

# How the department has responded to the S43 review recommendations

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This document outlines how the department has responded to the review of the Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017 under section 43 of the *Water Management Act 2000*.

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## September 2022

Floodplain management plans are statutory instruments under the *Water Management Act 2000* (the Act). They prescribe management zones, rules and assessment criteria for granting or amending approvals for flood works. They intend to provide certainty regarding rules for water users over the life of the 10-year term of the floodplain management plan.

The *Floodplain Management Plan for the Barwon-Darling Valley Floodplain* (the FMP) commenced on 1 July 2017 and a review of the plan was due within the first five years of the plan term.

The Department of Planning and Environment has a role under section 43 of the Act to undertake a review for the purposes of '*ascertaining whether the plan provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles*'. View the [S43 Review of Barwon-Darling Floodplain Management Plan](#).

The review was undertaken by Alluvium Consulting in consultation with the Department of Planning and Environment's Water group, the department's Environment and Heritage group, Water NSW and the Natural Resources Commission. Public submissions were also sought as part of the review process.

Table 1 outlines the findings and recommendations arising from the review and the department's response to these recommendations.

Table 1. Department response to review recommendations (September 2022)

Review Finding	Review Recommendation	Response to recommendations
The performance indicators in clause 12 of the FMP were not specific, measurable targets	Review of the performance indicators to include specific, measurable indicators and the timeframes for assessment.	Agree. Action added to amendment register; to be scoped as part of review of performance indicators for all floodplain management plans.
The FMP includes detail on the assessment of future flood work and modification of existing approved works but does not contain information on the potential impact of removing flood works as is suggested by s.30(b) of the Act	Include requirements for the potential impact of removing or modifying existing approved and unapproved flood works. In particular, risks to life and property from removing and not removing existing flood works.	Agree. Action added to amendment register; to be scoped.
The online spatial mapping is a very clear tool for the understanding and application of the management zone areas to specific property locations, but it is not located within the FMP and no direct link to it is provided in the FMP potentially making it hard to find.	Amend the FMP to include a reference to the ArcGIS online version of the Management Zones Map.	Agree. Action added to amendment register; to be scoped in consultation with DPE (Department of Planning and Environment) Legal and the Parliamentary Counsel's Office who are responsible for the NSW Legislation website.
Water quality provisions have not been included in the FMP as required under s.5(2)(c) and provided for by s.30(e) of the Act	Inclusion of water quality provisions, such as management of blackwater.	Agree. Action added to amendment register; to be scoped.
The core provisions (s.29 of Act) are clearly held in designated sections of the FMP, but the additional provisions (s.30) were used to inform the FMP with the detail held in the background document.	Include the background document as an attachment to the FMP or provide a reference to ensure ease of access. If the items not found in the FMP are considered to be held elsewhere, such as the background document, then clear reference should be included (for example as a Note) so that the information is clearly accessible. This would ensure all information is being considered by all parties to ensure effective implementation.	Agree. Action added to amendment register; to be scoped in consultation with DPE Legal.

Review Finding	Review Recommendation	Response to recommendations
<p>The Section 44 audit has made recommendations for amendments to the FMP to ensure plan provisions are given effect</p>	<p>Recommendations of the s.44 audit to be actioned by DPE Water or WaterNSW as appropriate.</p>	<p>Agree. Relevant actions added to amendment register.</p>
<p>The FMP has been clearly informed through consultation with Aboriginal groups and individuals and this information has informed the delineation of the zones, but there is no clear requirement for assessing applications based on the information.</p>	<p>Include a requirement to ensure geographical and other features of Aboriginal significance are protected, potentially through consultation with DPE Water or similar, in the assessment of flood work applications.</p>	<p>Agree. Action added to amendment register; to be scoped in consultation with the Aboriginal Water Program team.</p>
<p>The FMP holds potential for amendment and adaption through its Part 10 clauses but there is no trigger for these amendments to occur.</p>	<p>Include requirements for monitoring and review of the FMPs detail outside of the 5-year requirements such as resulting from a flood event or identification of known risk to life and property or a significant risk to the environment. Include detail on the impacts of climate change and how they should be managed under the FMP. Include clear and specific triggers for the amendments under Part 10.</p>	<p>Agree. Action added to amendment register; to be scoped.</p>
<p>The technical detail (including the hydraulic modelling and mapping) of the FMP has not been reviewed here as it was out of scope for this report.</p>	<p>Conduct a review of the modelling and any other technical information used to inform the management zones, its rules and the effective implementation of the plan. The model update should consider recent flood events and their impact on the hydrologic analysis developed for the FMP. Use the updated flood risk information combined with consultation feedback to review the management zones and update where required.</p>	<p>Agree. Routine update to the FMP models to include recent flood work approvals is underway. This update will be used to inform a broader technical review of the FMP.</p>
<p>The provisions within the FMP may be preventing land rehabilitation works and other NRM works from being undertaken because they are deemed to be flood works.</p>	<p>A review should be undertaken to assess how ecological enhancement works and other NRM works should be considered in the FMP to ensure these works are not inhibited by the FMP.</p>	<p>Agree. Action added to amendment register; to be scoped.</p>