



New South Wales

Water NSW Regulation 2020

under the

Water NSW Act 2014

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

MELINDA PAVEY, MP
Minister for Water, Property and Housing

Explanatory note

The object of this Regulation is to remake, with minor amendments, the *Water NSW Regulation 2013*, which will be repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following—

- (a) the conferral on the **Regulatory Authority**, being the Minister administering the *Water NSW Act 2014* (the *Act*) or a person appointed by the Minister, of various functions under the *Protection of the Environment Operations Act 1997*,
- (b) the regulation of certain conduct on land in a special area or controlled area declared under the Act, including offensive conduct, the taking of water, pollution, entering certain land (including with vehicles or animals), lighting fires and causing harm to flora, fauna or buildings, structures or fixtures,
- (c) the giving of a notification to the Regulatory Authority by a public agency of a proposal to carry out functions in a special area,
- (d) the delegation of functions conferred on the Regulatory Authority under this Regulation,
- (e) the councils to which Water NSW is to supply water,
- (f) the fees chargeable by Water NSW for water supplied by it,
- (g) the offences under the Act and this Regulation that may be dealt with by way of a penalty notice and the prescribed penalties payable for those offences when dealt with by penalty notice.

This Regulation is made under the *Water NSW Act 2014*, including sections 7(1)(c), 39, 51, 55, 63(1) and (2), 102, 110 and 114 (the general regulation-making power).

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Water NSW Regulation 2020

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Water NSW Act 2014

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Water NSW Regulation 2020*.

2 Commencement

This Regulation commences on 1 September 2020 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Water NSW Regulation 2013*, which is repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation—

animal means any non-human mammal or any bird, fish, reptile, amphibian, crustacean, arthropod or mollusc.

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*.

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 *Environmentally Hazardous Chemicals Act 1985*.

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

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

plant means any aquatic or terrestrial plant and includes a shrub or tree.

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

private land means land other than—

- (a) Water NSW land, or
- (b) Crown land.

the Act means the *Water NSW Act 2014*.

vehicle includes motor vehicle and vessel.

vessel includes a water craft of any description that is used or capable of being used as a means of transportation on water but does not include an aircraft that is capable of landing on water.

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

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Environment protection functions to be exercised by Regulatory Authority

4 Regulatory Authority may exercise powers of EPA and other regulatory authorities

- (1) The Regulatory Authority has the same functions as the EPA or any other 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 Part 3 of this Regulation—
 - (a) Chapter 4,
 - (b) Chapter 7 other than section 186,
 - (c) Division 2 of Part 8.2.
- (2) The Regulatory Authority has the same functions as the EPA under Part 8.2 of the *Protection of the Environment Operations Act 1997* with respect to an offence against section 145, 145A, 146, 146A, 146B or 146C of that Act that is committed or alleged to have been committed in a declared catchment area.
- (3) The Regulatory Authority has the same functions as the EPA under section 316 of the *Protection of the Environment Operations Act 1997* with respect to a dispute between the Regulatory Authority and a public authority and that section applies to the Regulatory Authority in the same way as it applies to the EPA.
- (4) The Regulatory Authority has the same functions as a regulatory authority under sections 319 and 320 of the *Protection of the Environment Operations Act 1997* and those sections apply to the Regulatory Authority in the same way as they apply to a regulatory authority.
- (5) 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 respect of the exercise of that function (including any provisions relating to the exercise of those functions, any offences under that Act, any provisions relating to proceedings for offences and any appeal provisions), and
 - (b) references in that Act to the EPA or another regulatory authority (including the appropriate regulatory authority) are taken to include the Regulatory Authority, and
 - (c) references in that Act to an authorised officer are taken to include an authorised officer within the meaning of the *Water NSW Act 2014*.
- (6) In this clause—

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

 - (a) within a declared catchment area, or
 - (b) outside a declared catchment area and of a nature as to affect or possibly affect a declared catchment area, or
 - (c) within a controlled area, or
 - (d) outside a controlled area and of a nature as to affect or possibly affect a controlled area.

5 Purposes for which functions may be exercised

The Regulatory Authority may exercise the functions conferred on it by this Part only for 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 Regulatory Authority's functions

- (1) The Regulatory Authority may 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 that is authorised or controlled by an environment protection licence.

Note. The appropriate regulatory authority in respect of the activities listed in this subclause will generally be the EPA.

- (2) The Regulatory Authority may 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 Inconsistency with directions given by other regulatory authorities

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

- (2) In this clause, **activity**, **pollution incident** and **premises** have the same meanings as in the *Protection of the Environment Operations Act 1997*.

8 Regulatory Authority to keep register

- (1) The Regulatory Authority is to keep a register of the following—
 - (a) details of each environment protection notice given by the Regulatory Authority,
 - (b) details of convictions in prosecutions instituted 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 instituted 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 is also to continue to include any details, results or other matters that were included in the register by the Sydney Catchment Authority before its abolition.
- (3) A copy of the register is to be available for inspection at the principal office of the Regulatory Authority during ordinary office hours and on the website maintained by the Regulatory Authority.
- (4) A copy of any 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.
- (5) In this clause—
 - details** of a matter means—
 - (a) particulars of the matter, or
 - (b) a copy of the matter, or
 - (c) any electronic or other reproduction of the matter.

Part 3 Regulation of conduct

Division 1 Consent of Water NSW

9 Water NSW's consent

- (1) A person does not commit an offence under this Part (other than an offence under this clause or under clause 15, 18, 19 or 20) by reason of anything done with the consent of Water NSW.
- (2) A person who does anything in a special area or controlled area with the consent of Water NSW must comply with the conditions, if any, to which the consent is subject.
Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

10 Manner of consent

- (1) Water NSW may grant consent—
 - (a) by a sign or notice displayed on the land or part of the land to which the sign or notice relates, or
 - (b) by written notice given to a person, in the form of an approval, lease or other instrument in writing.
- (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) either generally or in a particular case, and
 - (b) to a particular person or to a class of persons, and
 - (c) either unconditionally or subject to the conditions specified in the sign or notice, and
 - (d) either 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) either unconditionally or subject to the conditions specified in the written notice, and
 - (b) either 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 notification to the person.

11 Divisions of this Part not exhaustive

A Division in this Part does not limit the operation of any other provision of this Regulation in the provision's application to any land referred to in that Division.

Division 2 Regulation of conduct generally on land in special areas or controlled areas

12 No interference with water

- (1) A person must not dam, divert or take any water that—
 - (a) is water from which Water NSW draws its supply or that is available for supply by Water NSW, and
 - (b) is located on land in a special area or controlled area.
Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (2) A person does not commit an offence under subclause (1) by reason of anything done with lawful authority, including a licence or approval under the *Water Management Act 2000* or the *Water Act 1912*.

13 Control of pollution in special areas and controlled areas

- (1) A person must not—
- (a) bring a pollutant or waste into or leave a pollutant or waste on—
 - (i) land in a special area or controlled area, or
 - (ii) if the pollutant or waste is of a nature as to increase the risk of harm to the environment on land in a special area or controlled area—any area of land adjoining the special area or controlled area, or
 - (b) cause or permit the pollution of waters on land in a special area or controlled area.

Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (2) A person does not commit an offence under subclause (1) by reason of anything done in accordance with a licence granted under the *Protection of the Environment Operations Act 1997*.
- (3) The owner or occupier of land in a special area or controlled area must not erect, install or operate any on-site sewage management facility on the land unless the person does so in accordance with—
- (a) a development consent granted under the *Environmental Planning and Assessment Act 1979*, or
 - (b) an approval granted under the *Local Government Act 1993*, or
 - (c) an environment protection licence granted under the *Protection of the Environment Operations Act 1997*.

Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (4) A person must comply with a direction given by the Regulatory Authority or an authorised officer for—
- (a) the disposal of any of the following on land in a special area or controlled area (each a **relevant substance**)—
 - (i) a pollutant,
 - (ii) waste,
 - (iii) another substance that is on the land and that the Regulatory Authority or authorised officer considers may detrimentally affect any land in the area, or
 - (b) the removal of a relevant substance from—
 - (i) land in the special area or controlled area, or
 - (ii) if the relevant substance is of a nature as to increase the risk of harm to the environment on land in the special area or controlled area—an area of land adjoining the special area or controlled area.

Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (5) In this clause—
- harm** to the environment includes any direct or indirect alteration of the environment that has the effect of degrading the environment and, without limiting the generality of the above, includes any act or omission that results in pollution.

pollutant means anything 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*.

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

Division 3 Regulation of conduct on Crown land or Water NSW land in special areas or controlled areas

14 Stock control in special areas and controlled areas

- (1) The owner or person in charge of any stock must ensure that the stock does not enter any Crown land or Water NSW land that is in a special area or controlled area.
Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (2) If stock enters any Crown land or Water NSW land that is in a special area or controlled area 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.
- (3) If an authorised officer takes an action specified in subclause (2)—
 - (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.
- (4) In this clause—
stock means cattle, horses, donkeys, mules, asses, camels, sheep, goats, pigs, deer, alpacas or llamas.

15 Investigation of suspected contraventions

- (1) An authorised officer may give a direction under this clause if the officer has reason to believe—
 - (a) that a person is on Crown land or Water NSW land that is in a special area or controlled area, and
 - (b) the person has a thing in the person's possession or control in contravention, or 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 in the person's possession or control available for inspection by the authorised officer for the purpose of investigating the suspected contravention or intended contravention.
- (3) A person given a direction under this clause must comply with the direction.
Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (4) Nothing in this clause limits any function an authorised officer may have under the Act or another Act.

16 Signs or notices prohibiting persons entering or remaining on certain land

- (1) Water NSW may erect a sign or notice on Crown land or Water NSW land that is in a special area or controlled area requiring persons not to enter or remain on the land to which the sign or notice relates.
- (2) A person must not enter or remain on land in contravention of a sign or notice erected under this clause.
Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

17 Signs or notices regulating conduct on certain land

- (1) Water NSW may erect a sign or notice on Crown land or Water NSW land that is in a special area or controlled area prohibiting or restricting any of 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, including deadfalls of timber,
 - (d) removing a rock, soil, sand, stone or similar substance,
 - (e) bringing in or releasing an animal,
 - (f) leading or riding an animal,
 - (g) selling or offering for sale any goods or conducting any other commercial activity,
 - (h) lighting, maintaining or using fires,
 - (i) camping or residing,
 - (j) disposing of waste,
 - (k) driving, riding or being a passenger in or on a vehicle,
 - (l) damaging, defacing, disturbing or otherwise interfering with a building, structure, sign, fixture, animal trap, bait or plant rehabilitation measure,
 - (m) using facilities,
 - (n) 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.
- (2) A person must not act in contravention of a sign or notice erected under this clause.
Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

18 Directions to leave land in emergencies

- (1) An authorised officer may direct a person to leave Crown land or Water NSW land that is in a special area or controlled area if the authorised officer reasonably believes that the direction is necessary to prevent injury to a person.

- (2) A person must leave land immediately when directed to do so by an authorised officer under this clause.
Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (3) A person is not guilty of an offence against this clause unless it is established that the authorised officer warned the person that the failure to comply with the direction is an offence.

19 Removal of certain persons who contravene Act or Regulation

- (1) A person who contravenes a provision of the Act or this Regulation on Crown land or Water NSW land that is in a special area or controlled area must leave the land concerned immediately when directed to do so by an authorised officer.
Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (2) A person who fails to comply with the direction given in accordance with subclause (1) may be removed from the land concerned by an authorised officer.
- (3) Reasonable force may be used to effect the person's removal.
- (4) A person who leaves or is removed from land under this clause must remove any equipment, vehicle, animal or other item belonging to or associated with the person, from the land concerned.
Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (5) A person is not guilty of an offence against this clause unless it is established that the authorised officer warned the person that the failure to comply with the direction is an offence.

20 Fees and charges for entry on Water NSW land

- (1) Water NSW may from time to time determine the fees or charges payable in respect of the entry by persons or vehicles on Water NSW land in 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 concerned unless the fees or charges are paid on request by an authorised officer.
- (3) An authorised officer may direct a person who has entered the land without paying the fees or charges to leave the land.
- (4) A person must leave the land immediately when directed to do so by an authorised officer under this clause.
Maximum penalty—5 penalty units.

Division 4 Regulation of conduct on Schedule 1 land and Schedule 2 land

21 Meaning of "Schedule 1 land" and "Schedule 2 land"

In this Division—

Schedule 1 land means the special areas and controlled areas identified in Schedule 1 other than land that is private land or land that is identified in that Schedule as excluded land.

Schedule 2 land means the special areas identified in Schedule 2 other than land that is private land.

22 Prohibited activities on Schedule 1 land

- (1) A person must not—
 - (a) enter or remain on Schedule 1 land, or
 - (b) enter, fish or swim in water on Schedule 1 land, or
 - (c) camp on Schedule 1 land, or
 - (d) light, maintain or use a fire on Schedule 1 land.Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (2) In this clause—

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

23 Lighting of fires on Schedule 2 land

- (1) A person must not on Schedule 2 land (whether or not it is land to which subclause (2) applies)—
 - (a) light, maintain or use a fire in the open—
 - (i) if there are public fireplaces—elsewhere than in a public fireplace, or
 - (ii) if there are no public fireplaces—elsewhere than in a temporary fireplace situated at least 4.5 metres from a log or stump and at least 1.5 metres from any other flammable material, or
 - (b) light, maintain or use a fire in the open in contravention of a notice posted by Water NSW or the National Parks and Wildlife Service regulating the use of fire on that land, or
 - (c) leave unattended a fire that the person has lit, maintained or used, or
 - (d) fail to call for help to control or extinguish a fire that the person has lit, maintained or used and that is beyond the person's power to control or extinguish, or
 - (e) handle a flammable substance (for example petrol, matches or cigarettes) in a manner that is likely to cause a fire.
- (2) If any part of Schedule 2 land has been declared under section 8 of the *Wilderness Act 1987* to be a wilderness area, a person must not light a fire in the wilderness area unless the fire is lit in accordance with—
 - (a) a provision of that Act (or of regulations made under that Act) relating to the lighting of fires in wilderness areas, or
 - (b) the terms of a wilderness protection agreement (within the meaning of that Act) or conservation agreement (within the meaning of the *National Parks and Wildlife Act 1974*) that relate to the lighting of fires in the wilderness area concerned.

Maximum penalty (subclauses (1) and (2))—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (3) This clause applies to Schedule 2 land whether or not the land has been reserved under the *National Parks and Wildlife Act 1974*.

24 Gates or barriers on or to Schedule 1 land or Schedule 2 land

- (1) A person must not open, pass, remove, interfere with, damage or obstruct a gate or barrier on or to Schedule 1 land or Schedule 2 land.
Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

(2) In this clause—

barrier includes any obstruction that has been positioned or created, by any means, so as to restrict or obstruct access to a road, track, trail, path or the like.

25 Certain conduct prohibited on Schedule 1 land and Schedule 2 land

(1) A person must not do any of the following on Schedule 1 land or Schedule 2 land—

- (a) drive, ride or be a passenger 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) sell or offer for sale any goods,
- (f) damage, deface, disturb or otherwise interfere with any building, structure, sign, fixture, animal trap, bait or plant rehabilitation measure,
- (g) damage or remove a plant or part of a plant,
- (h) remove a rock, soil, sand, stone or similar substance,
- (i) destroy, capture, injure or otherwise interfere with any animal, or damage or interfere with the habitat of an animal.

(2) A person must not bring onto or have in the person's possession on Schedule 1 land or Schedule 2 land—

- (a) any plant or part of a plant, or
- (b) any animal, or
- (c) any firearm or imitation firearm (within the meaning of the *Firearms Act 1996*) or a 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.

(3) A person must not allow any unrestrained animal for which the person is responsible to enter or remain on Schedule 1 land or Schedule 2 land.

Maximum penalty (subclauses (1), (2) and (3))—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

(4) In this clause—

aircraft means any airborne craft, including a fixed wing craft, helicopter, gyrocopter, glider, hang glider, hot air balloon or airship.

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

unmanned vehicle includes an unmanned airborne craft, including a drone or other remotely piloted airborne craft, or any other unmanned motorised vehicle.

26 Certain offensive conduct prohibited on Schedule 1 land and Schedule 2 land

A person must not do any of the following on Schedule 1 land or Schedule 2 land—

- (a) behave in a disorderly manner,
- (b) use insulting or offensive language,
- (c) commit an act of indecency,
- (d) use, or be affected by, a prohibited drug (within the meaning of the *Drug Misuse and Trafficking Act 1985*),

- (e) operate or use a radio, television, speakers or other sound-generating device in a manner likely to interfere with or cause a nuisance to a person or animal.

Maximum penalty—200 penalty units.

27 Consuming alcohol prohibited in contravention of sign or notice

A person must not consume alcohol on Schedule 1 land or Schedule 2 land in contravention of the terms of a sign or notice erected on the land.

Maximum penalty—200 penalty units.

28 Use of water on Schedule 1 land and Schedule 2 land

- (1) A person must not—

- (a) use a vessel on water on Schedule 1 land or Schedule 2 land, or
- (b) wash in water on Schedule 1 land or Schedule 2 land, or
- (c) cause an animal, animal matter, plant or plant matter to enter or remain in water on Schedule 1 land or Schedule 2 land.

Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (2) Despite subclause (1), a person may—

- (a) use, on water on Schedule 2 land, a vessel that is propelled solely by human power or the wind, and
- (b) take, on Schedule 2 land, an amount of water necessary for the person's use (including use for the purpose of washing) while on the land.

29 Pesticides and pest control on Schedule 1 land and Schedule 2 land

- (1) A person must not bring onto, use or keep on, Schedule 1 land or Schedule 2 land a pesticide or environmentally hazardous chemical.

Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (2) A person does not commit an offence under subclause (1)—

- (a) by reason of the person bringing onto, using or keeping on, Schedule 1 land or Schedule 2 land, quantities of pesticide solely for household or domestic purposes, or
- (b) by reason of anything done in accordance with an environment protection licence.

- (3) Nothing in subclause (2) is to be taken to authorise a person to use a pesticide in contravention of the *Pesticides Act 1999*.

- (4) In this clause—

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

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.

Division 5 Regulation of conduct on other land

30 Animal management on land identified in Schedule 1 or Schedule 2

- (1) This clause applies to all land identified in Schedule 1 or Schedule 2 (including private land) other than land that is identified in Schedule 1 as excluded land.
- (2) A person must not, on land to which this clause applies, erect, maintain or use a building or structure for the purposes of any of the following—
 - (a) aquaculture,
 - (b) intensive livestock agriculture,
 - (c) an animal boarding or training establishment.

Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (3) A person must not, within 100 metres of a stream, reservoir or watercourse on land to which this clause applies—
 - (a) leave the carcass of a dead animal, or cause 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 cause or permit the carcass of a dead animal to be buried or disposed of.

Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (4) Words and expressions used in this clause (but not defined in the Act or this Regulation) have the same meanings as in the standard instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*.

Division 6 Protection of Water NSW assets

31 Prohibition on destroying or damaging Water NSW-owned structures

A person must not destroy or maliciously damage a structure owned by Water NSW—

- (a) on Crown land or Water NSW land that is in a special area or controlled area, or
- (b) on land identified in Schedule 1 or Schedule 2 (including private land).

Maximum penalty—400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

Part 4 Miscellaneous

32 Notice by public agencies

Notice given to the Regulatory Authority for the purposes of section 50(1) of the Act—

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

33 Prescribed local councils

The following local councils are prescribed for the purposes of section 7(1)(c) of the Act—

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

34 Delegation by Minister

For the purposes of section 110 of the Act the chief executive officer is authorised.

35 Savings

Any act, matter or thing that had effect under the *Water NSW Regulation 2013* immediately before the repeal of that Regulation continues to have effect under this Regulation.

Schedule 1 Schedule 1 land

(clause 21)

Special areas

The following special areas being portions of land as shown on the map marked “Schedule 1 Areas” deposited in the office of Water NSW—

- (a) the area of land submerged by Lake Burragorang, together with the area of land that surrounds the lake extending from the edge of the lake to a point 3 kilometres above the full supply level of the lake,
- (b) the catchment areas of Broughton’s Pass Weir, Pheasant’s Nest Weir and Lake Woronora to the extent that they are not contained in the proclamations referred to in paragraphs (c) and (d),
- (c) 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,
- (d) Woronora Catchment Area as proclaimed in Gazette No 37 of 21 March 1941,
- (e) Wingecarribee Catchment Area as proclaimed in Gazette No 156 of 14 December 1973,
- (f) Blackheath Special Area as proclaimed on 6 March 1991 and published in Gazette No 45 of 15 March 1991,
- (g) Katoomba Special Area as proclaimed on 6 March 1991 and published in Gazette No 45 of 15 March 1991,
- (h) Woodford Special Area as proclaimed on 6 March 1991 and published in Gazette No 45 of 15 March 1991,
- (i) Prospect Special Area, being the area of land declared to be a special area by the *Sydney Water Catchment Management (Prospect Special Area) Order 2008* and published in Gazette No 92 of 25 July 2008,
- (j) part of the Shoalhaven Catchment Area as proclaimed in Gazette No 13 of 8 February 1974 (being that part shown speckled and edged heavy black on the map marked “Shoalhaven Schedule 1 Special Area Tallowa Dam Fishway” deposited in the office of Water NSW).

Controlled areas

All Water NSW land on or in which there are any one or more of the following—

- (a) water transfer structures (being canals, tunnels, pipelines, water mains or drainage channels),
- (b) roads,
- (c) a device that is used to monitor water and infrastructure associated with that device.

Note. See section 54 of the Act in relation to how an area of land is declared to be a controlled area.

Excluded land

So much of the land listed in this Schedule as consists of a part of the township of Nattai Village, Yerrinbool or Medlow Bath (being the land identified as such on the map marked “Schedule 1 Areas” deposited in the office of Water NSW) is excluded from this Schedule.

Schedule 2 Schedule 2 land

(clause 21)

Special areas

The following special areas—

- (a) Fitzroy Falls Catchment Area as proclaimed in Gazette No 11 of 4 February 1977,
- (b) Shoalhaven Catchment Area as proclaimed in Gazette No 13 of 8 February 1974,
- (c) Warragamba Catchment Area as proclaimed in Gazette No 122 of 4 September 1942 and amended by proclamations published in Gazette Nos 1 of 7 January 1944 and 77 of 4 August 1944,

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

Schedule 3 Penalty notice offences

1 Application of Schedule

- (1) For the purposes of section 102 of the Act—
- (a) each offence created by a provision specified in this Schedule 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) that limited kind of offence, or
 - (b) an offence committed in those limited circumstances.

Column 1	Column 2	Column 3
Provision	Penalty (individual)	Penalty (corporation)
Offences under the Act		
Section 36(3)(b)	\$750	\$1,500
Section 70(4)	\$750	\$1,500
Section 71(2)	\$750	\$1,500
Section 73(4)	\$750	\$1,500
Section 74(2)	\$750	\$1,500
Section 77(5)	\$750	\$1,500
Section 80(4)	\$750	\$1,500
Section 81(6)	\$750	\$1,500
Section 84(6)	\$750	\$1,500
Section 93	\$750	\$1,500
Section 94(1)	\$750	\$1,500
Offences under this Regulation		
Clause 9(2)	\$750	\$1,500
Clause 12(1)	\$750	\$1,500
Clause 13(1), (3) or (4)	\$750	\$1,500
Clause 14(1)	\$750	\$1,500
Clause 15(3)	\$750	\$1,500
Clause 16(2)	\$1,250	\$2,000
Clause 17(2)	\$750	\$1,500
Clause 18(2)	\$750	\$1,500
Clause 19(1) or (4)	\$750	\$1,500
Clause 22(1)(a)	\$300	\$1,000
Clause 22(1)(b), (c) or (d)	\$750	\$1,500

Column 1	Column 2	Column 3
Provision	Penalty (individual)	Penalty (corporation)
Clause 23(1) or (2)	\$750	\$1,000
Clause 24(1)	\$1,250	\$2,000
Clause 25(1)	\$1,250	\$2,000
Clause 25(2) or (3)	\$750	\$1,500
Clause 26	\$750	—
Clause 27	\$750	—
Clause 28(1)	\$750	\$1,500
Clause 29(1)	\$750	\$1,500
Clause 30(2) or (3)	\$750	\$1,500
Clause 31	\$750	\$1,500