



New South Wales

Hunter Water (Special Areas) Regulation 2003

under the

Hunter Water Act 1991

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Hunter Water Act 1991*.

JOHN AQUILINA, M.P.,

Minister for Land and Water Conservation

Explanatory note

The object of this Regulation is to repeal and remake the *Hunter Water (Special Areas) Regulation 1997* without substantial alteration. That Regulation would otherwise be repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*. (It was due to be repealed under that provision on 1 September 2002, but the repeal was postponed for one year by an order made under section 11 (1) of the *Subordinate Legislation Act 1989*.)

The new Regulation makes provision regarding the regulation of activities within areas of land declared to be special areas under the *Hunter Water Act 1991*.

This Regulation is made under the *Hunter Water Act 1991* and, in particular, under sections 55 (Exercise of functions by public bodies in special areas), 57 (Regulations concerning special areas) and 70 (the general regulation-making power).

2003 No 165

Hunter Water (Special Areas) Regulation 2003

Contents

Contents

	Page
Part 1 Preliminary	
1 Name of Regulation	4
2 Commencement	4
3 Definitions	4
4 Application of Regulation	6
5 Notes	6
Part 2 Special areas generally	
6 Application of Part	7
7 Agriculture	7
8 Sewage disposal	7
9 Pollution of waters	8
Part 3 Chichester and Grahamstown Catchment Areas	
10 Application of Part	9
11 Water activities in the Chichester and Grahamstown Storage Reservoirs	9
Part 4 Nelson Bay, North Stockton and Tomago Sandbeds Catchment Areas	
12 Application of Part	10
13 Extractive industries	10
Part 5 Williams River Catchment Area	
14 Application of Part	11
15 Water activities near the Seaham Weir in the Williams River	11
Part 6 Miscellaneous	
16 Approvals given by Director-General	12
17 Notices by public agencies	12
18 Repeal and savings	12

Hunter Water (Special Areas) Regulation 2003

Contents

	Page
Schedules	
1 Chichester Catchment Area	13
2 Grahamstown Catchment Area	14
3 Nelson Bay Catchment Area	15
4 North Stockton Catchment Area	16
5 Tomago Sandbeds Catchment Area	17
6 Williams River Catchment Area	18

2003 No 165

Clause 1 Hunter Water (Special Areas) Regulation 2003

Part 1 Preliminary

Hunter Water (Special Areas) Regulation 2003

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Hunter Water (Special Areas) Regulation 2003*.

2 Commencement

This Regulation commences on 1 March 2003.

3 Definitions

In this Regulation:

Chichester Catchment Area means the area described in a proclamation under the *Hunter District Water and Sewerage Act 1892* published in Gazette No 153 of 5 December 1924 at page 5461, being the land shown by hatched edging on the map in Schedule 1.

development consent means a development consent in force under the *Environmental Planning and Assessment Act 1979*.

environment protection licence means an environment protection licence in force under the *Protection of the Environment Operations Act 1997*.

Grahamstown Catchment Area means the area described in the following instruments:

- (a) a proclamation under the *Hunter District Water Sewerage and Drainage Act 1938* published in Gazette No 98 of 11 October 1963 at pages 2984 and 2985,
- (b) a proclamation under the *Hunter District Water Sewerage and Drainage Act 1938* published in Gazette No 112 of 8 November 1963 at pages 3324 and 3325,

being the land shown by hatched edging on the map in Schedule 2 and the land shown by hatched edging on the map in Schedule 6.

Nelson Bay Catchment Area means the area described in the following instruments:

- (a) a proclamation under the *Hunter District Water Sewerage and Drainage Act 1938* published in Gazette No 2 of 7 January 1949 at pages 10 and 11,
- (b) a proclamation under the *Hunter District Water Sewerage and Drainage Act 1938* published in Gazette No 106 of 1 November 1963 at pages 3189 and 3190,
- (c) a proclamation under the *Water Supply Authorities Act 1987* published in Gazette No 159 of 21 October 1988 at page 5485,

being the land shown by hatched edging on the map in Schedule 3.

North Stockton Catchment Area means the area of land described in, and declared to be a special area by, the *Hunter Water (North Stockton Catchment Area) Order 1999* made under section 53 of the Act, being the land shown by hatched edging on the map in Schedule 4.

the Act means the *Hunter Water Act 1991*.

Tomago Sandbeds Catchment Area means the area described in the following instruments:

- (a) a proclamation under the *Hunter District Water Sewerage and Drainage Act 1938* published in Gazette No 89 of 11 July 1941 at pages 2482 and 2483,
- (b) a proclamation under the *Hunter District Water Sewerage and Drainage Act 1938* published in Gazette No 100 of 28 September 1945 at page 1703,
- (c) a proclamation under the *Hunter District Water Sewerage and Drainage Act 1938* published in Gazette No 31 of 21 March 1958 at page 734,
- (d) a proclamation under the *Hunter District Water Sewerage and Drainage Act 1938* published in Gazette No 91 of 25 August 1961 at page 2559,

being the land shown by hatched edging on the map in Schedule 5.

Williams River Catchment Area means the land described in the proclamation referred to in paragraph (b) of the definition of ***Grahamstown Catchment Area***, being the land shown by hatched edging on the map in Schedule 6.

2003 No 165

Clause 4 Hunter Water (Special Areas) Regulation 2003

Part 1 Preliminary

4 Application of Regulation

This Regulation applies to the following catchment areas:

- (a) Chichester Catchment Area,
- (b) Grahamstown Catchment Area (including the Williams River Catchment Area),
- (c) Nelson Bay Catchment Area,
- (d) North Stockton Catchment Area,
- (e) Tomago Sandbeds Catchment Area.

Note. The Chichester, Grahamstown (including the Williams River), Nelson Bay and Tomago Sandbeds Catchment Areas are all taken to be special areas by virtue of section 53 (3) of the Act.

5 Notes

Notes in the text of this Regulation do not form part of this Regulation.

Part 2 Special areas generally

6 Application of Part

- (1) This Part applies to the Chichester, Grahamstown, Nelson Bay, North Stockton and Tomago Sandbeds Catchment Areas, but does not apply to the Williams River Catchment Area.
- (2) Despite subclause (1), clause 9 applies to the Williams River Catchment Area.

7 Agriculture

- (1) A person must not engage in any intensive agricultural pursuit in a special area.

Maximum penalty: 100 penalty units in the case of a corporation and 70 penalty units in any other case.

- (2) This clause does not apply to anything that is done in accordance with:
 - (a) an approval given by the Director-General, or
 - (b) a development consent, or
 - (c) an environment protection licence.
- (3) In this clause:

intensive agricultural pursuit means the use of land for agricultural purposes which include market gardening, mushroom growing, fruit growing, flower growing, viticulture, milking in a shed designed for that purpose, aquaculture and intensive animal husbandry, but does not include the use of an animal boarding or training establishment or any cultivation or husbandry carried out mainly for the personal enjoyment or consumption of its produce by the owner or occupier of the land.

intensive animal husbandry means the use of a building or place for the commercial breeding, boarding or nurturing, by a feeding method other than natural grazing, of livestock or poultry.

8 Sewage disposal

The owner or occupier of land in a special area must not erect, install or operate any on-site sewage management facility on the land unless the person concerned does so in accordance with:

- (a) a development consent, or

2003 No 165

Clause 8 Hunter Water (Special Areas) Regulation 2003

Part 2 Special areas generally

- (b) an approval granted under the *Local Government Act 1993*, or
- (c) an environment protection licence.

Maximum penalty: 100 penalty units in the case of a corporation and 70 penalty units in any other case.

9 Pollution of waters

- (1) A person must not pollute any waters in a special area.
Maximum penalty: 200 penalty units in the case of a corporation and 100 penalty units in any other case.
- (2) A person does not commit an offence under subclause (1) in respect of anything that is done in accordance with an environment protection licence.
- (3) The Director-General may give a direction for:
 - (a) the management or disposal of any substance in a special area that the Director-General considers may detrimentally affect any waters in the Area concerned, or
 - (b) the removal of any such substance from a special area or the relocation of the substance to another place in that Area.
- (4) A person given a direction under subclause (3) must comply with it.
Maximum penalty: 100 penalty units in the case of a corporation and 50 penalty units in any other case.
- (5) In this clause:

pollute, in relation to waters, has the same meaning as *pollution of waters* has in the *Protection of the Environment Operations Act 1997*, but extends to include disturbing geological or other matter (whether natural or artificial) in such a manner as to change, or to be likely to change, the physical, chemical or biological condition of the waters.

Note. Section 7 of the *Interpretation Act 1987* provides that, if an Act or instrument defines a word or expression, other parts of speech and grammatical forms of the word or expression have corresponding meanings.

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

Part 3 Chichester and Grahamstown Catchment Areas

10 Application of Part

This Part applies to the Chichester and Grahamstown Catchment Areas, but does not apply to the Williams River Catchment Area.

11 Water activities in the Chichester and Grahamstown Storage Reservoirs

A person must not:

- (a) enter or bathe, swim, fish or use a boat or any other water craft in the Chichester or Grahamstown Storage Reservoirs, or
- (b) allow any other person, or any animal in the person's control, to enter or bathe or swim in either of those reservoirs, or
- (c) allow any other person to fish or use a boat or any other water craft in either of those reservoirs,

otherwise than in accordance with an approval given by the Director-General.

Maximum penalty: 200 penalty units in the case of a corporation and 100 penalty units in any other case.

2003 No 165

Clause 12 Hunter Water (Special Areas) Regulation 2003

Part 4 Nelson Bay, North Stockton and Tomago Sandbeds Catchment Areas

Part 4 Nelson Bay, North Stockton and Tomago Sandbeds Catchment Areas

12 Application of Part

This Part applies to the Nelson Bay, North Stockton and Tomago Sandbeds Catchment Areas.

13 Extractive industries

- (1) A person must not engage in any extractive industry in the Nelson Bay, North Stockton or Tomago Sandbeds Catchment Area otherwise than in accordance with an approval given by the Director-General.

Maximum penalty: 200 penalty units in the case of a corporation and 100 penalty units in any other case.

- (2) In this clause:

extractive industry includes mining and any other disturbance of geologic material for the extraction of minerals or other geological constituents.

Part 5 Williams River Catchment Area

14 Application of Part

This Part applies to the Williams River Catchment Area.

15 Water activities near the Seaham Weir in the Williams River

A person must not:

- (a) use a boat or any other water craft in the Williams River, or
- (b) allow any other person to use a boat or any other water craft in the Williams River,

within 2.5 kilometres upstream, or 0.5 kilometres downstream, of the Seaham Weir, otherwise than in accordance with an approval given by the Director-General.

Maximum penalty: 200 penalty units in the case of a corporation and 100 penalty units in any other case.

2003 No 165

Clause 16 Hunter Water (Special Areas) Regulation 2003

Part 6 Miscellaneous

Part 6 Miscellaneous

16 Approvals given by Director-General

- (1) An approval given by the Director-General for the purposes of this Regulation is to be in writing, may be given unconditionally or subject to conditions and may be varied or revoked by the Director-General (by written notice served on the holder of the approval) at any time and for any reason.
- (2) In exercising any function with respect to the giving, variation or revocation of an approval in connection with any special area, the Director-General must have primary regard to the need to prevent water in the special area from becoming polluted or contaminated.

17 Notices by public agencies

For the purposes of section 55 (1) of the Act, the notice to be given to the Director-General:

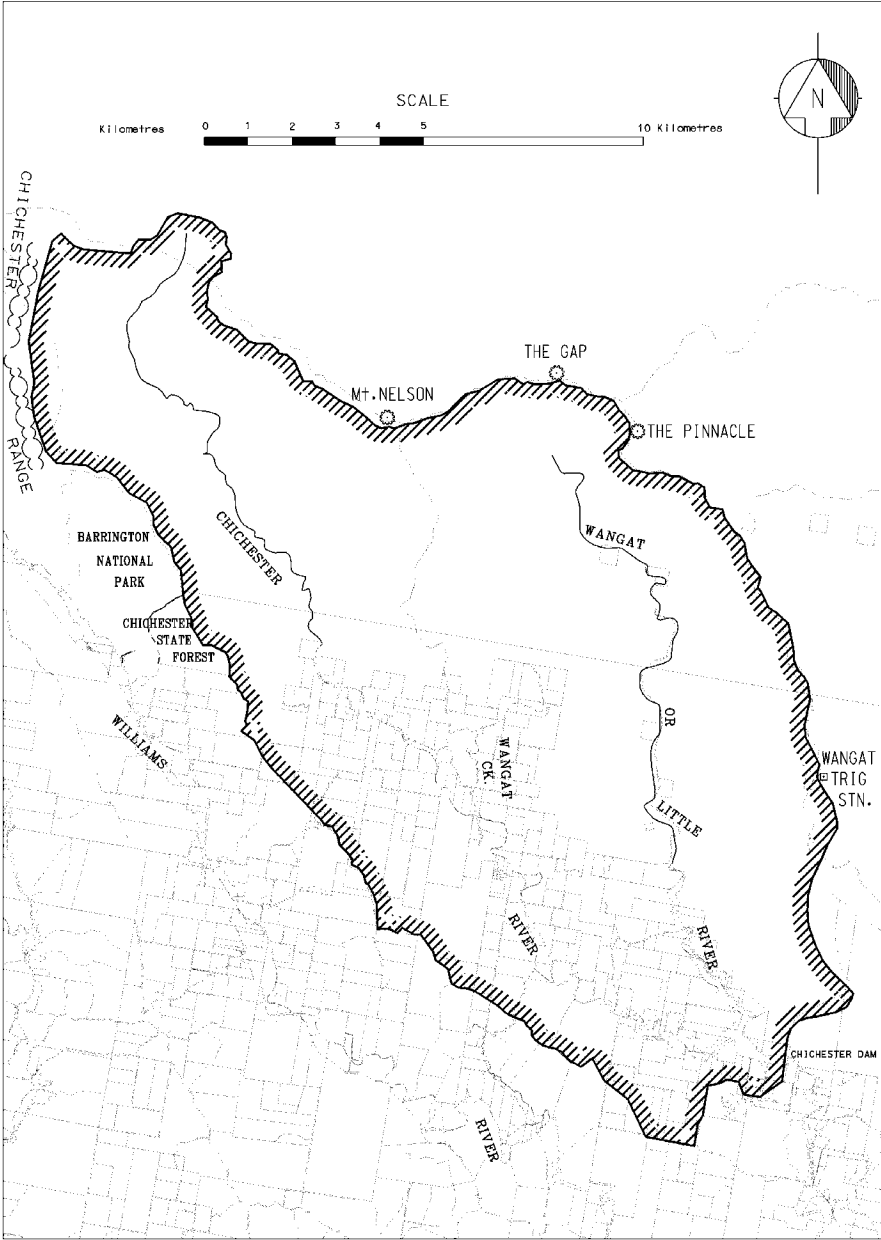
- (a) must be in writing, and
- (b) must be served on the Director-General, either by post or by lodging it at an office of the Department of Land and Water Conservation, and
- (c) must contain a full description of the function that is intended to be exercised and of any proposed activity associated with the exercise of that function (together with a statement of the objectives of the proposed activity).

18 Repeal and savings

- (1) The *Hunter Water (Special Areas) Regulation 1997* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Hunter Water (Special Areas) Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Chichester Catchment Area

(Clause 3)



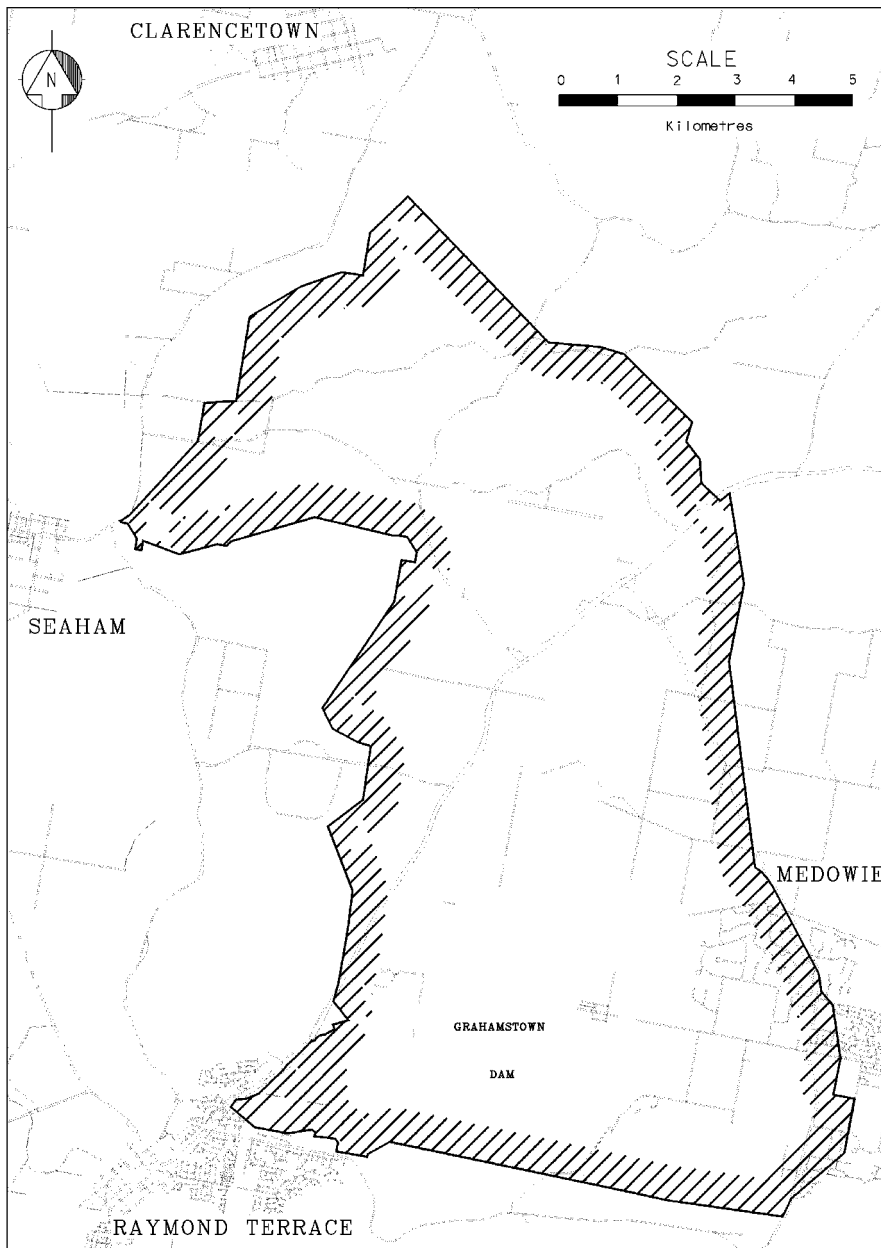
2003 No 165

Hunter Water (Special Areas) Regulation 2003

Schedule 2 Grahamstown Catchment Area

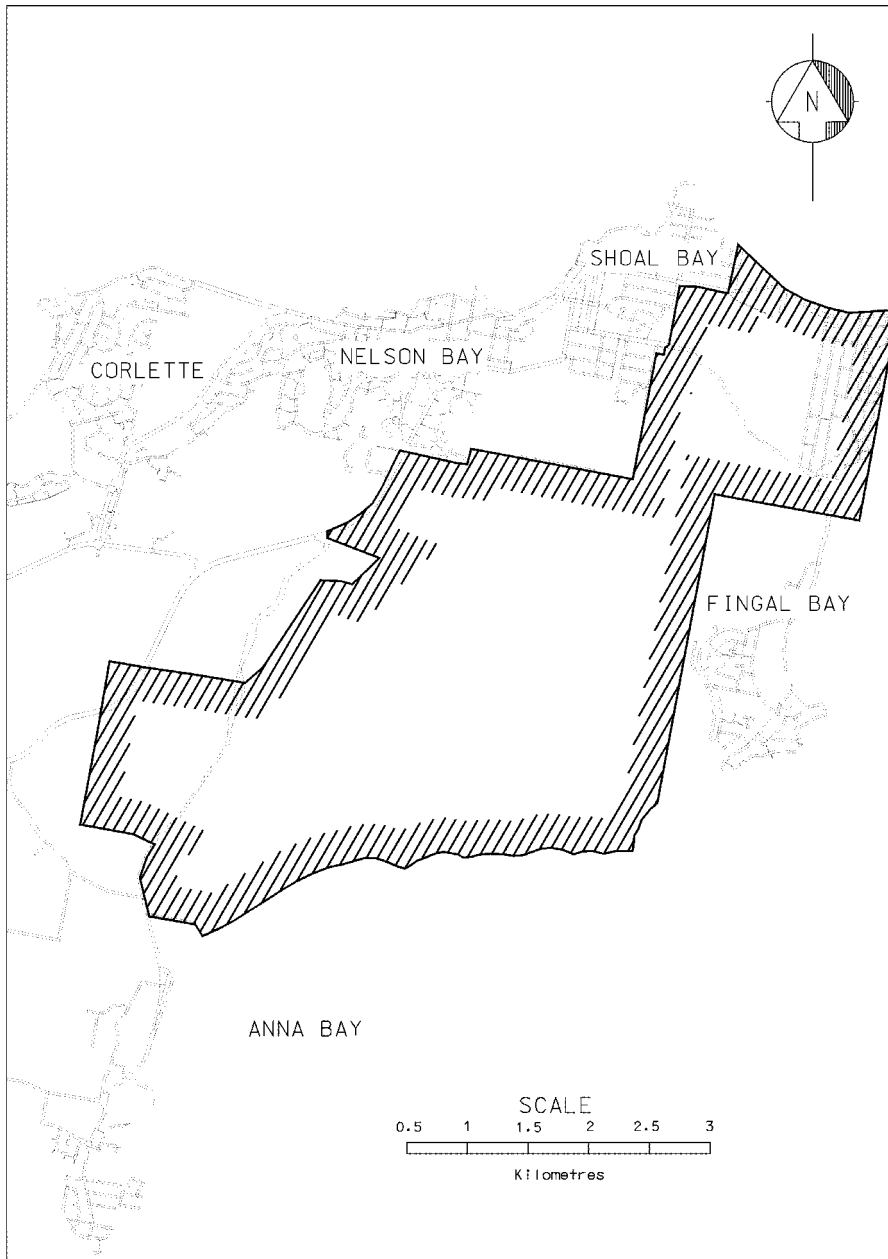
Schedule 2 Grahamstown Catchment Area

(Clause 3)



Schedule 3 Nelson Bay Catchment Area

(Clause 3)



2003 No 165

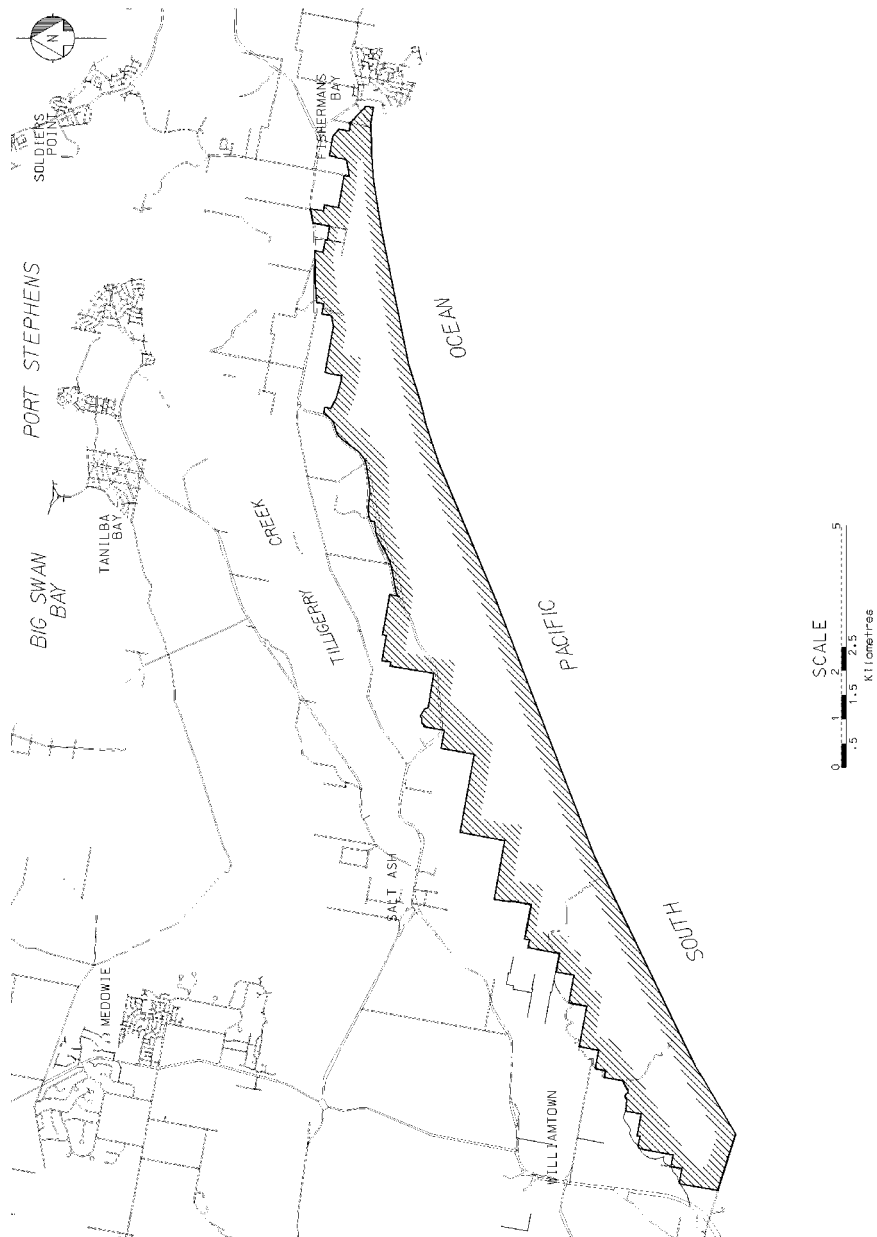
Hunter Water (Special Areas) Regulation 2003

Schedule 4

North Stockton Catchment Area

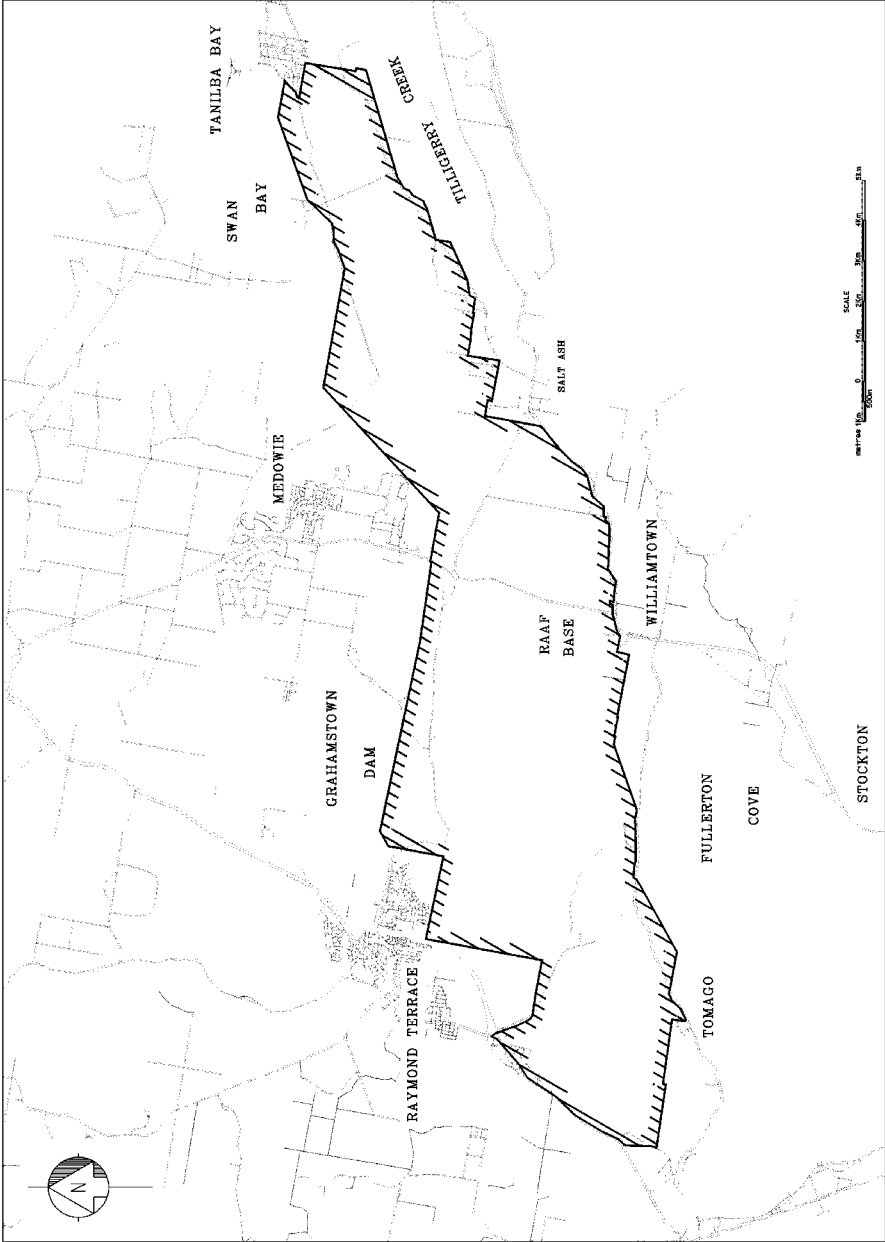
Schedule 4 North Stockton Catchment Area

(Clause 3)



Schedule 5 Tomago Sandbeds Catchment Area

(Clause 3)



2003 No 165

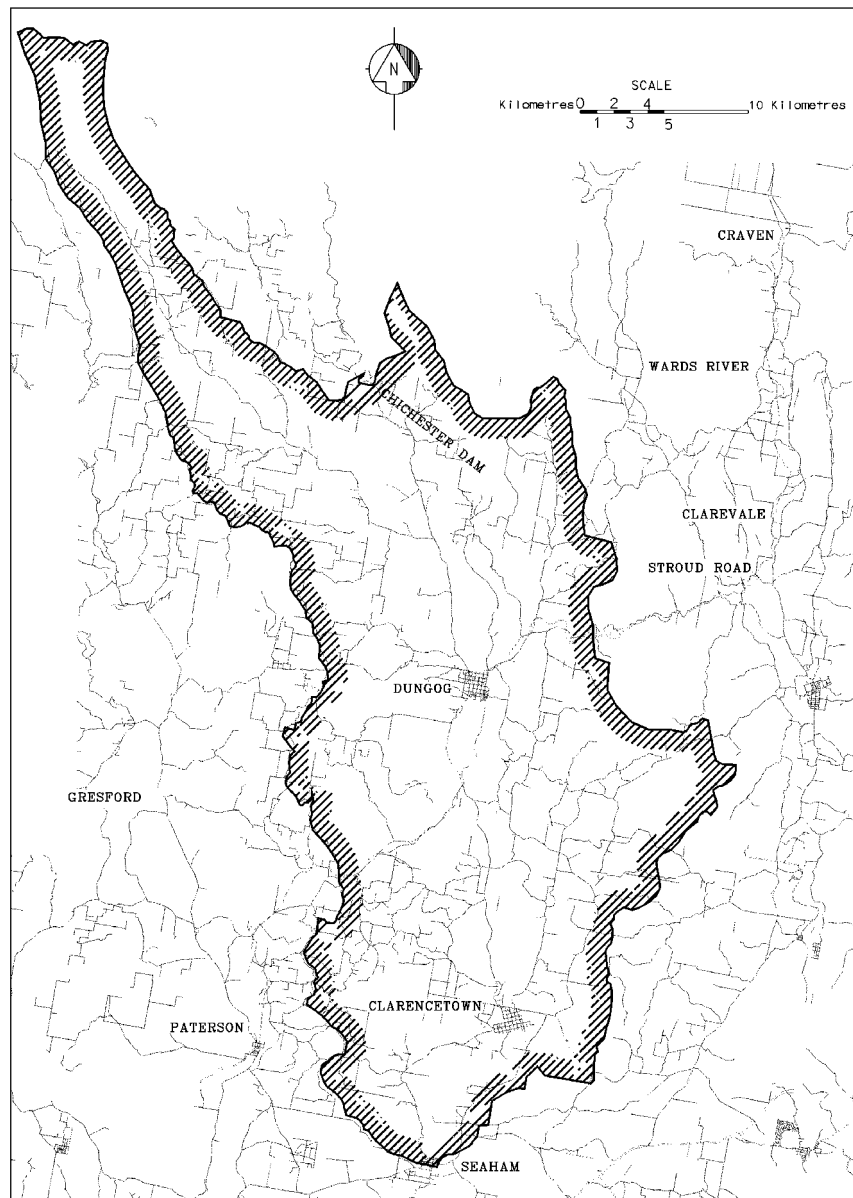
Hunter Water (Special Areas) Regulation 2003

Schedule 6

Williams River Catchment Area

Schedule 6 Williams River Catchment Area

(Clause 3)



BY AUTHORITY