

Transitional provisions in the Macquarie Valley Floodplain Management Plan

A transitional provision has been included in the *Floodplain Management Plan for the Macquarie Valley Floodplain 2021* (the FMP). This provision mitigates any disadvantage applicants may face as a result of significant delays in the assessment of the flood work applications.

Assessment delays in flood work applications

There have been significant delays in the assessment of applications lodged for flood work approvals in the Macquarie valley floodplain. These delays are a result of a change in focus by WaterNSW during the recent drought to applications for works that relate to critical water needs.

There is a potential for disadvantage to be faced by some applicants as a result of these delays. Specifically, in areas where the rules have become more restrictive with the commencement of the FMP.

Historically there has been confusion amongst stakeholders and departmental staff on whether the assessment criteria in force at the time of application lodgement or at the time of application determination applies. This is clarified by section 95 of the *Water Management Act 2000* that prevents an approval being granted in contravention of the provisions in a relevant management plan. Hence, it is the rules and assessment criteria that are in force **at the time the application is determined** that applies.

Transitional provision

A provision has been included in the FMP that applies to applications for flood work approvals that:

- were lodged prior to 30 June 2020, and
- are for works located or proposed to be located in Management Zones A or D (including applications to amend an existing approval), and
- are yet to be assessed and determined.
- For these applications, the transitional provision allows for the assessment to be undertaken against the comprehensive and comparatively less restrictive assessment criteria specified for Management Zone BH if upstream of the Oxley Highway, or Management Zone B if downstream, subject to the application being advertised.

This transitional provision will minimise any disadvantage faced by applicants that are seeking a flood work approval for a flood work that is or will be located in an area where the rules have become more restrictive with the commencement of the FMP.

All other applications, including those applications for flood works located or proposed to be located in other management zones or those applications lodged after the 30 June 2020 will be assessed against the relevant rules and assessment criteria in the commenced FMP.

This transitional provision also ensures that a comprehensive set of assessment criteria applies, and advertising is undertaken. This results in the long-term protection of the floodplain, environmental assets, cultural values and flood flow paths, which contributes to the protection of life and property from the effects of flooding.

Transitional provisions in floodplain management plans



Fact sheet

More information

For more information about individual flood work applications, please contact WaterNSW on 1300 662 077. More information about flood work approvals is available at www.waternsw.com.au/customer-service/water-licensing/approvals/flood-work-approvals

For more information about the preparation of floodplain management plans as part of the NSW Healthy Floodplains Project, visit the NSW Department of Planning, Industry and Environment website at www.industry.nsw.gov.au/water

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