

Department of Climate Change, Energy, the Environment and Water

What we heard report

Remake of the Water NSW Regulation 2020

August 2026



Acknowledgement of Country



Department of Climate Change, Energy, the Environment and Water acknowledges the traditional custodians of the land and pays respect to Elders past, present and future.

We recognise Australian Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to place and their rich contribution to society.

Artist and designer Nikita Ridgeway from Aboriginal design agency – Boss Lady Creative Designs, created the People and Community symbol.

What we heard report

Published by NSW Department of Climate Change, Energy, the Environment and Water

www.water.dcceew.nsw.gov.au

First published: September 2026

Department or Agency reference number: PUB26/531

Copyright and disclaimer

© State of New South Wales through Department of Climate Change, Energy, the Environment and Water 2026. Information contained in this publication is based on knowledge and understanding at the time of writing, August 2026, and is subject to change. For more information, please visit the following websites:

For Water and Environment <https://www.environment.nsw.gov.au/about-us/copyright-and-disclaimer>

Contents

Acknowledgement of Country	ii
1 Executive summary	1
1.1 About this report	1
2 Introduction	2
2.1 Background	2
Proposed amendments	2
2.2 Engagement overview	3
How we engaged	3
3 What we heard	5
3.1 Online submission form responses	5
3.2 Other written feedback	6
Issue – definition of ‘vehicle’ to include bicycles	6
Issue – access to restricted areas for bushwalkers and cyclists	7
Issue – confirmation of bushwalking corridors	8
Issue – firewood collection	8
Issue – offensive conduct	9
Issue – water quality and pollution	10
Issue – access to Special Areas for hazard reduction and firefighting	11
Issue – boundary fences for Schedule Areas	12
Issue – reclassifying the area below Warragamba Dam	12
Issue – notification about public exhibition	13
3.3 Feedback from other NSW Government agencies	14
Sydney Water	14
NSW National Parks and Wildlife Service (NPWS)	15
4 Next steps	15
5 Appendices	16
5.1 Appendix A – Online response form results	17
5.2 Appendix B – <i>What You Can and Can’t Do in the Special Areas</i> brochure	19

1 Executive summary

The Water NSW Regulation 2020 (2020 Regulation) is due for repeal on 1 September 2026 under the statutory [NSW staged repeal process](#). The Department of Climate Change, Energy, the Environment and Water (the department) is proposing to remake the 2020 Regulation with amendments by replacing it with the Water NSW Regulation 2026 (2026 Regulation).

Of the proposed amendments that we consulted stakeholders on, about half will clarify the regulatory intent of current provisions without changing existing policy or practice. The other changes are more substantive adjustments that add, remove or change a current policy or practice.

The proposed 2026 Regulation and a Regulatory Impact Statement (RIS) were publicly exhibited for 4 weeks from 16 February to 16 March 2026 to allow the stakeholders and the broader community to have their say on the proposed changes. Members of the public and stakeholders were also provided with the opportunity to hear directly from the department and WaterNSW on the proposed changes and to ask questions on the process to remake the Regulation via an online webinar held on 2 March 2026 and through the department's Water Enquiries contacts.

This What we heard report is a summary of feedback the department received on the draft 2026 Regulation and the RIS during the public exhibition period. Feedback was received via online submission forms and by email. The online webinar was attended by 15 people, and the department received 36 submissions (including 31 online survey responses).

The key issues raised in submissions included some stakeholders disagreed with the proposal to amend the definition of 'vehicle' to make it clear that this includes bicycles; some stakeholders want more access to restricted areas for bushwalkers and cyclists, and more accessible information about bushwalking corridors in restricted areas; and one stakeholder raised concerns about how water quality and pollution are being managed in the catchment.

The feedback resulted in some additional amendments being made to the draft 2026 Regulation.

1.1 About this report

This report gives an overview of what we heard from submissions and emails made by the community and stakeholders during public consultation on the [Water NSW Regulation remake](#), and gives the community an understanding of the range of feedback received on the draft 2026 Regulation and the RIS.

This report also outlines where changes are being considered or will be made in response to the feedback received. It also aims to assure the community and stakeholders that we have heard and fully considered the issues and concerns raised in the feedback.

The report consists of:

- an overview of the engagement process and participation by community and stakeholders
- a summary of feedback received on the proposed changes to the 2020 Regulation
- the department's response to the feedback received
- next steps.

2 Introduction

2.1 Background

WaterNSW is responsible for protecting the health of the Greater Sydney catchment area to ensure reliable, quality drinking water is available for the more than 5.5 million people of Sydney and the Illawarra, Blue Mountains, Southern Highlands, Goulburn and Shoalhaven regions.

The Water NSW Regulation is essential for WaterNSW so that it can manage and protect the declared catchment areas and water management works in these areas. The Regulation enables WaterNSW to protect and enhance the quality and quantity of water in declared catchment areas, promote the protection of public health and safety, and protect the environment. It also names the local councils to which WaterNSW is responsible for supplying water.

The 2020 Regulation will be automatically repealed on 1 September 2026 under the *Subordinate Legislation Act 1989*, following a 1-year postponement of its scheduled repeal in 2025. Under the staged repeal process, NSW regulations are automatically repealed after 5 years, unless they are remade or the repeal is postponed. The department is proposing to remake the 2020 Regulation with amendments by replacing it with the 2026 Regulation. The 2026 Regulation needs to commence by 1 September 2026.

Proposed amendments

Much of the intent of the draft 2026 Regulation is the same as the 2020 Regulation, with some changes proposed to simply clarify the intent of current regulatory provisions (that is, no change in policy or practice) whilst other amendments add, remove or change a current policy or practice.

The proposed amendments are designed to:

- modernise and restructure the Regulation and clarify terminology,
- allow WaterNSW to direct someone to remediate damage they have caused to a special area or controlled area after bringing in a pollutant or contaminant,
- reclassify the area immediately downstream of Warragamba Dam from a Schedule 2 (restricted access) special area to a Schedule 1 (no access) special area to improve public safety, particularly during water release and spilling events, and protect water supply infrastructure,
- improve compliance, including increasing penalty notice offence amounts to account for inflation and deter illegal activity, and
- improve public access to information to improve user experience and customer service.

A detailed analysis and rationale for the proposed changes that were included in the public exhibition draft of the 2026 Regulation is provided in the Regulatory Impact Statement (RIS). Some additional changes to the proposed Regulation were made in response to stakeholder feedback. These changes are minor in nature and do not materially impact the costs and benefits of each option as assessed in the RIS.

2.2 Engagement overview

Public consultation on the Water NSW Regulation remake started on 16 February 2026 and closed on 16 March 2026. The consultation period provided the community and stakeholders with an opportunity to comment on the proposed 2026 Regulation. Feedback was able to be shared with the department by completing an online 'Have your say' form. The department also accepted comments provided through other channels, such directly to the department or WaterNSW.

How we engaged

The department launched a [Water NSW Regulation remake](#) webpage with the following public consultation information:

- a draft [Water NSW Regulation 2026](#)
- a [Proposed Water NSW Regulation 2026 – Fact sheet](#), providing a summary of proposed substantive amendments and the rationale for the proposed changes
- a [Proposed Water NSW Regulation 2026 - Map](#), showing draft 2026 Special and Controlled Areas for Schedule 1 and Schedule 2 lands
- the [Review of Water NSW Regulation 2020 – Regulatory Impact Statement](#)
- a set of Frequently Asked Questions
- a video of the [draft Water NSW Regulation webinar](#) that was held on 2 March 2026.

The department also promoted the consultation opportunity through:

- direct email to known key stakeholders
- an article in the 'Water News' Edition #78 – February 2026 eNewsletter
- WaterNSW's 'At the source' - February 2026 eNewsletter
- 'Have your say' webpage – Department of Customer Service (DCS)
- 'Review of the Water NSW Regulation 2020' webpage on WaterNSW's website
- Water Engagement Roundup presentation (webinar)
- Print advertisements in the Sydney Morning Herald, Goulburn Post and South Coast Register.

The engagement statistics for the 2026 Regulation are shown in Figure 1.

Figure 1. Engagement summary for the draft Water NSW Regulation 2026



3 What we heard

This section provides a summary of the written submissions received on the draft Water NSW Regulation 2026. This includes feedback submitted through the online submission form, water enquiries email, emails sent directly to WaterNSW and the department, and correspondence sent directly to the Minister.

Key issues raised include:

- some stakeholders disagreed with the proposal to amend the definition of ‘vehicle’ to make it clear that this includes bicycles,
- some stakeholders wanted more access to restricted areas for bushwalkers and cyclists and more accessible information about bushwalking corridors in restricted areas, and
- one stakeholder raised concerns about the how water quality and pollution are being managed in the catchment.

3.1 Online submission form responses

The online submission form listed 15 amendments proposed for the 2026 Regulation that were deemed a significant clarification of, or change in policy or practice, from the 2020 Regulation. The form asked respondents to rate whether they agreed, disagreed or were neutral on each proposed change. Thirty-six people lodged an online submission. A summary of the responses received on each proposal is included in [Appendix A](#).

The vast majority of the listed proposals received positive feedback and the department continued to pursue those matters in the remade Regulation. These include:

- clarifying the provision relating to damaging vegetation to ensure that it prevents firewood collection,
- enabling WaterNSW to prohibit the use of unmanned vehicles (such as drones) in certain areas via signs or notices,
- enabling WaterNSW to direct a person who is responsible for a pollution or contamination incident to remediate the affected area,
- enabling WaterNSW to recover costs incurred during the removal, impoundment, disposal or sale of property (including stock or other animals and things) left in an area and is not authorised to be there,
- limiting the application of the offence provisions for buildings and structures used for animal management on Schedule 1 (no access) and Schedule 2 (restricted access) land, so that they only apply to works undertaken without lawful authority (that is, without a licence, consent or approval),
- expanding the definition of ‘barrier’ so that it is an offence to remove, damage or interfere with all fences, locks and chains installed to protect the environment and water supply infrastructure,
- expanding the prohibited activities on Schedule 1 (no access) and Schedule 2 (restricted access) land to damage to, and interference with, ‘catchment infrastructure works’. This includes works such as water storages, water mains and monitoring devices,

- requiring maps that are used to define restricted areas to be published on the WaterNSW website rather than being physically available in the office of WaterNSW,
 - enabling WaterNSW to remove environmental protection notices from the public register that are no longer in force because they have been withdrawn or revoked, and
 - removing the provision that allowed authorised officers to use ‘reasonable force’ to remove persons who have contravened the Act or Regulation and who fail to leave after being directed to do so – such action is normally carried out by NSW Police officers.
-

3.2 Other written feedback

The online submission form also provided a free text section where respondents could comment on any aspect of the proposed 2026 Regulation. In addition to the online form responses, the department received 9 written submissions via other channels. Three respondents submitted both an online submission form and a separate written submission, and these have been treated as a single submission for each respondent.

The written submissions provided more detailed feedback on the proposed amendments and broader issues. The issues raised have been sorted into themes below, along with the department’s response.

Issue – definition of ‘vehicle’ to include bicycles

One amendment proposed in the 2026 Regulation is to amend the definition of ‘vehicle’ to clarify that it includes bicycles. This is not a change to the long-standing restriction/prohibition of bicycles in Special Areas.

A majority of respondents (64%) said they disagree with this proposed definition, even though it would not change the current practice. Whilst respondents acknowledged that bicycles have historically been prohibited in most Special Areas, they would like to see this changed to provide greater access for bicycle riding in Schedule 2 areas. Stakeholders raised two main concerns about the proposed change:

- a belief that classifying bicycles as vehicles will entrench their exclusion indefinitely and, in their view, make it harder to gain more access for bicycles independent of other vehicle types,
- a view that the inclusion of bicycles in the definition of a ‘vehicle’ may result in blanket exclusions from currently approved and established cycling routes through Special Areas.

Response

The intent of this amendment is to clarify the longstanding prohibition of bicycles in Special Areas. It does not change the existing policy or practice.

If, in future, the Government decides to reduce restrictions on bicycle use in Special Areas (other than through signage or by giving consent), the Regulation would need to be amended to give effect to the change. The process of amending the Regulation would be the same irrespective of whether bicycles are included within the definition of ‘vehicle’ or defined separately in the Regulation.

Similarly, how bicycles are defined in the Regulation has no impact on those parts of the Special Areas where WaterNSW currently permits cycling by giving consent.

Issue – access to restricted areas for bushwalkers and cyclists

A common theme raised in submissions was the lack of access to Special Areas for walking or cycling. Many respondents felt that bushwalking and bicycling (on unpowered bikes) should be permitted on fire trails, access trails, and other existing trails within catchment areas, particularly in Schedule 2 areas. They argue that these activities are not likely to cause any significant issues, citing that management vehicles would cause more erosion to trails. Some respondents suggested that unlawful activities such as vandalism, waste dumping and illegal vehicular traffic pose a far greater threat to the water supply.

As an alternative to unlimited access, one respondent proposed that access for bushwalkers and cyclists to use existing trails in Special Areas could be enabled through a permit system for clubs or individuals. It was suggested that an online permit process could be setup to manage applications and approvals, providing a mechanism for vetting walkers and cyclists and managing the number of walkers or cyclist accessing an area at any one time.

Response

Under the *Water NSW Act 2014*, WaterNSW has a statutory function to protect and enhance the quality and quantity of water in declared catchment areas. Strict protections and restrictions on human activity are in place to ensure that the raw water supplied from the catchment's dams is as clean and safe as possible, while minimising treatment costs.

WaterNSW maintains a water quality management system that is consistent with the Australian Drinking Water Guidelines (ADWG). The ADWG adopt a multiple barrier approach for ensuring safe drinking water, where catchment protection is a critical first barrier.

Protecting source water within the catchment reduces the need for treatment to remove contamination after it occurs. Even small increases in disturbance within catchments can have cumulative impacts on water quality and risk. Greater Sydney's water filtration plants have been designed so that they require relatively low levels of treatment, which is possible because of the high levels of catchment protection. Significant, costly infrastructure upgrades could be required if access to Special Areas was expanded, even for activities that pose a relatively low risk.

Allowing more access to Special Areas for recreational activities, particularly mountain biking, could contribute to track degradation, erosion, vegetation damage, introduction of pests and weeds and unauthorised actions. Cycling presents a higher risk than walking due to greater trail impacts and the ability to access more remote areas, increasing the potential for disturbance.

The current precautionary approach to regulating the activities with the Special Areas is consistent with the findings of the 1998 Sydney Water Inquiry¹, and more recent research from Water Research Australia² that found that catchments protected from recreation provided safer, more reliable and lower cost drinking water.

Any future proposal to expand the permitted recreational activities within declared catchment areas would require robust impact assessment and analysis, stakeholder consultation and the involvement of all agencies that have a responsibility relating to water quality management and/or a role in

¹ [Inquiry into Sydney's water contamination in 1998 | NSW Government](http://www.nsw.gov.au/the-cabinet-office/special-commissions-of-inquiry/sydney-water) [www.nsw.gov.au/the-cabinet-office/special-commissions-of-inquiry/sydney-water].

² Water Research Australia. (May 2025) *Understanding impacts of recreational access to drinking water catchments and storages in Australia*. www.waterra.com.au

supplying safe drinking water (including the NSW Environment Protection Authority [EPA], NSW Health and Sydney Water). Adequate resourcing would be needed to carry out such a program of works to ensure any adjustment in access arrangements adequately considers the need for additional treatment processes and/or infrastructure upgrades to ensure a safe and secure supply of water. Resourcing would also be needed to implement any changes, such as the adjusting signage or installing new signs and/or fences.

Issue – confirmation of bushwalking corridors

Some respondents told us they want the regulations to recognise historic bushwalking corridors and for them to be clearly shown on maps. Currently, there are bushwalking corridors that provide public access through restricted access areas by consent, for example the bushwalking access available between Katoomba and Mittagong (Beloon Pass, Mt Cookem, Wollondilly River and Coxs River). Respondents also pointed out that WaterNSW does not publish the location of such corridors on its website or on Special Area maps.

Respondents contend that the location of bushwalking corridors should be more obvious to members of the public wanting to legitimately pass through them, noting that people should not have to rely solely on the existence of signage when planning a recreational activity. They argue that people should be able to access accurate maps when planning trips and hiking, using signage only to confirm they are in the correct location (which, they say, can be difficult given the sparse signage on some trails). Some respondents also voiced concern that the omission of access corridors from maps indicates an intent by WaterNSW to withdraw access in the future.

Some comments also suggested that bushwalking corridors should be described in the regulations to prevent WaterNSW from arbitrarily removing access consent. Respondents suggested the regulation of access using signs lacks sufficient public accountability because consent signage could be removed without notice.

Response

WaterNSW provides consent for access to the bushwalking corridors through Schedule 1 lands via signage. This is in accordance with section 10(1)(a) of the 2020 Regulation. The use of consent to allow access to the Schedule 1 bushwalking corridors remains in the draft 2026 Regulation, though it is now under section 26(2). This approach to giving consent is in line with long-standing WaterNSW practice and is an efficient way of managing public access to these walking corridors.

Walking trails are identified in WaterNSW's *What You Can and Can't Do in the Special Areas* brochure ([Appendix B](#)). The brochure is available in hard copy at the Warragamba Dam Visitors Centre. Signs showing walking trails are erected at the entry to recreation areas. We understand many walking trails are also identified on non-Government maps that are accessible on popular hiking websites.

WaterNSW has no plans to remove its consent for these walking corridors.

Issue – firewood collection

Concerns were raised in relation to sections 20(1)(c), 26(1)(m) and 36(1)(g) of the draft 2026 Regulation which prohibit or restrict 'damaging, interfering with or removing a plant or part of a plant, whether dead or alive.'

One respondent was concerned that this offence is too broad, suggesting that if a branch is overhanging a track and a person breaks it or moves a log off a trail to clear a path, they would

commit an offence under the current wording of this section. The stakeholder recommended that the regulations make it an offence to collect firewood only.

Two other respondents expressed concern that prohibiting the collection of small amounts of fallen deadwood for campfires placed unnecessary restrictions on bushwalkers, asserting that the practice has negligible environmental impact. They recommended that bushwalkers should be allowed to have small campfires made using firewood collected at the campsite location.

Response

The lighting of fires is already prohibited on Schedule 1 land under the 2020 Regulation and the draft 2026 Regulation retains this prohibition. On Schedule 2 land, the lighting of fires is prohibited only in certain circumstances, with the Regulations prescribing where a person may light, maintain or use a fire in the open.

WaterNSW's primary concern in relation to firewood collection is the large-scale removal of timber from Special Areas for use outside the catchment. The collection and removal of firewood can adversely impact the natural environment and conservation values of these areas.

Where a fire is permitted under the Regulation, WaterNSW does not consider the collection of small amounts of fallen timber for immediate use in that fire to constitute an offence under the Regulation. However, the collection and removal of timber from Special Areas for off-site use is not permitted.

Likewise, the action of clearing or shifting small tree branches or logs from a formed trail, but not removing them from the Special Area, is not the type or scale of activity that the Regulation intends to prevent. WaterNSW would not interpret this as an offence when enforcing provisions of the Regulation. Rather, the offence is intended to prevent intentional, significant damage of trees or plants and any removal of vegetation from Special Areas.

Issue – offensive conduct

One respondent was of the view that the penalty provision in the regulation for offensive conduct was excessive, with a penalty amount of \$1,000. They suggested this penalty should be reduced to \$500, though no reasoning for the reduction was provided.

Further, the stakeholder objected to offensive conduct being categorised as 'insulting and offensive language', saying it is too broad. They proposed offensive conduct should be defined as 'grossly indecent language' (that is, swearing).

Response

Penalty notice amounts

The penalty notice amounts in the 2020 Regulation were set over 5 years ago when the Regulation was last remade. Over this period there has been a 20 per cent general inflation in prices³. While the current level of penalties in the Regulation mostly aligns with similar penalties under the *Protection of the Environment Operations (General) Regulation 2022* (POEO Regulation), for some offences the POEO Regulation penalties are significantly higher. For example, the penalty for 'illegal dumping of

³ Measured as growth in the consumer price index for Sydney for the 5 years to March 2025.

waste or litter in a sensitive place' under the relevant POEO Regulation is \$2,500 for individuals⁴. The penalty for a similar offence under the 2020 Regulation is \$750.

Increasing penalties is necessary due to the relative high costs of detection and the relatively high potential impacts to the water supply and surrounding environments associated with breaches of the Regulation. To reflect the increase in inflation and to ensure penalties provide a sufficient deterrence to people carrying out unlawful activities, the department proposed that the penalty notice amounts be increased as follows. Penalties for:

- individuals which ranged from \$300 to \$1,250 have been increased to range from \$450 to \$1,500 (most increasing from \$750 to \$1,000),
- corporations which ranged from \$450 to \$2,000 have been increased to range from \$1,500 to \$4,000 (most increasing from \$1,500 to \$2,000).

Offences relating to language

The contemporary standards of society have changed in recent decades. Determining what is 'insulting or offensive' has also changed as language and ordinary ideals of polite conduct evolve. Words that people would traditionally consider offensive are now commonly accepted in many social situations and are no longer considered indecent. Many swear words have now found their way into society's common vocabulary. Such language can be readily heard on the radio, in movies, on prime-time TV shows and in newspapers and magazines.

A long-standing legal view is that for language to be offensive it must be calculated to cause a specific negative reaction, like to hurt feelings, arouse anger or resentment or disgust, in the mind of a reasonable person. Offensive language is more than improper language or against good taste or good manners.

The department acknowledges that the term 'insulting language' is very broad, being much more subjective and less threatening than offensive language. The department considers that the policy intent to continue to regulate offensive conduct can be sufficiently met in sections 29(1)(b) and 38(1)(b) by maintaining reference to "offensive language" only and removing the reference to "insulting" language.

As such, the department is of the view that defining 'grossly indecent language' as offensive conduct is not necessary.

Issue – water quality and pollution

One respondent expressed a view that the current regulatory framework has failed to prevent serious and repeated pollution of the Greater Sydney catchment by industrial activities. The stakeholder's concern is that the coal mining and colliery operations within the catchment discharge mine effluent into the catchment and suggests this has resulted in a number of instances of mine discharges polluting water sources.

The stakeholder recommended amending the Regulation to:

- require continuous, real-time water quality monitoring of industrial activities, with the data collected being disclosed to and readily accessible by the public,

⁴ Section 144AE(2), POEO Regulation.

- provide power for WaterNSW to suspend operations when industrial activities breach water quality thresholds,
- require cumulative impact assessments for all industrial activities within sub-catchments,
- establish clear pathways for community organisations to formally report water quality breaches by industrial operations.

Response

Proposals for mining, petroleum production and extractive material resources are assessed and developed in NSW under the *State Environmental Planning Policy (Resources and Energy) 2021*. The NSW Department of Planning, Housing and Infrastructure, Independent Planning Commission and NSW Resources are responsible for assessing and approving mining and coal seam gas activities in NSW. The final decision on specific activities rests with the Minister for Planning (or delegate).

The EPA issues environment protection licences under the *Protection of the Environment Operations Act 1997* (POEO Act) to regulate the owners and operators of various industries and activities, including mining and electricity generation. These licences focus on protecting the environment (including human health) and address air, noise, waste and land contamination issues as well as regulating discharges to water sources from premises.

The EPA regulates discharges to water sources through conditions placed on a facility's environment protection licence. These conditions can include:

- restricting the amount of various pollutants that can be discharged,
- requiring discharges to waters to be monitored and reported, and
- requiring that pollution control equipment operates properly and efficiently.

While it is not the role of WaterNSW to control or stop mining in declared catchments, as the partial owner and joint manager of the Special Areas, it has a role in informing the planning decisions and monitoring activities in the declared catchment areas that may significantly harm:

- water quantity and quality,
- water supply infrastructure,
- ecological integrity of the Special Areas, and
- Aboriginal cultural heritage.

Both the 2020 Regulation and the proposed 2026 Regulation prescribe that WaterNSW may exercise certain functions and powers of the POEO Act, in the same way as the EPA, for the purpose of protecting declared catchment areas or protecting and enhancing the quality of water in declared catchment areas. It is the EPA that has the responsibility for monitoring, investigating and enforcing pollution and contamination risks of activities regulated by an environment protection licence, rather than WaterNSW.

Issue – access to Special Areas for hazard reduction and firefighting

One stakeholder raised concern that the draft 2026 Regulation precludes WaterNSW, its contractors and/or fire fighting authorities (such as the NSW Rural Fire Service, RFS) from undertaking hazard reduction for the purpose of managing bushfire prone lands in Schedule 1 or Schedule 2 areas.

Response

The 2020 Regulation currently allows hazard reduction and entry for bushfire threat management in Schedule 1 and Schedule 2 lands. The draft 2026 Regulation does not change this, so fire hazard reduction activities by WaterNSW and fire authorities remain unaffected.

Under section 50 of the *Water NSW Act 2014*, the National Parks and Wildlife Service and RFS may exercise their own legislative functions within Special Areas and are only required to give notice to WaterNSW that they will be doing so. There are existing arrangements to cover the giving of this notice, which WaterNSW does not propose to change.

In the event of a bushfire, access within Schedule 1 lands is agreed through bush fire management plans. Fire authorities also provide verbal notice to WaterNSW if they need to enter Schedule 1 lands to fight a fire. Fire authorities may enter Schedule 2 land at any time to fight a bushfire.

The provisions in both the existing 2020 Regulation and draft 2026 Regulation prohibiting and regulating the lighting of fires are intended to apply to fires lit by members of the public. The purpose of these provisions is to regulate how a person may light, maintain and use a fire in the open, to minimise the risk of causing a bushfire event.

Issue – boundary fences for Schedule Areas

One stakeholder enquired whether tall boundary fences would be required on common boundaries between private properties and scheduled areas and, if so, whether WaterNSW or adjoining residents (landholders) fund the fencing.

Response

The draft 2026 Regulation will not change the fencing requirements or cost sharing arrangements relating to fencing. Any fences installed around Schedule 1 land that border a public road or public assessable area are funded by WaterNSW. For boundary fences that are internal and can only be accessed by the property owners, negotiations are held directly with the property owner and informal ‘fencing agreements’ are set up outlining the agreed arrangements.

There are no plans to change or update fencing in response to the proposed reclassification of the area below Warragamba Dam from Schedule 2 to Schedule 1 land.

Issue – reclassifying the area below Warragamba Dam

Responses to the online submission form showed that 58% of respondents agreed or did not disagree with changing the classification of the area immediately downstream of the Warragamba Dam and upstream of and including the weir, from a Schedule 2 (restricted access) special area to a Schedule 1 (no access) special area. The 42% of respondents that disagreed with this proposed change did not provide any comment or feedback to explain their reasons for objecting.

One other stakeholder enquired whether the draft 2026 Regulation would have any implications for Warragamba residents.

Response

The reclassification will mean that the public will not be able to access the Warragamba River from a short distance past Warragamba Weir back to the dam wall. This is to prevent public access via the river to the dam wall, weir and dissipater pool. WaterNSW wants to ensure public safety during spills

and dam releases and create a consistent buffer zone around critical assets to minimise the risk of damage or vandalism.

The terrain of this land means it is already difficult to access, and advice from WaterNSW is that the area is rarely frequented by members of the public. We are also aware through discussions held with recreational fishing associations during the public exhibition period, that a small number of people may use watercraft to access this area via the river for recreational fishing purposes. However, neither the Recreational Fishing Alliance nor the various local recreational fishing associations who were directly contacted raised concerns about the proposed change.

The draft 2026 Regulation will also not result in any specific changes that would affect Warragamba residents. The only change that might affect residents is the reclassification of the area directly downstream of Warragamba Dam if residents use that land or section of the river, but as mentioned above that seems unlikely. Residents will continue to be able to use the Warragamba Watershed Track. In all other aspects, WaterNSW will continue to manage the Warragamba Special Area in line with current practices.

Issue – notification about public exhibition

Two respondents were dissatisfied with how stakeholders were notified about the Water NSW Regulation remake public exhibition. One commented that the online webinar was not made readily available or promoted to the public, which prevented people from watching it live and taking part in the Q&A session. The other noted there was no information distributed via social media platforms to advise interest groups with an online presence that consultation on the 2026 Regulation was taking place, such as bushwalking and mountain biking Facebook groups.

Response

The draft 2026 Regulation and the RIS were on public exhibition on the department's website for 4 weeks from 16 February 2026 to 16 March 2026.

The department used the following channels to raise public awareness during the public exhibition process:

- media release issued on 16 Feb 2026 titled 'WaterNSW Regulation remake on public display'
- print advertisements placed in the *Sydney Morning Herald* (18 Feb 2026), *Goulburn Post* (21 Feb 2026), and *South Coast Register* (21 Feb 2026)
- story in the department's 'Water News' (Feb 2026) e-Newsletter sent to 5,486 subscribers
- story in the WaterNSW 'At the source' (Feb 2026) e-Newsletter sent to 1,745 subscribers
- the Department of Customer Service's 'Have your say' webpage
- the department's Water webpage, publishing 'Water NSW Regulation remake' webpage
- the WaterNSW 'Review of the Water NSW Regulation 2020' webpage
- a public webinar with the recording posted to the Water Group website
- emails sent to known key and interested stakeholders including Shoalhaven Bicycle User Group, Bicycle NSW, the Recreational Fishing Alliance and various local recreational fishing associations.

The department advertised the public webinar widely through the channels listed. The webinar was open to any interested person or groups to attend. The department received 19 registrations in total

for the webinar, with 15 attending on the day. Among the attendees were an interested community member, a water industry specialist person, a local water utility representative, representatives from other areas of government (Sydney Water and the Department of Primary Industries and Regional Development), subject matter experts from WaterNSW, and the presenters from the department's Water Group. The department uploaded the webinar to its website for viewing soon after the event.

The department is of the view that the time and notice given to consider the materials placed on public exhibition as part of the Water NSW Regulation remake was reasonable and sufficient. The information provided in the fact sheet, frequently asked questions and the public online webinar were also carefully prepared and presented to assist stakeholders in understanding the regulation remake process and amendment proposals.

3.3 Feedback from other NSW Government agencies

Sydney Water

The proposed 2026 Regulation, much like the current 2020 Regulation, provides WaterNSW with the same functions as the EPA in relation to the investigation and issuing of environment protection notices, and other notices for pollution incidents in Special Areas and Controlled Areas. WaterNSW may also exercise other EPA functions, including the issuing of directions and penalty notices for illegal dumping and littering of dangerous materials occurring in declared catchment areas.

In a written submission, Sydney Water recognised there are benefits to having concurrent enforcement powers between WaterNSW and the EPA in relation to these activities, however, it noted there can be ambiguity and uncertainty for stakeholders as to which organisation will be the responsible regulatory authority exercising these powers. It is concerned this could lead to situations where neither organisation exercises its statutory powers, such as taking action in response to an incident, because of an assumption or expectation that the other authority will take the lead. In turn, this may result in delays in implementing an effective response to incidents.

Sydney Water suggested the 2026 Regulation could clearly define and specify the circumstances in which WaterNSW and the EPA would exercise their powers. Alternatively, it suggested the coordination between WaterNSW and the EPA in relation to the exercise of these concurrent powers could be achieved through other avenues, such as the memorandum of understanding (MoU) between WaterNSW and the EPA.

Response

The department acknowledges there could be benefits in clearly setting out the circumstances in which WaterNSW and the EPA would exercise their powers in responding to pollution incidents in catchment areas. Having clarity about which agency is responsible for leading a response to a particular incident, allows response actions to be initiated more effectively and guides stakeholders to know which organisation has responsibility for an incident.

The department is of the view that the 2026 Regulation is not the most appropriate mechanism to prescribe the circumstances in which WaterNSW and the EPA exercise enforcement powers under the POEO Act. Such an approach could inappropriately fetter the powers and functions given to the EPA under the POEO Act and limit the flexibility of responses by agencies to incidents.

The department supports the development of an MoU between WaterNSW and the EPA to identify the circumstances in which each agency would lead the response to a pollution incident in the

Special Areas and Controlled Areas. WaterNSW has undertaken to consult with Sydney Water and the EPA to further consider this suggestion.

NSW National Parks and Wildlife Service (NPWS)

The NPWS advised it has no specific concerns with the draft 2026 Regulation, though it commented on the proposal to change the Special Area status below Warragamba Dam from Schedule 2 to Schedule 1. The NPWS observed that on the mapping provided by WaterNSW showing the Scheduled Area proposed to be reclassified, the boundary marked for the Special Area does not align exactly with the lot boundary between the NPWS tenure and the WaterNSW managed land. NPWS enquired if the boundaries could be aligned as part of the Regulation remake.

Response

Under the *Water NSW Act 2014*, an area of land is declared a Special Area by order of the Governor on the recommendation of the Minister and published in the Gazette. Each Special Area has a Gazette order that describes in words the location of the area's boundary. The Gazette orders for Special Areas were historically mapped, with WaterNSW now keeping digital copies of these maps. WaterNSW relies upon these maps as the most accurate depiction of Special Areas.

The boundary misalignment raised in NPWS feedback has no material impact on the implementation of the Regulation, or the operational responsibilities between WaterNSW and NPWS.

Access and consent for NPWS to undertake activities in Special Areas is facilitated through the Land Management Program, which is an agreement that allows NPWS to manage Special Areas on their lands, with funding from WaterNSW, to manage such things as pests and weeds, asset protection zones and bushfire mitigation.

WaterNSW and NPWS will continue to work together on any boundary misalignment issues to ensure their respective roles and responsibilities are clear. If any changes to Special Area boundaries are needed over time, they would be made through an update to the relevant order published in the NSW Government Gazette.

4 Next steps

The feedback received during public exhibition helped to identify and draft further amendments to the draft Water NSW Regulation 2026.

The Regulation is scheduled to be approved by the NSW Executive Council in August 2026 and published on the [NSW Legislation website](#) on 1 September 2026 when it commences. WaterNSW and the department will update their respective websites to reflect the regulatory changes.

5 Appendices

5.1 Appendix A – Online response form results

The results in Table 1 are based on 31 responses received.

Table 1. Online response form results

Proposed change	Agree	Disagree	Neutral
1. Amend the definition of 'vehicle' to clearly include bicycles. Bicycles will be subject to the same control and exclusion provisions as other vehicles. This is not a change to policy or practice. Bicycles have historically never been permitted in special areas without consent	24%	64%	10%
2. Amend the provision that prohibits damaging, interfering with or removing a plant or part of a plant, whether dead or alive. This makes clear that the collection of firewood is prohibited	52%	29%	19%
3. Extend the activities on Crown land and Water NSW land located within declared catchment areas to be regulated or prohibited by erecting a sign or notice, to include the operation of unmanned vehicles (including drones) over land and water within those areas	48%	10%	42%
4. Align the activities regulated on Crown and Water NSW land located within declared catchment areas through the use of signs and notices with the activities prohibited on Schedule 1 (no access) and Schedule 2 (restricted access) land	32%	36%	32%
5. Controlled areas to be listed in Schedule 1 via a reference to the relevant proclamation in the Gazette, consistent with how special areas are listed in Schedule 2	23%	16%	61%
6. Enable WaterNSW to be able to direct a person who is responsible for a pollution or contamination incident to remediate the affected area	68%	3%	29%
7. Enable WaterNSW to recover any costs incurred during the removal, impoundment, disposal or sale of property (including stock or other animals and things) that is left in an area and are not authorised to be there	65%	3%	32%
8. For buildings and structures used for animal management on Schedule 1 (no access) and Schedule 2 (restricted access) land, limit the application of the offence provisions to works undertaken without lawful authority (that is, without a licence, consent or approval)	42%	0%	58%

Proposed change	Agree	Disagree	Neutral
9. Change the classification of the area immediately downstream of the Warragamba Dam and upstream of and including the weir, from a Schedule 2 (restricted access) special area to a Schedule 1 (no access) special area	35%	42%	23%
10. 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	55%	16%	29%
11. Expand the prohibited activities on Schedule 1 (no access) and Schedule 2 (restricted access) land to persons damaging, defacing, disturbing or interfering with 'catchment infrastructure works' (as defined in the Water NSW Act). This will make it an offence to damage, deface, disturb or interfere with water storages, water mains, connected or associated works and monitoring devices	61%	10%	29%
12. Require Schedule 1 (no access) 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	58%	3%	39%
13. Enable WaterNSW to remove environmental protection notices from the public register that are no longer in force because they have been withdrawn or revoked	55%	3%	42%
14. Amend Schedule 3 to increase the amount payable for all penalty notices	22%	52%	26%
15. 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	52%	22%	26%

5.2 Appendix B – What You Can and Can't Do in the Special Areas brochure

