

Flood work exemptions

Fact Sheet

An approval is required to construct or use a flood work under section 91D of the *Water Management Act 2000*. However, a number of flood works do not require an approval. These exemptions are set out in the *Water Management (General) Regulation 2018* under subdivision 6 "Exemption from requirement for a flood work approval". The information in this fact sheet is an overview of the exemptions.

Situations where a flood work approval is not required

State emergency directions

You do not need a flood work approval to construct, use or modify a flood work when following a direction under the *State Emergency and Rescue Management Act 1989* or the *State Emergency Service Act 1989*. This direction would be given in a flood emergency situation. The exemption applies for three months or a later date approved by the Minister in writing. After three months the work will need to be removed or revert back to its unmodified form, or an application for a flood work approval needs to be made.

A person

If you own or occupy a landholding with a total area no greater than 0.2 hectares you do not need to obtain a flood work approval to construct or use a flood work on that land. If the flood work is constructed or used in accordance with a development authorisation granted by a council and the work:

- is located in an area to which a council plan or study applies, or
- is not located in a floodway or Zone A or D under a floodplain management plan (FMP).

Ring embankments

You do not need to obtain a flood work approval for constructing or using a flood work on the land if:

- the work consists of one or more embankments around a dwelling house, shed or storage silo, and
- the enclosed area doesn't exceed 2 hectares or 10 percent of the land area, whichever is lesser, and
- the work is not located within a floodway or Zone A or D under a FMP.

Certain public authorities

NSW Trains, Sydney Trains and the Residual Transport Corporation do not need to obtain an approval if the flood work is constructed or used for the purposes of a public road.

Work carried out under a development authorisation (the 'built up area exemption')

In most situations a flood work approval is not required in urban or built-up areas. This exemption recognises the significant role of local councils in flood management in certain areas. It also recognises there may be an overlap of FMP under the *Water Management Act 2000* and floodplain risk management plans developed by local councils in accordance with the floodplain development manual.

The exemption allows for local councils to be able to construct a flood work without an approval provided they have an appropriate plan in place. It also provides that residents in areas covered by a council plan or study will only need development consent from the council to construct a flood work.

Local councils

A local council does not need to obtain a flood work approval if the flood work is constructed or used in accordance with a development authorisation (consent under part 4 or an approval under part 5 of the *Environmental Planning and Assessment Act 1979*) granted by a council and the work is:

- located in an area which a council plan or study applies, or
- not located in a floodway or Zone A or D under a FMP.

Certain earthworks

You do not need to obtain a flood work approval for constructing or using a flood work if:

- the work consists of earthwork (e.g. farm tracks, check banks) that are less than 150 mm above (but not below) the natural surface of the ground where it is constructed or situated, and
- the work is not situated within a floodway or Zone A or D under a FMP.

Need help?

If you need more information, please contact our Customer Service Centre on [1300 662 077](tel:1300662077), Monday to Friday between 8am-5pm or email Customer.Helpdesk@waterNSW.com.au

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