

Controlled activity approval exemptions

Controlled activity approval

The Department of Climate Change, Energy, the Environment and Water (the department) is responsible for issuing all controlled activity approvals in accordance with the *Water Management Act 2000* for work carried out on waterfront land.

Waterfront land is the bed of any river, lake or estuary, and the land within 40 metres of the highest bank of the river, the shore of the lake or the mean high-water mark of the estuary.

A controlled activity approval allows you to carry out certain types of activities on waterfront land, as defined in the *Water Management Act 2000*.

You do not need a controlled activity approval if an exemption applies.

You can find more information about controlled activities on the department's website at water.dpie.nsw.gov.au/our-work/licensing-and-approvals/controlled-activity-approvals

Exemptions

The Water Management (General) Regulation 2025 (the Regulation) specifies a number of exemptions.

A summary of these exemptions is provided below. You should refer to the Regulation for a full description of these exemptions, including the circumstances when the exemption applies and any restrictions or limitations.

This summary of exemptions is listed by:

- exemptions that can apply to any person and relate to:
 - taking water from a water source
 - approved development
 - maintenance and repairs
 - directions
 - other matters
- exemptions that apply to specific entities — public authorities, state-owned bodies, and network operators.

Accessing a copy of the Regulation

NSW legislation is published online at www.legislation.nsw.gov.au. Look for the Water Management (General) Regulation 2025 within the In force > Statutory Instruments section under 'W'.

Find help

Contact the department for assistance by calling 1300 081 047 during business hours or email water.enquiries@dcceew.nsw.gov.au

Summary of exemptions

Table 1 lists the exemptions that can apply to any person relating to taking water from a water source.

Table 1. Exemptions that can apply to any person

Controlled activity approval exemption	Regulation reference
Excavation for the purpose of using a water supply work This exemption applies to any person. This exemption applies to the excavation of the bed of a river lake or estuary for the purpose of using a water supply work. This exemption only applies if the excavation is: • detailed in the conditions of a water supply work approval for that water supply work • carried out in accordance with the conditions of the water supply work approval. <i>Water supply work</i> is defined in the <i>Water Management Act 2000</i>.	Section 64(1) and Schedule 4 – section 50
Enabling the take of water under a domestic and stock right This exemption applies to any person. This exemption applies to any kind of controlled activity carried out by a person for the purpose of enabling that person to take water under a domestic and stock right. Restrictions on the application of this exemption apply. Domestic and stock rights are provided in section 52 of the <i>Water Management Act 2000</i>.	Section 64(1) and Schedule 4 – section 51

Controlled activity approval exemption	Regulation reference
Construction or use of a harvestable rights dam This exemption applies to any person. This exemption applies to any kind of controlled activity carried out in accordance with the construction or use of a harvestable rights dam. Harvestable rights are provided in section 53 of the <i>Water Management Act 2000</i>.	Section 64(1) and Schedule 4 – section 52
Works under the <i>Water Act 1912</i> This exemption applies to any person. This exemption applies to any kind of controlled activity carried out in connection with the construction or use of a work/ controlled work authorised by a licence issued under Part 2 of the <i>Water Act 1912</i> or by an approval issued under Part 8 of the <i>Water Act 1912</i>. This exemption only applies if the controlled activity is: • detailed in the conditions of the Part 2 licence or Part 8 approval • carried out in accordance with the conditions of the Part 2 licence or Part 8 approval.	Section 64(1) and Schedule 4 – section 53
Emergency works This exemption applies to any person. This exemption applies to any urgent controlled activity undertaken for the purpose of carrying out emergency works in direct response to an emergency event. <i>Emergency works</i> and <i>emergency event</i> are defined in Section 1 of Schedule 4 of the Regulation. This exemption only applies if the person claiming the exemption makes a record of the required information before (or soon after) commencing relevant works and within 14 days of completing the works, as outlined in sections 61(2) and 61(3) of the Regulation. Please refer to information on the department's website in relation to the application and use of this exemption, including its scope, duration and associated requirements.	Section 64(1) and Schedule 4 – section 61

Table 2 lists the exemptions that can apply to any person relating to approved development.

Table 2. Exemptions related to approved development

Controlled activity approval exemption	Regulation reference
Development in urban or industrial areas adjoining certain lakes and estuaries This exemption applies to any person. This exemption applies to any kind of controlled activity located within an urban or industrial area adjoining a lake or estuary identified on a map published on the department's website for the purposes of this exemption: water.nsw.gov.au/controlled-activity-approvals > Controlled activity exemptions This exemption only applies if the activity is: - a development authorised under a development consent or a complying development certificate - an exempt development.	Section 64(1) and Schedule 4 – section 55
Development relating to dwellings This exemption applies to any person. This exemption applies to any kind of controlled activity carried out in connection with development for a dwelling house or dual occupancy building. This exemption only applies if: - the activity is: - exempt development - subject to a development consent - subject to a complying development certificate, and - the activity is not carried out on or in the: - bed or bank of any river - bed or shore of any lake - bed or land lying between the bed and the mean high-water mark, of any estuary.	Section 64(1) and Schedule 4 – section 56

Controlled activity approval exemption	Regulation reference
Development at Rouse Hill Regional Centre This exemption applies to any person. This exemption applies to any kind of controlled activity which is in development in accordance with section 6 of Part D (Rouse Hill Regional Centre) of <i>The Hills Development Control Plan 2012</i> , on the land to which that section applies (being land bounded by Windsor Road, Commercial Road and Withers Road, Rouse Hill).	Section 64(1) and Schedule 4 – section 57
Development on waterfront land at Oran Park or Turner Road This exemption applies to any person. This exemption applies to any kind of controlled activity which is development in accordance with the <i>Oran Park and Turner Road Waterfront Land Strategy 2009</i> , as published in the <i>Gazette</i> on 17 July 2009.	Section 64(1) and Schedule 4 – section 58

Table 3 lists the exemptions that can apply to any person relating to maintenance and repairs.

Table 3. Exemptions relating to maintenance and repairs

Controlled activity approval exemption	Regulation reference
Maintenance of existing lawful works This exemption applies to any person. This exemption applies to any kind of controlled activity necessary to preserve, repair or upkeep a building or structure other than an agricultural drain. This exemption only applies if the: • building or structure has been lawfully constructed • activity does not include additions, enhancements to, or the expansion of, the building or structure.	Section 64(1) and Schedule 4 – section 65

Controlled activity approval exemption	Regulation reference
Repair and restoration work after storms This exemption applies to any person. This exemption applies to the following kinds of controlled activities following a storm: • repair work on a building or structure, including an access track, watercourse crossing, water supply work or essential services infrastructure, which has been damaged by the storm, but only if the repair work: — does not involve the replacement of a structural component of any building or structure that cannot otherwise be repaired under an exemption — does not include enhancements to, or the expansion of, the building or structure beyond its condition immediately before the storm damage occurred • the removal of detritus (including woody debris) deposited on some waterfront land as a result of the storm within 12 months after the deposit: — detritus cannot be removed from the bed of a: ○ river and the land lying between the bed of the river and the highest bank of the river ○ lake and the land lying between the bed of the lake and the shore of the lake, or the bed of an estuary and the land lying between the bed of the estuary and the mean high-water mark of the estuary.	Section 64(1) and Schedule 4 – section 66

Table 4 lists the exemptions that can apply to any person relating to directions.

Table 4. Exemptions relating to directions

Controlled activity approval exemption	Regulation reference
Emergency directions This exemption applies to any person. This exemption applies to any kind of controlled activity carried out in an emergency in accordance with a direction given under the <i>State Emergency Service Act 1989</i> or the <i>State Emergency and Rescue Management Act 1989</i>.	Section 64(1) and Schedule 4 – section 60

Table 5 lists the exemptions that can apply to any person relating to compliance with enforcement action.

Table 5. Compliance with enforcement action

Controlled activity approval exemption	Regulation reference
This exemption applies to any person. This exemption applies to any kind of controlled activity a person is required to carry out by a direction, request or order made under the <i>Water Management Act 2000</i> or any other act or law. This exemption only applies if the direction, request or order is made by: • a court • the Minister or an authorised officer under the <i>Water Management Act 2000</i> • a person if the Minister approves the carrying out of the activity without a controlled activity approval.	Section 64(1) and Schedule 4 – section 67

Table 6 lists other exemptions that can apply to any person.

Table 6. Other exemptions

Controlled activity approval exemption	Regulation reference
Mining or crown land legislation This exemption applies to any person. This exemption applies to any kind of controlled activity carried out in accordance with: • any lease, licence, permit or other right in force under the <i>Mining Act 1992</i> or the <i>Crown Land Management Act 2016</i>, or • a petroleum title in force under the <i>Petroleum (Onshore) Act 1991</i>.	Section 64(1) and Schedule 4 – section 47

Controlled activity approval exemption	Regulation reference
Transport for NSW or port authority land This exemption applies to any person. This exemption applies to any kind of controlled activity: - carried out in accordance with a lease, licence, permit or other right in force in relation to land under the ownership or control of - Transport for NSW - the Port Authority of New South Wales - a port operator if the operator has considered the environmental impact of the activity and is satisfied that the activity is not likely to significantly affect the environment - for which the Minister administering the <i>Ports and Maritime Administration Act 1995</i> is the consent authority under State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6.	Section 64(1) and Schedule 4 – section 48
Removal of vegetation This exemption applies to any person. This exemption applies to the removal of vegetation. This exemption only applies if the activity: - is authorised by the <i>Water Management Act 2000</i>, or another act or law - does not include the removal of large woody debris - does not include the removal or disturbance of soil or other extractive material such as sand, gravel, rock, mud or clay. <i>Large woody debris</i> is defined in the NSW Department of Primary Industries fact sheet <i>Removal of large woody debris from NSW rivers and streams</i>, available at www.dpi.nsw.gov.au/fishing/habitat/publications/pubs/removal-large-woody-debris	Section 64(1) and Schedule 4 – section 54

Controlled activity approval exemption	Regulation reference
Construction of fencing, crossings or tracks This exemption applies to any person. This exemption applies to the construction or use of fencing, a vehicular crossing or access track. This exemption only applies if the activity: • does not impound water • is related to a minor stream • is located within a rural zone (but not a rural village) under an environmental planning instrument. <i>Minor stream</i> is defined in Section 4 of the Regulation.	Section 64(1) and Schedule 4 – section 59
Controlled activities on certain waterfront land This exemption applies to any person. This exemption applies to any kind of controlled activity that is separated from certain waterfront land by a lawfully constructed: • public road • sealed hard stand space (such as a car park or building) • levee bank — in an urban area — the subject of a development consent — located in a designated high flood risk area. <i>Certain waterfront land</i> is defined in Section 62 of Schedule 4 of the Regulation.	Section 64(1) and Schedule 4 – section 62
Waterfront land where the river is concrete lined or in pipe This exemption applies to any person. This exemption applies to any kind of controlled activity. This exemption only applies if the activity is carried out on waterfront land relating to a river where the channel of the river is fully concrete lined or is a fully enclosed pipe channel.	Section 64(1) and Schedule 4 – section 63

Controlled activity approval exemption	Regulation reference
Pontoons, jetties and moorings This exemption applies to any person. This exemption applies to any kind of controlled activity carried out in connection with the construction of a pontoon, jetty or mooring pole on waterfront land relating to a lake or estuary. This exemption only applies if the activity does not involve: - removal of material from the land - depositing material on the land, other than that necessary for the construction of the pontoon, jetty or mooring - works that change the profile of the waterfront land adjoining the lake or estuary.	Section 64(1) and Schedule 4 – section 64

Table 7 lists exemptions that apply to public authorities.

Table 7. Exemptions that apply to public authorities

Public authorities	Regulation reference
This exemption applies to public authorities. <i>Public authority</i> is defined in the <i>Water Management Act 2000</i>. Public authorities include NSW public service agencies and local councils, but not Landcom or the Superannuation Administration Corporation. This exemption applies to any kind of controlled activity.	Section 64(2)

Table 8 lists exemptions that can apply to State or Commonwealth bodies.

Table 8. Exemptions that can apply to State or Commonwealth bodies

State or Commonwealth bodies	Regulation reference
This exemption applies to any kind of controlled activity carried out by a body wholly owned by the State or the Commonwealth and established or continued for a public purpose. This exemption only applies if: - the activity does not cause a change in the course of a river - the body has considered the environmental impact of the activity and is satisfied that the activity is not likely to significantly affect the environment.	Section 64(1) and Schedule 4 – section 49

Table 9 lists exemptions that can apply to network operators and pipeline licensees.

Table 9. Exemptions that can apply to network operators and pipeline licensees

Network operators and pipeline licensees	Regulation reference
This exemption applies to: - network operators licensed or authorised under the Water Industry Competition Act 2006, the Gas Supply Act 1996 or the Electricity Supply Act 1995, and - pipeline licensees under the <i>Pipelines Act 1967</i>. - This exemption applies to the construction, modification, repair, maintenance, or emergency work on the network operator's water, gas or electricity infrastructure, or a pipeline licensee's pipeline and its associated infrastructure. This exemption only applies if - the activity is carried out in, on or under waterfront land relating to a river, estuary or lake, other than in or on - the bed or banks of a river, or - the bed or shore of a lake, or - the bed or land lying between the bed and mean high water mark of and estuary, and - the activity does not cause any change in the course of the river, and - the network operator or pipeline licensee has considered the environmental impact of the activity and is satisfied that the activity is not likely to significantly affect the environment.	Section 64(3)