

Management Zone D – rules and assessment criteria

Plan started: 24 September 2021

Term of the plan: 10 years

Rules summary

The following rules are a guide only. Refer to the NSW legislation website for details.

For more information about the flood work application process please call 1300 662 077.

Table 1. Rules for Management Zone D

Clause	Rule
46(2)	<p>Flood work types</p> <p>The granting or amending of a flood work approval in Management Zone D is only permitted if, in the minister’s opinion, all of the following apply:</p> <ul style="list-style-type: none"> (a) the flood work is any of the following types of flood works: <ul style="list-style-type: none"> (i) an access road (ii) a stock refuge (iii) an infrastructure protection work (iv) an ecological enhancement work (v) an Aboriginal cultural value enhancement work (vi) a heritage site enhancement work (b) the granting or amending of the approval satisfies the specific requirements for the type of flood work (as outlined below) (c) the flood work satisfies the assessment criteria for Management Zone D (d) a cumulative impact assessment of the flood work, as described in the assessment criteria for Management Zone D, has been completed.
46(3)	<p>Specific requirements for access roads</p> <p>The granting or amending of a flood work approval for an access road is only permitted if, in the minister’s opinion, all of the following apply:</p> <ul style="list-style-type: none"> (a) the height of the access road at any point of the road is no more than 30 cm above the natural surface level, and <p>Note. <i>Natural surface level</i> is defined in the Macquarie Valley Floodplain Management Plan dictionary</p> (b) any borrow associated with the construction and maintenance of the access road is located on the downstream side of the access road and is no deeper than 30 cm below the natural surface level, and

Clause	Rule
	<p>(c) the access road is constructed:</p> <ul style="list-style-type: none"> (i) with causeways that: <ul style="list-style-type: none"> (A) are no higher than the natural surface level, and (B) are located at low points of the floodway, and (C) occur at least once every 200 metres, and (D) total at least 10% of the total length of the access road that is in the Macquarie Management Zone D, or <p>Note. This applies to access roads that span a single property or multiple properties.</p> (ii) in a way that adequately allows for the passage of floodwater and adequately prevents the diversion of floodwater from natural flow paths. <p>Note. The minister may require that a structure be put in place at a low point of the access road to meet the requirements of this subclause.</p>
46(4)	<p>Specific requirements for stock refuges</p> <p>The granting or amending of a flood work approval for a stock refuge is only permitted if, in the minister's opinion, all of the following apply:</p> <ul style="list-style-type: none"> (a) the area of the stock refuge is 10 ha or less and no other stock refuge is in that area, <p>Note. <i>Stock refuge</i> is defined in the Macquarie Valley Floodplain Management Plan dictionary.</p> (b) the total area of stock refuges on the landholding on which the stock refuge is located is no more than 5% of the total area of the landholding (c) the stock refuge blocks 5% or less of the width of Management Zone D, as measured at the location of the stock refuge and perpendicular to the flood flow direction. <p>Note. For example, if Management Zone D is 200 m in width, the stock refuge must not extend more than 10 m into Management Zone D.</p>
46(5)	<p>Specific requirements for infrastructure protection works</p> <p>The granting or amending of a flood work approval for an infrastructure protection work is only permitted if, in the minister's opinion, all of the following apply:</p> <ul style="list-style-type: none"> (a) the infrastructure protection work is on a landholding: <ul style="list-style-type: none"> (i) where 20 ha or less of the landholding is in Management Zone D and 10% or less of the total area of the landholding is enclosed by the work, or <p>Note. For example, if a landholding is 10 ha in area, the infrastructure protection work must enclose no more than 1 ha.</p> (ii) where more than 20 ha of the landholding is in Management Zone D and no more than 2 ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work <p>Note. For example, if a landholding is 25 ha in area, the area enclosed by infrastructure protection works must not exceed 2 ha in area. Alternatively, if a landholding is 300 ha in area, the area enclosed by infrastructure protection works must not exceed 3 ha in area.</p>

Clause	Rule
	<p>the infrastructure protection work blocks 5% or less of the width of Management Zone D, as measured at the location of the infrastructure protection work and perpendicular to the flood flow direction</p>
46(6)	<p>Specific requirements for ecological enhancement works</p> <p>The granting or amending of a flood work approval for an ecological enhancement work is only permitted if, in the minister’s opinion, the work is for the purpose of providing a positive outcome for a flood-dependent ecological asset or any other ecological asset specified in local, state or Commonwealth environmental plans, policy or legislation, including any of the following:</p> <ul style="list-style-type: none"> (a) <i>Basin Plan 2012 (Cth)</i> (b) <i>Biodiversity Conservation Act 2016</i> (c) <i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i> (d) the long-term watering plan for the Macquarie–Castlereagh water resource plan area under the <i>Basin Plan 2012 (Cth)</i> (e) <i>National Parks and Wildlife Act 1974</i> (f) <i>Fisheries Management Act 1994</i> (g) NSW Wetlands Policy 2010 (h) Fisheries NSW <i>Policy and Guidelines for Fish Habitat Conservation and Management (2013 update)</i> (i) any other source that, in the minister’s opinion, is relevant. <p>Note. For more information about assessment of ecological enhancement works in the Macquarie Valley Management Zone D, see the implementation guidelines.</p>
47(7)	<p>Specific requirements for Aboriginal cultural value enhancement works</p> <p>The granting or amending of a flood work approval for an Aboriginal cultural value enhancement work is only permitted if, in the minister’s opinion, the work is for the purpose of providing a positive outcome for a flood-dependent Aboriginal cultural value or any other Aboriginal cultural value listed in the any of the following:</p> <ul style="list-style-type: none"> (a) Aboriginal Heritage Information Management System (b) Murray–Darling Basin Authority Aboriginal Submissions Database (c) NSW State Heritage Register (d) Commonwealth Heritage List (e) any other source that, in the minister’s opinion, is relevant.
47(8)	<p>Specific requirements for heritage site enhancement works</p> <p>The granting or amending of a flood work approval for a heritage site enhancement work is only permitted if, in the minister’s opinion, the work is for the purpose of providing a positive outcome for a heritage site that is a flood-dependent heritage site or any other heritage site that is listed in any of the following:</p>

Clause	Rule
	<ul style="list-style-type: none"> (a) the Aboriginal Heritage Information Management System (b) Murray–Darling Basin Authority Aboriginal Submissions Database (c) NSW State Heritage Register (d) NSW State Heritage Inventory (e) Historic Heritage Information Management System (f) Commonwealth Heritage List (g) any other source, that in the minister’s opinion, is relevant.
47 (2)	<p>Existing flood works in Management Zone D</p> <p>The granting of a flood work approval for a flood work, or part of a flood work in Management Zone D that was constructed at any time before the commencement of this plan and for which an approval is not permitted under the rules and specific requirements for flood works in Management Zone D (clause 47), is only permitted if, in the minister’s opinion:</p> <ul style="list-style-type: none"> (a) the flood work is any of the following types of flood works: <ul style="list-style-type: none"> (i) an infrastructure protection work (ii) a stock refuge (iii) an access road (iv) a supply channel, and (b) as at the date of application, the flood work is not the subject of a previously refused application, for any of the following: <ul style="list-style-type: none"> (i) an approval for a controlled work under the repealed Part 8 of the <i>Water Act 1912</i> (ii) a flood work approval under the <i>Water Management Act 2000</i>, and (c) the flood work satisfies the assessment criteria for Management Zone D, and (d) the cumulative impact assessment of the flood work for Management Zone D has been completed.
47(3)	<p>Existing flood works in Management Zone D continued</p> <p>The amending of a flood work approval for a flood work, or part of a flood work in Management Zone D that was constructed at any time before the commencement of this plan and for which an approval is not permitted under the rules and specific requirements for flood works in Management Zone D (clause 47), is only permitted if, in the minister’s opinion:</p> <ul style="list-style-type: none"> (a) any proposed modification to the flood work will reduce the impact of the flood work on flow patterns (including distribution of flows, drainage, depth or velocity) in Management Zone D, and (b) the flood work satisfies the assessment criteria for Management Zone D, and (c) a cumulative impact assessment for Management Zone D of the flood work under has been completed.
48	<p>Flood work approvals for undetermined applications in the Macquarie Management Zone D</p>

Clause	Rule
	<p>This clause applies to a flood work, or part of a flood work, in Management Zone D that is the subject of an undetermined application for a flood work approval under the Act at the commencement of this plan and for which an approval is not permitted under the rules and specific requirements for flood works in Management Zone D (clause 46 or 47).</p> <p>The granting or amending of a flood work approval for a flood work to which this clause applies is only permitted if the minister is satisfied that:</p> <ul style="list-style-type: none"> (a) the undetermined application was lodged before 30 June 2020, and (b) as at the date of application, the flood work is not the subject of a previously refused application, for any of the following: <ul style="list-style-type: none"> (i) an approval for a controlled work under the repealed Part 8 of the <i>Water Act 1912</i> (ii) a flood work approval under the Act, and (c) the flood work <ul style="list-style-type: none"> (i) if located south of the Oxley Highway (as shown on the Plan Map), satisfies the assessment criteria for the Macquarie Management Zone BH where references to Macquarie Management Zone BH are taken to be references to Macquarie Management Zone D, or, (ii) if located north of the Oxley Highway (as shown on the Plan Map), satisfies the assessment criteria for the Macquarie Management Zone B where references to Macquarie Management Zone B are taken to be references to the Macquarie Management Zone D, and (d) the application is advertised.

Assessment criteria summary

Flood work applications in Management Zone D must be assessed against the following criteria.

The assessment criteria are a guide only. Refer to the NSW legislation website for details.

For more information about the flood work application process please call 1300 662 077.

Applicants may be required to submit technical studies or supporting information to demonstrate that a flood work or proposed flood work meets the criteria outlined in the plan.

Table 2. Assessment criteria for Management Zone D

Clause	Criterion
49(1)	<p>Ecological and cultural impacts</p> <p>A flood work must, in the minister’s opinion:</p> <ul style="list-style-type: none"> (a) maintain adequate flood connectivity to the following under a range of flood scenarios including, at a minimum, scenarios for the large design flood and small design flood: <ul style="list-style-type: none"> (i) flood-dependent ecological assets (ii) facilitation of fish passage, and (b) maintain adequate flood connectivity to the following under a range of flood scenarios including, at a minimum, scenarios for the large design flood and small design flood:

Clause	Criterion
	<ul style="list-style-type: none">(i) flood-dependent Aboriginal cultural values(ii) flood-dependent heritage sites.(c) not be constructed or modified if the construction or modification is likely to disturb the ground surface of a heritage site or cause more than minimal erosion to a heritage site.
49(1)(d)	<p>Drainage impacts</p> <p>A flood work must, in the minister's opinion, maintain adequate drainage on landholdings (including adjacent landholdings) that may be affected by the proposed flood work.</p>
49(2)	<p>Cumulative impacts</p> <p>The granting or amending of a flood work approval for a flood work, the minister must consider the cumulative impact that the flood work on the landholding on which the flood work is located, and other existing works on the landholding, may have on all of the following:</p> <ul style="list-style-type: none">(i) adjacent landholdings(ii) any other landholdings that may be affected by the flood work(iii) the floodplain environment.

More information

For more information about the Macquarie Valley Floodplain Management Plan 2021, visit the NSW Department of Planning, Industry and Environment's website, www.industry.nsw.gov.au/water

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