

# Hunter Water Regulation 2024

[2024-408]



New South Wales

## Status Information

### Currency of version

Current version for 23 August 2024 to date (accessed 20 September 2024 at 19:07)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Staged repeal status**

This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2029

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 September 2024

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New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	4
1 Name of regulation .....	4
2 Commencement .....	4
3 Definitions .....	4
<b>Part 2 Special areas</b> .....	4
<b>Division 1 Preliminary</b> .....	4
4 Application .....	4
<b>Division 2 Special areas—offences—the Act, ss 57 and 70(6)</b> .....	5
5 Persons must not engage in aquaculture or agriculture .....	5
6 Persons must not erect or operate on-site sewage management facilities .....	5
7 Persons must not leave or dispose of animal carcasses near watercourses .....	6
8 Persons must not pollute waters .....	6
9 Persons must not bring or leave waste .....	7
10 Persons must not open, interfere with or obstruct gates or barriers .....	7
11 Persons must ensure stock do not enter .....	7
<b>Division 3 Specified special areas—offences—the Act, ss 57 and 70(6)</b> .....	8
12 Prohibition on entry to Balickera Canal and Chichester and Grahamstown Storage Reservoirs .....	8
13 Persons must not engage in extractive industries in Nelson Bay, North Stockton or Tomago Sandbeds Catchment Areas .....	8
14 Persons must not use vessels in Williams River .....	9

<b>Division 4 Miscellaneous</b> .....	9
15 Secretary may delegate approval and direction functions to Corporation.....	9
16 Approvals given by Secretary and Corporation .....	9
17 Notices of functions of public agencies in special areas.....	10
<b>Part 3 Authorisation for connections, alterations or use of works—the Act, s 30A(2)</b>	
.....	10
18 Granting authorisations.....	10
19 Applications for authorisation.....	10
20 Refusal of applications.....	11
21 Conditions—suspending and cancelling authorisations.....	11
22 Conditions—request for suspension or cancellation of authorisation by holder or owner of authorisation	
.....	11
23 Conditions—use of approved fittings for works .....	11
24 Conditions—persons must notify Corporation of works .....	12
<b>Part 4 Work for water supply, sewerage or drainage—the Act, s 69</b> .....	12
Note.....	12
25 Plumbing and drainage work must comply with Plumbing Code of Australia .....	12
26 Persons must use approved fittings for plumbing and drainage work .....	12
27 Persons must give Corporation certificate of compliance after completing plumbing and drainage work	
.....	12
28 Persons must comply with directions for non-standard plumbing and drainage work.....	13
<b>Part 5 Miscellaneous</b> .....	13
29 Authorised officers for issuing penalty notices .....	13
30 Minister may regulate water use for drought, accident or public interest .....	14
31 Penalty notices .....	15
32 Savings.....	15
<b>Schedule 1 Penalty notice offences</b> .....	15
<b>Schedule 2 Dictionary</b> .....	16

# Hunter Water Regulation 2024



New South Wales

## Part 1 Preliminary

### 1 Name of regulation

This regulation is the *Hunter Water Regulation 2024*.

### 2 Commencement

This regulation commences on 1 September 2024.

**Note—**

This regulation replaces the *Hunter Water Regulation 2015*, which is repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

### 3 Definitions

The dictionary in Schedule 2 defines words used in this regulation.

**Note—**

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

## Part 2 Special areas

### Division 1 Preliminary

#### 4 Application

This part applies to the following special areas—

- (a) Chichester Catchment Area,
- (b) Grahamstown Catchment Area,
- (c) Nelson Bay Catchment Area,
- (d) North Stockton Catchment Area,
- (e) Tomago Sandbeds Catchment Area,

(f) Williams River Catchment Area.

**Note—**

The Chichester, Grahamstown, Nelson Bay, Tomago Sandbeds and Williams River Catchment Areas are declared to be special areas under the Act, section 53(3). The North Stockton Catchment Area is declared to be a special area under the Act, section 53(1).

## **Division 2 Special areas—offences—the Act, ss 57 and 70(6)**

### **5 Persons must not engage in aquaculture or agriculture**

(1) A person must not engage in the following in a special area—

- (a) aquaculture,
- (b) intensive livestock agriculture,
- (c) intensive plant agriculture.

Maximum penalty—

- (a) for an individual—70 penalty units, or
- (b) otherwise—100 penalty units.

(2) This section does not apply to anything that is done in accordance with—

- (a) an approval given by the Secretary, or
- (b) a development consent or an approval under the [Environmental Planning and Assessment Act 1979](#), Part 4 or Part 5, Division 5.2, respectively, or
- (c) an environment protection licence.

(3) In this section—

***aquaculture***, ***intensive livestock agriculture*** and ***intensive plant agriculture*** have the same meanings as in the standard instrument prescribed under the [Environmental Planning and Assessment Act 1979](#), section 3.20.

### **6 Persons must not erect or operate on-site sewage management facilities**

(1) An owner or occupier of land in a special area must not erect, install or operate an on-site sewage management facility on the land.

Maximum penalty—

- (a) for an individual—70 penalty units, or
- (b) otherwise—100 penalty units.

- (2) This section does not apply to anything done in accordance with—
- (a) a development consent or approval under the *Environmental Planning and Assessment Act 1979*, Part 4 or Part 5, Division 5.2, respectively, or
  - (b) an approval granted under the *Local Government Act 1993*, or
  - (c) an environment protection licence.

#### **7 Persons must not leave or dispose of animal carcasses near watercourses**

A person must not, within 100m of a stream, reservoir or watercourse in a special area—

- (a) leave an animal carcass, or cause or permit an animal carcass to be left, or
- (b) bury, or otherwise dispose of, an animal carcass, or cause or permit an animal carcass to be buried or otherwise disposed of.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) otherwise—200 penalty units.

#### **8 Persons must not pollute waters**

- (1) A person must not pollute waters in a special area except in accordance with an environment protection licence.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) otherwise—200 penalty units.

- (2) The Secretary may give a direction for—

- (a) the management or disposal of a substance in a special area the Secretary considers may pollute waters in the area, or
- (b) the removal of a substance referred to in paragraph (a) from a special area or the relocation of the substance to another place in the area.

- (3) A person must comply with a direction given to the person under subsection (2).

Maximum penalty—

- (a) for an individual—50 penalty units, or
- (b) otherwise—100 penalty units.

- (4) In this section—

**waters** has the same meaning as in the *Protection of the Environment Operations Act 1997*.

#### **9 Persons must not bring or leave waste**

- (1) A person must not bring waste into, or leave waste on, Corporation land in a special area.

Maximum penalty—

- (a) for an individual—100 penalty units, or  
(b) otherwise—200 penalty units.

- (2) In this section—

**waste** has the same meaning as in the *Protection of the Environment Operations Act 1997*.

#### **10 Persons must not open, interfere with or obstruct gates or barriers**

- (1) A person must not open, pass, remove, interfere with, damage or obstruct a gate on or to, or a barrier on or to, Corporation land in a special area, except in accordance with an approval given by the Corporation.

Maximum penalty—

- (a) for an individual—100 penalty units, or  
(b) otherwise—200 penalty units.

- (2) A member of staff of the Corporation does not commit an offence under this section in the exercise of the member of staff's functions.

- (3) In this section—

**barrier** includes an obstruction that is positioned or created by or on behalf of the Corporation to restrict or obstruct access to a road, track, trail, path or similar thing.

#### **11 Persons must ensure stock do not enter**

- (1) The owner or person in charge of stock must ensure the stock do not enter Corporation land in a special area, except in accordance with an approval given by the Corporation.

Maximum penalty—

- (a) for an individual—100 penalty units, or  
(b) otherwise—200 penalty units.

- (2) In this section—

**stock** has the same meaning as in the *Local Land Services Act 2013*.

### **Division 3 Specified special areas—offences—the Act, ss 57 and 70(6)**

#### **12 Prohibition on entry to Balickera Canal and Chichester and Grahamstown Storage Reservoirs**

(1) This section applies to the following—

- (a) Balickera Canal,
- (b) Chichester Storage Reservoir,
- (c) Grahamstown Storage Reservoir.

(2) A person must not, except in accordance with an approval given by the Secretary—

- (a) enter, bathe, wash or swim, or allow another person to enter, bathe, wash or swim, in an area to which this section applies, or
- (b) fish or use a boat or other vessel, or allow another person to fish or use a boat or other vessel, in an area to which this section applies, or
- (c) cause an animal or plant, or animal or plant matter, to enter or remain in an area to which this section applies.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) otherwise—200 penalty units.

(3) A person must not enter or be on Corporation land to which this section applies except in accordance with an approval given by the Corporation.

Maximum penalty—

- (a) for an individual—50 penalty units, or
- (b) otherwise—100 penalty units.

#### **13 Persons must not engage in extractive industries in Nelson Bay, North Stockton or Tomago Sandbeds Catchment Areas**

(1) A person must not engage in an extractive industry in the following areas except in accordance with an approval given by the Secretary—

- (a) Nelson Bay Catchment Area,
- (b) North Stockton Catchment Area,
- (c) Tomago Sandbeds Catchment Area.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) otherwise—200 penalty units.

(2) In this section—

**extractive industry** includes mining and other disturbance of geologic material for the extraction of minerals or other geological constituents.

#### **14 Persons must not use vessels in Williams River**

- (1) A person must not use, or allow another person to use, a boat or other vessel in a specified part of the Williams River unless the boat or vessel is used, or to be used, in accordance with an approval given by the Secretary.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) otherwise—200 penalty units.

(2) In this section—

**specified part of the Williams River** means a part of the Williams River in the Williams River Catchment Area that is—

- (a) within 2.5km upstream of the Seaham Weir, or
- (b) within 0.5km downstream of the Seaham Weir.

### **Division 4 Miscellaneous**

#### **15 Secretary may delegate approval and direction functions to Corporation**

For the Act, section 57(1A)(b), the Secretary may delegate the Secretary's functions in relation to regulations made under the Act, section 57(1)(c) or (d) to the following—

- (a) the Corporation,
- (b) a director, officer or member of staff of the Corporation.

#### **16 Approvals given by Secretary and Corporation**

- (1) For the Act, section 57(1)(c), an approval given by the Secretary or Corporation for this part—

- (a) must be in writing, and
- (b) may be given with or without conditions, and

(c) may be varied or revoked by the Secretary or Corporation by written notice served on the holder of the approval at any time and for any reason.

(2) In exercising a function in relation to the giving, variation or revocation of an approval in connection with a special area, the Secretary or Corporation must have primary regard to the need to prevent water in the special area from becoming polluted or contaminated.

### **17 Notices of functions of public agencies in special areas**

For the Act, section 55(1), the notice to be given to the Secretary must—

(a) contain the following—

(i) a full description of the function intended to be exercised,

(ii) a full description of the proposed activity associated with the exercise of the function,

(iii) a statement of the objectives of the proposed activity, and

(b) be in written or electronic form, and

(c) be given electronically to the Department.

## **Part 3 Authorisation for connections, alterations or use of works—the Act, s 30A(2)**

### **18 Granting authorisations**

(1) The Corporation may—

(a) grant, on application, an authorisation to a person, or

(b) grant an authorisation to a class of persons.

(2) The Corporation must grant the authorisation with the conditions prescribed under sections 21–24.

(3) The Corporation may grant the authorisation with other conditions the Corporation considers necessary.

(4) The Corporation must publish on its website all authorisations granted to a class of persons.

### **19 Applications for authorisation**

(1) An application for an authorisation must be—

(a) made in a form approved by the Corporation, and

(b) lodged using an online system provided on the Corporation's website.

(2) An applicant must pay the fee determined by the Corporation for the authorisation.

## **20 Refusal of applications**

The Corporation may refuse to grant an authorisation to a person if—

(a) in the Corporation's opinion, the person has previously carried out work in contravention of the Act, this regulation or a direction under the Act or this regulation, or

(b) the application for the authorisation is incomplete.

## **21 Conditions—suspending and cancelling authorisations**

(1) The Corporation may, by written notice served on the holder of the authorisation, suspend or cancel an authorisation if—

(a) the authorisation was granted on the basis of false or misleading information, or

(b) the holder of the authorisation has contravened a condition of the authorisation, or

(c) the holder of the authorisation has contravened the Act, this regulation or a direction under the Act or this regulation.

(2) The notice must set out the reason for the suspension or cancellation.

## **22 Conditions—request for suspension or cancellation of authorisation by holder or owner of authorisation**

The Corporation may suspend or cancel the authorisation at the request of—

(a) the holder of the authorisation, or

(b) the owner, or duly authorised agent of the owner, of the premises on which the work is to be, or is being, done under the authorisation.

## **23 Conditions—use of approved fittings for works**

The Corporation may require a fitting for work to which the authorisation applies to be a kind of fitting that—

(a) is manufactured under a system of quality assurance approved by the Corporation, and

(b) complies with the requirements of AS 5200.000.

## **24 Conditions—persons must notify Corporation of works**

The holder of the authorisation must notify the Corporation at least 2 working days before commencing the work to which the authorisation applies.

## **Part 4 Work for water supply, sewerage or drainage—the Act, s 69**

### **Note—**

If a standard or requirement for plumbing or drainage work under this regulation is inconsistent with a requirement imposed by the *Plumbing and Drainage Act 2011* or the regulations under that Act for the same work, the *Plumbing and Drainage Act 2011* and the regulations under that Act prevail to the extent of the inconsistency. See the Act, section 69(4).

## **25 Plumbing and drainage work must comply with Plumbing Code of Australia**

A person must not do plumbing or drainage work except in accordance with the Plumbing Code of Australia.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) otherwise—200 penalty units.

## **26 Persons must use approved fittings for plumbing and drainage work**

A person must not use a fitting for plumbing or drainage work unless the fitting—

- (a) is a kind of fitting that is manufactured under a system of quality assurance approved by the Corporation, and
- (b) complies with the requirements of the AS 5200.000.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) otherwise—200 penalty units.

## **27 Persons must give Corporation certificate of compliance after completing plumbing and drainage work**

A person who carries out plumbing or drainage work must, if requested in writing by the Corporation—

- (a) give the Corporation a copy of a certificate of compliance for plumbing and drainage work completed by the person, and
- (b) give the copy in the form approved, and within the time requested, by the Corporation.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) otherwise—200 penalty units.

## **28 Persons must comply with directions for non-standard plumbing and drainage work**

- (1) The Corporation may, by written notice served on a person who is carrying out, or has carried out, plumbing or drainage work, direct the person to—
  - (a) repair, as specified by the Corporation, work that is not done to a standard expected of a tradesperson, or
  - (b) bring into accordance with the Plumbing Code of Australia work not done in accordance with the Code,
  - (c) repair or replace, as specified by the Corporation, a defective fitting used in work done, or
  - (d) bring into compliance with the Corporation's approval under section 26 a fitting not compliant with the approval.
- (2) A direction has no effect if it is issued more than 6 years after the work to which it relates has been completed.
- (3) A person to whom a direction is served under this section must not fail to comply with the direction.

Maximum penalty—

- (a) for an individual—100 penalty units, or
  - (b) otherwise—200 penalty units.
- (4) If a direction is served on a person before a certificate of compliance is given for the work, the person must not continue with the work until the person has complied with the direction.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) otherwise—200 penalty units.

## **Part 5 Miscellaneous**

### **29 Authorised officers for issuing penalty notices**

For the Act, section 31A(6), the following classes of persons are prescribed as authorised officers—

- (a) police officers,

- (b) members of staff of the Corporation if the Corporation has duly authorised the members to exercise the functions of an authorised officer,
- (c) persons who are authorised to serve or issue a penalty notice under the following provisions—
  - (i) the *National Parks and Wildlife Act 1974*, section 192,
  - (ii) the *Protection of the Environment Operations Act 1997*, section 224,
  - (iii) the *Water Management Act 2000*, section 365,
- (d) persons who are appointed as fisheries officers under the *Fisheries Management Act 1994*, section 243,
- (e) persons who are appointed as authorised officers for marine legislation under the *Marine Safety Act 1998*, section 96,
- (f) members of staff of the following councils who are authorised to serve a penalty notice under the *Local Government Act 1993*, section 679—
  - (i) Dungog Shire Council,
  - (ii) Port Stephens Council.

**30 Minister may regulate water use for drought, accident or public interest**

- (1) For the Act, section 70(5)(b1), the Minister may, by order published on the NSW legislation website, regulate or restrict one or more of the following—
  - (a) the purpose for which water is used,
  - (b) the time when water is used,
  - (c) the quantity of water used,
  - (d) the means or method by which water is used.
- (2) The order—
  - (a) may apply to the whole, or part, of the area of operations of the Corporation as is specified in the order, and
  - (b) takes effect on the date specified in the order that is on or after the date on which the order is published, and
  - (c) has effect despite the provisions of a contract relating to the supply of water by the Corporation.
- (3) Notice of the order must be given in a way that the Minister is satisfied is—

- (a) reasonably practical, and
  - (b) most likely to bring the order to the attention of members of the public in the area of operations of the Corporation to which the order applies.
- (4) A person must not use water contrary to an order under this section.
- Maximum penalty—
- (a) for an individual—50 penalty units, or
  - (b) otherwise—100 penalty units.
- (5) The Corporation may limit or stop the supply of water to land if the owner, occupier or person requiring a supply of water to the land contravenes an order under this section.

### 31 Penalty notices

- (1) For the Act, section 31A(2)—
- (a) each offence created by a provision specified in Schedule 1 is an offence for which a penalty notice may be issued, and
  - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
- (a) the limited kind of offence, or
  - (b) an offence committed in the limited circumstances.

### 32 Savings

An act, matter or thing that, immediately before the repeal of the *Hunter Water Regulation 2015*, had effect under that regulation continues to have effect under this regulation.

## Schedule 1 Penalty notice offences

section 31

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty for corporation</b>	<b>Penalty for individual</b>
<b>Offences under the Act</b>		
Section 30(1)	\$1,500	\$750

Section 30A(1)	\$1,500	\$750
Section 31(1)	\$1,500	\$750
Section 69(1)	\$1,500	\$750
<b>Offences under this regulation</b>		
Section 5(1)	\$900	\$650
Section 6(1)	\$900	\$650
Section 7	\$1,500	\$750
Section 8(1)	\$1,500	\$750
Section 8(3)	\$900	\$450
Section 9(1)	\$1,500	\$750
Section 10(1)	\$1,500	\$750
Section 11(1)	\$1,500	\$750
Section 12(2)	\$1,500	\$750
Section 12(3)	\$900	\$450
Section 13(1)	\$1,500	\$750
Section 14(1)	\$1,500	\$750
Section 25	\$1,500	\$750
Section 26	\$1,500	\$750
Section 27	\$1,500	\$750
Section 28(3)	\$1,500	\$750
Section 28(4)	\$1,500	\$750
Section 30(4)	\$900	\$450

## Schedule 2 Dictionary

section 3

**AS 5200.000** means Australian Standard AS 5200.000—2006 *Technical specification for plumbing and drainage products, Part 000: Procedures for certification of plumbing and drainage products*, published by Standards Australia.

**Balickera Canal** means the area of Corporation land, and the associated infrastructure, in the Grahamstown Catchment Area, from the point of intake from the Williams River to the Balickera Pump Station.

**certificate of compliance** means a certificate certifying that plumbing or drainage work has been

completed in accordance with the Plumbing Code of Australia.

**Chichester Catchment Area** means the area described in the proclamation under the *Hunter District Water Supply and Sewerage Act 1892* published in Government Gazette No 153 of 5 December 1924 at page 5461.

**Note—**

A PDF map is accessible from the current version of this regulation on the In force section of the NSW legislation website illustrates the extent of the catchment area.

**Chichester Storage Reservoir** means the part of the Corporation land referred to as Chichester Dam in the Chichester Catchment Area, and includes land within 100m of the full supply level of Chichester Dam.

**Corporation land** means land owned by or vested in the Corporation.

**Department** means the department in which the Act is administered.

**development consent** means a development consent in force under the *Environmental Planning and Assessment Act 1979*.

**environment protection licence** has the same meaning as in the *Protection of the Environment Operations Act 1997*.

**fitting** includes a pipe, apparatus or fixture used for plumbing or drainage work.

**Grahamstown Catchment Area** means the area described in the proclamation under the *Hunter District Water, Sewerage and Drainage Act 1938* published in Government Gazette No 98 of 11 October 1963 at pages 2984 and 2985.

**Note—**

A PDF map is accessible from the current version of this regulation on the In force section of the NSW legislation website illustrates the extent of the catchment area.

**Grahamstown Storage Reservoir** means the part of the Corporation land referred to as Grahamstown Dam in the Grahamstown Catchment Area and the Tomago Sandbeds Catchment Area, and includes land within 100m of the full supply level of Grahamstown Dam.

**Nelson Bay Catchment Area** means the area described in the following—

- (a) the proclamation under the *Hunter District Water, Sewerage and Drainage Act 1938* published in Government Gazette No 2 of 7 January 1949 at pages 10 and 11,
- (b) the proclamation under the *Hunter District Water, Sewerage and Drainage Act 1938* published in Government Gazette No 106 of 1 November 1963 at pages 3189 and 3190,
- (c) the proclamation under the *Water Supply Authorities Act 1987* published in Government Gazette No 159 of 21 October 1988 at page 5485.

**Note—**

A PDF map is accessible from the current version of this regulation on the In force section of the NSW legislation website illustrates the extent of the catchment area.

**North Stockton Catchment Area** means the area of land described in, and declared to be a special area by, the [Hunter Water \(North Stockton Catchment Area\) Order 1999](#) made under the Act, section 53(1).

**Note—**

A PDF map is accessible from the current version of this regulation on the In force section of the NSW legislation website illustrates the extent of the catchment area.

**pollute**, in relation to waters—

- (a) has the same meaning as **water pollution** has in the [Protection of the Environment Operations Act 1997](#), and
- (b) includes disturbing geological or other matter, whether natural or artificial, in a way that changes or is likely to change, the physical, chemical or biological condition of the waters.

**Plumbing Code of Australia** means the document entitled the *Plumbing Code of Australia*, published by the Australian Building Codes Board, as in force from time to time.

**plumbing or drainage work** means the kind of work to which the Act, section 69(1) applies.

**repair** includes make good, replace, reconstruct, remove, alter, clean or clear.

**Secretary** means the Secretary of the Department.

**the Act** means the [Hunter Water Act 1991](#).

**Tomago Sandbeds Catchment Area** means the area described in proclamations under the [Hunter District Water, Sewerage and Drainage Act 1938](#) published as follows—

- (a) in Government Gazette No 89 of 11 July 1941 at pages 2482 and 2483,
- (b) in Government Gazette No 100 of 28 September 1945 at page 1703,
- (c) in Government Gazette No 31 of 21 March 1958 at page 734,
- (d) in Government Gazette No 91 of 25 August 1961 at page 2559.

**Note—**

A PDF map is accessible from the current version of this regulation on the In force section of the NSW legislation website illustrates the extent of the catchment area.

**vessel** has the same meaning as in the [Marine Safety Act 1998](#).

**Williams River Catchment Area** means the area described in the proclamation under the [Hunter District Water, Sewerage and Drainage Act 1938](#) published in Government Gazette No 112 of 8 November 1963 at pages 3324 and 3325.

**Note—**

A PDF map is accessible from the current version of this regulation on the In force section of the NSW legislation website illustrates the extent of the catchment area.