with the revocation to take effect on 11 December 2017; and

2. in accordance with clause 21(3) of the *Electricity Supply (General) Regulation 2014* and clause 5(3) of the *Gas Supply (Natural Gas Retail) Regulation 2014*, adopt ‘Version 5.0’ of the Code as set out in Schedule 1 to this notice, with Version 5.0 of the Code to take effect on 11 December 2017 immediately after the revocation of Version 4.0 of the Code in accordance with paragraph 1.

Dated at Sydney, this 5th day of December 2017

Don Harwin MLC
Minister for Resources,
Minister for Energy and Utilities,
Minister for the Arts,
Vice-President of the Executive Council
NSW Social Programs for Energy Code

Low Income Household Rebate
NSW Gas Rebate
Life Support Rebate
Medical Energy Rebate
Family Energy Rebate
Energy Accounts Payment Assistance (EAPA) Scheme

Effective Date: 11 December 2017
Version: 5.0
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NSW Social Programs for Energy Code

Electricity Supply Act 1995
Gas Supply Act 1996

This Social Programs for Energy Code has been prepared and adopted pursuant to clause 21 of the Electricity Supply (General) Regulation 2014 (Regulation) for the purpose of facilitating the NSW Government’s social programs for electricity and gas. Any person to which the Code applies must comply with the requirements of the Code pursuant to clause 22(3) of the Regulation. The Minister may conduct audits to determine compliance with the Code. The Minister may also accept undertakings to ensure compliance with the Code and take Court action to enforce those undertakings.

PART A

A1. Dictionary

A1.1 administration fee means:

(a) for rebates (other than the Family Energy Rebate), $0.80/365 multiplied by the total number of eligible customers as at the end of the month and multiplied by the number of days in the month; or

(b) for the Family Energy Rebate, $0.80 multiplied by the total number of eligible customers paid by the retailer as at the end of the month.

A1.2 account holder is a residential customer.

A1.3 acquittal statement means the relevant statement for each rebate and EAPA prepared and submitted by the retailer using a template provided by the Department.

A1.4 approved life support equipment are the items listed at Appendix B3.1.

A1.5 Code means this NSW Social Programs for Energy Code.

A1.6 Department means the Secretary of the Department of Planning and Environment or the Secretary’s nominee.

A1.7 EAPA means the Energy Accounts Payment Assistance Scheme.

A1.8 EAPA Provider means a person identified as an EAPA Provider on the Department’s website.

A1.9 eligible customer(s) is as defined for each rebate at clauses B1.1, B2.1, B3.1, B4.1 and C1.1.

A1.10 Minister means the New South Wales Minister for Energy and Utilities.

A1.11 residential customer means a customer who purchases energy principally for personal, household or domestic use at premises from an authorised energy retailer.

A1.12 rebate(s) refers to any or all of the Low Income Household Rebate, NSW Gas Rebate, Life Support Rebate, Medical Energy Rebate and Family Energy Rebate, as relevant.

A1.13 reporting period means the period from 1 January to 30 June or 1 July to 31 December (as applicable).
A1.14 retailer(s) means the holder of a retailer authorisation and includes Ergon Energy Queensland Pty Ltd (ACN121 177 802) for the purposes of the Code.

A1.15 retailer payment means the sum of the administration fee and the total value of rebates paid each month.

A1.16 social program for energy means a NSW Government program to ensure that energy services (including connection services and electricity and gas supply) are available to those who are in need, including those who suffer financial hardship and those who live in remote areas, and includes:

1.16.1 any program for electricity and gas bills payment assistance, and
1.16.2 any program for rebates to eligible pensioners,
1.16.3 any program for rebates with respect to electricity used for life support systems; and
1.16.4 any program designed to improve information about the energy offers available for energy services provided to those in need.

A1.17 supporting documentation template means a template provided by the Department to retailers or otherwise published on the Department’s website in order for the retailer to comply with a reporting obligation under this Code.

Words and expressions used in this Code that are not defined in clause A1 but are defined in the Electricity Supply Act 1995 (NSW), Gas Supply Act 1996 (NSW) or the National Energy Retail Law (NSW), have the same meaning as they have in the relevant Act.

In the event of an inconsistency between the meaning of a term as defined in clause A1 and in another legislative instrument, the meaning in the Code is to prevail to the extent of the inconsistency.

A2. Purpose

A2.1 This Code has been adopted in accordance with clause 21 of the Electricity Supply (General) Regulation 2014 and clause 5 of the Gas Supply (Natural Gas Retail) Regulation 2014 for the purpose of facilitating the delivery of the following social programs for energy:

A2.1.1 Low Income Household Rebate;
A2.1.2 NSW Gas Rebate;
A2.1.3 Life Support Rebate;
A2.1.4 Medical Energy Rebate;
A2.1.5 Family Energy Rebate;
A2.1.6 EAPA; and
A2.1.7 Energy Offer Information program.

A2.2 This version of the Code takes effect from 11 December 2017 and replaces the previous version 4.0.

A2.3 The Code consists of five parts:

A2.3.1 Part A outlines the general requirements applicable to the Low Income Household Rebate, NSW Gas Rebate, Life Support Rebate and Medical Energy Rebate;

A2.3.2 Part B outlines additional requirements that are specific to each of the Low Income Household Rebate, NSW Gas Rebate, Life Support Rebate and Medical Energy Rebate;
A2.3.3 Part C outlines the requirements applicable to the Family Energy Rebate;
A2.3.4 Part D outlines the requirements applicable to the EAPA Scheme; and
A2.3.5 Part E outlines the requirements applicable to the Energy Offer Information program.

A2.4 Parts A, B, C, D and E apply to all electricity retailers.
A2.5 Parts A and B apply to all gas retailers in respect of the NSW Gas Rebate. Parts D and E apply to all gas retailers.
A2.6 Parts A, B, C, D and E apply to Ergon Energy Queensland Pty Ltd (ACN 121 177 802), as an exempt person under clause 21(2) of the Electricity Supply (General) Regulation 2014, in relation to eligible customers connected to the distribution system of Ergon Energy Corporation Limited (ACN 087 646 062).

A3. Overview of social programs for energy

A3.1 The Low Income Household Rebate is designed to provide assistance in relation to a residential customer’s electricity expenses.
A3.2 The NSW Gas Rebate is designed to provide assistance in relation to a residential customer’s gas expenses.
A3.3 The Life Support Rebate is designed to provide assistance where approved life support equipment that is essential to support life is used by the residential customer or another person who lives at the same address as the residential customer. This rebate is not means tested and depends on the type of machine in use, and in some cases, the frequency of such use.
A3.4 The Medical Energy Rebate is designed to provide assistance where a residential customer or a person who lives at the same address as the residential customer has an inability to self-regulate body temperature and the residential customer holds one of the required concession cards. An inability to self-regulate body temperature may be associated with certain medical conditions.
A3.5 The Family Energy Rebate is designed to assist families to manage their energy costs. It is only available to residential customers who receive the Commonwealth Government’s Family Tax Benefit A or B.
A3.6 Each of the rebates set out in A3.1, A3.3 & A3.4 are applied to a residential customer’s electricity bill.
A3.7 The NSW Gas Rebate set out in A3.2 is applied to a residential customer’s gas bill.
A3.8 The EAPA Scheme is designed to assist residential customers who are experiencing difficulty in paying their gas and/or electricity bill owing to a crisis or emergency situation.
A3.9 The Energy Offer Information program set out in Part E of this Code is designed to facilitate communication channels between a retailer and a residential customer who is:
A3.9.1 being supplied electricity and/or gas under a standard retail contract; and

Page 6 of 32
A.3.9.2 receiving a rebate.

A.3.10 The Department must review the Code by 31 January 2020.

A4. Retailer obligations

A4.1 A retailer must:

A4.1.1 as soon as practicable after an election is made by any person who is or may be a residential customer, for the provision of energy (i.e. electricity and gas) supply, inform that person of the availability of the social programs for energy and provide an application form, if requested;

A4.1.2 include information on the availability of social programs for energy in all bills issued to residential customers;

A4.1.3 include information relating to the availability of social programs for energy on its website;

A4.1.4 acknowledge that the relevant social program for energy is funded by the NSW Government in any promotional material that refers to the social program for energy;

A4.1.5 inform on-supplied residential community residents, on-supplied retirement village residents and on-supplied strata scheme residents of the availability of the rebate(s) if contacted by these customers and direct them to the Department’s website for information on how to apply; and

A4.1.6 publish links on its website in community languages to the relevant part of the Department’s website which provides the following information in the relevant community language:

(a) the types and monetary values of rebates that are available for customers in NSW who are supplied electricity and/or gas;

(b) the eligibility criteria that applies to each type of rebate; and

(c) how an eligible customer can apply for each rebate.

Note: Not all residential community, retirement village or strata scheme residents are on-supplied electricity and/or gas. Some residential community, retirement village and strata scheme residents are supplied electricity and gas directly by a retailer and are considered eligible for all rebates subject to meeting all eligibility criteria outlined in Parts B, C and D. Retailers must meet the obligations outlined in the Code for these customers.

A4.2 Retailers may promote the social programs for energy together with their own products as part of their overall marketing strategy but must, at all times, comply with clause A4.1.
A5. General Information – Low Income Household Rebate, NSW Gas Rebate, Life Support Rebate and Medical Energy Rebate only

A5.1 Application of this section

A5.1.1 This section applies to the Low Income Household Rebate, NSW Gas Rebate, Life Support Rebate and Medical Energy Rebate (rebate or rebates, depending on the context).

A5.1.2 Retailers must have systems in place to enable them to deliver all rebates in line with the requirements contained in the Code.

A5.2 Information to customers

A5.2.1 A residential customer may receive one or more rebates concurrently, or more than one payment under the Life Support Rebate, subject to meeting the eligibility requirements for each rebate.

A5.2.2 Where one or more rebates are payable, retailers must identify each rebate as a separate credit amount on the eligible customer’s bill.

A5.2.3 A retailer must use the following descriptions (as relevant) for each separate credit amount on the bill:

A5.2.3.1 “NSW Gvt Household rebate” or “NSW Low Income Household Rebate”; and

A5.2.3.2 “NSW Government Gas Rebate”; and

A5.2.3.3 “NSW Government Life Support Rebate” or “NSW Government Rebate for the [insert specific machine type]”; and

A5.2.3.4 “NSW Medical Energy Rebate”; and

A5.2.3.5 “NSW Family Energy Rebate”.

A5.3 Verification of new customers with the Commonwealth Department of Human Services (DHS)/Department of Veterans’ Affairs (DVA)

A5.3.1 Where required under the eligibility criteria for each rebate, a retailer must verify the Pensioner Concession Card, DHS Health Care Card or DVA Gold Card status of each new customer with DHS before a rebate is applied to that customer’s bill.

A5.3.2 Despite clause A5.3.1, if a retailer verifies the eligibility of new customers with DHS in weekly or monthly batches, rather than using a single enquiry to verify a customer individually, reasonable attempts must be made by that retailer to ensure eligibility is verified before the rebate is applied to a customer’s bill.

Note: To avoid errors in entering the Pensioner Concession Card, DHS Health Care Card or DVA Gold Card number in the system, retailers are encouraged to use the DHS algorithm which verifies whether the DHS customer reference number/DVA file number is genuine and prevents the system accepting incorrect numbers. To gain access to the DHS algorithm, retailers must apply directly to DHS.
A5.4 Notifying ineligible customers

A5.4.1 A retailer must notify a customer who applies for a rebate, but is found to be ineligible to receive the rebate applied for, of their ineligibility as soon as practicable.

A5.4.2 The notification given by the retailer must include the reason(s) for declining the application.

A5.5 Date of commencement

A5.5.1 Once a customer is assessed as eligible to receive a rebate, the retailer must pay the rebate from the date on which the application was made by the customer.

A5.5.2 Subject to clauses A5.6 and A5.15, rebates must not be back-dated prior to the date on which a customer’s application is made.

A5.5.3 Where a customer is determined to be eligible to receive the relevant rebate but is subsequently supplied by a new retailer, the date the customer’s supply commences with the new retailer will be the date from which the new retailer is responsible for applying the rebate. This will ensure that the rebate is continuously paid to the customer during the transfer from one retailer to another.

A5.6 Ensuring eligible customers continue to receive the Rebate

Retailers must ensure that eligible customers continue to receive the rebate without interruption (provided there is no change to their circumstances that would render the customer ineligible) in the following circumstances:

A5.6.1 after changing contracts;
A5.6.2 after changing retailer;
A5.6.3 after moving residence; or
A5.6.4 during the annual verification process.

A5.7 Retailer error and rebates to eligible customers

A5.7.1 If an action or inaction by a retailer results in rebate payments not being commenced correctly, or such payments being interrupted incorrectly, including for any of the reasons listed in A5.6, the retailer must reimburse the customer for any amounts they would have otherwise been entitled to receive calculated from the date of the action or inaction by the retailer.

A5.7.2 For clarity, a retailer is permitted to calculate any reimbursement in these circumstances for any period determined in accordance with clause A5.7.1 without prior agreement of the Department.

A5.8 Arrangements for retailer payment

A5.8.1 A retailer payment will be provided to retailers each month where retailers have provided an invoice and acquittal statement as required by this Code except as provided for in A5.8.7.

A5.8.2 The retailer payment for rebates must include:

(a) the total value of the rebates paid to eligible customers during the month; and

(b) the administration fee.
A5.8.3 The retailer must record the total value of the rebates paid by the retailer, the administration fee claimed by the retailer and the number of eligible customers based on the figures contained in the retailer’s system records.

A5.8.4 Each retailer must submit the following documents to the Department by the 10th business day of each subsequent month:

(a) a completed and certified monthly acquittal statement; and
(b) a tax invoice for the retailer payment; and
(c) a completed supporting documentation template to substantiate the retailer’s claims in the tax invoice and acquittal statement. The data used to complete the supporting documentation template must be sourced from the system records referred to in clause A5.8.3.

A5.8.5 The acquittal statement must be certified and signed by an appropriately responsible person nominated by the retailer. Each retailer must communicate the name of the nominated person/s to the Department for verification purposes.

A5.8.6 Any changes to the acquittal statement and/or supporting documentation template will be made by the Department only after appropriate consultation with retailers.

A5.8.7 A retailer payment will not be paid where any of the rebate payments the subject of the invoice for that retailer payment were made more than 18 months prior to the invoice being received by the Department.

A5.9 Credit balance

A5.9.1 If the total of a customer’s bill is less than the rebate amount, the difference is to be applied as a credit to the customer’s account and is to be carried forward to the next billing cycle.

A5.9.2 Where a customer with a rebate credit elects to change his or her retailer or close their electricity and/or gas account with a retailer, that retailer must refund to the customer the credit amount at the date of transfer to the new retailer or the date that the customer closed the account with that retailer.

A5.10 Customers required to notify their retailer

A5.10.1 A retailer must advise residential customers that they are required to notify their retailer, as soon as possible, of any changes in their circumstances that would affect their pending application or continued eligibility for a rebate.

A5.11 Compliance

A5.11.1 Retailers must establish and maintain accounting procedures and records to enable periodic reports to be prepared to substantiate compliance with the Code.

A5.11.2 Retailers must, upon request, provide such reports to the Minister, the Department or any auditor appointed by the Department.
A5.11.3 **Retailers** must maintain records to substantiate compliance with the **Code** for a period of seven years.

**A5.12 Calculation of the rebate**

A5.12.1 The Low Income Household Rebate and the Medical Energy Rebate must be calculated on the applicable daily rate basis (e.g. $285/365 days) which is multiplied by the number of days in each billing cycle (e.g. for quarterly bills, 92 days) and offset against the gross amount of the bill before GST is applied.

A5.12.2 The Life Support Rebate must be calculated on the applicable daily rate (24 hours or less than 24 hours) which is multiplied by the number of days in each billing cycle and offset against the gross amount of the bill before GST is applied.

A5.12.3 The NSW Gas Rebate must be calculated on the applicable daily rate basis (e.g. $110/365 days) which is multiplied by the number of days in each billing cycle (e.g. for quarterly bills, 92 days) and offset against the gross amount of the bill before GST is applied.

**A5.13 Confidentiality**

**Retailers** are required to protect the confidentiality of **eligible customers** to ensure that their records are not used for any purpose other than the delivery of the **rebate** or as stipulated in this **Code** for audit purposes.

**A5.14 Reporting**

A5.14.1 By 30 January and 31 July each year, the **retailer** must provide for the immediately preceding **reporting period**, the following information to the **Department** in accordance with the **supporting documentation template**:

(a) in relation to the **retailer's** obligations under Part E of the **Code**:

(i) the number of customers who are being supplied electricity and/or gas from that **retailer** under a standard retail contract;

(ii) the steps taken by the **retailer** to inform the **residential customer** of the market offers available to that customer;

(iii) the number of customers who changed from being supplied electricity and/or gas under the retailer's standard retail contract to the **retailer's** market retail contract; and

(iv) in relation to the customers identified under subparagraph (iii), the estimated yearly monetary savings to the customer from changing contracts.

A.5.14.2 By 30 January and 31 July each year, the **retailer** must provide for the immediately preceding **reporting period**, the following information to the **Department** in accordance with the **supporting documentation template**:

(a) the postcode for each **residential customer** who received a **rebate** from the **retailer**;

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(b) in relation to a bill of a *residential customer* who received a *rebate*:
   (i) the total electricity or gas (as the case may be) that was consumed;
   (ii) the total amount payable by the customer before the *rebate* was applied; and
   (iv) the amount of the *rebate* paid to the customer and the total *rebate* paid to the customer for the relevant financial year.

(c) in relation to a bill of a *residential customer* who received *EAPA*:
   (i) the total electricity or gas (as the case may be) that was consumed;
   (ii) the total amount being payable by the customer before the *rebate* was applied; and
   (iii) the amount of any assistance provided to the customer and the total assistance provided to the customer for the relevant financial year.

A.5.14.3 The information provided under this clause A5.14 must be presented in a manner that does not disclose any personal information relating to *customers*.

A.5.14.4 The *Department* may request further information or details in relation to any matter the subject of a report provided by a retailer under this clause A5.14.

A.5.14.5 The *retailer* must promptly provide the information requested by the *Department* under clause A5.14.4.

**A5.15 Savings and transitional arrangements in relation to December 2017 Code amendments**

A5.15.1 This clause A5.15 applies to a *residential customer*.
   (a) who received a *rebate* between 1 July 2017 and 10 December 2017; or
   (b) who applied to a *retailer* for a *rebate* on or after 1 July 2017 but was assessed as eligible to receive the *rebate* after 10 December 2017.

A5.15.2 A *residential customer* to which this clause A5.15 applies is entitled to a credit for that portion of the annual *rebate* not received due to the increase in the annual *rebate* for the 2017-2018 financial year on 11 December 2017 (in this clause A.5.15, a “*rebate* credit”).

A5.15.3 A *retailer* who is a *retailer* for a *residential customer* to which this clause applies must ensure, that by 22 December 2017, the customer has been credited with the *rebate* credit to which the customer is entitled as at 22 December 2017 in accordance with this clause A5.15. A *retailer* is only required to provide a *rebate*.
credit in relation to that period before 11 December 2017 for which the residential customer was a customer of that retailer.

A.5.15.4 Clause A5.15.3 includes a retailer who was the retailer for the residential customer between 1 July 2017 and 10 December 2017 but is not the retailer for the residential customer on or after 11 December 2017.

A.5.15.5 Where this clause A5.15 imposes an obligation on a retailer in relation to a residential customer who is not a customer of the retailer on 11 December 2017, the retailer must use reasonable endeavours to make the necessary arrangements to refund the relevant rebate amount.

Note: The effect of clause A5.15.4 is that retailers will be required to identify any eligible rebate customer that was previously a customer of the retailer during the current financial year and use reasonable endeavours to provide that customer with the shortfall in the rebate amount.

PART B
B1. Low Income Household Rebate
In this clause B1, references to rebate are to the Low Income Household Rebate.

B1.1 Eligibility criteria
B1.1.1 To be eligible for the Low Income Household Rebate a person must:

(a) be a resident in New South Wales; and
(b) be a customer of the retailer, or a long term resident of an on-supplied residential community, or a resident of an on-supplied retirement village, or a resident of an on-supplied strata scheme; and whose name appears on the electricity account for supply to his or her principal place of residence; and

(c) hold a:

(i) Pensioner Concession Card issued by the DHS/DVA; or
(ii) DHS Health Care Card; or
(iii) DVA Gold Card marked with:
   a. War Widow or War Widower Pension;
   b. Totally and Permanently Incapacitated (TPI); or
   c. Disability Pension (EDA).

B1.1.2 Notwithstanding clause B1.1.1, if the person is assessed as eligible to receive the NSW Gas Rebate in accordance with clause B2, the person will be taken to be assessed to be eligible to receive the Low Income Household Rebate from the same date.
B1.2 Application process

B1.2.1 A person may apply for the Low Income Household Rebate in person, in writing or by telephone.

B1.2.2 A retailer must establish a standard pro-forma application that requires an applicant to provide the following information:

(a) the full name of the applicant;
(b) the applicant’s address;
(c) the name and number of the concession card that makes the customer eligible for the Low Income Household Rebate;
(d) the date of grant or expiry of the concession card;
(e) the date of application for the Low Income Household Rebate;
(f) whether the applicant is also sold gas by the retailer.

B1.2.3 The pro-forma application must include a statement to the following effect:

(a) the eligibility details provided by the customer in their application will be used to check their Pensioner Concession Card/Health Care Card/Gold Card status with the DHS/DVA;
(b) the customer has the right to revoke their consent to the eligibility check at any time in writing;
(c) if the customer refuses to give consent, they will no longer receive the Low Income Household Rebate unless they can provide written verification of their continuing eligibility from the DHS/DVA;
(d) if the customer is eligible for the Low Income Household Rebate and is also sold gas by the retailer, they will automatically be eligible for the NSW Gas Rebate.

B1.2.4 When an application is made in writing or in person, the customer must sign the application form.

B1.2.5 When an application is made by telephone, the officer receiving the application must:

(a) inform the applicant of the statements set out in clause B1.2.3;
(b) request the applicant’s consent to check their Pensioner Concession Card/Health Care Card/Gold Card status with the DHS/DVA; and
(c) record the applicant’s consent/refusal.

Note: On-supplied residential community residents, on-supplied retirement village residents and on-supplied strata scheme residents must submit their application for the Low Income Household Rebate to the Department.
**B1.3 Ongoing verification to ascertain continued eligibility of customers**

B1.3.1 A retailer must verify the details of all rebate recipients who hold a DHS Health Care Card for continued eligibility with the DHS at least once every three months.

B1.3.2 A retailer must verify the details of all other rebate recipients for continued eligibility with the DHS or DVA at least once a year.

B1.3.3 At the same time that it conducts the verifications under clauses B1.3.1 and B1.3.2, the retailer must ascertain whether the rebate recipient is also a gas customer of the retailer and whether the customer is receiving the NSW Gas Rebate.

B1.3.4 If under clause B1.3.3, the retailer determines that the customer is eligible for the NSW Gas Rebate but not receiving it, the retailer must notify the customer and commence paying the NSW Gas Rebate from the date the retailer determines the customer’s eligibility.

B1.3.5 If a customer fails a verification check, the retailer must inform the customer as soon as practicable.

B1.3.6 The results of the above verification checks must, upon request, be provided to the Minister, the Department or any auditor appointed by the Department. The results must include the following information:

- (a) the number of eligible Pensioner Concession Card, Health Care Card and Gold Card holders in each category;
- (b) the total number of initial mismatches; and
- (c) the total number of customers determined as ineligible from the verification process.

B1.3.7 All retailers must have a contractual arrangement with the DHS before verifying customers’ details with the DHS.

**B1.4 Rebate indexation**

For eligible customers, the rebate will be $285 per annum unless advised otherwise in writing by the Department.

**B2. NSW Gas Rebate**

In this clause B2, references to rebate are to the NSW Gas Rebate.

**B2.1 Eligibility criteria**

B2.1.1 To be eligible for the NSW Gas Rebate a person must:

- (a) be resident in New South Wales; and
- (b) be a customer of the retailer, or a long term resident of an on-supplied residential community, or a resident of an on-supplied retirement village, or a resident of an on-supplied strata scheme; and whose name appears on the gas account for supply of natural gas to his or her principal place of residence; and
(c) hold a:

(i) Pensioner Concession Card issued by the DHS/DVA;
(ii) DHS Health Care Card; or
(iii) DVA Gold Card marked with:
   a. War Widow or War Widower Pension;
   b. Totally and Permanently Incapacitated (TPI); or
   c. Disability Pension (EDA).

B2.1.2 Notwithstanding clause B2.1.1, if the person is assessed as eligible to receive the Low Income Household Rebate in accordance with clause B1, the person will be taken to be assessed to be eligible to receive the NSW Gas Rebate from the same date.

B2.2 **Application process**

B2.2.1 A person may apply for the NSW Gas Rebate in person, in writing or by telephone.

B2.2.2 A retailer must establish a standard pro-forma application that requires an applicant to provide the following information:

(a) the full name of the applicant;
(b) the applicant's address;
(c) the name and number of the concession card that makes the customer eligible for the NSW Gas Rebate;
(d) the date of grant or expiry of the concession card;
(e) the date of application for the NSW Gas Rebate;
(f) whether the applicant is also sold electricity by the retailer.

B2.2.3 The pro-forma application must include a statement to the following effect:

(a) the eligibility details provided by the customer in their application will be used to check their Pensioner Concession Card/Health Care Card/Gold Card status with the DHS/DVA;
(b) the customer has the right to revoke their consent to the eligibility check at any time in writing;
(c) if the customer refuses to give consent, they will no longer receive the NSW Gas Rebate unless they can provide written verification of their continuing eligibility from the DHS/DVA; and
(d) if the customer is eligible for the NSW Gas Rebate and is also sold electricity by the retailer, they will automatically be eligible for the Low Income Household Rebate.

B2.2.4 When an application is made in writing or in person, the customer must sign the application form.

B2.2.5 When an application is made by telephone, the officer receiving the application must:
(a) inform the applicant of the statements set out in clause B2.2.3;
(b) request the applicant’s consent to check their Pensioner Concession Card/Health Care Card/Gold Card status with the DHS/DVA; and
(c) record the applicant’s consent/refusal.

Note: On-supplied residential community residents, on-supplied retirement village residents and on-supplied strata scheme residents must submit their application for the Low Income Household Rebate to the Department.

**B2.3 Ongoing verification to ascertain continued eligibility of customers**

**B2.3.1** A retailer must verify the details of all rebate recipients who hold a DHS Health Care Card for continued eligibility with the DHS at least once every three months.

**B2.3.2** A retailer must verify the details of all other rebate recipients for continued eligibility with the DHS or DVA at least once a year.

**B2.3.3** At the same time that it conducts the verifications under clauses B2.3.1 and B2.3.2, the retailer must ascertain whether the rebate recipient is also an electricity customer of the retailer and whether the customer is receiving the Low Income Household Rebate.

**B2.3.4** If under clause B2.3.3, the retailer determines that the customer is eligible for the Low Income Household Rebate but not receiving it, the retailer must notify the customer and commence paying the Low Income Household Rebate from the date the retailer determines the customer’s eligibility.

**B2.3.5** If a customer fails a verification check, the retailer must inform the customer as soon as practicable.

**B2.3.6** The results of the above verification checks must, upon request, be provided to the Minister, the Department or any auditor appointed by the Department. The results must include the following information:

(a) the number of eligible Pensioner Concession Card, Health Care Card and Gold Card holders in each category;
(b) the total number of initial mismatches; and
(c) the total number of customers determined as ineligible from the verification process.

**B2.3.7** All retailers must have a contractual arrangement with the DHS before verifying customers’ details with the DHS.

**B2.4 Rebate indexation**

**B2.4.1** For eligible customers, the rebate will be $110 per annum unless advised otherwise in writing by the Department.
B3. Life Support Rebate

In this clause B3, references to rebate are to the Life Support Rebate.

B3.1 Eligibility criteria

To be eligible for the Life Support Rebate a person must:

B3.1.1 be resident in New South Wales; and

B3.1.2 be a customer of the retailer, or a long term resident of an on-supplied residential community, or a resident of an on-supplied retirement village, or a resident of an on-supplied strata scheme; and whose name appears on the electricity account for supply to his or her principal place of residence where approved equipment (see approved list in Appendix B3.1) is used by the customer or another person who lives at the same address; and

B3.1.3 submit a valid application form as provided by the Department (which will be made available to customers on the Department’s website), duly signed by a registered medical practitioner (who is not the applicant) to verify that the use of the approved life support equipment is required at his or her principal place of residence.

B3.2 Application process

B3.2.1 Applications must be made in writing using the application form provided by the Department. The application form will also be made available for download on the Department’s website. Relevant parts of the application form must be completed and signed by both the applicant and a medical practitioner.

B3.2.2 Applicants must send their signed application form to their retailer.

B3.2.3 Before applying the rebate to a customer’s account, retailers must verify that the application form is properly completed and signed by both the applicant and a registered medical practitioner (who is not the applicant). Certificates from equipment manufacturers or from sleep clinics (without the signature of a registered medical practitioner) are not acceptable.

B3.2.4 In the event that an applicant lives in remote or regional NSW and is being treated by the Royal Flying Doctor Service (RFDS), the application form may be signed by any medical practitioner under the RFDS.

B3.2.5 The customer must re-apply for the rebate every two years.

B3.2.6 At the time of application, in order to confirm the applicant’s continued eligibility for the rebate, the retailer must bring to the attention of the applicant that an updated application form will be required every two years from the date of the initial approval for the rebate.

B3.2.7 Customers who are currently receiving the rebate are not required to submit a fresh application form until they are due for their two year verification.

B3.2.8 In order to ensure continuity of the rebate where a customer changes his or her retailer, the date the customer’s supply commences with the new retailer will be deemed to be the date the

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customer applied for the rebate. However, the customer must complete and submit an application to the new retailer before the rebate can be applied by the new retailer. Note that this may cause some inconvenience to the customer but the retailer requires the relevant information in order to ensure ongoing priority of supply for the customer.

B3.2.9 Retailers must conduct a verification audit of the rebate every two years in accordance with the supporting documentation template to confirm it is only being provided to eligible customers and provide the results of the audit to the Department, or its auditor, on request.

B3.2.10 The amount of the rebate for each item of approved life support equipment is set out at Appendix B3.1.

Note: On-supplied residential community residents, on-supplied retirement village residents and on-supplied strata scheme residents must submit their application for the Low Income Household Rebate to the Department.

B3.3 Rebate indexation

For eligible customers, the rebate will be the daily rate applicable to each piece of approved equipment as listed in Appendix B3.1 unless advised otherwise by the Department.
## Appendix B3.1 – Approved Equipment List

<table>
<thead>
<tr>
<th>Equipment</th>
<th>Examples of brand names*</th>
<th>Daily rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive Airways Pressure (PAP) Device</td>
<td>Continuous Positive Airways Pressure (CPAP), Bilevel or Variable Positive Airways Pressure (BiPAP or V-PAP) etc</td>
<td>$0.36 for less than 24 hour usage $0.71 for 24 hour usage</td>
</tr>
<tr>
<td>Enteral feeding pump</td>
<td>Kangaroo pump, Companion-Abbott, Flexiflow patrol pump</td>
<td>$0.44</td>
</tr>
<tr>
<td>Phototherapy equipment</td>
<td>Blue light therapy</td>
<td>$3.68</td>
</tr>
<tr>
<td>Home dialysis</td>
<td>Haemodialysis or Peritoneal automated cycler machines – Brand names include: Fresenius, Gambro, Baxter</td>
<td>$1.54</td>
</tr>
<tr>
<td>Ventilators</td>
<td>LTV series, Breas, PLV-100 etc, Iron Lung</td>
<td>$3.68</td>
</tr>
<tr>
<td>Oxygen concentrators</td>
<td>Devilbiss etc</td>
<td>$1.85 for less than 24 hour usage $3.11 for 24 hour usage</td>
</tr>
<tr>
<td>Total Parenteral Nutrition (TPN) pump</td>
<td>Volumatic pump, Flowguard pump</td>
<td>$0.84</td>
</tr>
<tr>
<td>External heart pump</td>
<td>Left Ventricular Assist Device</td>
<td>$0.11</td>
</tr>
<tr>
<td>Power wheelchairs for quadriplegics</td>
<td>Electric wheelchairs – Brand names include: Quickie, Zippie, etc,</td>
<td>$0.30</td>
</tr>
</tbody>
</table>

NOTE: List of brand names against each piece of equipment has been included for information only, and is not exhaustive.
B4. Medical Energy Rebate

In this clause B4, references to rebate are to the Medical Energy Rebate.

B4.1 Eligibility criteria

To be eligible for the Medical Energy Rebate a person must:

B4.1.1 be resident in New South Wales; and

B4.1.2 be a customer of the retailer, or a long term resident of an on-supplied residential community, or a resident of an on-supplied retirement village, or a resident of an on-supplied strata scheme; and whose name appears on the electricity account for supply to his or her principal place of residence; and

B4.1.3 submit a valid application form as provided by the Department (which will be made available to customers on the Department’s website), duly signed by a registered medical practitioner (who is not the applicant) to verify that either the customer named on the bill or anyone residing at the residence has an inability to self-regulate body temperature as defined at B4.1.5 below; and

B4.1.4 hold a:

(a) Pensioner Concession Card issued by the DHS/DVA;

(b) DHS Health Care Card; or

(c) DVA Gold Card.

B4.1.5 For the purpose of this rebate, an eligible customer has an inability to self-regulate body temperature where the eligible customer (or someone living at the supply address of the eligible customer) has been assessed by a registered treating medical practitioner (who is not the applicant) who has been treating them for at least three months as meeting one of the following four primary qualifying conditions and one of the three secondary qualifying conditions:

(a) Primary qualifying conditions:

(i) autonomic system dysfunction (Medical conditions in which the autonomic system has been damaged e.g. severe spinal cord injury, stroke, brain injury and neurodegenerative disorders);

(ii) loss of skin integrity or loss of sweating capacity (for example, significant burns greater than 20%, severe inflammatory skin conditions and some rare forms of disordered sweating);

(iii) objective reduction of physiological functioning at extremes of environmental temperatures (for example, advanced multiple sclerosis); and

(iv) hypersensitivity to extremes of environmental temperature leading to increased pain or other discomfort or an increased risk of complications (for example, complex regional pain syndrome and advanced peripheral vascular disease).

(b) Secondary qualifying conditions:
(i) severe immobility (for example, such as occurs with Quadriplegia or high level Paraplegia, particularly above mid thoracic level (T7) resulting in problems with self-regulation of body temperature due to loss of sympathetic nervous system control);

(ii) demonstrated significant loss of autonomic regulation of sweating, heart rate or blood pressure; and

(iii) demonstrated loss of physiological function or significant aggravation of clinical condition at extremes of environmental temperature.

B4.2 Application process

B4.2.1 An applicant must apply in writing using the application form provided by the Department. The application form will also be made available for download on the Department’s website. Relevant parts of the application form must be completed and signed by both the applicant and a medical practitioner (who is not the applicant) who has been treating the patient for at least three months.

B4.2.2 An applicant must send the signed application form to their retailer.

B4.2.3 Before applying the rebate to the customer’s account, a retailer must verify that the application form is properly completed and signed by both the customer and a registered medical practitioner (who is not the applicant).

B4.2.4 In the event that a customer lives in remote or regional NSW and is being treated by the Royal Flying Doctor Service (RFDS), the application form may be signed by any medical practitioner under the RFDS if the customer has been treated by the RFDS for at least three months.

B4.2.5 The retailer must verify each new customer’s Pensioner Concession Card, DHS Health Care Card or DVA Gold Card status with the DHS before the rebate may be applied to a customer’s bill.

B4.2.6 If the customer named on the bill is claiming the rebate for another person who is living at the same address as the customer named on the bill, the retailer must check that the application form states that the address of the patient is the same as that of the customer.

B4.2.7 In order to ensure continuity of the rebate where a customer changes his or her retailer, the date the customer’s supply commences with the new retailer will be deemed to be the date the customer applied for the rebate. However, the customer must complete and submit an application to the new retailer before the rebate can be applied by the new retailer.

Note: This may cause some inconvenience to the customer but the retailer requires the relevant information in order to ensure ongoing eligibility for the rebate.

Note: On-supplied residential community residents, on-supplied retirement village residents and on-supplied strata scheme residents must submit their application for the Low Income Household Rebate to the Department.
**B4.3 Ongoing verification to ascertain continued eligibility of customers**

B4.3.1 A *retailer* must verify the details of all *rebate* recipients who hold a DHS Health Care Card for continued eligibility with the DHS at least once every three months.

B4.3.2 A *retailer* must verify the details of all other *rebate* recipients for continued eligibility with the DHS or DVA at least once a year.

B4.3.3 The results of the above verification checks must, upon request, be provided to the *Minister*, the *Department* or any auditor appointed by the *Department*. The results must include the following information:

(a) the number of eligible Pensioner Concession Card holders, the DHS Health Care Card and Gold Card holders in each category;

(b) the total number of initial mismatches; and

(c) the total number of customers determined as ineligible from the verification process.

B4.3.4 All *retailers* must have a contractual arrangement with the DHS before verifying customers’ details with the DHS.

**B4.4 Rebate indexation**

For *eligible customers*, the *rebate* will be $285 per annum thereafter unless advised otherwise in writing by the *Department*. 
PART C

C1. Family Energy Rebate (FER)

In this Part C, references to rebate are to the Family Energy Rebate.

C1.1 Eligibility criteria

To be eligible for the Family Energy Rebate in a given financial year a person must:

(a) be a resident in New South Wales;

(b) be an account holder of a retailer, or a long-term resident of an on-supplied residential community, or a resident of an on-supplied retirement village, or a resident of an on-supplied strata scheme; and whose name appears on the electricity account for supply to his or her principal place of residence; and

(c) have been assessed by the Federal DHS as being eligible for the Family Tax Benefit (FTB) A or B during the financial year immediately preceding the financial year in which an application for the FER is made and have received a payment of FTB in respect of that eligibility.

C1.2 Application process

C1.2.1 An applicant must apply in writing to the Department for the rebate using either the digital application form available from the Department’s website or a paper application form also available from the Department’s website. These same application forms should also be provided by electricity retailers.

C1.2.2 Retailers must, on request by a customer, provide access to the Department’s application forms for the customer to complete and submit to the Department.

C1.3 Ongoing eligibility

C1.3.1 An eligible customer, who completes a valid application form and receives confirmation of eligibility from the Department, will be paid the rebate once per financial year.

C1.3.2 Customers must reapply for the rebate each year.

C1.4 Application of the rebate

C1.4.1 Retailers must credit the rebate to customers’ electricity accounts in accordance with a confidential data set provided by the Department frequently throughout each calendar month through a dedicated, secure website. The data set will contain the following information:

(a) FER Application ID (labelled “FER Reference Number”);

(b) First Name (labelled “Family Tax Benefit Recipient First Name”);

(c) Last Name (labelled “Family Tax Benefit Recipient Last Name”);

(d) Electricity Account Number (labelled “Electricity Account Number”);
(e) **Rebate** Amount (labelled “Rebate Amount ($)’’); and
(f) **Rebate** Applied Flag (labelled “Rebate Credit Applied to Electricity Account”). No data is supplied in this column by the Department.

C.4.2 Retailers must download secure Departmental data sets at least weekly, and import updated data sets in the same week, thereby advising the Department which customers have had a rebate credited against their accounts, and which have not.

C.4.3 Retailers must verify the relevant data set against the information for each customer in the retailer’s billing system and pay the relevant amount to each customer if the Family Tax Benefit, Recipient Last Name and Electricity Account Number in the data set match a valid customer account.

C.4.4 Retailers must display the rebate on eligible customers’ next available electricity bill after the date the retailer credits the rebate against accounts, after receiving the confidential data set from the Department, and to offset it against the gross amount of the bill before GST is applied.

C.4.5 Retailers must supply a confidential data set to the Department using the dedicated, secure website containing the following information:

(a) FER Application ID (labelled “FER Reference Number’’);
(b) First Name (labelled “Family Tax Benefit Recipient First Name’’);
(c) Last Name (labelled “Family Tax Benefit Recipient Last Name’’);
(d) Electricity Account Number (labelled “Electricity Account Number’’);
(e) Rebate Amount (labelled “Rebate Amount ($)’’); and
(g) Rebate Applied Flag (labelled “Rebate Credit Applied to Electricity Account’’). **Retailer to supply only ONE of the following data options: Y or N or leave the cell blank.**

C.5 Retailer obligations

C.5.1 The obligations outlined in A4 of Part A above, also apply to the FER.

C.6 Information to customers

C.6.1 A residential customer may receive one or more rebates concurrently, subject to meeting the eligibility requirements for each particular rebate.

C.6.2 A retailer must identify each rebate as a separate credit amount on the eligible customer’s bill.

C.6.3 A retailer must use the following description – “NSW Family Energy Rebate” – when crediting the rebate to the bill.
C1.7 Arrangements for retailer payment

C1.7.1 A retailer payment will be provided to each applicable retailer each month.

C1.7.2 The retailer payment for rebates must include:

(a) the total value of rebates paid to eligible customers calculated on the basis of the data set provided by the Department to the retailer; and

(b) the administration fee.

C1.7.3 Each retailer must submit the following documents to the Department by the 10th business day of each subsequent month:

(a) a completed and certified monthly acquittal statement in the form published by the Department on the Department’s website; and

(b) a tax invoice for the retailer payment, which must be submitted to the Department for each calendar month and is for rebates that have been credited to customers’ accounts during that month (regardless of whether an actual bill has been issued in that month) in line with the dataset provided by the Department to the retailer.

C1.7.4 The retailer must record the total value of the rebates paid by the retailer, the administration fee claimed by the retailer and the number of eligible customers based on the figures contained in the retailer’s system records.

C1.7.5 The acquittal statement must be certified and signed by an appropriately responsible person nominated by the retailer. Each retailer must communicate the name of the nominated person/s to the Department for verification purposes.

C1.7.6 Any changes to the acquittal statement will be made by the Department only after appropriate consultation with retailers.

C1.8 Credit balance

C1.8.1 If the total of a customer’s bill is less than the rebate amount, the difference is to be applied as a credit to the customer’s account and is to be carried forward to the next billing cycle.

C1.8.2 Where a customer with a rebate credit elects to change his or her retailer or close their electricity account with a retailer, that retailer must refund to the customer the credit amount at the date of transfer to the new retailer or the date that the customer closed the account with that retailer.

C1.9 Compliance

C1.9.1 Retailers must establish and maintain accounting procedures and records to enable periodic reports to be prepared to substantiate compliance with the Code.

C1.9.2 Retailers must, upon request, provide such reports to the Minister, the Department or any auditor appointed by the Department.
C1.9.3 **Retailers** must maintain records to substantiate compliance with the **Code** for a period of seven years.

**C1.10 On-supplied residents of retirement villages, residential communities and strata schemes**

C1.10.1 Long term residents of on-supplied residential communities, or residents of an on-supplied retirement village, or residents of an on-supplied strata scheme; must apply directly to the **Department** by submitting a completed application form available on the **Department’s** website. **Eligible customers** will be paid the relevant **rebate** amount by the **Department**.

C1.10.2 For eligible residents of on-supplied residential communities, retirement villages and strata schemes, the Family Energy Rebate will be deposited via EFT into the customer’s nominated bank account by the **Department**.

**C1.11 Confidentiality**

**Retailers** are required to protect the confidentiality of **eligible customers** to ensure that their records are not used for any purpose other than the delivery of the **rebate** or as stipulated in this **Code** for audit purposes.

**C1.12 Rebate indexation**

For **eligible customers**, the **rebate** will be $180 per annum or $20 per annum where the customer is also deemed to be eligible for the Low Income Household Rebate.

**PART D**

**D1. Energy Accounts Payment Assistance (EAPA)**

**D1.1 Overview**

D1.1.1 **EAPA** is a NSW Government scheme designed to help residential energy customers who are financially disadvantaged and experience difficulty paying their residential gas and/or electricity bill owing to a crisis or emergency situation. The **EAPA** Scheme is administered by the **Department** and is aimed at helping these people stay connected to essential energy services.

D1.1.2 The **EAPA** Scheme is a crisis program and is not intended to offer ongoing income support, nor is **EAPA** intended to relieve **retailers** of their obligations to manage their customers’ debts in a fair and equitable manner.

D1.1.3 **Retailers** must consider whether it is appropriate to offer additional assistance to a customer who has been assessed by an EAPA Provider as eligible for **EAPA**. Any additional assistance should include one or more components of each **retailer’s** hardship program.

D1.1.4 A **residential customer** may receive **EAPA**, concurrently with any **rebates**, subject to meeting the eligibility requirements for each particular **social program for energy**.
D1.2 Delivery of EAPA by EAPA Providers

D1.2.1 EAPA vouchers are generally issued by EAPA Providers using the Department’s on-line application tool in the form of $50 vouchers. These vouchers will be sent electronically to the customer’s retailer by the Department’s electronic system as a contribution towards the customer’s energy bills.

D1.2.2 Rules and procedures for the administration of EAPA by EAPA Providers are outlined in the EAPA Delivery Guidelines issued by the Department and published on the Department’s website.

D1.2.3 Retailers must not inform customers that they will receive a certain amount of EAPA. The amount of EAPA provided to a customer is determined by the EAPA Provider.

D1.2.4 Retailers must also make all attempts to assist EAPA Providers in complying with the Guidelines (for example, by providing direct, dedicated, free call numbers to retailer hardship units and working cooperatively to resolve issues concerning customers).

D1.3 Acceptance of EAPA by retailers

D1.3.1 Retailers must have systems in place to enable them to deliver EAPA in accordance with the Code.

D1.3.2 Retailers must process within two business days all EAPA assistance for individual customers of each retailer transmitted by the Department and:

(a) credit the amount reported by the Department to the account of each customer as directed by the Department; or

(b) advise the Department of any invalid EAPA.

D1.3.3 Retailers will report to the Department within two business days the outcome of processing of EAPA transmitted by the Department using the electronic systems provided by the Department. This includes vouchers that are approved or rejected under D1.3.4.

D1.3.4 Where a retailer identifies that the total amount of vouchers transmitted for a customer’s account will place that account into credit, the retailer must reject as many vouchers as required to ensure the account is not placed into credit and inform the Department within two business days using the electronic reporting system.

D1.3.5 Retailers must accept all valid EAPA vouchers offered in payment of an account (except in any of the circumstances specified in clause D1.4).

D1.4 Circumstances where EAPA is not to be used

D1.4.1 EAPA vouchers must not be applied to a customer’s electricity or natural gas account:

(a) where vouchers would place a customer’s account into credit as per D1.3.4; or

(b) for payment of non-consumption related charges (for example, late fees, disconnection and reconnection fees).
D1.5 Retailers assisting EAPA Providers

D1.5.1 Each retailer must have in place a direct dedicated, telephone enquiry number for EAPA Providers to contact that retailer to confirm the details of a customer seeking EAPA assistance. Calls to this line must be answered or call backs made as soon as reasonably practicable, as an inability to contact a retailer may cause difficulties for the EAPA Provider in assessing the customer for EAPA.

D1.5.2 These contact details must be provided to the Department by each retailer and any changes must be notified to the Department immediately.

D1.5.3 Current contact listings for EAPA Providers that are able to assess customers for EAPA assistance are on the Department’s website.

D1.5.4 Retailers are required to provide to their customers information on Government funded rebates and programs, including EAPA. This means a retailer can refer a customer to one or more EAPA Providers only if the assistance provided to a customer by the retailer is not sufficient to help a customer resolve their difficulty paying an energy bill or where additional assistance may be appropriate. EAPA Providers will assess customers under the Guidelines and it is at the discretion of the EAPA Providers whether or not EAPA will be granted to a customer.

D1.5.5 Retailers can also assist their customers to be assessed for EAPA by implementing an appropriate payment plan or making other appropriate referrals, for instance, to a financial counsellor.

D1.5.6 Where a retailer refers a customer to an EAPA Provider, the retailer must also inform the customer of the requirement to take their original bill when they attend an EAPA assessment interview.

D1.5.7 The “original bill” refers to the first issued bill for the current payment period, for which the customer is seeking EAPA assistance. A copy of an original bill supplied by a retailer may be considered an original bill.

D1.5.8 Retailers may be required to assist an EAPA Provider to establish the details of a customer seeking EAPA assistance (for example, where a customer does not have an original bill). If a customer does not have their original bill or receives their bill via email, the EAPA Provider will be required to contact the retailer to confirm the customer’s account details.

D1.5.9 It is generally not appropriate to refer customers with large debts that have been allowed to accumulate over a long period of time to an EAPA Provider without adequate consideration of other options and attempts to assist the customer in accordance with laws and internal policy and without discussing the matter with the EAPA Provider. In many cases, an EAPA Provider will not be equipped to handle such cases and other types of referrals may be more appropriate (for example, to a financial counsellor).
D1.6 Prohibition on disconnection during EAPA assessment

D1.6.1 If a customer is awaiting assessment for EAPA assistance, the retailer is required to defer electricity or natural gas disconnection until an EAPA Provider has assessed the customer.

D1.7 Residential electricity and gas consumption only

D1.7.1 EAPA vouchers may only be used as payment towards electricity and natural gas consumption (cost of energy and standing charges or service to property charges) supplied under a residential tariff (or rural tariff for home electricity and/or natural gas), and only on behalf of the person/s named on the account.

D1.7.2 If vouchers are presented for payment of non-consumption charges (e.g. late fees or disconnection charges), the retailer must advise the customer that the vouchers have not been applied to their account. The retailer must reject any such vouchers and report this to the Department within two business days using the electronic reporting system.

D1.7.3 EAPA can only be used for customers residing in NSW, regardless of their retailer.

D1.8 EAPA vouchers issued by two or more EAPA Providers

D1.8.1 A customer may be eligible to be issued vouchers by more than one EAPA Provider for each bill and the circumstances of such grants of vouchers will be managed by the Department using the EAPA Delivery Guidelines.

D1.8.2 Without breaching the other provisions of the Code, a retailer will process all EAPA transmitted by the Department for an individual customer into the electricity or gas account of that customer.

D1.9 Fraud or misrepresentation

If a retailer suspects or has evidence that either an EAPA Provider or customer fraud or misrepresentation has occurred, the retailer must contact the Department immediately and then confirm the suspicion in writing, either by letter or email.

D1.10 Voucher storage

Retailers must retain EAPA vouchers presented by customers and which were valid prior to 1 July 2017 for a minimum of seven years from the date of redemption and make these available for audits by the Department, or an agent of the Department, upon request.

D1.11 Recording EAPA usage

D1.11.1 For an account where EAPA has been received, the retailer must reference a customer’s use of EAPA on their previous bill, and the amount they were presented for payment. This assists EAPA Providers in assessing if EAPA is being used for on-going income support.

D1.11.2 A best practice example of how EAPA voucher usage would be recorded on a customer’s bill is at D1.11.3, where it would indicate that $200 worth of EAPA vouchers were applied to the customer’s
account on 12 July 2013. A retailer may provide this information using an alternate method.

D1.11.3 Payment History: "EAPA VOUCHER 12/07/2013 $200".

**D1.12 Acquittal statement**

D1.12.1 Reimbursement is made by the Department for valid EAPA vouchers applied by the retailer to customer accounts, during the previous month.

D1.12.2 Retailers must provide the Department with a tax invoice and an acquittal statement corresponding to each monthly report. The acquittal statement is to state the amount for which the retailer is seeking reimbursement. Monthly reimbursement for administration costs must also be claimed at this time.

D1.12.3 Administration costs are to be calculated based on $0.80 per bill (per customer account) regardless of how many vouchers are presented in a transaction.

D1.12.4 The acquittal statement must be certified and signed by an appropriately responsible person nominated by the retailer. Each retailer must communicate the name of the nominated person/s to the Department for verification purposes.

**D1.13 Compliance**

D1.13.1 Retailers must establish and maintain accounting procedures and records to enable periodic reports to be prepared to substantiate compliance with the Code.

D1.13.2 Retailers must, upon request, provide such reports to the Minister, the Department or any auditor appointed by the Department.

D1.13.3 Retailers must maintain records to substantiate compliance with the Code for a period of seven years.
PART E: Energy Offer Information Program

E1. Application and interpretation

E1.1 This Part E applies to a retailer of a residential customer who:

E1.1.1 is receiving a rebate from the retailer as required by this Code; and

E1.1.2 is being supplied energy under a standard retail contract.

E1.2 In this Part:

energy means electricity or gas or both;

market offer means has the same meaning as in the National Energy Retail Law (NSW);

market retail contract has the same meaning as in the National Energy Retail Law (NSW); and

standard retail contract has the same meaning as in the National Energy Retail Law (NSW).

E2. Assistance with Market Offers

E2.1 By 30 January 2018 and at six monthly intervals thereafter, the retailer must use all reasonable endeavours to inform and assist the customer to identify the most appropriate market offer for that customer, having regard to:

E2.1.1 the customer’s consumption profile;

E2.1.2 the objective of reducing the customer’s costs of buying electricity and/or gas;

E2.1.3 the estimated yearly monetary savings for the customer from accepting a market offer, and

E2.1.4 the price and non-price terms and conditions of the retailer’s market offers.

E2.2 Clause E2.1 does not apply if:

E2.2.1 the retailer forms the view that there is no market offer that would provide the residential customer with a better alternative than the standard retail contract; or

E2.2.2 the residential customer has expressly requested not to receive marketing information or material from the retailer.
Primary Industries Notices

BIOSECURITY ACT 2015

Instrument of Appointment of Authorised Officers and Approval of Functions –
Department of Primary Industries and Local Land Services officers

I, Peter Day, Director Biosecurity & Food Safety Compliance, in exercise of delegated authority of the Secretary and of the Secretary as Accreditation Authority under the Biosecurity Act 2015 (the Act) make the following appointments and approvals:

1) Pursuant to section 361 of the Act, I appoint the persons listed in Column 1 of the table set out in Schedule 1 as authorised officers for the purposes of the Act.

2) Pursuant to section 195 of the Act, I approve those authorised officers listed in Column 1 of the table set out in Schedule 1 to exercise the functions of a biosecurity certifier as specified in Column 2 of the table.

Duration of appointment and approval:
The appointment and approval of each person listed in Schedule 1 will end on the earliest of the following dates:

A. the date that is five years from the date of this instrument; or
B. the date of revocation of this instrument, or an instrument of revocation of appointment of a person listed in Schedule 1 as an authorised officer; or
C. the date that the person ceases to be employed by either the Department of Industry or the Local Land Services.

Dated this 6th day of December 2017

PETER DAY
DIRECTOR
BIOSECURITY & FOOD SAFETY COMPLIANCE
(as delegate on behalf of the Secretary of the Department of Industry)

SCHEDULE 1

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of person appointed as authorised officer</td>
<td>Approved functions of biosecurity certifier</td>
</tr>
<tr>
<td>James Gillespie</td>
<td>NIL Conditions</td>
</tr>
<tr>
<td>Andrew Michelin</td>
<td>NIL Conditions</td>
</tr>
<tr>
<td>Leanne Calthorpe</td>
<td>NIL Conditions</td>
</tr>
<tr>
<td>Alexandra Stephens</td>
<td>NIL Conditions</td>
</tr>
</tbody>
</table>
NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parishes - Tenandra, Bald Hill; County - Lincoln
Land District - Dubbo; LGA - Dubbo Regional

Road Closed: Lot 3 DP 1231582
File No: 15/09833

SCHEDULE

On closing, the land within Lot 3 DP 1231582 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - March; County - Wellington
Land District - Orange; LGA - Orange

Road Closed: Lot 2 DP 1226100
File No: 16/05190

SCHEDULE

On closing, the land within Lot 2 DP 1226100 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Nundle; County - Parry
Land District - Tamworth; LGA - Tamworth Regional

Road Closed: Lot 3 DP 1217613
File No: 15/09721
SCHEDULE
On closing, the land within Lot 3 DP 1217613 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parish - Crawney; County - Parry
Land District - Tamworth; LGA - Tamworth Regional

Road Closed: Lot 2 DP 1217614
File No: 15/09716

SCHEDULE
On closing, the land within Lot 2 DP 1217614 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parishes - Huntawong, South Marowie; County - Nicholson
Land District - Hillston; LGA - Carrathool

Road Closed: Lot 5 DP 1233698
File No: 16/00164

SCHEDULE
On closing, the land within Lot 5 DP 1233698 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parish - Barigan; County - Phillip
Land District - Mudgee; LGA - Mid-Western Regional

Road Closed: Lots 1-4 DP 1235070
File No: 17/04818
SCHEDULE
On closing, the land within Lots 1-4 DP 1235070 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parish - Bolaro; County - Lincoln
Land District - Dunedoo Central; LGA - Warrumbungle

Road Closed: Lots 1 - 2 DP 1229257
File Nos: 09/11797 and 16/04534

SCHEDULE
On closing, the land within Lots 1-2 DP 1229257 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parish - Oura; County - Clarendon
Land District - Wagga Wagga; LGA - Wagga Wagga

Road Closed: Lots 1-6 DP 1233430
File No: 16/04136

SCHEDULE
On closing, the land within Lots 1-6 DP 1233430 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parish - Oura; County - Clarendon
Land District - Wagga Wagga; LGA - Wagga Wagga

Road Closed: Lots 1-2 DP 1233431
File No: 16/04143
SCHEDULE
On closing, the land within Lots 1-2 DP 1233431 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parish – Pikapene; County – Drake
Land District – Casino; LGA – Kyogle

Road Closed: Lot 1 DP 1236151
File No: 07/5113

SCHEDULE
On closing, the land within Lot 1 DP 1236151 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parish - Tallawudjah; County - Fitzroy
Land District - Grafton; LGA - Clarence Valley

Road Closed: Lot 1 DP 1236153
File No: 17/06922

SCHEDULE
On closing, the land within Lot 1 DP 1236153 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parish - Woodford; County - Clarence
Land District - Grafton; LGA - Clarence Valley

Road Closed: Lot 1 DP 1236908
File No: 17/05903
SCHEDULE
On closing, the land within Lot 1 DP 1236908 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parish – Narrandera; County – Cooper
Land District – Narrandera; LGA – Narrandera

Road Closed: Lot 1 DP 1236469
File No: 08/8737

SCHEDULE
On closing, the land within Lot 1 DP 1236469 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parish – Kelgoola; County – Phillip
Land District – Rylstone; LGA – Mid-Western Regional

Road Closed: Lot 1 DP 1234227
File No: CL/00713

SCHEDULE
On closing, the land within Lot 1 DP 1234227 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parishes – Urana, North Gunambill; County – Urana
Land District – Urana; LGA – Federation

Road Closed: Lot 2 DP 1235518
File No: 17/03013
SCHEDULE
On closing, the land within Lot 2 DP 1235518 remains vested in the State of New South Wales as Crown land.

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION
Parish - Field of Mars; County - Cumberland
Land District - Metropolitan; LGA - Parramatta

Road Closed: Lot 11 DP 1237768
File No: 15/11076

SCHEDULE
On closing, the land within Lot 11 DP 1237768 remains vested in City of Parramatta Council as operational land for the purposes of the Local Government Act 1993.
Council Reference: RMRC 08142

ROADS ACT 1993
ORDER
Transfer of a Crown Road to a Council

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

The Hon PAUL TOOLE, MP
Minister for Lands and Forestry

Schedule 1
Parish - Tantawangalo; County - Auckland
Land District - Bega; LGA - Bega Valley

Description: Crown road shown by red colour in diagram hereunder (being 20.115 metres wide) at Candelo.
NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Prospect; County - Macquarie
Land District - Port Macquarie; LGA - Port Macquarie-Hastings

Road Closed: Lot 1 DP 1214823
File No: 14/05778

SCHEDULE

On closing, the land within Lot 1 DP 1214823 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Prospect; County - Macquarie
Land District - Port Macquarie; LGA - Port Macquarie-Hastings

Road Closed: Lot 2 DP 1214823
File No: 14/05779

SCHEDULE

On closing, the land within Lot 2 DP 1214823 remains vested in the State of New South Wales as Crown land.

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.

The Hon PAUL TOOLE, MP
Minister for Lands and Forestry

Administrative District - Balranald
Shire - Balranald, County - Taila

The purpose of Western Lands Lease 14251, being the land contained within Folio Identifier 6820/823920 has been altered from "Grazing" to "Grazing & Horticulture" effective from 30 November 2017.

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 have been altered by the inclusion of the special conditions following:

1. The lessee shall undertake the development and ongoing management of the horticulture area as per the process and practices detailed in the Billa Downs - Sturt Highway - Euston - Review of Environmental Factors prepared by Nicol Projects (June 2017) and the associated technical reports (inclusive of AgriExchange's Soil Survey for Select harvests Ltd - Billa Downs Euston NSW, dated July 2016.

2. Concurrence with the project from Roads and Maritime Services shall be obtained prior to commencement of the development.

3. Should the horticulture development fail or cease to exist, the lessee shall remove any irrigation infrastructure from the lease and return the area to dryland cultivation.

4. Prior to the commencement of the development, Wheel Cactus shall be controlled onsite.

5. Appropriate water licences should be obtained prior to commencement of the development.

6. The lessee shall ensure areas with a slope greater than 2% remain uncultivated until any soil conservation measures documented in a plan approved by the Commissioner have been implemented at the lessee's expense.

7. The lessee shall ensure incised drainage lines, other than man-made structures, which carry water after storms are left uncultivated in the channels and for a distance of at least 20 metres on either side of the banks of the channels except when the Commissioner specifies otherwise.

8. The lessee shall not clear any native vegetation or remove any timber within the irrigation areas unless written approval has been granted by the appropriate authority.

9. There shall be no cultivation within 50 metres of any established road used by the public.

10. The lessee shall undertake any appropriate measures, at his/her own expense, ordered by the Commissioner to rehabilitate any degraded cultivated areas.

11. The lessee shall establish windbreaks at his/her own expense as may be ordered by the Commissioner to provide adequate protection of the soil.

12. The lessee shall undertake any fuel management and/or provision of fire trail access in accordance with fire mitigation measures to the satisfaction of the NSW Rural Fire Service.

13. The lessee shall ensure the monitoring regime of piezometers is established, in consultation with a suitably qualified engineer, to detect water logging of soils, rising salt levels in the soil and/or rising groundwater levels.

14. A total of 209 ha is authorised for Horticulture and the lessee shall not develop any other areas on the lease for horticulture outside the area shown cross hatched in the diagram below.

File No: WLL14251-1
NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Woodford; County - Clarence
Land District - Grafton; LGA - Clarence Valley

Road Closed: Lot 1 DP 1236032
File No: 17/05915

SCHEDULE

On closing, the land within Lot 1 DP 1236032 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Maharatta; County - Wellesley
Land District - Bombala; LGA - Snowy Monaro Regional

Road Closed: Lots 1-2 DP 1235121
File No: 17/06374

SCHEDULE

On closing, the land within Lots 1-2 DP 1235121 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Gygederick; County - Wallace
Land District - Cooma; LGA - Snowy Monaro Regional

Road Closed: Lot 2 DP 1229742
File No: 16/04623

SCHEDULE

On closing, the land within Lot 2 DP 1229742 remains vested in the State of New South Wales as Crown land.
NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Nungar; County - Wallace
Land District - Cooma; LGA - Snowy Monaro Regional

Road Closed: Lot 1 DP 1233144
File No: 17/02927

SCHEDULE

On closing, the land within Lot 1 DP 1233144 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish - Field Of Mars; County - Cumberland
Land District - Metropolitan; LGA - Parramatta

Road Closed: Lot 1 DP 1235100
File No: 14/09246

SCHEDULE

On closing, the land within Lot 1 DP 1235100 remains vested in the State of New South Wales as Crown land.

ROADS ACT 1993

ORDER

Transfer of a Crown Road to a Council

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

SCHEDULE 1

Parish - Nemingha
County - Parry
Land District - Tamworth
Local Government Area - Tamworth Regional
Crown public road at East Tamworth between Lots 14 and 224 DP 755334 as highlighted in red on the diagram below.

![Map of Tamworth region highlighting closed road](image)

**SCHEDULE 2**

Roads Authority: Tamworth Regional Council  
File No: 17/09063  
Council Ref: KR:SF8127

**NOTIFICATION OF CLOSING OF A ROAD**

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

The Hon Paul Toole, MP  
Minister for Lands and Forestry

**DESCRIPTION**

*Parish – Couatwong; County – Hawes*  
*Land District – Walcha; LGA – Walcha*

Road Closed: Lots 1-3 DP 1236159  
File No: 17/01084

**SCHEDULE**

On closing, the land within Lots 1-3 DP 1236159 remains vested in the State of New South Wales as Crown land.

**NOTIFICATION OF CLOSING OF A ROAD**

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

The Hon Paul Toole, MP  
Minister for Lands and Forestry

**DESCRIPTION**

*Parish – Colaragang; County – Cooper*  
*Land District – Narrandera; LGA – Murrumbidgee*

Road Closed: Lot 1 DP 1235912  
File No: 17/05212

**SCHEDULE**

On closing, the land within Lot 1 DP 1235912 remains vested in the State of New South Wales as Crown land.
ERRATUM – CREATION OF EASEMENT FOR TRANSMISSION LINE

In the notification appearing in the Government Gazette of 23 December 2016, Folio 3844, under the heading “Creation of easement for transmission line”, the reference to “Land in Ms64Be” should have been omitted. The land in Ms64Be was previously bought under the provisions of the Real Property Act 1900 by the registration of DP1182056 on 16 December 2012 to create a title Folio 7332/1182056. Section 52 of the Crown Lands Act 1989 does not enable an easement to be created by notification in the Gazette over land that is subject to the provisions of the Real Property Act 1900. Accordingly the notification was not effective to create an easement for transmission line over the land in Ms64Be.

The Hon Paul Toole, MP
Minister for Lands and Forestry

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish – Brunswick; County – Rous
Land District – Murwillumbah; LGA – Byron

Road Closed: Lot 3 DP 1234909
File No: 17/06138

SCHEDULE

On closing, the land within Lot 3 DP 1234909 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish – Calamia; County – Clarence
Land District – Grafton; LGA – Clarence Valley

Road Closed: Lot 1 DP 1233914
File No: 17/02087

SCHEDULE

On closing, the land within Lot 1 DP 1233914 remains vested in the State of New South Wales as Crown land.

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry
DESCRIPTION
Parish – Hillgrove; County – Sandon
Land District – Armidale; LGA – Armidale Regional

Road Closed: Lot 1 DP 1235757
File No: 17/02778

SCHEDULE
On closing, the land within Lot 1 DP 1235757 remains vested in the State of New South Wales as Crown land.

NOTICE OF PURPOSE OTHER THAN THE DECLARED 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(s) specified in Column 2 of the Schedule is to be used or occupied under a relevant interest granted for the purpose(s) specified in Column 1 of the Schedule where such use or occupation is other than the declared purpose of the reserve.

The Hon Paul Toole, MP
Minister for Lands and Forestry

Schedule

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
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<tbody>
<tr>
<td>environmental protection</td>
<td>Dedication No. 540199</td>
</tr>
<tr>
<td></td>
<td>Public Purpose: agricultural school and experimental farm</td>
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<td>Notified: 27 April 1894</td>
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<td>File Reference: 17/09671</td>
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<td>sporting event</td>
<td>Reserve No. 1012190</td>
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<td>Public Purpose: access and public requirements, tourism purposes and</td>
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<td></td>
<td>environmental and heritage conservation</td>
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<td>Notified: 25 August 2006</td>
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<td>grazing</td>
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<td>temporary site office</td>
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<tr>
<td>site investigation</td>
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<td>Public Purpose: access and public requirements, rural services, tourism</td>
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<td>vegetation management</td>
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<td>Reserve No. 10085</td>
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<td>Public Purpose: travelling stock</td>
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<td>Reserve No. 17535</td>
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<td>File Reference: 16/05232</td>
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</table>
Notes: Existing reservations under the Crown Lands Act are not revoked.

**ASSIGNMENT OF NAME TO RESERVE TRUST**

Pursuant to clause 4(3) of Schedule 8 of the *Crown Lands Act 1989* the name specified in Column 1 of the Schedule hereunder is assigned to the reserve trust constituted as trustee of the reserve specified opposite thereto in Column 2 of the Schedule.

The Hon Paul Toole, MP
Minister for Lands and Forestry

**Schedule**

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
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<tr>
<td>Armidale Site For Public Band (R95674) Reserve Trust</td>
<td>Reserve No.: 95674</td>
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<td>Public Purpose: Public Band Site</td>
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<tr>
<td>East Ballina Reservoir (R86408) Reserve Trust</td>
<td>Reserve No.: 86408&lt;br&gt;Public Purpose: Reservoir&lt;br&gt;Notified: 8 November 1967&lt;br&gt;File Reference: 17/10320</td>
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<td>Ballina Sanitary Purposes (R76641) Reserve Trust</td>
<td>Reserve No.: 76641&lt;br&gt;Public Purpose: Sanitary Purposes&lt;br&gt;Notified: 19 March 1954&lt;br&gt;File Reference: 17/10320</td>
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<td>Ballina Sanitary Purposes (R57352) Reserve Trust</td>
<td>Reserve No.: 57352&lt;br&gt;Public Purpose: Sanitary Purposes&lt;br&gt;Notified: 1 August 1924&lt;br&gt;File Reference: 17/10320</td>
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<td>East Ballina Public Recreation (R540019) Reserve Trust</td>
<td>Dedication No.: 540019&lt;br&gt;Public Purpose: Public Recreation&lt;br&gt;Notified: 1 September 1916&lt;br&gt;File Reference: 17/10320</td>
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<td>East Ballina Public Park (R700005) Reserve Trust</td>
<td>Reserve No.: 700005&lt;br&gt;Public Purpose: Public Park&lt;br&gt;Reserved by <em>East Ballina Cemetery Act 1957</em> assented to 22 November 1957.&lt;br&gt;File Reference: 17/10320</td>
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<td>Mitchell Reservoir (R81879) Reserve Trust</td>
<td>Reserve No.: 81879&lt;br&gt;Public Purpose: Reservoir&lt;br&gt;Notified: 21 August 1959&lt;br&gt;File Reference: 17/10320</td>
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<td>Pagewood Public Recreation (R69144) Reserve Trust</td>
<td>Reserve No.: 69144&lt;br&gt;Public Purpose: Public Recreation&lt;br&gt;Notified: 21 March 1940&lt;br&gt;File Reference: 17/10320</td>
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<td>Cobargo Rubbish Depot (R63291) Reserve Trust</td>
<td>Reserve No.: 63291&lt;br&gt;Public Purpose: Rubbish Depot&lt;br&gt;Notified: 8 April 1932&lt;br&gt;File Reference: 17/10320</td>
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<td>Bermagui Local Government Purposes (R89337) Reserve Trust</td>
<td>Reserve No.: 89337&lt;br&gt;Public Purpose: Local Government Purposes&lt;br&gt;Notified: 20 December 1974&lt;br&gt;File Reference: 17/10320</td>
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<td>Dorrigo Night Soil Depot And Rubbish Depot (R46505) Reserve Trust</td>
<td>Reserve No.: 46505&lt;br&gt;Public Purpose: Night Soil and Rubbish Depot&lt;br&gt;Notified: 19 April 1911&lt;br&gt;File Reference: 17/10320</td>
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<td>Bellingen Reservoir (R66754) Reserve Trust</td>
<td>Reserve No.: 66754&lt;br&gt;Public Purpose: Reservoir&lt;br&gt;Notified: 28 May 1937&lt;br&gt;File Reference: 17/10320</td>
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<td>Weethalle Rubbish Depot (R61808) Reserve Trust</td>
<td>Reserve No.: 61808&lt;br&gt;Public Purpose: Rubbish Depot&lt;br&gt;Notified: 11 April 1930&lt;br&gt;File Reference: 17/10320</td>
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<td>West Wyalong Drainage (R49277) Reserve Trust</td>
<td>Reserve No.: 49277&lt;br&gt;Public Purpose: Drainage&lt;br&gt;Notified: 24 September 1913&lt;br&gt;File Reference: 17/10320</td>
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| Wentworth Falls Public Recreation (R88811) Reserve Trust               | Reserve No.: 88811  
Public Purpose: Public Recreation  
Notified: 22 December 1972  
File Reference: 17/10320 |
| Cudal Town Hall Site (D1000244) Reserve Trust                          | Dedication No: 1000244  
Public Purpose: Town Hall Site  
Notified: 2 February 1892  
File Reference: 17/10320 |
| Ingleburn Public Recreation (R60719) Reserve Trust                     | Reserve No.: 60719  
Public Purpose: Public Recreation  
Notified: 12 October 1928  
File Reference: 17/10320 |
| Chester Hill Parking (R94229) Reserve Trust                            | Reserve No.: 94229  
Public Purpose: Parking  
Notified: 30 January 1981  
File Reference: 17/10320 |
| Phegans Bay Bush Fire Brigade Purposes (R89593) Reserve Trust          | Reserve No.: 89593  
Public Purpose: Bush Fire Brigade Purposes  
Notified: 19 September 1975  
File Reference: 17/10320 |
| Gosford Parking (R90789) Reserve Trust                                 | Reserve No.: 90789  
Public Purpose: Parking  
Notified: 3 June 1977  
File Reference: 17/10320 |
| White Cliffs Water Supply (R230003) Reserve Trust                     | Reserve No.: 230003  
Public Purpose: Water Supply  
Notified: 8 January 1988  
File Reference: 17/10320 |
| Micalo Island Wharfage (R44940) Reserve Trust                         | Reserve No.: 44940  
Public Purpose: Wharfage  
Notified: 9 March 1910  
File Reference: 17/10320 |
| Glenreagh Sanitary Depot (R57067) Reserve Trust                        | Reserve No.: 57067  
Public Purpose: Sanitary Depot  
Notified: 16 May 1924  
File Reference: 17/10320 |
| Red Rock Sanitary Purposes (R84092) Reserve Trust                     | Reserve No.: 84092  
Public Purpose: Sanitary Depot  
Notified: 21 December 1962  
File Reference: 17/10320 |
| Goulburn Municipal Storage (R50090) Reserve Trust                      | Reserve No.: 50090  
Public Purpose: Municipal Storage  
Notified: 29 July 1914  
File Reference: 17/10320 |
| Tarlo Local Government Purposes (R81978) Reserve Trust                 | Reserve No.: 81978  
Public Purpose: Local Government Purposes  
Notified: 25 September 1959  
File Reference: 17/10320 |
| Bingara Public Recreation (R73975) Reserve Trust                       | Reserve No.: 73975  
Public Purpose: Public Recreation  
Notified: 19 January 1951  
File Reference: 17/10320 |
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| Yetman Shire Purposes (R86020) Reserve Trust                            | Reserve No.: 86020  
Public Purpose: Shire Purposes  
Notified: 21 October 1966  
File Reference: 17/10320 |
| Kiama Public Baths (R12984) Reserve Trust                               | Reserve No.: 12984  
Public Purpose: Public Baths  
Notified: 22 November 1890  
File Reference: 17/10320 |
| Gerroa Sanitary Purposes (R71286) Reserve Trust                        | Reserve No.: 71286  
Public Purpose: Sanitary Purposes  
Notified: 18 August 1944  
File Reference: 17/10320 |
| Bonalbo Sanitary Purposes (R58542) Reserve Trust                       | Reserve No.: 58542  
Public Purpose: Sanitary Purposes  
Notified: 22 January 1926  
File Reference: 17/10320 |
| Sandilands Sanitary Purposes (R59015) Reserve Trust                    | Reserve No.: 59015  
Public Purpose: Sanitary Purposes  
Notified: 16 July 1926  
File Reference: 17/10320 |
| Woodenbong Sanitary Purposes (R65526) Reserve Trust                    | Reserve No.: 65526  
Public Purpose: Sanitary Purposes  
Notified: 18 October 1935  
File Reference: 17/10320 |
| Whitton Preservation Of Historical Sites And Buildings (R90965) Reserve Trust | Reserve No.: 90965  
Public Purpose: Preservation of Historical Sites and Buildings  
Notified: 18 November 1977  
File Reference: 17/10320 |
| Lismore Drainage (R86248) Reserve Trust                                | Reserve No.: 86248  
Public Purpose: Drainage  
Notified: 28 April 1967  
File Reference: 17/10320 |
| Lismore Heights Public Recreation (R80581) Reserve Trust               | Reserve No.: 80581  
Public Purpose: Public Recreation  
Notified: 18 April 1958  
File Reference: 17/10320 |
| Portland Rubbish Depot And Sanitary Depot (R54241) Reserve Trust       | Reserve No.: 54241  
Public Purpose: Sanitary and Rubbish Depot  
Notified: 29 October 1920  
File Reference: 17/10320 |
| Cullen Bullen Rubbish Depot And Sanitary Depot (R55236) Reserve Trust  | Reserve No.: 55236  
Public Purpose: Sanitary and Rubbish Depot  
Notified: 17 March 1922  
File Reference: 17/10320 |
| Caroona Bush Fire Brigade Purposes (R200008) Reserve Trust             | Reserve No.: 200008  
Public Purpose: Fire Brigade Purposes  
Notified: 27 March 1987  
File Reference: 17/10320 |
| Quirindi Reservoir (R83565) Reserve Trust                              | Reserve No.: 83565  
Public Purpose: Reservoir  
Notified: 10 November 1961  
File Reference: 17/10320 |
<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
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</table>
| Lockhart Community Forest Purposes (Addition) (D1002859) Reserve Trust | Dedication No.: 1002859  
Public Purpose: Community Forest Purposes  
Notified: 3 November 1961  
File Reference: 17/10320 |
| Bulahdelah Local Government Purposes (R76622) Reserve Trust            | Reserve No.: 76622  
Public Purpose: Local Government Purposes  
Notified: 12 March 1954  
File Reference: 17/10320 |
| Mungindi Baby Health Centre (Clinic) (R85338) Reserve Trust            | Reserve No.: 85338  
Public Purpose: Baby Health Centre  
Notified: 28 May 1965  
File Reference: 17/10320 |
| Gwabegar Sanitary Depot (R58798) Reserve Trust                         | Reserve No.: 58798  
Public Purpose: Sanitary Depot  
Notified: 23 April 1926  
File Reference: 17/10320 |
| Manly Park (P500079) Reserve Trust                                     | Reserve No.: 500079  
Public Purpose: Park  
Proclaimed: 20 September 1887  
File Reference: 17/10320 |
| Freshwater Parking (R88574) Reserve Trust                              | Reserve No.: 88574  
Public Purpose: Parking  
Notified: 1 September 1916  
File Reference: 17/10320 |
| Balgowlah Public Recreation (R69541) Reserve Trust                     | Reserve No.: 69541  
Public Purpose: Public Recreation  
Notified: 20 September 1940  
File Reference: 17/10320 |
| Silverwater Public Recreation (R80360) Reserve Trust                   | Reserve No.: 80360  
Public Purpose: Public Recreation  
Notified: 7 February 1958  
File Reference: 17/10320 |
| Port Macquarie Reservoir (R80570) Reserve Trust                        | Reserve No.: 80570  
Public Purpose: Reservoir  
Notified: 18 April 1958  
File Reference: 17/10320 |
| Anna Bay Bush Fire Brigade Purposes (R89712) Reserve Trust             | Reserve No.: 89712  
Public Purpose: Bush Fire Brigade Purposes  
Notified: 23 January 1976  
File Reference: 17/10320 |
| Maroubra Municipal Purposes (R85043) Reserve Trust                     | Reserve No.: 85043  
Public Purpose: Municipal Purposes  
Notified: 16 December 1964  
File Reference: 17/10320 |
| Maroubra Public Recreation (R61156) Reserve Trust                      | Reserve No.: 61156  
Public Purpose: Public Recreation  
Notified: 24 May 1929  
File Reference: 17/10320 |
| East Coraki Public Recreation (R54511) Reserve Trust                   | Reserve No.: 54511  
Public Purpose: Public Recreation  
Notified: 29 July 1977  
File Reference: 17/10320 |
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<th>Column 1</th>
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<tr>
<td>Casino Public Library (R90843) Reserve Trust</td>
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<td>Kangaroo Valley Local Government Purposes (R89435) Reserve Trust</td>
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<td>Old Adaminaby Sanitary Depot (R52654) Reserve Trust</td>
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<td>Bibbenluke Bush Fire Brigade Purposes (R97490) Reserve Trust</td>
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<td>Public Purpose: Bush Fire Brigade Purposes</td>
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<td>Bundeena Public Recreation (R76219) Reserve Trust</td>
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<td>Hoxsworthy Public Recreation (R81995) Reserve Trust</td>
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<td>Glebe Municipal Purposes And Wharfage (R1000258) Reserve Trust</td>
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<td>Drake Rubbish Depot And Sanitary Purposes (R80238) Reserve Trust</td>
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<td>Public Purpose: Sanitary Purposes and Rubbish Depot</td>
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<tr>
<td>Urbenville Sanitary Purposes (R65533) Reserve Trust</td>
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<td>Public Purpose: Sanitary Purposes</td>
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<td>Limpinwood Rubbish Depot (R87475) Reserve Trust</td>
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<td>File Reference: 17/10320</td>
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<tr>
<td>Murwillumbah Public Park (D540100) Reserve Trust</td>
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<tr>
<td>Murwillumbah Reservoir (R86174) Reserve Trust</td>
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<td>File Reference: 17/10320</td>
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<tr>
<td>Bigga Bush Fire Brigade Purposes (R97347) Reserve Trust</td>
<td>Reserve No.: 97347</td>
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<td>Public Purpose: Bush Fire Brigade Purposes</td>
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<tr>
<td></td>
<td>Notified: 13 July 1984</td>
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<td></td>
<td>File Reference: 17/10320</td>
</tr>
</tbody>
</table>
Pursuant to section 88 of the *Crown Lands Act 1989*, the Crown land specified in Column 1 of the Schedule hereunder is added to the reserved land specified opposite thereto in Column 2 of the Schedule.

The Hon Paul Toole, MP  
Minister for Lands and Forestry

### Schedule

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
</table>
| Land District: Lismore  
Local Government Area: Richmond Valley Council  
Locality: Woodburn  
Whole Lots: Lot 208 DP 755624 Parish Riley County  
Richmond Area: about 490.5 square metres  
File Reference: GF03R28 | Reserve No. 54988  
Public Purpose: public recreation  
Notified: 25 November 1921  
Whole Lots: Lot 7044 DP 92613, Lot 406 DP 755624, Lots 7042-7043 DP 1024028 Parish Riley County  
Richmond  
New Area: about 4994 square metres |
DISSOLUTION OF RESERVE TRUST

Pursuant to section 92(3) of the Crown Lands Act 1989, the reserve trust specified in Column 1 of the Schedule hereunder, which was established in respect of the reserve specified opposite thereto in Column 2 of the Schedule, is dissolved.

The Hon Paul Toole, MP
Minister for Lands and Forestry

Schedule

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
</table>
| Woodburn Rocky Mouth Creek Boatramp (R95881) Reserve Trust | Reserve No. 95881
Public Purpose: public recreation
Notified: 2 April 1982
File Reference: GF03R28 |

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.

The Hon Paul Toole, MP
Minister for Lands and Forestry

Schedule

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
</table>
| Woodburn (R54988) River Bank Park Reserve Trust | Reserve No. 57466
Public Purpose: public baths
Notified: 26 September 1924
Reserve No. 88037
Public Purpose: public recreation
Notified: 4 December 1970
Reserve No. 95881
Public Purpose: public recreation
Notified: 2 April 1982
File Reference: GF03R28 |

ALTERATION OF CORPORATE NAME OF RESERVE TRUST

Pursuant to section 92(3) of the Crown Lands Act 1989, the corporate name of the reserve trust specified in Column 1 hereunder, which is trustee of the reserve referred to in Column 2, is altered to the corporate name specified in Column 3.

The Hon Paul Toole, MP
Minister for Lands and Forestry

Schedule

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
</table>
| Woodburn (R54988) River Bank Park Reserve Trust | Reserve No. 54988
Public Purpose: public recreation
Notified: 25 November 1921
Reserve No. 57466
Public Purpose: public baths
Notified: 26 September 1924 | Woodburn River Bank Park Reserve Trust |
APPOINTMENT OF TRUST BOARD MEMBERS

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shelley Elizabeth Boyle (new member)</td>
<td>Narira Park Trust</td>
<td>Reserve No. 83297</td>
</tr>
<tr>
<td>William James Boyle (re-appointment)</td>
<td>Public Purpose: public recreation</td>
<td>Public Purpose: public recreation</td>
</tr>
</tbody>
</table>

NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish – Merrill; County – King
Land District – Gunning; LGA – Upper Lachlan

Road Closed: Lot 2 DP 1233151
File No: 16/10602

SCHEDULE

On closing, the land within Lot 2 DP 1233151 remains vested in the State of New South Wales as Crown land.
NOTIFICATION OF CLOSING OF A ROAD

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

DESCRIPTION

Parish – Garway; County – King
Land District – Gunning; LGA – Upper Lachlan

Road Closed: Lot 1 DP 1233153
File No: 16/10604

SCHEDULE

On closing, the land within Lot 1 DP 1233153 remains vested in the State of New South Wales as Crown land.

ROADS ACT 1993
ORDER

NOTIFICATION OF TRANSFER OF A CROWN ROAD TO A COUNCIL

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

The Hon Paul Toole, MP
Minister for Lands and Forestry

Schedule 1

Parish – Bedulluck; County – Murray
Land District – Yass; LGA – Yass Valley Council

Crown road/s shown coloured in red on diagram/s hereunder.

Schedule 2

Roads Authority: Yass Valley Council
Lands Reference: 16/07407 W591251

Schedule 1

Parish – Ginninderra; County – Murray
Land District – Yass; LGA – Yass Valley Council

Crown road/s shown coloured in red on diagram/s hereunder.
ERRATUM

In the Government Gazette No. 123 of 10 November 2017, Folio 6763, under the heading “Notification of Transfer of a Crown Road to a Council” the Parish and County in Schedule 1 are amended to “Bedulluck” and “Murray”.

The Hon Paul Toole, MP
Minister for Lands and Forestry
**Other Government Notices**

**ASSOCIATIONS INCORPORATION ACT 2009**

**NOTICE UNDER SECTION 509(5) OF THE CORPORATIONS ACT 2001 AS APPLIED BY SECTION 64 OF THE ASSOCIATIONS INCORPORATION ACT 2009**

Notice is hereby given that the Incorporated Association mentioned below will be deregistered when three months have passed after 23 November 2017.

<table>
<thead>
<tr>
<th>Incorporated Association</th>
<th>ABN</th>
</tr>
</thead>
<tbody>
<tr>
<td>KOONAWARRA AREA RESIDENTS ASSOCIATION INC</td>
<td>Y0314310</td>
</tr>
</tbody>
</table>

Dated this 29th day of November 2017

C Gowland
Delegate of the Secretary
& Director Registry Services

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**ASSOCIATIONS INCORPORATION ACT 2009**

**Cancellation of registration pursuant to section 80**

TAKE NOTICE that PARKINSON'S NSW INC (Y0364731) became registered under the [Corporations Act 2001/Co-operatives National Law (NSW)] as PARKINSON'S NSW LIMITED (ACN 622 455 985), a company limited by guarantee, on 25 October 2017, and accordingly its registration under the Associations Incorporation Act 2009 is cancelled as of that date.

Robyne Lunney
Delegate of the Commissioner,
NSW Fair Trading

6 December 2017

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**ASSOCIATIONS INCORPORATION ACT 2009**

**Cancellation of incorporation pursuant to section 74**

TAKE NOTICE that the incorporation of the following associations is cancelled by this notice pursuant to section 74 of the Associations Incorporation Act 2009.

<table>
<thead>
<tr>
<th>Incorporated Association</th>
<th>ABN</th>
</tr>
</thead>
<tbody>
<tr>
<td>CAMDEN HAVEN CHORAL SOCIETY INCORPORATED</td>
<td>Y2077623</td>
</tr>
<tr>
<td>HUNTER KOALA PRESERVATION SOCIETY INC</td>
<td>Y1516337</td>
</tr>
<tr>
<td>HURSTVILLE AQUATIC SWIMMING CLUB INCORPORATED</td>
<td>Y2850122</td>
</tr>
<tr>
<td>JOSEPHITE COMMUNITY AID INCORPORATED</td>
<td>Y0224017</td>
</tr>
<tr>
<td>MANUFACTURE COFFS COAST INCORPORATED</td>
<td>INC9892975</td>
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<tr>
<td>PALMGROVE SCHOOL PARENTS &amp; FRIENDS ASSOCIATION INCORPORATED</td>
<td>INC9881962</td>
</tr>
<tr>
<td>SEAVIEW CHURCH INCORPORATED</td>
<td>INC9877395</td>
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<tr>
<td>SPORT ARABIAN REGISTRY OF AUSTRALIA INCORPORATED</td>
<td>INC9896583</td>
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<tr>
<td>THIYAMA-LI FAMILY VIOLENCE SERVICE INCORPORATED</td>
<td>INC9884351</td>
</tr>
</tbody>
</table>

Cancellation is effective as at the date of gazettal.

Dated this 6 December 2017.

Robyne Lunney
Delegate of the Commissioner
NSW Fair Trading
ASSOCIATIONS INCORPORATION ACT 2009

Cancellation of Registration pursuant to Section 76

TAKE NOTICE that the registration of the following associations is cancelled by this notice pursuant to section 76 of the Associations Incorporation Act 2009.

<table>
<thead>
<tr>
<th>Association Name</th>
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<tbody>
<tr>
<td>3D ENTERTAINMENT &amp; FILMS INCORPORATED</td>
<td>INC9894865</td>
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<tr>
<td>ASSOCIATION OF CONGOLESE PEOPLE IN COFFS HARBOUR INCORPORATED</td>
<td>INC9894946</td>
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<tr>
<td>AUSINO CULTURE EXCHANGE CENTRE INCORPORATED</td>
<td>INC9893233</td>
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<tr>
<td>AUSTRALIAN BULL ARAB BREEDERS ASSOCIATION INCORPORATED</td>
<td>INC9894098</td>
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<tr>
<td>AUSTRALIAN JIANG XI YOUTH ASSOCIATION INC</td>
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<tr>
<td>AUSTRALIAN KANGWEI LONGEVITY CENTRE INCORPORATED</td>
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<tr>
<td>AUSTRALIAN LONGYAN CHAMBER INCORPORATED</td>
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<tr>
<td>AUSTRALIAN NEW COMMUNITY ASSOCIATION INCORPORATED</td>
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<tr>
<td>AUSTRALIAN SOCIETY OF TRAINING AND DEVELOPMENT INCORPORATED</td>
<td>INC9894960</td>
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<tr>
<td>AUSTRALIAN WATER AND WASTEWATER TREATMENT ORGANISATION INCORPORATED</td>
<td>INC9894321</td>
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<tr>
<td>BANGLADESH JATIYATABADI CHATRO DAL AUSTRALIA INCORPORATED</td>
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<tr>
<td>BAZOUN CHARITABLE ASSOCIATION INC</td>
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<tr>
<td>BOOROWA DISTRICT LANDSCAPE GUARDIANS INCORPORATED</td>
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<td>BURRABADINE SOCIAL TENNIS CLUB INCORPORATED</td>
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<td>CAVANBAH TENNIS CLUB INC</td>
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<td>CENTRAL COAST CARAVAN OF ANGELS INCORPORATED</td>
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<td>CENTRAL COAST DEAF FOOTBALL INCORPORATED</td>
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<td>CHAMBER OF COMMUNITY ORGANISATIONS NSW INCORPORATED</td>
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<td>CLARENCE VALLEY YOUTH INITIATIVE INCORPORATED</td>
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<td>CLEAN SHEETS INCORPORATED</td>
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<td>COOMA NETBALL ASSOCIATION INCORPORATED</td>
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<td>COPACABANA BUSINESS CHAMBER INCORPORATED</td>
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<td>COWPER MUSIC GROUP INCORPORATED</td>
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<td>DRAGONOLOGY INCORPORATED</td>
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<td>DURUM WHEATGROWERS ASSOCIATION INC</td>
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<td>EURONGILLY TENNIS CLUB INC</td>
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<tr>
<td>FREECLOUD INC</td>
<td>Y0164006</td>
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<td>FREEMANTLE ENDURANCE RIDE CLUB INCORPORATED</td>
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<td>GOOLHI AND DISTRICT PROGRESS ASSOCIATION INC</td>
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<td>GUYRA NETBALL ASSOCIATION INCORPORATED</td>
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<td>HARMONY LIVING AUSTRALIA INCORPORATED</td>
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<tr>
<td>HAZARA WOMEN OF AUSTRALIA INCORPORATED</td>
<td>INC9894982</td>
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<tr>
<td>HILL TOP RESIDENTS ACTION GROUP INCORPORATED</td>
<td>INC9888041</td>
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<tr>
<td>HOSN UL KHITAM &quot;THE FINAL STAGE&quot; INC</td>
<td>INC9894944</td>
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<tr>
<td>HOUSE OF REFUGE MINISTRY INCORPORATED</td>
<td>INC9894918</td>
</tr>
<tr>
<td>KOREAN ACCOUNTANTS ASSOCIATION OF AUSTRALIA INCORPORATED</td>
<td>INC9894996</td>
</tr>
</tbody>
</table>
**Government Notices**

**Charitable Trusts Act 1993**

**Order Under Section 12**

**Cy Près Scheme Relating To**

**Western Sydney Local Health District Special Purpose and Trust Account 433253**

Section 9(1) of the Charitable Trusts Act 1993 permits the application of property cy près where the spirit of the original trust can no longer be implemented.

A Western Sydney Local Health District Special Purpose and Trust Funds Account 433253 (the Account) was established at Westmead Hospital for the benefit of the Australian Resuscitation Sepsis Evaluation Account Project (the ARISE Project), a medical study which ran between 5 October 2008 to 23 April 2014. The Account received...
funds from a research fund grant. It now is valued at around $1,709.13. The funds in the Account were used to fund a trial into the effectiveness of early goal-directed therapy as a strategy to decrease mortality among patients presenting to the Emergency Department at Westmead Hospital with septic shock.

On 23 April 2014, the ARISE Project ceased and its findings were published in the New England Journal of Medicine. The Western Sydney Local Health District (‘WSLHD’), as trustee of the Account, has applied to the Attorney General for the establishment of a cy près scheme under the Charitable Trusts Act 1993 to allow the funds in the Account to be used for the purpose of care of patients in the Emergency Department at Westmead Hospital.

I have formed a view that the funds in the Account are held on trust for recognised charitable purposes. I consider the original trust purpose has failed and that this is an appropriate matter in which the Attorney General should approve a cy près scheme under section 12(1)(a) of the Charitable Trusts Act 1993.

The Attorney General has approved a recommendation that he establish a cy près scheme pursuant to section 12 of the Charitable Trusts Act 1993 to permit the funds in the Account to be applied cy près, for the benefit of patients attending the Emergency Department of Westmead Hospital.

Therefore, pursuant to section 12 of the Charitable Trusts Act 1993, I hereby order that the funds held in WSLHD Special Purpose and Trust Account 433253 be applied cy près for the benefit of patient care in the Emergency Department at Westmead Hospital.

This order will take effect 21 days after its publication in the Government Gazette, in accordance with section 16(2) of the Charitable Trusts Act 1993.

Date of Order: 27 November 2017

SIGNED

M G SEXTON SC
Solicitor General (Under delegation from the Attorney General)

---

Section 9(1) of the Charitable Trusts Act 1993 permits the application of property cy-près where the spirit of the original trust can no longer be implemented.

By clause 5(a)(i) of her Will dated 25 May 2016, the testator Ms Dorothy Nes gifted a 50% share of the residue of her estate to the organisation known as Gosford Dog Paws Pty Limited ACN 54 193 781, for the general purposes of that organisation. On 30 June 2016 Gosford Dog Paws Pty Ltd ACN 54 193 781 (‘Gosford Dog Paws’) ceased operating what was then referred to as the Gosford Dog Pound, situated at 1 Pateman Road, Erina. On 16 August 2017 ASIC received an application for voluntary deregistration of the organisation.

As at November 2016 the trust had an approximate value of $280,000.

As the entity named in clause 5(a)(i) of the Will has ceased operation so that the gift cannot be applied for its general purposes, it is necessary to consider an alternative organisation which can apply the trust funds, cy près, in a manner which most nearly approximates the intention of the donor.

Central Coast Animal Care Facility Incorporated INC 1600950 has been identified as having a similar purpose to Gosford Dog Paws. From 1 July 2016 the Central Coast Animal Care Facility has operated the Gosford Dog Pound after winning a tender from the Central Coast Council, situated at the same premises from which Gosford Dog Paws operated. The objects of the Central Coast Animal Care Facility, which is a not-for-profit organisation, include the provision of short term care for lost or mistreated animals and rehabilitation for injured or neglected animals, as well as promoting responsible pet ownership. The Central Coast Animal Care Facility, like Gosford Dog Paws, has a no-kill policy.

The executor of the estate agrees to a cy près scheme applying the gift in the Will to the Central Coast Animal Care Facility.

The Solicitor General, as delegate of the Attorney General in Charitable Trusts Act 1993 matters, has determined that this is an appropriate matter in which the Attorney General should approve a cy près scheme under section 12(1)(a) of the Charitable Trusts Act 1993.

In circumstances where the original purposes of the trust cannot be carried out because Gosford Dog Paws has ceased operation and the gift cannot be applied for its general purposes, the Solicitor General has agreed with a
recommendation that the trust should be applied cy-près for the general purposes of Central Coast Animal Facility, the organisation that commenced operating the facility previously operated by Gosford Dog Paws, that being as close as possible to the original purposes of the trust.

Take note that within one month after the publication of this notice any person may make representations or suggestions to the Attorney General in respect of the proposed scheme.

Signed

Andrew Cappie Wood
Secretary, Department of Justice

DATE: 4 December 2017

COMPANION ANIMALS REGULATION 2008
ORDER
Organisations approved by the Chief Executive, Local Government under clause 16(d) of the Companion Animals Regulation 2008

Pursuant to clause 16(d) of the Companion Animals Regulation 2008, the organisation listed in Schedule 1 is hereby approved, subject to the conditions contained in Schedule 2.

SCHEDULE 1

<table>
<thead>
<tr>
<th>Name of organisation</th>
<th>Address of organisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boxer Rescue Network Australia</td>
<td>84 Clear Mountain Road, Cashmere Qld 4500</td>
</tr>
</tbody>
</table>

SCHEDULE 2

1. The exemption under clause 16(d) of the Companion Animals Regulation 2008 from the requirements of section 9 of the Companion Animals Act 1998 only applies to an animal in the custody of an organisation listed in Schedule 1:
   a) if the organisation is holding that animal for the sole purpose of re-housing the animal with a new owner; and
   b) if the organisation maintains appropriate records that show compliance with the Companion Animals Act 1998, Companion Animals Regulation 2008 and the Guidelines for Approval to be an Organisation Exempt from Companion Animal Registration under clause 16(d) of the Companion Animals Regulation 2008; and
   c) if the organisation maintains a register that is made available to the relevant local council and the Office of Local Government as requested. The Register must list the names of all carers involved in the rehoming of animals and the locations of all animals received under the exemption while in the custody of the organisation.

2. The exemption under clause 16(d) of the Companion Animals Regulation 2008 from the requirements of section 9 of the Companion Animals Act 1998 expires five years from the date of this order, unless revoked or varied at an earlier time.

Sonja Hammond
Manager, Performance
Office of Local Government
Date: 06 December 2017

CO-OPERATIVES NATIONAL LAW (NSW)

Notice is hereby given that the Co-operative listed below will be deregistered when three months have passed after 24 November 2017, the date of lodgement of the final return by the Liquidator under section 509 the Corporations Act 2001, as applied by section 453 of the Co-operatives National Law (NSW), on 26 February 2018.

CO-OPERATIVE DETAILS

Co-operative: Hastings River Fishermen's Co-operative Limited
Co-operative Number: NSWC00080
Dated this 30th day of November 2017 at Bathurst

C Gowland
Delegate of the Registrar
Director, Registry Services

GEOGRAPHICAL NAMES ACT 1966

PURSUANT to the provisions of Section 7A (1) of the Geographical Names Act 1966, the Geographical Names Board has on this day assigned the recorded name listed hereunder as a geographical name.

Neville McKinnon Park for a reserve located at the corner of Union Street and Gladstone Avenue in the suburb of Wollongong.

The position and extent for this feature is recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board’s website at www.gnb.nsw.gov.au.

NARELLE UNDERWOOD
Chair
Geographical Names Board
PO Box 143
BATHURST NSW 2795

GEOGRAPHICAL NAMES ACT 1966

PURSUANT to the provisions of Section 14 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day discontinued the name McKinnon Park for a reserve located at the corner of Union Street and Gladstone Avenue in the suburb of Wollongong.

The position and extent for this feature is recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board’s website at www.gnb.nsw.gov.au

NARELLE UNDERWOOD
Chair
Geographical Names Board
PO Box 143
BATHURST NSW 2795

GEOGRAPHICAL NAMES ACT 1966

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

Old Dairy Reserve for a reserve adjacent to Dairyman Drive in the locality of Raymond Terrace.

The position and extent for this feature is recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board’s website at www.gnb.nsw.gov.au

NARELLE UNDERWOOD
Chair
Geographical Names Board
PO Box 143
BATHURST NSW 2795

MENTAL HEALTH ACT 2007

Section 109

Declaration of mental health facility

I, ELIZABETH KOFF, Secretary of the NSW Ministry of Health, pursuant to section 109 of the Mental Health Act 2007, and section 43 of the Interpretation Act 1987, DO HEREBY:

(a) REVOKE the Order published in the NSW Government Gazette No. 85 of 4 August 2017, declaring certain premises of Royal North Shore Hospital to be a declared mental health facility in accordance with section 109 of the Mental Health Act 2007, designated as a “mental health assessment and inpatient treatment” facility, and
(b) DECLARE the following premises of Royal North Shore Hospital to be a declared mental health facility for the purposes of the Mental Health Act 2007:

- **Psychiatric Emergency Care Centre**, located in the Emergency Department, Level 2, Acute Services Building, Reserve Road, St Leonards NSW 2065
- **C J Cummins Unit**, located on Level 2 of the Clinical Services Building, Lanceley Avenue, St Leonards NSW 2065
- **Acute Assessment Unit**, located on Level 7 of the Acute Services Building, Reserve Road, St Leonards NSW 2065; and

(c) DECLARE this facility to be designated as a “mental health assessment and inpatient treatment” facility.

Signed, this 30th day of November 2017

Elizabeth Koff
Secretary

MENTAL HEALTH ACT 2007
Section 109
Declaration of mental health facility

I, ELIZABETH KOFF, Secretary of the NSW Ministry of Health, pursuant to section 109 of the Mental Health Act 2007, and section 43 of the Interpretation Act 1987, DO HEREBY:

(a) REVOKE the Order published in the NSW Government Gazette No. 161 of 17 December 1976, declaring certain premises of Bankstown Hospital to be a place for the admission and temporary treatment of mentally ill persons in accordance with section 9 of the Mental Health Act 1958; and

(b) DECLARE the following premises of Bankstown-Lidcombe Hospital to be a declared mental health facility for the purposes of the Mental Health Act 2007:

- **Banks House**, Bankstown-Lidcombe Hospital Campus, located at the corner of Claribel and Gallipoli Streets, Bankstown, NSW 2200; and

(c) DECLARE this facility to be designated as a “mental health assessment and inpatient treatment” facility.

Signed, this 30th day of November 2017

Elizabeth Koff
Secretary

MENTAL HEALTH ACT 2007
Section 109
Declaration of mental health facility

I, ELIZABETH KOFF, Secretary of the NSW Ministry of Health, pursuant to section 109 of the Mental Health Act 2007, and section 43 of the Interpretation Act 1987, DO HEREBY:

(a) REVOKE the Order published in the NSW Government Gazette No. 69 of 28 May 2010, declaring the Emergency Department of Bowral Hospital to be a mental health facility in accordance with section 109 of the Mental Health Act 2007, and

(b) DECLARE the following premises to be a declared mental health facility for the purposes of the Mental Health Act 2007:

- **The Emergency Department of Bowral Hospital**, located on the Bowral Hospital campus, corner of Mona Road and Bowral Street, Bowral, NSW 2576; and

(c) DECLARE this facility to be designated as a “mental health emergency assessment” facility; and

(d) RESTRICT this facility to the provision of acute assessment functions, where a patient can be held in anticipation of discharge should their clinical condition resolve rapidly, or transferred to a declared mental health facility of the “mental health assessment and inpatient treatment” class if required, in accordance with all provisions of the Mental Health Act 2007, with the exception of:

   i. Chapter 2;
   ii. Division 1 of Part 3 of Chapter 3;
iii. Sections 57, 58 and 59 of Division 2 of Part 3 of Chapter 3; and
iv. Division 3 of Part 3 of Chapter 3.
Signed, this 30th day of November 2017
Elizabeth Koff
Secretary

MENTAL HEALTH ACT 2007
Section 109
Declaration of mental health facility
I, ELIZABETH KOFF, Secretary of the NSW Ministry of Health, pursuant to section 109 of the Mental Health Act 2007, and section 43 of the Interpretation Act 1987, DO HEREBY:
(a) REVOKE the Order published in the NSW Government Gazette No. 95 of 8 August 2008, declaring certain premises of Braeside Hospital to be a mental health facility in accordance with section 109 of the Mental Health Act 2007, designated as a “mental health inpatient treatment” facility; and
(b) DECLARE the following premises of Braeside Hospital to be a declared mental health facility for the purposes of the Mental Health Act 2007:
   • Aged Care Psychiatry Unit, located on the Braeside Hospital Campus at 340 Prairevale Road, Prairiewood NSW 2176; and
(c) DECLARE this facility to be designated as a “mental health assessment and inpatient treatment” facility.
Signed, this 30th day of November 2017
Elizabeth Koff
Secretary

MENTAL HEALTH ACT 2007
Section 109
Declaration of mental health facility
I, ELIZABETH KOFF, Secretary of the NSW Ministry of Health, pursuant to section 109 of the Mental Health Act 2007, and section 43 of the Interpretation Act 1987, DO HEREBY:
(a) REVOKE the Order published in the NSW Government Gazette No. 68 of 13 June 2008, declaring certain premises of Campbelltown Hospital to be a mental health facility in accordance with section 109 of the Mental Health Act 2007, designated a “mental health inpatient treatment” facility; and
(b) REVOKE the Order published in the NSW Government Gazette No.171 of 2 November 2001, declaring the Gna Ka Lun Adolescent Mental Health Unit of Campbelltown Hospital to be a hospital in accordance with section 208 of the Mental Health Act 1990; and
(c) REVOKE the Order published in the NSW Government Gazette No.151 of 22 October 2009, page 5463, amending the two declarations listed above; and
(d) DECLARE the following premises to be a declared mental health facility for the purposes of the Mental Health Act 2007:
Campbelltown Hospital Campus, Therry Road, Campbelltown NSW 2560, comprising the following units:
   • Waratah Adult Mental Health Unit, situated at the North East Corner
   • Birunji Youth Mental Health Unit, situated at the North East Corner
   • Gna Ka Lun Adolescent Mental Health Unit, situated at the North East Corner
   • Psychiatric Emergency Care Centre, situated in Building A; and
(c) DECLARE the premises to be designated as a “mental health assessment and inpatient treatment” facility.
Signed, this 30th day of November 2017
Elizabeth Koff
Secretary
MENTAL HEALTH ACT 2007
Section 109
Variation to the declaration of mental health facility

I, Elizabeth Koff, Secretary of the NSW Ministry of Health, pursuant to section 109 of the Mental Health Act 2007, and section 43 of the Interpretation Act 1987, DO HEREBY:

VARY the Order made pursuant to section 109 of the Mental Health Act 2007, published in the NSW Government Gazette No.166 of 13 November 2009, page 5676, declaring certain premises to be declared mental health facilities, by amending the address corresponding to the name “the Emergency Department of Campbelltown Hospital” to be “Building A, Campbelltown Hospital Campus, Therry Road, Campbelltown, NSW 2560”.

Signed, this 30th day of November 2017
Elizabeth Koff
Secretary

MENTAL HEALTH ACT 2007
Section 109
Variation to the declaration of mental health facility

I, Elizabeth Koff, Secretary of the NSW Ministry of Health, pursuant to section 109 of the Mental Health Act 2007, and section 43 of the Interpretation Act 1987, DO HEREBY:

VARY the Order made pursuant to section 109 of the Mental Health Act 2007, published in the NSW Government Gazette No.166 of 13 November 2009, page 5676, declaring certain premises to be declared mental health facilities, by amending the address corresponding to the name “the Emergency Department of Liverpool Hospital” to be “Clinical Building, Liverpool Hospital Campus, Elizabeth Street, Liverpool, NSW 2170”.

Signed, this 30th day of November 2017
Elizabeth Koff
Secretary

MOTOR ACCIDENTS COMPENSATION ACT 1999
MOTOR ACCIDENTS COMPENSATION REGULATION 2015

Clause 19(4) – Notice of replacement AMA List

Pursuant to the provisions of clause 19(4) of the Motor Accidents Compensation Regulation 2015, notice is given that the document called the List of Medical Services and Fees published by the Australian Medical Association and dated 1 November 2017 is recognised as the AMA List and replaces the document called the List of Medical Services and Fees published by the Australian Medical Association and commences upon gazettal.

This notice is to take effect on the date of gazettal.

Dated at Sydney on the 28th day of November 2017.
CARMEL DONNELLY
Acting Chief Executive
State Insurance Regulatory Authority

PARENTS AND CITIZENS ASSOCIATIONS INCORPORATION ACT 1976

Section 13 (4)
NOTICE OF INCORPORATION OF PARENTS AND CITIZENS ASSOCIATIONS

The following associations are hereby incorporated under the Parents and Citizens Associations Incorporation Act 1976.

1. Bankstown Public School
2. Holmwood Public School
RESTRICTED PREMISES ACT 1943

Declaration by Supreme Court in relation to premises

On 24 November 2017, the Supreme Court declared that the premises known as “Spring House Brothel” at 46 Sydenham Road, Marrickville in the State of New South Wales, being the premises described as Lot 7 of Deposited Plan 4510, and the building thereupon, are premises to which Part 2 of the Restricted Premises Act 1943 applies.

SURVEYING AND SPATIAL INFORMATION ACT 2002

Registration of Surveyors

PURSUANT to the provisions of the Surveying and Spatial Information Act 2002, Section 10(1) (a), the undermentioned persons have been Registered as a Land Surveyor in New South Wales

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEI Yin Ian (Tony)</td>
<td>1/11 Romford Road Blacktown 2148</td>
<td>05 December 2017</td>
</tr>
</tbody>
</table>

Narelle Underwood
President

Michael Spiteri
Registrar

SURVEYING AND SPATIAL INFORMATION ACT 2002

Registration of Surveyors

PURSUANT to the provisions of the Surveying and Spatial Information Act 2002, Section 10(1) (a), the undermentioned persons have been Registered as a Mining Surveyor Open Cut in New South Wales under the Mutual Recognition Act 1992 from the dates shown.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>MENDOZA Venson Magsino</td>
<td>8 Oak Street Blackwater QLD 4717</td>
<td>05 December 2017</td>
</tr>
</tbody>
</table>

Narelle Underwood
President

Michael Spiteri
Registrar

SURVEYING AND SPATIAL INFORMATION ACT 2002

Removal of Name from the Register of Surveyors

PURSUANT to the provisions of the Surveying and Spatial Information ACT 2002, Section 10A (1), the undermentioned Land Surveyors have been removed from the Register of Surveyors

<table>
<thead>
<tr>
<th>Name</th>
<th>Date of Removal</th>
<th>Date of Registration</th>
</tr>
</thead>
<tbody>
<tr>
<td>HARRISON Michael Robert</td>
<td>23 November 2017</td>
<td>15 September 1989</td>
</tr>
</tbody>
</table>

Narelle Underwood
President

Michael Spiteri
Registrar
SURVEYING AND SPATIAL INFORMATION ACT 2002

Restoration of Name to the Register of Surveyors

PURSUANT to the provisions of the Surveying and Spatial Information Act 2002, Section 10A (3), the undermentioned Mining Surveyors Unrestricted has been restored to the Register of Surveyors.

<table>
<thead>
<tr>
<th>Name</th>
<th>Date of Original Registration</th>
<th>Removal Date</th>
<th>Restoration Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHALLINOR Christopher David</td>
<td>04 November 2015</td>
<td>01 September 2017</td>
<td>05 December 2017</td>
</tr>
</tbody>
</table>

Narelle Underwood
President

Michael Spiteri
Registrar
Emergency Services Levy Insurance Monitor Act 2016

Issue of Guidelines relating to prohibited conduct under section 21

I, Professor Allan Fels AO, the person appointed as the Emergency Services Levy Insurance Monitor under section 5 of the Emergency Services Levy Insurance Monitor Act 2016 ("the Act") publish the following Guidelines, in compliance with section 21 (3) of the Act:

- Guidelines on enforceable undertakings, and
- Guidelines on over-collection of ESL

I also publish revised Guidelines on the prohibition against price exploitation.

These Guidelines take effect immediately.

Professor Allan Fels AO
Emergency Services Levy Insurance Monitor

Dated: 6 December 2017
Guidelines on enforceable undertakings

December 2017
GUIDELINES ON ENFORCEABLE UNDERTAKINGS

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GUIDELINES ON ENFORCEABLE UNDERTAKINGS

A. Introduction

A.1. Section 35 undertakings

1. Division 2 of Part 4, in particular, section 35 of the Emergency Services Levy Insurance Monitor Act 2016 ("the Act") empowers the Emergency Services Levy Insurance Monitor ("Monitor") to accept written undertakings in the exercise of his responsibilities under the Act and for the enforcement of such undertakings in the Supreme Court of New South Wales.

2. Persons, being predominantly insurance companies, offering such undertakings may subsequently withdraw or vary them but only with the Monitor’s consent.

3. The Monitor regards enforceable undertakings as an important enforcement remedy for use in situations where there is evidence of a contravention, or a potential contravention, of the Act that might otherwise justify litigation.

4. These Guidelines outline the Monitor’s current approach to the application of enforceable undertakings in connection with his compliance and enforcement activities under the Act. A template enforceable undertaking is at attachment A. The text of Division 2 of Part 4 of the Act is at attachment B.

Refund undertakings

5. In addition to the enforceable undertakings provided for under Division 2 of Part 4 of the Act, Division 5 Part 3A [Investigation of overcharging] and specifically section 31H of the Act [Refund undertakings by insurance companies] provides for a ‘refund undertaking’. Refund undertakings, although applicable in resolving “over-collection amounts” are not the subject of this Guideline.

6. Refund undertakings apply to circumstances where the Monitor has determined that an insurance company is liable for an over-collection of emergency services levy contributions and is required to refund the over-collection amount to relevant policyholders or to pay the amount of the over-collection to the Chief Commissioner of Revenue NSW for payment into the Consolidated Fund. The Monitor’s approach to the use of refund undertakings is set out in the Monitor’s Guidelines on Over-Collection of ESL.

A.2. Enforcement of the Act—overview

7. The Monitor is the person appointed under the Act to oversee and monitor the emergency services levy reform, being:
   - the abolition, by the Fire and Emergency Services Levy Act 2017, of the emergency services funding scheme;
   - the establishment of a fire and emergency services levy by the Fire and Emergency Services Levy Act 2017; and
   - the transition to the levy by the re-establishment of an emergency services insurance contribution under the Emergency Services Levy Act 2017 ("the ESL Act").

8. The Monitor’s enforcement work is conducted under the provisions of the Act, in particular under Parts 2-5 of the Act, the purpose of which includes ensuring that New South Wales property insurance policyholders do not pay more than is necessary for insurance cover...
GUIDELINES ON ENFORCEABLE UNDERTAKINGS

during the transition in the funding schemes for New South Wales’ fire and emergency services.

Prohibited conduct

9. Under the Act, the Monitor has access to a range of civil, criminal and administrative remedies to assist in securing the purpose of the Act. The Act creates a number of prohibitions that give rise to civil consequences specific to emergency services levy reform. The Act contains prohibitions against:
   - insurance companies engaging in price exploitation; and
   - persons engaging in misleading or deceptive conduct in relation to the effect, or likely effect, of emergency services levy reform

10. These provisions are jointly referred to as “prohibited conduct” and are set out below:

14 Price exploitation
   (1) For the purposes of this Act, an insurance company engages in price exploitation if:
      (a) the insurance company issues (or has, at any time during the relevant period, issued) a regulated contract of insurance, and
      (b) the price for the issue of the regulated contract of insurance is unreasonably high having regard to:
         (i) the emergency services levy reform, and
         (ii) the emergency services contributions required to be paid by the insurance company, and
         (iii) the historical emergency services levy rates charged by the insurance company, and
         (iv) the costs of supplying insurance against loss of or damage to property, and
         (v) any other matters prescribed by the regulations.
   (2) For the purposes of this section, issue a regulated contract of insurance includes receive a premium in respect of a regulated contract of insurance on behalf of, or for transmission to, any body corporate, partnership, association, underwriter or person outside New South Wales.
   (3) In this section, relevant period means the period commencing on 10 December 2015 and ending on the date on which this section commences.

15 False or misleading conduct
For the purposes of this Act, a person engages in false or misleading conduct in relation to the emergency services levy reform if the person engages in any conduct, in trade or commerce, that:
   (a) falsely represents (whether expressly or impliedly) the effect, or likely effect, of the emergency services levy reform, or
   (b) misleads or deceives, or is likely to mislead or deceive, any person about the effect or likely effect of the emergency services levy reform.

Consequences

11. Insurance companies, or other persons, found to have engaged in prohibited conduct, in trade or commerce, by the New South Wales Supreme Court may be ordered to pay pecuniary penalties for each contravention, not exceeding:
   - in the case of an individual - $500,000; or
   - in the case of a body corporate - $10 million.

12. In addition, following a finding that an insurance company or other person has engaged in prohibited conduct, the Court may make a range of civil orders, including:
   - interim and final injunctions;
   - corrective advertising / adverse publicity orders; and
GUIDELINES ON ENFORCEABLE UNDERTAKINGS

- compensation orders.

13. The Act contains a range of criminal matters, generally associated with the exercise of the Monitor’s functions, the contravention of which attracts, upon conviction, fines of up to $22,000 [200 penalty units].

14. The Monitor may resolve administratively through court enforceable undertakings under section 35 of the Act, any matter in connection with which he has a function under the Act, including alleged contraventions of the Act.

A.3. Enforcement aims

15. In enforcing the provisions of the Act, the Monitor’s primary aims are to:
   - stop the contravening conduct;
   - minimise risk of, the effect of or deter future contravening conduct;
   - remediate any harm caused by the contravening conduct (e.g. by corrective advertising or restitution for policyholders affected adversely);
   - foster the implementation or improvement of compliance systems to prevent the reoccurrence of contravening conduct; and
   - where appropriate, punish the wrongdoer by the imposition of pecuniary penalties or fines.

Response to complaints

16. In addition to his compliance and enforcement powers under the Act, the Monitor may receive complaints about alleged prohibited conduct and deal with those complaints in accordance with the Act.

17. All complaints received by the Monitor in relation to the emergency services levy reform are carefully considered by the Monitor. However, the Monitor cannot pursue all of the complaints received by his office and in practice will exercise discretion to direct resources to the investigation and resolution of those matters that provide the greatest overall benefit for policyholders and the public at large.

A.4. What matters are likely to attract an enforcement response?

18. To assist with this determination, the Monitor gives enforcement priority to matters that demonstrate one or more of the following aggravating factors:
   - conduct of significant public interest or concern;
   - conduct resulting in substantial policyholder detriment because of the total number of policyholders affected adversely or the size of the financial detriment to policyholders per policy;
   - conduct demonstrating a blatant disregard for the Act;
   - conduct detrimentally affecting disadvantaged or vulnerable policyholders including small businesses;
   - where action by the Monitor is likely to have a worthwhile educative or deterrent effect, and
   - where the person has a history of previous contraventions of the Act attracting attention from the Monitor.
GUIDELINES ON ENFORCEABLE UNDERTAKINGS

19. Legal proceedings are a focus of the Monitor’s work, because of the significant impact of court outcomes. However, the Monitor can also use a range of responses in his compliance and enforcement activities. In deciding which compliance or enforcement remedy (or a combination of such remedies) to use, the Monitor’s first priority is always to achieve the best possible outcome for policyholders, given the nature and severity of the breach. Where an insurance company or person has displayed mitigating factors such as contrition, real commitment to remedying the harm and preventing the conduct’s recurrence, it may be more appropriate for the Monitor to mitigate his enforcement response. For example, in appropriate cases by accepting an enforceable undertaking. However, the Monitor may also seek additional remedies in such undertakings to resolve his concerns, such as refunds or compensation for policyholders and public acknowledgment of the relevant contravention.

20. In some instances, other regulators may have primary jurisdiction over certain matters that may come to the Monitor’s attention. In those circumstances, the Monitor may exchange information with or disclose information to other regulators under certain conditions specified in the Act or as required by other legislation.
GUIDELINES ON ENFORCEABLE UNDERTAKINGS

B. Enforceable undertakings

B.1. Considerations

21. The Monitor will employ resolutions of alleged contraventions of the Act based on undertakings given by insurance companies, insurance brokers or individuals concerned under section 35 of the Act, as alternatives to litigation in appropriate circumstances. Such administrative resolutions allow the Monitor to seek efficient and innovative outcomes in cases where litigation is not instituted.

22. An enforceable undertaking is offered voluntarily by a person as a means of resolving administratively, either wholly or partially, an alleged contravention of the Act. While the Monitor may not demand or otherwise require an undertaking, he may raise it as an option, leaving the alleged contravener to decide whether to pursue such a course.

23. The Monitor may canvass the possibility of an enforceable undertaking during an investigation of a matter. Such an approach will not however be made at the commencement of an investigation. In doing so, the Monitor’s staff may give advice that reflects the Monitor’s general attitude to the matter, without pre-empting the Monitor’s ultimate decision on whether to accept an undertaking in resolution of an investigation.

24. It is important to understand that the Monitor’s staff may carry out investigations but are not authorised under the Act to accept undertakings—that is the responsibility of the Monitor himself.

25. The Monitor will resolve matters employing an enforceable undertaking only when he considers that:

- generally, a contravention of the Act has occurred, or was likely to have occurred;
- a resolution based on an enforceable undertaking offers the best solution; and
- he is satisfied that the terms of the undertaking are likely to meet the principles articulated by the Courts for such undertakings, to ensure they are properly enforceable and appropriate exercises of the Court’s powers.

26. The employment by the Monitor of enforceable undertakings presents the opportunity to increase the effectiveness of administrative resolutions of alleged contraventions of the Act as the terms of enforceable undertakings are enforceable by the NSW Supreme Court. Examples of the type of relief the Monitor may seek in any action to enforce the terms of an undertaking may include:

- corrective advertising in appropriate media;
- financial compensation or refunds to affected policyholders or, in appropriate cases approved third parties;
- community service remedies; and
- education programs funded by the person providing the undertaking.

27. In assessing any proposed enforceable undertaking offered by any person, the Monitor will be positively influenced by the extent to which the contents of the proposed enforceable undertaking support the Monitor’s broad enforcement aims.

28. The Monitor does not consider the administrative resolution of matters by way of enforceable undertaking to be a soft option and the Monitor does not accept them lightly and will not hesitate to enforce their terms when breached. These Guidelines outline the
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circumstances in which such settlements are appropriate and the detailed criteria adopted by the Monitor in their negotiation and acceptance.

B.2. Unacceptable terms

29. The Monitor will not accept an enforceable undertaking if it includes:
   - a denial that the impugned conduct did, or was likely to, contravene the Act;
   - any terms imposing obligations on the Monitor;
   - a specific requirement that the Monitor will not in future institute proceedings in the particular matter;
   - a statement that the undertaking is not an admission for the purposes of third party actions (although they need not explicitly state that it is such an admission);
   - terms imposing obligations on third parties;
   - terms purporting to set up defences for possible non-compliance;
   - statements that the conduct was inadvertent; or
   - statements by the insurance company or other person that seek to minimise the consequences of the conduct or for public relations or promotional purposes.

30. In most circumstances acceptance of an enforceable undertaking will resolve the matter. However, there may be circumstances in which the Monitor negotiates and accepts an undertaking while continuing to investigate with a view to possible legal proceedings in relation to the same or a related matter. Such an undertaking may or may not form part of the final resolution of the matter.

B.3. Typical elements of an enforceable undertaking

31. Enforceable undertakings under the Act must be in writing, be sufficiently detailed to identify the impugned conduct, specific in the identification of any necessary remedial action, identify the timeframe for the implementation of that remedial action and free from ambiguity.

32. Courts considering similar instruments have stated that they expect that undertakings or orders to be precise, measurable, capable of being understood and complied with, have a connection to the conduct complained of (or are likely to prevent its recurrence) and that compliance or non-compliance with its terms can be objectively assessed.

33. The Monitor may specify standard terms, or guidance on the terms that must be included in such undertakings, for them to be acceptable to the Monitor. The Monitor prepares such terms with the intention of achieving his enforcement goals and securing policyholders interests while accommodating the need to reflect procedural fairness for the companies and the circumstances of the alleged contraventions.

34. While the content of each undertaking is subject to negotiation between the Monitor and the person concerned, undertakings accepted by the Monitor must be of substance and directly address the conduct that has given rise to the alleged contravention and its consequences.

35. An enforceable undertaking usually includes the following elements:
   - an acknowledgment or admission from the affected person that the impugned conduct constitutes or was likely to constitute a contravention of the Act;
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- a positive commitment to cease the impugned conduct and not recommence it;
- specific details of the corrective action that will be taken by the person to remedy any harm caused by the impugned conduct. This may include, for example, unequivocal corrective advertising that will reach the same target audience as the impugned representations or conduct;
- details of redress (such as payment of refunds, compensation or reimbursement to policyholders or approved third parties) where appropriate—including a mechanism to determine and audit the outcome;
- positive reporting requirements from the person giving the undertaking to the Monitor that may include:
  - a report as to when the person has satisfied the undertaking obligations,
  - requirements that the person use their best endeavours to engage independent third parties to provide the person and the Monitor audit, risk or compliance advice and recommendations to achieve compliance with an obligation, or as to the extent to which obligations have been satisfied; as well as evidencing the basis for that opinion,
  - the provision of supporting information and documentation by the person to the Monitor to verify that it has in fact satisfied its undertaking obligations,
  - specific details of future actions aimed at preventing a recurrence or any other contravention of the Act (such as an internal compliance training program, community or policyholder education and disclosure improvement programs, or other compliance management system elements), including the outcomes and objectives to be met, the way those objectives’ achievement can be measured or demonstrated and the timeframes and other details,
- an acknowledgment that:
  - the Monitor will make the undertaking publicly available including by placing it on the Monitor’s public register of undertakings on his website;
  - the Monitor may make public reference to the undertaking, from time to time, including in news media statements and in Monitor publications;
  - an enforceable undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

36. The compliance program elements of undertakings are discussed below.

B.4. Compliance programs

37. As part of the administrative resolution of alleged contraventions of the Act, the Monitor may require the insurance company or other person concerned to undertake a program to improve its overall compliance with the aims of the Act.

38. To achieve greater consistency and utility of enforceable undertakings, the Monitor may seek to have such insurance company or other person to develop, implement and maintain a compliance program for use in such undertakings, where they do not already have one in place. Where the insurance company or other person already has in place a compliance program, the Monitor may seek the inclusion, in any proposed enforceable undertaking, of commitments, an agreement:
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- to an independent review of the existing compliance management systems (or individual elements of such compliance management systems) to determine:
  - why the existing compliance management system or compliance management system element failed to prevent the alleged contravention of the Act; and
  - what modifications to the existing compliance management system are required to ensure compliance with the requirements of the Act;
- to provide the Monitor with the copy of a report of the findings of the independent review; and
- to implement the recommendations arising out of the independent review of the existing compliance management systems within a timeframe agreed with the Monitor.

39. The Monitor expects that the compliance management systems already implemented by AFS-licensed entities would contain a variety of elements, consistent with the appropriate Australian Standards (including AS/ISO 19600:2015 Compliance Management Systems – Guidelines and related or element-specific standards e.g. complaints handling or whistleblowing systems) and their respective license conditions.

40. These compliance management systems would include broad elements to address a wide variety of compliance risks as well as customized activities to suit individual compliance risks arising in relation to prohibited conduct under the Act.

41. The Monitor expects that a compliance management system, in relation to prohibited conduct under the Act, would include most if not all of the following elements:
- formalisation of the company or person’s compliance policy, supported by the commitment of its senior management;
- assignment of responsibility for the compliance program to a named senior manager, and/or a senior manager or a team responsible for initiatives in relation to prohibited conduct;
- appointment of a specialist compliance officer and compliance advisor with expertise in matters relating to prohibited conduct under the Act, to prevent future contraventions and to ensure that any potential contraventions are not only averted but also reported to senior management;
- conduct of a thorough risk assessment in relation to prohibited conduct under the Act;
- development, implementation, maintenance and evaluation of measures to address compliance risks in relation to prohibited conduct under the Act and achieve objectives;
- regular internal review and reporting to senior management of the continuing effectiveness of the compliance program;
- development of a compliance training program in relation to prohibited conduct under the Act;
- delivery of the training program a specified number of times over a specified period to key personnel groups within the company, to be identified at the time of entering into the undertaking or otherwise after an audit to identify the areas of the company at risk of future contravention;
- implementation of a complaints-handling system where such a system is not already in existence including measures to escalate matters relating to ESL reform and prohibited conduct under the Act;
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- implementation of specific customer information and disclosure initiatives to meet NSW requirements relating to the Act, statutory notices with disclosure requirements and prohibited conduct under the Act;
- supply of relevant documents to the Monitor upon request and without cost;
- commitment to an independent review of the compliance management system or its elements, at intervals to be determined.

42. In determining the specific combination of terms appropriate for a particular undertaking, the Monitor will consider factors such as the size, complexity and sophistication of the business, the nature and effect of the alleged contravention and the factors and circumstances that led to it.

43. Neither the Monitor nor his staff will be directly involved in the implementation of tailored compliance programs resulting from enforceable undertakings.

B.5. Public awareness

44. The Monitor’s view is that all enforceable undertakings accepted under the Act will be a matter of public record and open to public scrutiny. The Monitor’s policy is to make all enforceable undertakings he accepts publicly available, including by placing them on the Monitor’s public register of enforceable undertakings on his website and to refer to undertakings in news media statements, in the Monitor’s publications and in any other manner appropriate to the particular circumstances of the matter.

45. The Monitor considers that it may be possible to grant confidentiality over some aspects of an enforceable undertaking where genuinely commercially sensitive or personal information is involved, however, the onus of demonstrating to the Monitor the necessity for such a course of action lies with those seeking such confidentiality.

46. Persons giving enforceable undertakings under the Act are required, as part of the process, to acknowledge that they are aware of the Monitor’s policy on public awareness of the contents of enforceable undertakings.

B.6. Compliance with undertakings

47. Following the acceptance of an enforceable undertaking, the Monitor requires that its implementation and effectiveness be evaluated and continuous improvement initiatives be developed and implemented by the person providing the undertaking, throughout the period of the undertaking.

48. To assist in monitoring compliance, the Monitor’s standard practice will be to seek as part of the terms of any undertaking, provisions requiring relevant information and independent opinions to be sought by the company and to be made available to him:

- periodically—for example, a periodic audit of compliance with the undertaking or specific elements of that undertaking;
- in specified circumstances—for example, upon the achievement of certain elements, supporting documentation may be required; or,
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- an independent third party verification may be required where there is reason
to believe there has been a failure to comply with a term or terms of an
undertaking, or
- an expert opinion (compliance, audit, information technology security
professionals) may needed due to the subject matter or because of system
issues; or
- otherwise, upon the Monitor’s request.

49. The Monitor will also usually require a commitment to an independent review of any
compliance management system elements of the undertaking at regular intervals for the
period of the undertaking. Such reviews and intervals may include:

- after the development and implementation of specific changes to the compliance
management system (three to six months), and/or
- after sufficient time has passed to be able to evaluate those changes achievement
of the performance requirements of the undertaking (six to twelve months), and/or
- at regular intervals (usually annually) for a specified period (no more than three
years, or otherwise not to extend beyond the repeal of the Act).

50. In forming a view on a person or insurance companies’ compliance with the Act and with
the undertaking, insurance companies may expect the Monitor to review all observations
on and discussions about matters raised by the documents supplied to the Monitor
(including primary documents and review reports).

51. Where he has reason to believe that a person has not complied with an undertaking, the
Monitor will generally initiate consultation to resolve the matter.

52. If this approach fails, the Monitor will not hesitate to apply to the Court for appropriate
orders. The Monitor will make public its application to the Court and will seek legal costs
from the offending party where appropriate.

53. Section 36 of the Act provides that the Supreme Court, if it is satisfied that a person has
breached a term of the undertaking, may make all or any of the following orders:

- an order directing compliance with the undertaking;
- an order for the party to pay an amount up to the amount of any financial benefit that
can be reasonably attributed to the breach;
- any order the court considers appropriate to compensate any other person who has
suffered loss or damage as a result of the breach;
- any other order that the court considers appropriate.

B.7. Variations

54. Under section 35 of the Act, parties may withdraw or vary undertakings with the consent
in writing of the Monitor. This allows negotiations for changes if undertakings are
subsequently found to be impossible to comply with, impractical [but not just inconvenient],
or where circumstances change.

55. The Monitor will consider any reasonable requests to vary an undertaking as long as such
requests do not alter the spirit of the original undertaking. Variations will be made public
in the same way as the original enforceable undertaking. They will be published as
variations to the original enforceable undertaking on the Monitor’s website and by referring
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to the variation in any press release or news media statements, in any of the Monitor’s publications and reports and in any other manner appropriate to the particular matter.

B.8. Section 35 undertaking template

56. The undertaking template in Attachment A provides the overarching structure for undertakings under section 35 of the Act. It does not, at this time, specify particular terms or the necessary performance obligations that an undertaking to the Monitor will require.

57. The Monitor has standard or template terms that align to suit the circumstances of different organisations and conduct. The template terms, in each instance, will need to be evaluated in terms of their suitability to the specific circumstances before the Monitor at the time.
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Appendix A: Sample undertaking

Undertaking to the Emergency Services Levy Insurance Monitor

Given under section 35 of the Emergency Services Levy Insurance Monitor Act 2016 by [Company and ACN].

1. Parties

1.1. Person(s) giving the Undertaking:

This Undertaking is given to the Emergency Services Levy Insurance Monitor (“the Monitor”) by:

[Company name]

ACN [insert ACN]

[Address of Registered office]—

(“the Company”), for the purposes of section 35 of the Emergency Services Levy Insurance Monitor Act 2016 (the “Act”).

2. Background

2.1. The Monitor is the person, appointed under section 5 of the Act to oversee and monitor emergency services levy reform. The functions of the Monitor under section 9(2) include:

“(a) provide information, advice and guidance in relation to the emergency services levy reform and prohibited conduct,

(b) monitor prohibited conduct and compliance with this Act and the regulations,

(c) monitor prices for the issue of regulated contracts of insurance,

(d) monitor the impact of the emergency services levy reform on the insurance industry and levels of insurance coverage,

(e) prepare and publish guidelines relating to the operation and enforcement of this Act and the regulations,

(f) receive complaints about prohibited conduct and to deal with them in accordance with this Act, and

(g) investigate and institute proceedings in respect of prohibited conduct or any contravention of this Act or the regulations.”

2.2. [Description of Company’s business and activities relevant to investigated conduct]

2.3. [Description of the conduct the subject of the Monitor’s investigation]

2.4. [Explanation of why the Monitor considers the conduct to contravene the Act]
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2.5. [Response from Company—for example: In response to the Monitor’s investigation, Company has:

2.5.1. [admitted] [acknowledged] that its conduct was likely to have contravened section # of the Act, and

2.5.2. offered this Undertaking to the Monitor.

3. Commencement of this Undertaking

3.1. This Undertaking comes into effect when:

3.1.1. this undertaking is executed by [Company], and

3.1.2. this undertaking so executed is accepted by the Monitor

(the Commencement Date).

4. Undertaking

4.1. [Company] undertakes for the purposes of section 35 of the Act that:

4.1.1. it will not, in trade or commerce, [to be agreed]

4.1.2. that it will: [to be agreed]

[If inclusion of compliance program obligations is required, insert here in the following format:]

4.1.3. develop, update and implement a Compliance Management System (CMS) designed to minimise the company’s risk of future contraventions of [INSERT: relevant sections or parts of the Act] and to ensure its awareness of the responsibilities and obligations in relation to the requirements of [INSERT: relevant sections or parts of the Act] within # months of the date of this Undertaking coming into effect;

4.1.4. maintain and continue to implement the CMS for a period of # years from the date of this Undertaking coming into effect, and

4.1.5. provide, at its own expense, a copy of any documents reasonably required by the Monitor for the purposes of monitoring compliance with the terms of the undertaking.

5. Acknowledgements

5.1. [Company] acknowledges that:

5.1.1. the Monitor will make this Undertaking publicly available including by publishing it on the Monitor’s public register of enforceable undertakings on its website;

5.1.2. the Monitor will, from time to time, make public reference to this Undertaking including in news media statements and in the Monitor publications and reports; and

5.1.3. this Undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

5.1.4. a summary of any Compliance Program review reports, conducted by the Monitor, may be held with this undertaking in the Monitor’s public register.
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6. Executed as an undertaking

Executed by [insert full name of Company] [insert ACN] pursuant to section 127(1) of the Corporations Act 2001 by:

<table>
<thead>
<tr>
<th>Signature of director</th>
<th>Signature of a director/company secretary (delete as appropriate, or entire column if sole director company)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of director (print)</td>
<td>Name of director/company secretary (print)</td>
</tr>
<tr>
<td>Date</td>
<td>Date</td>
</tr>
</tbody>
</table>

Accepted by the Monitor pursuant to section 35 of the Act on:

Date

signed by the Monitor:

Prof. Allan Fels AO

Date
GUIDELINES ON ENFORCEABLE UNDERTAKINGS

Attachment B: Extracts from the Act

Division 2 Enforceable undertakings

35 Undertakings

(1) The Monitor may accept a written undertaking given by a person for the purposes of this Division in connection with a matter in relation to which the Monitor has a function under this Act.

(2) The Monitor must give a copy of the accepted undertaking to the person who has given the undertaking.

(3) The person may withdraw or vary an undertaking at any time, but only with the consent in writing of the Monitor. The consent of the Monitor is required even if the undertaking purports to authorise withdrawal or variation of the undertaking without that consent.

36 Enforcement of undertakings

(1) The Monitor may apply to the Supreme Court for an order under subsection (2) if the Monitor considers that a person who has given an undertaking under section 35 has breached any of its terms.

(2) The Supreme Court may make all or any of the following orders if it is satisfied that the person has breached a term of the undertaking:

   (a) an order directing the person to comply with that term of the undertaking,

   (b) an order directing the person to pay to the State an amount not exceeding the amount of any monetary benefits that the person has obtained directly or indirectly and that is reasonably attributable to the contravention,

   (c) any other order that the Court thinks appropriate, including an order directing the person to compensate any other person who has suffered loss or damage as a result of the breach.

37 Register of undertakings

(1) The Monitor must:

   (a) maintain a register of undertakings, and

   (b) register each undertaking in the register of undertakings.

(2) The register of undertakings must include each of the following:

   (a) the name and address of the person who gave the undertaking,

   (b) the date of the undertaking,

   (c) a copy of the undertaking.

(3) The register of undertakings may be inspected by any person at any reasonable time, without charge.
31H  Refund undertakings by insurance companies

(1) If an insurance company is liable for an over-collection amount, the Monitor may accept a refund undertaking from the insurance company in relation to the over-collection amount.

(2) A refund undertaking is an undertaking under Division 2 of Part 4 under which an insurance company that is liable for an over-collection amount agrees to refund the whole or part of the over-collection amount to relevant policyholders or to pay the over-collection amount or part of it to the Chief Commissioner.

(3) The Monitor is not to accept a refund undertaking that provides for the payment of an over-collection amount or part of an over-collection amount to the Chief Commissioner unless the Monitor is satisfied it is impracticable for the insurance company to refund the over-collection amount or part to relevant policyholders.

(4) The Monitor is to advise the Chief Commissioner of any refund undertaking that provides for the payment of an amount to the Chief Commissioner.

Note. A refund undertaking is enforceable by proceedings in the Supreme Court.
Guidelines on over-collection of ESL

December 2017
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A. Introduction

A.1. Emergency services contribution

1. Insurance companies in NSW are required to contribute towards the funding of fire and emergency services provided by Fire and Rescue NSW, NSW Rural Fire Service and State Emergency Services, respectively (the “emergency services organisations”).

2. Previously, the obligations upon insurance companies to contribute to the funding of the emergency services organisations, for financial years prior to 30 June 2017, were set out in Part 5 of the Fire Brigades Act 1989, Part 5 of the Rural Fires Act 1997 and Part 5A of the State Emergency Services Act 1989, respectively (the former scheme).

3. However, from 1 July 2017, insurance companies contribute to the funding of the emergency services organisations under the emergency services insurance contribution scheme (“contribution scheme”) established under the Emergency Services Levy Act 2017 (“the ESL Act”). This scheme will be in place until the property levy, established under the Fire and Emergency Services Levy Act 2017 (“the FESL Act”) is introduced as the replacement funding model for NSW’s fire and emergency services.

4. The period between the commencement of the ESL Act [1 July 2017] and the end of the financial year commencing on 1 July 2018 is known as the “transition period”. The existence of the transition period however, does not mean necessarily that the property levy will be introduced at the conclusion of that period.

5. The amount an insurance company is required to pay to the contribution scheme is based on the premiums it receives from certain classes of insurance known as “relevant insurance” identified in the ESL Act as being subject to contribution. While the liability upon insurance companies to make contributions is prescribed in the ESL Act, there is no legislative prescription on how insurance companies may recover the cost of these contributions. In the absence of such legislation prescription, insurance companies have traditionally charged policyholders an Emergency Services Levy (“ESL”) on premiums for relevant insurance. The Emergency Services Levy Insurance Monitor (“Monitor”) anticipates that insurance companies will continue that practice.

A.2. Role of the Monitor

6. The Office of the Monitor was established in June 2016 and undertakes a range of price monitoring and other functions, associated with emergency services levy reform, as set out in section 9 and Part 3A of the Emergency Services Levy Monitor Act 2016 (“the ESLIM Act”).

7. The functions conferred on the Monitor under section 9 of the ESLIM Act are:

   “(a) to provide information, advice and guidance in relation to the emergency services levy reform and prohibited conduct,
   (b) to monitor prohibited conduct and compliance with this Act and the regulations
   (c) to monitor prices for the issue of regulated contracts of insurance,
   (d) to monitor the impact of the emergency services levy reform on the insurance industry and levels of insurance coverage,
   (e) to prepare and publish guidelines relating to the operation and enforcement of this Act and the regulations,
   (f) to receive complaints about prohibited conduct and to deal with them in accordance with this Act, and
(g) to investigate and institute proceedings in respect of prohibited conduct or any contraventions of the Act or the regulations."

8. In addition to the functions listed in section 9, Part 3A of that Act requires the Monitor to:
   - investigate and assess whether companies are liable for over-collection amounts in the 2015-16 and 2016-17 financial years combined [former scheme];
   - investigate and assess whether insurance companies are liable for over-collection amounts in the 2017-18 and 2018-19 financial years combined ["transition period"].
   - endeavour to ensure that any insurance company that is liable for an over-collection amount, where the Monitor determines that:
     - it is practicable to do so, refunds the over-collection amount to relevant policyholders of the insurance company; or
     - it is impracticable to effect such refunds, that the insurance company pays the over-collection amount to the Chief Commissioner of Revenue NSW ("Chief Commissioner") for payment into the Consolidated Fund.

9. Section 31B of the ESLIM Act imposes a positive obligation upon the Monitor to “endeavour to ensure” any over-collection amount is refunded to relevant policyholders unless the Monitor is satisfied that it is impracticable to do so.

10. The Monitor considers that word “impracticable” does not mean impossible, nor does it mean inconvenient. It does, in the context of section 31B of the ESLIM Act, require the Monitor’s to direct his attention to considerations of the practical effect rather than any theoretical issues that may arise out of such a course of action and requires the Monitor’s consideration of the interests of all parties affected.

A.3. Over-collection amount

11. The ESLIM Act provides that an over-collection amount exists when, in the opinion of the Monitor, an insurance company has collected more ESL from its relevant insurance policyholders than it is required to contribute to the funding of emergency services organisations during either of the relevant 2 year periods.

12. The Monitor acknowledges that insurance companies face a number of uncertainties in setting ESL rates at levels that will enable them to recover precisely their contribution liabilities. In addition, previous emergency services organisations’ budgets have not been finalised generally until well into the relevant financial year and the market share of individual insurance companies is not known for certain until after the end of the relevant financial year. The Monitor notes however, the NSW budget for the 2017-2018 financial year estimates that $794 million will be recovered from insurance companies under the contribution scheme and $793 million will be recovered from the same source in the following financial year.¹

13. ESL rates are set therefore in advance of full information and in the context where insurance company market shares may change during the course of a financial year. The Monitor acknowledges that under and over-collection by individual insurance companies in individual years may occur to varying degrees.

14. Nevertheless, the Monitor is required to make an over-collection determination:
   - for each insurance company;

¹ NSW Budget Statement 2017-2018; Table 5.4-General Government Sector Summary of Taxation Revenue.
GUIDELINES ON OVER-COLLECTION OF ESL

- over two separate two-year periods, being the:
  - the final 2 years of the former scheme [the 2015-16 and 2016-17 financial years combined]; and
  - the transition period [the 2017-18 and 2018-19 financial years combined].

15. The Monitor considers that the value of contributions recovered by insurance companies from policyholders, in the form of ESL whether identified as such or otherwise, which is in excess of their statutory obligation to contribute to the funding of emergency services organisations is and remains policyholders’ money. For this reason, the Monitor regards any retention of excess monies collected from policyholders as ESL for the purpose of funding an insurer’s contribution to fire and emergency services as inappropriate (and may be unlawful).

16. The Monitor notes that the position identified in paragraph 15 is consistent with that reflected in the ESLIM Act, which treats over-collection by an insurer as a liability, and requires the Monitor, at first instance, to endeavour to ensure that any insurance company that is liable for an over-collection amount refunds the over-collection amount to relevant policyholders. Only where the Monitor accepts that it is impracticable to do so, will he endeavour to ensure that insurance companies pay any over-collection amount to the Chief Commissioner for payment into the Consolidated Fund.

17. Despite the provisions in the ESLIM Act, which make insurance companies liable for over-collection amounts and set out procedures for dealing with these amounts, the Monitor does not consider that this necessarily precludes an over-collection of ESL being regarded as price exploitation, contrary to the prohibition in section 14 of the ESLIM Act.

18. In the Guidelines on the Prohibition against Price Exploitation, (“Price Exploitation Guidelines”) the Monitor acknowledged the uncertainties for insurance companies in setting ESL rates to recover their statutory liabilities. On this basis, the Monitor states expressly that over-collection in itself will not be considered as necessarily constituting unreasonably high pricing. However, where over-collection has occurred and an insurance company has failed to take effective steps to refund this over-collection in accordance with arrangements approved by the Monitor, this will be regarded by the Monitor as indicating that prices for the issue of the relevant insurance have been unreasonably high and potentially in contravention of the price exploitation prohibition.

19. Price exploitation, contrary to the prohibition in section 14 of the ESLIM Act, is an element of prohibited conduct provided for under Division 1 of Part 3 of the ESLIM Act.

A.4. Statutory basis and effect of guidelines

20. Section 21 of the ESLIM Act provides that the Monitor may issue Guidelines about when conduct may be regarded as constituting prohibited conduct.

21. Guidelines issued under section 21, and any variations of them, must be published in the Government Gazette and on the Insurance Monitor’s website. Consequently, these Guidelines, and the date on which they are to take effect, will be published in the Government Gazette and will be available on the Insurance Monitor's website www.esliminsurancemonitor.nsw.gov.au.

22. The Monitor must have regard to any Guidelines issued under section 21 of the ESLIM Act, in deciding to give an insurance company a contravention notice, a prevention notice, to issue any person with a substantiation notice, or to issue a public warning statement. The NSW Supreme Court may have regard to any Guidelines issued by the Insurance Monitor, when determining whether to make any order relating to prohibited conduct.
GUIDELINES ON OVER-COLLECTION OF ESL

23. In addition, the Monitor has power to provide information, advice and guidance in relation to prohibited conduct and to prepare and publish guidelines relating to the operation and enforcement of the ESLM Act.
B. Determining an over-collection amount

B.1. Calculation of ESL contributions

24. Total insurance company contributions for the funding of the emergency services organisations:
   - for the financial years ending before 1 July 2017 during the former scheme, were 73.7% of the budgets of the emergency service organisations calculated by the Commissioners of those organisations in accordance with the formulas provided in the relevant legislation; and
   - for the financial years ending before the commencement of the FESL, which includes the transition period, insurance companies are obliged to contribute to the budgets of the emergency service organisations the amounts calculated by reference to their budgets by the Chief Commissioner in accordance with the requirements of Part 5 of the ESL Act.

25. With respect to the former scheme, the Commissioners of the emergency services organisations:
   - must make an assessment of the contribution payable under the former scheme by each insurance company that lodged a return identifying total premiums received or due to the insurance company for the final 2 years of the scheme for relevant insurance (“final 2 year assessment”);
   - shall ensure that the final 2 year assessment includes details of the final contribution payable by the insurance company for the final year of the former scheme (i.e. 2016-17) and the total of the relevant emergency services organisation’s contributions payable by the insurance company for the previous financial year (i.e. 2015-16); and
   - must provide the Monitor with details of the final 2 year assessment in relation to each insurance company within 30 days after making the assessment of the insurer’s final contribution payable for the final year of the former scheme (i.e. by not later than 30 December 2017).

26. The Monitor accepts that the amount of an insurance company’s liability to contribute to the funding of the emergency service organisations:
   - for the final 2 years of the former scheme, is the amount of the final 2 year assessment provided to the Monitor by the Commissioners by 30 December 2017;
   - for the transition period, the sum of the final contribution amounts determined by the Chief Commissioner as payable by an insurance company for the financial years commencing on each of 1 July 2017 and 2018, respectively.

27. The Chief Commissioner will give insurance companies an initial assessment of their annual contribution liability to be paid in quarterly instalments. The Monitor will be advised of these initial assessments.

B.2. Sources of data

28. In undertaking an over-collection assessment in relation to the last 2 years of the former scheme and during the transition period the Monitor will consider information relating to ESL collections:
GUIDELINES ON OVER-COLLECTION OF ESL

- provided to the Commissioners of the emergency services organisations by insurance companies in their annual Return of Premiums ("ROP");
- obtained by the Monitor from the Commissioners of the emergency services organisations for the final 2 years of the former scheme;
- furnished to the Monitor by insurance companies in response to compulsory notices to produce information and records.

29. As stated in the Monitor’s Price Exploitation Guidelines, to assist the Monitor to investigate and assess whether insurance companies are liable for over-collection amounts in:
   - the final 2 years of the former scheme; and
   - the transition period—

the Monitor will require each insurance company that has lodged:
   - a Return of Premium for either or both the 2015-16 and 2016-17 financial years;
   - a return to the Chief Commissioner for either or both of the 2017-18 and 2018-19 financial years identifying the total amount of premiums received or due for each class of policy that is relevant insurance—

   to provide a declaration of its ESL collections in a form specified by the Monitor, which has been independently and externally reviewed, identifying:
   - the total ESL collected from policyholders by each class of regulated contract of insurance subject to contribution for the last 2 years of the former scheme [financial years 2015-16 and 2016-17];
   - the total ESL collected from policyholders by each class of relevant insurance during the transition period; and
   - the accounting basis upon which relevant insurance premiums have been recognised and reported by insurance companies.

30. A template of the declaration and the assurance professional’s review report, in the form specified by the Monitor is at Appendix B.

31. The Monitor expects that insurance companies will, for the purposes of the information in these declarations, employ the same accounting methodology as that employed in the preparation of:
   - the Return of Premiums made to the Commissioners of the emergency service organisations for the last 2 financial years of the former scheme; and
   - the returns made to the Chief Commissioner annually during the transition period.

32. The information in these declarations must be verified, independently and externally, to provide assurance consistent with the Auditing Standard on Review Engagements, ASRE 2405, Review of Historical Financial Information Other Than a Financial Report, by an identified assurance practitioner registered currently under the Corporations Act 2001.

33. The Monitor may seek to verify the information on the amount of ESL collected by each insurance company by comparing this information against other relevant data that the insurance company may have previously provided to the Monitor. Where the Monitor is unable to reconcile any differences identified through this verification, the Monitor will seek additional information, assurance, or both from individual insurance companies and/or their assurance providers.

34. Insurance companies will be required to provide these declarations to the Monitor by:
   - with respect to the final 2 years of the former scheme, 1 February 2018; and
GUIDELINES ON OVER-COLLECTION OF ESL

- with respect to the transition period, 3 February 2020.

35. If the Monitor has insufficient information to determine whether an over-collection amount exists, or is satisfied that the information that has been furnished to him is unreliable or insufficiently robust, the Monitor will, after taking all reasonable and necessary steps to obtain proper information, estimate using a reasonable methodology, the total amount of ESL collected by an insurance company in either or both of:
  - the last 2 years of the former scheme; and
  - the transition period.

36. The Monitor will apply the following formula to determine whether an over-collection amount exists for each company in each relevant two-year period:

<table>
<thead>
<tr>
<th>Final 2 years of the scheme</th>
<th>An over-collection amount exists, in respect of an insurance company when:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Monitor’s assessment of ESL collected from relevant policyholders—</td>
</tr>
<tr>
<td></td>
<td><em>Exceeds</em></td>
</tr>
<tr>
<td></td>
<td>The total of the final 2 year contribution assessments received by the</td>
</tr>
<tr>
<td></td>
<td>insurance company from the Commissioners of the emergency services</td>
</tr>
<tr>
<td></td>
<td>organisations.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Transition period</th>
<th>An over-collection amount exists, in respect of an insurance company</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>when: Monitor’s assessment of ESL collected from relevant policyholders</td>
</tr>
<tr>
<td></td>
<td>by the insurance company—</td>
</tr>
<tr>
<td></td>
<td><em>Exceeds</em></td>
</tr>
<tr>
<td></td>
<td>The final contribution amounts for the 2 years ending in the transition</td>
</tr>
<tr>
<td></td>
<td>period assessed by the Chief Commissioner and made known to the</td>
</tr>
<tr>
<td></td>
<td>insurance company.</td>
</tr>
</tbody>
</table>

37. The application of the formula described above will result in a single over-collection amount for each of the relevant 2 year periods.

B.3. Procedure following determination of an over-collection amount

38. Where the Monitor determines that an over-collection amount exists, the Monitor will notify the affected insurance company, in writing, of his determination and invite the affected insurance company to identify, in writing, how the company will refund the over-collection amount to the relevant policyholders (“refund proposal”). The Monitor may respond to any refund proposal and recommend any changes he considers necessary to resolve the issue. Refund proposals that demonstrate alignment with the principles outlined in Part C of these guidelines are more likely to be acceptable to the Monitor. Refund proposals acceptable to the Monitor will form the basis of refund undertakings.

39. Where the Monitor determines that an over-collection amount exists, but the insurance company:
  - does not offer a refund undertaking; or
  - offers a refund undertaking that the Monitor determines is not acceptable—
the Monitor must issue to, and serve on, the insurance company an assessment in writing for the over-collection amount and may refer that over-collection amount to the Chief Commissioner for the recovery of that over-collection amount.

40. Where an insurance company that has been identified by the Monitor as being liable for an over-collection amount does not propose to refund all or part of the over-collection amount to relevant policyholders on the grounds that it is impracticable to do so, the Monitor will require that insurance company to substantiate its claim, in writing, by oral testimony from an authorised officer or both. The Monitor has, in the Price Exploitation Guidelines emphasised that an over-collection amount should be refunded to relevant policyholders. However, the Monitor also conceded that this may be impractical where small amounts are involved. The Monitor indicated his view that in such instances these “small amounts” can be bundled and paid to the Chief Commissioner for transmission to Consolidated Fund.

41. As outlined in Part A.2. of these guidelines, the Monitor will determine, on a case by case basis whether affected insurance companies have satisfied him that it is ‘impracticable’ and not merely inconvenient, having taken into consideration the interests of all affected parties, to refund all over-collection amounts to relevant policyholders. Any resolution of that over-collection liability arising from these actions will be recorded in a refund undertaking.

42. Where the Monitor accepts a refund undertaking, identifying the extent of any over-collection and how an insurance company will refund any over-collection amount to relevant policyholders, the Monitor will exercise his discretion not to issue an assessment for any over-collection amount addressed in the refund undertaking.

B.4. Contents of a refund undertaking

43. Refund undertakings under section 31H of the ESLIM Act must be in writing, sufficiently detailed to identify the circumstances of any over-collection amount, specific in the identification of any necessary remedial action and free from ambiguity.

44. While the content of each undertaking is subject to negotiation between the Monitor and the insurance company liable for the over-collection, refund undertakings accepted by the Monitor must be of substance and directly address the circumstances of any over-collection amount, its consequences and the remedial steps to be undertaken by the insurance company affected.

45. A refund undertaking will usually include the following elements:
   - an acknowledgment from the insurance company that there has been an over-collection of ESL in the relevant 2-year period and that the insurance company is liable to refund it to relevant policyholders or otherwise divest itself of that over-collection amount;
   - the number of regulated contracts of insurance issued by the insurance company in NSW in each financial year during the relevant 2-year period;
   - the total amount of ESL collected by the insurance company from relevant policyholders during the 2-year period in which the over-collection amount occurred;
   - details how the insurance company will refund the over-collection amounts and to whom—including a mechanism to determine and audit that outcome;
   - the date the insurance company undertakes to complete the process of making refunds to relevant policyholders or otherwise divest itself of the over-collection amount; and
   - the number of policyholders to receive refunds and the total amount involved.
   - the over-collection amount that is determined by the Monitor to be impracticable to refund to relevant policyholders and an acknowledgement by the insurance company
that this residual amount will be forwarded to the Chief Commissioner for transmission to the Consolidated Fund;

- the reporting requirements from the insurance company to the Monitor that may include:
  - a report as to when the insurance company has satisfied any obligations agreed to in the refund undertaking;
  - the provision of supporting information and documentation by the insurance company to the Monitor to verify that it has satisfied its undertaking obligations;
- an acknowledgment that:
  - the refund undertaking will be publicly available including by placing it on the insurance company’s website and the public register of enforceable undertakings on the Monitor’s website
  - the Monitor may make public reference to the refund undertaking, from time to time, including in news media statements and in the Monitor’s reports and publications
  - the refund undertaking in no way derogates from the rights and remedies available to any other person, including relevant policyholders, arising from the existence of an over-collection amount.

Appendix A provides a template of a sample Refund Undertaking.

### B.5. Unacceptable terms

46. The Monitor will not accept a refund undertaking if it proposed that it would include:

- a denial that there was or had been an over-collection amount and that the insurance company was liable under the Act for that over-collection amount;
- any terms imposing obligations on the Monitor;
- a specific requirement that the Monitor will not in future institute proceedings in the particular matter;
- a statement that the undertaking is not an admission for the purposes of third party actions (although they need not explicitly state that it is such an admission);
- terms imposing obligations on third parties;
- terms purporting to set up defences against subsequent legal action;
- statements by the insurance company or business that seek to minimise the consequences of the over-collection amount or for public relations or promotional purposes.

47. In most circumstances acceptance of refund undertaking will resolve the matter however, if further information comes to the attention of the Monitor subsequently regarding that matter it may prompt re-activating an investigation which could result in legal proceedings.

### B.6. Failure to comply with the terms of a refund undertaking

48. Should any insurance company fail to adhere fully to the terms of any refund undertaking accepted by the Monitor, the Monitor will inform the insurance company, in writing, that he
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considers there has been a failure to comply with the terms of the refund undertaking. In that written notification the Monitor will:

- identify the terms of the enforceable undertaking with which he considers the insurance company has not complied;
- the nature and extent of the alleged non-compliance; and
- allow a reasonable period of time for the insurance company to remedy the alleged non-compliance.

49. If, after the expiration of the identified reasonable period, an insurance company has not remedied the alleged non-compliance with the terms of a refund undertaking, the refund undertaking will be enforced in the New South Wales Supreme Court by the Monitor, who will seek:

- orders directing that insurance company to comply fully with all the terms of the undertaking; and
- any other order that the Court thinks appropriate.

B.7. Assessment of an over-collection amount

50. Where the Monitor determines that an over-collection amount exists and an insurance company is liable for that over-collection amount, but:

- the insurance company does not offer a refund undertaking; or
- the Monitor does not accept a refund undertaking offered by the insurance company—the Monitor must issue to, and serve on, the insurance company an assessment in writing for the over-collection amount (“notice of assessment”).

51. Each notice of assessment must, among other things:

- specify the extent of over-collection amount;
- advise the insurance company that if it fails to provide a refund undertaking to the Monitor in relation to the over-collection amount, in terms acceptable to the Monitor, the amount can be referred to Chief Commissioner for debt recovery action; and
- allow a period of not less than 30 days, for the insurance company to offer a refund undertaking; and
- advise the insurance company of its right to object to any assessment of an over-collection amount in terms consistent with the requirements of the Act.

52. The Monitor, or his delegate, will consider and deal with any objection to a notice of assessment:

- promptly and either allow the objection, in whole or in part, or disallow it; and
- notify the affected insurance company, in writing, of the outcome of the objection; and
- where required, issue promptly any re-assessment necessary to give effect to the outcome of any successful objection, either in whole or in part, to a notice of assessment; and
- will not refer the disputed over-collection amount to the Chief Commissioner for debt recovery action until the expiration of 7 days after service on the relevant insurance company of notice of the outcome of any objection.
C. Refunding over-collection amounts

C.1. Policyholder refunds

53. The ESLIM Act requires that over-collection amounts be refunded by insurance companies to relevant policyholders unless the Monitor determines that it is impracticable to do so. This part of these Guidelines outline the Monitor’s preferred model or approach to refunding an over-collection amount.

54. The Monitor considers that any refunds should be made proportionally to relevant policyholders. That is to say, refunds should be directed to those relevant policyholders who most contributed to any over-collection amount.

C.2. Classes of policyholders

55. The Monitor considers that policyholders of the class of insurance policy described in item 1 of Part A and items 5 and 6 of Part B of the:

- Return of Premium filed annually with the Commissioners of NSW emergency service organisations under the former scheme “Return of Premium” or “ROP”; and
- Return by insurers, filed by insurance companies with the Chief commissioner under the ESL Act “Return by insurers”—are predominantly commercial in nature.

56. Correspondingly, the Monitor considers that the insurance policies described in item 2 of Part A and items 3 & 4 of Part B of the

- Return of Premium; and
- Return by insurer—are predominantly retail in nature.

C.3. Tapering of ESL rate recovery

57. The Monitor is aware that sometime prior to the anticipated transition date for the funding of the NSW emergency service organisations, from an insurance based levy to a property based levy, insurance companies ‘tapered’ the rate at which they recovered their ESL contribution liabilities from policyholders.

58. This ‘tapering’ involved insurance companies’ charging ESL on premiums from about July 2016 to about December 2016 at a higher rate than otherwise would have been the case. This was followed by the systematic reduction of ESL rates during the period from about January to June 2017, where such rates were reduced, in many instances, to zero shortly before 1 July 2017.

59. As a way to simplify the refund process, the Monitor considers that where the bulk of an insurance company’s premium revenue is reported under item 2 Part A of the 2016-17 Return of Premium, refunds of any over-collection amount can be directed to relevant policyholders who took out or renewed combined home and contents policies during the period when insurance companies were recovering higher than average ESL rates as part of the tapering process.
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60. Within that class of insurance policy, the amounts refunded to each such relevant policyholder out of any over-collection amount should be proportionate to the amount of ESL they paid in the relevant 2 year period.

61. The Monitor anticipates each insurance company, determined to be liable for an over-collection amount, will:
   • identify those of its relevant home and contents policyholders from whom ESL was recovered at a higher than average rate due to the tapering process during the final 2 years of the former scheme. These relevant policyholders are referred to as ‘affected policyholders’ for the purposes of calculating refunds of over-collected amounts, and
   • calculate the average over-collection refund amount per affected policyholder.

62. The Monitor anticipates that where the average amount of any refund of an insurance company’s over-collected amount, exceeds the threshold amount provided for in his Price Exploitation Guidelines, insurance companies will identify individual affected home and contents policyholders and provide a refund that reflects the ratio of ESL collected from that policyholder to total ESL collected from affected policyholders.

63. The approach outlined above will ensure that those relevant retail policyholders who took out or renewed relevant insurance policies and were subjected to higher ESL recovery rates due to the application of tapering of ESL recovery rates by insurance companies, during the last 2 years of the former scheme, will receive priority in obtaining refunds.

C.4. Assessing practicability

64. The ESLIM Act imposes an obligation on the Monitor to endeavour to ensure that any insurance company that is liable for an over-collection amount refunds the amount to relevant policyholders, unless the Monitor considers that it is impracticable to do so. Where the Monitor agrees that it is not practicable to refund an over-collection amount, the insurance company liable for the over-collection amount will be required to pay the over-collection amount to the Chief Commissioner for payment into the Consolidated Fund.

65. In the Monitor’s Price Exploitation Guidelines, he acknowledged that the determination of the practicability of making refunds to relevant policyholders will likely need to be made on a case by case basis. The Monitor recognises that it may not be practicable to make refunds where relatively small amounts are involved. The Monitor also recognised that there may be administrative complexities and costs associated with paying refunds where policies have been intermediated.

66. Nevertheless, the Monitor’s position is that for retail customers:
   • where average amounts owing exceed $20, refunds must be made to individual policyholders; and
   • where average amounts owing are less than $20, refunds should still generally be made to retail policyholders unless, subject to a case-by-case consideration, the Monitor agrees that it is impracticable to provide these refunds.

C.5. Referral to the Chief Commissioner

67. The Monitor may refer an over-collection amount to the Chief Commissioner for debt recovery action if the insurance company is liable for an over-collection amount, and fails to give the Monitor a refund undertaking in terms acceptable to the Monitor by the time determined by the Monitor.
GUIDELINES ON OVER-COLLECTION OF ESL

68. The Monitor’s decision to accept a refund undertaking from an insurance company in relation to an over-collection amount will be influenced by the actions of the insurance company to refund over-collection amounts to relevant policyholders.
Appendix A – Sample refund undertaking

**Undertaking to Emergency Services Levy Insurance Monitor**

Given under section 31H of the *Emergency Services Levy Insurance Monitor Act* 2016 ['the Act'] by [Company and ACN].

1. **Parties**

1.1. **Person(s) giving the Undertaking:**

This Undertaking is given to the Emergency Services Levy Insurance Monitor ("the Monitor") by:

[Company name]

ACN [insert ACN]

[Address of Registered office]—

("the Company"). For the purposes of section 31H of the Act, with respect to the resolution of an over-collection amount, assessed by the Monitor and accepted by the company as [###] relating to:

1.2. **the final 2 years of the emergency services funding scheme, being the scheme for funding certain fire and emergency services from contributions required to be paid by insurance companies under the following provisions, as in force before the enactment of the Fire and Emergency services Levy Act 2017:**

- Part 5 of the Fire Brigades Act 1989;
- Part 5 of the Rural Fires Act 1997; and
- Part 5A of the State Emergency Service Act 1989.

[Or]

the transition period, being the financial years commencing on 1 July in 2017 and 2018.

2. **Background**

2.1. The Monitor is the person, appointed under section 5 of the Act to oversee and monitor emergency services levy reform. The functions of the Monitor under section 9(2) include to:

- provide information, advice and guidance in relation to the emergency services levy reform and prohibited conduct,
- monitor prohibited conduct and compliance with this Act and the regulations,
- monitor prices for the issue of regulated contracts of insurance,
- monitor the impact of the emergency services levy reform on the insurance industry and levels of insurance coverage,
GUIDELINES ON OVER-COLLECTION OF ESL

(e) prepare and publish guidelines relating to the operation and enforcement of this Act and the regulations,

(f) receive complaints about prohibited conduct and to deal with them in accordance with this Act, and

(g) investigate and institute proceedings in respect of prohibited conduct or any contravention of this Act or the regulations.”

2.2. [Description of the nature and extent of the over-collection amount revealed by the Monitor’s investigation]

2.3. Explanation of why the Monitor considers that there has been an over-collection amount for which the company is liable

2.4. Response from the company - for example: In response to the Monitor’s investigation, Company has:

2.4.1. [admitted] [acknowledged] that there has been an over collection amount, and that the insurance company is liable for the over-collection amount, and that the insurance company will refund the whole or a part of the over-collection amount and,

2.4.2. offered this Undertaking to the Monitor.

3. Commencement of this Undertaking

3.1. This enforceable undertaking comes into effect when:

3.1.1. this enforceable undertaking is executed by [Insurance Company], and

3.1.2. this enforceable undertaking so executed is accepted by the Monitor (the Commencement Date).

4. Undertaking

4.1. [Company] undertakes for the purposes of section 35 of the Act that:

4.1.1. it will not, in trade or commerce, [to be agreed]

4.1.2. that it will: [to be agreed]

[If inclusion of compliance program obligations is required, insert here in the following format:

4.1.3. develop, update and implement a Compliance Management System (CMS) designed to minimise the company’s risk of future contraventions of [INSERT: relevant sections or parts of the Act] and to ensure its awareness of the responsibilities and obligations in relation to the requirements of [INSERT: relevant sections or parts of the Act] within # months of the date of this Undertaking coming into effect;

4.1.4. maintain and continue to implement the CMS for a period of # years from the date of this Undertaking coming into effect, and

4.1.5. provide, at its own expense, a copy of any documents reasonably required by the Monitor for the purposes of monitoring compliance with the terms of the undertaking.

5. Acknowledgements

5.1. [Insurance Company] acknowledges that:
5.1.1. the Monitor will make this enforceable undertaking publicly available including by publishing it on the Monitor’s public register of enforceable undertakings on its website;

5.1.2. the Monitor will, from time to time, make public reference to this enforceable undertaking including in news media statements and in Monitor publications;

5.1.3. this undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct, and

5.1.4. a summary of any Compliance Program review reports, conducted by the Monitor, may be held with this undertaking in the Monitor’s public register.
GUIDELINES ON OVER-COLLECTION OF ESL

6. Executed as an undertaking

Executed by [insert full name of Company] [insert ACN] pursuant to section 127(1) of the Corporations Act 2001 by:

<table>
<thead>
<tr>
<th>Signature of director</th>
<th>Signature of a director/company secretary (delete as appropriate, or entire column if sole director company)</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of director (print)</th>
<th>Name of director/company secretary (print)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th>Date</th>
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</table>

Accepted by the Monitor pursuant to section 35 of the Act on:

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<tr>
<th>Date</th>
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Signed by the Monitor:

<table>
<thead>
<tr>
<th>Prof. Allan Fels AO</th>
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<table>
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<tr>
<th>Date</th>
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</table>
GUIDELINES ON OVER-COLLECTION OF ESL

Appendix B – Declaration and Auditors Review Report

Declaration

I [Name and title (position) of person making declaration], a person authorised to make this declaration on behalf of [name of insurance company] (“the company”), and after making all necessary inquiry DECLARE that for the purposes of meeting its liability to contribute to the funding of New South Wales’ fire and emergency services as required under:

(a) Part 5 of the Fire Brigades Act 1989;
(b) Part 5 of the Rural Fires Act 1997; and
(c) Part 5A of the State Emergency Service Act 1989—

(“the scheme”), the company recovered the amount of emergency services levy (“ESL”) identified below, whether described as ESL or not, through premiums paid for the issue or renewal of regulated contracts of insurance, in respect of property in New South Wales during the financial years ending on 30 June 2016 and 2017, respectively, being the final two years of the scheme, the amount of $[amount].

I enclose an independent review report obtained by the company regarding this declaration.

Details of the recovery of ESL

<table>
<thead>
<tr>
<th>Classes of policies of insurance</th>
<th>ESL recovered $</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2015/16</td>
</tr>
<tr>
<td>Item 1: Any Insurance of property including Consequential Loss but not including any insurance of a class hereinafter specified.</td>
<td></td>
</tr>
<tr>
<td>Item 2: House owners and Householders, however designated (buildings, contents or both).</td>
<td></td>
</tr>
<tr>
<td>Item 3: Personal Combined on personal jewellery and clothing, personal effects and works of art.</td>
<td></td>
</tr>
<tr>
<td>Item 4: Motor Vehicle and Motor Cycle.</td>
<td></td>
</tr>
<tr>
<td>Item 5: Marine and Baggage – Any Insurance confined to maritime perils or confined to risks involved in transportation on land, or in the air, and including storage incidental to transportation by sea, land or air, but not including “Static Risks (which are to be declared under Item 1) N.B. “Static Risks include all movements of goods and/or stock and/or material associated with processing or storage operations at any situation.</td>
<td></td>
</tr>
<tr>
<td>Item 6 (a): Combined Fire and Hail on growing crops.</td>
<td></td>
</tr>
<tr>
<td>Item 6 (b): Live Stock.</td>
<td></td>
</tr>
<tr>
<td>Total ESL collected</td>
<td></td>
</tr>
</tbody>
</table>
GUIDELINES ON OVER-COLLECTION OF ESL

The accounting standard employed by the Insured to generate the information set out above was [identify relevant accounting standard employed]

for

Name and Position (CEO/CFO)               Name of Company

Date
GUIDELINES ON OVER-COLLECTION OF ESL

Independent auditor’s / Assurance practitioner’s² Review Report

To: The Directors of [name of company]

The Emergency Services Levy Insurance Monitor (“the Monitor”)

Conclusion

We have reviewed the enclosed Emergency Services Levy Declaration (“ESL Declaration”) prepared on behalf of [Company Name] (“the insurer”) for the financial years ending 30 June 2016 and 2017, respectively.

Based on our review, which is not an audit, nothing has come to our attention that causes us to believe that the ESL Declaration of the insurer for the years ended 30 June 2016 and 2017 does not present fairly, in all material respects, the total amount of emergency services levy (“ESL”) recovered by the insured, from policyholders of regulated contracts of insurance, recognised in accordance with the calculation of ESL contributions required under paragraph 29 of the Monitor’s Guidelines on Over-collection of ESL (December 2017) and paragraph 68 and Guideline 8 of the Monitor’s Guidelines on the prohibition against price exploitation (July 2017), both issued under the Emergency Services Levy Insurance Monitor Act 2016 (“the Act”), and in accordance with the accounting basis described in the ESL Declaration prepared by Management of the insurer.

Basis of preparation and restriction on use and distribution

We draw attention to the calculation basis used in the recognition of the total amount of ESL recovered by the insurer from policyholders of regulated contracts of insurance as required by the Monitor’s Guidelines and the accounting basis applied by the insurer, as described in the ESL Declaration prepared by the Management of the insurer.

As a result, the ESL Declaration and this Auditor’s Report may not be suitable for another purpose. Our Report is intended solely for the Management of the insurer and the Monitor. It should not be used or distributed to any other party or parties. We disclaim any assumption of responsibility for any reliance on this Report or for any purpose other than for which it was prepared. Our opinion is not modified in respect of this matter.

Managements’ responsibility for the ESL Declaration

Management of the insurer is responsible for:

(a) the preparation and fair presentation of the ESL Declaration in accordance with:

• paragraph 68 and Guideline 8 of the Monitor’s Guidelines on the prohibition against price exploitation; and

• paragraph 29 of the Monitor’s Guidelines on over-collection of ESL—

² Please delete as applicable. Assurance Practitioner should be used when this report is completed by someone other than the company’s auditor.
GUIDELINES ON OVER-COLLECTION OF ESL

both issued under the Emergency Services Levy Insurance Monitor Act 2016 ("Monitor’s Guidelines");

(b) determining that the accounting basis used in the recognition of the total amount of ESL recovered as described in the ESL Declaration is identified as required in the Monitor’s Guidelines; and

(c) establishing and maintaining internal controls over processes which generate data as the insurer’s Management determines is necessary to enable the preparation of the ESL Declaration that is free from material misstatements, whether due to fraud or error and consistent with the requirements of the Monitor’s Guidelines.

Auditor’s responsibility for the review of the ESL Declaration

Our responsibility is to express a conclusion on the ESL Declaration based on our review in order to state whether, on the basis of the procedures described, we have become aware of anything has come to our attention that causes us to believe that the ESL Declaration does present fairly, in all material respects, in accordance with the Monitor’s Guidelines and the accounting basis described in the ESL Declaration as prepared by the Management of the insurer.

We conducted our review in accordance with Auditing Standard on Review Engagements ASRE 2405 Review of Historical Financial Information Other than a Financial Report and other auditing standards applicable to a review engagement. A review of the ESL Declaration consists of making enquiries, primarily of persons responsible for the insured’s financial and accounting matters, and applying analytical and other review procedures. A review is substantially less in scope than an audit conducted in accordance with Australian Auditing Standards and consequently does not enable us to obtain assurance that we would become aware of all significant matters that might be identified in an audit. Accordingly, we do not express an audit opinion.

ASRE 2405 requires us to comply with the independence and other relevant ethical requirements of the Code of Ethics for Professional Accountants issued by the Auditing Professional and Ethical Standards Board.

Name of audit firm/assurance practitioner  Partner name

Partner signature

Date: Qualification [i.e. Registered company auditor or other required qualification]
Guidelines on the prohibition against price exploitation

December 2017
GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

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GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

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A. Introduction

These Guidelines relate to the prohibition against price exploitation in relation to emergency services levy reform, contrary to section 14 of the Emergency Services Levy Insurance Monitor Act 2016 (ESLIM Act).

The Guidelines, originally published in September 2016, are revised following the commencement of the Emergency Services Levy Act 2017 (ESL Act) which defers the introduction of the proposed Fire and Emergency Services Levy (FESL), provided for under the Fire and Emergency Services Levy Act 2017 (FESL Act).

A1. History

1. On 10 December 2015, the New South Wales Treasurer announced that the Government intended to reform the way New South Wales emergency services organisations are funded. To give effect to this reform, the Government passed the Fire and Emergency Services Levy Act 2017 (FESL Act), effective from 4 April 2017. This legislation provided for the replacement of existing insurance based emergency services funding scheme (scheme) with a property-based levy to be paid by all New South Wales property owners alongside their local council rates.

2. Under the FESL Act, a fire and emergency services levy (FESL) was payable from 1 July 2017 on all leviable land\(^1\) in each financial year\(^2\) by the owner of that land\(^3\) at the rate calculated in accordance with Part 3 of the FESL Act.

3. To oversee and monitor the transition from the scheme to the FESL, the NSW Government enacted the Emergency Services Levy Insurance Monitor Act 2016 (ESLIM Act), on 31 May 2016, which became effective on 7 June 2016. The ESLIM Act provided for the appointments of an Emergency Services Levy Insurance Monitor and Deputy Monitor to oversight the insurance side of the reform.

4. The ESLIM Act\(^4\) confers the following general functions on the Emergency Services Levy Insurance Monitor (Insurance Monitor):
   (a) to provide information, advice and guidance in relation to the emergency services levy reform and prohibited conduct,
   (b) to monitor prohibited conduct and compliance with this Act and the regulations
   (c) to monitor prices for the issue of regulated contracts of insurance,
   (d) to monitor the impact of the emergency services levy reform on the insurance industry and levels of insurance coverage,
   (e) to prepare and publish guidelines relating to the operation and enforcement of this Act and the regulations,
   (f) to receive complaints about prohibited conduct and to deal with them in accordance with this Act,

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\(^1\) Defined in section 6 of the FESL Act.
\(^2\) See section 8 of the FESL Act.
\(^3\) See section 7 of the FESL Act.
\(^4\) See section 9(2) of ESLIM Act.
(g) to investigate and institute proceedings in respect of prohibited conduct or any contraventions of the Act or the regulations.

5. Under the scheme, insurance companies were required to pay contributions to the funding of NSW emergency services organisations, including Fire and Rescue NSW, NSW Rural Fire Service and NSW State Emergency Service. These contributions were payable under Part 5 of the Fire Brigades Act 1989, Part 5 of the Rural Fires Act 1997 and Part 5A of the State Emergency Service Act 1989. Insurance companies provided 73.7% of the total contributions required to fund the emergency services organisations, with the balance being provided by the NSW Treasurer (14.6%) and local councils (11.7%).

6. Under the FESL Act the contributions to the funding of NSW emergency services organisations is borne by the Treasurer, local councils with the majority of the funding flowing from the FESL.

7. However, on 30 May 2017, the NSW Government announced that it would defer the introduction of the FESL and re-establish an emergency services insurance contribution scheme (‘contribution scheme’).5

8. To give effect to the deferral of the FESL and to re-establish the contribution scheme, the NSW Government enacted the Emergency Services Levy Act 2017 (ESL Act), which commenced on 1 July 2017. The ESL Act postpones the introduction of the FESL for at least two years.6 Any start date for the FESL must be on 1 July, in a year to be appointed under regulations made under the FESL Act7 and published on the NSW legislation website, not later than 12 months prior to the nominated start date8.

9. The ESL Act provides that from 1 July 2017 a single emergency services contribution9 will be paid to the Chief Commissioner of State Revenue10 by insurers11 in each financial year,12 with respect to relevant insurance,13 rather than separate contributions to each of the emergency services organisations.

10. The period between the commencement of the ESL Act, being 1 July 2017, and the commencement of the FESL, is referred to as the ‘transition period’.14

11. From the commencement of the contribution scheme ‘contribution scheme’, on 1 July 2017, insurance companies will continue to provide the majority of the funding of NSW emergency

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5 See the Explanatory note to the Emergency Services Levy Bill 2017 at page 1.
6 See section 151 of the FESL Act.
7 See section 152 of the FESL Act.
8 See section 152 of the FESL Act.
9 See section 6 of the ESL Act.
10 See Part 3 of the ESL Act.
11 See section 7 of the ESL Act
12 See section 8 of the ESL Act.
13 “relevant insurance” is defined in section 9 and Schedule 1 of the ESL Act.
14 See section 43 of the ESL Act and section 31A of the Act. The transition period may be changed by regulations made under the ESL Act in accordance with section 46 of the ESL Act.
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services organisations,\textsuperscript{15} local councils will maintain their contribution (11.7 \%)\textsuperscript{16} with the balance being provided by the NSW Treasurer.\textsuperscript{17}

12. The classes of relevant insurance and the proportion of total premiums recovered that are subject to contribution by insurance companies is consistent with those under the scheme. They are specified in Schedule 1, and set out in Table 1 below:

<table>
<thead>
<tr>
<th>Class of policies of insurance</th>
<th>Relevant proportion</th>
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<tr>
<td>1. Any insurance of property including consequential loss but not including any insurance of a class specified elsewhere in this Schedule</td>
<td>80 %</td>
</tr>
<tr>
<td>2. House owners and householders, however designated (buildings or contents or both)</td>
<td>50 %</td>
</tr>
<tr>
<td>3. Personal combined on personal jewellery and clothing, personal effects and works of art</td>
<td>10 %</td>
</tr>
<tr>
<td>4. Motor vehicle and motor cycle</td>
<td>2.5 %</td>
</tr>
<tr>
<td>5. Marine and baggage – any insurance confined to maritime perils or confined to risks involving transportation on land or in air including storage incidental to transportation by sea, land or air, but not including static risks* (which are to be declared under Item 1)</td>
<td>1 %</td>
</tr>
<tr>
<td>Note* static risks includes all movements of goods and/or stock and/or material associated with processing or storage operations at any situation</td>
<td></td>
</tr>
<tr>
<td>6. (a) Combined fire and hail on growing crops</td>
<td>1 %</td>
</tr>
<tr>
<td>(b) Live stock</td>
<td>1 %</td>
</tr>
<tr>
<td>7. Aviation hull</td>
<td>Nil</td>
</tr>
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\textsuperscript{15} The amount of the contribution from insurance companies is calculated in accordance with Part 3 of the ESL Act.

\textsuperscript{16} See section 51(3) of the Fire Brigades Act 1989, section 110(3) of the Rural Fires Act 1997 and section 241(3) of the State Emergency Service Act 1989.

\textsuperscript{17} See Division 3 of Part 5 of the Fire Brigades Act 1989, Division 4 of Part 5 of the Rural Fires Act 1997 and section Division 3 of Part 5 A of the State Emergency Service Act 1989.
8. Any insurance solely covering:
   a. Loss by theft
   b. Plate glass
   c. Machinery – confined to mechanical breakdown and/or consequential loss arising from mechanical breakdown
   d. Explosion or collapse of boiler and pressure vessels – confined to damage other than by fire
   e. Inherent or latent defects – confined to damage and/or consequential loss arising out of defective design, defective workmanship or defective materials but excluding any damage or consequential loss from fire

13. The total contributions required of the insurers under the final two years of the scheme, for 2015-16 and 2016-17 were $769 million and $785 million respectively. The NSW budget for the 2017-2018 financial year estimates that $794 million will be recovered from insurance companies under the contribution scheme and $793 million will be recovered from the same source in the following financial year.¹⁸

### A2. Emergency services levy reform

14. The phrase ‘emergency services levy reform’¹⁹ now describes the removal of the insurance-based emergency services contributions and levy scheme, which operated until 30 June 2017, its replacement by a property-based fire and emergency services levy, to be paid by property owners alongside local council rates proposed from 1 July 2017 (now deferred), and as a consequence of that deferral, the re-establishment of an insurance contribution scheme.

### A3. Prohibited conduct

15. The ESLIM Act contains prohibitions against price exploitation and engaging in false or misleading conduct in relation to the emergency services levy reform, collectively referred to as ‘prohibited conduct.’ There is provision in section 21 of the ESLIM Act for the Insurance Monitor to issue guidelines about when conduct may be considered to contravene these prohibitions.

¹⁸ NSW budget statement 2017-2018, Table 5.4-General government sector summary of taxation revenue.
¹⁹ See section 3 of the ESLIM Act.
A4. Statutory basis and effect of Guidelines

16. Section 21 of the ESLIM Act provides that the Insurance Monitor may issue Guidelines about when conduct may be regarded as constituting prohibited conduct.

17. Guidelines issued under section 21, and any variations of them, must be published in the Government Gazette and on the Insurance Monitor’s website. Consequently, these Guidelines, and the date on which they are to take effect, will be published in the Government Gazette and will be available on the Insurance Monitor’s website www.eslimmonitor.nsw.gov.au.

18. The Insurance Monitor must have regard to any Guidelines issued under section 21 of the ESLIM Act, in deciding to give an insurance company a contravention notice\(^{20}\), a prevention notice\(^{21}\) to issue any person with a substantiation notice\(^{22}\) or to issue a public warning statement\(^{23}\). The NSW Supreme Court may have regard to any Guidelines issued by the Insurance Monitor, under section 21 of the Act, when determining whether to make any order relating to prohibited conduct\(^{24}\).

A5. The Monitor’s role in relation to price exploitation

19. The role of the Insurance Monitor in general and in relation to price exploitation was outlined in the Second Reading Speech for the Bill establishing the Insurance Monitor.

“The NSW Government is building on the lessons learned from Victoria, the most recent State to reform the funding of their emergency services. One of the key lessons was the need to establish an insurance monitor well before the date on which the insurance levy is abolished. This bill acts upon that lesson. By establishing the consumer protection framework now, before legislation abolishing the ESL is introduced, the Government is providing a framework that will enable insurers to gradually transition insurance prices so that the ESL will be fully removed from insurance prices by 1 July 2017.”

“Until the end of 2018 insurers will be prohibited from engaging in price exploitation or false and misleading conduct regarding the effects of ESL reform. Price exploitation is when an insurance company does not pass on to consumers the full reduction in cost from the abolition of the insurance-based levy or seeks to recover more in fire services levy from policyholders than the insurance company is required to remit to the Government.”\(^{25}\)

20. The Insurance Monitor, therefore, has an important role in ensuring that insurance companies do not set unreasonably high premiums in response to the emergency services levy reforms. Prior to the NSW Government’s announcement of the deferred introduction of the FESL, the key focus of the Insurance Monitor’s activities was on ensuring that there were no increases in premiums which were in anticipation of the removal of ESL. The

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\(^{20}\) See section 16(3) of the ESLIM Act.

\(^{21}\) See section 17(3) of the ESLIM Act.

\(^{22}\) See section 22(6) of the ESLIM Act.

\(^{23}\) See section 31(3) of the ESLIM Act.

\(^{24}\) See section 18(4) of the ESLIM Act.

\(^{25}\) Second Reading ESLIM Bill, Ms Gladys Berejiklian, 3 May 2016.
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Insurance Monitor has also been concerned to ensure that the tapering process adopted by insurers in moving to reduce ESL rates to zero by the end of 2016-17 was moderated. The aim originally was to ensure that the full benefits of any reductions in ESL rates (including related GST and Duty) were passed on to policyholders in lower premiums. This process was well underway prior to legislative confirmation that a property-based levy would be introduced from 1 July 2017 and the subsequent deferral of this levy.

21. From 1 July 2017 it was expected that ESL would be fully removed from insurance premiums and insurers had implemented systems changes to ensure this was the case. Pricing decisions generally need to be locked in several weeks before they can be implemented to allow time for preparing and issuing documentation and customer acceptance. By the time the Government announced the deferral of the scheme insurers had already issued documentation which indicated ESL was removed from premiums from 1 July 2017.

22. As indicated by the Treasurer, the Insurance Monitor also acts to prevent over-collection of ESL by insurers. Over-collection can arise when insurers collect more from their customers in ESL than they are required to contribute to the emergency services organisations. The Act requires the Insurance Monitor to make its assessment of over-collection for each insurance company by comparing the amount of ESL collected over both the 2015-16 and 2016-17 financial years, with the amount the company is required to contribute under the scheme for the same two financial years. This means that some over-collection in 2015-16 could be applied to off-set any under-collection in the final year of the scheme when ESL rates were being reduced.

23. When announcing the deferral of the introduction of the property-based levy scheme, the Government indicated that:

“The Insurance Monitor will oversee a smooth continuation of the existing system and ensure companies collect only the amounts necessary to meet fire and emergency services funding requirements.”

24. A two year transition period has been established (2017-2018 and 2018-2019) during which insurers will move to re-instate levies on their insurance policies to recover contributions. The Insurance Monitor will assess whether there is any over-collection of ESL over this extended two year period. In addition, the Insurance Monitor will have an important role in ensuring that no undue advantage is taken by insurers to increase premiums unreasonably on account of the re-introduction of levies related to the new contribution requirements. Policyholders should not have to pay more than is necessary to recover these contributions plus the associated GST and Duty over the extended two year period.

A6. Penalties for contravention of the prohibition on price exploitation

25. The level of penalties for contraventions of the prohibited conduct provisions of the ESLIM Act reflects the Government's concern to ensure that there is no price exploitation associated with emergency services levy reform by any insurance company. The Supreme Court may impose pecuniary penalties up to $10 million on corporations, and $500,000 on

26 Gladys Berejiklian Premier and Dominic Perrottet, Treasurer, Media release, “Fire and Emergency Services Levy to be Reviewed to Ensure Fairness”, 30 May 2017.
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individuals, for contraventions of the price exploitation provisions which occur after commencement of the ESLIM Act.

26. If a contravention occurs after 10 December 2015 but before 3 May 2016, being the date when the Bill that became the ESLIM Act was introduced into Parliament, the maximum penalty the Supreme Court may impose ‘is not to exceed the amount that a court is satisfied represents the amount of any monetary benefits acquired by the respondent, or accrued or accruing to the respondent, as a result of the conduct.’

Following the ESL Act amendments to the ESLIM Act, the price exploitation and other provisions will continue to apply throughout the transition period. The ESLIM Act will now be repealed on 1 July 2020 or a later date appointed by the regulations.

A7. To whom do the Guidelines apply in relation to price exploitation

27. The Guidelines apply to an insurance company which issues, or has issued ‘at any time during the relevant period’ a ‘regulated contract of insurance’.

28. An insurance company is defined in section 3 of the ESLIM Act to mean a person, partnership, association or underwriter that:
   (a) issues or undertakes liability under policies of insurance against loss of or damage to property situated in New South Wales, or
   (b) receives premiums in respect of such policies of insurance on behalf of, or for transmission to, a person, partnership, association or underwriter outside of New South Wales.

29. The ESLIM Act provides that the relevant period commences on 10 December 2015, the date the Government announced its intention to proceed with the emergency services levy reform, and ends on the date on which the section commences, i.e., 7 June 2016. This means that the prohibition on price exploitation applies retrospectively to the time of the Government’s announcement of the emergency services levy reform and continues to apply to any regulated contract of insurance issued up to 30 June 2020.

30. A regulated contract of insurance is defined, in section 3 of the ESLIM Act, as being ‘any policy of insurance issued by an insurance company (whether before, on or after the commencement of this Act) that:
   (a) belongs to a class of policies of insurance that is, on the commencement of this Act, subject to contribution under the emergency services funding scheme, or
   (b) is relevant insurance under the Emergency Services Levy Act 2017, or
   (c) is a combined or comprehensive policy of insurance that includes a policy of insurance referred to in paragraph (a) or (b)."
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31. Relevant insurance means insurance against loss or damage to property in the state under a class of policy specified in Schedule 1\(^{32}\) (shown above). The prohibition on price exploitation then affects any insurance policy within the class of policies listed in table 1, or any policy which incorporates a policy within any of these classes.

\(^{32}\) ESL Act, section 11.
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B. The prohibition on price exploitation

32. The prohibition on price exploitation is a key element of the regulatory regime established by the ESLIM Act to oversee the emergency services levy reform and ensure consumers are fully protected during the process.

B1. The legislative provisions

33. Section 14 of the ESLIM Act defines price exploitation, providing that:

(1) For the purposes of this Act, an insurance company engages in price exploitation if:

(a) the insurance company issues (or has, at any time during the relevant period, issued) a regulated contract of insurance; and

(b) the price for the supply of the regulated contract of insurance is unreasonably high having regard to -

(i) the emergency services levy reform, and

(ii) the emergency services contributions required to be paid by the insurance company, and

(iii) the historical emergency services levy rates charged by the insurance company, and

(iv) the costs of supplying insurance against loss of or damage to property, and

(v) any other matters prescribed by the regulations.

34. Section 3 of the ESLIM Act provides that price, in relation to the issue of a regulated contract of insurance includes:

(a) any premium paid or payable for the issue of the regulated contract of insurance (including any base premium, emergency services levy, GST or duty), and

(b) any brokerage or commission paid or payable on:

(i) the premium, or

(ii) bonuses or return premiums allowed in respect of the regulated contract of insurance, or

(iii) such part of the premium received by or payable to the insurance company issuing the regulated contract of insurance as is paid or payable by way of reinsurance by the insurance company to another insurance company.

B2. What is the appropriate level of analysis to determine price exploitation?

35. The Insurance Monitor considers that section 14 applies to the price of an individual insurance policy in the relevant classes of policy, rather than to an insurance company’s prices in aggregate or its methodology for setting its premiums in general. The Insurance Monitor places emphasis on the plain or ordinary meaning of the words in the section in
reaching this view. The key provision in this respect is the reference to a contract of insurance in the singular:

- Section 14(1)(a) refers to "the insurance company issues "a regulated contract of insurance" [emphasis added]; and
- Section 14(1)(b) refers to "the price for the issue of "...the regulated contract" [emphasis added].

36. While a focus on the individual insurance policy is appropriate when determining whether prices have been unreasonably high, the Insurance Monitor considers that an insurance company's overall pricing may be a relevant consideration in relation to the matters specified in section 14(1)(b).

**Guideline 1:**
The prohibition on price exploitation applies at the level of the price of an individual contract of insurance within the scheduled classes issued by an insurance company and regulated under the ESLIM Act.

**B3. The relevant components of a price**

37. The main components of the price to be considered in connection with the price exploitation provision include the base premium, the ESL, GST and duty. In addition, any brokerage or commission paid or payable on the premium, bonuses or return premiums and reinsurance are identified as separate components of price that may be considered.

38. The Insurance Monitor may seek information from insurance companies on each of these elements of price in undertaking the role of monitoring the effect of the emergency services levy reform on insurance premiums. It may seek information on these elements of price also when considering whether insurance companies have engaged in price exploitation.

39. Under section 37 of the ESL Act\(^{33}\), an insurer is ‘not to issue to a person any invoice or other statement as to the premium payable in respect of the issue or renewal of a policy of insurance (of a class described in Part A in Schedule 1 and the premium for which is subject to contribution) unless the statement also indicates how much of the premium is estimated to be attributable to the contributions payable under this Act."\(^{34}\) This implies that most commercial property and household property and contents policies (excluding policies covered by Part B of Schedule 1) will be required to separately disclose emergency services levies.

40. The ESL Act amended the ESLIM Act to define emergency services levy as meaning ‘the amount included in a premium payable for the issue of a regulated contract of insurance for the purpose of recouping emergency services contributions required to be paid by an insurance company, whether or not the amount is disclosed as a separate item’.\(^{35}\)

41. The collection by insurance companies of GST and duty is not discretionary. They are imposed by Commonwealth and New South Wales legislation, respectively. Their amounts are affected by both the base premium and the ESL as they are applied as percentages on

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33 Previously, section 80 of the Fire Brigades Act 1989 was expressed in similar terms.
34 Section 80 of the Fire Brigades Act 1989 previously only made reference to policies being renewed rather than issued or renewed.
35 See section 3 of the ESLIM Act.
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...top of these amounts. Currently the GST is 10 per cent and duty is 9 per cent for most property insurance, but 5 per cent on motor vehicle insurance and 2.5 per cent on crop and livestock insurance.

Guideline 2:
The prohibition on price exploitation relates to the total price charged for a regulated contract of insurance and the major components of the price, including the base premium (including re-insurance costs), ESL, GST and duty, and brokerage or commission.

B4. When do the provisions apply?
42. The price exploitation provisions (section 14) came into effect on 10 December 2015. The ESL Act has extended the period of operation of the ESLIM Act until 30 June 2020. The Act will be repealed on “1 July 2020, or on a later date appointed by the regulations” (section 79). An application for an order for a civil pecuniary penalty relating to price exploitation cannot be made later than 30 June 2020.36

B5. What is price exploitation?
43. Price exploitation occurs if the price for the issue of a regulated contract of insurance by an insurance company is unreasonably high having regard to the five specified criteria listed in section 14(b) of the ESLIM Act. These criteria are:
- the emergency services levy reform, and
- the emergency services contributions required to be paid by the insurance company, and
- the historical emergency services levy rates charged by the insurance company, and
- the costs of supplying insurance against loss of or damage to property, and
- any other matters prescribed by the regulations.

44. The phrase ‘unreasonably high’ is not defined in the Act. The Insurance Monitor will, however, have regard to the plain or ordinary meaning of the words used, their statutory context and the criteria provided by Parliament. The dictionary definition of ‘unreasonably’ or ‘unreasonable’ is relevant. The Macquarie Dictionary, 7th Edition (2017), defines ‘unreasonable’ as: “1. not reasonable; not endowed with reason; 2. not guided by reason or good sense; 4. not based on or in accordance with reason or sound judgment; 5. exceeding the bounds of reason; immoderate; exorbitant.” Given that the phrase will need to be given meaning in the context in which Parliament has placed it, it is also instructive to note the ordinary meaning of the word ‘exploitation’. The same dictionary defines ‘exploitation’ as: “1. utilisation for profit; 2. selfish utilisation.”

45. The Insurance Monitor considers that the meaning of the phrase “unreasonably high” is to be determined in accordance with the purposes of, and having regard to the criteria listed in, the ESLIM Act.

36 See section 18(6) of the ESLIM Act.
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46. Price exploitation occurs in connection with the issue of a regulated contract of insurance by an insurance company. The term 'issued' is defined, inclusively in the ESLIM Act. Section 14(2) provides, for the purposes of the section, that "issue" includes "receive a premium in respect of a regulated contract on behalf of, or for transmission to anybody corporate, partnership, association, underwriter or person outside of New South Wales". The Macquarie Dictionary defines the word "issued", when used as a verb, as "20. to put out, deliver for use, sale etc.; 23. to send out, discharge, emit; 24. to be sent or put forth authoritatively or publicly, as a writ, money etc." For the purpose of assessing potential price exploitation, the Insurance Monitor considers that the date upon which a regulated contract of insurance is issued is the date when the contract of insurance is formed.

47. The then Treasurer summarised succinctly what is meant by price exploitation in her second reading speech on the Bill:

"Price exploitation is when an insurance company does not pass on to consumers the full reduction in cost from the abolition of the insurance-based levy or seeks to recover more in fire services levy from policyholders than the insurance company is required to remit to the Government."37

48. In the context where insurers will be seeking to re-impose emergency services levies to recover contributions under the emergency services insurance contribution scheme over the transition years 2017-18 and 2018-19, the principle that insurers should not seek to recover from their policyholders more than necessary to meet their contributions still applies.

B6. The criteria relevant to determining if an insurance price is 'unreasonably high'

49. An indication of how the Insurance Monitor will interpret each of the criteria in section 14(1) of the ESLIM Act is set out below. The Insurance Monitor will consider all the criteria in assessing whether a price is "unreasonably high" although in any particular case only one or more of the criteria may be relevant.

Criterion 1: The emergency services levy reform

50. The ESLIM Act38 directs the Insurance Monitor to have regard to "the emergency services levy reform" in assessing whether a price is unreasonably high. The definition of the emergency services levy reform has been broadened by the ESL Act to include the period of transition to the property levy caused by the deferral of its introduction. The reform is now defined in section 3 to mean:

(a) the abolition, by the FESL Act of the emergency services funding scheme, and
(b) the establishment of a Fire and Emergency Services Levy (FESL) by that Act and
(c) the transition to the levy by the re-establishment of an emergency services contribution under the Emergency services Levy Act 2017

51. This criterion directs the focus of the Insurer’s oversight to the impact of changes in ESL on premiums paid for the issue of regulated contracts of insurance. In the period up to 1 July 2017, insurers have generally tapered ESL rates so that by 1 July 2017 they would be zero. Insurers will now continue to be subject to contributions after this time and are

37 Second Reading, Ms Gladys Berejiklian, 3 May 2016.
38 See Section 14(1)(b)(i) of the ESLIM Act.
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likely to again charge ESL with their premiums. There should in general be no increase in the base premiums to compensate for changes in ESL, or in anticipation of removal of ESL following the transition period.

52. The Insurance Monitor’s concern is that the impact of valid changes in ESL, brought about by the emergency services levy reform, are appropriately reflected in changes in the prices of regulated contracts of insurance. It is not concerned with whether the existing level of prices set by insurance companies is considered to be appropriate or not.

Guideline 3:
Movements in total premiums attributable to impact the emergency services levy reform on ESL (and associated GST and Duty) charged on insurance policies, should accurately reflect the insurance company’s emergency services contributions under the ESL Act. Total premiums should not increase by more than any increase in ESL (and applicable GST and Duty) and be fully reduced by any reductions in ESL (and applicable GST and Duty), taking account of ESL alone.

Guideline 4:
Insurance companies should not anticipate changes in the ESL during the transition period, or the abolition of the ESL following the transition period, by increasing base premiums on this account alone.

Criterion 2: The contributions required to be paid by the insurance company under the emergency services funding scheme.

53. In assessing whether a price or premium paid or payable for the issue or renewal of a regulated contract of insurance is unreasonably high, the Insurance Monitor will have regard to the contributions required to be paid under the emergency services funding scheme.

54. The contributions required to be paid by insurers are assessed generally on the basis of the returns provided to the Government covering particular classes of insurance as indicated in Schedule 1 of the ESL Act and the approved budgets for the emergency services organisations. The market share of an insurer as revealed by the return of premium data will determine its contribution relative to other insurers.

55. There is no legislative provision prescribing how insurers recover the cost of their assessed contributions from individual policyholders. Nevertheless, this may be an issue of concern to the Insurance Monitor under this criterion. The Insurance Monitor may have concerns if a policyholder was charged a disproportionately higher amount than another policyholder in equivalent circumstances.

56. An appropriate starting point is to assume that a policyholder should not be charged an amount of ESL that exceeds the amount necessary for the insurance company to recover its emergency services contribution. The past general practice of setting common ESL percentage rates across policyholders within specific classes seems to be in line with this as it means that higher premiums will have higher ESL amounts associated with them.

57. It is recognised that complications arise as a result of the overlapping of time periods of contribution requirements, which are determined on a financial year basis and individual
policyholders’ insurance policy coverage period, which may extend across financial years. With an ongoing contribution scheme and policy renewals this may not be a particular problem, but in the event of a contribution scheme coming to an end, there may be concerns in the final year of the scheme. There is a case for policyholders purchasing or renewing policies near the end of the last financial year of the scheme to be charged lower ESL rates compared to others purchasing or renewing policies earlier in the year.

58. The Insurance Monitor accepts that insurers should be able to recover the cost of their contributions by setting specific charges to policyholders. In the absence of prescribed ESL rates by the Government or the Insurance Monitor it is a matter for insurers to determine these rates independently. When removing or re-establishing ESL rates it is likely that different rates will be charged at different times. However, the Insurance Monitor is concerned to ensure that differences in rates are not unfair to policyholders, taking into account all relevant circumstances. This implies that excessively sharp changes in rates over time should be avoided where possible.

Guideline 5:
Changes in ESL rates over time should not be unfair to individual policyholders taking into account all relevant circumstances. Excessively sharp changes in rates over time should be avoided where possible.

B7. Cancelled policies and refunds

59. If a regulated contract of insurance is cancelled toward the end of a financial year the insurer will record a lower earned premium in that year and will accordingly be subject to a lower emergency services contribution. In these circumstances a reasonable approach to take is that a pro-rata refund of the ESL charged on that policy should be made to the policyholder, taking into account the time between the date of the cancellation and the end of the financial year. This would appear to be consistent with common law principles.

Guideline 6:
An insurance company that has collected ESL revenue on regulated insurance policies issued in a particular financial year will be expected to refund a pro-rata portion of that revenue to a policyholder who cancels the regulated contract of insurance in time to reduce the related contribution amount.

B8. Over-collection

60. There is a further concern relating to the recovery of contributions in total across all policyholders. This relates to the possible over-collection of funds purportedly for the payment of contributions. Insurers risk possible breach of the statutory prohibition on price exploitation if they collect more than is necessary to meet their contribution requirements. However, this matter is not straightforward as there are also specific provisions in the ESLIM Act, as amended by the ESL Act, which make insurance companies liable for over-collection amounts and set out procedures for dealing with these amounts.
GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

61. Over-collection is dealt with in Part 3A of the ESLIM Act. This Part identifies 2, two-year periods during which over-collection is to be assessed. These are the final two years of the former emergency services funding scheme (2015-16 and 2016-17) and the two year of the transition scheme (2017-18 and 2018-19).

62. Under the former scheme contributions were required to be paid to the emergency services organisations under:


(b) Under the ESL Act, a single contribution will be paid to the Chief Commissioner of State Revenue by each insurer in each year of the transition period.

63. Under the former emergency services funding scheme, there was greater uncertainty from year to year as to the contribution amounts of the insurers, due to the fact that the budgets of the emergency services organisations were not finalised until well into the financial year. Even under the new arrangements during the transition, insurers will still be required to estimate in advance how much to collect based on their expected market shares and contributions.

64. The Insurance Monitor acknowledges that there are uncertainties for insurance companies in setting ESL rates. Under and over-collections are, inevitable to some degree. Under-collection is not of concern to the Insurance Monitor as regards the statutory prohibition of price exploitation. Over-collection could be a concern, but the Insurance Monitor does not consider that over-collection in itself necessarily constitutes unreasonably high pricing. However, where over-collection has occurred and no steps have been taken to return this over-collection in accordance with arrangements approved by the Insurance Monitor, this will be regarded as indicating that prices have been unreasonably high in contravention of the price exploitation prohibition.

Guideline 7:

The Insurance Monitor does not consider that over-collection necessarily constitutes a breach of the price exploitation prohibition. However, if over-collection is not refunded in a manner agreed to by the Insurance Monitor, enforcement action under the Act is likely to be pursued.

65. The process by which the Insurance Monitor will investigate and assess over-collection is outlined in Part 3A of the ESLIM Act. Over-collection arises when the total amount of ESL collected by an insurance company exceeds the total amount of ESL contributed by the insurance company, calculated over the final two years of the former emergency services funding scheme and separately under the two years of the transition period. The calculation of over or under-collection over the two year blocks means that if an over-collection occurred in one year, it could be offset by an under-collection in the other year.

66. The Insurance Monitor will seek detailed information from insurers in forming an opinion on the amount collected each year for the stated purpose of meeting contribution liabilities. Insurers will be expected to adopt a consistent approach to the recording of income for the purpose of determining collections. In assessing total collections in the second year of a two year block, the Insurance Monitor will take into account ESL income relating to that year that has been received in the following year. For example, the collection of ESL relating to a particular year may be delayed into the following year as a result of processing delays.
GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

particularly with intermediated business policies; customers may pay their premium after the date payment is due; and customers may pay their annual premium in monthly instalments. The Insurance Monitor will also take into account ESL refunded to policyholders on cancelled policies.

67. These adjustment amounts may or may not be included in an insurance company’s Return of Premium for the particular year, but will be included in the Insurance Monitor’s assessment of collection amounts relating to that year.

68. The Insurance Monitor will require insurance companies to undertake an independent and external review of ESL collections for this purpose. Specifically, the Insurance Monitor will require the following declarations from each insurance company:

(a) The total ESL collected from policyholders by each class of regulated contract of insurance relating initially to the financial years 2015-16 and 2016-17 and later for the transition years 2017-18 and 2018-19 in a form specified by the Insurance Monitor.

(b) The accounting basis upon which premiums have been recognised in the Return of Premium form.

These declarations must be independently and externally verified by assurance practitioners registered under the Corporations Act 2001. (39)

Guideline 8:
To ensure that the total ESL collections declared to the Insurance Monitor reconciles in all material respects with the amounts recorded in the insurer’s accounting system, the Insurance Monitor will require insurance companies to conduct an independent review of their declarations to provide assurance in accordance with Auditing Standard on Review Engagements, ASRE 2405, Review of Historical Financial Information Other than a Financial Report.

69. The Insurance Monitor will accept the contribution amounts for each insurer that are advised to it by the Department of Justice in relation to the former emergency services funding scheme and the Chief Commissioner for State Revenue under the revised scheme during the transition period. When the collection and contribution amounts are determined, the Insurance Monitor will issue an assessment for any over-collection amount that it finds and seek acceptance of this assessment as provided for in the ESLIM Act.

B9. Refunds of over-collected amounts

70. The Insurance Monitor is required to endeavour to ensure that any insurance company that is liable for an over-collection amount:

(a) refunds the over-collection amount to relevant policyholders of the insurance company, if that is practicable; or

(b) if that is not practicable, pay the over-collection amount to the Chief Commissioner of State Revenue for payment into the Consolidated Fund.

(39) An auditor satisfying the registration requirements of Division 2 of Part 3M.4 and the auditor independence requirements of Divisions 3, 4 and 5 of Part 3M.4 of the Corporations Act 2001.
GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

71. The relevant policyholders for these purposes are policyholders who were insured under a regulated contract of insurance issued by an insurance company during the relevant two year periods. The issue of practicability of refunds to policyholders is one that will need to be determined on a case by case basis through discussions between the Insurance Monitor and each insurance company. The Insurance Monitor’s preference is that refunds should be paid to relevant policyholders as a matter of course. However, it is recognised that this may not be practicable where relatively small amounts are involved and in these cases the amounts can be bundled and paid to the Consolidated Fund. For retail customers, refunds should be made to individual policyholders where average amounts owing exceed $20.00. For non-retail or commercial customers, particularly where intermediaries have been involved, the Insurance Monitor recognises that a higher threshold may be appropriate. The Insurance Monitor’s preference is that a threshold of $200 could apply in these cases, but the Insurance Monitor will consider submissions from individual insurers wanting to apply higher threshold amounts.

72. The Monitor’s position is that for retail customers:
   • where average amounts owing exceed $20, refunds must be made to individual policyholders; and
   • where average amounts owing are less than $20, refunds should still generally be made to home and contents policyholders unless, subject to a case-by-case consideration. There is agreement by the Monitor that it is impracticable to provide refunds.

73. If the Insurance Monitor reaches an agreement with an insurance company in relation to the refund of over-collection amounts, the Insurance Monitor will expect the insurance company to enter into a refund undertaking in relation to any over-collection amount. Refund undertakings accepted by the Insurance Monitor will be consistent with the provisions of Division 2 of Part 4 of the ESLIM Act relating to enforceable undertakings.

74. In the absence of an undertaking between the Insurance Monitor and an insurance company in respect of a refund undertaking, the Insurance Monitor will refer the over-collection amount to the Chief Commissioner for debt recovery action. Any debt recovery order made by the Chief Commissioner may be enforced through the courts. If an insurance company fails to pay an over-collection amount identified in a debt recovery order, upon conviction it faces a penalty of not more than 50 penalty units.

75. The Insurance Monitor will consider the failure by an insurance company to pay an over collected amount to constitute a contravention of the statutory prohibitions of the ESLIM Act relating to price exploitation and also engaging in false or misleading conduct and will act accordingly which may give rise to substantially higher penalties.

76. Over-collection means that policyholders have been required to pay more than has been necessary to meet the insurance company’s legislatively determined contribution to the emergency services organisations. The relevant entity here is considered to be the one that pays contributions to the NSW Government.
GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

Guideline 9:
The Insurance Monitor will investigate and assess whether each insurance company is liable for an over-collection amount. This will be determined by:

1. comparing the amount that the Insurance Monitor considers was collected by the insurance company as ESL for the final two years of the former emergency services funding scheme (2015-16 and 2016-17) with the contribution independently determined for those years, and

2. comparing the amount the Insurance Monitor considers was collected by the insurance company as ESL over the transition period (2017-18 and 2018-19) with the contributions independently determined for those years.

Guideline 10:
The Insurance Monitor considers that where practicable over-collection of statutory contributions should be returned to policyholders.

Guideline 11:
1. Where the Insurance Monitor agrees that refunds to individual policyholders are not practicable, the over-collected amount must be bundled and paid to the Chief Commissioner of Revenue NSW in accordance with the ESLIM Act.

2. Where average amounts owing are less than $20, refunds should still generally be made to retail policyholders unless, subject to a case-by-case consideration, the Monitor agrees that it is impracticable to provide these refunds.

Criterion 3: Historical emergency services levy rates charged by an insurance company

77. In determining whether prices can be considered unreasonably high the Insurance Monitor can have regard for the ESL rates charged historically by the insurance company. As the size of the insurance pool has grown, a given ESL rate will have generated greater income. This has helped to accommodate increases in the budgets of the emergency services organisations.

78. Rates can vary through a year to achieve required collections. Significant variability through a year may give rise to concerns that ESL rates charged for particular policyholders are unreasonably high compared to previous years and to the ESL rates charged to other policyholders at different times. If complaints of this nature are received the Insurance Monitor will investigate the circumstances which have given rise to these differences and assess the reasonableness of the ESL rates charged.

79. Insurance companies generally adopted tapering approaches to achieve the removal of ESL under the former emergency services funding scheme by 1 July 2017. Rates were initially increased in the final month or two of 2015-16, held at these higher levels for much of the first half of the following year, and then reduced in stages to
zero by 30 June 2017. The re-establishment of an insurance contribution scheme in
the transition period means that insurers are likely to reimpose ESL on their
policyholders. There may be a lag of as much as six to ten weeks from the time of
the announcement of the deferral of the FESL, before new rates can practically be
implemented. This will mean insurers will not be able to collect ESL during this time
and will need to recover their required 2017-18 contribution from new and renewed
policies issued later in the 2017-18 financial year, or in the following financial year.

Guideline 12:
The Insurance Monitor expects that each insurer will be able to justify the approach it
adopts as to when and how to recover their contribution liabilities from policyholders.
Where possible, insurers should consider adopting an approach to re-introducing ESL
rates that offsets to some degree the tapering pattern that applied to the removal of
rates under the former contribution scheme.

Criterion 4: The costs of supplying insurance against loss or damage to
property

80. The Insurance Monitor may have regard to ‘the costs of supplying insurance against
loss or damage to property.’\footnote{See Section 14 (1)(b)(iv) of the ESLIM Act.} The Insurance Monitor interprets the term ‘costs’ here
to mean the costs of all inputs involved in a company’s supply of insurance subject to
ESL contribution, expenses incurred in the normal course of operating a place (or
places) of business, and the company’s costs incurred in any re-insurance
arrangement relating to the provision of insurance subject to ESL contribution.

81. In having regard to the costs of supplying insurance against loss or damage to
property, it is inevitable that some consideration will be given to the level of insurer
profitability. Premiums for regulated contracts of insurance set by an insurance
company will include a margin which will be influenced by the insurance company’s
perception of its required rate of return (opportunity cost of capital) and the actual
rate of return.

82. The costs associated with particular categories of insurance will be both direct and
indirect. Where indirect costs are involved the methodology applied to the allocation
of costs is important. The Insurance Monitor may seek information on how indirect
costs are allocated, but, consistent with the focus on the change in premiums, the
Insurance Monitor’s main interest will be on any changes in costs and allocation
methodology implemented over the period of operation of the prohibition on price
exploitation.

83. The Insurance Monitor does not have a pre-determined view on the appropriateness
of any cost level or particular cost allocation or cross-subsidy involved in relation to
insurance premiums subject to ESL contribution. However, where cost changes
affect premiums, the Insurance Monitor may consider the reasonableness of these
movements. Cost changes, including those arising from any changes in allocation
methodology, should not be inflated to cause unreasonably high prices.
GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

84. The Insurance Monitor considers that the abolition of ESL and the subsequent re-establishment of the contribution scheme under the ESL Act should not be seen by insurance companies as an opportunity to increase profitability. The Insurance Monitor will scrutinize carefully any increases in premiums aimed at boosting profitability coincidentally with changes in ESL.

85. The Insurance Monitor is concerned to ensure that changes in contribution arrangements affecting ESL charged by insurers are not used to disguise other base premium movements not fully justified by reasonable changes in supply costs. Where base premium movements are greater than expected as a result of normal inflationary pressures and there are concerns about their coincidence with ESL changes, insurance companies can expect the Insurance Monitor to investigate these matters. Insurers can help to minimise the concerns of policyholders by explaining clearly the reasons for base premium movements and showing that they do not relate to changes in ESL.

Guideline 13:
The Insurance Monitor will examine the reasonableness of base premium increases where there are concerns about their coincidence with ESL changes, the size of the movements compared to normal inflationary pressures, and changes in cost or pricing methodologies.

Criterion 5: Any other matters prescribed by the regulations

86. There are no other matters currently prescribed by the regulations.

B10. Companies’ pricing justification generally

87. The Insurance Monitor expects that each insurance company will have in place policies and procedures that will enable them, if so required, to provide an explanation to the Insurance Monitor for the price paid or payable for the issue of a regulated contract of insurance during the operation period of the Act.

Guideline 14:
Insurance companies should be able to provide sufficient information to justify their pricing decisions for contracts of insurance regulated under the ESLIM Act.

B11. Chief Executive Officer Declaration

88. The Guidelines provide advice about when the Insurance Monitor considers conduct may be regarded as constituting prohibited conduct. Adherence to the Guidelines will reduce the likelihood that the Insurance Monitor will have concerns that conduct may be in breach of the statutory prohibitions.

89. The Insurance Monitor expects that insurers will comply with the Guidelines and the statutory provisions. Insurers will demonstrate this by their conduct, however, the confidence of the Insurance Monitor in relation to compliance will be enhanced if insurers at the highest level of their organisations publicly commit to doing this. Such commitments could be
GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

expected to influence the Insurance Monitor's risk-based compliance and enforcement activities. Accordingly, the Insurance Monitor invites the Chief Executive Officers of each insurer to provide a signed commitment that their companies will comply with the Insurance Monitor's section 21 Guidelines.

90. The Chief Executive Officer of each company is invited to provide the Insurance Monitor by 1 September 2017 a signed standard form declaration committing the company to have regard to and apply the Insurance Monitor's Guidelines, issued in July 2017, under section 21 of the ESLIM Act 2016. Each commitment received will be recorded on the Insurance Monitor's website.
C. The Guidelines

Guideline 1:
The prohibition on price exploitation applies at the level of the price of an individual contract of insurance within the scheduled classes issued by an insurance company and regulated under the ESLIM Act.

Guideline 2:
The prohibition on price exploitation relates to the total price charged for a regulated contract of insurance and the major components of the price, including the base premium (including re-insurance costs), ESL, GST and duty, and brokerage or commission.

Guideline 3:
Movements in total premiums attributable to impact the emergency services levy reform on ESL (and associated GST and Duty) charged on insurance policies, should accurately reflect the insurance company’s emergency services contributions under the ESL Act. Total premiums should not increase by more than any increase in ESL (and applicable GST and Duty) and be fully reduced by any reductions in ESL (and applicable GST and Duty), taking account of ESL alone.

Guideline 4:
Insurance companies should not anticipate changes in the ESL during the transition period, or the abolition of the ESL following the transition period, by increasing base premiums on this account alone.

Guideline 5:
Changes in ESL rates over time should not be unfair to individual policyholders taking into account all relevant circumstances. Excessively sharp changes in rates over time should be avoided where possible.

Guideline 6:
An insurance company that has collected ESL revenue on regulated insurance policies issued in a particular financial year will be expected to refund a pro-rata portion of that revenue to a policyholder who cancels the regulated contract of insurance in time to reduce the related contribution amount.

Guideline 7:
The Insurance Monitor does not consider that over-collection necessarily constitutes a breach of the price exploitation prohibition. However, if over-collection is not refunded in a manner agreed to by the Insurance Monitor, enforcement action under the Act is likely to be pursued.

Guideline 8:
To ensure that the total ESL collections declared to the Insurance Monitor reconciles in all material respects with the amounts recorded in the insurer’s accounting system, the Insurance Monitor will require insurance companies to conduct an independent review of their declarations to provide assurance in accordance with Auditing Standard on Review Engagements, ASRE 2405, Review of Historical Financial Information Other than a Financial Report.
GUIDELINES ON THE PROHIBITION AGAINST PRICE EXPLOITATION

Guideline 9:
The Insurance Monitor will investigate and assess whether each insurance company is liable for an over-collection amount. This will be determined by:

1. comparing the amount that the Insurance Monitor considers was collected by the insurance company as ESL for the final two years of the former emergency services funding scheme (2015-16 and 2016-17) with the contribution independently determined for those years, and

2. comparing the amount the Insurance Monitor considers was collected by the insurance company as ESL over the transition period (2017-18 and 2018-19) with the contributions independently determined for those years.

Guideline 10:
The Insurance Monitor considers that where practicable over-collection of statutory contributions should be returned to policyholders.

Guideline 11:

1. Where the Insurance Monitor agrees that refunds to individual policyholders are not practicable, the over-collected amount must be bundled and paid to the Chief Commissioner of Revenue NSW in accordance with the ESLIM Act.

2. Where average amounts owing are less than $20, refunds should still generally be made to retail policyholders unless, subject to a case-by-case consideration, the Monitor agrees that it is impracticable to provide these refunds.

Guideline 12:
The Insurance Monitor expects that each insurer will be able to justify the approach it adopts as to when and how to recover their contribution liabilities from policyholders. Where possible, insurers should consider adopting an approach to re-introducing ESL rates that offsets to some degree the tapering pattern that applied to the removal of rates under the former contribution scheme.

Guideline 13:
The Insurance Monitor will examine the reasonableness of base premium increases where there are concerns about their coincidence with ESL changes, the size of the movements compared to normal inflationary pressures, and changes in cost or pricing methodologies.

Guideline 14:
Insurance companies should be able to provide sufficient information to justify their pricing decisions for contracts of insurance regulated under the ESLIM Act.
COUNCIL NOTICES

BLACKTOWN CITY COUNCIL
LOCAL GOVERNMENT ACT 1993
LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991
NOTICE OF COMPULSORY ACQUISITION OF LAND

Blacktown City Council declares with the approval of His Excellency the Governor that the land described in the schedule below, excluding only those mines or deposits of minerals in the land expressly reserved to the Crown, are acquired by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 for drainage.

Dated at Blacktown this 8th day of December 2017.
Kerry Robinson
General Manager

SCHEDULE

Lot 327 DP 1224195

BOGAN SHIRE COUNCIL
Local Government Act 1993, Section 713
Sale of Land for Overdue Rates

Notice is hereby given to the persons named hereunder the Council of the Shire of Bogan has resolved in pursuance to Division 5 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 or in which may appear to have an interest and on which the amount of rates stated in each case as at 31st October, 2017 is due:

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<th>A</th>
<th>Owner or person having an interest in the land</th>
<th>B</th>
<th>Description of Land</th>
<th>C Amount of Rates (incl. extra charges) overdue for more than 5 years</th>
<th>D Amount of all other rates (incl. extra charges) due in arrears</th>
<th>E Total Rates and charges Due.</th>
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<td>Description of Land</td>
<td>C</td>
<td>Amount of Rates (incl. extra charges) overdue for more than 5 years</td>
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</tr>
<tr>
<td>R McConnell (Ref 1017706)</td>
<td>Bourke Street, Girilambone Lot 10 Sec 23 DP 758274,2023m²</td>
<td>403.25</td>
<td>2385.83</td>
<td>$2,789.08</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

In default of payment to the Council of the amount stated in column E above and any other rates (including extra charges) now being due and payable after publication of this notice before the time fixed for the sale, the said land will be offered for sale by public auction at the Nyngan Town Hall Supper Room, 67 Cobar Street Nyngan NSW 2825 on Friday 16th March, 2018 commencing at 9.30am. Auctioneer: Landmark Real Estate Nyngan.

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**DUNGOG SHIRE COUNCIL**

**LOCAL GOVERNMENT ACT 1993**

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

**NOTICE OF COMPULSORY ACQUISITION OF LAND**

Dungog Shire Council declares with the approval of His Excellency the Governor that the lands described in the schedule below, excluding only those mines or deposits of minerals in the land expressly reserved to the Crown, are acquired by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* for drainage.

Dated at Dungog this 7th day of November 2017. SHAUN CHANDLER, General Manager, Dungog Shire Council, P O Box 95, Dungog NSW 2420. Council Reference: EF 15/36
SCHEDULE

Lot 13 DP 1223053
Lot 14 DP 1223053

FAIRFIELD CITY COUNCIL
Road Act 1993, Section 16
Dedication of Land as Public Road

Notice is hereby given that in accordance with section 16 of the Roads Act 1993, the land described in the Schedule below is dedicated as a Public Road.

Alan Young, City Manager, Fairfield City Council PO BOX 21, Fairfield NSW 1860

Schedule

Road shown as “Lane 33 feet wide” and “Road 40 ft wide” on DP 3082, Parish of St Luke, County of Cumberland, being part of Redfern Street, Wetherill Park

GOULBURN MULWAREE COUNCIL
ROADS ACT 1993
Naming of Roads

Notice is hereby given that Goulburn Mulwaree Council, pursuant to section 162 of the Roads Act 1993, has officially named the road(s) as shown hereunder:

<table>
<thead>
<tr>
<th>Name</th>
<th>Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>MYRUNA DRIVE</td>
<td>Marulan</td>
</tr>
<tr>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>New Road in Subdivision Lot 1 DP 1138469, Lot 195 &amp; 205 DP 750053, Lots 107, 111 &amp; 120 DP 7512968 (Old Hume Highway, Marulan)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>SOUTHDOWN ROAD</td>
<td>Marulan</td>
</tr>
<tr>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>Intersecting proposed Leicester Road and linking to proposed Corriedale Drive</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEICESTER ROAD</td>
<td>Marulan</td>
</tr>
<tr>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>Intersecting with the existing Merino Road and terminating in a turnaround area. Intersected by the proposed Southdown Road to join the proposed Corridale Road which is intersected by the proposed Herdwick Place</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>HERDWICK PLACE</td>
<td>Marulan</td>
</tr>
<tr>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>Intersecting proposed Corriedale Drve.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>CORRIEDEALE DRIVE</td>
<td>Marulan</td>
</tr>
<tr>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>Intersecting proposed Southdown Road and Herdwick Place.</td>
<td></td>
</tr>
</tbody>
</table>
MAITLAND CITY COUNCIL
ROADS ACT 1993

Notice is hereby given that Maitland City Council, pursuant to section 162 of the Roads Act 1993, has officially named the road(s) as shown hereunder:

<table>
<thead>
<tr>
<th>Name</th>
<th>Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>WICKLOW ROAD</td>
<td>Chisholm</td>
</tr>
</tbody>
</table>

**Description**
From the intersection of Raymond Terrace Road and McFarlanes Road, Chisholm head northwest along McFarlanes Road and take the first turn left into Greystones Drive and the first turn right into Wicklow Road.

<table>
<thead>
<tr>
<th>Name</th>
<th>Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>LUCAN STREET</td>
<td>Chisholm</td>
</tr>
</tbody>
</table>

**Description**
From the intersection of Raymond Terrace Road and McFarlanes Road, Chisholm head north west along McFarlanes Road and take the first turn left into Greystones Drive. Then take the right turn left into Wicklow Road and the first turn left into Lucan Street.

<table>
<thead>
<tr>
<th>Name</th>
<th>Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>GREYSTONES DRIVE</td>
<td>Chisholm</td>
</tr>
</tbody>
</table>

**Description**
From the intersection of Raymond Terrace Road and McFarlanes Road, Chisholm head north west along McFarlanes Road and turn left into Greystones Drive.

<table>
<thead>
<tr>
<th>Name</th>
<th>Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>WEXFORD STREET</td>
<td>Chisholm</td>
</tr>
</tbody>
</table>

**Description**
From the intersection of Raymond Terrace Road and McFarlanes Road, Chisholm head north west along McFarlanes Road and take the first turn left into Greystones Drive. Take the second turn right into Greystones Drive and take the first turn left into Wexford Street.

<table>
<thead>
<tr>
<th>Name</th>
<th>Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARKLOW CRESCENT</td>
<td>Chisholm</td>
</tr>
</tbody>
</table>

**Description**
From the intersection of Raymond Terrace Road and McFarlanes Road, Chisholm head north west along McFarlanes Road. Take the first turn left into Greystones Drive and continue into Suncroft which will which will run into Arklow Crescent at the T-intersection.

<table>
<thead>
<tr>
<th>Name</th>
<th>Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>TRAMORE ESPLANADE</td>
<td>Chisholm</td>
</tr>
</tbody>
</table>

**Description**
From the intersection of Raymond Terrace Road and McFarlanes Road, Chisholm head north west along McFarlanes Road and take the first turn left into Greystones Drive, continue along into Suncroft Street. Take the first turn left into Arklow Crescent and continue on into Tramore Esplanade.
DAVID EVANS, General Manager, Maitland City Council, 285-287 High Street, MAITLAND NSW 2320

NEWCASTLE CITY COUNCIL
Roads Act 1993
Section 10
Dedication of Land as Public Road

NOTICE is hereby given that in accordance with the provisions of section 10 of the Road Act 1993, the land held by Council as described in the Schedule below is hereby dedicated as public road. JEREMY BATH, Interim Chief Executive Officer, Newcastle City Council, PO Box 489, Newcastle, NSW 2300.

SCHEDULE
Lot 128, Deposited Plan 250629 known as 22A Aldwick Cl, Tarro NSW 2322

NORTH SYDNEY COUNCIL
Roads Act 1993, Section 16
Dedication of Land as Public Road

Notice is hereby given pursuant to Section 16 of the Roads Act 1993 that the land described in the Schedule below is dedicated to the public as road.

SCHEDULE
The portion of Mitchell Street which connects Atchison Street to Pacific Highway, St Leonards, Parish of Willoughby, County of Cumberland.

ADRIAN PANUCCIO, Acting General Manager, North Sydney Council, P.O. Box 12, North Sydney, NSW 2060.
PORT STEPHENS COUNCIL
ROADS ACT 1993
LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991
NOTICE OF COMPULSORY ACQUISITION OF LAND

Port Stephens Council declares with the approval of His Excellency the Governor that the land described in the Schedule below, excluding any mines or deposits of the minerals in the land, is acquired by compulsory process in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* for road widening.

Dated at Raymond Terrace this 8th day of December 2017

Wayne Wallis
General Manager
Port Stephens Council

Schedule

Lot 2 DP1225747

SHELLHARBOUR CITY COUNCIL
ROADS ACT 1993

Naming of Roads

Notice is hereby given that Shellharbour City Council, pursuant to section 162 of the *Roads Act 1993*, has officially named the road(s) as shown hereunder:

<table>
<thead>
<tr>
<th>Name</th>
<th>Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>RANGE ROAD</td>
<td>Shellharbour City Centre</td>
</tr>
</tbody>
</table>

**Description**

It is proposed to name the access to Stockland Retail Park. This covers a short stub of un-named public road at the intersection of New Lake Entrance Road and Government Road, Shellharbour City Centre and part of the access road/right of carriageway within Lot 601 DP 1005695.

The attached diagram shows the extent of the road(s):

CAREY MCINTYRE, General Manager, Shellharbour City Council, Locked Bag 155, SHELLHARBOUR CITY CENTRE NSW 2529

GNB Ref: 0226
NOTICE is hereby given by Wingecarribee Shire Council, pursuant to section 16 of the Roads Act 1993, that the land described in the Schedule below is hereby dedicated as public road. Dated at Moss Vale 1 December 2017. Ann Prendergast, General Manager, Wingecarribee Shire Council, Civic Centre, 68 Elizabeth St, Moss Vale NSW 2577.

SCHEDULE

King Street shown within Deposited Plan 15496.
NOTICE OF VOLUNTARY LIQUIDATION

The Corporations Law and in the matter of SANDES PTY LIMITED A.C.N. 008 400 100. NOTICE is hereby given that at an extraordinary general meeting of the members of the company duly convened and held on the 5th day of December, 2017 the following resolutions were passed:

That the company be wound up voluntarily and that Mrs E Bain be appointed liquidator for the purpose of such winding up.

Creditors of the company are required to prove their debts or claims within one month from the date of publication of this notice. Failing which they will be excluded from any distribution made and from objecting to any such distribution. Formal Proof of Debt forms are available on application to the Liquidator.

Dated this 5th December 2017.

E. Bain, Liquidator, c/ K B Raymond & Co. 2/131 Clarence Street, Sydney, NSW 2000 (GPO Box 4684 Sydney NSW 2001), tel.: (02) 9299 6521.

OTHER PRIVATE NOTICES

THE SALVATION ARMY (NEW SOUTH WALES) PROPERTY TRUST ACT 1929

APPOINTMENT OF NEW SECRETARY

PURSUANT to the provisions of section 17 of the Salvation Army (New South Wales) Property Trust Act 1929, I hereby give notice of the appointment on and from the 1st day of November 2017, of Gary Robert MASTERS as Secretary of the Salvation Army (New South Wales) Property Trust.

ANDRE’ COX,
General
(by his attorney Floyd John Tidd)