

# Water NSW Regulation 2013

[2013-501]



New South Wales

## Status information

### Currency of version

Current version for 1 July 2018 to date (accessed 29 June 2019 at 01:12)

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. See [Historical Notes](#)

### Formerly known as

Sydney Water Catchment Management Regulation 2013

### Note:

The *Water NSW Regulation 2013* (formerly *Sydney Water Catchment Management Regulation 2013*) made under the *Sydney Water Catchment Management Act 1998* is on and from 1.1.2015 taken to be a regulation made under the *Water NSW Act 2014*. See clause 23 of Schedule 2 to the *Water NSW Act 2014 No 74*.

### Staged repeal status

This legislation is currently due to be automatically repealed under the *Subordinate Legislation Act 1989* on 1 September 2019

### 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 10 August 2018.

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# Water NSW Regulation 2013



## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Water NSW Regulation 2013*.

### 2 Commencement

This Regulation commences on 1 September 2013 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *Sydney Water Catchment Management Regulation 2008* which is repealed on 1 September 2013 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation:

**aircraft** means any airborne craft, including a fixed wing craft, helicopter, gyrocopter, glider, hang glider, hot air balloon or airship.

**animal** means any non-human mammal or any bird, fish, reptile, amphibian, crustacean, arthropod or mollusc.

**Crown land** means:

- (a) Crown land within the meaning of the *Crown Land Management Act 2016*, or
- (b) land reserved under the *National Parks and Wildlife Act 1974*.

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

**EPA** means the Environment Protection Authority.

**plant** means any aquatic or terrestrial plant and includes a shrub or tree.

**private land** means land other than:

- (a) Water NSW land, or
- (b) Crown land.

**the Act** means the *Water NSW Act 2014*.

**vehicle** includes the following:

- (a) a motor vehicle within the meaning of the *Road Transport Act 2013*,
- (b) a trailer or caravan, whether or not it is in the course of being towed,
- (c) an apparatus (other than a wheelchair, pram or stroller) that is propelled by human, animal or mechanical power, or by the wind, and is used wholly or partly for the conveyance of persons or things,
- (d) a vessel.

**vessel** has the same meaning as in the *Marine Safety Act 1998*.

**Water NSW land** means land owned by or vested in Water NSW.

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

## **Part 2 Environment protection functions to be exercised by Regulatory Authority**

### **4 Regulatory Authority may exercise powers of EPA and other regulatory authorities**

- (1) The Regulatory Authority has the same functions as the EPA or any other regulatory authority (including the functions of the appropriate regulatory authority) under the following provisions of the *Protection of the Environment Operations Act 1997* in relation to relevant non-scheduled activities and in relation to an offence set out in Part 3 of this Regulation:
  - (a) Chapter 4 (Environment protection notices),
  - (b) Chapter 7 (Investigation) other than section 186,
  - (c) Division 2 of Part 8.2 (Proceedings for offences).
- (2) Non-scheduled activities within the meaning of the *Protection of the Environment Operations Act 1997* are **relevant non-scheduled activities** for the purposes of this clause if the activities are carried out or proposed to be carried out:
  - (a) within a declared catchment area, or
  - (b) outside a declared catchment area but are of such a nature as to affect or possibly affect a declared catchment area, or
  - (c) within a controlled area, or
  - (d) outside a controlled area but are of such a nature as to affect or possibly affect a controlled area.

**Note.** Non-scheduled activities are activities that do not require an environment protection licence under the *Protection of the Environment Operations Act 1997*.

- (3) The Regulatory Authority has the same functions as the EPA under Part 8.2 of the *Protection of the Environment Operations Act 1997* with respect to an offence against section 145, 145A, 146,

146A, 146B or 146C of that Act that is committed or alleged to have been committed in a declared catchment area.

**Note.** Sections 145–146C of the *Protection of the Environment Operations Act 1997* create offences related to littering.

- (4) The Regulatory Authority has the same functions as the EPA under section 316 of the *Protection of the Environment Operations Act 1997* with respect to a dispute between the Regulatory Authority and a public authority and that section applies to the Regulatory Authority in the same way as it applies to the EPA.

**Note.** Section 316 provides for the resolution of disputes between the EPA and public authorities.

- (5) The Regulatory Authority has the same functions as a regulatory authority under sections 319 and 320 of the *Protection of the Environment Operations Act 1997* and those sections apply to the Regulatory Authority in the same way as they apply to a regulatory authority.

**Note.** Section 319 provides for the disclosure of information. Section 320 provides for the disclosure of monitoring data.

- (6) If the Regulatory Authority exercises a function of the EPA or another regulatory authority (including the appropriate regulatory authority) under the *Protection of the Environment Operations Act 1997*:
- (a) that Act applies in respect of the exercise of that function (including any provisions relating to the exercise of those functions, any offences under that Act, any provisions relating to proceedings for offences and any appeal provisions), and
  - (b) references in that Act to the EPA or another regulatory authority (including the appropriate regulatory authority) are taken to include the Regulatory Authority, and
  - (c) references in that Act to an authorised officer are taken to include an authorised officer within the meaning of the *Water NSW Act 2014*.

## 5 Purposes for which functions may be exercised

The Regulatory Authority may exercise the functions conferred on it by this Part only for the purposes of:

- (a) protecting declared catchment areas, or
- (b) protecting and enhancing the quality of water in declared catchment areas, or
- (c) protecting controlled areas, or
- (d) protecting and enhancing the quality of water in controlled areas.

## 6 Limitations on Regulatory Authority's functions

- (1) The Regulatory Authority may not exercise the functions of a regulatory authority in relation to the following:
- (a) premises defined in an environment protection licence as the premises to which the licence applies, and all activities carried on at those premises,

- (b) non-scheduled activities that are authorised or controlled by an environment protection licence.

**Note.** The appropriate regulatory authority in respect of the activities listed in this clause will generally be the EPA.

- (2) The Regulatory Authority may not exercise the functions of a regulatory authority in relation to the activities of Water NSW if the Regulatory Authority for those functions is Water NSW.

## 7 Inconsistency with directions given by other regulatory authorities

If the Regulatory Authority, when exercising the functions conferred on it by this Part, and another regulatory authority both give an environment protection notice in respect of the same pollution incident, premises or activity and it is not possible to comply with the requirements of both notices:

- (a) if the other regulatory authority is the EPA—the notice given by the EPA prevails and the notice given by the Regulatory Authority does not have to be complied with, to the extent that it is not possible to comply with that notice and the notice given by the EPA, and
- (b) in any other case—the notice given by the Regulatory Authority prevails and the notice given by the other regulatory authority does not have to be complied with, to the extent that it is not possible to comply with that notice and the notice given by the Regulatory Authority.

**Note.** The powers conferred on the Regulatory Authority by this Regulation overlap with the powers of local authorities (such as local councils) under section 6 (3) of the *Protection of the Environment Operations Act 1997*.

## 8 Regulatory Authority to keep register

- (1) The Regulatory Authority is to keep, in such form as it may determine, a register of the following:
  - (a) details of each environment protection notice given by the Regulatory Authority,
  - (b) details of convictions in prosecutions under the *Protection of the Environment Operations Act 1997* instituted by the Regulatory Authority,
  - (c) the results of civil proceedings before the Land and Environment Court under the *Protection of the Environment Operations Act 1997* by or against the Regulatory Authority,
  - (d) such other matters as the Regulatory Authority considers appropriate, having regard to the purposes of the *Protection of the Environment Operations Act 1997*.
- (1A) The register is also to continue to include any details, results or other matters that were included in the register by the Sydney Catchment Authority before its abolition.
- (2) A copy of the register is to be available for inspection at the principal office of the Regulatory Authority during ordinary office hours and on the Internet site maintained by the Regulatory Authority.
- (3) A copy of any part of the register may be obtained by members of the public from the Regulatory Authority on payment of a fee to be determined by the Regulatory Authority.
- (4) For the purposes of this clause, *details* of a matter means:

- (a) particulars of the matter, or
- (b) a copy of the matter, or
- (c) any electronic or other reproduction of the matter.

## **Part 3 Regulation of conduct**

### **Division 1 Consent of Water NSW**

#### **9 Water NSW's consent**

- (1) A person does not commit an offence under this Part (other than an offence under this clause or under clause 18, 19 or 20) by reason of anything done with the consent of Water NSW.
- (2) A person who does anything in a special area or a controlled area with the consent of Water NSW must comply with the conditions, if any, to which the consent is subject.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (3) A consent granted by a body other than Water NSW, including a consent granted by Sydney Water Corporation, is not, for the purposes of this Regulation, to be taken as the consent of Water NSW.

#### **10 Manner of consent**

- (1) Water NSW may grant consent:
  - (a) by a sign or notice displayed on the land or part of the land to which the sign or notice relates, or
  - (b) by written notification to a person (in the form of a licence, permit, approval or any other written form).
- (2) Consent granted by a sign or notice displayed on the land or part of the land to which the sign relates may be granted:
  - (a) either generally or in a particular case, and
  - (b) to a particular person or to a class of persons, and
  - (c) either unconditionally or subject to the conditions specified in the sign or notice, and
  - (d) either for a specified period of time or until such time as the consent is revoked.
- (3) Consent granted by written notification to a person may be granted:
  - (a) either unconditionally or subject to the conditions specified in the written notification, and
  - (b) either for a specified period of time or until such time as the consent is revoked.
- (4) Consent granted by written notification to a person may be revoked or varied at any time by further written notification to the person.

## 11 Divisions of this Part not exhaustive

A Division in this Part does not limit the operation of any other provision of this Regulation in the provision's application to any land referred to in that Division.

## Division 2 Regulation of conduct generally on land in a special area or a controlled area

### 12 No interference with water

- (1) A person must not dam, divert or take any water that:
- (a) is water from which Water NSW draws its supply or that is available for supply by Water NSW, and
  - (b) is located on land in a special area or a controlled area.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (2) A person does not commit an offence under subclause (1) by reason of anything done with lawful authority, including (but not limited to) any licence or approval under the *Water Management Act 2000* or the *Water Act 1912*.

### 13 Control of pollution in special areas and controlled areas

- (1) A person must not:
- (a) bring into or leave on land in a special area or a controlled area any waste, or
  - (b) cause the pollution of waters on land in a special area or a controlled area.
- Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (2) A person does not commit an offence under subclause (1) by reason of anything done in accordance with a licence granted under the *Protection of the Environment Operations Act 1997*.
- (3) The owner or occupier of land in a special area or a controlled area must not erect, install or operate any on-site sewage management facility on the land unless the person does so in accordance with:
- (a) a development consent granted under the *Environmental Planning and Assessment Act 1979*, or
  - (b) an approval granted under the *Local Government Act 1993*, or
  - (c) an environment protection licence granted under the *Protection of the Environment Operations Act 1997*.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (4) A person must comply with any direction given by the Regulatory Authority or an authorised officer for:
- (a) the disposal of any pollutant or waste on land in a special area or a controlled area, or of any other substance that is on land in a special area or a controlled area and that the Regulatory Authority considers may detrimentally affect any water in the area, or
  - (b) the removal of any such pollutant, waste or other substance from land in a special area or a controlled area.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (5) In this clause:

*pollutant*, *pollution of waters* and *waste* have the same meanings as in the *Protection of the Environment Operations Act 1997*.

### **Division 3 Regulation of conduct on Crown land or Water NSW land in a special area or a controlled area**

#### **14 Stock control in special areas and controlled areas**

- (1) The owner or person in charge of any stock must ensure that the stock does not enter any Crown land or Water NSW land that is in a special area or a controlled area.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (2) An authorised officer may take any of the following actions if stock enters any such land without Water NSW's consent:
- (a) drive the stock away, or remove the stock, from the land,
  - (b) impound, sell, destroy or otherwise dispose of the stock.
- (3) If an authorised officer takes any such action:
- (a) the owner and person in charge of the stock are jointly and severally liable to Water NSW for all costs incurred by Water NSW as a result of the action being taken, and
  - (b) Water NSW may recover the amount of those costs from the owner or person in charge as a debt in a court of competent jurisdiction.

- (4) In this clause:

*stock* means cattle, horses, donkeys, mules, asses, camels, sheep, goats, pigs, deer, alpacas or llamas.

#### **15 Investigation of suspected contraventions**

- (1) An authorised officer who has reason to believe that a person, on Crown land or Water NSW land that is in a special area or a controlled area, has in his or her possession or control, in

contravention or because of a contravention or intended contravention of the Act or this Regulation, any matter or thing may direct the person:

- (a) to surrender the matter or thing into the authorised officer's possession and control, or
- (b) to make any article in the person's possession or control available for inspection by the authorised officer for the purpose of investigating the suspected contravention or intended contravention.

(2) A person given a direction referred to in subclause (1) must comply with it.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

(3) Nothing in this clause limits any function an authorised officer may have under the Act or any other Act.

(4) In this clause:

*article* includes any equipment, vehicle, aircraft or other thing of any description.

#### **16 Signs prohibiting persons entering or remaining on certain land**

(1) Water NSW may erect a sign or notice on Crown land or Water NSW land that is in a special area or a controlled area requiring persons not to enter or remain on the land to which the sign relates.

(2) A person must not enter or remain on any land in contravention of a sign or notice erected under this clause.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

#### **17 Signs regulating conduct on certain land**

(1) Water NSW may erect a sign or notice on Crown land or Water NSW land that is in a special area or a controlled area prohibiting or restricting any of the following conduct on the land to which the sign relates:

- (a) destroying, harming, capturing, chasing or otherwise interfering with any animal,
- (b) damaging or interfering with the habitat of any animal,
- (c) damaging, interfering with or removing any plant or part of a plant, including any deadfalls of timber,
- (d) removing any rock, soil, sand, stone or similar substance,
- (e) bringing in or releasing any animal,
- (f) leading or riding any animal,
- (g) selling or offering for sale any goods,
- (h) conducting commercial activities,

- (i) lighting, maintaining or using fires,
  - (j) camping or residing,
  - (k) disposing of waste,
  - (l) driving, riding or being a passenger in or on any vehicle,
  - (m) damaging, defacing, disturbing or otherwise interfering with any building, structure, sign, fixture, animal trap, bait or plant rehabilitation measure (such as seedlings, matting or survey pegs and tapes marking out rehabilitation areas),
  - (n) using any facilities,
  - (o) fishing or swimming in water,
  - (p) using any vessel on water,
  - (q) washing in water,
  - (r) causing any animal, animal matter, plant or plant matter to enter or remain in water,
  - (s) bringing in, using or keeping any pesticide.
- (2) A person must not on any land act in contravention of a sign or notice erected under this clause.
- Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

### **18 Directions to leave land in emergencies**

- (1) An authorised officer may direct a person to leave Crown land or Water NSW land that is in a special area or a controlled area if the authorised officer reasonably believes that such a direction is necessary to prevent injury to a person.
- (2) A person must leave land immediately when directed to do so by an authorised officer under this clause.
- Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (3) A person is not guilty of an offence against this clause unless it is established that the authorised officer warned the person that the failure to comply with the direction is an offence.

### **19 Removal of certain persons who contravene Act or Regulation**

- (1) A person who contravenes any provision of the Act or this Regulation on Crown land or Water NSW land that is in a special area or a controlled area must leave the land concerned immediately when directed to do so by an authorised officer.
- Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (2) A person who fails to comply with such a direction may be removed from the land concerned by an authorised officer.
- (3) Reasonable force may be used to effect the person's removal.
- (4) A person who leaves or is removed from land under this clause must remove any equipment, vehicle or animal, or any other item belonging to or associated with the person, from the land concerned.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (5) A person is not guilty of an offence against this clause unless it is established that the authorised officer warned the person that the failure to comply with the directions is an offence.

## **20 Fees and charges for entry on Water NSW land**

- (1) Water NSW may from time to time determine the fees or charges payable in respect of the entry by persons or vehicles on Water NSW land in a special area or a controlled area.
- (2) A person who is liable to pay fees or charges so determined may be denied entry to the land concerned unless the fees or charges are paid on request by an authorised officer.
- (3) An authorised officer may direct a person who has entered such land without paying the relevant fees or charges to leave the land.
- (4) A person must leave the land immediately when directed to do so by an authorised officer under this clause.

Maximum penalty: 5 penalty units.

## **Division 4 Regulation of conduct on Schedule 1 land and Schedule 2 land**

### **21 Meaning of "Schedule 1 land" and "Schedule 2 land"**

In this Division:

*Schedule 1 land* means the special areas and controlled areas identified in Schedule 1 other than land that is private land or land that is identified in that Schedule as excluded land.

*Schedule 2 land* means the special areas identified in Schedule 2 other than land that is private land.

### **22 Prohibited activities on Schedule 1 land**

- (1) A person must not:
  - (a) enter or remain on any Schedule 1 land, or
  - (b) fish or swim in water on Schedule 1 land, or
  - (c) camp on Schedule 1 land, or
  - (d) light, maintain or use a fire on Schedule 1 land.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

(2) In this clause:

*fish* includes catching, or attempting to catch, any fish within the meaning of the *Fisheries Management Act 1994*.

### **23 Lighting of fires on Schedule 2 land**

- (1) A person must not on any Schedule 2 land (whether or not it is land to which subclause (2) applies):
- (a) light, maintain or use a fire in the open:
    - (i) if there are public fireplaces—elsewhere than in such a fireplace, or
    - (ii) if there are no public fireplaces—elsewhere than in a temporary fireplace situated at least 4.5 metres from any log or stump and at least 1.5 metres from any other flammable material, or
    - (iii) in any case—in contravention of a notice posted by Water NSW or the National Parks and Wildlife Service regulating the use of fire on that land, or
  - (b) leave unattended any fire that the person has lit, maintained or used, or
  - (c) fail to call for help to control or extinguish a fire that the person has lit, maintained or used and that is beyond the person’s power to control or extinguish, or
  - (d) handle any flammable substance (such as petrol, matches or cigarettes) in a manner that is likely to cause a fire.
- (2) If any part of Schedule 2 land has been declared under section 8 of the *Wilderness Act 1987* to be a wilderness area, a person must not light a fire in the wilderness area unless the fire is lit in accordance with:
- (a) any provision of that Act (or of regulations made under that Act) relating to the lighting of fires in wilderness areas, or
  - (b) the terms of any wilderness protection agreement (within the meaning of that Act) or conservation agreement (within the meaning of the *National Parks and Wildlife Act 1974*) that contains terms relating to the lighting of fires in the wilderness area concerned.

Maximum penalty (subclauses (1) and (2)): 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

(3) This clause applies to Schedule 2 land whether or not the land has been reserved under the *National Parks and Wildlife Act 1974*.

### **24 Gates or barriers on or to Schedule 1 land or Schedule 2 land**

- (1) A person must not open, pass, remove, interfere with, damage or obstruct any gate or barrier on or to Schedule 1 land or Schedule 2 land.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

(2) In this clause:

**barrier** includes any obstruction that has been positioned or created, by any means, so as to restrict or obstruct access to any road, track, trail, path or the like.

## **25 Certain conduct prohibited on Schedule 1 land and Schedule 2 land**

(1) A person must not do any of the following on Schedule 1 land or Schedule 2 land:

- (a) drive, ride or be a passenger in or on any vehicle,
- (b) lead or ride any animal,
- (c) land any aircraft,
- (d) sell or offer for sale any goods by any public road,
- (e) damage, deface, disturb or otherwise interfere with any building, structure, sign, fixture, animal trap, bait or plant rehabilitation measure (such as seedlings, matting or survey pegs and tapes marking out rehabilitation areas),
- (f) damage or remove any plant or part of a plant,
- (g) remove any rock, soil, sand, stone or similar substance,
- (h) destroy, capture, injure or otherwise interfere with any animal, or damage or interfere with the habitat of any animal.

(2) A person must not bring onto or have in the person's possession on Schedule 1 land or Schedule 2 land:

- (a) any plant or part of a plant, or
- (b) any animal, or
- (c) any firearm or imitation firearm (within the meaning of the *Firearms Act 1996*) or a prohibited weapon (within the meaning of the *National Parks and Wildlife Act 1974*) unless the person is a police officer acting in connection with the performance of that person's duties as such an officer.

(3) A person must not allow any unrestrained animal for which the person is responsible to enter or remain on Schedule 1 land or Schedule 2 land.

Maximum penalty (subclauses (1), (2) and (3)): 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

(4) In this clause:

**fixture** includes, but is not limited to, picnic tables, seats, fences, fireplaces, barbecues and monitoring devices (including rain gauges) and associated infrastructure.

## 26 Use of water on Schedule 1 land and Schedule 2 land

- (1) A person must not:
- (a) use any vessel on water on Schedule 1 land or Schedule 2 land, or
  - (b) wash in water on Schedule 1 land or Schedule 2 land, or
  - (c) cause any animal, animal matter, plant or plant matter to enter or remain in water on Schedule 1 land or Schedule 2 land.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (2) Despite subclause (1), a person may:
- (a) use, on water on Schedule 2 land, any vessel that is propelled solely by human power or the wind, and
  - (b) take, on Schedule 2 land, such amount of water as is necessary for the person's use (including use for the purpose of washing) while on that land.

## 27 Pesticides and pest control on Schedule 1 land and Schedule 2 land

- (1) A person must not:
- (a) bring onto, or use or keep on, Schedule 1 land or Schedule 2 land any pesticide, or
  - (b) take steps to control or eradicate by the use of pesticides any feral animal, animal pest or weed on Schedule 1 land or Schedule 2 land.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (2) A person does not commit an offence under subclause (1):
- (a) by reason of the person bringing onto, or using or keeping on, Schedule 1 land or Schedule 2 land, quantities of pesticide solely for household or domestic purposes, or
  - (b) by reason of any thing done in accordance with an environment protection licence.
- (3) Nothing in subclause (2) is to be taken to authorise a person to use a pesticide in contravention of the *Pesticides Act 1999*.

- (4) In this clause:

**Agvet Code** means the provisions applying because of section 5 of the *Agricultural and Veterinary Chemicals (New South Wales) Act 1994*.

**pesticide** means:

- (a) an agricultural chemical product within the meaning of the Agvet Code, or

- (b) a veterinary chemical product (within the meaning of the Agvet Code) that is represented as being suitable for, or is manufactured, supplied or used for, the external control of ectoparasites of animals.

**Note.**

The Agvet Code defines an **agricultural chemical product** to be a substance or a mixture of substances that is represented, imported, manufactured, supplied or used as a means of directly or indirectly:

- (a) destroying, stupefying, repelling, inhibiting the feeding of, or preventing infestation by or attacks of, any pest in relation to a plant, a place or a thing, or
- (b) destroying a plant, or
- (c) modifying the physiology of a plant or pest so as to alter its natural development, productivity, quality or reproductive capacity, or
- (d) modifying an effect of another agricultural chemical product, or
- (e) attracting a pest for the purpose of destroying it.

The term also includes insect repellents for use on human beings.

## **Division 5 Regulation of conduct on other land**

### **28 Animal management on land identified in Schedule 1 or Schedule 2**

- (1) This clause applies to all land identified in Schedule 1 or Schedule 2 (including private land) other than land that is identified in Schedule 1 as excluded land.
- (2) A person must not, on land to which this clause applies, erect, maintain or use any building or structure for the purposes of any of the following:
  - (a) aquaculture,
  - (b) intensive livestock agriculture,
  - (c) an animal boarding and training establishment.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (3) A person must not, within 100 metres of any stream, reservoir or water course on land to which this clause applies:
  - (a) erect, maintain or use any building or structure for the purposes of any of the following:
    - (i) aquaculture,
    - (ii) intensive livestock agriculture,
    - (iii) an animal boarding and training establishment, or
  - (b) leave the carcass of a dead animal, or cause or permit the carcass of a dead animal to be left, or

- (c) bury, or otherwise dispose of, the carcass of a dead animal, or cause or permit the carcass of a dead animal to be buried or disposed of.

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (4) In this clause:

***animal boarding and training establishment*** means a building or place used for the breeding, boarding, training or keeping of, or for caring for, animals for commercial purposes (other than for the agistment of horses).

***aquaculture*** has the same meaning as in the *Fisheries Management Act 1994*.

***intensive livestock agriculture*** means the keeping or breeding, for commercial purposes, of cattle, poultry, pigs, goats, horses or other livestock that are fed wholly or substantially on externally-sourced feed.

## **Division 6 Protection of Water NSW assets**

### **29 Prohibition on destroying or damaging Water NSW owned structures**

A person must not destroy or maliciously damage any structure owned by Water NSW:

- (a) on Crown land or Water NSW land that is in a special area or a controlled area, or
- (b) on land identified in Schedule 1 or Schedule 2 (including private land).

Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

## **Part 4 Miscellaneous**

### **30 Notice by public agencies**

Notice given to the Regulatory Authority for the purposes of section 50 (1) of the Act:

- (a) must be in writing, and
- (b) must be served on the Regulatory Authority by post addressed to the Regulatory Authority or by lodging it at an office of the Regulatory Authority, and
- (c) must contain a full description of the functions proposed to be exercised and a statement of the objectives of the exercise of those functions, and
- (d) must give at least 28 days' notice of the commencement of the exercise of those functions.

### **31 Exercise of functions conferred by this Regulation**

Any function that is conferred on the Regulatory Authority by this Regulation may be exercised by the Regulatory Authority or by any person authorised by the Regulatory Authority to exercise that function.

### 32 Prescribed local councils

The following local councils are prescribed for the purposes of section 7 (1) (c) of the Act:

- (a) Wingecarribee Shire Council,
- (b) Shoalhaven City Council,
- (c) Goulburn Mulwaree Council.

### 33 Fees chargeable by Water NSW for water supplied

- (1) This clause applies to the fees chargeable by Water NSW:
  - (a) for water supplied to prescribed local councils, as referred to in section 7 (1) (c) of the Act, and
  - (b) for water supplied to licensed network operators or licensed retail suppliers, as referred to in section 7 (1) (d) of the Act, and
  - (c) for water supplied to other persons and bodies, as referred to in section 7 (1) (e) of the Act.
- (2) For the purposes of section 39 of the Act, the fees chargeable by Water NSW in connection with the Sydney catchment functions of Water NSW are the fees fixed in that regard by the Independent Pricing and Regulatory Tribunal in its determination of June 2012 entitled “Review of prices for the Sydney Catchment Authority: from 1 July 2012 to 30 June 2016”, which was made under the *Independent Pricing and Regulatory Tribunal Act 1992*.
- (3) Water NSW may waive, reduce or remit any such fee in such circumstances as it considers appropriate.
- (4) In this clause, *Sydney catchment functions* of Water NSW has the same meaning as in Division 4 of Schedule 2 to the Act.

### 33A Delegation by Minister

The chief executive officer is authorised for the purposes of section 110 of the Act.

### 34 Penalty notices

For the purposes of section 102 of the Act:

- (a) each offence created by a provision of the Act or this Regulation specified in Column 1 of Schedule 3 is declared to be a penalty notice offence, and
- (b) the prescribed penalty for such an offence is:
  - (i) the amount specified in Column 2 of Schedule 3 if the person alleged to have committed the offence is an individual, or
  - (ii) the amount specified in Column 3 of Schedule 3 if the person alleged to have committed the offence is a corporation.

**Note.** The *Protection of the Environment Operations (General) Regulation 2009* provides that a member of staff of the Regulatory Authority may issue a penalty notice in respect of a number of offences under the *Protection of the*

*Environment Operations Act 1997* including sections 120 (Prohibition of pollution of waters), 143 (Unlawful transporting or depositing of waste) and 144 (Use of place as waste facility without lawful authority).

### **35 Savings**

Any act, matter or thing that had effect under the *Sydney Water Catchment Management Regulation 2008* immediately before the repeal of that Regulation continues to have effect under this Regulation.

## **Schedule 1 Schedule 1 land**

### **Special areas**

The following special areas, being portions of land, as shown coloured pink on the map marked “Schedule 1 Areas” deposited in the office of Water NSW:

- (a) the area of land submerged by Lake Burragarang, together with the area of land that surrounds the lake extending from the edge of the lake to a point 3 kilometres above the full supply level of the lake,
- (b) the catchment areas of Broughton’s Pass Weir, Pheasant’s Nest Weir and Lake Woronora to the extent that they are not contained in the proclamations referred to in paragraphs (c) and (d),
- (c) Metropolitan Catchment Area as proclaimed in Gazette No 79 of 13 July 1923 and amended by proclamation published in Gazette No 79 of 26 May 1933,
- (d) Woronora Catchment Area as proclaimed in Gazette No 37 of 21 March 1941,
- (e) Wingecarribee Catchment Area as proclaimed in Gazette No 156 of 14 December 1973,
- (f) Blackheath Special Area proclaimed 6 March 1991 published in Gazette No 45 of 15 March 1991,
- (g) Katoomba Special Area proclaimed 6 March 1991 published in Gazette No 45 of 15 March 1991,
- (h) Woodford Special Area proclaimed 6 March 1991 published in Gazette No 45 of 15 March 1991,
- (i) Prospect Special Area, being the area of land declared to be a special area by the *Sydney Water Catchment Management (Prospect Special Area) Order 2008* published in Gazette No 92 of 25 July 2008,
- (j) part of the Shoalhaven Catchment Area as proclaimed in Gazette No 13 of 8 February 1974 (being that part shown speckled and edged heavy black on the map marked “Shoalhaven Schedule 1 Special Area Tallowa Dam Fishway” deposited in the office of Water NSW).

### **Controlled areas**

All Water NSW land on or in which there are any one or more of the following:

- (a) water transfer structures (being canals, tunnels, pipelines, water mains or drainage channels),
- (b) roads,
- (c) a device that is used to monitor water and infrastructure associated with that device.

### **Excluded land**

So much of the land listed in this Schedule as consists of a part of the township of Nattai Village, Yerrinbool, Woodford or Medlow Bath (being the land identified as such on the map marked “Schedule 1 Areas” deposited at the office of Water NSW) is excluded from this Schedule.

## Schedule 2 Schedule 2 land

### Special areas

The following special areas:

- (a) Fitzroy Falls Catchment Area as proclaimed in Gazette No 11 of 4 February 1977,
- (b) Shoalhaven Catchment Area as proclaimed in Gazette No 14 of 8 February 1974,
- (c) Warragamba Catchment Area as proclaimed in Gazette No 122 of 4 September 1942 and amended by proclamations published in Gazette Nos 1 of 1 January 1944 and 77 of 4 August 1944,

except the parts of those areas that are listed in Schedule 1.

## Schedule 3 Penalty notice offences

### Offences under the Act

Column 1	Column 2	Column 3
Offence	Penalty (Individual)	Penalty (Corporation)
Section 36 (3) (b)	\$750	\$1,500
Section 70 (4)	\$750	\$1,500
Section 71 (2)	\$750	\$1,500
Section 73 (4)	\$750	\$1,500
Section 74 (2)	\$750	\$1,500
Section 77 (5)	\$750	\$1,500
Section 80 (4)	\$750	\$1,500
Section 81 (6)	\$750	\$1,500
Section 84 (6)	\$750	\$1,500
Section 93	\$750	\$1,500
Section 94	\$750	\$1,500

### Offences under this Regulation

Column 1	Column 2	Column 3
Offence	Penalty (Individual)	Penalty (Corporation)
Clause 9 (2)	\$750	\$1,500
Clause 12 (1)	\$750	\$1,500
Clause 13 (1), (3) or (4)	\$750	\$1,500
Clause 14 (1)	\$750	\$1,500
Clause 15 (2)	\$750	\$1,500

Clause 16 (2)	\$750	\$1,500
Clause 17 (2)	\$750	\$1,500
Clause 18 (2)	\$750	\$1,500
Clause 19 (1) or (4)	\$750	\$1,500
Clause 22 (1) (a)	\$300	\$1,000
Clause 22 (1) (b), (c) or (d)	\$750	\$1,500
Clause 23 (1) or (2)	\$750	\$1,000
Clause 24 (1)	\$750	\$1,500
Clause 25 (1), (2) or (3)	\$750	\$1,500
Clause 26 (1)	\$750	\$1,500
Clause 27 (1)	\$750	\$1,500
Clause 28 (2) or (3)	\$750	\$1,500
Clause 29	\$750	\$1,500

## Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

### Table of amending instruments

*Water NSW Regulation 2013 (501)* (formerly *Sydney Water Catchment Management Regulation 2013*). LW 30.8.2013. Date of commencement, 1.9.2013, cl 2. This Regulation has been amended as follows:

<b>2014</b>	No 74	<i>Water NSW Act 2014</i> . Assented to 11.11.2014. Date of commencement, 1.1.2015, sec 2 and 2014 (839) LW 19.12.2014.
	(861)	<i>Water NSW Amendment (Delegation) Regulation 2014</i> . LW 19.12.2014. Date of commencement, 1.1.2015, cl 2.
<b>2015</b>	No 24	<b>Biosecurity</b> <b>Act</b> <b>2015</b> . Assented to 22.9.2015. Date of commencement of Sch 8.42, 1.7.2017, sec 2 and 2017 (227) LW 2.6.2017.
<b>2017</b>	No 17	<i>Crown Land Legislation Amendment Act 2017</i> . Assented to 17.5.2017. Date of commencement of Sch 4, 1.7.2018, sec 2 (1) and 2018 (225) LW 1.6.2018.

### Table of amendments

Cl 1	Am 2014 No 74, Sch 3.38 [1].
Cl 3	Am 2014 No 74, Sch 3.38 [2] [3]; 2017 No 17, Sch 4.107.
Part 2, heading	Am 2014 No 74, Sch 3.38 [4].
Cl 4	Am 2014 No 74, Sch 3.38 [5]–[7].
Cl 5	Am 2014 No 74, Sch 3.38 [8].
Cl 6	Subst 2014 No 74, Sch 3.38 [9].
Cl 7	Am 2014 No 74, Sch 3.38 [10].
Cl 8	Am 2014 No 74, Sch 3.38 [11] [12].
Part 3, Div 1, heading	Am 2014 No 74, Sch 3.38 [13].
Cl 9	Am 2014 No 74, Sch 3.38 [14].
Cl 10	Am 2014 No 74, Sch 3.38 [15].
Cl 12	Am 2014 No 74, Sch 3.38 [16].
Cl 13	Am 2014 No 74, Sch 3.38 [17].
Part 3, Div 3, heading	Am 2014 No 74, Sch 3.38 [18].

CII 14–20, 23	Am 2014 No 74, Sch 3.38 [16].
CI 27	Am 2015 No 24, Sch 8.42.
Part 3, Div 6, heading	Am 2014 No 74, Sch 3.38 [19].
CI 29	Am 2014 No 74, Sch 3.38 [16].
CI 30	Am 2014 No 74, Sch 3.38 [20].
CI 31	Am 2014 No 74, Sch 3.38 [21].
CI 32	Am 2014 No 74, Sch 3.38 [22].
CI 33	Am 2014 No 74, Sch 3.38 [23]–[29].
CI 33A	Ins 2014 (861), cl 3.
CI 34	Am 2014 No 74, Sch 3.38 [30] [31].
Sch 1	Am 2014 No 74, Sch 3.38 [32].
Sch 3	Subst 2014 No 74, Sch 3.38 [33].