

# Murray Regional Environmental Plan No 2—Riverine Land (1994 EPI 121)

[1994-121]



New South Wales

## Status Information

### Currency of version

Historical version for 31 July 1998 to 19 June 2006 (accessed 27 May 2024 at 20:45)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill 2006](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 23 May 2006

# Murray Regional Environmental Plan No 2—Riverine Land (1994 EPI 121)



New South Wales

## Contents

<b>Part 1 Introduction</b>	3
1 Name of plan	3
2 Aims of the plan	3
3 Objectives of the plan	3
4 Where the plan applies	3
5 How this plan affects other plans	3
6 Definitions	5
7 Notes	5
<b>Part 2 Planning principles</b>	5
8 When planning principles should be applied	5
9 General principles	5
10 Specific principles	5
<b>Part 3 Planning requirements and consultation</b>	8
11 Consultation—who consults and procedure for consultation	8
12 General provisions for consultation	8
13 Planning Control and Consultation Table	9
14 Building setbacks—special provisions	26
<b>Dictionary</b>	27

# Murray Regional Environmental Plan No 2—Riverine Land (1994 EPI 121)



New South Wales

## Part 1 Introduction

### 1 Name of plan

This plan is called *Murray Regional Environmental Plan No 2—Riverine Land*.

### 2 Aims of the plan

The aims of this plan are to conserve and enhance the riverine environment of the River Murray for the benefit of all users.

### 3 Objectives of the plan

The objectives of this plan are:

- (a) to ensure that appropriate consideration is given to development with the potential to adversely affect the riverine environment of the River Murray, and
- (b) to establish a consistent and co-ordinated approach to environmental planning and assessment along the River Murray, and
- (c) to conserve and promote the better management of the natural and cultural heritage values of the riverine environment of the River Murray.

#### **Note—**

Further information about the objectives of this plan and how it operates may be obtained from information included with the copy of this plan published by the Department of Planning.

### 4 Where the plan applies

This plan applies to the land shown on the map, that is the riverine land of the River Murray within the City of Albury and the areas of Balranald, Berrigan, Conargo, Corowa, Deniliquin, Hume, Murray, Wakool, Wentworth and Windouran.

### 5 How this plan affects other plans

- (1) This plan:

- (a) replaces *Murray Regional Environmental Plan No 1—Murray River Riparian Land* (which is accordingly repealed),
- (b) amends *State Environmental Planning Policy No 4—Development Without Consent* by inserting after clause 4 (4) the following subclause:

(4A) Clause 10 does not apply to the land to which *Murray Regional Environmental Plan No 2—Riverine Land* applies where clause 10 would authorise a person to carry out, without development consent, works on or a use of land identified in that plan as flood liable, for the purposes of chemical, fuel or fertiliser storage; and

- (c) amends *State Environmental Planning Policy No 36—Manufactured Home Estates* to exclude flood liable land from that policy by inserting in Schedule 2 after item 8 the following item:

**9** Flood liable land as defined in *Murray Regional Environmental Plan No 2—Riverine Land*.

- (1A) The application of this plan to land to which *State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas* applies is modified by clause 5 of that Policy which provides that the Policy prevails to the extent of any inconsistency with this plan and that, to remove any doubt:

- (a) Part 2 of this plan applies:

- (i) when a consent authority determines a development application required by that Policy for land to which this plan applies, and
- (ii) when a public authority or person proposes to carry out (on land to which this plan applies) development which does not require consent because of that Policy but which has the potential to adversely affect the riverine environment of the River Murray, and

- (b) such of the provisions of Part 3 as provide for consultation by a consent authority apply when development defined in the Planning Control and Consultation Table in that Part is required to be carried out with consent because of that Policy.

- (2) If this plan is inconsistent with another regional environmental plan or a local environmental plan, then this plan prevails to the extent of the inconsistency.
- (3) However, this plan does not permit development which is prohibited by another environmental planning instrument.
- (4) This plan contains planning principles to help councils prepare local environmental plans that apply to the riverine land of the River Murray.

## 6 Definitions

(1) The Dictionary at the end of this plan defines words and expressions used in this plan.

(2) In this plan:

**development** means both development requiring consent and development not requiring consent.

**Murray River** means the waters of the main channel of the Murray River and its bed and banks.

**River Murray** means the Murray River, the waters and the bed and banks of its tributaries and associated water bodies (including related anabranches, creeks, lagoons, lakes, billabongs and wetlands), as shown on the map.

## 7 Notes

Notes in this plan do not form part of this plan but are included to assist in the understanding of this plan.

## Part 2 Planning principles

### 8 When planning principles should be applied

This Part applies when:

- (a) a council prepares any local environmental plan, or
- (b) a consent authority determines a development application, or
- (c) a public authority or person proposes to carry out development which does not require development consent but which has the potential to adversely affect the riverine environment of the River Murray.

### 9 General principles

When this Part applies, the following must be taken into account:

- (a) the aims, objectives and planning principles of this plan,
- (b) any relevant River Management Plan,
- (c) any likely effect of the proposed plan or development on adjacent and downstream local government areas,
- (d) the cumulative impact of the proposed development on the River Murray.

### 10 Specific principles

When this Part applies, the following must be taken into account:

### **Access**

- \* 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.
- \* Development along the main channel of the River Murray should be for public purposes. Moorings in the main channel should be for the purposes of short stay occupation only.
- \* Human and stock access to the River Murray should be managed to minimise the adverse impacts of uncontrolled access on the stability of the bank and vegetation growth.

### **Bank disturbance**

- \* Disturbance to the shape of the bank and riparian vegetation should be kept to a minimum in any development of riverfront land.

### **Flooding**

- \* Where land is subject to inundation by floodwater:
  - (a) the benefits to riverine ecosystems of periodic flooding,
  - (b) the hazard risks involved in developing that land,
  - (c) the redistributive effect of the proposed development on floodwater,
  - (d) the availability of other suitable land in the locality not liable to flooding,
  - (e) the availability of flood free access for essential facilities and services,
  - (f) the pollution threat represented by any development in the event of a flood,
  - (g) the cumulative effect of the proposed development on the behaviour of floodwater, and
  - (h) the cost of providing emergency services and replacing infrastructure in the event of a flood.
- \* Flood mitigation works constructed to protect new urban development should be designed and maintained to meet the technical specifications of the Department of Water Resources.

### **Land degradation**

- \* Development should seek to avoid land degradation processes such as erosion, native vegetation decline, pollution of ground or surface water, groundwater accession, salination and soil acidity, and adverse effects on the quality of

terrestrial and aquatic habitats.

#### **Landscape**

- \* Measures should be taken to protect and enhance the riverine landscape by maintaining native vegetation along the riverbank and adjacent land, rehabilitating degraded sites and stabilising and revegetating riverbanks with appropriate species.

#### **River related uses**

- \* Only development which has a demonstrated, essential relationship with the river Murray should be located in or on land adjacent to the River Murray. Other development should be set well back from the bank of the River Murray.
- \* Development which would intensify the use of riverside land should provide public access to the foreshore.

#### **Settlement**

- \* New or expanding settlements (including rural-residential subdivision, tourism and recreational development) should be located:
  - (a) on flood free land,
  - (b) close to existing services and facilities, and
  - (c) on land that does not compromise the potential of prime crop and pasture land to produce food or fibre.

#### **Water quality**

- \* All decisions affecting the use or management of riverine land should seek to reduce pollution caused by salts and nutrients entering the River Murray and otherwise improve the quality of water in the River Murray.

#### **Wetlands**

- \* Wetlands are a natural resource which have ecological, recreational, economic, flood storage and nutrient and pollutant filtering values.

Land use and management decisions affecting wetlands should:

- (a) provide for a hydrological regime appropriate for the maintenance or restoration of the productive capacity of the wetland,
- (b) consider the potential impact of surrounding land uses and incorporate measures such as a vegetated buffer which mitigate against any adverse effects,
- (c) control human and animal access, and

- (d) conserve native plants and animals.

**Note—**

The above principles will also be relevant for determining authorities when they carry out their environmental assessment functions under Part 5 of the Act for activities which may impact on the River Murray.

## **Part 3 Planning requirements and consultation**

### **11 Consultation—who consults and procedure for consultation**

- (1) Consultation required by this Part must be carried out:
  - (a) if development consent is required—by the consent authority before determining the development application, or
  - (b) if development consent is not required—by the public authority or person carrying out the development, before carrying out the development.
- (2) Consultation by an authority or person with a listed agency must be carried out as follows:
  - (a) the authority or person must write to the listed agency giving a description of the proposed development,
  - (b) the authority or person must request the listed agency to comment on the proposed development within 21 days from the date the agency receives the notice,
  - (c) the authority or person must consider any comments made on the proposed development by the listed agency within those 21 days.

### **12 General provisions for consultation**

- (1) Consultation is required for development in the circumstances set out in this clause. Further consultation requirements are included in the Planning Control and Consultation Table (clause 13).
  - (a) Where development is contrary to the aims, objectives or principles of this plan and may have a significant environmental effect along the Murray River—the P&D (Vic), C&NR (Vic) and the adjacent local Council in Victoria must be consulted.
  - (b) Where development is within or may adversely affect land dedicated or reserved under the [National Parks and Wildlife Act 1974](#)—the NPWS must be consulted.
  - (c) Where development may adversely affect endangered fauna within the meaning of the [National Parks and Wildlife Act 1974](#)—the NPWS must be consulted.
  - (d) Where development may affect an Aboriginal site or any other place that is generally recognised as a place of cultural significance to the Aboriginal



community—the NPWS must be consulted.

(e) Where development is within or may adversely affect a State Forest—the Forestry Commission must be consulted.

(f) Where development may affect boating safety—the MSB must be consulted.

(2) Nothing in this plan prevents consultation with any other relevant agencies or groups appropriate to the circumstances.

(3) Consultation is not required under this plan where a River Management Plan identifies work as being of a minor or routine nature.

**Note—**

**River Management Plan** is defined in the Dictionary.

Clause 46 of the *Murray-Darling Basin Agreement 1992* requires matters, which may significantly affect the flow, use and control of water in the River Murray, to be referred to the Murray-Darling Basin Commission. The Commission should be notified when consents or approvals are granted for development where any consultation has taken place under this plan.

### 13 Planning Control and Consultation Table

(1) The Planning Control and Consultation Table at the end of this clause deals with development defined in that Table, but does not apply to development that may be carried out without consent because of [State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas](#).

(2) Under **Planning control**:

(a) **Council consent** means that the development may only be carried out with the consent of the relevant council.

**Note—**

This paragraph does not allow consent to be granted to development prohibited by another environmental planning instrument, see clause 5 (3).

(b) **Prohibited** means the development must not be carried out (either generally or only in the circumstances specified).

(c) **Advertised** means that an application for development consent must be advertised (in which case, the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply in the same way as they do to designated development).

(d) **Designated development** means that the development is declared to be designated development for the purposes of the Act.

(3) Under **Consultation**, the names of the agencies to be consulted are listed.

(4) Under **Specific matters for consideration**, matters are listed for consideration by the consent authority when determining a development application or (if consent is

not required) by the public authority or person concerned before carrying out the development.

## Planning Control and Consultation Table

### 1 ARTIFICIAL LAKE

#### **Definition:**

A constructed water body such as an artificial wetland, but does not include dams of less than 1 hectare in surface area used for agricultural purposes or land flood irrigated for agriculture.

#### **Planning control:**

- \* Council consent.
- \* Advertised.

#### **Consultation:**

DWR, EPA and MDBC.

#### **Specific matters for consideration:**

Potential for artificial water bodies to have an effect on the watertable.

### 2 AQUACULTURE

#### **Definition:**

The farming of aquatic organisms including fish, molluscs, crustaceans and aquatic plants for commercial purposes and which requires intervention in the rearing process to enhance production, whether or not undertaken in a natural or an artificially created body of water.

#### **Planning control:**

- \* Council consent.
- \* Advertised.

#### **Consultation:**

DWR, EPA, MDBC and NSW Fisheries.

#### **Note—**

Applications for development consent for aquaculture may need to be accompanied by detailed information about different aspects of the proposal. To avoid delays, applicants should contact each of the agencies to be consulted by the council before submitting a development application to the council.

### **3 BANK AND/OR BED WORK**

**Definition:**

Works which relate to the excavation, dredging or alteration to the alignment or shape of the bank or bed of the River Murray (including construction of weirs and floodgates, boat ramps and bank stabilisation works).

**Planning control:**

- \* Council consent (except work by or for DWR or RWC (Vic)).
- \* Advertised (except work by or for DWR or RWC (Vic)).

**Consultation:**

CaLM, DWR, EPA, MDBC, MSB, NSW Fisheries and, if adjacent to Murray River, C&NR (Vic).

### **4 BOAT INDUSTRY FACILITY**

**Definition:**

Buildings, structures or facilities used for the construction, maintenance, repair, temporary storage or sale of boats and other vessels, but does not include a large or small marina.

**Planning control:**

- \* Council consent.
- \* Advertised.

**Consultation:**

CaLM, DWR, EPA, MDBC, MSB and NSW Fisheries.

### **5 CANAL DEVELOPMENT**

**Definition:**

The construction of an artificial navigable waterway.

**Planning control:**

- \* Council consent.
- \* Advertised.

**Consultation:**

CaLM, DoP, DWR, EPA, MDBC, MSB, NSW Fisheries and, if adjacent to Murray River,

C&NR (Vic) and P&D (Vic).

**Note—**

A direction under section 101 of the Act requires applications for consent to private canal development to be referred to the Minister for Planning for determination.

## **6 CARAVAN PARK/CAMPING GROUND**

**Definition:**

Use of land for caravans or other moveable dwellings requiring an approval under Part 1 of Chapter 7 of the [Local Government Act 1993](#).

**Planning control:**

- \* Council consent.
- \* Advertised.

**Consultation:**

CaLM, DoP, DWR, EPA, MDBBC and NSW Tourism Commission and, if adjacent to the Murray River, C&NR (Vic) and any adjacent Victorian local council.

**Specific matters for consideration:**

- \* Permanent facilities, such as rigid caravan annexes, amenity blocks and long term sites, should not be on flood liable land.
- \* In riverfront locations, pedestrian access to the River Murray should be restricted to constructed pathways and a vegetated strip of river frontage should be retained as a buffer between the River and camping/caravan sites and amenities.
- \* Vehicular access to the River Murray should be at boat launching ramps only.

## **7 CHEMICAL, FUEL OR FERTILISER STORAGE ON FLOOD LIABLE LAND**

**Definition:**

Flood liable land used for chemical, fuel or fertiliser storage.

**Planning control:**

Council consent.

**Consultation:**

DWR, EPA and MDBBC.

## 8 DESNAGGING OPERATIONS (INCLUDING SNAG MAINTENANCE)

### Definition:

Any work to move or remove either trees or woody debris from the water of the River Murray, other than work which is part of an MDBC approved program.

### Planning control:

#### Note—

Refer to local planning instrument for any planning controls.

### Consultation:

CaLM, DWR, MDBC, MSB, NSW Fisheries, PWD and, if adjacent to Murray River, C&NR (Vic). However, if the snag represents a hazard or is causing a significant obstruction or diversion to the flow of water and urgent removal is considered necessary, consultation with MDBC only required.

#### Note—

An MDBC approved program is a component of broader management plans of the MDBC to fulfil its responsibility for the conservation and protection of the aquatic and riverine environment of the River Murray. Such a program is developed and approved through an interstate committee convened by the MDBC and comprised of representatives from relevant agencies in each State, including consultation with fisheries agencies.

## 9 DESTRUCTION OF NATIVE VEGETATION

### Definition:

The clearing, logging, removal or damaging of any species of trees and shrubs that are indigenous to the River Murray floodplain and that are on land shown on the map as native vegetation.

### Planning control:

Council consent, unless it constitutes any of the following forms of vegetation destruction:

- (a) destruction of native vegetation on protected land as defined under the [Soil Conservation Act 1938](#),
- (b) destruction of native vegetation in the Western Division (i.e. where the [Western Lands Act 1901](#) applies),
- (c) destruction of native vegetation on Crown timber land which is Crown land greater than 2 hectares in size supporting merchantable timber,
- (d) destruction of vegetation in accordance with forestry operations duly authorised by

the Forestry Commission,

- (e) destruction of native vegetation undertaken in accordance with a Vegetation Management Plan for the land,

**Note—**

A Vegetation Management Plan for land within the area of a council should be made available for public inspection at the office of the council.

- (f) destruction of native vegetation that is unavoidable in the destruction of noxious plants provided that the way in which the noxious plants are destroyed does not involve disturbance of the soil,
- (g) destruction of native vegetation for the purpose of maintenance of access tracks, fences, domestic and farm buildings, and corridors for existing utilities,
- (h) lopping or pruning of native vegetation for use as fodder in times of declared drought or after flood or fire,
- (i) destruction of native vegetation within 3 metres of a property boundary provided the adjoining property is owned by a different person and the vegetation destruction is required to build or maintain a fence,
- (j) destruction of native vegetation within 0.5 metres of a property boundary where the vegetation destruction is required to enable a survey to be carried out by a registered surveyor.

**Consultation:**

CaLM, Forestry Commission, MDBC and NPWS.

**Specific matters for consideration:**

- \* whether the development would contribute to soil erosion or other land degradation processes, including rising watertables.
- \* the effect of the development on the landscape.
- \* the potential loss of wildlife habitat.
- \* whether the development would endanger the species of vegetation, either locally or across its range.

**Note—**

Although the destruction of vegetation on protected land ([Soil Conservation Act 1938](#)), Crown timber land ([Forestry Act 1916](#)) or in the Western Division ([Western Lands Act 1901](#)) is exempt from the requirement to obtain development consent, approval may still be required from the organisation administering the relevant legislation for the damage or destruction of ANY vegetation.

For protected land and land within the Western Division, approval may be needed from CaLM. The

destruction of vegetation on Crown timber land may require an approval from the Forestry Commission.

For controls on destruction of native vegetation in wetlands, see item 30 of this Table.

## **10 FLOOD CONTROL WORKS**

### **Definition:**

Works which change the natural or existing condition or topography of land (such as the construction or alteration of levees, channels and mounds) and which are likely to affect the hydrology of the River Murray system.

### **Planning control:**

- \* Council consent (except work by or for DWR or RWC (Vic)).
- \* Advertised (except work by or for DWR or RWC (Vic)).

### **Consultation:**

DWR, MDBIC (as co-ordinator of the Interstate Levees Committee) and the appropriate council's Floodplain Management Committee (if any).

## **11 HAZARDOUS OR OFFENSIVE, OR POTENTIALLY HAZARDOUS OR OFFENSIVE, INDUSTRIES**

### **Definition:**

Use of land for a hazardous or offensive (or a potentially hazardous or offensive) industry.

### **Planning control:**

- \* Prohibited on flood liable land.
- \* Council consent elsewhere.
- \* Advertised.

### **Consultation:**

CaLM, DoP, DWR, EPA and MDBIC.

## **12 HAZARDOUS OR OFFENSIVE STORAGE ESTABLISHMENT**

### **Definition:**

Use of land for a hazardous or offensive storage establishment.

### **Planning control:**

- \* Prohibited on flood liable land.

- \* Council consent elsewhere.

- \* Advertised.

**Consultation:**

CaLM, DoP, DWR, EPA and MDBC.

## **13 HOUSEBOAT OPERATIONS**

**Definition:**

Commercial operation of a vessel for use as a residence.

**Planning control:**

- \* Council consent.

- \* Advertised.

**Consultation:**

CaLM, EPA, MDBC, MSB and, if adjacent to Murray River, C&NR (Vic).

**Specific matters for consideration:**

- \* Development for houseboat operations must have adequate shore based pump-out facilities available to it.
- \* Private and commercial houseboat related development should be located in waterways not comprising the main channel of the Murray River.

## **14 INDUSTRY**

**Definition:**

The manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or articles for commercial purposes (other than development referred to elsewhere in this Table).

**Planning control:**

- \* Council consent.

- \* Advertised.

**Consultation:**

MDBC and such other agencies who may be affected as the council considers appropriate.



## 15 INTENSIVE LIVESTOCK KEEPING

### Definition:

Use of land for holding cattle, sheep, goats, poultry or other livestock for the purposes of nurturing by a feeding method other than natural grazing, including:

- (a) feed lots,
- (b) piggeries, and
- (c) poultry farms,

but not an animal boarding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land, or intensive hand feeding of livestock as a result of drought, flood, bushfire or other natural disaster.

### Planning control:

- \* Prohibited on flood liable land.
- \* Council consent elsewhere.
- \* Advertised.

### Consultation:

CaLM, DoP, DWR, EPA MDBC and NSW Agriculture.

### Note—

Schedule 3 of the EPA Regulation 1980 requires the preparation of an environmental impact statement for some forms of intensive livestock keeping. Refer also to [State Environmental Planning Policy No 30—Cattle Feedlots](#) and to DoP Circular No 23.

## 16 LANDFILL

### Definition:

Sites used for the collection and disposal of industrial, trade or human waste (other than development referred to elsewhere in this Table).

### Planning control:

- \* Prohibited on flood liable land.
- \* Council consent elsewhere.
- \* Advertised.

### Consultation:

CaLM, DWR, EPA, MDBC and NSW Agriculture.

## **17 MAINTENANCE DREDGING**

### **Definition:**

The winning or removal of extractive material from the bed of the River Murray by or for a public authority for the purpose of obtaining sufficient width and depth in the waterway to enable the waterway to continue to function:

- (a) as a channel for the escape or passage of water, or
  - (b) as a safe navigation route for travel or transport by water,
- but does not include bank or bed works.

### **Planning control:**

#### **Note—**

Refer to local planning instrument for any planning controls.

### **Consultation:**

CaLM, DWR, EPA, MDBC, MSB, the relevant NSW local council and, if adjacent to Murray River, C&NR (Vic).

## **18 MANUFACTURED HOME ESTATES**

### **Definition:**

Use of land for manufactured homes requiring an approval under Part 1 of Chapter 7 of the [Local Government Act 1993](#).

### **Planning control:**

- \* Prohibited on flood liable land.
- \* Council consent elsewhere.
- \* Advertised.

#### **Note—**

Refer to [State Environmental Planning Policy No 36—Manufactured Home Estates](#).

### **Consultation:**

CaLM, DoP, DWR, EPA, MDBC, NSW Tourism Commission, and, if adjacent to Murray River, C&NR (Vic) and P&D (Vic).

## **19 MARINA (LARGE)**

### **Definition:**

A pontoon, jetty, pier or the like, capable of providing berths for 10 or more boats used for pleasure or recreation, and extends to any support facilities such as:

- (a) any associated slipways or facilities for the repair, maintenance and fuelling of, or the provision of accessories and parts for, boats, and
- (b) any associated facilities for the storage or provision of food.

### **Planning control:**

- \* Council consent.
- \* Designated development.

### **Consultation:**

CaLM, DoP, DWR, EPA, MDBBC, MSB, NSW Fisheries and, if adjacent to Murray River, C&NR (Vic) and P&D (Vic).

## **20 MARINA (SMALL)**

### **Definition:**

A pontoon, jetty, pier or other structure or apparatus used or intended to be used to provide berths for boats, and extends to any support facilities on the adjoining area of land, but not development defined as a marina (large).

### **Planning control:**

- \* Council consent.
- \* Advertised.

### **Consultation:**

CaLM, DWR, EPA, MDBBC, MSB, NSW Fisheries and, if adjacent to Murray River, C&NR (Vic).

## **21 PUBLIC UTILITY UNDERTAKING**

### **Definition:**

Any of the following undertakings carried on by or for a public authority that is likely to significantly affect the environment:

- rail, road or water transport,
- wharfs,

telecommunications,

supply of water, electricity or gas or provision of sewerage or drainage services.

**Planning Control:**

**Note—**

Refer to local planning instrument for any planning controls.

**Consultation:**

MDBC, the relevant NSW local council and such other agencies who may be affected as the authority considers appropriate.

**22 RECREATION FACILITY ADJOINING RIVER MURRAY OR ON FLOOD LIABLE LAND**

**Definition:**

A building, work or place, adjoining the River Murray or on flood liable land, used for sporting activities, recreation or leisure activities, whether or not operated for the purpose of gain, but not a building, work or place referred to elsewhere in this Table.

**Planning control:**

- \* Council consent.
- \* Advertised.

**Consultation:**

MDBC and such other agencies who may be affected as the council considers appropriate.

**Specific matters for consideration:**

Recreational facilities should not obstruct, alienate or pollute the river.

**23 RURAL INDUSTRY**

**Definition:**

A business development involving:

- (a) the handling, treating, processing or packing of primary products, or
- (b) the regular servicing or repairing of plant or equipment used for the purpose of agriculture or aquaculture or for the purpose referred to in paragraph (a).

**Planning control:**

- \* Council consent.

- \* Advertised.

**Consultation:**

EPA, MDBC and NSW Agriculture.

## **24 SEWAGE TREATMENT WORKS**

**Definition:**

Works or land used for the collection, treatment and disposal of sewage by or for a public authority.

**Planning control:**

**Note—**

Refer to local planning instrument for any planning controls.

**Consultation:**

CaLM, DoP, DWR, EPA, MDBC, NSW Agriculture, NSW Fisheries, the relevant NSW local council and, if adjacent to Murray River, P&D (Vic).

**Specific matters for consideration:**

Disposal of treated sewage on land is desirable.

**Note—**

Sewage treatment works have a potential to significantly affect the environment. The need for an environmental impact statement under Part 5 of the Act should therefore be carefully considered.

## **25 SINGLE MOORING**

**Definition:**

A berth or apparatus located on or in the River Murray (but not in a grouped mooring area identified in a River Management Plan) which may be used for the purpose of storing only one vessel.

**Planning control:**

- \* Council consent.

- \* Advertised.

**Consultation:**

Adjoining landowners, CaLM, DWR, MDBC, MSB, NSW Fisheries and, if adjacent to Murray River, C&NR (Vic).

**Note—**

This development may require an occupation licence issued by the MSB and may also require a lease issued by CaLM.

## **26 STORMWATER DRAINAGE SCHEME**

**Definition:**

Works designed to collect, channel, store, treat or disperse stormwater runoff from areas of urban development or from development adjacent to the River Murray. Untreated stormwater is water which has not been subjected to measures designed to reduce litter, suspended solids, nutrients or other substances which contribute to a decline in the quality of water in the River Murray system.

**Planning control:**

- \* Disposal of untreated stormwater into the River Murray system is prohibited.
- \* Council consent otherwise.
- \* Advertised.

**Consultation:**

CaLM, DWR, EPA, MDBC and NSW Fisheries.

**Specific matters for consideration:**

- \* Wherever practical, the disposal of treated stormwater into the River Murray system should be avoided.
- \* Stormwater disposal should not contribute to a decline in the quality of any receiving waters.

**Note—**

The suitability of treatment measures will depend on the characteristics of the individual catchments but may include one or more of the following:

- artificial wetlands,
- detention basins,
- grassed drainage lines and table drains,
- trash racks,
- booms.

Early contact with EPA should help identify the stormwater measures appropriate to the circumstances.

## **27 TOURIST RELATED FACILITY**

### **Definition:**

An establishment, place or vessel which provides for either accommodation or entertainment or food or beverage and which is permanently fixed in or on the River Murray or is on land adjacent to the River Murray.

### **Planning control:**

- \* Prohibited if in or on the River Murray.
- \* Council consent elsewhere.
- \* Advertised.

### **Consultation:**

CaLM, EPA, MDBBC, NSW Tourism Commission and, if adjacent to Murray River, C&NR (Vic) and P&D (Vic).

### **Specific matters for consideration:**

- \* Tourist facilities should not obstruct, alienate or pollute the River Murray.
- \* Development catering for recreational needs is to be designed with adequate environmental protection safeguards, including:
  - (a) rehabilitation of degraded land,
  - (b) provision of infrastructure such as water supply, sewerage, and stormwater drainage, and
  - (c) provision of appropriate landscaping.

## **28 WASTE DISPOSAL FACILITY**

### **Definition:**

Any plant, equipment, apparatus, device, machine, mechanism or land used for the collection and disposal of industrial, trade or human waste, including a pump ashore facility, package sewage treatment works, waste transfer depot or junk yard. A dry toilet, septic tank, sewerage treatment works or development referred to elsewhere in this Table is excluded.

### **Planning control:**

- \* Council consent.
- \* Advertised.

**Consultation:**

CaLM, DWR, EPA and MDBC.

## **29 WATER RECREATION FACILITY**

**Definition:**

Piers, wharves, boat sheds or other structures which have a direct structural connection between the bank or the bed of the River Murray and which are used primarily for public recreational purposes.

**Planning control:**

- \* Council consent.
- \* Advertised.

**Consultation:**

CaLM, DWR, MDBC, MSB, NSW Fisheries, PWD and, if adjacent to Murray River, C&NR (Vic).

## **30 WETLAND FILLING, DREDGING, DRAINING OR CLEARING**

**Definition:**

Filling, dredging, draining or destruction of native vegetation on land shown on the map as “wetlands”.

**Note—**

The land forms a shallow water body when inundated cyclically, intermittently or permanently. The type of inundation determines the type and productivity of soils, plant and animal communities.

**Planning control:**

- \* Council consent. Consent is not required to the following forms of destruction of native vegetation:
  - (a) destruction of native vegetation on protected land as defined under the [Soil Conservation Act 1938](#),
  - (b) destruction of native vegetation in the Western Division (i.e. where the [Western Lands Act 1901](#) applies),
  - (c) destruction of native vegetation on Crown timber land which is Crown land greater than 2 hectares in size supporting merchantable timber,
  - (d) destruction of vegetation in accordance with forestry operations duly authorised by the Forestry Commission,



- (e) destruction of native vegetation undertaken in accordance with a Vegetation Management Plan for the land,

**Note—**

A Vegetation Management Plan for land within the area of a council should be made available for public inspection at the office of the council.

- (f) destruction of native vegetation that is unavoidable in the destruction of noxious plants provided that the way in which the noxious plants are destroyed does not involve disturbance of the soil,
- (g) destruction of native vegetation within 3 metres of a property boundary provided the adjoining property is owned by a different person and the vegetation destruction is required to build or maintain a fence,
- (h) destruction of native vegetation within 0.5 metres of a property boundary where the vegetation destruction is required to enable a survey to be carried out by a registered surveyor.

\* Advertised.

**Consultation:**

CaLM, EPA, DWR, MDBC, DoP, NSW Agriculture, NSW Fisheries and NPWS.

**Note—**

For information about clearing other than on wetlands, see item 9 of this Table.

### **31 WETLAND SUBDIVISION**

**Definition:**

Subdivision of land shown on the map as “wetlands”.

**Planning control:**

- \* Council consent.
- \* Advertised.

**Consultation:**

CaLM, EPA, DWR, MDBC, DoP, NSW Agriculture, NSW Fisheries and NPWS.

**Specific matters for consideration:**

- \* The intended use of the land and its likely effect on the wetland.
- \* The need to impose conditions relating to:
  - subdivision design; effluent disposal; the retention or planting of a vegetated

buffer; and fencing to exclude stock or vermin.

**Note—**

Management of wetland is an important issue for consent. Subdivision which increases the number of owners of a wetland may make management more difficult. For additional information about clearing, see item 9 of this Table.

#### **14 Building setbacks—special provisions**

- (1) **Application** This clause deals with matters which are to be taken into consideration when:
  - (a) a consent authority determines a development application, or
  - (b) a public authority or person proposes to carry out development for which development consent is not required but which has the potential to adversely affect the riverine environment of the River Murray.
- (2) **Building setback** All buildings outside land zoned for urban purposes under a local environmental plan should be set well back from the bank of the River Murray. The only exceptions are buildings dependent on a location adjacent to the River Murray.
- (3) **Objectives of building setback** The objectives of siting buildings away from the River Murray are to:
  - maintain and improve water quality,
  - minimise hazard risk and the redistributive effect on floodwater associated with the erection of buildings on the floodplain,
  - protect the scenic landscape of the riverine corridor,
  - improve bank stability, and
  - conserve wildlife habitat.
- (4) **Matters to be considered** When determining the location of a building in relation to the River Murray, in addition to the planning principles the following specific matters should also be considered:
  - (a) **Effluent disposal**
    - (i) it is generally unsuitable to locate septic tanks:
      - on flood liable land,
      - where the watertable is within 2 metres of the surface,
      - in close proximity to a sensitive natural environment,

- if seasonably low evapotranspiration is common, or
  - on soils of low permeability,
- (ii) septic tanks should only be installed on suitable (ie permeable) soils with absorption areas located as far as possible from the River Murray or other drainage lines,
- (iii) in circumstances where septic tanks are unsuitable, package sewage treatment plants or humus closet (dry toilet) systems should be preferred,
- (iv) excess stormwater should, where possible, be disposed of on-site away from any septic absorption area.

**(b) Landscaping**

The visual impact of buildings in the riverine landscape can be lessened by the planting of a variety of appropriate vegetation species. This practice has other advantages in stabilising unstable or eroding banks and providing both habitat for wildlife and a trap for silt, nutrients and other substances which may otherwise enter the river and lead to a deterioration of water quality.

## Dictionary

(Clause 6)

**abbreviations of agencies:**

**C&NR (Vic)** means the Victorian Department of Conservation and Natural Resources.

**CaLM** means the NSW Department of Conservation and Land Management.

**DoP** means the NSW Department of Planning.

**DWR** means the NSW Department of Water Resources.

**EPA** means the NSW Environment Protection Authority.

**Forestry Commission** means the Forestry Commission of New South Wales.

**MDBC** means the Murray-Darling Basin Commission.

**MSB** means the NSW Maritime Services Board—Waterways Authority.

**NPWS** means the National Parks and Wildlife Service.

**NSW Agriculture** means the NSW Department of Agriculture.

**P&D (Vic)** means the Victorian Department of Planning and Development.

**PWD** means the NSW Public Works Department.

**RWC (Vic)** means the Rural Water Corporation of Victoria.

**aboriginal site** means any place containing a deposit or material evidence (not being a handicraft made for sale) relating to indigenous and non-European habitation of the land to which this plan applies, being habitation both prior to and concurrent with the occupation of the area by persons of European extraction.

**bank** means a change of slope that defines the extent of the bed of the River Murray.

**bed** means the land which contains the River Murray, including that which is alternately inundated or left bare from a rise or fall in the supply of water, but does not include any land inundated only in time of flood.

**consent authority** means the Council for the local government area in which the proposed development is to be carried out.

**development** is defined in the Act.

**Note—**

See also clause 6 (2).

The expression means, in relation to land:

- (a) the erection of a building on that land,
- (b) the carrying out of a work in, on, over or under that land,
- (c) the use of that land or of a building or work on that land, and
- (d) the subdivision of that land.

Land includes a bay, inlet, lagoon, lake or body of water, a river, stream or watercourse.

**flood liable land** means land identified on the map as flood liable land.

**hazardous industry** means an industry which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the industry from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

**hazardous storage establishment** means any establishment where goods, materials or products are stored which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on the other land in the locality), would pose a significant risk in relation to the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

**offensive industry** means an industry which, when in operation and when all measures proposed to

reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the industry from existing or likely future development on other land in the locality), would emit a polluting discharge (for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

**offensive storage establishment** means any establishment where goods, materials or products are stored which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), would emit a polluting discharge (including, for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

**potentially hazardous industry** means an industry which, if it were to operate without employing any measures (including, for example, measures to isolate the industry from existing or likely future development on other land in the locality) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment,

and includes a hazardous industry and the use of a hazardous storage establishment.

**potentially offensive industry** means an industry which, if it were to operate without employing any measures (including, for example, measures to isolate the industry from existing or likely future development on other land in the locality) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land, and includes an offensive industry and the use of an offensive storage establishment.

**public authority** means a public or local authority constituted by or under any Act, a Government department or a statutory body representing the Crown, and includes a person exercising functions on behalf of that authority, Department or body and also includes a public or local authority constituted under any Act of the Parliament of the Commonwealth, Victoria or South Australia, a government department of the Commonwealth, Victoria or South Australia, a statutory body representing the Crown in right of the Commonwealth, Victoria or South Australia and a person exercising functions on behalf of any such authority, department or body.

**River Management Plan** means any development control plan, plan of management, study, strategy, guideline or the like, which has undergone a public participation process, which is consistent with the aims, objectives and principles of this plan and which is endorsed by the MDBC.

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

**the map** means the map marked “Murray Regional Environmental Plan No 2—Riverine Land” (consisting of an index map and sheets 1–19, 21, 23 and 25–42) deposited in the office of the Department of Planning.

**Vegetation Management Plan** means a plan which is prepared in accordance with guidelines issued

by the DoP for such plans and which is approved by CaLM.