



New South Wales
Government

Floodplain Management Plan (Flood Enhancement Works) Amendment Order 2024

under the

Water Management Act 2000

I, Rose Jackson MLC, Minister for Water, in pursuance of section 45(1) of the *Water Management Act 2000*, being satisfied it is in the public interest to do so, and in such circumstances, in relation to such matters and to such extent as provided for under the floodplain management plan, make the following Order to amend—

- (a) the *Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017*,
- (b) the *Floodplain Management Plan for the Border Rivers Valley Floodplain 2020*,
- (c) the *Floodplain Management Plan for the Gwydir Valley Floodplain 2016*,
- (d) the *Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020*,
- (e) the *Floodplain Management Plan for the Macquarie Valley Floodplain 2021*, and
- (f) the *Floodplain Management Plan for the Upper Namoi Valley Floodplain 2019*.

Dated 8 June 2024

ROSE JACKSON, MLC
Minister for Water

Explanatory note

This Order is made under section 45(1) of the *Water Management Act 2000*. The object of this Order is to amend the floodplain management plans for the Barwon-Darling, Border Rivers, Gwydir, Macquarie and Namoi (Upper and Lower) valleys in northern NSW. The concurrence of the Minister for the Environment was obtained prior to the making of this Order as required under section 45(3) of the *Water Management Act 2000*.

1 Name of Order

This Order is the *Floodplain Management Plan (Flood Enhancement Works) Amendment Order 2024*.

2 Commencement

This Order commences on publication on the NSW legislation website.

Schedule 1 Amendment of Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017

[1] Clause 21, heading

Insert “cultural” after “Aboriginal”.

[2] Clause 21(1)

Omit the subclause.

[3] Clause 21(2)

Insert “cultural” after “Aboriginal”.

[4] Clause 21(2)

Omit “clause”. Insert instead “Plan (*flood-dependent Aboriginal cultural values*)”.

[5] Clause 21(3)

Omit the subclause. Insert instead—

(3) The benefits of the flooding of Aboriginal cultural values within the Barwon-Darling Valley Floodplain to Aboriginal people and their cultures include the following:

- (a) continuation of Aboriginal cultural practices connected with flooding, including:
 - (i) harvesting traditional flood-dependent resources, and
 - (ii) cultural activities connected with and dependent upon floods,
- (b) preservation and longevity of Aboriginal cultural values,
- (c) maintaining potential for cultural renewal,
- (d) maintaining spiritual connection with the floodplain landscape.

[6] Clause 22 Heritage sites

Omit the clause. Insert instead—

22 Heritage sites

Heritage sites that have been identified as flood-dependent assets for the purposes of this Plan are sites that rely on flooding to maintain their heritage value (*flood-dependent heritage sites*).

[7] Clause 38 Flood works authorised in Barwon-Darling Management Zone A

Insert “(other than for a flood enhancement work)” after “A flood work approval” in subclause (1).

[8] Clause 38(1)

Omit clause 38(1)(e)–(g). Insert instead—

- (e) (Repealed),
- (f) an Aboriginal cultural value protection work,
- (g) a heritage site protection work.

[9] Clause 38(8)

Omit the subclause.

[10] Clause 38(9)

Omit the subclause. Insert instead—

- (9) Subject to subclause (1) and clause 40, a flood work approval must not be granted or amended to authorise the construction or modification of an Aboriginal cultural value protection work in the Barwon-Darling Management Zone A unless, in the Minister’s opinion—
 - (a) the Aboriginal cultural value protection work is on a landholding—
 - (i) where 20ha or less of the landholding is in the Barwon-Darling Management Zone A and 10% or less of the total area of the landholding is enclosed by the work, or
 - (ii) where more than 20ha of the landholding is in the Barwon-Darling Management Zone A and no more than 2ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work,
 - (b) the Aboriginal cultural value protection work blocks 5% or less of the width of the Barwon-Darling Management Zone A, as measured at the location of the Aboriginal cultural value protection work and perpendicular to the flood flow direction.

[11] Clause 38(10)

Omit the subclause. Insert instead—

- (10) Subject to subclause (1) and clause 40, a flood work approval must not be granted or amended to authorise the construction or modification of a heritage site protection work in Barwon- Darling Management Zone A unless, in the Minister’s opinion—
 - (a) the heritage site protection work is on a landholding—
 - (i) where 20ha or less of the landholding is in the Barwon-Darling Management Zone A and 10% or less of the total area of the landholding is enclosed by the work, or

- (ii) where more than 20ha of the landholding is in the Barwon-Darling Management Zone A and no more than 2ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work,
- (b) the heritage site protection work blocks 5% or less of the width of the Barwon-Darling Management Zone A, as measured at the location of the heritage site protection work and perpendicular to the flood flow direction.

[12] Clause 38A

Insert after clause 38—

38A Flood work approvals for flood enhancement works in the Barwon-Darling Management Zone A

- (1) A flood work approval for a flood enhancement work in the Barwon-Darling Management Zone A must not be granted or amended unless, in the Minister’s opinion—
 - (a) the granting or the amending of the approval complies with the specific requirements for the work under the relevant subclause (2) to (4), and
 - (b) the flood enhancement work satisfies the assessment criteria for flood works as set out at clauses 40(2)–(5) and 42(6)–(8), as if references to Barwon-Darling Management Zone B were references to Barwon-Darling Management Zone A.
- (2) A flood work approval for an ecological enhancement work in the Barwon-Darling Management Zone A must not be granted or amended unless, in the Minister’s opinion, the work is for the purpose of improving flood connectivity to a flood-dependent ecological asset specified in local, state or Commonwealth environmental plans, policy or legislation, including any of the following—
 - (a) *Basin Plan 2012* (Cth),
 - (b) *Biodiversity Conservation Act 2016*,
 - (c) *Environment Protection and Biodiversity Conservation Act 1999* (Cth),
 - (d) the Barwon-Darling Long Term Water Plan for the Barwon-Darling watercourse water resource plan area under the *Basin Plan 2012* (Cth),
 - (e) *National Parks and Wildlife Act 1974*,
 - (f) *Fisheries Management Act 1994*,
 - (g) NSW Wetland Policy 2010,
 - (h) *Fisheries NSW Policy and Guidelines for Fish Habitat Conservation and Management* (2013 update),
 - (i) any other source that, in the Minister’s opinion, is relevant.

- (3) A flood work approval for an Aboriginal cultural value enhancement work in the Barwon-Darling Management Zone A must not be granted or amended unless, in the Minister’s opinion, the work is for the purpose of improving flood connectivity to a flood-dependent Aboriginal cultural value.
- (4) A flood work approval for a heritage site enhancement work in the Barwon-Darling Management Zone A must not be granted unless, in the Minister’s opinion, the work is for the purpose of improving flood connectivity to a flood-dependent heritage site.

[13] Clause 40(3)(a)

Insert “flood-dependent” before “Aboriginal”.

[14] Clause 40(3)(a)

Insert “cultural” after “Aboriginal”.

[15] Clause 40(3)(b)

Insert “flood-dependent” before “heritage”.

[16] Clause 42 Assessment criteria in Barwon-Darling Management Zone B

Insert “flood-dependent” before “Aboriginal” in clause 42(3)(a).

[17] Clause 42(3)(a)

Insert “cultural” after “Aboriginal”.

[18] Clause 42(3)(b)

Insert “flood-dependent” before “heritage”.

[19] Clause 43 Assessment criteria in Barwon-Darling Management Zone C

Insert “flood-dependent” before “Aboriginal” in clause 43(3)(a).

[20] Clause 43(3)(a)

Insert “cultural” after “Aboriginal”.

[21] Clause 43(3)(b)

Insert “flood-dependent” before “heritage”.

[22] Clause 45 Flood works authorised in Barwon-Darling Management Zone D

Omit the clause. Insert instead—

45 Flood works authorised in Barwon-Darling Management Zone D

Note. The Minister may require applicants for flood work approvals to submit technical studies or supporting information to demonstrate that a flood work or proposed flood work meets the criteria outlined in this clause.

- (1A) A flood work approval must not be granted or amended for a flood work, or part of a flood work, in Barwon-Darling Management Zone D unless the work is a flood enhancement work and, in the Minister’s opinion—
 - (a) the granting or amending of the approval complies with the specific requirements for the work under the relevant subclauses (1) to (3), and
 - (b) the work satisfies the assessment criteria for flood works set out at clause 47(2)–(5) and clause 42(6)–(8), as if references to Barwon-Darling Management Zone B were references to Barwon-Darling Management Zone D.

- (1) A flood work approval must not be granted or amended to authorise the construction or modification of an ecological enhancement work in Barwon-Darling Management Zone D unless, in the Minister’s opinion, the ecological enhancement work is for the purpose of improving flood connectivity to a flood-dependent asset which is an ecological asset specified in local, state or Commonwealth environmental plans, policy or legislation, including any of the following—
 - (a) *Basin Plan 2012* (Cth),
 - (b) *Biodiversity Conservation Act 2016*,
 - (c) *Environment Protection and Biodiversity Conservation Act 1999* (Cth),
 - (d) the Barwon-Darling Long Term Water Plan for the Barwon-Darling watercourse water resource plan area under the *Basin Plan 2012* (Cth),
 - (e) *National Parks and Wildlife Act 1974*,
 - (f) *Fisheries Management Act 1994*,
 - (g) NSW Wetland Policy 2010,
 - (h) *Fisheries NSW Policy and Guidelines for Fish Habitat Conservation and Management* (2013 update),
 - (i) any other source that, in the Minister’s opinion, is relevant.

- (2) A flood work approval must not be granted or amended to authorise the construction or modification of an Aboriginal cultural value enhancement work in Barwon-Darling Management Zone D unless, in the Minister’s opinion, the Aboriginal cultural value enhancement work is for the purpose of improving flood connectivity to a flood-dependent Aboriginal cultural value.

- (3) A flood work approval must not be granted or amended to authorise the construction or modification of a heritage site enhancement work in Barwon-Darling Management Zone D unless, in the Minister’s opinion, the heritage site enhancement work is for the purpose of improving flood connectivity to a flood-dependent heritage site.

[23] Clause 47(3)(a)

Insert “flood-dependent” before “Aboriginal”.

[24] Clause 47(3)(a)

Insert “cultural” after “Aboriginal”.

[25] Clause 47(3)(b)

Insert “flood-dependent” before “heritage”.

[26] Clause 53 Part 5

Insert “flood-dependent” after “remove or modify” wherever occurring in clause 53(c) and (d).

[27] Clause 53(c)

Insert “cultural” after “Aboriginal”.

[28] Dictionary, definition of “Aboriginal values”

Omit the definition. Insert instead—

Aboriginal cultural values means sites, objects, landscapes or resources that are important to Aboriginal people as part of their continuing culture and beliefs, listed in—

- (a) the Aboriginal Heritage Information Management System,
- (b) the Murray-Darling Basin Authority Aboriginal Submissions Database,
- (c) the NSW State Heritage Register,
- (d) the Commonwealth Heritage List, or
- (e) any other source that, in the Minister’s opinion, is relevant.

[29] Dictionary, definition of “Aboriginal value enhancement work”

Omit the definition. Insert instead—

Aboriginal cultural value enhancement work means a flood enhancement work for the purpose of improving flood connectivity to flood-dependent Aboriginal cultural values.

[30] Dictionary, definition of “connectivity”

Omit the definition.

[31] Dictionary, definition of “ecological enhancement work”

Omit the definition. Insert instead—

ecological enhancement work means a flood enhancement work to improve flood connectivity to ecological assets for the purpose of enhancing ecological values.

[32] Dictionary, definition of “existing development conditions”

Insert “, excluding works on the landholding to which the application relates which are not authorised or exempt under the Act” after “Plan”.

[33] Dictionary, definition of “flood-dependent assets”

Omit the definition. Insert instead—

flood-dependent assets are ecological assets, Aboriginal cultural values or heritage sites that have important ecological or cultural features which rely on inundation by floodwaters to sustain essential processes.

[34] Dictionary, definition of “heritage site enhancement work”

Omit the definition. Insert instead—

heritage site enhancement work means a flood enhancement work that is for the purpose of improving flood connectivity to a flood-dependent heritage site.

[35] Dictionary, definition of “heritage sites”

Omit the definition. Insert instead—

heritage site means a cultural heritage object or place that is listed in—

- (a) the NSW State Heritage Register,
- (b) the NSW State Heritage Inventory,
- (c) the Aboriginal Heritage Information Management System,
- (d) the Murray-Darling Basin Authority Aboriginal Submissions Database,
- (e) the Historic Heritage Information Management System,
- (f) the Commonwealth Heritage List, or
- (g) any other source that, in the Minister’s opinion, is relevant.

[36] Dictionary

Insert in appropriate order—

Aboriginal cultural value protection work means a flood work that is for the purpose of protecting Aboriginal cultural values in times of flooding.

flood connectivity refers to the unimpeded passage of floodwater through the floodplain and is important for in-stream aquatic processes and biota and the conservation of natural river systems.

flood enhancement work means a flood work for the purpose of improving flood connectivity to flood-dependent assets.

flood-dependent Aboriginal cultural values has the meaning given in clause 21(2).

flood-dependent heritage sites has the meaning given in clause 22.

heritage site protection work means a flood work that is for the purpose of protecting a heritage site in times of flooding.

Schedule 2 Amendment of Floodplain Management Plan for the Border Rivers Valley Floodplain 2020

[1] Clause 4 Application of Plan

Omit “held by the Department and published on the NSW legislation” wherever occurring. Insert instead “as published on the Department’s”.

[2] Clause 20 Aboriginal cultural values

Omit “are listed in any of the sources under subclause (2) and” in clause 20(1).

[3] Clause 20(2)

Omit the subclause.

[4] Clause 21 Heritage sites

Omit the clause. Insert instead—

21 Heritage sites

Heritage sites in the Floodplain that are flood-dependent assets are those heritage sites that rely on flooding to maintain their heritage value (*flood-dependent heritage sites*).

[5] Clause 36 Flood work approvals in the Border Rivers Management Zone A

Omit subclause (1). Insert instead—

- (1) This clause applies to a flood work or proposed flood work, or part thereof, that is in the Border Rivers Management Zone A, other than a flood enhancement work.

[6] Clause 36(2)

Omit “all or parts of”.

[7] Clause 36(2)

Omit “for a flood work to which this clause applies”.

[8] Clause 36(2)(a)(v)

Omit the subparagraph.

[9] Clause 36(2)(a)(vi) and (vii)

Omit “enhancement” wherever occurring. Insert instead “protection”.

[10] Clause 36(7)

Omit the subclause.

[11] Clause 36(8)

Omit the subclause. Insert instead—

- (8) **Specific requirements for Aboriginal cultural value protection works** The granting or amending of a flood work approval for an Aboriginal cultural value protection work is only permitted if, in the Minister’s opinion—
- (a) the Aboriginal cultural value protection work is on a landholding—
 - (i) where 20ha or less of the landholding is in the Border Rivers Management Zone A and 10% or less of the total area of the landholding is enclosed by the work, or
 - (ii) where more than 20ha of the landholding is in the Border Rivers Management Zone A and no more than 2ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work,
 - (b) the Aboriginal cultural value protection work blocks 5% or less of the width of the Border Rivers Management Zone A, as measured at the location of the Aboriginal cultural value protection work and perpendicular to the flood flow direction.

[12] Clause 36(9)

Omit the subclause. Insert instead—

- (9) **Specific requirements for heritage site protection works** The granting or amending of a flood work approval for a heritage site protection work is only permitted if, in the Minister’s opinion—
- (a) the heritage site protection work is on a landholding—
 - (i) where 20ha or less of the landholding is in the Border Rivers Management Zone A and 10% or less of the total area of the landholding is enclosed by the work, or
 - (ii) where more than 20ha of the landholding is in the Border Rivers Management Zone A and no more than 2ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work,
 - (b) the heritage site protection work blocks 5% or less of the width of the Border Rivers Management Zone A, as measured at the location of the heritage site protection work and perpendicular to the flood flow direction.

[13] Clause 36A

Insert after clause 36—

36A Flood work approvals for flood enhancement works in the Border Rivers Management Zone A

Note. The Minister may require applicants for flood work approvals to submit technical studies or supporting information to demonstrate that a flood work or proposed flood work meets the criteria outlined in this clause.

(1) This clause applies to a flood enhancement work or proposed flood enhancement work, or part thereof, that is in the Border Rivers Management Zone A.

(2) **Requirements for flood enhancement works in the zone** The granting or amending of a flood work approval for a flood enhancement work is only permitted if, in the Minister’s opinion—

(a) the granting or the amending of the approval complies with the specific requirements for the work under the relevant subclause (3) to (5), and

(b) the flood enhancement work satisfies the assessment criteria for flood works as set out at clause 39(1) and clause 41(5)–(6), as if references to Border Rivers Management Zone B were references to Border Rivers Management Zone A.

(3) **Specific requirements for ecological enhancement works** 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 improving flood connectivity to a flood-dependent ecological asset specified in local, state or Commonwealth environmental plans, policy or legislation, including any of the following—

(a) *Basin Plan 2012* (Cth),

(b) *Biodiversity Conservation Act 2016*,

(c) *Environment Protection and Biodiversity Conservation Act 1999* (Cth),

(d) the long-term water plan for the NSW Border Rivers surface water resource plan area under the *Basin Plan 2012* (Cth),

(e) *National Parks and Wildlife Act 1974*,

(f) *Fisheries Management Act 1994*,

(g) NSW Wetland Policy 2010,

(h) Fisheries NSW *Policy and Guidelines for Fish Habitat Conservation and Management* (2013 update),

(i) any other source that, in the Minister’s opinion, is relevant.

Note. *Flood connectivity* and *flood enhancement work* are defined in the Dictionary.

(4) **Specific requirements for Aboriginal cultural value enhancement works** 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 improving flood connectivity to a flood-dependent Aboriginal cultural value.

(5) **Specific requirements for heritage site enhancement works** 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 improving flood connectivity to a flood-dependent heritage site.

[14] Clause 44(2)

Omit the lead-in text. Insert instead—

- (2) **Requirements for flood works in the zone** The granting or amending of a flood work approval is only permitted if the flood work is a flood enhancement work and, in the Minister’s opinion—

[15] Clause 44(2)(a)

Omit the paragraph.

[16] Clause 44(2)(c)–(d)

Omit the paragraphs. Insert instead—

- (c) the flood work satisfies the assessment criteria for flood works set out at clause 47(1) and clause 41(5)–(6), as if references to Border Rivers Management Zone B were references to Border Rivers Management Zone D.

[17] Clause 44(3)

Omit “providing a positive outcome for”. Insert instead “improving flood connectivity to”.

[18] Clause 44(3)

Omit “or any other ecological asset” after the words “flood-dependent ecological asset”.

[19] Clause 44(4)

Omit the subclause. Insert instead—

- (4) **Specific requirements for an Aboriginal cultural value enhancement works** 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 improving flood connectivity to a flood-dependent Aboriginal cultural value.

[20] Clause 44(5)

Omit the subclause. Insert instead—

- (5) **Specific requirements for heritage site enhancement works** 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 improving flood connectivity to a flood-dependent heritage site.

[21] Clause 54 Part 5

Insert “flood-dependent” after “remove or modify” wherever occurring in clause 54(b) and (c).

[22] Dictionary, definition of “Aboriginal cultural values”

Omit the definition. Insert instead—

Aboriginal cultural values means sites, objects, landscapes or resources that are important to Aboriginal people as part of their continuing culture and beliefs, listed in—

- (a) the Aboriginal Heritage Information Management System,
- (b) the Murray-Darling Basin Authority Aboriginal Submissions Database,
- (c) the NSW State Heritage Register,
- (d) the Commonwealth Heritage List, or
- (e) any other source that, in the Minister’s opinion, is relevant.

[23] Dictionary, definition for “existing development conditions”

Insert “, excluding works on the landholding to which the application relates which are not authorised or exempt under the Act” after “Plan”.

[24] Dictionary, definition of “heritage site”

Omit the definition. Insert instead—

heritage site means a cultural heritage object or place that is listed in—

- (a) the NSW State Heritage Register,
- (b) the NSW State Heritage Inventory,
- (c) the Aboriginal Heritage Information Management System,
- (d) the Murray-Darling Basin Authority Aboriginal Submissions Database,
- (e) the Historic Heritage Information Management System,
- (f) the Commonwealth Heritage List, or
- (g) any other source that, in the Minister’s opinion, is relevant.

[25] Dictionary

Insert in appropriate order—

Aboriginal cultural value enhancement work means a flood enhancement work for the purpose of improving flood connectivity to flood-dependent Aboriginal cultural values.

Aboriginal cultural value protection work means a flood work that is for the purpose of protecting Aboriginal cultural values in times of flooding.

ecological enhancement work means a flood enhancement work to improve flood connectivity to ecological assets for the purpose of enhancing ecological values.

flood enhancement work means a flood work for the purpose of improving flood connectivity to flood-dependent assets.

heritage site enhancement work means a flood enhancement work that is for the purpose of improving flood connectivity to a flood-dependent heritage site.

heritage site protection work means a flood work that is for the purpose of protecting a heritage site in times of flooding.

Schedule 3 Amendment of Floodplain Management Plan for the Gwydir Valley Floodplain 2016

[1] Clause 21 Aboriginal cultural values

Omit clause 21(1).

[2] Clause 21(2)

Omit the lead-in text. Insert instead—

- (2) Aboriginal cultural values that are flood-dependent assets include the following (*flood-dependent Aboriginal cultural values*)—

[3] Clause 21(3)

Omit the subclause. Insert instead—

- (3) The benefits of the flooding of Aboriginal cultural values within the Gwydir Valley Floodplain to Aboriginal people and their cultures include the following—
- (a) continuation of Aboriginal cultural practices connected with flooding, including—
 - (i) harvesting traditional flood-dependent resources, and
 - (ii) cultural activities connected with and dependent upon floods,
 - (b) preservation and longevity of Aboriginal cultural values,
 - (c) maintaining potential for cultural renewal,
 - (d) maintaining spiritual connection with the floodplain landscape.

[4] Clause 22 Heritage sites

Omit the clause. Insert instead—

22 Heritage sites

Heritage sites that are flood-dependent assets are those heritage sites that rely on flooding to maintain their heritage value (*flood-dependent heritage sites*).

[5] Clause 38 Flood works authorised in Gwydir Management Zone A

Omit the lead-in text in clause 38(1). Insert instead—

- (1) A flood work approval for a flood work, other than a flood enhancement work, in Gwydir Management Zone A must not be granted or amended unless, in the Minister's opinion, the flood work is any of the following—

[6] Clause 38(1)(e)

Omit the paragraph.

[7] Clause 38(1)(f) and (g)

Omit “enhancement” wherever occurring. Insert instead “protection”.

[8] Clause 38(8)

Omit the subclause.

[9] Clause 38(9)

Omit the subclause. Insert instead—

- (9) Subject to subclause (1) and clause 40, a flood work approval must not be granted or amended to authorise the construction of an Aboriginal cultural value protection work in the Gwydir Management Zone A unless, in the Minister’s opinion—
 - (a) the Aboriginal cultural value protection work is on a landholding—
 - (i) where 20ha or less of the landholding is in the Gwydir Management Zone A and 10% or less of the total area of the landholding is enclosed by the work, or
 - (ii) where more than 20ha of the landholding is in the Gwydir Management Zone A and no more than 2ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work, and
 - (b) the Aboriginal cultural value protection work blocks 5% or less of the width of the Gwydir Management Zone A, as measured at the location of the Aboriginal cultural value protection work and perpendicular to the flood flow direction.

[10] Clause 38(10)

Omit the subclause. Insert instead—

- (10) Subject to subclause (1) and clause 40, a flood work approval must not be granted or amended to authorise the construction of a heritage site protection work in the Gwydir Management Zone A unless, in the Minister’s opinion—
 - (a) the heritage site protection work is on a landholding—
 - (iii) where 20ha or less of the landholding is in the Gwydir Management Zone A and 10% or less of the total area of the landholding is enclosed by the work, or
 - (iv) where more than 20ha of the landholding is in the Gwydir Management Zone A and no more than 2ha or 1% (whichever is

greater) of the total area of the landholding is enclosed by the work, and

- (b) the heritage site protection work blocks 5% or less of the width of the Gwydir Management Zone A, as measured at the location of the heritage site protection work and perpendicular to the flood flow direction.

[11] Clause 38A

Insert after clause 38—

38A Flood work approvals for flood enhancement works in the Gwydir Management Zone A

- (1) This clause applies to the granting or amending of a flood work approval for a flood enhancement work in the Gwydir Management Zone A.
- (2) A flood work approval for a flood enhancement work must not be granted or amended unless, in the Minister’s opinion—
 - (a) the granting or the amending of the approval complies with the specific requirements for the work under the relevant subclause (3) to (5), and
 - (b) the flood enhancement work satisfies the assessment criteria for flood works as set out at clause 40(2)–(4) and clause 42(5)–(7), as if references to Gwydir Management Zone B were references to Gwydir Management Zone A.
- (3) A flood work approval for an ecological enhancement work must not be granted or amended unless, unless in the Minister’s opinion, the work is for the purpose of improving flood connectivity to a flood-dependent ecological asset specified in local, state or Commonwealth environmental plans, policy or legislation, including any of the following—
 - (a) *Basin Plan 2012* (Cth),
 - (b) *Biodiversity Conservation Act 2016*,
 - (c) *Environment Protection and Biodiversity Conservation Act 1999* (Cth),
 - (d) the long-term water plan for the Gwydir surface water resource plan area under the *Basin Plan 2012* (Cth),
 - (e) *National Parks and Wildlife Act 1974*,
 - (f) *Fisheries Management Act 1994*,
 - (g) NSW Wetland Policy 2010,
 - (h) Fisheries NSW Policy and *Guidelines for Fish Habitat Conservation and Management* (2013 update),
 - (i) any other source that, in the Minister’s opinion, is relevant.

Note. *Flood connectivity* and *flood enhancement work* are defined in the Dictionary.

- (4) A flood work approval for an Aboriginal cultural value enhancement work must not be granted or amended unless, in the Minister's opinion, the work is for the purpose of improving flood connectivity to a flood-dependent Aboriginal cultural value.
- (5) A flood work approval for a heritage site enhancement work must not be granted or amended unless, in the Minister's opinion, the work is for the purpose of improving flood connectivity to a flood-dependent heritage site.

[12] Clause 44 Flood works authorised in Gwydir Management Zone D

Omit clause 44(1)(c)–(e). Insert instead—

- (c) an Aboriginal cultural value protection work, or
- (d) a heritage site protection work, or
- (e) a flood enhancement work.

[13] Clause 44(6)

Omit the subclause. Insert instead—

- (6) A flood work approval must not be granted or amended to authorise the construction of an ecological enhancement work in the Gwydir Management Zone D unless, in the Minister's opinion—
 - (a) the work satisfies the assessment criteria for flood works set out at clause 42(5)–(7), as if references to Gwydir Management Zone B were references to Gwydir Management Zone D,
 - (b) the work satisfies the assessment criteria in clause 46(2)–(4), and
 - (c) the work is for the purpose of improving flood connectivity to a flood-dependent ecological asset specified in local, state or Commonwealth environmental plans, policy or legislation, including any of the following—
 - (i) *Basin Plan 2012* (Cth),
 - (ii) *Biodiversity Conservation Act 2016*,
 - (iii) *Environment Protection and Biodiversity Conservation Act 1999* (Cth),
 - (iv) the long-term water plan for the Gwydir surface water resource plan area under the *Basin Plan 2012* (Cth),
 - (v) *National Parks and Wildlife Act 1974*,
 - (vi) *Fisheries Management Act 1994*,
 - (vii) NSW Wetland Policy 2010,

- (viii) Fisheries NSW Policy and *Guidelines for Fish Habitat Conservation and Management* (2013 update),
- (ix) any other source that, in the Minister’s opinion, is relevant.”

[14] Clause 44(7)

Omit the subclause. Insert instead—

- (7) A flood work approval must not be granted or amended to authorise the construction of an Aboriginal cultural value enhancement work in the Gwydir Management Zone D unless, in the Minister’s opinion—
 - (a) the work satisfies the assessment criteria for flood works set out at clauses 42(5)–(7), as if references to Gwydir Management Zone B were references to Gwydir Management Zone D,
 - (b) the work satisfies the assessment criteria in clause 46(2)–(4), and
 - (c) the work is for the purpose of improving flood connectivity to a flood-dependent Aboriginal cultural value.

[15] Clause 44(8)

Omit the subclause. Insert instead—

- (8) A flood work approval must not be granted or amended to authorise the construction of a heritage site enhancement work in the Gwydir Management Zone D unless, in the Minister’s opinion—
 - (a) the work satisfies the assessment criteria for flood works set out at clauses 42(5)–(7), as if references to Gwydir Management Zone B were references to Gwydir Management Zone D,
 - (b) the work satisfies the assessment criteria in clause 46(2)–(4), and
 - (c) the work is for the purpose of improving flood connectivity to a flood-dependent heritage site.

[16] Clause 44(9) and (10)

Insert after clause 44(8)—

- (9) Subject to subclause (1) and clause 46, a flood work approval must not be granted or amended to authorise the construction of an Aboriginal cultural value protection work unless, in the Minister’s opinion—
 - (a) The Aboriginal cultural value protection work is on a landholding—
 - (i) where 20ha or less of the landholding is in the Gwydir Management Zone D and 10% or less of the total area of the landholding is enclosed by the work, or

- (ii) where more than 20ha of the landholding is in the Gwydir Management Zone D and no more than 2ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work,
 - (b) the Aboriginal cultural value protection work blocks 5% or less of the width of the Gwydir Management Zone D, as measured at the location of the Aboriginal cultural value protection work and perpendicular to the flood flow direction.
- (10) Subject to subclause (1) and clause 46, a flood work approval must not be granted or amended to authorise the construction of a heritage protection work unless, in the Minister’s opinion—
- (a) the heritage site protection work is on a landholding—
 - (i) where 20ha or less of the landholding is in the Gwydir Management Zone D and 10% or less of the total area of the landholding is enclosed by the work, or
 - (ii) where more than 20ha of the landholding is in the Gwydir Management Zone D and no more than 2ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work,
 - (b) the heritage site protection work blocks 5% or less of the width of the Gwydir Management Zone D, as measured at the location of the heritage site protection work and perpendicular to the flood flow direction.

[17] Clause 46A Flood works authorised in Gwydir Management Zone D1

Omit clause 46A(1). Insert instead—

- (1) A flood work approval must not be granted or amended to authorise the construction of a flood work in Gwydir Management Zone D1 unless, in the Minister’s opinion—
 - (a) the work is a flood enhancement work,
 - (b) the work satisfies the assessment criteria for flood works set out at clause 46C(2)–(5) and clause 42(5)–(7), as if references to Gwydir Management Zone B were references to Gwydir Management Zone D1,
 - (c) granting or amending of the approval complies with the specific requirements for the work under the relevant subclauses (2) to (4).

[18] Clause 46A(2)

Omit “and clause 46C” and “or any other ecological asset”.

[19] Clause 46A(2)

Omit “providing a positive outcome for”. Insert instead “improving flood connectivity to”.

[20] Clause 46A(2)(d)

Omit “watering”. Insert instead “water”.

[21] Clause 46A(3)

Omit the subclause. Insert instead—

- (3) Subject to subclause (1), a flood work approval must not be granted or amended to authorise the construction of an Aboriginal cultural value enhancement work in Gwydir Management Zone D1 unless, in the Minister’s opinion, the work is for the purpose of improving flood connectivity to a flood-dependent Aboriginal cultural value.

[22] Clause 46A(4)

Omit the subclause. Insert instead—

- (4) Subject to subclause (1), a flood work approval must not be granted or amended to authorise the construction of a heritage site enhancement work in Gwydir Management Zone D1 unless, in the Minister’s opinion, the work is for the purpose of improving flood connectivity to a flood-dependent heritage site.

[23] Clause 52 Part 5

Insert “flood-dependent” after “remove or modify” wherever occurring in clause 52(c) and (d).

[24] Dictionary, definition of “Aboriginal cultural values”

Omit the definition. Insert instead—

Aboriginal cultural values means sites, objects, landscapes or resources that are important to Aboriginal people as part of their continuing culture and beliefs, listed in—

- (a) the Aboriginal Heritage Information Management System,
- (b) the Murray-Darling Basin Authority Aboriginal Submissions Database,
- (c) the NSW State Heritage Register,
- (d) the Commonwealth Heritage List, or
- (e) any other source that, in the Minister’s opinion, is relevant.

[25] Dictionary, definition of “heritage sites”

Omit the definition. Insert instead—

heritage site means a cultural heritage object or place that is listed in—

- (a) the NSW State Heritage Register,

- (b) the NSW State Heritage Inventory,
- (c) the Aboriginal Heritage Information Management System,
- (d) the Murray-Darling Basin Authority Aboriginal Submissions Database,
- (e) the Historic Heritage Information Management System,
- (f) the Commonwealth Heritage List, or
- (g) any other source that, in the Minister’s opinion, is relevant.

[26] Dictionary

Insert in appropriate order—

Aboriginal cultural value enhancement work means a flood enhancement work for the purpose of improving flood connectivity to flood-dependent Aboriginal cultural values.

Aboriginal cultural value protection work means a flood work that is for the purpose of protecting Aboriginal cultural values in times of flooding.

ecological enhancement work means a flood enhancement work to improve flood connectivity to ecological assets for the purpose of enhancing ecological values.

existing development conditions refers to the level of development at the commencement of this Plan, excluding works on the landholding to which the application relates which are not authorised or exempt under the Act.

flood enhancement work means a flood work for the purpose of improving flood connectivity to flood-dependent assets.

heritage site enhancement work means a flood enhancement work that is for the purpose of improving flood connectivity to a flood-dependent heritage site.

heritage site protection work means a flood work that is for the purpose of protecting a heritage site in times of flooding.

Schedule 4 Amendment of Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020

[1] Clause 4 Application of Plan

Omit “held by the Department and published on the NSW legislation” wherever occurring. Insert instead “as published on the Department’s”.

[2] Clause 20 Aboriginal cultural values

Omit “are listed in any of the sources under subclause (2) and” in clause 20(1).

[3] Clause 20(2)

Omit the subclause.

[4] Clause 21 Heritage sites

Omit the clause. Insert instead—

21 Heritage sites

Heritage sites in the Floodplain that are flood-dependent assets are those heritage sites that rely on flooding to maintain their heritage value (*flood-dependent heritage sites*).

[5] Clause 36 Flood work approvals in the Lower Namoi Management Zone AD

Omit clause 36(1). Insert instead—

- (1) This clause applies to a flood work or proposed flood work, or part thereof, that is in the Lower Namoi Management Zone AD, other than a flood enhancement work.

[6] Clause 36(2)

Omit “all or parts of”.

[7] Clause 36(2)

Omit “for a flood work to which this clause applies”.

[8] Clause 36(2)(a)(v)

Omit the subparagraph.

[9] Clause 36(2)(a)(vi) and (vii).

Omit “enhancement” wherever appearing. Insert instead “protection”.

[10] Clause 36(7)

Omit the subclause.

[11] Clause 36(8)

Omit the subclause. Insert instead—

- (8) **Specific requirements for Aboriginal cultural value protection works** The granting or amending of a flood work approval for an Aboriginal cultural value protection work is only permitted if, in the Minister’s opinion—
- (a) the Aboriginal cultural value protection work is on a landholding—
 - (i) where 20ha or less of the landholding is in the Lower Namoi Management Zone AD and 10% or less of the total area of the landholding is enclosed by the work, or
 - (ii) where more than 20ha of the landholding is in the Lower Namoi Management Zone AD and no more than 2ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work,
 - (b) the Aboriginal cultural value protection work blocks 5% or less of the width of the Lower Namoi Management Zone AD, as measured at the location of the Aboriginal cultural value protection work and perpendicular to the flood flow direction.

[12] Clause 36(9)

Omit the subclause. Insert instead—

- (9) **Specific requirements for heritage site protection works** The granting or amending of a flood work approval for a heritage site protection work is only permitted if, in the Minister’s opinion—
- (a) the heritage site protection work is on a landholding—
 - (i) where 20ha or less of the landholding is in the Lower Namoi Management Zone AD and 10% or less of the total area of the landholding is enclosed by the work, or
 - (ii) where more than 20ha of the landholding is in the Lower Namoi Management Zone AD and no more than 2ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work,
 - (b) the heritage site protection work blocks 5% or less of the width of the Lower Namoi Management Zone AD, as measured at the location of the heritage site protection work and perpendicular to the flood flow direction.

[13] Clause 36A

Insert after clause 36—

36A Flood work approvals for flood enhancement works in the Lower Namoi Management Zone AD

Note. The Minister may require applicants for flood work approvals to submit technical studies or supporting information to demonstrate that a flood work or proposed flood work meets the criteria outlined in this clause.

- (1) This clause applies to a flood enhancement work or proposed flood enhancement work, or part thereof, that is in the Lower Namoi Management Zone AD.
 - (2) **Requirements for flood enhancement works in the zone** The granting or amending of a flood work approval for a flood enhancement work is only permitted if, in the Minister’s opinion—
 - (a) the granting or the amending of the approval complies with the specific requirements for the work under the relevant subclause (3) to (5), and
 - (b) the flood enhancement work satisfies the assessment criteria for flood works as set out at clause 40(1) and clause 44(5)–(6), as if references to Lower Namoi Management Zone B were references to Lower Namoi Management Zone AD.
 - (3) **Specific requirements for ecological enhancement works** 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 improving flood connectivity to a flood-dependent ecological asset specified in local, state or Commonwealth environmental plans, policy or legislation, including any of the following—
 - (a) *Basin Plan 2012* (Cth),
 - (b) *Biodiversity Conservation Act 2016*,
 - (c) *Environment Protection and Biodiversity Conservation Act 1999* (Cth),
 - (d) the long-term water plan for the Namoi surface water resource plan area under the *Basin Plan 2012* (Cth),
 - (e) *National Parks and Wildlife Act 1974*,
 - (f) *Fisheries Management Act 1994*,
 - (g) NSW Wetland Policy 2010,
 - (h) *Fisheries NSW Policy and Guidelines for Fish Habitat Conservation and Management* (2013 update),
 - (i) any other source that, in the Minister’s opinion, is relevant.
- Note.** *Flood connectivity* and *flood enhancement work* are defined in the Dictionary.
- (4) **Specific requirements for Aboriginal cultural value enhancement works** 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 improving flood connectivity to a flood-dependent Aboriginal cultural value.

- (5) **Specific requirements for heritage site enhancement works** 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 improving flood connectivity to a flood-dependent heritage site.

[14] Clause 41(2)(e)

Omit “clause 36 or 37”. Insert instead “clause 36, 36A or 37”.

[15] Clause 47(2)

Omit the lead-in text. Insert instead—

- (2) **Requirements for flood works in the zone** The granting or amending of a flood work approval is only permitted if the flood work is a flood enhancement work and, in the Minister’s opinion—”

[16] Clause 47(2)(a)

Omit the paragraph.

[17] Clause 47(2)(c)–(d)

Omit the paragraphs. Insert instead—

- (c) the flood work satisfies the assessment criteria for flood works set out at clause 50(1) and clause 44(5)–(6), as if references to Lower Namoi Management Zone B were references to Lower Namoi Management Zone D.

[18] Clause 47(3)

Omit “providing a positive outcome for”. Insert instead “improving flood connectivity”.

[19] Clause 47(3)

Omit “or any other ecological asset”.

[20] Clause 47(4)

Omit the subclause. Insert instead—

- (4) **Specific requirements for an Aboriginal cultural value enhancement works** 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 improving flood connectivity to a flood-dependent Aboriginal cultural value.

[21] Clause 47(5)

Omit the subclause. Insert instead—

- (5) **Specific requirements for heritage site enhancement works** 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 improving flood connectivity to a flood-dependent heritage site.

[22] Clause 56 Part 5

Insert “flood-dependent” after “remove or modify” wherever occurring in clause 56(b) and (c).

[23] Dictionary, definition of “Aboriginal cultural values”

Omit the definition. Instead insert—

Aboriginal cultural values means sites, objects, landscapes or resources that are important to Aboriginal people as part of their continuing culture and beliefs, listed in—

- (a) the Aboriginal Heritage Information Management System,
- (b) the Murray-Darling Basin Authority Aboriginal Submissions Database,
- (c) the NSW State Heritage Register,
- (d) the Commonwealth Heritage List, or
- (e) any other source that, in the Minister’s opinion, is relevant.

[24] Dictionary, definition for “existing development conditions”

Insert “, excluding works on the landholding to which the application relates which are not authorised or exempt under the Act” after “Plan”.

[25] Dictionary, definition of “heritage site”

Omit the definition. Insert instead—

heritage site means a cultural heritage object or place that is listed in—

- (a) the NSW State Heritage Register,
- (b) the NSW State Heritage Inventory,
- (c) the Aboriginal Heritage Information Management System,
- (d) the Murray-Darling Basin Authority Aboriginal Submissions Database,
- (e) the Historic Heritage Information Management System,
- (f) the Commonwealth Heritage List, or
- (g) any other source that, in the Minister’s opinion, is relevant.

[26] Dictionary

Insert in appropriate order—

Aboriginal cultural value enhancement work means a flood enhancement work for the purpose of improving flood connectivity to flood-dependent Aboriginal cultural values.

Aboriginal cultural value protection work means a flood work that is for the purpose of protecting Aboriginal cultural values in times of flooding.

ecological enhancement work means a flood enhancement work to improve flood connectivity to ecological assets for the purpose of enhancing ecological values.

flood enhancement work means a flood work for the purpose of improving flood connectivity to flood-dependent assets.

heritage site enhancement work means a flood enhancement work that is for the purpose of improving flood connectivity to a flood-dependent heritage site.

heritage site protection work means a flood work that is for the purpose of protecting a heritage site in times of flooding.

Schedule 5 Amendment of Floodplain Management Plan for the Macquarie Valley Floodplain 2021

[1] Clause 4 Application of Plan

Omit “held by the Department and published on the NSW legislation” wherever occurring. Insert instead “as published on the Department’s”.

[2] Clause 20 Aboriginal cultural values

Omit “are listed in any of the sources under subclause (2) and” in clause 20(1).

[3] Clause 20(2)

Omit the subclause.

[4] Clause 21 Heritage sites

Omit the clause. Insert instead—

21 Heritage sites

Heritage sites in the Floodplain that are flood-dependent assets are those heritage sites that rely on flooding to maintain their heritage value (*flood-dependent heritage sites*).

[5] Clause 36 Flood works approvals in the Macquarie Management Zone A

Omit clause 36(1). Insert instead—

- (1) This clause applies to a flood work or proposed flood work, or part thereof, that is in the Macquarie Management Zone A, other than a flood enhancement work.

[6] Clause 36(2)

Omit “all or parts of”.

[7] Clause 36(2)

Omit “for a flood work to which this clause applies”.

[8] Clause 36(2)(a)(v)

Omit the subparagraph.

[9] Clause 36(2)(a)(vi) and (vii)

Omit “enhancement”. Insert instead “protection”.

[10] Clause 36(7)

Omit the subclause.

[11] Clause 36(8)

Omit the subclause. Insert instead—

(8) **Specific requirements for Aboriginal cultural value protection works**

The granting or amending of a flood work approval for an Aboriginal cultural value protection work is only permitted if, in the Minister’s opinion:

- (a) the Aboriginal cultural value protection work is on a landholding:
 - (i) where 20ha or less of the landholding is in the Macquarie Management Zone A and 10% or less of the area of the landholding located within the Macquarie Management Zone A is enclosed by the work, or
 - (ii) where more than 20ha of the landholding is in the Macquarie Management Zone A and no more than 2ha or 1% (whichever is greater) of the area of the landholding located in the Macquarie Management Zone A is enclosed by the work, and
- (b) the Aboriginal cultural value protection work blocks 5% or less of the width of the Macquarie Management Zone A, as measured at the location of the Aboriginal cultural value protection work and perpendicular to the flood flow direction.

[12] Clause 36(9)

Omit the subclause. Insert instead—

(9) **Specific requirements for heritage site protection works**

The granting or amending of a flood work approval for a heritage site protection work is only permitted if, in the Minister’s opinion:

- (a) the heritage site protection work is on a landholding:
 - (i) where 20ha or less of the landholding is in the Macquarie Management Zone A and 10% or less of the area of the landholding located within the Macquarie Management Zone A is enclosed by the work, or
 - (ii) where more than 20ha of the landholding is in the Macquarie Management Zone A and no more than 2ha or 1% (whichever is greater) of the area of the landholding located in the Macquarie Management Zone A is enclosed by the work, and
- (b) the heritage site protection work blocks 5% or less of the width of the Macquarie Management Zone A, as measured at the location of the heritage site protection work and perpendicular to the flood flow direction.”

[13] Clause 36A

Insert after clause 36—

36A Flood work approvals for flood enhancement works in the Macquarie Management Zone A

Note. The Minister may require applicants for flood work approvals to submit technical studies or supporting information to demonstrate that a flood work or proposed flood work meets the criteria outlined in this clause.

(1) This clause applies to a flood enhancement work or proposed flood enhancement work, or part thereof, that is in the Macquarie Management Zone A.

(2) Requirements for flood enhancement works in the zone

The granting or amending of a flood work approval for a flood enhancement work is only permitted if, in the Minister's opinion:

(a) the granting or amending of the approval complies with the specific requirements for the work under the relevant subclause (3) to (5), and

(b) the flood enhancement work satisfies the assessment criteria for flood works as set out at clause 39(1) and clause 43(5)–(6), as if references to Macquarie Management Zone B were references to Macquarie Management Zone A.

(3) Specific requirements for ecological enhancement works

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 improving flood connectivity to a flood-dependent ecological asset specified in local, state or Commonwealth environmental plans, policy or legislation, including any of the following—

(a) *Basin Plan 2012* (Cth),

(b) *Biodiversity Conservation Act 2016*,

(c) *Environment Protection and Biodiversity Conservation Act 1999* (Cth),

(d) the long-term water plan for the Macquarie-Castlereagh surface water resource plan area under the *Basin Plan 2012* (Cth),

(e) *National Parks and Wildlife Act 1974*,

(f) *Fisheries Management Act 1994*,

(g) NSW Wetland Policy 2010,

(h) *Fisheries NSW Policy and Guidelines for Fish Habitat Conservation and Management* (2013 update),

(i) any other source that, in the Minister's opinion, is relevant.

Note. *Flood connectivity* and *flood enhancement work* are defined in the Dictionary.

(4) Specific requirements for Aboriginal cultural value enhancement works

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 improving flood connectivity to a flood-dependent Aboriginal cultural value.

(5) **Specific requirements for heritage site enhancement works**

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 improving flood connectivity to a flood-dependent heritage site.

[14] Clause 46 Flood work approvals in the Macquarie Management Zone D

Insert “, other than a flood enhancement work” after “Macquarie Management Zone D” in clause 46(1)

[15] Clause 46(2)

Omit “all or parts of” and “to which this clause applies”.

[16] Clause 46(2)(a)(iv)

Omit the subparagraph.

[17] Clause 46(2)(a)(v) and (vi)

Omit “enhancement” wherever occurring. Insert instead “protection”.

[18] Clause 46(6)

Omit the subclause.

[19] Clause 46(7)

Omit the subclause. Insert instead—

(7) **Specific requirements for Aboriginal cultural value protection works**

The granting or amending of a flood work approval for an Aboriginal cultural value protection work is only permitted if, in the Minister’s opinion:

- (a) the Aboriginal cultural value protection work is on a landholding:
 - (i) where 20ha or less of the landholding is in the Macquarie Management Zone D and 10% or less of the area of the landholding located within the Macquarie Management Zone D is enclosed by the work, or
 - (ii) where more than 20ha of the landholding is in the Macquarie Management Zone D and no more than 2ha or 1% (whichever is greater) of the area of the landholding located in the Macquarie Management Zone D is enclosed by the work, and
- (b) the Aboriginal cultural value protection work blocks 5% or less of the width of the Macquarie Management Zone D, as measured at the location

of the Aboriginal cultural value protection work and perpendicular to the flood flow direction.

[20] Clause 46(8)

Omit the subclause. Insert instead—

(8) Specific requirements for heritage site protection works

The granting or amending of a flood work approval for a heritage site protection work is only permitted if, in the Minister’s opinion:

- (a) the heritage site protection work is on a landholding:
 - (i) where 20ha or less of the landholding is in the Macquarie Management Zone D and 10% or less of the area of the landholding located within the Macquarie Management Zone D is enclosed by the work, or
 - (ii) where more than 20ha of the landholding is in the Macquarie Management Zone D and no more than 2ha or 1% (whichever is greater) of the area of the landholding located in the Macquarie Management Zone D is enclosed by the work, and
- (b) the heritage site protection work blocks 5% or less of the width of the Macquarie Management Zone D, as measured at the location of the heritage site protection work and perpendicular to the flood flow direction.

[21] Clause 46A Flood work approvals for flood enhancement works in the Macquarie Management Zone D

Insert after clause 46—

46A Flood work approvals for flood enhancement works in the Macquarie Management Zone D

- (1) This clause applies to a flood enhancement work or proposed flood enhancement work, or part thereof, that is in the Macquarie Management Zone D.
- (2) **Requirements for flood enhancement works in the zone**

The granting or amending of a flood work approval for a flood enhancement work is only permitted if, in the Minister’s opinion:

 - (a) the granting or amending of the approval complies with the specific requirements for the work under the relevant subclause (3) to (5), and
 - (b) the flood enhancement work satisfies the assessment criteria for flood works as set out at clause 49(1) and clause 43(5)–(6), as if references to Macquarie Management Zone B were references to Macquarie Management Zone D.
- (3) **Specific requirements for ecological enhancement works**

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 improving flood connectivity to a flood-dependent ecological asset specified in local, state or Commonwealth environmental plans, policy or legislation, including any of the following—

- (a) *Basin Plan 2012* (Cth),
- (b) *Biodiversity Conservation Act 2016*,
- (c) *Environment Protection and Biodiversity Conservation Act 1999* (Cth),
- (d) the long-term water plan for the Macquarie-Castlereagh surface water resource plan area under the *Basin Plan 2012* (Cth),
- (e) *National Parks and Wildlife Act 1974*,
- (f) *Fisheries Management Act 1994*,
- (g) NSW Wetland Policy 2010,
- (h) *Fisheries NSW Policy and Guidelines for Fish Habitat Conservation and Management* (2013 update),
- (i) any other source that, in the Minister’s opinion, is relevant.

(4) **Specific requirements for Aboriginal cultural value enhancement works**

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 improving flood connectivity to a flood-dependent Aboriginal cultural value.

(5) **Specific requirements for heritage site enhancement works**

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 improving flood connectivity to a flood-dependent heritage site.

[22] Clause 47 Flood work approvals for existing flood works in the Macquarie Management Zone D

Insert “or 46A” after “clause 46” in subclause (1).

[23] Clause 48 Flood work approvals for undetermined applications in the Macquarie Management Zone D

Insert “, 46A” after “clause 46” in subclause (1).

[24] Clause 56 Part 5

Insert “flood-dependent” after “remove or modify” in clause 56(b) and (c).

[25] Dictionary, definition of “Aboriginal cultural values”

Omit the definition. Insert instead—

Aboriginal cultural values means sites, objects, landscapes or resources that are important to Aboriginal people as part of their continuing culture and beliefs, listed in—

- (a) the Aboriginal Heritage Information Management System,
- (b) the Murray-Darling Basin Authority Aboriginal Submissions Database,
- (c) the NSW State Heritage Register,
- (d) the Commonwealth Heritage List, or
- (e) any other source that, in the Minister’s opinion, is relevant.

[26] Dictionary, definition for “existing development conditions”

Insert “, excluding works on the landholding to which the application relates which are not authorised or exempt under the Act” after “Plan”.

[27] Dictionary, definition of “heritage site”

Omit the definition. Insert instead—

heritage site means a cultural heritage object or place that is listed in—

- (a) the NSW State Heritage Register,
- (b) the NSW State Heritage Inventory,
- (c) the Aboriginal Heritage Information Management System,
- (d) the Murray-Darling Basin Authority Aboriginal Submissions Database,
- (e) the Historic Heritage Information Management System,
- (f) the Commonwealth Heritage List, or
- (g) any other source that, in the Minister’s opinion, is relevant.

[28] Dictionary

Insert in appropriate order—

Aboriginal cultural value enhancement work means a flood enhancement work for the purpose of improving flood connectivity to flood-dependent Aboriginal cultural values.

Aboriginal cultural value protection work means a flood work that is for the purpose of protecting Aboriginal cultural values in times of flooding. bn

ecological enhancement work means a flood enhancement work to improve flood connectivity to ecological assets for the purpose of enhancing ecological values.

flood enhancement work means a flood work for the purpose of improving flood connectivity to flood-dependent assets.

heritage site enhancement work means a flood enhancement work that is for the purpose of improving flood connectivity to a flood-dependent heritage site.

heritage site protection work means a flood work that is for the purpose of protecting a heritage site in times of flooding.

Schedule 6 Amendment of Floodplain Management Plan for the Upper Namoi Valley Floodplain 2019

[1] Clause 21, heading

Insert “**cultural**” after “**Aboriginal**”.

[2] Clause 21(1)

Omit the subclause.

[3] Clause 21(2)

Omit the lead-in text. Insert instead—

- (2) Aboriginal cultural values that have been identified as flood-dependent assets for the purposes of this Plan (*flood-dependent Aboriginal cultural values*) are:

[4] Clause 21(3)

Omit the subclause. Insert instead—

- (3) The benefits of the flooding of Aboriginal cultural values within the Upper Namoi Valley Floodplain to Aboriginal people and their cultures include the following:
- (a) continuation of Aboriginal cultural practices connected with flooding, including:
 - (i) harvesting traditional flood-dependent resources, and
 - (ii) cultural activities connected with and dependent upon floods,
 - (b) preservation and longevity of Aboriginal cultural values,
 - (c) maintaining potential for cultural renewal,
 - (d) maintaining spiritual connection with the floodplain landscape.

[5] Clause 22 Heritage sites

Omit the clause. Insert instead—

22 Heritage sites

Heritage sites that have been identified as flood-dependent assets for the purposes of this Plan are sites that rely on flooding to maintain their heritage value (*flood-dependent heritage sites*).

[6] Clause 38 Flood works authorised in Upper Namoi Management Zone AD

Insert “(other than for a flood enhancement work)” after “A flood work approval” in clause 38(1).

[7] Clause 38(1)(f)

Omit the paragraph.

[8] Clause 38(1)(g)

Omit “Aboriginal value enhancement work”. Insert instead “Aboriginal cultural value protection work”.

[9] Clause 38(1)(h)

Omit “enhancement”. Insert instead “protection”.

[10] Clause 38(11)

Omit the subclause.

[11] Clause 38(12)

Omit the subclause. Insert instead—

- (12) Subject to subclause (1) and clause 40, a flood work approval must not be granted or amended to authorise the construction or modification of an Aboriginal cultural value protection work in Upper Namoi Management Zone AD unless, in the Minister’s opinion:
 - (a) the Aboriginal cultural value protection work is on a landholding:
 - (i) where 20ha or less of the landholding is in the Upper Namoi Management Zone AD and 10% or less of the total area of the landholding is enclosed by the work, or
 - (ii) where more than 20ha of the landholding is in the Upper Namoi Management Zone AD and no more than 2ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work,
 - (b) the Aboriginal cultural value protection work blocks 5% or less of the width of the Upper Namoi Management Zone AD, as measured at the location of the Aboriginal cultural value protection work and perpendicular to the flood flow direction.

[12] Clause 38(13)

Omit the subclause. Insert instead—

- (13) Subject to subclause (1) and clause 40, a flood work approval must not be granted or amended to authorise the construction or modification of a heritage site protection work in Upper Namoi Management Zone AD unless, in the Minister’s opinion:
 - (a) the heritage site protection work is on a landholding:

- (i) where 20ha or less of the landholding is in the Upper Namoi Management Zone AD and 10% or less of the total area of the landholding is enclosed by the work, or
- (ii) where more than 20ha of the landholding is in the Upper Namoi Management Zone AD and no more than 2ha or 1% (whichever is greater) of the total area of the landholding is enclosed by the work,
- (b) the heritage site protection work blocks 5% or less of the width of the Upper Namoi Management Zone AD, as measured at the location of the heritage site protection work and perpendicular to the flood flow direction.

[13] Clause 38A Flood work approvals for flood enhancement works in the Upper Namoi Management Zone AD

Insert after clause 38—

38A Flood work approvals for flood enhancement works in the Upper Namoi Management Zone AD

- (1) A flood work approval for a flood enhancement work in the Upper Namoi Management Zone AD must not be granted or amended unless, in the Minister’s opinion—
 - (a) the granting or amending of the approval complies with the specific requirements for the work under the relevant subclause (2) to (4), and
 - (b) the flood enhancement work satisfies the assessment criteria for flood works as set out at clause 40(2)–(5) and clause 45(6)–(7) of this Plan, as if references to Upper Namoi Management Zone BU were references to Upper Namoi Management Zone AD.
- (2) A flood work approval for an ecological enhancement work in the Upper Namoi Management Zone AD must not be granted or amended unless, in the Minister’s opinion, the work is for the purpose of improving flood connectivity to a flood-dependent ecological asset specified in local, state or Commonwealth environmental plans, policy or legislation, including any of the following—
 - (a) *Basin Plan 2012* (Cth),
 - (b) *Biodiversity Conservation Act 2016*,
 - (c) *Environment Protection and Biodiversity Conservation Act 1999* (Cth),
 - (d) the Namoi Long Term Water Plan for the Namoi surface water resource plan area unit under the *Basin Plan 2012* (Cth),
 - (e) *National Parks and Wildlife Act 1974*,
 - (f) *Fisheries Management Act 1994*,
 - (g) NSW Wetland Policy 2010,

- (h) Fisheries NSW *Policy and Guidelines for Fish Habitat Conservation and Management* (2013 update),
 - (i) any other source that, in the Minister’s opinion, is relevant.
- (3) A flood work approval for an Aboriginal cultural value enhancement work in the Upper Namoi Management Zone AD must not be granted or amended unless, in the Minister’s opinion, the work is for the purpose of improving flood connectivity to a flood-dependent Aboriginal cultural value.
- (4) A flood work approval for a heritage site enhancement work in the Upper Namoi Management Zone AD must not be granted unless, in the Minister’s opinion, the work is for the purpose of improving flood connectivity to a flood-dependent heritage site.

[14] Clause 40(3)(a)

Insert “flood-dependent” before “Aboriginal”.

[15] Clause 40(3)(b)

Insert “flood-dependent” before “heritage”.

[16] Clause 41 Flood works authorised in Upper Management Zone AID

Omit “Clause 38 and 39” in subclause (2). Insert instead “Clauses 38, 38A and 39”.

[17] Clause 42 Certain other flood works in the Upper Namoi Management Zone AID

Omit “clause 38 or clause 39” in subclause (2). Insert instead “clause 38, 38A or 39”.

[18] Clause 42(2)(b)(vii)

Insert “cultural” after “Aboriginal”.

[19] Clause 43 Assessment criteria for flood works in Upper Namoi Management Zone AID

Omit “clause 38 or clause 39” wherever occurring. Insert instead “clause 38, 38A or 39”.

[20] Clause 45 Assessment criteria for flood works in Upper Namoi Management Zone BU

Insert “flood-dependent” before “Aboriginal” in clause 45(3)(a).

[21] Clause 45(3)(a)

Insert “cultural” after “Aboriginal”.

[22] Clause 45(3)(b)

Insert “flood-dependent” before “heritage”.

[23] Clause 48 Assessment criteria for flood works in Upper Namoi Management Zone C

Insert “flood-dependent” before “Aboriginal” in clause 48(3)(a).

[24] Clause 48(3)(a)

Insert “cultural” after “Aboriginal”.

[25] Clause 48(3)(b)

Insert “flood-dependent” before “heritage”.

[26] Clause 50 Flood works authorised in Upper Namoi Management Zone D

Omit clause 50(1). Insert instead—

- (1) A flood work approval must not be granted or amended to authorise the construction or modification of a flood work, or part of a flood work, in Upper Namoi Management Zone D unless the work is a flood enhancement work and, in the Minister’s opinion—
 - (a) the granting or amending of the approval complies with the specific requirements for the work under the relevant subclause (2) to (4), and
 - (b) the work satisfies the assessment criteria for flood works set out at clause 52(2)–(5) and clause 45(6)–(7), as if references to Upper Namoi Management Zone BU were references to Upper Namoi Management Zone AD.

[27] Clause 50(2)

Omit the subclause. Insert instead—

- (2) A flood work approval must not be granted or amended to authorise the construction or modification of an ecological enhancement work in Upper Namoi Management Zone D unless, in the Minister’s opinion, the ecological enhancement work is for the purpose of improving flood connectivity to a flood-dependent asset which is an ecological asset specified in or is proposed to provide a positive outcome for an ecological asset that is mapped, recognised in or protected by this Plan, or local, state or Commonwealth environmental plans, policy or legislation, including any of the following:
 - (a) *Basin Plan 2012* (Cth),
 - (b) *Biodiversity Conservation Act 2016*,
 - (c) *Environment Protection and Biodiversity Conservation Act 1999* (Cth),
 - (d) the Namoi Long Term Water Plan for the Namoi surface water resource plan area unit under the Basin Plan 2012 (Cth),
 - (e) *National Parks and Wildlife Act 1974*,
 - (f) *Fisheries Management Act 1994*,
 - (g) NSW Wetland Policy 2010,

- (h) Fisheries NSW Policy and Guidelines for Fish Habitat Conservation and Management (2013 update),
- (i) any other source that, in the Minister’s opinion, is relevant.

[28] Clause 50(3)

Omit the subclause. Insert instead—

- (3) A flood work approval must not be granted or amended to authorise the construction or modification of an Aboriginal cultural value enhancement work in Upper Namoi Management Zone D unless, in the Minister’s opinion, the Aboriginal cultural value enhancement work is for the purpose of improving flood connectivity to a flood-dependent Aboriginal cultural value.

[29] Clause 50(4)

Omit the subclause. Insert instead—

- (4) A flood work approval must not be granted or amended to authorise the construction or modification of a heritage site enhancement work in Upper Namoi Management Zone D unless, in the Minister’s opinion, the heritage site enhancement work is for the purpose of improving flood connectivity to a flood-dependent heritage site.

[30] Clause 52(3)(a)

Insert “flood-dependent” before “Aboriginal”.

[31] Clause 52(3)(a)

Insert “cultural” after “Aboriginal”.

[32] Clause 52(3)(b)

Insert “flood-dependent” before “heritage”.

[33] Clause 58 Part 5

Insert “flood-dependent” after “remove or modify” wherever occurring in clause 58(c) and (d).

[34] Clause 58(c)

Insert “cultural” Aboriginal”.

[35] Dictionary, definition of “Aboriginal values”

Omit the definition. Insert instead—

Aboriginal cultural values means sites, objects, landscapes or resources that are important to Aboriginal people as part of their continuing culture and beliefs, listed in—

- (a) the Aboriginal Heritage Information Management System,
- (b) the Murray-Darling Basin Authority Aboriginal Submissions Database,
- (c) the NSW State Heritage Register,
- (d) the Commonwealth Heritage List, or
- (e) any other source that, in the Minister’s opinion, is relevant.

[36] Dictionary, definition of “Aboriginal value enhancement work”

Omit the definition. Insert instead—

Aboriginal cultural value enhancement work means a flood enhancement work for the purpose of improving flood connectivity to flood-dependent Aboriginal cultural values.

[37] Dictionary, definition of “connectivity”

Omit the definition.

[38] Dictionary, definition of “ecological enhancement work”

Omit the definition. Insert instead—

ecological enhancement work means a flood enhancement work to improve flood connectivity to ecological assets for the purpose of enhancing ecological values.

[39] Dictionary, definition of “existing development conditions”

Insert “, excluding works on the landholding to which the application relates which are not authorised or exempt under the Act” after “Plan”.

[40] Dictionary, definition of “flood-dependent assets”

Omit the definition. Insert instead—

flood-dependent assets are ecological assets, Aboriginal cultural values or heritage sites that have important ecological or cultural features which rely on inundation by floodwaters to sustain essential processes.

[41] Dictionary, definition of “heritage sites”

Omit the definition. Insert instead—

heritage site means a cultural heritage object or place that is listed in—

- (a) the NSW State Heritage Register,
- (b) the NSW State Heritage Inventory,
- (c) the Aboriginal Heritage Information Management System,
- (d) the Murray-Darling Basin Authority Aboriginal Submissions Database,

- (e) the Historic Heritage Information Management System,
- (f) the Commonwealth Heritage List, or
- (g) any other source that, in the Minister’s opinion, is relevant.

[42] Dictionary, definition of “heritage site enhancement work”

Omit the definition. Insert instead—

heritage site enhancement work means a flood enhancement work that is for the purpose of improving flood connectivity to a flood-dependent heritage site.

[43] Dictionary

Insert in appropriate order—

Aboriginal cultural value protection work means a flood work that is for the purpose of protecting Aboriginal cultural values in times of flooding.

flood connectivity refers to the unimpeded passage of floodwater through the floodplain and is important for in-stream aquatic processes and biota and the conservation of natural river systems.

flood enhancement work means a flood work for the purpose of improving flood connectivity to flood-dependent assets.

flood-dependent Aboriginal cultural values has the meaning given in clause 21(2).

flood-dependent heritage sites has the meaning given in clause 22.

heritage site protection work means a flood work that is for the purpose of protecting a heritage site in times of flooding.