

Management Zone D—rules and assessment criteria

Plan commenced: 11 September 2020

Term of the plan: 10 years

Rules summary

The following rules are a guide only. Refer to the NSW legislation website for the detailed legal instrument written in the required statutory framework.

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

Table 1. Rules for Management Zone D

Clause	Rule
44(2)	<p>Flood work types</p> <p>The granting or amending of a flood work approval in MZ 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 ecological enhancement work, (ii) an Aboriginal cultural value enhancement work, (iii) a heritage site enhancement work, (b) the granting or amending of the approval satisfies with the specific requirements for the type of flood work (as outlined below), (c) the flood work satisfies the assessment criteria for MZ D, (d) a cumulative impact assessment of the flood work, as described in the assessment criteria for MZ D, has been completed.
44(3)	<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 (Cwlth)</i>, (b) <i>Biodiversity Conservation Act 2016</i>, (c) <i>Environment Protection and Biodiversity Conservation Act 1999 (Cwlth)</i>, (d) the long-term watering plan for the NSW Border Rivers water resource plan area under the <i>Basin Plan 2012 (Cwlth)</i>, (e) <i>National Parks and Wildlife Act 1974</i>, (f) <i>Fisheries Management Act 1994</i>, (g) NSW Wetlands Policy 2010,

Clause	Rule
	<ul style="list-style-type: none"> (h) Fisheries NSW <i>Policy and Guidelines for Fish Habitat Conservation and Management</i> (2013 update), (i) any other source that, in the minister's opinion, is relevant.
44(4)	<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.
44(5)	<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> <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.
45(2)	<p>Existing flood works in MZ D</p> <p>The granting of a flood work approval for a flood work, or part of a flood work in MZ 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 MZ 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

Clause	Rule
	<ul style="list-style-type: none"> (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 MZ D, and (d) the cumulative impact assessment of the flood work for MZ D has been completed.
45(3)	<p>Existing flood works in MZ D continued</p> <p>The amending of a flood work approval for a flood work, or part of a flood work in MZ 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 MZ 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 MZ D, and (b) the flood work satisfies the assessment criteria for MZ D, and (c) a cumulative impact assessment for MZ D of the flood work under has been completed.
46	<p>Undetermined applications in MZ D</p> <p>This clause applies to a flood work, or part of a flood work, in MZ 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 MZ D (clause 44 or 45).</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 31 December 2019, 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 satisfies the assessment criteria for MZ B where references to MZ B are taken to be references to MZ D, and (d) the application is advertised.

Assessment criteria summary

Flood work applications in MZ D must be assessed against the following assessment criteria.

The assessment criteria are a guide only. Refer to the NSW legislation website for the detailed legal instrument written in the required statutory framework.

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
47(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: <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.
47(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>
47(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

More information about the Border Rivers Valley Floodplain Management Plan 2020 is available at the NSW Department of Planning, Industry and Environment’s website www.industry.nsw.gov.au/water

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