

# FACTSHEET - ADR-WBW Section 9:

## Disaster Recovery Works

### Purpose

This fact sheet sets out the accepted development exemptions under Section 9 of the Accepted Development Requirements for Waterway Barrier Works (ADR-WBW). It provides the exact legal wording of Section 9 and explains how it applies to councils undertaking government funded disaster recovery works for essential public assets.

### 1. Section 9 Wording

"This section allows for government funded disaster recovery works for essential public assets. This includes replacement and repair of damaged infrastructure and extended timeframes for associated temporary waterway barrier works." (ADR-WBW, Section 9, p.50)

### 2. Structures Covered

Section 9 specifically applies to the following essential public assets:

- Bridges that are waterway barrier works
- Culverts and bed-level crossings
- Causeways
- Dams and weirs

### 3. Requirements under Section 9

#### Repair and Replacement

Works must be like-for-like; meaning, the resulting structure occupies the same or similar footprint and provides the same function or purpose of the original structure. It is mainly in the design of the original structure but may include improved engineering and ecological outcomes. Works may include betterment, but only to the extent that it makes the structure stronger, safer, or longer-lasting without significantly increasing the obstruction to the waterway.

It is also a requirement that where works are for the installation of a culvert crossing, then the crossing is constructed so that all or most culvert inverts are constructed at or below bed level.

#### Temporary Works

The usual timeframe limits under Section 7 (180 or 360 days depending on waterway type) are extended under Section 9 when the temporary works are part of recovery. All removal and reinstatement requirements still apply (for example, material must be removed from the waterway and disposed of at least 50 m away, and beds and banks reinstated to natural profiles).

## Notification and Evidence

Section 4 requirements remain in force, including: pre- and post-works notification, maps and photographs of the asset before and after works, and evidence that the structure is an essential public asset.

### 4. What Section 9 Does Not Allow?

If the works go beyond the exemption, they require a Development Application. Examples include:

- Changing the type of structure, unless it is for betterment purposes (for example, culvert replaced with a causeway)
- Significantly increasing obstruction in the waterway (for example, reducing the combined culvert cell aperture in a culvert crossing)
- Relocating the structure to a new alignment or significantly different footprint
- Enlarging the capacity of a dam or weir beyond its pre-disaster function

### 5. Relationship to Planning Act 2016, s166

During an emergency, Section 166 of the Planning Act allows urgent works necessary to protect life, health, property or the environment. These can be carried out without approval, but only for as long as necessary to respond to the emergency.

After the emergency (recovery phase), ADR-WBW Section 9 applies. This ensures repair and replacement of essential public assets can proceed as accepted development, provided the Section 9 conditions are met. If not, the works must either be removed (s166(3)) or be subject to a Development Application.

### Quick Reference for Councils

- Is the structure an essential public asset (bridge, culvert, causeway, dam, weir)?
- Is the repair or replacement like-for-like in the same or similar footprint?
- Is the work linked to DRFA REPA or Emergency Works?
- Are you using the extended timeframe provisions for temporary works correctly?

If yes to all, the work is Accepted development under Section 9. If no to any, a Development Application is required.

### Legal Basis

ADR-WBW Section 9: Disaster Recovery Works (pp.50–51)

Planning Act 2016, s166: Emergency works exemption

