

# 2019-20 Annual Report on Part 8 (Dam Works) of the *Water Management Act* 1999

**An annual report prepared pursuant to section 164ZN of the *Water Management Act 1999*.**

**September 2020**

## FORWARD

The *Water Management Act 1999* (WMA) provides the statutory basis for the use and management of freshwater resources in Tasmania and Part 8 of the Act regulates the construction of dam works<sup>1</sup>.

From 2000 when the WMA commenced until 31 December 2015, the decision maker in relation to dam works permit applications was the Assessment Committee for Dam Construction (ACDC). During 2015-16 legislative amendments were made to the WMA in order to simplify and streamline the dam works approval process. The amendments came into effect on 1 January 2016.

From 1 January 2016, the Minister for Primary Industries and Water (the Minister) replaced the ACDC as the decision maker in relation to dam works. The abolition of the ACDC was not the only legislative change that took effect on 1 January 2016, other key reforms included:

- providing a pathway for obtaining dam works permits without need of making an application for offstream low consequence dams;
- better defining the nature and scope of dam works permits;
- specifying criteria under which dam works permit applications must be approved;
- specifying the matters to be considered by the decision-maker in relation to dam works permit applications;
- simplifying the provisions regarding the timeframe for decisions on dam works permit applications;
- providing for conditional approval of dam works permit applications in some circumstances;
- providing for the issuing of a dam operating notice; and
- establishing a dam offsets register.

The Minister has subsequently delegated functions such as the consideration and granting of dam permits to specified positions within the Water and Marine Resources Division in the Department of Primary Industries, Parks, Water and Environment (DPIPWE). A hierarchical approach to delegation with progressively higher levels of delegated authority required to either approve or refuse more complex applications has been implemented and it is providing an efficient and effective decision making process.

There is a requirement under section 164ZN of the WMA for the Minister to prepare an annual report in relation to the performance and exercise of his or her functions and powers under Part 8 (Dam Works) of the WMA. This report has been prepared in accordance with that requirement.

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<sup>1</sup> Under the Act, 'dam works' means any works for the construction, erection, enlargement, modification, repair or removal of a dam, or for the conversion of land to a dam, or any work on any such dam which may significantly increase the dam's safety risk.

## I. DAM WORKS APPROVALS 2019-20

From 1 January 2016, two pathways were provided for obtaining a dam works permit. One pathway provides for the usual application and integrated assessment process and granting of a Division 3 permit. The second pathway provides for a Division 4 permit, which enables a permit to be issued without an application if certain criteria set out in section 159 are met. Where a person is entitled to a Division 4 permit, the only requirement is that they notify the Department of their intention to commence work, upon which they are taken to hold a dam works permit.

During 2019-20 permits were issued for 82 dams with a total capacity of 13,451 ML.

A total of 59 permits for dam works were issued with approvals for Division 3 permits, this was accomplished in an average time period of 46 days which is well within the statutory 12 week approval period. Additionally there were 23 permits approved under the Division 4 process, on average it was only 6 days between the applicant submitting the notice of intent to commence dam works and the Department issuing a permit number.

Tables 1 to 4 detail dam works approvals for 2019-20.

Table 1. Dam permits issued during 2019-20, by capacity.

<b>Dam capacity (Megalitres)</b>	<b>Number issued</b>
<10	19
>10 and <100	37
>100 and <1000	23
>1000	3
<b>Total</b>	<b>82</b>

Table 2. Dam permits issued during 2019-20, by purpose and capacity.

<b>Purpose</b>	<b>Number issued</b>	<b>Dam capacity (ML)</b>
Irrigation	77	13,282
Stock & Domestic	3	23
Other	2	146
<b>Total</b>	<b>82</b>	<b>13 451</b>

Table 3. Division 3 permit application statistics for 2019-20.

<b>Actions in relation to a Division 3 permit application</b>	<b>Number</b>
Applications received	64 <sup>2</sup>
Notices for further information or action under s.149	3
Notices for further information or action under s.149 that included a statement of conditional approval under s.150	0
Requests granted to amend a permit application	1
Applications approved	59
Applications refused	0
Average approval period	46 days
Applications to the Minister for the review of a decision by a delegate	1
Appeals to the Resource Management and Planning Appeal Tribunal	0

Table 4. Division 4 permit application statistics for 2019-20.

<b>Actions in relation to a proposed Division 4 permit</b>	<b>Number</b>
Notices of intention to undertake dam works received	24
Persons directed that they must apply for a Division 3 permit in accordance with s.162	1
Division 4 permits issued	23

<sup>2</sup> The applications received is simply the total number received (either division 3 or division 4) in any given financial year. The number of permits issued are the number of applications approved in any financial year and may include applications from the previous year or applications that have provided further information under a notice. It is unlikely that the number of applications received in any financial year will match the number of permits approved in the same financial year

## 2. MINISTERIAL ACTIONS UNDER PART 8 TO SUPPORT THE IMPLEMENTATION OF THE NEW DAM APPROVALS PROCESS

To support the commencement of the new dams approvals process from 1 January 2016, a range of supporting documents were endorsed by either the Minister or a delegate of the Minister in accordance with the powers under Part 8 of the WMA. These are listed in Table 5.

Table 5. Guidelines, codes, exemptions and orders to support the dam approvals process from 1 January 2016.

Instrument	WMA provision	Description
<i>Water Management (Dam Works Exemption) Order 2015</i>	s.140	<p>This order prescribes that certain dam works that meet all three following criteria are exempt from the operation of Part 8 of the Act. These criteria are that:</p> <ol style="list-style-type: none"> <li>1. dam works are not on a watercourse; and</li> <li>2. dam works are undertaken for the construction, modification, repair or removal of a dam with a capacity of less than one megalitre; and</li> <li>3. no public or private infrastructure is located within 100 metres of and downhill from any part of the dam works.</li> </ol> <p>Note: savings arrangements provided for the continuation of two other exemption orders that were already in place (<i>Water Management (Dam Works Exemption) Order 2005</i> and <i>Water Management (Dam Works Exemption) Order 2007</i>).</p>
<i>Water Management (Division 3 Declared Works) Order 2015</i>	s.159(4)	This Order prescribes eight classes of dam works that require a Division 3 permit and are not eligible for a Division 4 permit.
<i>Water Management (Division 4 Permit Conditions) Order 2015</i>	s.164A(2)	This Order prescribes conditions for Division 4 dam permits.
Dam Works Assessment Decision Framework	s.144	The Framework sets out information requirements for Division 3 dam works permit applications, in accordance with section 12A(b) of the Act.
Division 3 Permit Dam Works Code 2015	s.141	Under section 141, the Minister is to take account of any codes issued under section 301. This Code which has been approved under section 301 applies to all dam works, including constructing a new dam and repairing, modifying or removing an

		existing dam, that are authorised under a Division 3 permit. Compliance with the Division 3 Permit Dam Works Code 2015 will be a condition of a Division 3 permit.
Division 4 Permit Dam Works Code 2015	s.141	Under section 141, the Minister is to take account of any codes issued under section 301. This Code which has been approved under section 301 sets out requirements regarding the planning, designing and undertaking of dam works where those works are undertaken under the authority of a Division 4 permit.
Dam Works Code to Clear Vegetation 2015	s.141	The Minister is to take account of any codes issued under section 301. This Code sets standards for the protection of environmental values during the harvesting of timber, clearing of trees and the clearing and conversion of threatened native vegetation communities, as part of dam works authorised under a Division 3 permit.
Guidelines for Establishing Offsets for Impacts on Natural Values within the Dam Assessment Framework	s.142	This approval guideline issued under section 142 of the WMA supports the consideration of applications for Division 3 permits, and details how “offsets”, being one such mitigation measure, are developed and assessed.

### 3. CHANGES TO DIVISION 3 PERMITS

In accordance with Divisions 6 and 7 of Part 8, the Minister on the request of a Division 3 permit holder may approve that such permits are amended. Table 6 details the amendments to permits made by the Minister or delegate in 2019/20.

Table 6. Amendments to Division 3 permits.

<b>Amendments to Division 3 permits</b>	<b>Number</b>
Application to extend the term of a permit sought and approved (s.164E)	5
Applications to amend a permit sought and approved (s.164F)	1
Other amendments to permits (s.164I, s.164J & s.164K)	0
Permits transferred (s.164N)	2

### 4. DAM OPERATING NOTICES

The Minister may issue a dam operating notice under Division 10 of Part 8 to govern how a dam is to be operated in order to ensure there is no significant adverse impact on other water users; prevent water pollution; protect riverine and riparian environments; or to prevent the inundation of land not owned by the dam owner. During the 2019/20 period there were two (2) Dam Operating Notices issued in conjunction with the granting of a Division 3 permit.

### 5. DAM COMPLETION NOTICES

Dam completion notices are required for dam works undertaken under the authority of either a Division 3 permit or a Division 4 permit. Table 7 details the number of dam completion notices that have been received and the number of any additional requirements in relation to those notices <sup>3</sup>.

Table 7. Dam Completion Notices 2019/20.

<b>Action</b>	<b>Division 3 permit</b>	<b>Division 4 permit</b>
Number of dam completion notices accepted	37	28
Number of dam completion notices where further information was required before being accepted	0	0

<sup>3</sup> The numbers reflect the number of dam completion notices received in any given financial year. As dam permits can be valid for up to 4 years for a division 3 permit and 2 years for a division 4 permit, the number of completion notices received each financial year is variable.

## 6. OFFENCES IN RELATION TO DAM WORKS

There are a range of enforcement and compliance actions that can be taken by the Minister in relation to breaches of Part 8, statistics relating to enforcement have been summarised in Table 8.

Table 8. Enforcement and compliance actions relating to breaches of Part 8 in 2019-20.

<b>Enforcement Action</b>	<b>Number</b>
Dam works without a permit – warnings	10
Dam works without a permit– infringement notices	1
Dam works without a permit– prosecution in court	0
Ministerial action following contravention of Part 8	0
<b>Other contraventions of Part 8</b>	
Contravening dam permit conditions	0
Contravening a Dam Operating Notice	0
Contravening a registered offset	0