

**REPORT****VARIATION OF DEVELOPMENT STANDARD****RETROSPECTIVE APPLICATION FOR REPLACEMENT PONTOON  
ASSOCIATED WITH EXISTING WATER ENTITLEMENT & EXISTING WATER  
PUMP**

**120 BENARCA FOREST ROAD, MOAMA NSW 2731**  
**LOT 1 DP1154923 (Development Associated Parcel)**  
**LOT 113 DP39915 (Location of Works)**

**Relevant EPI:** Murray Local Environmental Plan 2011

**Zone:** W2 Zone (NSW)

**Objectives of Zone:**

- *To protect the ecological, scenic and recreation values of recreational waterways.*
- *To allow for water-based recreation and related uses.*
- *To provide for sustainable fishing industries and recreational fishing.*

**EPI Relevant Clause:** Clause 7.6

**Standard Subject to Variation:**

- (a) that the proposed structure will not be located on an outside bend of the Murray or Wakool River,*

**Variation Type:** Performance based control

The subject application is seeking the approval for the existing replacement structure of a dilapidated water pump pontoon, which was located in close proximity to the existing assembly (approx. 30m west). As evident by the plans attached with this application and the need for variation of this standard, the structure is located on an outside bend within the Murray River. This location was chosen as it was in direct line of the connecting infrastructure, ensuring minimal works were undertaken to connect the structure.

The alternative to this was to locate the structure a sufficient distance from existing infrastructure and either a) leave above ground pipes over the public land (creating a safety hazard), or b) undertake extensive works to bury the relevant pipes along the length of the land, as appropriate. Neither of these approaches were considered appropriate at the time of construction, or as cost effective. As such, the development in this location is believed to be the ideal position for the structure to ensure environmental protection and minimal disturbance of the natural landscape.

Strict compliance with the Development Standard would hinder the attainment of the object of the act, primarily through the protection of the river. Although the land was altered in the first place to implement the structure, the structure in its current form would require significant disturbance of the bank, and potentially significant impacts to the natural environment if removed. This is not in alignment with the objective of the act, and is not an appropriate approach for environmental protection.

Having been located on the land for nearly a decade, the development poses no social, economic, or environmental implications from its existing nature within this section of the river. As highlighted above, removal of the structure is likely to cause significant environmental impacts to the immediate bank, and downstream communities, which is not considered a positive outcome. This location is the only sensible area for the development, based on the above-mentioned points; therefore, this standard is requested to be varied, and the application supported.

Strict compliance is deemed unnecessary, and discretion is encouraged to ensure environmental degradation is avoided and a positive environmental planning outcome is achieved.

**Relevant EPI: ‘MURRAY REGIONAL ENVIRONMENTAL PLAN No.2 – RIVERINE LAND (NSW)’**

**Zone:** W2 Zone (NSW)

**Objectives of Zone:**

- *To protect the ecological, scenic and recreation values of recreational waterways.*
- *To allow for water-based recreation and related uses.*
- *To provide for sustainable fishing industries and recreational fishing.*

**EPI Relevant Clause:** *Clause 10 – Specific Principles - Access*

**Standard Subject to Variation:**

- a) The waterway and much of the foreshore of the River Murray is a public resource. Alienation or obstruction of this resource by or for private purposes should not be supported.*

**Variation Type:** Performance based control

The subject structure is located approximately 14km from the town of Moama, along a strip of the Murray River which contains no ease of access between the foreshore and river bank due to the steep drop off to the River. As a structure is proposed from the bank to the river, access should be addressed.

The existing structure does not extend far into the river, and is therefore not deemed to pose as a significant obstruction within the waterway. Being a permitted use, as evident within the zoning, a number of other properties within the river, and the existence of a recently approved structure along the same strip of land (142 Benarca Forest Road), strict compliance is deemed unnecessary.

The development also does not prohibit use of the public land or access around it. It is noted that access to this section of land is difficult, due to the presence of abutting properties and steep incline of the bank to the river; access to the land is only feasible via a small section of the Perricoota State Forest. The development does not hinder the ability to access the land further than current limitations. The river is also navigable around the structure, and does not pose access issues.

Existing for over 8 years, the development is believed to pose no social, economic, or environmental implications, as evident by the lack of impacts to date. The approval of the existing structure is not likely to cause any impacts; however, its removal will indisputably cause environmental impacts to the immediate bank, and downstream communities. This is not considered a positive outcome, or preferred for the land and bank. This is also not in alignment

with the objective of the Environmental Planning and Assessment Act, and is not an appropriate approach for environmental protection. The development standard should therefore be varied to ensure environmental protection and a positive outcome for the landowners and downstream communities arises from this development.

Being a replacement structure and permitted within the zone, the development is considered to pose negligible impacts to current or future access within the strip of terrestrial Crown Land, or the Murray River. As the subject allotments has been occupied by two pontoons for a number of years (the subject pontoon and the pontoon associated with the neighbouring property) and the replaced dilapidated structure on its own prior to this, the standard has essentially been abandoned within this strip of land, and should not be strictly enforced. The replacement of a derelict structure does not hinder the ability to access the already limited site.

Overall, the development does not hinder public use along the Crown Land, nor does it restrict use of the river below. The development is a positive outcome for the continued support of an existing dwelling and extensive agriculture undertaken on the land. Requiring no works, the development does not require the clearing of vegetation on public land, nor does it encourage further alienation of the property. Access to Crown Land will remain unchanged. This standard is therefore requested to be varied, and the application supported. Strict compliance is unnecessary, and discretion is encouraged.