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SPECIAL SUPPLEMENT

WATER ACT (DECLARATION THAT A WORK IS NOT A WORK TO WHICH PART 2 EXTENDS) (No. 1) ORDER 2012

under the

Water Act 1912

I, DAVID HARRISS, having delegated authority from the Water Administration Ministerial Corporation, pursuant to section 5(1) of the Water Act 1912, make the following Order.

Dated this 2nd day of April 2012.

DAVID HARRISS,
Commissioner of Water,

Signed for the Water Administration Ministerial Corporation
(by delegation)

Explanatory note

This Order is made pursuant to paragraph (h) of the definition of Work to which this Part extends in section 5(1) of the Water Act 1912. The object of this Order is to declare that certain works constructed or used, or proposed to be constructed or used, or works situated on land that are modified, for the purposes only of complying with a direction given under the State Emergency Services Act 1989 or the State Emergency and Rescue Management Act 1989 in an emergency are works to which Part 2 of the Water Act 1912 does not apply.

WATER ACT (DECLARATION THAT A WORK IS NOT A WORK TO WHICH PART 2 EXTENDS) (No. 1) ORDER 2012

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Water Act 1912

1. Name of Order

This Order is the Water Act (Declaration that a work is not a work to which Part 2 extends) (No. 1) Order 2012.

2. Commencement

This Order commences on the day on which it is published in the *New South Wales Government Gazette*.

3. Declaration

(1) A work that:

- (a) is constructed or used, or proposed to be constructed or used, on land by any person for the purposes only of complying with a direction given under the State Emergency Services Act 1989 or the State Emergency and Rescue Management Act 1989 in an emergency (within the meaning of the latter Act), or
- (b) is situated on land and is modified by any person for the purposes only of complying with a direction given under the State Emergency Services Act 1989 or the State Emergency and Rescue Management Act 1989 in an emergency (within the meaning of the latter Act),

is declared to be a work to which Part 2 does not extend pursuant to paragraph (h) of the definition of Work to which this Part extends in section 5(1) of the Water Act 1912.

- (2) Subclause (1)(a) only applies if the work is removed within a period of three months from when it was constructed.
- (3) Subclause (1)(b) only applies if the work is restored to its pre-modified state, within a period of three months from the modification occurring.

Note: Under Part 2 of the Act, only an occupier of land can apply for a licence to construct or use a work. However, to comply with a direction under the State Emergency Service Act 1989 or the State Emergency and Rescue Management Act 1989, it may be necessary for a person other than the occupier of the land to construct a new work or to modify an existing work. Where a new work is constructed or an existing work is modified by a person for the purposes of complying with a direction, the work is taken not to be a work to which Part 2 extends provided the person removes the work or restores the work to its pre-modified state within three months as the case may be.

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