

## Management Zone A—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 A**

Clause	Rule
36(2)	<p><b>Flood work types</b></p> <p>The granting or amending of a flood work approval in MZ A is only permitted if, in the minister's opinion, all of the following apply:</p> <ul style="list-style-type: none"> <li>(a) the flood work is any of the following types of flood works: <ul style="list-style-type: none"> <li>(i) an access road,</li> <li>(ii) a supply channel,</li> <li>(iii) a stock refuge,</li> <li>(iv) an infrastructure protection work,</li> <li>(v) an ecological enhancement work,</li> <li>(vi) an Aboriginal cultural value enhancement work,</li> <li>(vii) a heritage site enhancement work,</li> </ul> </li> <li>(b) the granting or amending of the approval satisfies with the specific requirements for the flood work type (as outlined below),</li> <li>(c) the flood work satisfies the assessment criteria for MZ A,</li> <li>(d) a cumulative impact assessment of the flood work, as described in the assessment criteria, has been completed.</li> </ul>
36(3)	<p><b>Specific requirements for access roads</b></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"> <li>(a) the height of the access road at any point of the road is no more than: <ul style="list-style-type: none"> <li>(i) 15 cm above the natural surface level if it is <i>not</i> a primary access road, or <b>Note.</b> <i>Natural surface level</i> and <i>primary access road</i> are defined in the Dictionary.</li> <li>(ii) 50 cm above the natural surface level if it is a primary access road,</li> </ul> </li> <li>(b) the access road is constructed: <ul style="list-style-type: none"> <li>(i) with causeways that: <ul style="list-style-type: none"> <li>(A) are no higher than the natural surface level, and</li> <li>(B) are located at low points of the floodway, and</li> </ul> </li> </ul> </li> </ul>

Clause	Rule
	<p>(C) occur at least every once every 200 metres, and</p> <p>(D) total at least 10% of the total length of the access road that is in MZ A, and</p> <p><b>Note.</b> This applies to access roads that span a single property or multiple properties.</p> <p>(ii) with any borrow associated with the construction and maintenance of the access road being located on the downstream side of the access road and no deeper than 15 cm below the natural surface level.</p>
36(4)	<p><b>Specific requirements for supply channels</b></p> <p>The granting or amending of a flood work approval for a supply channel is only permitted if, in the minister’s opinion, all of the following apply:</p> <p>(a) the height of the supply channel is below the natural surface level,</p> <p>(b) the supply channel is constructed to ensure:</p> <p>(i) the adequate passage of floodwater and prevention of diversion of floodwater from natural flow paths, and</p> <p><b>Note.</b> The minister may require that a structure be put in place at a low point of the supply channel to meet the requirements of this subparagraph.</p> <p>(ii) the spoil associated with the construction and maintenance of the supply channel:</p> <p>(A) forms a windrow parallel to the direction of flow so that it does not block more than 5% of the width of MZ A, as measured at the location of the supply channel and perpendicular to the flood flow direction, or</p> <p>(B) is levelled to a height of 10 cm or less above the natural surface level at any point of the spoil.</p> <p><b>Note.</b> <i>Spoil</i> and <i>windrow</i> are defined in the Dictionary.</p>
36(5)	<p><b>Specific requirements for stock refuges</b></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> <p>(a) the area of the stock refuge is 10 ha or less and no other stock refuge is in that area,</p> <p><b>Note.</b> <i>Stock refuge</i> is defined in the Dictionary.</p> <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,</p> <p>(c) the stock refuge blocks 5% or less of the width of MZ A, as measured at the location of the stock refuge and perpendicular to the flood flow direction.</p> <p><b>Note.</b> For example, if MZ A is 200 m in width, the stock refuge must not extend more than 10 m into MZ A.</p>
36(6)	<p><b>Specific requirements for infrastructure protection works</b></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> <p>(a) the infrastructure protection work is on a landholding:</p> <p>(i) where 20 ha or less of the landholding is in MZ A and 10% or less of the total area of the landholding is enclosed by the work, or</p> <p><b>Note.</b> For example, if a landholding is 10 ha in area, the infrastructure protection work must</p>

Clause	Rule
	<p>enclose no more than 1 ha.</p> <p>(ii) where more than 20 ha of the landholding is in MZ A and no more than 2 ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work,</p> <p><b>Note.</b> 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> <p>(b) the infrastructure protection work blocks 5% or less of the width of MZ A, as measured at the location of the infrastructure protection work and perpendicular to the flood flow direction.</p>
36(7)	<p><b>Specific requirements for ecological enhancement works</b></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 ecological enhancement 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"> <li>(a) <i>Basin Plan 2012 (Cwlth)</i>,</li> <li>(b) <i>Biodiversity Conservation Act 2016</i>,</li> <li>(c) <i>Environment Protection and Biodiversity Conservation Act 1999 (Cwlth)</i>,</li> <li>(d) the long-term watering plan for the NSW Border Rivers water resource plan area under the <i>Basin Plan 2012 (Cwlth)</i>,</li> <li>(e) <i>National Parks and Wildlife Act 1974</i>,</li> <li>(f) <i>Fisheries Management Act 1994</i>,</li> <li>(g) NSW Wetlands Policy 2010,</li> <li>(h) Fisheries NSW <i>Policy and Guidelines for Fish Habitat Conservation and Management</i> (2013 update),</li> <li>(i) any other source that, in the minister’s opinion, is relevant.</li> </ul>
36(8)	<p><b>Specific requirements for Aboriginal cultural value enhancement works</b></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 Aboriginal cultural value enhancement 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 any of the following:</p> <ul style="list-style-type: none"> <li>(a) Aboriginal Heritage Information Management System,</li> <li>(b) Murray–Darling Basin Authority Aboriginal Submissions Database,</li> <li>(c) NSW State Heritage Register,</li> <li>(d) Commonwealth Heritage List,</li> <li>(e) any other source, that in the minister’s opinion, is relevant.</li> </ul>

Clause	Rule
36(9)	<p><b>Specific requirements for heritage site enhancement works</b></p> <p>The granting or amending of a flood work approval is only permitted for a heritage site enhancement work if, in the minister’s opinion, the heritage site enhancement 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"> <li>(a) Aboriginal Heritage Information Management System,</li> <li>(b) Murray–Darling Basin Authority Aboriginal Submissions Database,</li> <li>(c) NSW State Heritage Register,</li> <li>(d) NSW State Heritage Inventory,</li> <li>(e) Historic Heritage Information Management System,</li> <li>(f) Commonwealth Heritage List,</li> <li>(g) any other source, that in the minister’s opinion, is relevant.</li> </ul>
37(2)	<p><b>Existing flood works in the Border Rivers Management Zone A</b></p> <p>The granting of a flood work approval for a flood work in MZ A that was constructed at any time before the commencement of this plan and for which approval is not permitted under the rules and specific requirements for flood works in MZ A (clause 36), is only permitted if, in the minister’s opinion:</p> <ul style="list-style-type: none"> <li>(a) the flood work is for any of the following types of flood works: <ul style="list-style-type: none"> <li>(i) an access road,</li> <li>(ii) a stock refuge,</li> <li>(iii) an infrastructure protection work,</li> <li>(iv) a supply channel, and</li> </ul> </li> <li>(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"> <li>(i) an approval for a controlled work under Part 8 of the <i>Water Act 1912</i>, or</li> <li>(ii) a flood work approval under the <i>Water Management Act 2000</i>, and</li> </ul> </li> <li>(c) the flood work satisfies the assessment criteria for MZ A, and</li> <li>(d) a cumulative impact assessment of the work, as described in the assessment criteria for MZ A, has been completed.</li> </ul>
37(3)	<p><b>Existing flood works continued</b></p> <p>The amending of a flood work approval for a flood work that was constructed at any time before the commencement of this plan and for which approval is not permitted under the rules and specific requirements for flood works in MZ A (clause 36), is only permitted if, in the minister’s opinion:</p> <ul style="list-style-type: none"> <li>(a) any proposed modification to the flood work will reduce the impact of the flood work on flow patterns (including distribution of flow, drainage, depth or velocity) in MZ A, and</li> <li>(b) the flood work satisfies the assessment criteria for MZ A, and</li> <li>(c) a cumulative impact assessment of the work, as described in the assessment criteria for MZ A, has been completed.</li> </ul>

Clause	Rule
38	<p><b>Flood work approvals for undetermined applications in the Border Rivers Management Zone A</b></p> <p>This clause applies to a flood work, or part of a flood work, in MZ A 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 A (clause 36 or 37).</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"> <li>(a) the undetermined application was lodged before 31 December 2019, and</li> <li>(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"> <li>(i) an approval for a controlled work under the repealed Part 8 of the <i>Water Act 1912</i>,</li> <li>(ii) a flood work approval under the Act, and</li> </ul> </li> <li>(c) the flood work satisfies the assessment criteria for MZ B where references to MZ B are taken to be references to MZ A, and</li> <li>(d) the application is advertised.</li> </ul>

## Assessment criteria summary

Flood work applications in MZ A 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 A**

Clause	Criterion
39(1)	<p><b>Ecological and cultural impacts</b></p> <p>A flood work must, in the minister's opinion:</p> <ul style="list-style-type: none"> <li>(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"> <li>(i) flood-dependent ecological assets,</li> <li>(ii) facilitation of fish passage, and</li> </ul> </li> <li>(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"> <li>(i) flood-dependent Aboriginal cultural values,</li> <li>(ii) flood-dependent heritage sites.</li> </ul> </li> <li>(c) not be constructed or modified if the construction or modification is likely to disturb the ground</li> </ul>

Clause	Criterion
	surface of a heritage site or cause more than minimal erosion to a heritage site.
39(1)(d)	<b>Drainage impacts</b> 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.
39(2)	<b>Cumulative impacts</b> 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: <ul style="list-style-type: none"><li>(a) adjacent landholdings,</li><li>(b) any other landholdings that may be affected by the flood work,</li><li>(c) the floodplain environment.</li></ul>

## 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](http://www.industry.nsw.gov.au/water)

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