

Proposed Water NSW Regulation 2026

Proposed changes to modernise the Regulation and improve the ability of WaterNSW to protect the quality and quantity of water and to regulate conduct in declared catchment areas.

The Water NSW Regulation 2020 (the 2020 Regulation) will be automatically repealed on 1 September 2026. It is important to have a regulation in place because it supports the operation of the *Water NSW Act 2014* (the Act) by providing WaterNSW with the ability to manage and protect declared catchment areas. It does this through setting out measures to regulate pollution and contamination, access to and use of, and other conduct in relation to the land and waters within greater Sydney's drinking water catchments. It also defines the local councils to which WaterNSW is responsible for supplying water.

The NSW Department of Climate Change, Energy, the Environment and Water (the department) is proposing to replace the 2020 Regulation with the Water NSW Regulation 2026 (the 2026 Regulation). The 2026 Regulation needs to commence by 1 September 2026.

The 2026 Regulation has been updated to apply the current layout and style of the Parliamentary Counsel's Office current legislative drafting approach. It makes the regulation simpler and clearer, ensures consistency throughout the document and makes it legally robust. It has resulted in changes to clause numbers compared with the 2020 Regulation.

Overall, there are few changes of substance being proposed in the 2026 Regulation. Table 1 and Table 2 provide a summary of the more significant adjustments. A detailed analysis and rationale for updates for the 2026 Regulation is included in the accompanying Regulatory Impact Statement.

How can I provide feedback?

The department is seeking your feedback on the proposed 2026 Regulation.

To have your say, you can make an online submission: water.nsw.gov.au/water-nsw-regulation-remake

If you need assistance making a submission, please contact us at water.enquiries@dcceew.nsw.gov.au or **1300 081 047**

Consultation will close at 11:59 pm on Monday, 16 March 2026.

Your submission may be published. If you do not want your personal details or responses published, please let us know.

A What we heard report will be published after the consultation period.

To find out more and have your say, visit the department's website:

water.dcceew.nsw.gov.au/waternsw-regulation-remake

Table 1. Summary of changes – amendments to clarify the intent of regulatory provisions – no major change in policy or practice

| # | Issue with 2020 Regulation | Proposed change | Intended outcome/s |
|---|---|--|---|
| 1 | <p>Uncertainty around controls and prohibitions on the use of bicycles in restricted areas.</p> <p>The 2020 Regulation defines a 'vehicle' as "including a motor vehicle and vessel" but does not explicitly include a bicycle.</p> | <p>Expand the definition of vehicle to clearly include bicycles. Bicycles will be subject to the same control and exclusion provisions as other vehicles.</p> <p>This is not a change to policy or practice. Bicycles have never been permitted in special areas without consent.</p> | <p>Clear rules on allowable activities within the drinking water catchment.</p> <p>Improved catchment protection.</p> <p>Improved compliance with the Regulation.</p> |
| 2 | <p>Insufficient protection of certain water catchment structures (fences, locks and chains).</p> <p>In the 2020 Regulation, a fence falls within the definition of a 'barrier' but only if it acts to "restrict or obstruct access to a road, track, trail, path or similar.</p> | <p>Expand the definition of 'barrier' so that it covers "any obstruction positioned or created to restrict or obstruct access to all or part of a land". This will make it an offence to remove, damage or interfere with all fences, locks and chains.</p> | <p>Protection of critical water supply infrastructure.</p> |
| 3 | <p>Insufficient protection of certain water catchment infrastructure (water storages, water mains, associated works and plant).</p> <p>The 2020 Regulation only prohibits a person from damaging, defacing or interfering with any 'building, structure or fixture'. Some catchment infrastructure does not fall within these categories.</p> | <p>Expand the prohibited activities on Schedule 1 and Schedule 2 land to persons damaging, defacing, disturbing or interfering with catchment infrastructure works (as defined in the Water NSW Act).</p> <p>This will make it an offence to damage, deface, disturb or interfere with water storages, water mains, connected or associated works and monitoring devices.</p> <p>This is not a major practice change as the general expectation is that such infrastructure is or should be protected.</p> | <p>Protection of critical water supply infrastructure.</p> <p>Improved ability for WaterNSW to enforce the Regulation.</p> |

| # | Issue with 2020 Regulation | Proposed change | Intended outcome/s |
|---|---|--|--|
| 4 | <p>The 2020 Regulation prohibits a person from damaging or removing a plant or part of a plant but is unclear about whether that includes the collection of firewood.</p> <p>The removal of firewood is recognised as impacting ecological integrity and the protection of endangered ecological communities. The risk relates to both firewood collection and tree felling for collection.</p> | Amend the provision to prohibit the removal of a plant or part of a plant, whether dead or alive. The removal of dead timber such as by firewood collection will now be expressly prohibited on Schedule 1 and Schedule 2 land. | <p>Clear rules on allowable activities within the drinking water catchment.</p> <p>Minimise the risk of this activity impacting on ecological integrity.</p> <p>Improved compliance with the Regulation.</p> <p>Improved ability for WaterNSW to enforce the Regulation.</p> |
| 5 | <p>Insufficient ability to regulate the use of unmanned vehicles (including drones) on Crown land and WaterNSW lands.</p> <p>Note, the 2020 Regulation already prohibits the operation of unmanned vehicles on Schedule 1 and Schedule 2 land.</p> | Include the operation of unmanned vehicles (including drones) on the list of activities that can be regulated or prohibited on Crown land and Water NSW land located within declared catchment areas by erecting a sign or notice. | Improved consistency in access rules across declared catchment areas. |
| 6 | Inconsistency between activities regulated by signs and notices on Crown land and Water NSW land and the activities prohibited on Schedule 1 and Schedule 2 land. | Align the activities regulated by signs and notices on Crown and Water NSW land located within declared catchment areas with the activities prohibited on Schedule 1 and Schedule 2 land. | Improved consistency in access rules across declared catchment areas. |

| # | Issue with 2020 Regulation | Proposed change | Intended outcome/s |
|---|---|--|---|
| 7 | <p>Inconsistent and unclear definitions of controlled areas.</p> <p>The 2020 Regulation lists special areas with reference to the relevant proclamation in the Gazette. However controlled areas are identified generally as Water NSW land on which there are water transfer structures and roads.</p> | List controlled areas in Schedule 1 via a reference to the relevant proclamation in the Gazette, consistent with how special areas are listed in Schedule 2. | <p>Consistent listing approach for controlled areas and special areas.</p> <p>Clearly defined controlled areas, which will assist with education of the rules, administration and the ability for WaterNSW to enforce the Regulation.</p> |

Table 2. Summary of changes: amendments that add, remove or change the substance of the regulatory provisions

| # | Issue with 2020 Regulation | Proposed change | Intended outcome/s |
|---|--|---|--|
| 1 | <p>Insufficient provisions relating to WaterNSW's ability to require the remediation and repair of land contaminated by a pollutant or waste.</p> <p>The 2020 Regulation provides WaterNSW with the power to direct a person to dispose of or remove a pollutant or waste but is silent on the reparation of damage.</p> | Enable WaterNSW to be able to direct a person who is responsible for a pollution or contamination incident to remediate and repair the affected area. | <p>Better management of pollution and contamination risks in the drinking water catchment to protect water quality.</p> <p>Clear power to direct a person to make good the damage they have caused to land or water by a pollutant or contaminant.</p> |

| # | Issue with 2020 Regulation | Proposed change | Intended outcome/s |
|---|--|--|---|
| 2 | <p>Insufficient provisions relating to WaterNSW's ability to recover costs for dealing with property left in special areas and controlled areas without consent.</p> | <p>Enable WaterNSW to recover costs incurred in the removal, impoundment and/or disposal of property (including stock or other animals and things) that is unauthorised and left in an area.</p> | <p>Cost-effective management of drinking water catchments.</p> <p>Deterrence for people carrying out unlawful activities.</p> <p>Better management of pollution and contamination risks in the drinking water catchment to protect water quality.</p> |
| 3 | <p>Inconsistency between the Regulation and environmental planning instruments.</p> <p>WaterNSW has a concurrence role under the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (B&C SEPP) requiring it to consider whether a development will have a neutral or beneficial effect on water quality. However, in assessing developments as part of that role, WaterNSW is unable to factor in the animal management provisions set out in the Water NSW Regulation for special areas.</p> <p>This creates a situation where WaterNSW might concur to a development under the B&C SEPP that could be in breach of the animal management provisions of the Water NSW Regulation.</p> | <p>For buildings and structures used for animal management on Schedule 1 or Schedule 2 land, limit the application of the offence provisions to works undertaken without lawful authority (i.e. a licence, consent or approval).</p> <p>This means that if a building or structure has a relevant approval under the <i>Protection of the Environment Operations Act 1997</i> or Part 5 of the <i>Environmental Planning and Assessment Act 1979</i>, it would not be in breach of the animal management provisions of the Water NSW Regulation.</p> | <p>Complementary provisions between the Regulation and environment protection and planning laws.</p> |

| # | Issue with 2020 Regulation | Proposed change | Intended outcome/s |
|---|---|---|--|
| 4 | <p>Insufficient restrictions on public access downstream of Warragamba Dam, allowing people to access the base of the dam wall, dissipator pool and the weir.</p> <p>Note the 2020 Regulation classifies the south-east bank of the river as Schedule 1 land, whilst the north-west bank is Schedule 2 land.</p> | <p>Change the classification of the area immediately downstream of the Warragamba Dam and upstream of and including the weir, from a Schedule 2 area to a Schedule 1 (no access) area. A detailed map of the proposed area is available on our website.</p> | <p>Improve public safety, particularly during water release and spilling events.</p> <p>Protect water supply infrastructure, including the base of the dam wall, tunnel, dissipator pool and weir.</p> <p>Consistent approach to the management of lands adjacent to both banks of the river directly below the dam.</p> |
| 5 | <p>Maps referring to Schedule 1 areas are not easily accessible to the public.</p> <p>The 2020 Regulation requires hard copies of maps to be available in the office of WaterNSW, located in Parramatta. This makes them inaccessible for most members of the public who do not live in the vicinity of Parramatta or are unable to attend during business hours.</p> | <p>Require Schedule 1 areas (and any other areas relying on maps to define restricted areas) to be published on the WaterNSW website rather than having to be physically deposited in the office of WaterNSW.</p> | <p>Modernise the regulatory requirement and improve public accessibility of maps.</p> <p>WaterNSW can easily update or replace maps, ensuring the public has access to the most current information.</p> |

| # | Issue with 2020 Regulation | Proposed change | Intended outcome/s |
|---|---|--|--|
| 6 | <p>The 2020 Regulation does not provide for the removal of environmental protection notices from the public register, even if they have been withdrawn or revoked.</p> <p>This creates potential reputational damage to persons or businesses if they remain on the public register after an environmental protection notice is withdrawn or revoked.</p> | <p>Enable WaterNSW to remove environmental protection notices from the public register that are no longer in force because they have been withdrawn or revoked.</p> | <p>Avoid unjustified and unnecessary reputational damage to individuals and businesses.</p> |
| 7 | <p>Penalty notice amounts need updating to account for inflation and act as a reasonable deterrent to breaches of the regulation.</p> | <p>Amend Schedule 3 to increase the amount payable for all penalty notices. Proposed new penalties:</p> <p>For individuals</p> <p>Range from \$450 to \$1,500, with most increased from \$750 to \$1,000.</p> <p>For corporations</p> <p>Range from \$1,500 to \$4,000, with most increased from \$1,500 to \$2,000.</p> | <p>Account for inflation.</p> <p>Ensure penalties provide sufficient incentive to deter people from carrying out unlawful activities.</p> |
| 8 | <p>Amendment proposed by WaterNSW because its authorised officers do not rely on these powers.</p> | <p>Remove the provision that allows authorised officers to use 'reasonable force' to remove persons who have contravened the Act or Regulation and fail to leave Water NSW land or Crown land after being directed to do so.</p> | <p>NSW Police to assist with all situations requiring persons to be removed.</p> <p>WaterNSW authorised officers do not put themselves in potentially unsafe situations.</p> |

Additional information about the proposed 2026 Regulation

Note, the catchment areas of Broughton's Pass Weir, Pheasant's Nest Weir and Lake Woronora are no longer explicitly referenced in the proposed 2026 Regulation, as they are fully included within the Metropolitan Catchment Area and Woronora Catchment Area, which are listed in Schedule 1.

The proposed Regulation refers to the relevant map being the "2026 Special and Controlled Areas Schedule 1 and 2 Land" map as published on the Water NSW website. This map is still in draft format and is intended to be published online by the time the 2026 Regulation is made. A static copy of the map can be viewed via the public exhibition documents supplied on the Regulation remake website at water.dcceew.nsw.gov.au/waternsw-regulation-remake.

Relative to the Special Areas Map currently available on the Water NSW website, the draft map includes the following amendments:

- the proposed change in public access below Warragamba Dam,
- revised labels for Schedule 1 and Schedule 2 land to reflect the wording used in the 2026 Regulation,
- showing the 'excluded townships' described in Schedule 1, section 3,
- showing the additional controlled areas that are captured by the wording in Schedule 1:
 - Bendeela Pondage and Pipeline
 - Kangaroo Pipeline
 - Fitzroy Canal.