



New South Wales

Sydney Water Catchment Management Regulation 2008

under the

Sydney Water Catchment Management Act 1998

[The following enacting formula will be included if the Regulation is made:]
Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Sydney Water Catchment Management Act 1998*.

Minister for Water

Explanatory note

The object of this Regulation is to remake, with changes, the *Sydney Water Catchment Management (Environment Protection) Regulation 2001* and the *Sydney Water Catchment Management (General) Regulation 2000*, which are repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) conferring on the Sydney Catchment Authority (*SCA*) various functions under the *Protection of the Environment Operations Act 1997*,
- (b) the regulation of conduct on land in a special area or a controlled area by the creation of a number of offences including (but not limited to) offences relating to 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) how a notification that a public agency is proposing to carry out functions in a special area is to be given to the SCA,
- (d) the delegation of functions conferred on the SCA under this regulation,
- (e) the prescription of councils to which the SCA is to supply water,
- (f) the prescription of fees,
- (g) the offences under the *Sydney Water Catchment Management Act 1998* and this Regulation that may be dealt with by way of a penalty notice,
- (h) savings and formal matters.

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Explanatory note

This Regulation is made under the *Sydney Water Catchment Management Act 1998*, including sections 16 (1) (b), 19, 24E (1), 48, 52, 65 and 74 (the general regulation-making power).

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Contents

	Page
Part 1 Preliminary	
1 Name of Regulation	5
2 Commencement	5
3 Definitions	5
Part 2 Environment protection functions to be exercised by SCA	
4 SCA may exercise powers of EPA and other regulatory authorities	7
5 Purposes for which functions may be exercised	8
6 Limitations on SCA's functions	8
7 Inconsistency with directions given by other regulatory authorities	8
8 SCA to keep register	9
Part 3 Regulation of conduct	
Division 1 Consent of SCA	
9 SCA's consent	10
10 Divisions of this Part not exhaustive	10
Division 2 Regulation of conduct generally on land in a special area or a controlled area	
11 No interference with water	10
12 Control of pollution and disease in special areas and controlled areas	11
Division 3 Regulation of conduct on crown land or SCA land in a special area or a controlled area	
13 Stock control in special areas and controlled areas	12
14 Investigation of suspected contraventions	12
15 Signs prohibiting persons entering or remaining on certain land	13
16 Directions to leave land in emergencies	13
17 Removal of certain persons who contravene Act or Regulation	13
18 Fees and charges for entry to SCA land	14

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Contents

	Page
Division 4 Regulation of conduct on Schedule 1 and Schedule 2 land	
19 Meaning of “Schedule 1 land” and “Schedule 2 land”	14
20 Prohibited activities on Schedule 1 land	14
21 Lighting of fires on Schedule 2 land	15
22 Gates or barriers on or to Schedule 1 land or Schedule 2 land	15
23 Certain conduct prohibited on Schedule 1 land and Schedule 2 land	16
24 Use of water on Schedule 1 land and Schedule 2 land	17
25 Pesticides and pest control on Schedule 1 land and Schedule 2 land	17
Division 5 Regulation of conduct on other land	
26 Animal management on land identified in Schedule 1 or Schedule 2	18
Part 4 Miscellaneous	
27 Notice by public agencies	19
28 Exercise of functions conferred by this Regulation	19
29 Prescribed local councils	19
30 Fees	19
31 Penalty notices	19
32 Savings	20
Schedule 1 Schedule 1 land	21
Schedule 2 Schedule 2 land	22
Schedule 3 Penalty notice offences	23

Public consultation draft

Clause 1 Sydney Water Catchment Management Regulation 2008

Part 1 Preliminary

Sydney Water Catchment Management Regulation 2008

under the

Sydney Water Catchment Management Act 1998

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Sydney Water Catchment Management Regulation 2008*.

2 Commencement

This Regulation commences on 1 September 2008.

Note. This Regulation replaces the *Sydney Water Catchment Management (Environment Protection) Regulation 2001* and the *Sydney Water Catchment Management (General) Regulation 2000* which are repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

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

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 Lands Act 1989*, 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*.

EPA means the Environment Protection Authority.

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

private land means land other than:

- (a) SCA land, or
- (b) Crown land.

SCA land means land owned by or vested in the SCA.

the Act means the *Sydney Water Catchment Management Act 1998*.

Public consultation draft

Clause 3 Sydney Water Catchment Management Regulation 2008

Part 1 Preliminary

vehicle includes the following:

- (a) a motor vehicle within the meaning of the *Road Transport (General) Act 2005*,
- (b) a trailer or caravan, whether or not it is in the course of being towed,
- (c) an apparatus (other than a wheelchair, pram or stroller) that is propelled by human, animal or mechanical power, or by the wind, and is used wholly or partly for the conveyance of persons or things,
- (d) a vessel.

vessel has the same meaning as in the *Marine Safety Act 1998*.

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

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Clause 4

Environment protection functions to be exercised by SCA

Part 2

Part 2 Environment protection functions to be exercised by SCA

4 SCA may exercise powers of EPA and other regulatory authorities

- (1) The SCA 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 relevant non-scheduled activities and in relation to an offence set out in Part 3 of this Regulation:
 - (a) Chapter 4 (Environment protection notices),
 - (b) Chapter 7 (Investigation) other than section 186,
 - (c) Division 2 of Part 8.2 (Proceedings for offences).
- (2) Non-scheduled activities within the meaning of the *Protection of the Environment Operations Act 1997* are **relevant non-scheduled activities** for the purposes of this clause if the activities are carried out or proposed to be carried out:
 - (a) within a catchment area, or
 - (b) outside a catchment area but being of such a nature as affect or may affect a catchment area.

Note. Non-scheduled activities are activities that do not require an environment protection licence under the *Protection of the Environment Operations Act 1997*.
- (3) The SCA 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 catchment area.

Note. Sections 145 to 146C of the *Protection of the Environment Operations Act 1997* are littering offences.
- (4) The SCA has the same functions as the EPA under section 316 of the *Protection of the Environment Operations Act 1997* and that section applies to the SCA in the same way as it applies to the EPA.

Note. Section 316 provides for the resolution of disputes between the EPA and public authorities.
- (5) The SCA 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 SCA in the same way as they apply to a regulatory authority.

Note. Section 319 provides for the disclosure of information. Section 320 provides for the disclosure of monitoring data.

Public consultation draft

Clause 5 Sydney Water Catchment Management Regulation 2008

Part 2 Environment protection functions to be exercised by SCA

- (6) If the SCA 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 SCA, and
 - (c) references in that Act to an authorised officer are taken to include an authorised officer within the meaning of the *Sydney Water Catchment Management Act 1998*.

Note. Section 19 (3) of the *Sydney Water Catchment Management Act 1998* gives the SCA power to delegate any function conferred or imposed on it by the regulations to an officer of the SCA.

5 Purposes for which functions may be exercised

The SCA may exercise the functions conferred on it by this Part only for the purposes of:

- (a) protecting catchment areas, or
- (b) protecting and enhancing the quality of water in catchment areas.

6 Limitations on SCA's functions

The SCA 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) non-scheduled activities that are authorised or controlled by an environment protection licence,
- (c) activities carried on by the SCA.

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

7 Inconsistency with directions given by other regulatory authorities

If the SCA, when exercising the functions conferred by this Part, 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 SCA does not have

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Clause 8

Environment protection functions to be exercised by SCA

Part 2

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) in any other case—the notice given by the SCA 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 SCA.

Note. The powers conferred on the SCA 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*.

8 SCA to keep register

- (1) The SCA is to keep, in such form as it may determine, a register of the following:
 - (a) details of each environment protection notice given by the SCA,
 - (b) details of convictions in prosecutions under the *Protection of the Environment Operations Act 1997* instituted by the SCA,
 - (c) the results of civil proceedings before the Land and Environment Court under the *Protection of the Environment Operations Act 1997* by or against the SCA,
 - (d) such other matters as the SCA considers appropriate, having regard to the purposes of the *Protection of the Environment Operations Act 1997*.
- (2) A copy of the register is to be available for inspection at the principal office of the SCA during ordinary office hours and on the Internet site maintained by the SCA.
- (3) A copy of any part of the register may be obtained by members of the public from the SCA on payment of a fee to be determined by the SCA.
- (4) For the purposes of 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.

Public consultation draft

Clause 9 Sydney Water Catchment Management Regulation 2008

Part 3 Regulation of conduct

Part 3 Regulation of conduct

Division 1 Consent of SCA

9 SCA's consent

- (1) A person does not commit an offence under this Part (other than an offence under clause 16, 17 or 18) by reason of anything done with the consent of the SCA and in accordance with any conditions to which that consent may be subject.
- (2) The SCA may grant its consent by means of:
 - (a) a sign or notice displayed on the land or part of the land to which the sign or notice relates, or
 - (b) a written notice to a person.
- (3) The SCA may grant its consent:
 - (a) either generally or in a particular case, and
 - (b) either to a particular person or to persons belonging to a particular class of persons, and
 - (c) either unconditionally or subject to conditions, and
 - (d) either for a specified period of time or until such time as the consent is revoked by the SCA.
- (4) The SCA may revoke or modify its consent at any time by any of the means specified in subclause (2).
- (5) A consent issued by a body other than the SCA, including a consent issued by Sydney Water Corporation, is not, for the purposes of this Regulation, to be taken as the consent of the SCA.

10 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 a special area or a controlled area

11 No interference with water

- (1) A person must not dam, divert or take any water that:
 - (a) is water from which the SCA draws its supply or that is available for supply by the SCA, and
 - (b) is located on land in a special area or a controlled area.

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Clause 12

Regulation of conduct

Part 3

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 (but not limited to) any licence or approval under the *Water Management Act 2000* or the *Water Act 1912*.

12 Control of pollution and disease in special areas and controlled areas

- (1) A person must not:
- (a) bring into or leave on land in a special area or a controlled area any waste, or
 - (b) cause the pollution of waters on land in a special area or a controlled area.
- (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 a 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*.
- (4) A person must comply with any direction given by the SCA or an authorised officer for:
- (a) the disposal of any pollutant or waste on land in a special area or a controlled area, or of any other substance that is on land in a special area or a controlled area and that the SCA considers may detrimentally affect any water in the area, or
 - (b) the removal of any such pollutant, waste or other substance from land in a special area or a controlled area.

Maximum penalty (subclauses (1), (3) and (4)): 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

- (5) In this clause:
pollution of waters and *waste* have the same meanings as in the *Protection of the Environment Operations Act 1997*.

Public consultation draft

Clause 13 Sydney Water Catchment Management Regulation 2008

Part 3 Regulation of conduct

Division 3 Regulation of conduct on crown land or SCA land in a special area or a controlled area

13 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 SCA land that is in a special area or a controlled area.
Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.
- (2) An authorised officer may take any of the following actions if stock enters any such land without the SCA's consent:
 - (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 any such action:
 - (a) the owner and person in charge of the stock are jointly and severally liable to the SCA for all costs incurred by the SCA as a result of the action being taken, and
 - (b) the SCA may recover the amount of those 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 or deer.

14 Investigation of suspected contraventions

- (1) An authorised officer who has reason to believe that a person, on Crown land or SCA land that is in a special area or a controlled area, has in his or her possession or control, in contravention or because of a contravention or intended contravention of the Act or this Regulation, any matter or thing may direct the person:
 - (a) to surrender the matter or thing into the authorised officer's possession and control, or
 - (b) to make any article 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.
- (2) A person given a direction referred to in subclause (1) must comply with it.
Maximum penalty: 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Clause 15

Regulation of conduct

Part 3

(3) Nothing in this clause limits any function an authorised officer may have under the Act or any other Act.

(4) In this clause:

article includes any equipment, vehicle, aircraft or other thing of any description.

15 Signs prohibiting persons entering or remaining on certain land

(1) The SCA may erect a sign or notice on Crown land or SCA land that is in a special area or a controlled area requiring persons not to enter or remain on the land to which the sign relates.

(2) A person must not enter or remain on any 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.

16 Directions to leave land in emergencies

(1) An authorised officer may direct a person to leave Crown land or SCA land that is in a special area or a controlled area if the authorised officer reasonably believes that such a 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.

17 Removal of certain persons who contravene Act or Regulation

(1) A person who contravenes any provision of the Act or this Regulation on Crown land or SCA land that is in a special area or a controlled area must leave the land concerned immediately when directed to do so by an authorised officer.

(2) A person who fails to comply with such a direction may be removed from the land concerned by an authorised officer.

(3) Reasonable force (including by means of passive restraints) 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 or animal, or any other item belonging to or associated with the person, from the land concerned.

Public consultation draft

Clause 18 Sydney Water Catchment Management Regulation 2008

Part 3 Regulation of conduct

Maximum penalty (subclauses (2) and (4)): 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 directions is an offence.

18 Fees and charges for entry to SCA land

- (1) The SCA may from time to time determine the fees or charges payable in respect of the entry by persons or vehicles on SCA land in a special area or a 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 officer.
- (3) An authorised officer may direct a person who has entered such land without paying the relevant 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 and Schedule 2 land

19 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.

20 Prohibited activities on Schedule 1 land

- (1) A person must not:
- (a) enter or remain on any Schedule 1 land, or
 - (b) 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:

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Clause 21

Regulation of conduct

Part 3

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

21 Lighting of fires on Schedule 2 land

- (1) A person must not on any 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 such a fireplace, or
 - (ii) if there are no public fireplaces—elsewhere than in a temporary fireplace situated at least 4.5 metres from any log or stump and at least 1.5 metres from any other flammable material, or
 - (iii) in any case—in contravention of a notice posted by the SCA or the National Parks and Wildlife Service regulating the use of fire on that land, or
 - (b) leave unattended any fire that the person has lit, maintained or used, or
 - (c) 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
 - (d) handle any flammable substance (such as 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) any 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 any wilderness protection agreement (within the meaning of that Act) or conservation agreement (within the meaning of the *National Parks and Wildlife Act 1974*) that contains terms relating 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*.

22 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 any gate or barrier on or to Schedule 1 land or Schedule 2 land.

Public consultation draft

Clause 23 Sydney Water Catchment Management Regulation 2008

Part 3 Regulation of conduct

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 any road, track, trail, path or the like.

23 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 any vehicle,
 - (b) lead or ride any animal,
 - (c) land any aircraft,
 - (d) sell or offer for sale any goods on or by any public road,
 - (e) damage, deface, disturb or otherwise interfere with any building, structure, sign, fixture, animal trap, bait or plant rehabilitation measure (such as seedlings, matting or survey pegs and tapes marking out rehabilitation areas),
 - (f) damage or remove any plant or part of a plant,
 - (g) remove any rock, soil, sand, stone or similar substance,
 - (h) destroy, capture, injure, annoy or interfere with any animal, or damage or interfere with the habitat of any 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 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:
fixture includes, but is not limited to, picnic tables, seats, fences, fireplaces, barbecues and monitoring devices (including rain gauges) and associated infrastructure.

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Clause 24

Regulation of conduct

Part 3

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

- (1) A person must not:
- (a) use any 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 any 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, any vessel that is propelled solely by human power or the wind, and
 - (b) take, on Schedule 2 land, such amount of water as is necessary for the person's use (including use for the purpose of washing) while on that land.

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

- (1) A person must not:
- (a) bring onto, or use or keep on, Schedule 1 land or Schedule 2 land any pesticide, or
 - (b) take steps to control or eradicate by the use of pesticides any feral animal, animal pest or noxious weed 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) A person does not commit an offence under subclause (1):
- (a) by reason of the person bringing onto, or 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 any thing 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

Public consultation draft

Clause 26 Sydney Water Catchment Management Regulation 2008

Part 3 Regulation of conduct

- (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.

Note. The Agvet Code defines an “agricultural chemical product” to be a substance or a mixture of substances that is represented, imported, manufactured, supplied or used as a means of directly or indirectly:

- (a) destroying, stupefying, repelling, inhibiting the feeding of, or preventing infestation by or attacks of, any pest in relation to a plant, a place or a thing, or
- (b) destroying a plant, or
- (c) modifying the physiology of a plant or pest so as to alter its natural development, productivity, quality or reproductive capacity, or
- (d) modifying an effect of another agricultural chemical product, or
- (e) attracting a pest for the purpose of destroying it.

The term also includes insect repellents for use on human beings.

Division 5 Regulation of conduct on other land

26 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, maintain, use or erect any intensive animal feed lot, intensive poultry operation, trout farm or other concentrated animal husbandry activity identified by the SCA by publication of a notice in the Gazette as a hazard to water to be supplied by the SCA.
- (3) A person must not, within 100 metres of any stream, reservoir or water course on land to which this clause applies:
 - (a) erect, maintain or use any cow yard, poultry house, animal feed lot, stockyard or stable, or
 - (b) leave the carcass of a dead animal, or cause or permit the carcass of a dead animal to be left, or
 - (c) 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 (subclauses (2) and (3)): 400 penalty units in the case of a corporation or 200 penalty units in the case of an individual.

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Clause 27

Miscellaneous

Part 4

Part 4 Miscellaneous

27 Notice by public agencies

Notice given to the SCA for the purposes of section 47 (1) of the Act:

- (a) must be in writing, and
- (b) must be served on the SCA by post addressed to the SCA or by lodging it at an office of the SCA, 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.

28 Exercise of functions conferred by this Regulation

Any function that is conferred on the SCA by this Regulation may be exercised by the SCA or by any person authorised by the SCA to exercise that function.

29 Prescribed local councils

The following local councils are prescribed for the purposes of section 16 (1) (b) of the Act:

Wingecarribee Shire Council
Shoalhaven City Council

30 Fees

- (1) For the purposes of section 24E of the Act, the fees chargeable by the SCA:

- (a) for water supplied to prescribed local councils, as referred to in section 16 (1) (b) of the Act, and
- (b) for water supplied to other persons and bodies, as referred to in section 16 (1) (c) of the Act,

are the fees fixed in that regard by the Independent Pricing and Regulatory Tribunal in Determination No 7, 2005, made under the *Independent Pricing and Regulatory Tribunal Act 1992* and published in Gazette No 120 of 30 September 2005 at pages 8142 to 8152.

- (2) The SCA may waive, reduce or remit any such fee in such circumstances as it considers appropriate.

31 Penalty notices

For the purposes of section 65 of the Act:

Public consultation draft

Clause 32 Sydney Water Catchment Management Regulation 2008

Part 4 Miscellaneous

- (a) each offence created by a provision of the Act or this Regulation specified in Column 1 of Schedule 3 is declared to be a penalty notice offence, and
- (b) the prescribed penalty for such an offence is:
 - (i) the amount specified in Column 2 of Schedule 3 if the person alleged to have committed the offence is an individual, or
 - (ii) the amount specified in Column 3 of Schedule 3 if the person alleged to have committed the offence is a corporation.

Note. The *Protection of the Environment Operations (Penalty Notices) Regulation 2004* provides that an officer or employee of the Sydney Catchment Authority can issue a penalty notice in respect of a number of offences under the *Protection of the Environment Operations Act 1997* including sections 120 (prohibition of pollution of waters), 143 (Unlawful transporting or depositing of waste) and 144 (Use of land as waste facility without lawful authority).

32 Savings

Any act, matter or thing that had effect under the *Sydney Water Catchment Management (General) Regulation 2000* or the *Sydney Water Catchment Management (Environment Protection) Regulation 2001* immediately before the repeal of the Regulation concerned continues to have effect under this Regulation.

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Schedule 1 land

Schedule 1

Schedule 1 Schedule 1 land

(Clauses 19 and 26)

Special Areas

The following special areas, being portions of land, as shown coloured pink on the map marked "Schedule 1 Areas" deposited in the office of the SCA:

- (a) 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,
- (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 proclaimed 6 March 1991,
- (g) Katoomba Special Area proclaimed 6 March 1991,
- (h) Woodford Special Area proclaimed 6 March 1991,
- (i) Richmond Catchment Area as proclaimed in Gazette No 113 of 8 October 1971.

Controlled areas

All SCA 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.

Excluded land

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

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Schedule 2 Schedule 2 land

Schedule 2 Schedule 2 land

(Clauses 19 and 26)

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 14 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 1 January 1944 and 77 of 4 August 1944,
- (d) 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,

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

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Penalty notice offences

Schedule 3

Schedule 3 Penalty notice offences

(Clause 31)

Offences under the Act

Column 1 Offence	Column 2 Penalty (Individual)	Column 3 Penalty (Corporation)
Section 62B (5)	\$750	\$1,500
Section 62F (6)	\$750	\$1,500
Section 62Q	\$750	\$1,500
Section 62R (4)	\$750	\$1,500
Section 62S (2)	\$750	\$1,500
Section 62V (2)	\$750	\$1,500
Section 63	\$750	\$1,500
Section 64 (1)	\$750	\$1,500

Offences under this Regulation

Column 1 Offence	Column 2 Penalty (Individual)	Column 3 Penalty (Corporation)
Clause 11 (1)	\$750	\$1,500
Clause 12 (1) (a) or (b), (3) or (4) (a) or (b)	\$750	\$1,500
Clause 13 (1)	\$750	\$1,500
Clause 14 (2)	\$750	\$1,500
Clause 15 (2)	\$750	\$1,500
Clause 16 (2)	\$750	\$1,500
Clause 17 (2) or (4)	\$750	\$1,500
Clause 20 (1) (a)	\$300	\$1,000
Clause 20 (1) (b), (c) or (d)	\$750	\$1,500
Clause 21 (1) (a), (b), (c) or (d) or (2)	\$300	\$1000
Clause 22 (1)	\$750	\$1,500
Clause 23 (1) (a), (b), (c), (d), (e), (f), (g) or (h), (2) (a), (b) or (c) or (3)	\$750	\$1,500
Clause 24 (1) (a), (b) or (c)	\$750	\$1,500

Public consultation draft

Sydney Water Catchment Management Regulation 2008

Schedule 3 Penalty notice offences

Column 1 Offence	Column 2 Penalty (Individual)	Column 3 Penalty (Corporation)
Clause 26 (2) or (3) (a), (b) or (c)	\$750	\$1,500