



New South Wales

# Water NSW Regulation 2026

under the

Water NSW Act 2014

[*The following enacting formula will be included if this regulation is made—*]

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Water NSW Act 2014*.

Minister for Water

## Explanatory note

The object of this regulation is to repeal and remake, with amendments, the *Water NSW Regulation 2020*, which would otherwise be repealed on 1 September 2026 by the *Subordinate Legislation Act 1989*, section 10(2).

This regulation deals with the following—

- (a) the conferral of certain functions under the *Protection of the Environment Operations Act 1997* on the Regulatory Authority,
- (b) the regulation of certain conduct in special areas or controlled areas,
- (c) notices given by public agencies in relation to the exercise of functions in special areas,
- (d) the councils to which Water NSW must supply water,
- (e) the fees and charges payable to Water NSW for entry to special areas or controlled areas,
- (f) the offences under the *Water NSW Act 2014* and this regulation for which a penalty notice may be issued and the prescribed penalties payable for the offences when dealt with by way of a penalty notice,
- (g) other miscellaneous matters.

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# public consultation draft

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## Water NSW Regulation 2026

under the

Water NSW Act 2014

### Part 1 Preliminary

#### 1 Name of regulation

This regulation is the *Water NSW Regulation 2026*.

#### 2 Commencement

This regulation commences on the day on which this regulation is published on the NSW legislation website.

**Note—** This regulation repeals and replaces the *Water NSW Regulation 2020*, which would otherwise be repealed on 1 September 2026 by the *Subordinate Legislation Act 1989*, section 10(2).

#### 3 Definitions

The dictionary in Schedule 4 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 Regulatory Authority

### 4 Regulatory Authority may exercise powers of EPA and other regulatory authorities—the Act, s 63(2)

- (1) The Regulatory Authority has the same functions as the EPA or another 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 a relevant non-scheduled activity and in relation to an offence set out in this regulation, Part 3—
  - (a) Chapter 4,
  - (b) Chapter 7, other than section 186,
  - (c) Part 8.2, Division 2.
- (2) The Regulatory Authority has the same functions as the EPA under the *Protection of the Environment Operations Act 1997*, Part 8.2 in relation to an offence—
  - (a) against that Act, section 144AE, 144AH, 145, 145A, 146, 146A, 146B or 146C, and
  - (b) that is committed or alleged to have been committed in a declared catchment area.
- (3) The Regulatory Authority has the same functions—
  - (a) as the EPA under the *Protection of the Environment Operations Act 1997*, section 316 for a dispute referred to in that section, and
  - (b) as a regulatory authority under the *Protection of the Environment Operations Act 1997*, section 319 or 320 for a disclosure referred to in that Act, section 319 or 320.
- (4) 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 relation to the exercise of the function, including any—
    - (i) provisions relating to the exercise of the function, and
    - (ii) offences under that Act, and
    - (iii) provisions relating to proceedings for offences, and
    - (iv) appeal provisions, and
  - (b) references in that Act to the following are taken to include the Regulatory Authority—
    - (i) the EPA,
    - (ii) another regulatory authority, including the appropriate regulatory authority,
    - (iii) an authorised officer.
- (5) In this section—

**relevant non-scheduled activity** means a non-scheduled activity carried out or proposed to be carried out—

  - (a) within a declared catchment area or controlled area, or
  - (b) outside a declared catchment area or controlled area and that affects or may possibly affect a declared catchment area or controlled area.

## 5 Purposes for which functions may be exercised

For the Act, section 64AA(a), the Regulatory Authority must not exercise the functions conferred on it by this part unless the exercise is for one or more of the following purposes—

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

## 6 Limitations on functions of Regulatory Authority

- (1) For the Act, section 64AA(a), the Regulatory Authority must 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) a non-scheduled activity authorised or controlled by an environment protection licence.

**Note—** The appropriate regulatory authority in relation to the activities listed in this subsection will generally be the EPA.

- (2) The Regulatory Authority must 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 Relationship between directions of regulatory authorities—the Act, s 63(2)

- (1) If, when the Regulatory Authority is exercising the functions conferred on it by this part, the Regulatory Authority and another regulatory authority both give an environment protection notice in relation to 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—
  - (i) the notice given by the EPA prevails, and
  - (ii) 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 the notice and the notice given by the EPA, and
- (b) otherwise—
  - (i) the notice given by the Regulatory Authority prevails, and
  - (ii) 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 the 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 the *Protection of the Environment Operations Act 1997*, section 6(3).

- (2) In this section—

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

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

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

## 8 Regulatory Authority to keep register—the Act, s 64AA(b) and (c)

- (1) The Regulatory Authority must keep a register of the following—
  - (a) details of each environment protection notice given by the Regulatory Authority,
  - (b) details of convictions in prosecutions brought by the Regulatory Authority under the *Protection of the Environment Operations Act 1997*,
  - (c) the results of civil proceedings before the Land and Environment Court brought by or against the Regulatory Authority under the *Protection of the Environment Operations Act 1997*,
  - (d) other matters the Regulatory Authority considers appropriate, having regard to the purposes of the *Protection of the Environment Operations Act 1997*.
- (2) The register must also continue to include details, results or other matters that were included in the register by the Sydney Catchment Authority before the Sydney Catchment Authority's abolition.
- (3) The Regulatory Authority may remove from the register an environment protection notice that has been withdrawn or revoked.
- (4) A copy of the register must be available for inspection on the website maintained by the Regulatory Authority.
- (5) A copy of a 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.
- (6) In this section—

**details** of a matter means—

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

## **Part 3 Special and controlled areas—the Act, ss 51 and 55**

### **Division 1 Conduct on all special and controlled areas**

#### **9 Application of division**

This division applies to land in—

- (a) a special area, or
- (b) a controlled area.

#### **10 No interference with water**

- (1) A person must not dam, divert or take water located on land to which this division applies that is—

- (a) water from which Water NSW draws its supply, or
- (b) water available for supply by Water NSW.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
- (b) otherwise—200 penalty units.

- (2) A person does not commit an offence under subsection (1) for anything done with—

- (a) the consent of Water NSW, or
- (b) lawful authority under the *Water Management Act 2000* or the *Water Act 1912*.

#### **11 Control of pollution**

- (1) A person must not—

- (a) bring a relevant substance into or leave a relevant substance on—
  - (i) land to which this division applies, or
  - (ii) if the nature of the relevant substance increases the risk of harm to the environment on the land—an area of land adjoining the land, or
- (b) cause or permit the pollution of waters on the land.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
- (b) otherwise—200 penalty units.

- (2) A person does not commit an offence under subsection (1) for anything done—

- (a) with the consent of Water NSW, or
- (b) in accordance with an environment protection licence.

- (3) If the Regulatory Authority or an authorised officer has reason to believe a person is in contravention of subsection (1), the Regulatory Authority or authorised officer may direct the person to do one or more of the following—

- (a) dispose of the relevant substance,
- (b) remove the relevant substance from the following—
  - (i) the land,
  - (ii) if the nature of the relevant substance increases the risk of harm to the environment on the land—an area of land adjoining the land,
- (c) make available for inspection by the Regulatory Authority or authorised officer a device or record in the person's possession,



- (d) remediate pollution or contamination of the land, or an area of land adjoining the land, caused by the contravention.
- (4) A person given a direction under subsection (3) must comply with the direction.  
Maximum penalty—
  - (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.

- (5) In this section—  
**harm** to the environment includes—
  - (a) a direct or indirect alteration of the environment that degrades the environment, and
  - (b) an act or omission that results in pollution.

**pollutant** means a thing that causes pollution within the meaning of the *Protection of the Environment Operations Act 1997*.

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

**record** includes a truck manifest and driver logbook.

**relevant substance** means any of the following—

- (a) pollutant,
- (b) waste,
- (c) another substance on the land the Regulatory Authority or authorised officer considers may harm the land.

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

## 12 On-site sewage management facilities

- (1) The owner or occupier of land to which this division applies must not erect, install or operate an on-site sewage management facility on the land.  
Maximum penalty—
  - (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done—
  - (a) with the consent of Water NSW, or
  - (b) in accordance with one or more of the following—
    - (i) a development consent granted under the *Environmental Planning and Assessment Act 1979*,
    - (ii) an approval granted under the *Local Government Act 1993*,
    - (iii) an environment protection licence.

## 13 Destruction or damage of structures or works

- (1) A person must not destroy or damage a structure or work owned by or under the control of Water NSW on land to which this division applies.  
Maximum penalty—
  - (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.

- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.

## 14 Recovery of costs associated with removal of property

- (1) An authorised officer may remove, impound or otherwise dispose of property left without the consent of Water NSW on land to which this division applies.
- (2) If an authorised officer takes an action specified in subsection (1)—
- (a) the owner of the property is liable to Water NSW for all costs incurred by Water NSW as a result of the action taken, and
  - (b) Water NSW may recover the amount of the costs from the owner as a debt in a court of competent jurisdiction.

## 15 Animal management

- (1) A person must not, on land to which this division applies, erect, maintain or use a building or structure for one or more of the following—
- (a) aquaculture,
  - (b) intensive livestock agriculture,
  - (c) an animal boarding or training establishment.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done—
- (a) with the consent of Water NSW, or
  - (b) in accordance with a licence, consent or approval granted under one or both of the following—
    - (i) the *Protection of the Environment Operations Act 1997*,
    - (ii) the *Environmental Planning and Assessment Act 1979*.

- (3) In this section—

**approval**, under the *Environmental Planning and Assessment Act 1979*, means approval under that Act, Part 5.

**consent**, under the *Environmental Planning and Assessment Act 1979*, means development consent under that Act, Part 4.

## 16 Disposal of animal carcasses near water

- (1) A person must not, within 100 metres of a stream, reservoir or watercourse on land to which this division applies—
- (a) leave the carcass of a dead animal, or arrange or permit the carcass of a dead animal to be left, or
  - (b) bury, or otherwise dispose of, the carcass of a dead animal, or
  - (c) cause or permit the carcass of a dead animal to be buried or disposed of.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.

## Division 2 Conduct on Crown land or Water NSW land

### 17 Application of division

This division applies to land that is—

- (a) Crown land or Water NSW land, and
- (b) in a special area or controlled area.

### 18 Stock control

- (1) An owner or person in charge of stock must ensure the stock does not enter land to which this division applies.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.
- (3) If stock enters the land without the consent of Water NSW, an authorised officer may take the following action—
  - (a) drive the stock away, or remove the stock, from the land,
  - (b) impound, sell, destroy or otherwise dispose of the stock.
- (4) If an authorised officer takes an action specified in subsection (3)—
  - (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 taken, and
  - (b) Water NSW may recover the amount of the costs from the owner or person in charge as a debt in a court of competent jurisdiction.
- (5) In this section—  
**stock** includes cattle, horses, donkeys, mules, camels, sheep, goats, pigs, deer, alpacas or llamas.

### 19 Entering or remaining on land in contravention of signs or notices

- (1) Water NSW may erect a sign or notice on land to which this division applies prohibiting or restricting, with or without conditions, a person entering or remaining on the land.
- (2) A person must not enter or remain on land in contravention of a sign or notice erected under this section.  
Maximum penalty—
  - (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (3) A person does not commit an offence under subsection (2) for anything done with the consent of Water NSW.

### 20 Conduct in contravention of signs or notices

- (1) Water NSW may erect a sign or notice on land to which this division applies prohibiting or restricting, with or without conditions, the following conduct on the land to which the sign or notice relates—
  - (a) destroying, harming, capturing, chasing or otherwise interfering with an animal,

- (b) damaging or interfering with the habitat of an animal,
  - (c) damaging, interfering with or removing a plant or part of a plant, whether dead or alive,
  - (d) removing a rock, soil, sand, stone or similar substance,
  - (e) bringing in or releasing an animal,
  - (f) leading or riding an animal,
  - (g) conducting commercial activities,
  - (h) lighting, maintaining or using fires,
  - (i) camping or residing,
  - (j) disposing of waste,
  - (k) driving or riding in or on a vehicle,
  - (l) damaging, defacing, disturbing or otherwise interfering with a building, structure, sign, fixture, catchment infrastructure work, animal trap, bait or plant rehabilitation measure,
  - (m) using facilities,
  - (n) entering, fishing or swimming in water,
  - (o) using a vessel on water,
  - (p) washing in water,
  - (q) causing an animal, animal matter, plant or plant matter to enter or remain in water,
  - (r) bringing in, using or keeping a pesticide or environmentally hazardous chemical,
  - (s) operating an unmanned vehicle, including by causing the unmanned vehicle to enter, or fly or otherwise move over, the land.
- (2) A person must not act in contravention of a sign or notice erected under this section.  
Maximum penalty—
- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (3) A person does not commit an offence under subsection (2) for anything done with the consent of Water NSW.

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

- (1) An authorised officer may direct a person to leave land to which this division applies if the authorised officer reasonably believes—
- (a) the direction is necessary to prevent injury to a person, or
  - (b) the person is hindering or obstructing emergency operations carried out by any of the following—
    - (i) an emergency services organisation within the meaning of the *State Emergency and Rescue Management Act 1989*,
    - (ii) the Forestry Corporation,
    - (iii) the National Parks and Wildlife Service,
    - (iv) the Sydney Water Corporation,
    - (v) Water NSW.
- (2) The person directed to leave must leave the land immediately.  
Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (3) A person does not commit an offence under subsection (2) unless the authorised officer has warned the person that failure to comply with the direction is an offence.

## **22 Directions to leave**

- (1) An authorised officer may direct a person to leave land to which this division applies if—
  - (a) in the authorised officer’s opinion, the person has contravened a provision of the Act or this regulation while on the land, and
  - (b) the authorised officer has warned the person that failure to comply with the direction is an offence.
- (2) The person directed to leave must leave the land immediately.  
Maximum penalty—
  - (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (3) An authorised officer may further direct the person to remove from the land equipment, vehicles, animals or other items belonging to or associated with the person.
- (4) A person given a direction under subsection (3) must comply with the direction.  
Maximum penalty—
  - (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (5) A person does not commit an offence under subsection (4) unless the authorised officer has warned the person that failure to comply with the direction is an offence.

## **23 Investigation of suspected contraventions**

- (1) An authorised officer may give a direction under this section if the officer has reason to believe—
  - (a) a person is on land to which this division applies, and
  - (b) the person has a thing in the person’s possession or control—
    - (i) in contravention of the Act or this regulation, or
    - (ii) because of a contravention or intended contravention of the Act or this regulation.
- (2) The authorised officer may direct the person—
  - (a) to surrender the thing into the authorised officer’s possession and control, or
  - (b) to make the thing available for inspection by the authorised officer for the purposes of investigating the suspected contravention or intended contravention.
- (3) A person given a direction under subsection (2) must comply with the direction.  
Maximum penalty—
  - (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.

## **Division 3 Conduct on Schedule 1 land**

### **24 Application of division**

This division applies to Schedule 1 land that is Crown land or Water NSW land.

### **25 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, land to which this division applies.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.

### **26 Prohibited activities**

- (1) A person must not do one or more of the following on land to which this division applies—

- (a) enter or remain,
- (b) camp,
- (c) enter, fish, swim or wash in water,
- (d) use a vessel on water,
- (e) cause an animal, animal matter, plant or plant matter to enter or remain in water,
- (f) light, maintain or use a fire,
- (g) drive or ride in or on a vehicle,
- (h) lead or ride an animal,
- (i) land an aircraft,
- (j) operate an unmanned vehicle, including by causing the unmanned vehicle to enter, or fly or otherwise move over, the land,
- (k) conduct commercial activities,
- (l) damage, deface, disturb or otherwise interfere with a building, structure, sign, fixture, catchment infrastructure work, animal trap, bait or plant rehabilitation measure,
- (m) damage, interfere with or remove a plant or part of a plant, whether dead or alive,
- (n) remove a rock, soil, sand, stone or similar substance,
- (o) destroy, capture, injure or otherwise interfere with an animal,
- (p) damage or interfere with the habitat of an animal.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.

### **27 Prohibited things**

- (1) A person must not bring onto or possess on land to which this division applies—

- (a) a plant or part of a plant, or
- (b) an animal, or
- (c) a firearm or imitation firearm or a prohibited weapon, unless the person is a police officer on duty.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.

## **28 Unrestrained animals**

- (1) A person must not allow an unrestrained animal for which the person is responsible to enter or remain on land to which this division applies.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.

## **29 Offensive conduct**

- (1) A person must not do one or more of the following on land to which this division applies—

- (a) behave in a disorderly manner,
- (b) use insulting or offensive language,
- (c) commit an act of indecency.

Maximum penalty—200 penalty units.

- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.
- (3) A person must not use, or be affected by, a prohibited drug, within the meaning of the *Drug Misuse and Trafficking Act 1985*, on land to which this division applies.

Maximum penalty—200 penalty units.

## **30 Use of sound-generating devices**

- (1) A person must not operate or use a sound-generating device in a way likely to interfere with, or cause a nuisance to, a person or animal on land to which this division applies.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.

## **31 Consuming alcohol in contravention of signs or notices**

- (1) Water NSW may erect a sign or notice on land to which this division applies prohibiting or restricting, with or without conditions, the consumption of alcohol on the land.

- (2) A person must not consume alcohol in contravention of the sign or notice erected on the land.  
Maximum penalty— 200 penalty units.
- (3) A person does not commit an offence under subsection (2) for anything done with the consent of Water NSW.

## **32 Pesticides and pest control**

- (1) A person must not bring, use or keep a pesticide or environmentally hazardous chemical on land to which this division applies.  
Maximum penalty—
  - (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1)—
  - (a) if the person brings, uses or keeps a quantity of pesticide solely for household or domestic purposes, or
  - (b) for anything done—
    - (i) with the consent of Water NSW, or
    - (ii) in accordance with an environment protection licence.
- (3) Subsection (2) does not authorise a person to use a pesticide in contravention of the *Pesticides Act 1999*.

## **Division 4 Conduct on Schedule 2 land**

### **33 Application of division**

This division applies to Schedule 2 land that is Crown land or Water NSW land.

### **34 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, land to which this division applies.  
Maximum penalty—
  - (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.

### **35 Prohibited activities**

- (1) A person must not do one or more of the following on land to which this division applies—
  - (a) drive or ride in or on a vehicle,
  - (b) lead or ride an animal,
  - (c) land an aircraft,
  - (d) operate an unmanned vehicle, including by causing the unmanned vehicle to enter, or fly or otherwise move over, the land,
  - (e) conduct commercial activities,
  - (f) damage, deface, disturb or otherwise interfere with a building, structure, sign, fixture, catchment infrastructure work, animal trap, bait or plant rehabilitation measure,



- (g) damage, interfere with or remove a plant or part of a plant, whether dead or alive,
- (h) remove a rock, soil, sand, stone or similar substance,
- (i) destroy, capture, injure or otherwise interfere with an animal,
- (j) damage or interfere with the habitat of an animal.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.

### 36 Prohibited things

- (1) A person must not bring onto or have in the person's possession on land to which this division applies—
- (a) a plant or part of a plant, or
  - (b) an animal, or
  - (c) a firearm or imitation firearm or a prohibited weapon, unless the person is a police officer on duty.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.

### 37 Unrestrained animals

- (1) A person must not allow an unrestrained animal for which the person is responsible to enter or remain on land to which this division applies.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.

### 38 Offensive conduct

- (1) A person must not do one or more of the following on land to which this division applies—
- (a) behave in a disorderly manner,
  - (b) use insulting or offensive language,
  - (c) commit an act of indecency.

Maximum penalty—200 penalty units.

- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.
- (3) A person must not use, or be affected by, a prohibited drug, within the meaning of the *Drug Misuse and Trafficking Act 1985*, on land to which this division applies
- Maximum penalty—200 penalty units.

## **39 Use of sound-generating devices**

- (1) A person must not operate or use a sound-generating device in a way likely to interfere with, or cause a nuisance to, a person or animal on land to which this division applies.  
Maximum penalty—
  - (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done with the consent of Water NSW.

## **40 Consuming alcohol in contravention of signs or notices**

- (1) Water NSW may erect a sign or notice on land to which this division applies prohibiting or restricting, with or without conditions, the consumption of alcohol on the land.
- (2) A person must not consume alcohol in contravention of the sign or notice erected on the land.  
Maximum penalty— 200 penalty units.
- (3) A person does not commit an offence under subsection (2) for anything done with the consent of Water NSW.

## **41 Use of water**

- (1) A person must not do one or more of the following on land to which this division applies—
  - (a) use a vessel on water,
  - (b) wash in water,
  - (c) cause an animal, animal matter, plant or plant matter to enter or remain in water.  
Maximum penalty—
  - (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for—
  - (a) using a vessel on water propelled solely by human power or the wind, or
  - (b) taking an amount of water necessary for personal use, including for washing, while on the land, or
  - (c) anything done with the consent of Water NSW.

## **42 Pesticides and pest control**

- (1) A person must not bring, use or keep a pesticide or environmentally hazardous chemical on land to which this division applies.  
Maximum penalty—
  - (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1)—
  - (a) if the person brings, uses or keeps a quantity of pesticide solely for household or domestic purposes, or
  - (b) for anything done—

- (i) with the consent of Water NSW, or
  - (ii) in accordance with an environment protection licence.
- (3) Subsection (2) does not authorise a person to use a pesticide in contravention of the *Pesticides Act 1999*.

## 43 Lighting fires

- (1) A person must not do one or more of the following on land to which this division applies—
  - (a) light, maintain or use a fire in the open—
    - (i) in contravention of a notice bearing the name and logo of Water NSW, or
    - (ii) if there are public fireplaces on the land—anywhere other than in a public fireplace, or
    - (iii) if there are no public fireplaces on the land—anywhere other than in a temporary fireplace situated at least 4.5m from a log or stump and at least 1.5m from other flammable material,
  - (b) leave unattended a fire the person has lit, maintained or used,
  - (c) handle a flammable substance in a way that is likely to cause a fire,
  - (d) light a fire in a wilderness area, unless the fire is lit in accordance with—
    - (i) a provision of the *Wilderness Act 1987*, or regulations made under that Act, relating to the lighting of fires in wilderness areas, or
    - (ii) the terms of a wilderness protection agreement or conservation agreement in relation to the lighting of fires in the wilderness area to which the agreement relates.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.
- (2) A person does not commit an offence under subsection (1) for anything done—
  - (a) with the consent of Water NSW,
  - (b) in relation to the exercise of a function by a public agency in accordance with the Act, section 50.
- (3) If a person is unable to control or extinguish a fire the person has lit, maintained or used in accordance with this section, the person must report the fire to emergency services.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
  - (b) otherwise—200 penalty units.

- (4) In this section—

**conservation agreement** has the same meaning as in the *National Parks and Wildlife Act 1974*.

**flammable substance** includes petrol, matches and cigarettes.

**wilderness area** means a part of the land declared under the *Wilderness Act 1987*, section 8 to be a wilderness area.

**wilderness protection agreement** has the same meaning as in the *Wilderness Act 1987*.

## **Division 5      Miscellaneous**

### **44    How Water NSW may grant consent**

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

### **45    Compliance with Water NSW's consent**

A person who does anything in a special area or controlled area with the consent of Water NSW must comply with the conditions of the consent.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
- (b) otherwise—200 penalty units.

### **46    Fees and charges for entry on certain land**

- (1) Water NSW may, from time to time, determine the fees or charges payable for entry by persons or vehicles to a special area or controlled area.
- (2) A person who is liable to pay the fees or charges may be denied entry to the land unless the fees or charges are paid on request by the Regulatory Authority.

### **47    Notice by public agencies for exercise of functions in special areas—the Act, s 50**

For the Act, section 50(1), notice given to the Regulatory Authority must—

- (a) be in writing, and
- (b) be given to the Regulatory Authority by—
  - (i) post, or
  - (ii) lodging the notice at an office of the Regulatory Authority, and
- (c) contain—
  - (i) a full description of the functions proposed to be exercised, and
  - (ii) a statement of the objectives of the exercise of the functions, and
- (d) give at least 28 days notice of the commencement of the exercise of the functions.

## **Part 4 Miscellaneous**

### **48 Supply of water to prescribed local councils—the Act, s 7**

For the Act, section 7(1)(c), the following local councils are prescribed—

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

### **49 Delegation by Minister—the Act, s 110**

For the Act, section 110(1)(c), the chief executive officer is authorised.

### **50 Penalty notices**

- (1) For the Act, section 102—
  - (a) each offence created by a provision specified in Schedule 3 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.

### **51 Repeal and savings**

- (1) The *Water NSW Regulation 2020* is repealed.
- (2) An act, matter or thing that, immediately before the repeal of the *Water NSW Regulation 2020*, had effect under that regulation continues to have effect under this regulation.

## Schedule 1 Schedule 1 land

Schedule 4, definition of “Schedule 1 land”

### 1 Special areas

The following special areas, being parts of land identified on the relevant map—

- (a) the area of land—
  - (i) in Warragamba Catchment Area, and
  - (ii) submerged by Lake Burragorang, together with the area of land that surrounds the lake extending from the edge of the lake to 3km above the full supply level of the lake,
- (b) Metropolitan Catchment Area—
  - (i) as proclaimed in Gazette No 79 of 13 July 1923 at pages 3080–3086, and
  - (ii) as amended by proclamation published in Gazette No 79 of 26 May 1933 at page 1828,
- (c) Woronora Catchment Area as proclaimed in Gazette No 37 of 21 March 1941 at pages 1142–1144,
- (d) Wingecarribee Catchment Area as proclaimed in Gazette No 156 of 14 December 1973 at page 5324,
- (e) Blackheath Special Area as proclaimed in Gazette No 45 of 15 March 1991 at page 2186,
- (f) Katoomba Special Area as proclaimed in Gazette No 45 of 15 March 1991 at page 2186,
- (g) Woodford Special Area as proclaimed in Gazette No 45 of 15 March 1991 at page 2186,
- (h) Prospect Special Area as declared by order published in Gazette No 92 of 25 July 2008 at page 7326,
- (i) part of the Shoalhaven Catchment Area as proclaimed in Gazette No 13 of 8 February 1974 at page 386,
- (j) the western bank and downstream area of Warragamba River past Warragamba Weir within the Warragamba Catchment Area,
- (k) Wingecarribee Special Area-Part as declared by order published in Gazette No 279 of 1 July 2022.

### 2 Controlled areas

- (1) The following controlled areas, being parts of land identified on the relevant map, including an area on which a water transfer structure is located—
  - (a) the Bendeela Pondage and pipeline as declared by order published in Gazette No 76 of 2 July 1999 at pages 4646 and 4647,
  - (b) the Kangaroo pipeline and Fitzroy Canal control structure as declared by order published in Gazette No 76 of 2 July 1999 at pages 4646 and 4647,
  - (c) the Upper Canal as proclaimed in Gazette No 76 of 2 July 1999 at pages 4646 and 4647,
  - (d) Warragamba pipelines as proclaimed in Gazette No 76 of 2 July 1999 at pages 4646 and 4647,
  - (e) Warragamba Controlled Area as proclaimed in Gazette No 175 of 30 November 2007 at pages 8705 and 8706.

(2) In this section—

*water transfer structure* means a canal, drainage channel, pipeline, tunnel or water main.

*Warragamba pipelines* means the pipelines that transfer water from Warragamba Dam to Prospect Reservoir.

### **3 Excluded areas from Schedule 1 land**

The following excluded areas, being parts of land in the following townships, as identified on the relevant map—

- (a) Medlow Bath,
- (b) Nattai Village,
- (c) Yerrinbool.

## **Schedule 2      Schedule 2 land**

Schedule 4, definition of “Schedule 2 land”

### **Special areas**

The following special areas, other than a part of the area listed in Schedule 1, as identified on the relevant map—

- (a) Fitzroy Falls Catchment Area as proclaimed in Gazette No 11 of 4 February 1977 at page 414,
- (b) Shoalhaven Catchment Area as proclaimed in Gazette No 13 of 8 February 1974 at page 386,
- (c) Warragamba Catchment Area.



## Schedule 3 Penalty notice offences

section 51(1)

Column 1	Column 2	Column 3
Provision	Penalty (individual)	Penalty (corporation)
<b>Offences under the Act</b>		
Section 36(3)(b)	\$1,000	\$2,000
Section 70(4)	\$1,000	\$2,000
Section 71(2)	\$1,000	\$2,000
Section 73(4)	\$1,000	\$2,000
Section 74(2)	\$1,000	\$2,000
Section 77(5)	\$1,000	\$2,000
Section 80(4)	\$1,000	\$2,000
Section 81(6)	\$1,000	\$2,000
Section 84(6)	\$1,000	\$2,000
Section 93	\$1,000	\$2,000
Section 94(1)	\$1,000	\$2,000
<b>Offences under this regulation</b>		
Section 10(1)	\$1,000	\$2,000
Section 11(1)	\$1,000	\$4,000
Section 11(4)	\$1,000	\$4,000
Section 12(1)	\$1,000	\$2,000
Section 13(1)	\$1,000	\$2,000
Section 15(1)	\$1,000	\$4,000
Section 16(1)	\$1,000	\$2,000
Section 18(1)	\$1,000	\$2,000
Section 19(2)	\$1,500	\$2,250
Section 20(2)	\$1,000	\$2,000
Section 21(2)	\$1,000	\$2,000
Section 22(2)	\$1,000	\$2,000
Section 22(4)	\$1,000	\$2,000
Section 23(3)	\$1,000	\$2,000
Section 25(1)	\$1,500	\$2,250
Section 26(1)(a)	\$450	\$1,500
Section 26(1)(b)–(p)	\$1,500	\$2,250
Section 27(1)	\$1,000	\$2,000
Section 28(1)	\$1,000	\$2,000
Section 29(1)	\$1,000	—

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# public consultation draft

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Water NSW Regulation 2026 [NSW]  
Schedule 3 Penalty notice offences

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Column 1	Column 2	Column 3
Provision	Penalty (individual)	Penalty (corporation)
Section 29(3)	\$1,000	—
Section 30(1)	\$1,000	\$2,000
Section 31(2)	\$1,000	—
Section 32(1)	\$1,000	\$2,000
Section 34(1)	\$1,000	\$2,000
Section 35(1)	\$1,000	\$2,000
Section 36(1)	\$1,000	\$2,000
Section 37(1)	\$1,000	\$2,000
Section 38(1)	\$1,000	—
Section 38(3)	\$1,000	—
Section 39(1)	\$1,000	\$2,000
Section 40(2)	\$1,000	—
Section 41(1)	\$1,000	\$2,000
Section 42(1)	\$1,000	\$2,000
Section 43(1)	\$1,000	\$2,000
Section 43(3)	\$1,000	\$2,000
Section 45	\$1,000	\$4,000

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## Schedule 4 Dictionary

section 3

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

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

**animal** includes a non-human mammal, bird, fish, reptile, amphibian, crustacean, arthropod and mollusc.

**animal boarding or training establishment** has the same meaning as in the standard instrument set out in *Standard Instrument (Local Environmental Plans) Order 2006*.

**aquaculture** has the same meaning as in the standard instrument set out in *Standard Instrument (Local Environmental Plans) Order 2006*.

**barrier** includes an obstruction positioned or created to restrict or obstruct access to all or part of a land.

**building** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

**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*.

**commercial activity** includes selling goods and offering goods for sale.

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

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

**environmentally hazardous chemical** has the same meaning as in the *Protection of the Environment Operations Act 1997*.

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

**EPA** means the Environment Protection Authority constituted by the *Protection of the Environment Administration Act 1991*.

**fixture** includes picnic tables, seats, fences, fireplaces, barbecues and monitoring devices, including rain gauges, and associated infrastructure.

**imitation firearm** has the same meaning as in the *Firearms Act 1996*.

**intensive livestock agriculture** has the same meaning as in the standard instrument set out in *Standard Instrument (Local Environmental Plans) Order 2006*.

**non-scheduled activity** has the same meaning as in the *Protection of the Environment Operations Act 1997*.

**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.

**plant**—

- (a) means an aquatic or terrestrial plant, and
- (b) includes a shrub and tree.

**plant rehabilitation measure** includes seedlings, matting or survey pegs and tapes marking out rehabilitation areas.

**prohibited weapon** has the same meaning as in the *National Parks and Wildlife Act 1974*.

**relevant map** means the map titled “2026 Special and Controlled Areas Schedule 1 and 2 Land” and published on the Water NSW website on [date].

**Schedule 1 land**—

- (a) means the controlled areas or special areas identified in Schedule 1, sections 1 and 2, and
- (b) does not include the excluded areas identified in Schedule 1, section 3.

**Schedule 2 land** means the special areas identified in Schedule 2.

**sound-generating device** includes a radio, television and speakers.

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

**unmanned vehicle** includes an unmanned airborne craft, including the following—

- (a) a drone or other remotely piloted airborne craft,
- (b) another unmanned motorised vehicle.

**vehicle** includes a motor vehicle, bicycle and vessel.

**vessel**—

- (a) includes a water craft used, or capable of being used, as a means of transportation on water, and
- (b) does not include an aircraft capable of landing on water.

**Warragamba Catchment Area** means the Warragamba Catchment Area—

- (a) as proclaimed in Gazette No 122 of 4 September 1942 at pages 2499 and 2500, and
- (b) as amended by proclamation published in—
  - (i) Gazette No 1 of 7 January 1944 at page 1, and
  - (ii) Gazette No 77 of 4 August 1944 at page 1365.

**watercourse** has the same meaning as in the standard instrument set out in *Standard Instrument (Local Environmental Plans) Order 2006*.

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