

## What is a controlled activity approval?

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

For more information about controlled activities, go to [www.industry.nsw.gov.au/water](http://www.industry.nsw.gov.au/water) > Licensing & trade > Approvals > Controlled activities.

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

## What are the exemptions?

The Water Management (General) Regulation 2018 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 which can apply to any person and relate to:
  - taking water from a water source
  - approved development
  - maintenance and repairs
  - directions
  - other matters
- exemptions which apply to specific entities—public authorities, state-owned bodies, and network operators.

## How can I access a copy of the Regulation?

NSW legislation is published online.

To access a copy of the regulation, go to [www.industry.nsw.gov.au/water](http://www.industry.nsw.gov.au/water) > What we do > Legislation & policies > Acts & regulations, and then click on the link to the Water Management (General) Regulation 2018.

## Need help?

Contact the NSW Natural Resources Access Regulator for advice.

- Call 1800 633 362 during business hours
- Email [nrar.enquiries@nrar.nsw.gov.au](mailto:nrar.enquiries@nrar.nsw.gov.au)

## Summary of exemptions

### Exemptions that can apply to any person

Table 1. Exemptions that can apply to any person

Controlled activity approval exemption	Regulation reference
<b>Exemptions relating to taking water from a water source</b>	
<p><b>Enabling take of water under domestic and stock right</b></p> <p>This exemption applies to any person.</p> <p>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.</p> <p>Restrictions on the application of this exemption apply.</p> <p>Domestic and stock rights are provided in section 52 of the <i>Water Management Act 2000</i>.</p>	<p>Clause 42</p> <p>Clause 21 of Schedule 4</p>
<p><b>Construction or use of harvestable rights dam</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to any kind of controlled activity carried out in accordance with the construction or use of a harvestable rights dam.</p> <p>Harvestable rights are provided in section 53 of the <i>Water Management Act 2000</i>.</p>	<p>Clause 42</p> <p>Clause 22 of Schedule 4</p>
<p><b>Excavation for purpose of using water supply work</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to the excavation of the bed of a river lake or estuary for the purpose of using a water supply work.</p> <p>This exemption only applies if the excavation is:</p> <ul style="list-style-type: none"> <li>detailed in the conditions of a water supply work approval for that water supply work, and</li> <li>carried out in accordance with the conditions of the water supply work approval.</li> </ul> <p><i>Water supply work</i> is defined in the <i>Water Management Act 2000</i>.</p>	<p>Clause 42</p> <p>Clause 20 of Schedule 4</p>
<p><b>Works under former 1912 Act</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to any kind of controlled activity carried out in connection with the construction or use of a work authorised by a Part 2 licence issued under the <i>Water Act 1912</i>.</p> <p>This exemption only applies if the controlled activity is:</p> <ul style="list-style-type: none"> <li>detailed in the conditions of the Part 2 licence, and</li> <li>carried out in accordance with the conditions of the Part 2 licence.</li> </ul>	<p>Clause 42</p> <p>Clause 24 of Schedule 4</p>

Controlled activity approval exemption	Regulation reference
<b>Exemptions relating to approved development</b>	
<p><b>Development relating to dwellings</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to any kind of controlled activity carried out in connection with development for a dwelling house or dual occupancy building.</p> <p>This exemption only applies if:</p> <ul style="list-style-type: none"> <li>• the activity is: <ul style="list-style-type: none"> <li>○ exempt development, or</li> <li>○ subject to a development consent, or</li> <li>○ subject to a complying development certificate, and</li> </ul> </li> <li>• the activity is not carried out on or in the: <ul style="list-style-type: none"> <li>○ bed or bank of any river, or</li> <li>○ bed or shore of any lake, or</li> <li>○ bed, or land lying between the bed and the mean high water mark, of any estuary.</li> </ul> </li> </ul>	<p>Clause 42</p> <p>Clause 29 of Schedule 4</p>
<p><b>Development in urban or industrial areas adjoining certain lakes and estuaries</b></p> <p>This exemption applies to any person.</p> <p>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 of Industry website for the purposes of this exemption.</p> <p>This exemption only applies if the activity is:</p> <ul style="list-style-type: none"> <li>• development for which development consent has been granted, or</li> <li>• exempt development, or</li> <li>• complying development.</li> </ul> <p>The maps are located at <a href="http://www.industry.nsw.gov.au/water">www.industry.nsw.gov.au/water</a> &gt; Licensing &amp; trade &gt; Approvals &gt; Controlled activities</p>	<p>Clause 42</p> <p>Clause 36 of Schedule 4</p>
<p><b>Development at Rouse Hill Regional Centre</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to any kind of controlled activity which is 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).</p>	<p>Clause 42</p> <p>Clause 26 of Schedule 4</p>

Controlled activity approval exemption	Regulation reference
<p><b>Development on waterfront land at Oran Park or Turner Road</b></p> <p>This exemption applies to any person.</p> <p>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.</p>	<p>Clause 42</p> <p>Clause 27 of Schedule 4</p>
<p><b>Exemptions relating to maintenance and repairs</b></p>	
<p><b>Maintenance of existing lawful works</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to any kind of controlled activity necessary to preserve, repair or upkeep a building or structure.</p> <p>This exemption only applies if the:</p> <ul style="list-style-type: none"> <li>• building or structure has been lawfully constructed, and</li> <li>• activity does not include additions, enhancements to, or the expansion of, the building or structure.</li> </ul>	<p>Clause 42</p> <p>Clause 33 of Schedule 4</p>
<p><b>Repair and restoration work after storms</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to the following kinds of controlled activities following a storm event:</p> <ul style="list-style-type: none"> <li>• 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: <ul style="list-style-type: none"> <li>○ does not involve the replacement of a structural component of any building or structure that could not otherwise be repaired under the exemption in clause 33, and</li> <li>○ does not include enhancements to, or the expansion of, the building or structure beyond its condition immediately before the storm damage occurred</li> </ul> </li> <li>• the removal of detritus (including woody debris) deposited on waterfront land as a result of the storm.</li> </ul>	<p>Clause 42</p> <p>Clause 34 of Schedule 4</p> <p>Clause 33 of Schedule 4</p>

Controlled activity approval exemption	Regulation reference
<b>Exemptions relating to directions</b>	
<p><b>Compliance with enforcement action</b></p> <p>This exemption applies to any person.</p> <p>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.</p> <p>This exemption only applies if the:</p> <ul style="list-style-type: none"> <li>direction, request or order is made by the Minister for Regional Water or an authorised officer under the <i>Water Management Act 2000</i>, or</li> <li>order is made by a court, or</li> <li>direction, request or order relates to another Act or law, and the minister has approved the carrying out of the activity without a controlled activity approval.</li> </ul>	<p>Clause 42</p> <p>Clause 35 of Schedule 4</p>
<p><b>Emergency safety measures</b></p> <p>This exemption applies to any person.</p> <p>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>.</p>	<p>Clause 42</p> <p>Clause 30 of Schedule 4</p>
<b>Other exemptions</b>	
<p><b>Construction of fencing, crossings or tracks</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to the construction or use of fencing, a vehicular crossing or access track.</p> <p>This exemption only applies if the activity:</p> <ul style="list-style-type: none"> <li>does not impound water, and is</li> <li>located on a minor stream, and</li> <li>located within a rural zone (but not a rural village) under an environmental planning instrument.</li> </ul> <p><i>Minor stream</i> is defined in the regulation.</p>	<p>Clause 42</p> <p>Clause 23 of Schedule 4</p> <p>Clause 3(1)</p>

Controlled activity approval exemption	Regulation reference
<p><b>Removal of vegetation</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to the removal of vegetation.</p> <p>This exemption only applies if the activity:</p> <ul style="list-style-type: none"> <li>• is authorised by the <i>Water Management Act 2000</i>, or another Act or law, and</li> <li>• does not involve the removal of large woody debris, and</li> <li>• does not involve the removal or disturbance of soil or other extractive material such as sand, gravel, rock, mud or clay.</li> </ul> <p><i>Large woody debris</i> is defined in the NSW Department of Primary Industries fact sheet ‘Primefact 11—Removal of large woody debris in NSW rivers and streams’, available at <a href="http://www.dpi.nsw.gov.au">www.dpi.nsw.gov.au</a> &gt; Fishing &gt; Habitat management &gt; Publications, under ‘Aquatic habitat—threats’.</p>	<p>Clause 42</p> <p>Clause 25 of Schedule 4</p>
<p><b>Pontoons, jetties and moorings</b></p> <p>This exemption applies to any person.</p> <p>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.</p> <p>This exemption only applies if the activity does not require:</p> <ul style="list-style-type: none"> <li>• removal of material from the land, or</li> <li>• depositing material on the land, other than that necessary for the construction of the pontoon, jetty or mooring, or</li> <li>• works that change the profile of the waterfront land adjoining the lake or estuary.</li> </ul>	<p>Clause 42</p> <p>Clause 32 of Schedule 4</p>
<p><b>Waterfront land where the river is concrete lined or in pipe</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to any kind of controlled activity.</p> <p>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.</p>	<p>Clause 42</p> <p>Clause 28 of Schedule 4</p>

Controlled activity approval exemption	Regulation reference
<p><b>Waterfront land that has been separated from a 1<sup>st</sup> to 3<sup>rd</sup> order stream by existing development</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to any kind of controlled activity that is carried out:</p> <ul style="list-style-type: none"> <li>• on waterfront land in relation to a minor stream or third order stream, and</li> <li>• where the activity is separated from the bed of the stream by one or more of the following: <ul style="list-style-type: none"> <li>○ public road</li> <li>○ hard stand space, such as a car park or building</li> <li>○ levee bank located in an urban area and a designated high flood risk area, which was constructed under an approval granted by a consent authority under the <i>Environmental Planning and Assessment Act 1979</i>.</li> </ul> </li> </ul> <p><i>Minor stream</i> is defined in the regulation.</p> <p>Schedule 2 of the regulation provides the method for determining the stream order of a watercourse.</p>	<p>Clause 42</p> <p>Clause 31 of Schedule 4</p> <p>Clause 3(1) Schedule 2</p>
<p><b>Mining, crown lands or western lands legislation</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to any kind of controlled activity carried out in accordance with any lease, licence or permit under the <i>Mining Act 1992</i>, the <i>Crown Lands Act 1989</i>, the <i>Crown Lands (Continued Tenures) Act 1989</i> or the <i>Western Lands Act 1901</i>, or a petroleum title in force under the <i>Petroleum (Onshore) Act 1991</i>.</p>	<p>Clause 42</p> <p>Clause 18 of Schedule 4</p>
<p><b>Land of Maritime Authority or Port Corporation</b></p> <p>This exemption applies to any person.</p> <p>This exemption applies to any kind of controlled activity carried out:</p> <ul style="list-style-type: none"> <li>• in accordance with any lease, licence or permit relating to land under the ownership or control of Roads and Maritime Service or the Port Authority of New South Wales, or</li> <li>• in accordance with any lease, licence or permit relating to land under the ownership or control of a port operator, but only 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, or</li> <li>• where the minister administering the <i>Ports and Maritime Administration Act 1995</i> is the consent authority under the <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i>.</li> </ul>	<p>Clause 42</p> <p>Clause 19 of Schedule 4</p>

### Exemptions that can apply to public authorities

**Table 2. Exemptions that can apply to public authorities**

Controlled activity approval exemption	Regulation reference
<p>This exemption applies to public authorities.</p> <p><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.</p> <p>This exemption applies to any kind of controlled activity.</p>	Clause 41

### Exemptions that can apply to state-owned bodies

**Table 3. Exemptions that can apply to state-owned bodies**

Controlled activity approval exemption	Regulation reference
<p>This exemption applies to state-owned bodies wholly owned by the state or a government agency, and have a public purpose.</p> <p>This exemption applies to any kind of controlled activity.</p> <p>This exemption only applies if the:</p> <ul style="list-style-type: none"> <li>activity does not cause any change in the course of the river, and</li> <li>body has considered the environmental impact of the activity and is satisfied that the activity is not likely to significantly affect the environment.</li> </ul>	<p>Clause 42</p> <p>Clause 37 of Schedule 4</p>

### Exemptions that can apply to network operators

**Table 4. Exemptions that can apply to network operators**

Controlled activity approval exemption	Regulation reference
<p>This exemption applies to:</p> <ul style="list-style-type: none"> <li>network operators licensed or authorised under the <i>Water Industry Competition Act 2006</i>, the <i>Gas Supply Act 1996</i> or the <i>Electricity Supply Act 1995</i>, or</li> <li>pipeline licensees under the <i>Pipelines Act 1967</i>.</li> </ul> <p>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.</p> <p>This exemption only applies if the:</p> <ul style="list-style-type: none"> <li>activity does not cause any change in the course of the river, and</li> <li>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.</li> </ul>	Clause 43



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