

**WATER BOARD (CORPORATISATION) ACT 1994—
REGULATION**

(Sydney Water Corporation Limited (Catchment Management) Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Water Board (Corporatisation) Act 1994, has been pleased to make the Regulation set forth hereunder.

CRAIG KNOWLES, MP.,
Minister for Urban Affairs and Planning.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Sydney Water Corporation Limited (Catchment Management) Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. In this Regulation:

“**authorised person**” means any of the following:

- (a) an employee of the Corporation;
- (b) an officer of the National Parks and Wildlife Service;
- (c) a person authorised in writing by the Corporation;
- (d) a police officer;

“**Corporation**” means Sydney Water Corporation Limited;

“Corporation land” means land owned by or vested in the Corporation;

“Crown land” means:

- (a) Crown land within the meaning of the Crown Lands Act 1989; or
- (b) land reserved as a national park under section 33 of the National Parks and Wildlife Act 1974;

“herbicide” means any substance capable of destroying, or preventing the spread of, any plants;

“pesticide” has the same meaning as in the Pesticides Act 1978;

“pollutant” has the same meaning as in the Clean Waters Act 1970;

“private land” means land other than:

- (a) Corporation land; or
- (b) Crown land; or
- (c) Crown lands within the meaning of the National Parks and Wildlife Act 1974;

“the Act” means the Water Board (Corporatisation) Act 1994;

“vehicle” includes:

- (a) any apparatus drawn or propelled wholly or partly by an animal, volatile spirit, steam, gas, oil, electricity or wind and which is wholly or partly used for the conveyance of persons or things;
- (b) any trailer or caravan, whether or not it is in the course of being towed;
- (c) any motor vehicle, motor carriage or motor cycle; and
- (d) any cycle;

“waste” has the same meaning as in the Waste Disposal Act 1970.

Notes

- 4. Notes do not form part of this Regulation.

PART 2—REGULATION OF CONDUCT GENERALLY IN SPECIAL AREAS AND CONTROLLED AREAS

Application of Part 2

- 5. This Part (clause 11 excepted) applies to all special areas and controlled areas and to any part of a special area or controlled area.

Interference with water prohibited unless approved

6. A person must not, except with the Corporation's approval and in compliance with any conditions of the approval, dam, divert or take any water from which the Corporation draws its supply or that is available for supply by the Corporation, if that water is in a special area or a controlled area.

Maximum penalty: 100 penalty units in the case of a corporation, 10 penalty units in any other case.

Certain forestry operations prohibited unless approved

7. (1) A person must not, except with the Corporation's approval and in compliance with any conditions of the approval, carry out any forestry operations that are likely to pollute or contaminate waters or land in a special area or a controlled area.

Maximum penalty: 100 penalty units in the case of a corporation, 10 penalty units in any other case.

(2) Subclause (1) does not apply to land in respect of which there is in force a consent to a development application made under the Environmental Planning and Assessment Act 1979 for consent to carry out development involving the forestry operations concerned if the consent was granted:

- (a) by the Corporation as consent authority under that Act; or
- (b) with the concurrence of the Corporation pursuant to section 38 of that Act.

(3) In this clause, "forestry operations" include arboriculture, silviculture, forest protection, the cutting, dressing and preparation, other than in a sawmill, of wood and other forest products and the establishment of roads required for the removal of wood and forest products and for forest protection.

Control of pollution and disease in special areas and controlled areas

8. (1) A person must not, except with the Corporation's approval and in compliance with any conditions of the approval, bring into or leave in a special area or a controlled area any pollutant or waste.

(2) The owner or occupier of land in a special area or a controlled area must not erect, install or operate any sewage collection, treatment or disposal system on the land unless:

- (a) the system complies with any standards for such systems approved by the Corporation and notified to the person; and

(b) the system is erected, installed or operated in compliance with any conditions imposed by the Corporation in respect of the system or of such systems in general.

(3) A person must comply with any direction given by the Corporation or an authorised person for:

(a) the disposal of any pollutant or waste in a special area or a controlled area, or of any other substance that is in a special area or a controlled area and that the Corporation considers may detrimentally affect any water in the area; or

(b) the removal of any such pollutant, waste or other substance from a special area or a controlled area.

Maximum penalty (subclauses (1), (2) and (3)): 100 penalty units in the case of a corporation, 10 penalty units in any other case.

(4) The Corporation may give to the owner of land in a special area or a controlled area a direction in writing requiring the owner to remove any building or works on the land to such place, and by such date, as the Corporation may direct if the Corporation has reasonable grounds for believing that the direction is necessary to prevent or minimise pollution of water to be supplied by the Corporation.

(5) The owner must comply with any such direction.

Maximum penalty (subclause (5)): 100 penalty units in the case of a corporation, 10 penalty units in any other case.

(6) A person (including a body corporate) who becomes aware that any person, animal or property in a special area or a controlled area is carrying, infected with or affected by any water-borne infectious disease must notify the Corporation of that fact within 24 hours after first becoming so aware.

Maximum penalty (subclause (6)): 50 penalty units in the case of a corporation, 5 penalty units in any other case.

Stock control in special areas and controlled areas

9. (1) The owner or person in charge of any stock must ensure that the stock does not enter any Crown land, or Corporation land, in a special area or a controlled area unless the Corporation has approved the entry of the stock to the land concerned.

Maximum penalty: 50 penalty units in the case of a corporation, 5 penalty units in any other case.

(2) An authorised person may take any of the following actions if stock enters any such land without the Corporation's approval:

- (a) drive the stock away, or remove the stock, from the land;
 - (b) impound, sell, destroy or otherwise dispose of the stock.
- (3) If an authorised person takes any such action:
- (a) the owner and person in charge of the stock are jointly and severally liable to the Corporation for all costs incurred by the Corporation as a result of the action being taken; and
 - (b) the Corporation may recover the amount of those costs from the owner or person in charge as a debt due to the Corporation.

Information requested by authorised person

10. A person must not give to an authorised person any false or misleading information, knowing it to be false or misleading, in response to a request for information by the authorised person in the course of exercising the functions of an authorised person in relation to a special area or a controlled area.

Maximum penalty: 50 penalty units in the case of a corporation, 5 penalty units in any other case.

Investigation of suspected contraventions

11. (1) This clause applies to all land (other than private land) in a special area or a controlled area.

(2) An authorised person who has reason to believe that a person on land to which this clause applies has in his or her possession or control, in contravention or because of a contravention or intended contravention of this Regulation, any matter or thing may direct the person:

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

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

Maximum penalty: 50 penalty units in the case of a corporation, 5 penalty units in any other case.

Fees and charges

12. (1) The Corporation may from time to time determine the fees or charges payable in respect of the entry by persons or vehicles on such Corporation land as constitutes a special area or a controlled area or any part of a special area or controlled area.

(2) A person who is liable to pay fees or charges so determined may be denied entry to the land concerned unless the fees or charges are paid on request by an authorised person.

(3) An authorised person may direct a person who has entered such land without paying the relevant fees or charges to leave the land.

(4) A person given a direction referred to in subclause (3) must comply with it.

Maximum penalty: 2 penalty units.

PART 3—ADDITIONAL REGULATION OF CONDUCT IN PORTIONS OF CERTAIN SPECIAL AREAS

Application of Part 3

13. (1) This Part applies only to the parts of the land identified in Schedule 1 that are not private land.

(2) In this Part, the land to which the Part applies is referred to as “Part 3 land”.

(3) This Part does not limit the operation of any other provision of this Regulation in the provision’s application to any Part 3 land.

Entry on Part 3 Land

14. A person must not enter or remain on Part 3 land except:

- (a) with the Corporation’s approval; and
- (b) in compliance with any conditions of the approval.

Maximum penalty for an offence under paragraph (a): 100 penalty units in the case of a corporation, 10 penalty units in any other case.

Maximum penalty for an offence under paragraph (b): 50 penalty units in the case of a corporation, 5 penalty units in any other case.

Fishing on Part 3 Land

15. A person must not fish in any water on Part 3 land.

Maximum penalty: 50 penalty units in the case of a corporation, 5 penalty units in any other case.

PART 4—ADDITIONAL REGULATION OF CONDUCT IN SPECIFIED SPECIAL AREAS

Application of Part 4

16. (1) This Part applies only to the parts of the land identified in Schedule 1 or Schedule 2 that are not private land, except as otherwise provided in this Part.

(2) In this Part, the land to which the Part applies is referred to as “Part 4 land”.

(3) This Part does not limit the operation of any other provision of this Regulation in the provision’s application to any Part 4 land.

Conduct prohibited on Part 4 land unless authorised

17. A person must not, except with the Corporation’s approval and in compliance with any conditions of the approval:

- (a) drive or ride any vehicle or ride or lead any animal onto or on Part 4 land; or
- (b) bring onto or have in the person’s possession on Part 4 land any plant or part of a plant, or any animal, that is not native to the special area concerned; or
- (c) bring onto or have in the person’s possession on Part 4 land any firearm or prohibited weapon (within the meaning of the National Parks and Wildlife Act 1974) unless the person is a police officer acting in connection with the performance of that person’s duties as such an officer; or
- (d) land any aircraft (including an ultra-light aircraft, hang-glider and balloon) on Part 4 land; or
- (e) sell or offer for sale any goods on or by any public road on Part 4 land.

Maximum penalty for an offence under paragraph (a), (b), (c) or (d): 50 penalty units in the case of a corporation, 5 penalty units in any other case.

Maximum penalty for an offence under paragraph (e): 100 penalty units in the case of a corporation, 10 penalty units in any other case.

Gates to Part 4 land not to be opened

18. A person must not open any gate, or remove any barrier to entrance, to any Part 4 land except:

- (a) with the Corporation’s approval; and

(b) in compliance with any conditions of the approval.

Maximum penalty for an offence involving the opening of a gate: 50 penalty units in the case of a corporation, 5 penalty units in any other case.

Maximum penalty for an offence involving the removal of a barrier to entrance: 100 penalty units in the case of a corporation, 10 penalty units in any other case.

Swimming and sailing on Part 4 land

19. A person must not, except with the Corporation's approval and in compliance with any conditions of the approval:

- (a) swim or wash in or cause any animal, animal matter, plant or plant matter to enter or remain in any water on Part 4 land; or
- (b) drive, row, sail or paddle any boat or other water-borne craft on any such water.

Maximum penalty: 100 penalty units in the case of a corporation, 10 penalty units in any other case.

Camping on Part 4 land

20. (1) The Corporation may, by means of signs displayed on or adjacent to any portion of Part 4 land, designate the portion as land available for camping.

(2) The Corporation may impose conditions, not inconsistent with the Act or this Regulation, subject to which a person may:

- (a) camp on a portion of Part 4 land designated as land available for camping; or
- (b) camp on any Part 4 land identified in Schedule 2 that is not so designated.

(3) A person must not camp on Part 4 land unless:

- (a) the land concerned:
 - (i) is land identified in Schedule 2; or
 - (ii) is land designated in accordance with subclause (1) as land available for camping; and
- (b) the person complies with any conditions imposed pursuant to subclause (2); and
- (c) in the case of land designated as land available for camping—the person pays the charges (if any) payable in respect of the person's camping on the land.

Maximum penalty: 50 penalty units in the case of a corporation, 5 penalty units in any other case.

(4) In this clause, “**camp**” means reside temporarily, whether or not in a tent, caravan, cabin or other structure.

Fires on Part 4 land

21. A person must not:

- (a) light any fire on Part 4 land elsewhere than in a fire place approved by the Corporation; or
- (b) do anything on Part 4 land that may cause a fire to be on that land elsewhere than in a fire place approved by the Corporation,

unless the fire is lit, or the thing is done, with the Corporation’s approval and in compliance with any conditions of the approval.

Maximum penalty: 100 penalty units in the case of a corporation, 10 penalty units in any other case.

Fires on certain private land

22. (1) This clause applies to those parts of the land identified in Schedule 1 or Schedule 2 that are private land.

(2) The occupier of any land to which this clause applies must not burn any bush, stubble, timber, trees, grass or other material on the land for the purpose of clearing the land or burning a fire break unless the occupier has given the Corporation at least 24 hours’ notice of the proposed burning.

Maximum penalty: 100 penalty units in the case of a corporation, 10 penalty units in any other case.

Pesticides and pest control on Part 4 land

23. A person must not, except with the Corporation’s approval and in compliance with any conditions of the approval:

- (a) bring onto, or use or keep on, Part 4 land any pesticide or herbicide; or
- (b) take steps to control or eradicate by the use of pesticides or herbicides any feral animal, animal pest or noxious weed on Part 4 land.

Maximum penalty: 50 penalty units in the case of a corporation, 5 penalty units in any other case.

No interference with flora and fauna on Part 4 Land

24. A person must not, except with the Corporation's approval and in compliance with any conditions of the approval:

- (a) damage any tree or part of a tree on Part 4 land or remove any tree or part of a tree from such land; or
- (b) damage or pick any plant (including a shrub) or part of a plant on Part 4 land or remove any plant or part of a plant from such land; or
- (c) remove any rock, soil, sand, stone or similar substance within or from Part 4 land; or
- (d) destroy, capture, injure, annoy or interfere with any animal, or interfere with the habitat of any animal, in Part 4 land.

Maximum penalty: 100 penalty units in the case of a corporation, 10 penalty units in any other case.

Animal husbandry on Part 4 land

25. (1) This clause applies to all land identified in Schedule 1 or Schedule 2 (including private land).

(2) A person must not, within 100 metres of any stream, reservoir or water course on land to which this clause applies, erect, maintain or use any cow yard, poultry house, animal feed lot, stockyard or stable.

(3) A person must not, on land to which this clause applies, maintain, use or erect any structures for any intensive animal feed lot, intensive poultry operation, trout farm or other concentrated agricultural activity identified by the Corporation by publication of a notice in the Gazette as a hazard to water to be supplied by the Corporation unless:

- (a) with the Corporation's approval; and
- (b) in compliance with any conditions of the approval.

Maximum penalty: 100 penalty units in the case of a corporation, 10 penalty units in any other case.

PART 5—MISCELLANEOUS**Notice by public agencies**

26. For the purposes of section 84 (1) of the Act, notice given to the Corporation:

- (a) must be in writing; and

- (b) must be served (by post or by lodging it at an office of the Corporation) on the Corporation; and
- (c) must contain a full description of the proposed activity and a statement of the objectives of the proposed activity; and
- (d) must give at least 28 days' notice of the commencement of the proposed activity.

Repeal

27. (1) The Water Board (Special Areas) Regulation 1989 is repealed.

(2) Any act, matter or thing that was done for the purposes of or, immediately before the repeal of the Water Board (Special Areas) Regulation 1989, had effect under that Regulation is taken to have been done for the purposes of or to have effect under this Regulation.

SCHEDULE 1

(C11. 13, 16, 22 and 25)

Special Areas

The following special areas, being portions of land, as shown coloured pink on the map marked "Schedule 1 Areas" deposited at the offices of the Corporation:

- (a) such portions of special areas as the Corporation may determine from time to time and notify by signs erected on the portions concerned;
- (b) the area of land surrounding the stored water in Lake Burragong extending from the full supply level of the Lake for a distance of 3 kilometres;
- (c) the catchment areas of Broughton's Pass Weir, Pheasant's Nest Weir and Woronora Dam to the extent that they are not contained in the proclamations referred to in paragraphs (d) and (e);
- (d) Metropolitan Catchment Area as proclaimed in Gazette No. 79 of 13 July 1923 and amended by proclamation published in Gazette No. 79 of 26 May 1933;
- (e) Woronora Catchment Area as proclaimed in Gazette No. 37 of 21 March 1941;
- (f) Wingecarribee Catchment Area as proclaimed in Gazette No. 156 of 14 December 1973;
- (g) Blackheath Special Area proclaimed 6 March 1991;
- (h) Katoomba Special Area proclaimed 6 March 1991;
- (i) Woodford Special Area proclaimed 6 March 1991.

Prospect Reservoir

Prospect reservoir and the area of land surrounding the reservoir, as shown coloured red on the map marked “Prospect Reservoir—Schedule 1 Area” deposited at the offices of the Corporation.

Controlled Areas

Such of the Corporation’s land as contains water transfer structures (being canals, tunnels, pipelines, water mains or drainage channels) (being controlled areas).

Note

Section 88 (3) of the Water Board (Corporatisation) Act 1994 provides as follows:

(3) The lands referred to in Schedule I to the Water Board (Special Areas) Regulation 1989 as in force immediately before the commencement of this section (but excluding the lands referred to in the first paragraph, including paragraphs (a)–(c), and the second paragraph of that Schedule) are taken to be the subject of an order declaring them to be a controlled area, despite anything in section 81 (3).

Schedule 1 to the Water Board (Special Areas) Regulation 1989 as in force immediately before the commencement of section 88 provides as follows:

The following portions of land, as shown coloured pink on the map marked “Schedule 1 Areas” deposited at the offices of the Board:

- (a) such portions of special areas as the Board may determine from time to time and notify by signs erected on the portions concerned;
- (b) the area of land surrounding the stored water in Lake Burragorang extending from the full supply level of the Lake for a distance of 3 kilometres;
- (c) the catchment areas of Broughton’s Pass Weir, Pheasant’s Nest Weir and Woronora Dam.

Prospect reservoir and the area of land surrounding the reservoir, as shown coloured red on the map marked “Prospect Reservoir—Schedule 1 Area” deposited at the offices of the Board.

Water transfer structures (being canals, tunnels, pipelines, water mains or drainage channels) on Board land.

SCHEDULE 2

(Cl. 16, 20, 22 and 25)

Special Areas

The following special areas:

- (a) Fitzroy Falls Catchment Area as proclaimed in Gazette No. 11 of 4 February 1977;
- (b) O'Hares Creek Catchment Area as proclaimed in Gazette No. 51 of 14 April 1927 and amended by proclamation published in Gazette No. 178 of 21 September 1934;
- (c) Richmond Catchment Area as proclaimed in Gazette No. 113 of 8 October 1971;
- (d) Shoalhaven Catchment Area as proclaimed in Gazette No. 13 of 8 February 1974;
- (e) Warragamba Catchment Area as proclaimed in Gazette No. 122 of 4 September 1942 and amended by proclamations published in Gazettes Nos. 1 of 1 January 1944 and 77 of 4 August 1944,

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

NOTES**TABLE OF PROVISIONS****PART 1—PRELIMINARY**

1. Citation
2. Commencement
3. Definitions
4. Notes

**PART 2—REGULATION OF CONDUCT GENERALLY IN
SPECIAL AREAS AND CONTROLLED AREAS**

5. Application of Part 2
6. Interference with water prohibited unless approved
7. Certain forestry operations prohibited unless approved
8. Control of pollution and disease in special areas and controlled areas
9. Stock control in special areas and controlled areas
10. Information requested by authorised person
11. Investigation of suspected contraventions
12. Fees and charges

1995—No. 424

PART 3—ADDITIONAL REGULATION OF CONDUCT IN PORTIONS OF CERTAIN SPECIAL AREAS

13. Application of Part 3
14. Entry on Part 3 land
15. Fishing on Part 3 land

PART 4—ADDITIONAL REGULATION OF CONDUCT IN SPECIFIED SPECIAL AREAS

16. Application of Part 4
17. Conduct prohibited on Part 4 land unless authorised
18. Gates to Part 4 land not to be opened
19. Swimming and sailing on Part 4 land
20. Camping on Part 4 land
21. Fires on Part 4 land
22. Fires on certain private land
23. Pesticides and pest control on Part 4 land
24. No interference with flora and fauna on Part 4 land
25. Animal husbandry on Part 4 land

PART 5—MISCELLANEOUS

26. Notice by public agencies
27. Repeal

SCHEDULE 1
SCHEDULE 2

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, in substantially the same form, the Water Board (Special Areas) Regulation 1989 (which was continued in force by the Water Board (Corporatisation) Act 1994).

The new Regulation deals with the following matters:

- (a) the regulation of conduct generally in special areas and controlled areas (Part 2);
- (b) the additional regulation of conduct in parts of certain special areas (Part 3 and Schedule 1);
- (c) the regulation of conduct in specified special areas (Part 4 and Schedule 2);
- (d) other minor, consequential or ancillary matters (parts 1 and 5).

This Regulation is made under the Water Board (Corporatisation) Act 1994, including sections 85 (Regulations concerning special areas), 89 (Regulations concerning controlled areas) and 106 (the general regulation-making power) and Schedule 9 (Savings, transitional and other provisions).

This Regulation is also made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
