

WATER RESOURCES (CONTROLLED WATER AREAS) (NDIRANDE–MUDI DAM CONTROLLED WATER AREA)
ORDER

under s. 22

G.N. 10/2008

1. Citation

This Order may be cited as the Water Resources (Controlled Water Areas) (Ndirande-Mudi Dam Controlled Water Area) Order.

2. Interpretation

In this Order—

“Authority” means the authority for a controlled water area specified in the Second Schedule;

“Buffer Zone” means the area 100 metres wide immediately bordering the Mudi reservoir at its spillway level and the area 50 metres wide from both banks of the Mudi River and its tributaries;

“Built up Zone” means the area designated for housing, industries and institutions built and run by authority of Blantyre City Council;

“concession” or “licence” means a co-management of forest reserve agreement concluded and signed pursuant to sections 25 and 36 of the Forestry Act for the Authority to manage a portion, part or whole of forest reserve or plantation other than the Forestry Department; Cap. 63:01

“controlled water area” means the catchment area described in the First Schedule;

“Forest Plantation Zone” means the area designated for forest plantation, zone or inter-plantation with authorized tree species;

“Parkland Zone” means the open area above Hynde Dam, outside a Forest Plantation, Built-up and Buffer Zones;

“prohibited activity” means any activity specified in paragraph 6 (1) that is prohibited, regulated or controlled in this Order; and

“Zone” means an area designated in the catchment for the purpose of controlling and monitoring of prohibited activities described in this Order and further described in section 2 of the First Schedule.

3. Declaration of Controlled Water Area

The area of land described in the First Schedule is hereby declared to be a controlled water area for the purposes of the Act and shall be known by the name relatively assigned to it in that Schedule.

4. Controlled Water Area Authorities

(1) For the purposes of section 22 (6) of the Act, the institution specified in the First Column of the Second Schedule shall be the Authority in respect of the controlled water area relatively specified in the Second Column of that Schedule.

(2)(a) The Authority shall comprise the following—

- (i) the Regional Forestry Officer, South;
- (ii) the Chief Executive of Blantyre City Council;
- (iii) the Chief Executive of Blantyre Water Board;
- (iv) the Regional Commissioner of Lands, South;

- (v) the Regional Water Officer, South;
- (vi) the Ndirande Rehabilitation Committee Chairman;
- (vii) one person designated by CURE; and
- (viii) Secretary to the Water Resources Board or his representative, ex officio.

(b) The Secretariat of the Authority shall be the Blantyre Water Board and its Secretary shall be the Chief Executive of Blantyre Water Board or his representative.

(c) The Authority shall devise and adopt its own rules and procedures for conducting its business and its members shall elect their own Chairman and Deputy Chairman every three years.

5. Determination of existing water rights

Any water right, licence, permit, or consent granted to or enjoyed by, any person in respect of water or any water resource in a controlled water area is hereby determined without further procedure.

6. Prohibited activities

(1) Without prejudice to the generality of the provisions of this paragraph, no person shall, in the controlled water area, engage in, or do anything preparatory to engaging in, any of the activities specified in the following paragraphs under each Zone unless under a licence or permit issued by the Authority per the Third Schedule—

(a) Buffer Zone:

(i) the cutting and logging of trees, shrubs, grass, or any other growing plant, within 100 metres from the edge of the reservoir and 50 metres from the banks of the tributaries, without the written permit of the Authority;

(ii) the discharging of effluent, whether industrial, domestic, or any other form of waste, whether fluid or solid, bathing, washing of cars, clothes, into the reservoir, river or other body of water or a tributary thereof, unless authorized in writing by the Authority and acting subject to, and in accordance with such requirements as the Authority may generally or specially prescribe by written notice;

(iii) the introduction of noxious weeds and any ornamental plant the growth of which is, in the opinion of the Authority, likely to have the same or similar harmful effect to those of the noxious weeds;

(iv) entering the dam, reservoir or along the streams or other body of water for the purpose of fishing, boating, canoeing, sailing or any recreational activities unless entitled to do so under a valid licence issued under paragraph 7 of this order;

(v) diversion of water from the tributaries without a written permit from the Authority;

(vi) grazing of animals within the zone; and

(vii) burning vegetation and making gardens, or any type of cultivation within the zone.

(b) Parkland Zone:

(i) cultivation of the area within the zone;

(ii) dumping, disposal or deposit of any refuse, waste and whatsoever detrimental substances that may pollute water within the zone, tributaries, rivers and reservoirs;

(iii) carrying out of any veterinary activities, including dipping and dip-tank services, grazing of cattle, goats and other animals, and the rearing of any animal whatsoever in the zone;

(iv) construction of roads and footpaths, unless with the permission of the Authority;

(v) the application of any agro-chemicals, or other chemicals other than in accordance with the specifications and requirements prescribed or approved by the Authority; and

(vi) construction of buildings, or settlements, or any extension of the locations.

(c) Forest Plantation Zone:

(i) dumping of any refuse whatsoever within the zone;

(ii) planting of high water consumption trees, except planting of trees approved by the Authority under a written permit;

(iii) logging and other industrial activities, unless a conditional permit from the Authority is granted;

(iv) setting of fire for the purpose of hunting and other activities, unless the fire is used as a forestry management tool;

(v) the carrying out of any veterinary activities, including dipping and dip-tank services, grazing of cattle, goats and other animals, and the rearing of any animal whatsoever in the zone; and

(vi) the application of any pesticides, or other chemicals other than in accordance with the requirements prescribed or approved by the Authority.

(d) Built-Up Zone:

- (i) dumping of any refuse whatsoever within the Zone;
- (ii) construction of new septic tanks, pit latrines without the consent of the Authority;
- (iii) construction of new buildings and structures without the consent of the Authority, provided that such consent shall have conditions attached to safeguard the reservoir;
- (iv) allowance of storm and sewer water to drain directly into the streams and rivers above the reservoir; and
- (v) establishment and construction of garages, petroleum services, or any other activities that present risk of water pollution.

(2) A person who contravenes paragraph 6 (1) commits an offence and shall be liable, on conviction, to a fine of MK10,000 and to imprisonment for six months.

7. Licence or permit to engage in certain activities in a Controlled Water Area

(1) The Authority may, on application in writing by any person, issue to that person a licence or permit in the form set out in the Third Schedule, authorizing the person or persons or class of persons specified in the licence or permit to engage in certain activities which are otherwise regulated or prohibited in this Order, such as fishing, boating, canoeing, or sailing in a reservoir, river or other body of water, felling of trees, construction of roads, buildings, in a controlled water area to the provisions of this Order and to such general or special conditions as the Authority may deem appropriate to impose at any time or from time to time.

(2) A licence or permit under subparagraph (1)—

(a) shall be issued only upon payment of the fee specified in the Fourth Schedule for individual non-commercial use applications or otherwise as determined by the Authority for commercial and group licences;

(b) shall expire on the date specified on the licence issued and shall be renewed annually upon payment of the renewal fee as specified in the Fourth Schedule; and

(c) may be terminated by the Authority at any time by notice in writing to the licensee upon any ground considered by the Authority to be reasonable in the interest of the proper administration of a controlled water area.

8. Inconsistency with any control orders

This Controlled Water Area Order supersedes any other control order issued for the protection of the Ndirande-Mudi Dam Catchment Area.

FIRST SCHEDULE para. 3

DESCRIPTION OF CONTROLLED WATER AREA

1. NDIRANDE-MUDI DAM CONTROLLED WATER AREA

Comprise: that part of Mudi catchment in the Ndirande Mountain Forest Reserve described as follows—

The parcel of land comprising catchment area commencing from the centre of the spillway of the Mudi Dam at a point marked “A” with Grid Reference, hereinafter called GR 186531. Thence the boundary follows the centre of the dam wall to point “B” at the end of the dam on the right bank with GR 183534 where it continues by following the Mudi Stream watershed divide to a point marked “C” at GR 181538; thence, follows watershed divide, along the western road in north-easterly direction for a distance of 2,250 metres to a point marked “D” at GR 200555;

Thence, follows the watershed divide in the north-easterly direction for a distance of 550 metres to a point marked “E” on the peak of the Ndirande Mountain at GR 205558; thence, follows a watershed divide in the south-easterly direction passing through another peak for a distance of 850 metres to a point marked “F” at GR 210550; thence; continues following the watershed divide, in the south-easterly direction, for a distance of 650 metres to a point at Maoni Peak marked “G” at GR 215547; thence, follows a watershed divide marked line in the southerly direction to Makhetha/ Ndirande and Ndirande Mountain forest roads on point marked “H” at GR 213542; thence, follows a watershed divide marked line along the Ndirande-Makhetha roads in the south-easterly direction for a distance of 1,750 metres to a point marked “I” where it joins Blantyre-Zomba road at GR 228524; thence, follows the M3 Blantyre-Zomba road in the south-westerly direction for a distance of 1,150 meters to a point marked “J” at GR 217519; thence, follows a watershed divide along the Blantyre-Zomba road in the westerly direction to a point marked “K” at GR 202521; thence, follows the same Blantyre-Zomba road in the north-westerly direction for a distance of 500 metres to a point marked “L” at GR 199523; thence, follows the same Blantyre-Zomba road in the south-westerly direction for a distance of 1,000 metres to a point marked “M” at GR 190520; thence, follows a watershed divide in the north-westerly direction for a distance of 1,050 metres to point “A” being the point of commencement.

The piece of land herein described represents approximately 890 hectares (8.9 sq kilometres) in extent, consisting part of 1,010 hectares (10.1 sq kilometres) of Ndirande Forest Reserve and the rest from publicland under Blantyre City Council and it is more particularly delineated and shown on Department of Surveys Map Sheet No. 1535C3, at a scale of 1:50 000.

2. NDIRANDE-MUDI DAM CATCHMENT ZONING AND ZONES

Description of the Zones

There are four zones in the Ndirande-Mudi Dam catchment and each zone will be treated differently from the other zones. The following are the descriptions of the zones—

(a) Buffer Zone is that parcel of land comprising the area 100 metres wide from the shoreline of Mudi reservoir at its spillway level, and 50 metres wide from the banks of and along the Mudi River and its tributaries.

(b) Forest Plantation Zone is that piece of land commencing at Grid Reference 186531 on point marked "A" on the attached catchment zone map; thence, going round the reservoir to a point marked "B" at the end of the dam at Grid Reference 183534; thence, continues by following the watershed divide in the north-westerly direction for a distance of 450 metres to a point marked "B1" at Grid Reference 181537; thence, follows a line in the north-easterly direction for a distance of 110 metres to a point marked "C" at Grid Reference 181538; thence, follows a watershed divide in the north-easterly direction for a distance of 2,250 metres to a point marked "D" at Grid Reference 200555; to a point marked "E" passing through the other peak of Ndirande Mountain; to a point marked "F"; to a point marked "G"; to a point marked "F"; at Grid Reference 213542, as described in the First Schedule in (a); thence, follows a line along the forest reserve boundary in the south-westerly direction for a distance of 675 metres to a point marked "H1" at Grid Reference 210530; thence, follows a line in the south-westerly direction for a distance of 630 metres and crosses Mudi River to a point marked "H2" at Grid Reference 203527, thence, follows a forest road reserve in the north-westerly direction for a distance of 910 metres to a point marked "H3" at Grid Reference 197531, thence, follows a line in the south-westerly direction for a distance of 630 metres to a point marked "H4" at Grid Reference 193524 thence, follows a line in the north-westerly direction for a distance of 400 metres to point "H5" at Grid Reference 189526 thence, follows the watershed divide in the north-westerly direction for a distance of 400 metres to a point marked "A" being the point of commencement.

(c) Urban Built-up Zones are those parts of the Ndirande-Mudi Dam catchment comprising:

(i) that parcel of land commencing on the Blantyre-Zomba road at Grid Reference 190520; to a point marked "M" on Ndirande-Mudi Dam catchment, thence, follows a line in the north-westerly direction for a distance of 600 metres to a point marked "H5" at Grid Reference 189526; thence, follows a line in the south-easterly direction for a distance of 450 metres to a point marked "H4" at Grid Reference 193524; thence, follows a line in the north-easterly direction for a distance of 800 metres to a point marked "H3" at Grid Reference 197530; thence, follows a line in the south-easterly direction, along the furrow for a distance of 730 metres to a point marked "H2" at Grid Reference 203527; thence, follows a line in the south-easterly direction for a distance of 890 metres to a point marked "N" at Grid Reference 210522; thence, follows the rail line in the south-westerly direction for a distance of 225 metres to a point marked "O" at Grid Reference 209520, where it joins Blantyre-Zomba road; thence, follows the Blantyre-Zomba road in the westerly direction for a distance of 500 metres to a point marked "K", to a point marked "L", to a point marked "M" as described in the First Schedule above; being the point of commencement;

(ii) the piece of land commencing from a point marked "P" on the Blantyre-Zomba road at Grid Reference 213519; thence, follows a line in the north-easterly direction for a distance of 990 metres and meets the Blantyre-Zomba road at a point marked "R" at Grid Reference 226524; thence, follows the Blantyre-Zomba road in the south-westerly direction for a distance of 1,035 metres

to a point marked “J” at Grid Reference 217519; thence, follows the Blantyre-Zomba road in the westerly direction for a distance of 660 metres to a point marked “P” being the point of commencement;

(iii) parcel of land commencing from point marked “V” at Grid Reference 217528; thence, follows the school road in the north-easterly direction for a distance of 200 metres to a point marked “V1” at Grid Reference 217529; thence, follows a watershed divide in the south-easterly direction for a distance of 800 metres to a point marked “T” at Grid Reference 222527; thence, follows a line in the south-westerly direction for a distance of 230 metres to a point marked “U” at Grid Reference 221527; thence, follows a line in the north-westerly direction for a distance of 360 metres to a point marked “V” being the point of commencement;

(d) Parkland Zone is the parcel of land commencing at a point marked “O” at Grid Reference 209520, on the Blantyre-Zomba road; thence, follows a line along the Limbe—Blantyre rail line in the north-easterly direction for a distance of 225 metres to a point marked “N”, at Grid Reference 210522; to a point marked “H2”, to a point marked “H1”, along the forest border road, to a point marked “S1” at Grid Reference 212536; to a point marked “S”, at Grid Reference 216534; on the Ndirande-Makhetha road, to a point marked “V”, to a point marked “U”, to a point marked “T”, at Grid Reference 223527; to a point marked “I”, to a point marked “R”, at Grid Reference 226523; on the Zomba-Blantyre road, then to a point marked “R1”, at Grid Reference 221524; to a point marked “R2”, at Grid Reference 217525; to a point marked “R3”, at Grid Reference 217524, to a point marked “R4” at Grid Reference 215524; to a point marked “P”, to a point marked “O”, being the point of commencement.

These zones are covering a total area of 890 hectares in extent and are better delineated and shown on Department of Surveys Map Sheet No. 1535C3 at a scale of 1:50,000.

SECOND SCHEDULE para. 4

CONTROLLED WATER AREA AUTHORITY

First Column	Second Column	Ndirande-Mudi Dam Catchment Management Committee	Ndirande-Mudi Dam Controlled Water Area
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THIRD SCHEDULE para. 7 (1)

FORM OF LICENCE/PERMIT

TO PRACTICE REGULATED ACTIVITIES IN CONTROLLED WATER AREA

Ndirande-Mudi Dam Controlled Water Area

Licence/Permit Number Issued to.....

This licence/permit authorises the holder and/or accompanying persons otherwise designated by the holder by a prior written notice to the officer of the Authority in charge of the Ndirande-Mudi Dam Controlled Water Area to enter for the following purposes—

- (a)
- (b)
- (c)
- (d)
- (e)

With the following conditions which shall be observed, satisfied or fulfilled by the holder and/or accompanying person(s) in exercising the authority given under this licence/permit—

- (a)
- (b)
- (c)
- (d)
- (e)

Given this day of in the year 20.....

Signed:

for Ndirande-Mudi Dam Catchment Management Committee

FOURTH SCHEDULE para. 7 (2)

NDIRANDE-MUDI DAM CONTROLLED WATER AREA

LICENCE/PERMIT FEES

Kt1. Upon issue of a licence/permit550002. Upon renewal of a licence/permit50000

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Chairman: Ndirande-Mudi Dam Catchment Management Committee