
Sent: 22/10/2018 9:05:50 AM
Subject: Attention Luke Perry RE DA 2018/1514 - IDAS1110183 - 145 Old Pittwater Road Brookvale
Attachments: IDAS1110183 Exemption Letter.pdf;

Dear Luke Perry,

Please find attached response from Natural Resources Access Regulator for the proposed development application: DA 2018/1514 - IDAS1110183 - 145 Old Pittwater Road Brookvale.

Kind Regards,

Pearl Ible | Water Regulation Officer
Natural Resources Access Regulator | Water Regulation (East)
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Natural Resources
Access Regulator

Contact: Jeremy Morice
Phone: 02 4224 9736
Email Jeremy.morice@dpi.nsw.gov.au

The General Manager
Northern Beaches Council
PO Box 1336
Dee Why NSW 2099

Our ref: IDAS1110183
Your Ref: DA2018/1514

22 October 2018

Attention: Luke Perry

Dear Sir/Madam

**Re: Integrated Development – for controlled activity described as: Major additions to Warringah Mall Shopping Centre including retail premises, food premises, kiosks, department stores and cinema complex with associated car-parking and landscaping
Located at: Lot 100 DP1015283 – 145 Old Pittwater Road, Brookvale NSW**

Natural Resources Access Regulator (formerly the Department of Industry - Water) has reviewed documents for the above development application and considers that, for the purposes of the *Water Management Act 2000* (WM Act), a controlled activity approval is not required and no further assessment by this agency is necessary.

The proposed activity is **exempt** from section 91E (1) of the WM Act in relation to controlled activities specified in clause 28, and Part 2 of Schedule 4 of the Water Management (General) Regulation 2018 that are carried out in, on or under waterfront land. **See attached** for details of the exemptions.

Should the proposed development be varied in any way that results in development extending onto land that is waterfront land, or encompassing works that are defined as controlled activities, then NRAR should be notified.

Further information on controlled activity approvals under the WM Act can be obtained from NRAR's website: www.industry.nsw.gov.au/water. Go to *Licensing and trade > Approvals > Controlled activities*.

Please direct any questions regarding this correspondence to Jeremy Morice by email to Jeremy.morice@dpi.nsw.gov.au.

Yours sincerely,

pp
Ryan Sheppard
Acting Manager Licensing & Approvals East Branch
Water Regulatory Operations
Natural Resources Access Regulator

Water Management (General) Regulation 2018

Subdivision 4 – Exemption from requirement for controlled activity approval.

42 Controlled activities-persons other than public authorities

A person (other than a public authority) is exempt from section 91E(1) of the *Water Management Act 2000*, in relation to controlled activities specified in Part 2 of Schedule 4 that are carried out in, on or under waterfront land.

Schedule 4 Exemptions

Part 2 – Controlled activities exemptions

Clause	Details
<input type="checkbox"/> 18	<p>Activities under mining, crown lands or western lands legislation</p> <p>Any activity carried out in accordance with any lease, licence, permit or other right in force 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>
<input type="checkbox"/> 19	<p>Activities on land of Maritime Authority or Port Corporation</p> <p>Any activity:</p> <p>(a) carried out in accordance with any lease, licence, permit or other right in force in respect of land under the ownership or control of the Maritime Authority of NSW or a Port Corporation (within the meaning of the <i>Ports and Maritime Administration Act 1995</i>), or</p> <p>(b) carried out in accordance with any lease, licence, permit or other right in force in respect of land under the ownership or control of a port operator (within the meaning of the <i>Ports and Maritime Administration Act 1995</i>), but only if the operator, after considering the environmental impact of the activity in accordance with section 5.5 of the <i>Environmental Planning and Assessment Act 1979</i> (as if the operator were the determining authority under that section), is satisfied that the activity is not likely to significantly affect the environment, or</p> <p>(c) for which the Minister administering that Act is the consent authority under the <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i>.</p>
<input type="checkbox"/> 20	<p>Activities under water supply works approval</p> <p>Any activity comprising the excavation of the bed of a river, lake or estuary for the purpose of facilitating the use of a water supply work, being an activity that:</p> <p>(a) is detailed in the conditions of the water supply work approval for the water supply work, and</p> <p>(b) is carried out in accordance with those conditions.</p>
<input type="checkbox"/> 21	<p>Activities with respect to domestic and stock rights</p> <p>Any of the following activities for the purpose of enabling a person to take, or facilitating a person's taking of, water pursuant to section 52 (Domestic and stock rights) of the Act:</p> <p>(a) the removal of alluvial material from the bed of a river to enable or facilitate the taking of water, if:</p> <p>(i) any excavation:</p> <p>(A) is no deeper than 1 metre, and</p> <p>(B) is no wider than 1/3 of the width of the river at that point or 6 metres (whichever is lesser), and</p> <p>(C) is no longer than its width, and</p> <p>(ii) the only alluvial material that is removed is material that has been deposited on the riverbed by the flow of water in the river such as sand, silt or gravel, and</p> <p>(iii) no material is removed within 1 metre of the bank of the river, and</p> <p>(iv) any alluvial material that has been removed is placed in the bed of the river, immediately upstream of the excavation,</p> <p>(b) any controlled activity in, on or under the bank of a river to enable or facilitate the installation of a pipe, if:</p> <p>(i) the pipe is above ground or in a trench that is the minimum size necessary to hold the pipe but is no more than 0.3 metres wide and 0.3 metres deep, and</p> <p>(ii) any material that is removed is used to backfill the trench within 48 hours after its removal,</p> <p>(c) any controlled activity in, on or under waterfront land to enable or facilitate the installation of a water supply work that is a pump, if:</p> <p>(i) the controlled activity is not on the bed or bank of a river, and</p> <p>(ii) any material removed is the minimum amount necessary to establish a suitable pump site but is no more than 1 cubic metre, and</p> <p>(iii) the area of land from which any material is removed is no greater than 4 square metres.</p>

Clause	Details
<input type="checkbox"/> 22	<p>Activities in accordance with harvestable rights orders</p> <p>Any activity carried out, in accordance with a harvestable rights order, in connection with the construction or use of a dam on land within the harvestable rights area constituted by the order.</p>
<input type="checkbox"/> 23	<p>Activities connected with construction of fencing, crossings or tracks</p> <p>Any activity carried out in connection with the construction or use of fencing, or of a vehicular crossing or an access track, that does not impound water, being an activity carried out in, on or under waterfront land:</p> <p>(a) relating to a minor stream, and</p> <p>(b) within a rural zone (other than a rural village) under an environmental planning instrument.</p>
<input type="checkbox"/> 24	<p>Activities in connection with works under former 1912 Act</p> <p>(1) Any activity carried out in connection with the construction or use of a work to which Part 2 of the former 1912 Act applies in accordance with a licence issued under that Part in relation to that work, being an activity that:</p> <p>(a) is detailed in the conditions of the licence, and</p> <p>(b) is carried out in accordance with those conditions.</p> <p>(2) Any activity carried out in connection with the construction or use of a controlled work within the meaning of Part 8 of the former 1912 Act in accordance with an approval issued under that Part in relation to that work, being an activity that:</p> <p>(a) is detailed in the conditions of the approval, and</p> <p>(b) is carried out in accordance with those conditions</p>
<input type="checkbox"/> 25	<p>Removal of vegetation</p> <p>Any activity authorised under the Act or any other Act or law comprising nothing more than the removal of vegetation (other than large woody debris), but only if the activity does not include the removal or disturbance of soil or other extractive materials.</p>
<input type="checkbox"/> 26	<p>Development at Rouse Hill Regional Centre</p> <p>The carrying out of development in accordance with section 6 of Part D (Rouse Hill Regional Centre) of The Hills Development Control Plan 2012 on the land to which that section applies (being land bounded by Windsor Road, Commercial Road and Withers Road, Rouse Hill).</p>
<input type="checkbox"/> 27	<p>Development on waterfront land at Oran Park or Turner Road</p> <p>The carrying out of development in accordance with the <i>Oran Park and Turner Road Waterfront Land Strategy 2009</i>, as published in the Gazette on 17 July 2009.</p>
<input checked="" type="checkbox"/> 28	<p>Activities on waterfront land if river is concrete lined or in pipe</p> <p>Any activity 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>
<input type="checkbox"/> 29	<p>Activities with respect to dwellings</p> <p>(1) Any activity carried out in connection with the erection or demolition of, the making of alterations or additions to or the provision of ancillary facilities for, a dwelling house or dual occupancy building, being activities:</p> <p>(a) that comprise exempt development or that are the subject of a development consent or complying development certificate in force under the <i>Environmental Planning and Assessment Act 1979</i>, and</p> <p>(b) that are not carried out on or in:</p> <p>(i) the bed or bank of any river, or</p> <p>(ii) the bed or shore of any lake, or</p> <p>(iii) the bed, or land lying between the bed and the mean high water mark, of any estuary.</p> <p>(2) In this clause:</p> <p>development has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>dual occupancy building means a building containing 2, but no more, dwellings within the meaning of the standard instrument prescribed by the <i>Standard Instrument (Local Environmental Plans) Order 2006</i>.</p> <p>dwelling house has the same meaning as it has in the standard instrument prescribed by the <i>Standard Instrument (Local Environmental Plans) Order 2006</i>.</p>

Clause	Details
<input type="checkbox"/> 31	<p>Controlled activities on certain waterfront land</p> <p>Any controlled activity that is carried out on waterfront land in relation to a minor stream or third order stream, where the activity is separated from the bed of the minor stream or third order stream by one or more of the following that has been lawfully constructed:</p> <ul style="list-style-type: none"> (a) a public road, (b) a hard stand space (such as a car park or building), (c) a levee bank, but only if the levee bank is in an urban area, was the subject of a development consent under the <i>Environmental Planning and Assessment Act 1979</i> and is located within a designated high risk flood area (within the meaning of clause 45 of the Regulation).
<input type="checkbox"/> 32	<p>Pontoons, jetties and moorings</p> <p>Any activity carried out in connection with the construction of a pontoon, jetty or mooring pole on waterfront land relating to a lake or estuary but only if that activity does not require any of the following:</p> <ul style="list-style-type: none"> (a) the removal of material from the land, (b) the depositing of material, other than that which is necessary for the construction of the pontoon, jetty or mooring, on the land, (c) works which change the profile of the waterfront land adjoining the lake or estuary.
<input type="checkbox"/> 33	<p>Maintenance of existing lawful works</p> <p>Any activity necessary for the purpose of the preservation, repair or upkeep of any building or structure lawfully constructed on waterfront land (other than an agricultural drain), but does not include additions or enhancements to, or the expansion of, the building or structure.</p>
<input type="checkbox"/> 34	<p>Repair and restoration work after storms</p> <p>The following activities after a storm event:</p> <ul style="list-style-type: none"> (a) repair work on any building or structure (including any access track, watercourse crossing, water supply works or essential services infrastructure) damaged by the storm, but only if: <ul style="list-style-type: none"> (i) the work does not involve the replacement of a structural component of any building or structure that could not otherwise be repaired under Part 2 of Schedule 4, and (ii) the work does not include enhancements to, or the expansion of, the building or structure beyond its condition immediately before the storm damage occurred. (b) the removal of detritus (including woody debris) deposited on waterfront land as a result of the storm.
<input type="checkbox"/> 35	<p>Compliance with enforcement action</p> <ul style="list-style-type: none"> (1) Any activity required to be carried out to comply with any direction, request or order under the Act or any other Act or law, but only if the direction, request or order was made: <ul style="list-style-type: none"> (a) by a court, or (b) by the Minister or an authorised officer. (2) Any activity that is not otherwise specified in Part 2 of Schedule 4 that is required to be carried out to comply with a direction, request or order made under the Act or any other Act or law (other than a direction, request or order referred to in subclause (1)), but only if the Minister approves the carrying out of the activity without a controlled activity approval.
<input type="checkbox"/> 36	<p>Exempt development, complying development and controlled activities with development consent on certain waterfront land</p> <ul style="list-style-type: none"> (1) Any activity on waterfront land adjoining a lake or estuary identified on a map approved by the Minister and published on the Department's website for the purposes of this clause, before the commencement of this Regulation, that is development for which development consent has been granted, or is exempt development or complying development. (2) In this clause, complying development, development consent and exempt development have the same meanings as in the <i>Environmental Planning and Assessment Act 1979</i>.
<input type="checkbox"/> 37	<p>Activities by State owned bodies</p> <p>Any activity carried out by a body (whether incorporated or unincorporated) established or continued for a public purpose that is wholly owned by the State or a Government agency, but only if:</p> <ul style="list-style-type: none"> (a) the activity does not cause any change in the course of the river, and (b) the body, after considering the environmental impact of the activity in accordance with section 5.5 of the <i>Environmental Planning and Assessment Act 1979</i> (as if the body were the determining authority under that section), is satisfied that the activity is not likely to significantly affect the environment.