



# Blue Mountains Conservation Society Inc

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**Nature Conservation Saves for Tomorrow**

**June 1, 2013**

**Regulation Review  
Sydney Catchment Authority  
PO Box 323  
PENRITH NSW 2751**

**By email: [regulationreview@sca.nsw.gov.au](mailto:regulationreview@sca.nsw.gov.au)**

## **BMCS submission regarding the draft Sydney Water Catchment Management (General) Regulation 2013**

The Blue Mountains Conservation Society wishes to express its overall support for the proposed Regulation 2013, but concurrently believes that there are instances where greater protection is warranted.

The Society is extremely conscious of the threats to Special Areas<sup>1</sup> in terms of pressures to gain access by special interest groups such as horse riders and mountain bike organizations. The Society therefore wishes to categorically emphasise that under no circumstances should the restrictions applicable to Special Areas – No Entry, Special Areas – Restricted Access and Controlled Areas – No Entry be in any way weakened. Rather, with increasing pressures linked to population increases and the emphasis placed by government on the acceptability of high-impact recreational activities, there is a very strong case for strengthening regulatory powers.

It is of considerable concern to BMCS that a PEL held by AGL appears to impinge on the Special Areas and the Controlled Areas of Lake Burragarang. It is also of concern that exploratory drilling has been carried out to the west of Oakdale at least within Special Area – No Entry. Should these pieces of information be incorrect, the Society would appreciate clarification. Conversely, if they are correct, such activities are surely incompatible with Special and Controlled Areas Regulations. The Society wonders why the regulations are seemingly not enforced, or how CSG exploration and assessment can proceed irrespective of the regulations. Surely, if CSG exploration and assessment over-ride regulations applicable to Special Areas, the deficiency should be rectified?

It could be that the Premier's announcement<sup>2</sup> covers some parts of Special Areas by placing a 2 km buffer around residential areas and 'Critical Industry Clusters', and implying that such buffers will apply to any CSG activity not yet approved under the *EP&A Act* or the *Petroleum (Onshore) Act*. However, all licences and leases, whether for exploration (PEL), assessment (PAL), or production (PPL), are issued and therefore approved under the *Petroleum (Onshore) Act*. It is therefore unclear whether a company with a PEL can continue exploration but will never have a PAL approved, or a company with a PAL will never be issued with a PPL. But regardless of this uncertainty, the larger parts of all Special Areas are unlikely to contain

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<sup>1</sup> *Special Areas, What you can and can't do in Sydney's water supply catchments*, Sydney Catchment Authority, [www.sca.nsw.gov.au](http://www.sca.nsw.gov.au)

<sup>2</sup> <http://www.premier.nsw.gov.au/sites/default/files/TOUGH%20NEW%20RULES%20FOR%20COAL%20SEAM%20GAS%20ACTIVITY.pdf>

residential or 'Critical Industry Clusters', so there is a strong case for all Special Areas and any parts of water supply catchments not covered by Special Areas to be categorically excluded from any form of CSG activity.

Why is the foregoing a major concern to the Society? The simple answer is that longwall coal mining beneath water supply catchments and holding reservoirs should be totally unacceptable, yet this practice continues to varying degrees with impunity. If government cannot see that longwall-induced subsidence with contamination and loss of surface water and groundwater is a major threat to water supply, the Society has little confidence that government will withstand the temptation of CSG dollars. The Society considers that it is time for government to re-evaluate the relative worth of water supply versus the short-term profits but permanent damage caused by the extractive resources industries.

Hunting and logging: although hunting is on hold pending a governance review of the Game Council, there has been no clear indication from the Premier as to whether he will abandon hunting in parks; logging in parks is advocated by the Committee chaired by Robert Brown of the Shooters and Fishers Party, but the proposal has seemingly been rejected by Minister Parker and Premier O'Farrell. This is gratifying, yet hunting in parks was similarly rejected by Barry O'Farrell immediately before the state election. BMCS believes that hunting and/or logging in the Special Areas and any part of their catchments upstream of the special-area boundaries must be prohibited and appropriate signage displayed. BMCS notes that as there are a few private holdings within the Special Areas, it is essential that the owners and any 'guests' clearly understand that 'private' shooting parties are not acceptable.

In the context of private lands, the 2008 Catchment Management Regulation, Sydney Water (through the SCA) is empowered to prevent damage to fauna and flora, and ensure there is no removal of rock or soil. The Society most definitely supports the continuation of this provision and therefore entirely supports the retention of 2008 Regulation clause 25. This aspect is again emphasised because BMCS construes the **proposed clause 17** as being supplementary to clause 25 rather than in any way superseding it. **Should this not be so**, anyone entering the scheduled areas via a route where the signage is removed or rendered unreadable, might reasonably plead ignorance. But such a plea is invalidated by clause 25 which effectively stipulates that, even in the absence of signage, a map of the Special Areas is deemed to apply.

Despite supporting Sydney Water Catchment Management (General) Regulation 2013, the Society is concerned that neither the current and envisaged planning processes (particularly in relation to controls on developments), nor catchment management authorities are sufficiently empowered to properly control **existing use** within the Special Areas. This concern is exacerbated where the outermost upstream portions of Special Area – No Entry boundaries do not coincide with the catchment watersheds. In relation to the latter, BMCS appreciates that where this occurs on the western side of the Warragamba Special Area – No Entry, the Special Area is bounded by Wilderness; but this does not seem to be the case on the south-western side in the Jocks Creek region. So, two points are made: (i) the special-area boundary should be adjusted in the Jocks creek region; and (ii) despite being bordered against Wilderness, which **should** provide complementary protection to that of Special Areas – No Entry, the fact that higher impact (horse riding) trials are being conducted in some Wilderness regions lessens the comfort which Wilderness **ought** to provide – clearly, special-area boundaries abutting Wilderness should also be adjusted to conform with the watershed.

In 1998, existing use and beliefs resulted in the Sydney water crisis due to contamination by cryptosporidium and giardia<sup>3</sup>. Although the magnitude of the problem was perhaps over-stated, it became clear that there was need for better protection of the catchments<sup>4</sup>. Pressures on today's catchments, from population growth and high-impact recreation, demand even more stringent protection than that enplaced as a result of the inquiry into the original crisis.

The Society wishes to raise two additional aspects:

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<sup>3</sup> [http://en.wikipedia.org/wiki/1998\\_Sydney\\_water\\_crisis](http://en.wikipedia.org/wiki/1998_Sydney_water_crisis)

<sup>4</sup> *Sydney 1998: lessons from a drinking water crisis*, <http://eprints.jcu.edu.au/6501/>

1. The regulations empower the SCA to remove any buildings and other works if they have the capacity to compromise any portion of the Special Areas. Private landowners commonly undertake works which may impact on the water quality in the catchments, and have been implemented without seeking approval from the appropriate authority. This problem could well be exacerbated when the new Planning laws come into force. The Society believes that the powers must be retained and even strengthened in view of the anticipated 'one size fits all' LEP.
2. A major source of potential impact arises because public roads in Special Areas do not class as Crown lands. In consequence, the SCA's capacity to control the users of these roads is somewhat limited. In order to counteract this anomaly, BMCS believes that the catchment regulation should be amended to ensure that the full range of potential users (including trucks, 4wd and 2wd vehicles, motor bikes and off-road trail bikes, mountain bikes and bicycles, and horse-related transport) can be properly controlled.

The Society appreciates the opportunity to provide input on the draft regulation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Brian Marshall', with a stylized flourish at the end.

***Dr Brian Marshall,  
For the Management Committee***