



**Edward
River**
COUNCIL

Planning Proposal No 7

Rezone 13.6ha of land at Lots 2 and 3 DP562598 and Lot 1 DP1121183 being 21701-21703 Riverina Highway, Deniliquin from RU1 Primary Production to R5 Large Lot Residential; reduce the minimum lot size; insert a site specific flood planning clause and a river front area model clause under the Deniliquin LEP 2013 to facilitate a 7 lot residential development.

Planning Proposal Details:

Title	Lots 2 and 3 DP562598 and Lot 1 DP1121183 being 21701-21703 Riverina Highway, Deniliquin known as 'Kyalite Stables'.
Number	Amended planning proposal (PP_2012_DENIL_001_00).
Summary	Rezone 13.6ha of land at Lots 2 and 3 DP562598 and Lot 1 DP1121183 being 21701-21703 Riverina Highway, Deniliquin from RU1 Primary Production to R5 Large Lot Residential; reduce the minimum lot size; insert a site specific flood planning clause and a river front area model clause under the Deniliquin LEP 2013 to facilitate a 7 lot residential development.
Gateway Determination Date	25 October 2012 and amended 18 November 2016

1.0 SUMMARY

This planning proposal seeks to amend the Deniliquin Local Environmental Plan 2013 (LEP 2013) in the following way (and as amended by the gateway determination dated 18 November 2016):

Component of LEP 2013	Explanation of LEP Amendment
Land Zoning Map	Amend Land Zoning Map – Sheet 005 by rezoning part of the subject site from RU1 Primary Production to R5 Large Lot Residential.
Lot Size Map	Amend Lot Size Map – Sheet 005 by inserting two new minimum lot sizes of 1.2ha and 2ha.
Flood Planning Map (new)	Creation of a Flood Planning Map identifying the flood planning area for the subject site.
River Front Area Map (new)	Creation of a River Front Area Map showing the river front area for the subject site.
Flood Planning Clause (new)	Insert a flood planning clause and identifying a flood planning level for the subject site of 1%AEP + 300mm.
River Front Area Clause	Insert a river front area clause for the subject site.

Appendix 1 is the draft mapping.

In addition to amending the LEP 2013, the gateway determination (18 November 2016) also required an amendment to the Deniliquin Development Control Plan 2016 (DCP 2016) to support the provisions for the river front area provisions in the LEP 2013 and to include mapping of building envelopes, access corridors and any flood mitigation structures. Council will consider the amendment to DCP 2016 at the same meeting as it considers this Section 59 Report. Appendix 2 is the draft amendment to DCP 2016.

2.0 GATEWAY DETERMINATION

The gateway determination for the planning proposal was issued on 25 October 2012 which was subsequently amended on 18 November 2016. Council is required to complete the planning proposal by 1 November 2017. This gateway determination has not been subject to a review request.

The conditions of the gateway determination have been complied with and include:

Compliance with conditions of Gateway Determination			
Condition		Consistency	Justification
No.	Process		
1	Inconsistent with s117 directions	Yes	Amended gateway determination stated that this condition had been satisfied by the amended planning proposal.
2	SEPP 55 Remediation of Land	Yes	Council responded to this condition in a letter to the Department of Planning and Environment on 22 November 2016. The Department confirmed that this condition had been complied with in their letter dated 20 December 2016.
3	Principles of clause 10 Murray REP	Yes	Amended gateway determination stated that this condition had been satisfied by the amended planning proposal.
4	Amendment of planning proposal	Yes	Amended planning proposal was submitted to the Department on 15 September 2016.
5	Community consultation	Yes	The planning proposal was exhibited for a minimum of 28 days from 6 February to 7 March 2017. Council complied with the exhibition requirements has identified in section 5.5.2 of 'A Guide to Preparing LEPs'.
6	Consultation with public authorities	Yes	Council consulted with the government agencies as listed in the gateway determination. Details of their submissions are below.
7(a)	Site specific flood planning clause	Yes	Council consulted with the Office of Environment and Heritage and their response was forwarded to the Department on 12 December 2016. The Department confirmed that this condition had been complied within their letter dated 20 December 2016.
7(b)	Site specific river front area clause	No	This will be drafted by the Parliamentary Counsel Office and the Department. Site specific clauses for the Deniliquin DCP 2016 have been drafted and are included in this report.
8	Public hearing	N/A	A public hearing is not required for this planning proposal.
9	LEP timeframe	No	The planning proposal is required to be completed by 1 November 2017.

10	LEP maps	Yes	Maps have been prepared and are compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.
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3.0 COMMUNITY CONSULTATION

The planning proposal was exhibited for a minimum of 28 days from 6 February to 7 March 2017. No submissions were received.

4.0 VIEWS OF PUBLIC AUTHORITIES

The following tables identify the public authorities that were consulted in accordance with the requirements of the gateway determination and summarises issues raised.

Public Authority Consultation			
Public Authority	Response Received	Issues Raised	Response to Issue
Civil Aviation Safety Authority	Yes	No issues raised.	-
NSW Department of Primary Industries - Agriculture	Yes	No issues raised.	-
NSW Department of Primary Industries – Resources and Energy	Yes	No issues raised.	-
Office of Environment and Heritage	Yes	A flood planning level of 1%AEP + 500mm should apply to land within the mapped floodway extent.	This will be included in the flood planning clause.
		A flood planning level of 1%AEP + 300mm should apply to land outside of the mapped floodway extent, within the flood planning area.	This will be included in the flood planning clause.
		OEH concurs with the biodiversity assessment that the proposed rezoning and subdivision is unlikely to have a significant impact upon biodiversity and threatened species.	Noted.
		The Aboriginal Heritage Due Diligence is sufficient to show that no Aboriginal objects have been identified in the proposed area. OEH have recommended	Noted.

		that future development applications consider this assessment when submitting future development applications. Depending on timing of these applications it may be necessary to update the Aboriginal Heritage Information Management System search to address any recently identified Aboriginal objects or places.	
Roads and Maritime Services	Yes	The land zoned SP2 Infrastructure (Classified Road) which has been identified as being required for future road widening purposes and may in the future be acquired by the relevant road authority for road purposes. For the purposes of this planning proposal the current zoning shall remain as is for this area of land.	It is proposed to retain the SP2 zone for the subject site.
		Any future development application should deny vehicular access to the Riverina Highway for the two lots with frontage to this road. This would be consistent with clause 101(2) of State Environmental Planning Policy (Infrastructure).	Noted.
		Relevant issues associated with safe access between the subject site and the public road network and the impact of the development on the safety and efficiency of the road network can be addressed at the development application stage.	Noted.
		Should Council proceed with the planning proposal, the RMS have recommended that the following notation for the land may be appropriate: <i>'The location of any proposed dwelling and ancillary structures on the subject land shall be located at least 5 metres outside the extent of the SP2 zone as per the Deniliquin Local Environmental Plan 2013. Only</i>	Given that Council is amending the Deniliquin Development Control Plan 2016 to provide detailed development controls for this development, it is proposed to insert this requirement into this document.

		<i>minor structures, such as rural fencing and landscaping are permitted to be erected within that part of the subject site that is zoned as SP2.'</i>	
Local Land Services - Murray	No	-	-
NSW Office of Water		The Department of Primary Industries (Water) (DPI Water) considers the proposal will result in development that is inconsistent with a number of specific principles and planning requirements of the Murray Regional Environmental Plan No 2 – Riverine Land. DPI Water has stated that the proposal should be amended. Issues are:	
		Access - The proposal to add a number of private frontages to the river and potential future development such as water structures as referred to in Section 5.3 of the planning proposal, is considered to have the effect of obstructing the River Murray for public purposes and hence should not be supported.	There is currently three lots with frontage to the river and the proposed subdivision would result in an additional two lots with river frontage (total of 5 lots with river frontage resulting from the subdivision). The construction of water recreation structures will be permissible with consent in the proposed zone. Council does not agree that the additional water recreation structures will have the effect of obstructing the River Murray for public purposes. There are currently a significant number of these structures within the River Murray and there is no evidence to suggest that they are obstructing the river for use for public purposes.
		Land Degradation - The proposal to intensify development has the potential to increase use of the riparian area and hence increase land degradation. This should be avoided.	The planning proposal includes an assessment of impacts on biodiversity (including the impacts of vegetation removal) which has concluded that there will be no significant impacts on biodiversity. The planning proposal also includes a number of LEP clauses to minimise impacts on flooding, controls for the retention of vegetation and

			development within the river front area.
		River Related Uses - as the proposal will result in intensification of the use of riverside land, public access should be provided to the foreshore. This is currently not provided.	There is currently established public access points to the river including Twin Rivers Reserve (approximately 350m from the subject site), the Murray Valley Regional Park (opposite the site and almost 400ha in area) and various other public recreation areas with river frontage in Deniliquin (McLean's Beach reserve, Beach to Beach foreshore walk etc).
		Effluent Disposal - this clause indicates effluent disposal to be unsuitable on flood liable land, however the site is flood prone. The proposal to reticulate sewer to the site is considered critical for any development intensification at this site.	Noted.
		The proposal relies on accessing water from the Edward River and hence creating additional domestic water rights. DPI Water is concerned with this approach and the potential for similar types of development in the area. The proliferation of new water rights has the potential to impact significantly and inequitably on existing water users, including the environment. DPI Water recommends the reticulation of water to intensification proposals, or it should be demonstrated that each land allotment has an adequate and self sufficient water supply without having to pump from streams or relying on valuable groundwater resources.	It is proposed that the subdivision will connect to Council's water supply system.
		It is recommended the proliferation of private water recreation structures and other ancillary development in the riparian corridor be avoided to reduce the cumulative impacts to bed and bank stability,	The construction of water recreation structures will be permissible with consent in the proposed zone. Issues of bed and bank stability, impacts on existing riparian vegetation and rehabilitation of riparian

		<p>existing riparian vegetation and the rehabilitation of riparian vegetation. The use of public facilities and the creation of single lots in river front areas is supported to address this issue. The use of a river front area and associated clause as described is insufficient to address proliferation and cumulative impact issues after the land has been rezoned.</p>	<p>vegetation can be considered at development application stage. In terms of public access to the river front, as previously stated there is currently established public access points to the river including Twin Rivers Reserve (approximately 350m from the subject site), the Murray Valley Regional Park (opposite the site and almost 400ha in area) and various other public recreation areas with river frontage in Deniliquin (McLean's Beach reserve, Beach to Beach foreshore walk etc).</p>
		<p>DPI Water is aware the proposed development is not part of an approved land use strategy. It is recommended such a strategy be completed to assist Council in directing development adjacent to rivers</p>	<p>Noted.</p>
Fire and Rescue NSW	No	-	-
NSW Rural Fire Service	Yes	<p>The Rural Fire Service is not satisfied that the proposal has adequately demonstrated that it is consistent with Section 117 Direction 4.4 Planning for Bushfire Protection. Specifically the RFS is concerned that the layout of the proposed subdivision does not comply with Section 4.1.3 Access (2) – Property Access of Planning for Bushfire Protection 2006. It is recommended that consideration be given to a design that complies with these requirements.</p>	<p>The performance criteria for 4.1.3(2) of the Guidelines relates to the provision of access. These issues can be addressed at the development application stage.</p>
		<p>NSW RFS reiterates comments made in relation to previous proposals for the site with regard to the need for clearing of vegetation in close proximity to the Edward River. The location of the nominated building envelopes set out in the proposal will require clearing to create the necessary asset protection zones</p>	<p>The biodiversity assessment completed for the subject site was required to consider any clearing that is permitted under the Rural Fires Act for either asset protection zones or the 10/50 code. The assessment concluded that impacts to biodiversity would be minor as a result of the proposed zoning.</p>

		required for residential development. Council must be confident that clearing will be supported in such close proximity to the Edward River.	
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Copies of all of the responses received is in Appendix 3.

5.0 CONSISTENCY WITH S117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS

The original gateway determination identified that the planning proposal was inconsistent with Section 117 Direction 1.2 Rural Zones, 1.5 Rural Lands and 2.1 Environmental Protection Zones. The planning proposal is consistent the balance of Section 117 Directions or they did not apply to this planning proposal.

The inconsistency with Section 117 Directions 1.2, 1.5 and 2.1 was addressed in the amended planning proposal. The amended gateway determination stated that Council had demonstrated in the amended planning proposal that the inconsistencies with these Section 117 Directions are of minor significance and no further work is required.

The Rural Fire Service have advised that the amended planning proposal is inconsistent with Section 117 Direction 4.4 Planning for Bushfire Protection. Specifically the RFS is concerned that the layout of the proposed subdivision does not comply with Section 4.1.3 Access (2) – Property Access of Planning for Bushfire Protection 2006. It is recommended that consideration be given to a design that complies with these requirements. The performance criteria for 4.1.3(2) of the Guidelines relates to the provision of access. These issues can be addressed at the development application stage.

6.0 PARLIAMENTARY COUNSEL OPINION

Council has not been delegated the plan making process so the Parliamentary Counsel will be requested to draft an opinion by the Department of Planning and Environment.

7.0 OTHER RELEVANT MATTERS

Not applicable.

8.0 MAPPING

All of the mapping for the amended planning proposal is in Appendix 1.

9.0 RECOMMENDATION

It is recommended that the proposed amendment to the Deniliquin Local Environmental Plan 2013 be drafted and made.

Appendix 1

Draft LEP Mapping

Deniliquin Local Environmental Plan 2013 (Amendment No X)

Deniliquin Council
PO Box 270, Civic Place
Deniliquin, NSW, 2710

Map Cover Sheet

The following map sheet is revoked:

Map Sheet	Map Identification Number
Lot Size Map LSZ_005	2500_COM_LSZ_005_020_20150430
Land Zoning Map LZN_005	2500_COM_LZN_005_020_20150430

The following map sheet is adopted:

Map Sheet	Map Identification Number
Lot Size Map LSZ_005	2500_COM_LSZ_005_020_20170331
Land Zoning Map LZN_005	2500_COM_LZN_005_020_20170331
Flood Planning Map FLD_005	2500_COM_FLD_005_020_20170331
River Front Area Map RFA_005	2500_COM_RFA_005_020_20170331

Certified


[Name of Council Delegate]
as delegate for the Minister for Planning

[Date]




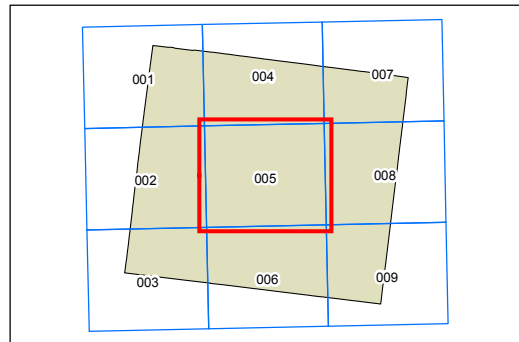
Deniliquin Local Environmental Plan 2013

Flood Planning Map - Sheet FLD_005

 Flood Planning Area

Cadastral

 Cadastral 22/11/2010 © Land and Property Information (LPI)
Addendum data 02/12/13 © Deniliquin Council



0 200 400 600 Metres

Scale: 1:20,000 @ A3

Projection: GDA 1994
MGA Zone 55



Deniliquin Local Environmental Plan 2013

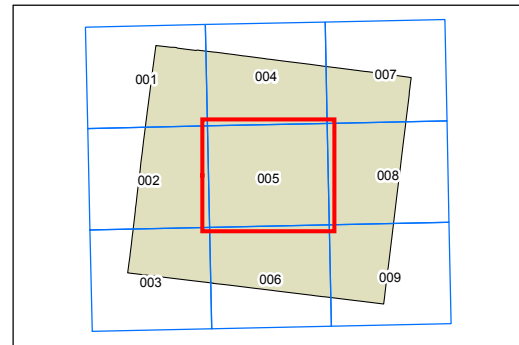
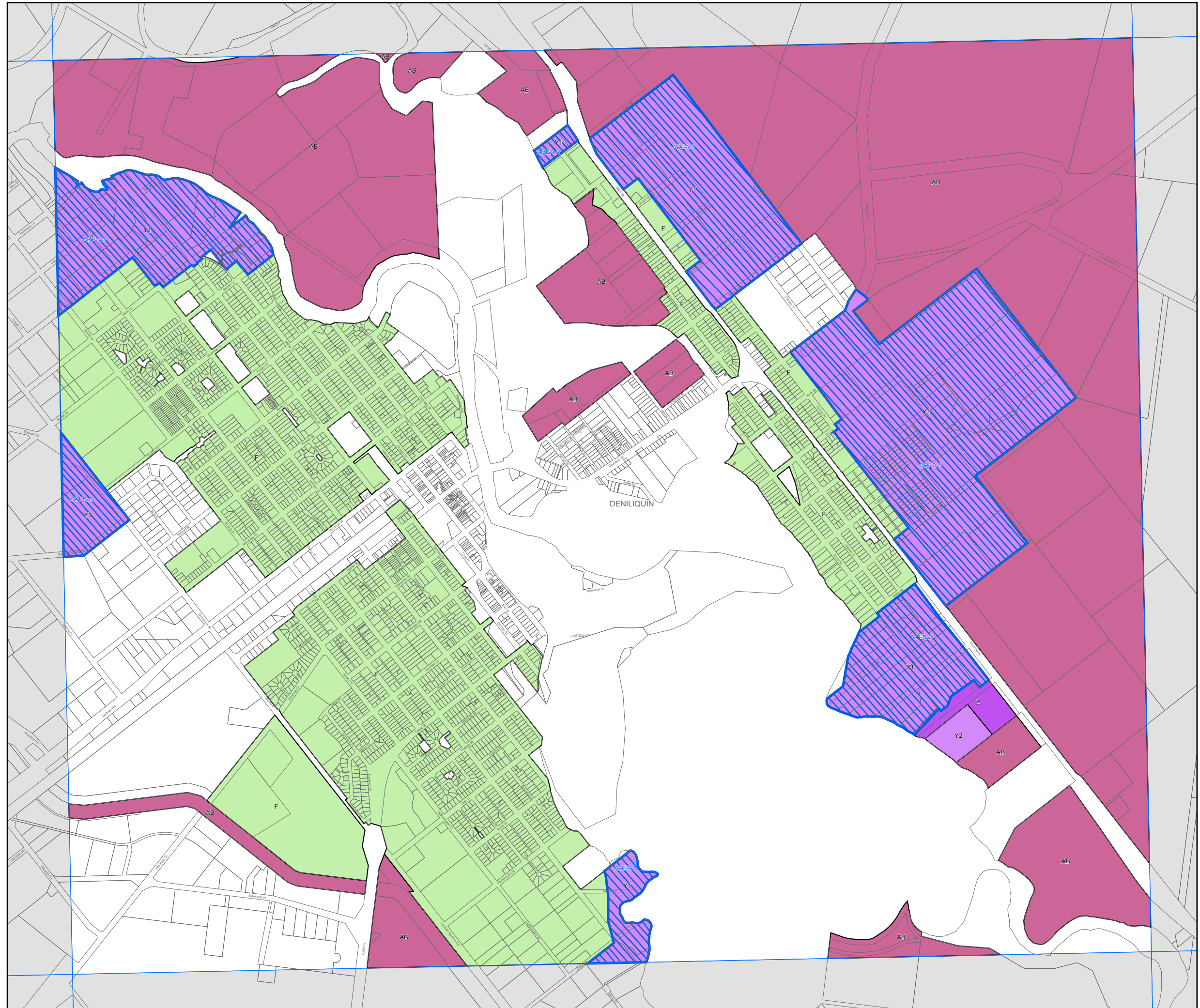
Lot Size Map - Sheet LSZ_005

Minimum Lot Size (sq m)

- F 400
- Y1 1 ha
- Y2 1.2 ha
- Z 2 ha
- AB 40 ha
- Refer to Clause 4.1 (4A)

Cadastre

Cadastre 22/11/2010 © Land and Property Information (LPI)
Addendum data 02/12/13 © Deniliquin Council



0 200 400 600 Metres

Scale: 1:20,000 @ A3

Projection: GDA 1994
MGA Zone 55



Deniliquin Local Environmental Plan 2013

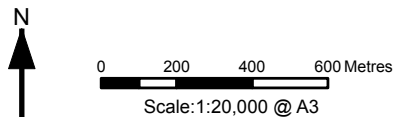
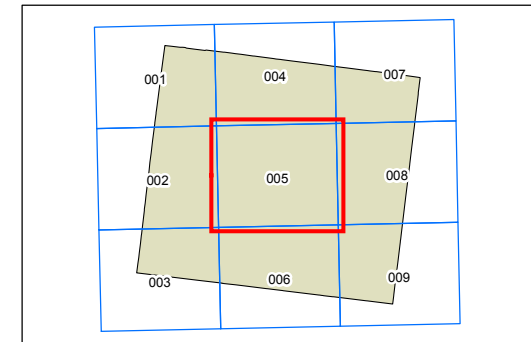
Land Zoning Map - Sheet LZN_005

Zone

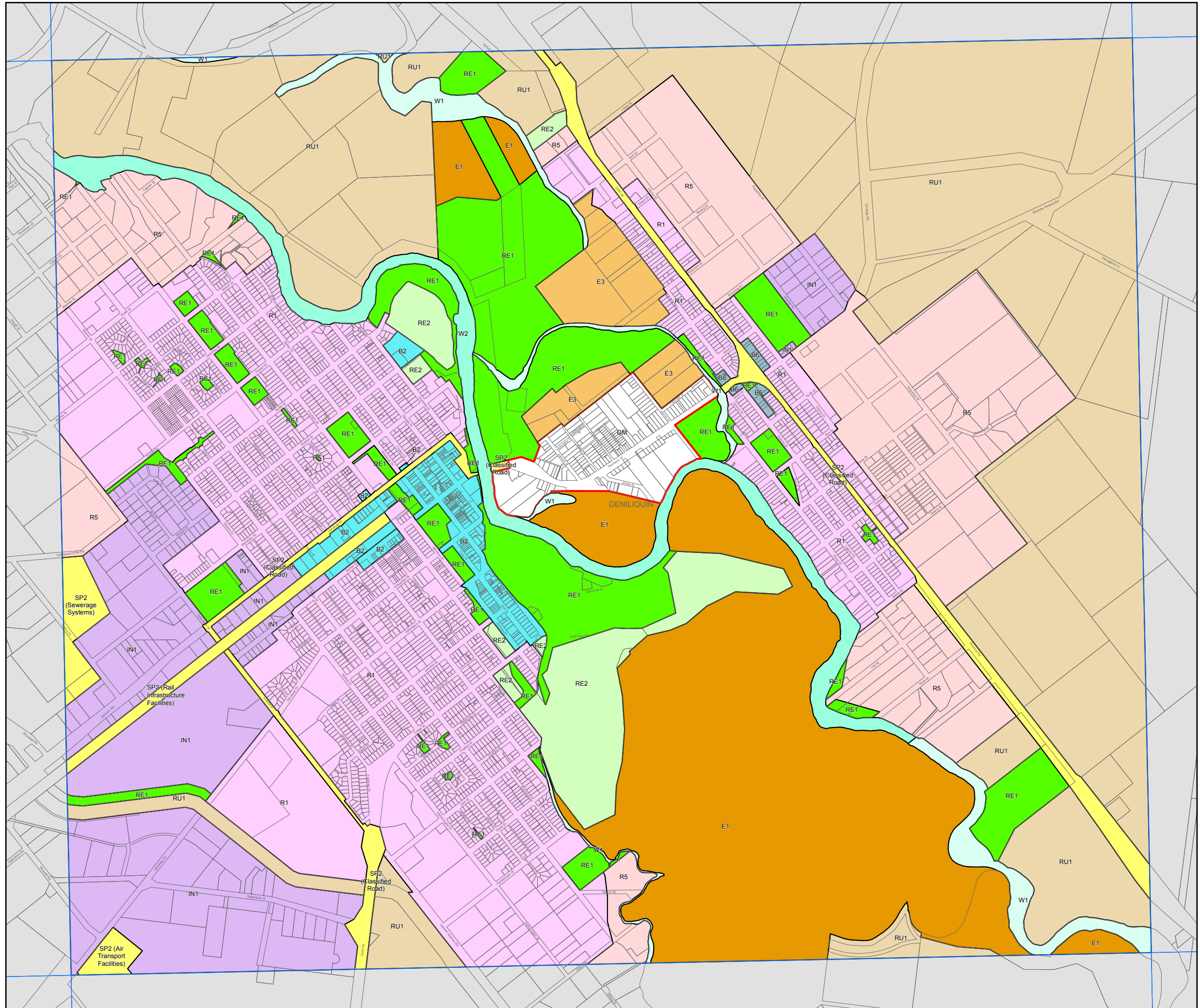
- B2 Local Centre
- B6 Enterprise Corridor
- E1 National Parks and Nature Reserves
- E3 Environmental Management
- IN1 General Industrial
- R1 General Residential
- R5 Large Lot Residential
- RE1 Public Recreation
- RE2 Private Recreation
- RU1 Primary Production
- SP2 Infrastructure
- W1 Natural Waterways
- W2 Recreational Waterways
- DM Deferred Matter

Cadastre

Cadastre 22/11/2010 © Land and Property Information (LPI)
Addendum data 02/12/13 © Deniliquin Council




Projection: GDA 1994
MGA Zone 55
Map identification number: 2500_COM_LZN_005_020_20170331






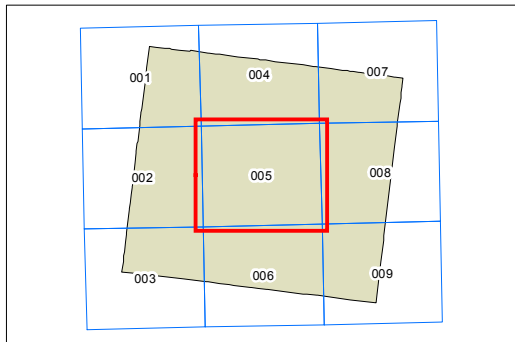
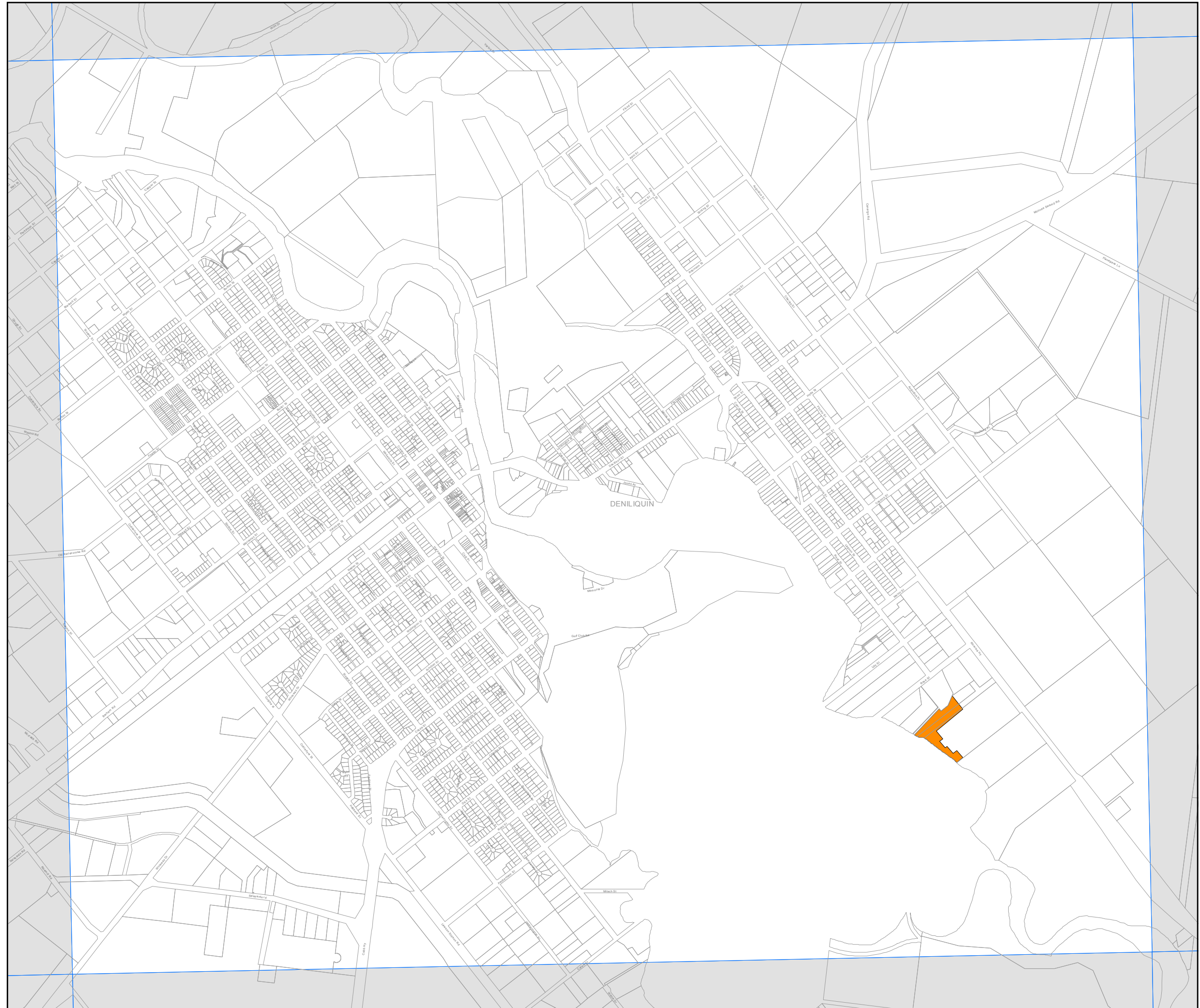
Deniliquin Local Environmental Plan 2013

River Front Area Map - Sheet RFA_005

 River Front Area

Cadastre

 Cadastre 22/11/2010 © Land and Property Information (LPI)
Addendum data @ 02/12/13 © Deniliquin Council



0 200 400 600 Metres

Scale: 1:20,000 @ A3

Projection: GDA 1994
MGA Zone 55

Map identification number: 2500_COM_RFA_005_020_20170331

Appendix 2

Draft Amendment to Deniliquin Development Control Plan

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15.3 DEVELOPMENT ON RIVER FRONT AREAS.....3

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15.4 PRESERVATION OF TREES AND VEGETATION.....15-4

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15 KYALITE STABLES

This Chapter applies to Lots 2 and 3 DP562598 and Lot 1 DP1121183, 21701-21703 Riverina Highway (known as Kyalite Stables). It is important that the development responds to the characteristics of the site by setting development controls for the location of buildings and accesses and vegetation removal.

Where consent is required for development on this site, the development application will be assessed on its ability to meet:

- The zone objectives and provisions of the applicable LEP.
- *Environmental Planning and Assessment Act 1979*, including the provisions of Section 79C.
- The provisions of the *Murray Regional Environmental Plan No 2—Riverine Land*.
- Any other applicable State Environmental Planning Policies.
- Relevant objectives and controls in this DCP.
- Council policies (refer to Chapter 1 Section 1.8).
- Council's Development Manual.

Note: It is important that development complies with all relevant Chapters of this DCP. Applicants should check each Chapter and address all relevant controls.

15.1 CHARACTER OF DEVELOPMENT

Objectives

- a. Create a large lot residential development at 21701-21703 Riverina Highway, North Deniliquin, known as Kyalite Stables, to support lifestyle living opportunities at the periphery of Deniliquin.
- b. To enhance the scenic landscape values of the riverfront areas, as viewed from the site and across the river, with architecturally designed dwellings that reflect the riverfront context of the site.
- c. Create no more than 5 riverfront lots along the Edward River, with lots sizes ranging from 1.2ha to 2ha, in accordance with the Deniliquin LEP 2013 Lot Size Maps.
- d. To ensure a landscaped buffer area is established at the frontage interface with the Riverina Highway, beyond the strip of land along the highway frontage identified for future land acquisition (Deniliquin LEP 2013 Land Reservation Acquisition Map).
- e. To create road and pedestrian access to the site off the Riverina Highway in consultation with Roads and Maritime Service (RMS), with opportunities for a gateway entry feature, signage and if required a slip lane off the highway.
- f. To ensure any future development maintains the terrestrial biodiversity by protecting native fauna and flora, protecting ecological processes and encouraging the conservation and/or recovery of native fauna and flora and their habitats (Refer to Deniliquin LEP 2013 Terrestrial Biodiversity Map)

Controls

1. No more than 5 riverfront lots along the Edward River with lot sizes ranging from 1.2ha to 2ha in accordance with the Deniliquin LEP 2013 Lot Size Maps.
2. A landscape buffer is to be planted and maintained at the frontage interface with the Riverina Highway beyond the land identified for future land acquisition (Deniliquin LEP 2013 Land Reservation Acquisition Map).
3. Pedestrian and vehicular access to the site from the Riverina Highway is to be constructed in accordance with the requirements of the Roads and Maritime Service and Council.
4. Future development of the land is to have consideration of the Deniliquin LEP 2013 Terrestrial Biodiversity Map.

15.2 BUILDING AND ACCESS ENVELOPES

Objectives

- a. Ensure that buildings and accesses constructed on the site are located within the identified building envelopes.
- b. Ensure that there is no significant impact from flooding on adjoining properties.
- c. Ensure that the site is developed in accordance with the flood modelling prepared for the site.

Controls

1. Development for the purposes of residential accommodation and ancillary structures is to occur within the prescribed building envelope as shown in Figure 15-1 (red hatching).
2. Construction of accesses within each lot is to occur within access envelopes identified in Figure 15-1 (blue hatching).
3. Construction of flood mitigating / flow structures such as culverts are required to occur in accordance with the site-specific flood modelling work (Kyalite Stables Flood Impact Assessment (WMAwater, 16 December 2015)) and as presented in Figure 15-1.

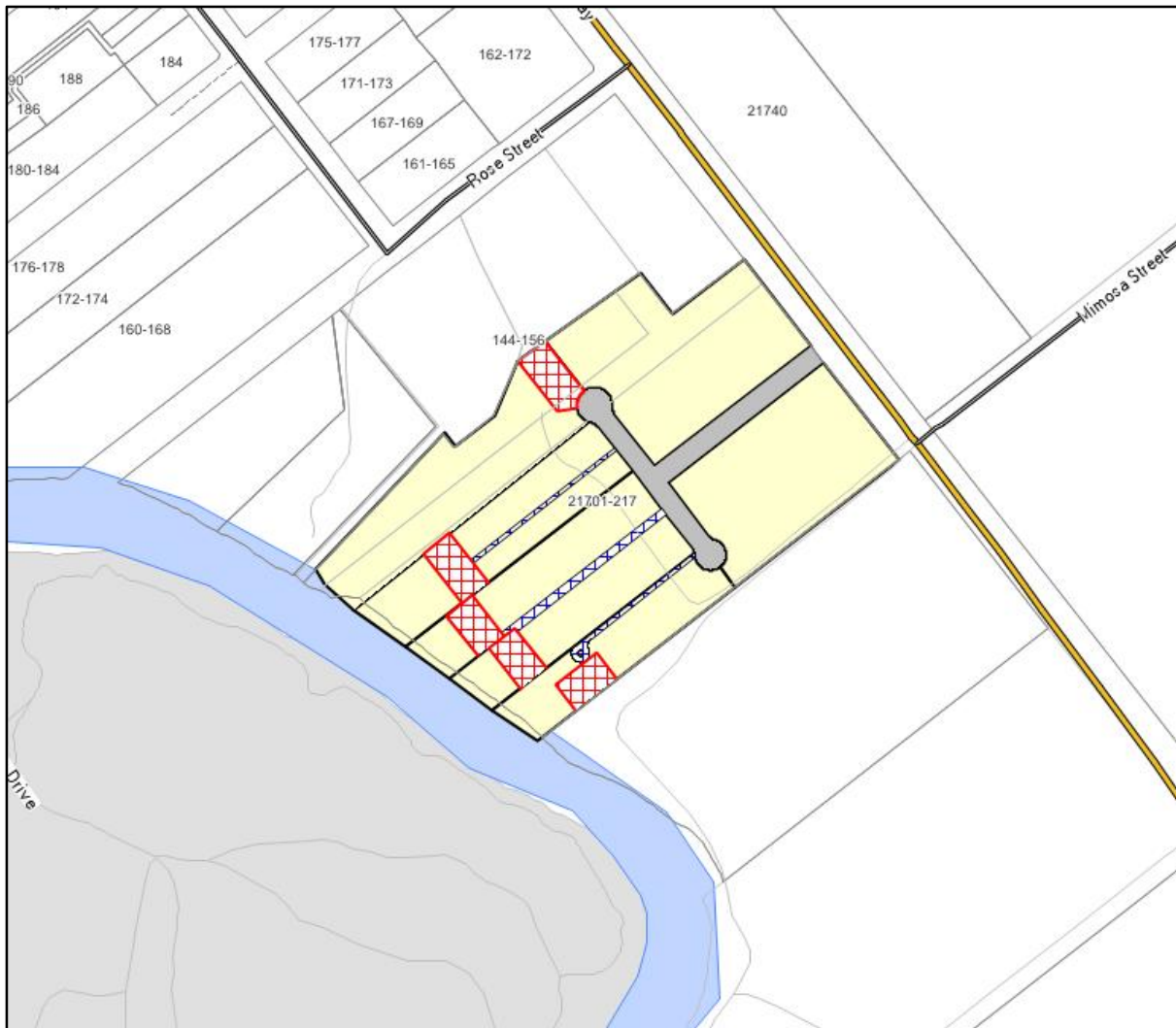


Figure 15-1: Nominated building envelopes

The location of building and access envelopes on site is to verified using GIS data and by survey.

15.3 DEVELOPMENT ON RIVER FRONT AREAS

Objectives

- a. To facilitate limited river front residential development along the Edward River at Deniliquin.
- b. To conserve and maintain existing native flora and fauna along the riverfront.
- c. To protect the landscape and scenic value of riverfront land as viewed from the site and from across the river.

Controls

1. Dwellings and other structures are prohibited on the area mapped “river front area” in the River Front Area Map under Deniliquin LEP 2013 River Front Areas Map.

15.4 FLOOD PLANNING

Objectives

- a. To minimise the flood risk to life and property and avoid significant adverse impacts on the flood behaviour of the riverine environment and neighbouring properties.
- b. To protect and improve the bed and bank stability of the Edward River.
- c. To facilitate limited residential development at the site, in accordance with site specific flood modelling (Kyalite Stables Flood Impact Assessment (WMAwater, 16 December 2015)), the *Edward River at Deniliquin Flood Study* and the *Edward River at Deniliquin Floodplain Risk Management Plan and Study*.

Controls

- a. Any development on the site must be consistent with the flood hazard of the land, with a flood planning level of:
 - 1:100 ARI plus 0.5 metre freeboard within areas mapped within a floodway extent, or
 - 1:100 ARI plus 0.3 metre freeboard within areas mapped outside the floodway extent.
- b. *Freeboard* provides a safety factor for greater protection against different types of flooding and describes a factor of safety expressed in metres above a flood level for flood protective or control works. Freeboard is intended to allow for the uncertainties in design and construction. Adding a freeboard to a flood level can greatly reduce the risk of a structure flooding.

15.5 PRESERVATION OF TREES AND VEGETATION

Objectives

- a. To prescribe vegetation and trees for the purposes of clause 5.9(2) of the Deniliquin LEP 2013.

Controls

1. For the purposes of clause 5.9(2) of the Deniliquin LEP 2013 prescribed vegetation is locally indigenous vegetation or trees equal to or greater than five (5) metres in height.

Appendix 3

Government Agency Responses



Australian Government
Civil Aviation Safety Authority

STAKEHOLDER ENGAGEMENT GROUP

CASA Ref: G117/104

2 March 2017

Ms Julie Rogers
Manager Environmental Services
Economic and Business Development
Edward River Council
PO Box 270
DENILQUIN NSW 2710

Email: julie.rogers@edwardriver.nsw.gov.au

Dear Ms Rogers

I refer to your letter of 1 February 2017 addressed to the Civil Aviation Safety Authority (CASA) regarding a draft amendment to the Deniliquin Local Environmental Plan 2013, planning proposal at 7 Kyalite Stables.

CASA has no comments, noting the Council's advice 'the development falls outside the Obstacle Limitation Surface and PANS-OPS airspace'.

I trust this information is of assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'CHutton'.

Carolyn Hutton
Manager
Government and International Relations Branch



2nd March 2017

Julie Rogers
Manager Environmental Services
Economic and Business Development
Edward River Council
PO Box 270
Deniliquin NSW 2710

Emailed: julie.rogers@edwardriver.nsw.gov.au

Your Reference: email to this Department 1/2/2017
Our Reference (TRIM): OUT17/ 9512

Dear Ms Rogers

Re: Draft Amendment to Deniliquin LEP 2013 – Planning Proposal – 7 Kyalite Stables – located on Lots 2 and 3 DP562598 and Lot 1 DP1121183

Thank you for the opportunity to provide advice on the above matter. This is a response from NSW Department of Industry – Geological Survey of New South Wales (GSNSW).

General Information

The New South Wales Department of Industry Geological Survey of New South Wales (GSNSW) has no issues to raise as there are no current mineral, coal or petroleum titles over the site and the proposal should have no impact upon mineral, coal or petroleum resources.

Geoscience Information Services

The GSNSW has a range of online data related to mineral exploration, land use and general geoscience topics:

<http://www.resources.nsw.gov.au/geological/online-services>

The location of current exploration and mining titles in NSW, explanations of mining and production titles and the roles of community and government in the decision making process for mining/resource projects may be accessed by the general public using the following online utilities:

<http://commonground.nsw.gov.au>

Queries regarding the above information, and future requests for advice in relation to this matter, should be directed to the GSNSW Land Use team at landuse.minerals@industry.nsw.gov.au.

Yours sincerely

Cressida Gilmore
Manager - Land Use



Department of Primary Industries

OUT17/10323

7-3-17

Julie Rogers
Manager Environmental Services
Edward River Council
PO Box 270
Deniliquin NSW 2710

Dear Julie

Draft Amendment to Deniliquin LEP 2013 – Planning Proposal 7 Kyalite Stables

Thank you for the opportunity to provide comment for the above proposal as per your correspondence dated 1 February 2017.

The NSW Department of Primary Industries Agriculture provides advice to consent authorities about the protection and growth of agricultural industries and the resources upon which these industries depend to provide economic growth.

The proposal has been reviewed against the NSW DPI Farm Subdivision Assessment Guideline and it has been determined that there will be no significant impacts on the area's agricultural resources by this proposal.

Yours sincerely

A handwritten signature in black ink that reads "Lilian Parker".

Lilian Parker
Agriculture Landuse Planning



Contact: Tim Baker
Phone: 02 9841 7403
Mobile: 0428 162 097
Fax: 02 6884 0096
Email: tim.baker@dpi.nsw.gov.au

Julie Rogers
Edward River Council
PO Box 270
DENILIQUN NSW 2710

Our ref: OUT17/10588

8 March 2017

Dear Julie

DRAFT AMENDMENT TO DENILIQUN LOCAL ENVIRONMENTAL PLAN 2013 – PLANNING PROPOSAL 7 KYALITE STABLES

I refer to your letter dated 1st February 2017 providing DPI Water an opportunity to comment on a proposed amendment to the Deniliquin Local Environmental Plan 2013. It is understood this consultation is a requirement of a Gateway Determination and is occurring under Section 56(2)(d) of the *Environmental Planning and Assessment Act 1979*. DPI Water has reviewed the planning proposal (PP) and has identified a number of inconsistencies with existing strategic planning principles. The following comments and recommendations are provided:

- The proposal aims to rezone land from RU1 Primary Production to R5 Large Lot Residential to facilitate a 7 lot subdivision. The Minimum Lot Size is proposed to reduce from 40ha down to 1 to 2ha. 5 of the lots are proposed to front the Edward River with frontage widths of approximately 50m.
- DPI Water considers the proposal will result in development that is inconsistent with a number of the specific principles and planning requirements of the Murray Regional Environmental Plan No.2 – Riverine Land. These include the following:
 - Clause 10 Access – the proposal to add a number of private frontages to the river and potential future development such as water structures as referred to in Section 5.3 of the PP is considered to have the effect of obstructing the River Murray for public purposes and hence should not be supported.
 - Clause 10 Land degradation – the proposal to intensify development has the potential to increase use of the riparian area and hence increase land degradation. This should be avoided.
 - Clause 10 River Related Uses – as the proposal will result in intensification of the use of riverside land public access should be provided to the foreshore. This is currently not provided.
 - Clause 14 (4a) Effluent disposal – this clause indicates effluent disposal to be unsuitable on flood liable land, however the site is flood prone. The proposal to

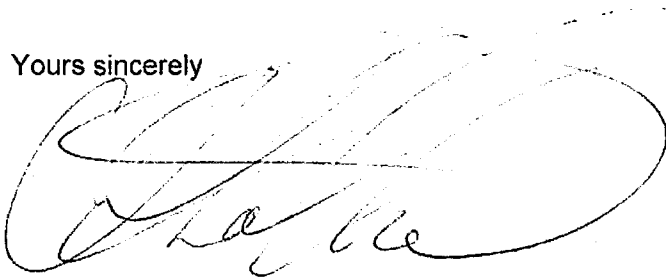
reticulate sewer to the site is considered critical for any development intensification at this site.

- The proposal relies on accessing water from the Edward River and hence creating additional domestic water rights. DPI Water is concerned with this approach and the potential for similar types of development in the area. The proliferation of new water rights has the potential to impact significantly and inequitably on existing water users, including the environment. DPI Water recommends the reticulation of water to intensification proposals, or it should be demonstrated that each land allotment has an adequate and self sufficient water supply without having to pump from streams or relying on valuable groundwater resources.
- It is recommended the proliferation of private water recreation structures and other ancillary development in the riparian corridor be avoided to reduce the cumulative impacts to bed and bank stability, existing riparian vegetation and the rehabilitation of riparian vegetation. The use of public facilities and the creation of single lots in river front areas is supported to address this issue. The use of a river front area and associated clause as described is insufficient to address proliferation and cumulative impact issues after the land has been rezoned.
- DPI Water is aware the proposed development is not part of an approved landuse strategy. It is recommended such a strategy be completed to assist Council in directing development adjacent to rivers.

Based on the inconsistencies identified both within the Murray Regional Environmental Plan No.2 and general water management and supply issues it is recommended the proposal be amended.

Should you have any further queries in relation to this submission please do not hesitate to contact Tim Baker on (02) 6841 7403.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Vickie Chatfield', written over a large, faint circular stamp or watermark.

Vickie Chatfield
Manager, Regional Water Regulation
Department of Primary Industries Water



NSW RURAL FIRE SERVICE



The General Manager
Edward River Council
PO Box 270
DENILIQUN NSW 2710

Your reference: Nil
Our reference: R17/386

24 February 2017

Attention: Julie Rogers

Dear Julie,

Draft Amendment to Deniliquin Local Environmental Plan 2013 - Planning Proposal 7 Kyalite Stables

I refer to your correspondence dated 1 February 2017 seeking comment in relation to the above proposal which seeks to rezone the land from RU1 Primary Production to R5 Large Lot Residential.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the proposal with regard to Section 4.4 of the directions issued in accordance with Section 117(2) of the *Environmental Planning and Assessment Act 1979*.

The objectives of the direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- (b) to encourage sound management of bush fire prone areas.

The direction provides that a planning proposal must:

- (a) have regard to *Planning for Bushfire Protection 2006*,
- (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
- (c) ensure that bushfire hazard reduction is not prohibited within the APZ.

On the basis of the information provided, the NSW RFS is not satisfied that the proposal has adequately demonstrated that it is consistent with the directions.

Specifically, the NSW RFS is concerned that the layout of the proposed seven lot subdivision does not comply with Section 4.1.3 Access (2) - Property Access of *Planning for Bush Fire Protection 2006 (PBP)*. It is recommended that consideration be given to a design that complies with these requirements.

In addition, the NSW RFS reiterates comments made in relation to previous proposals for the site with regard to the need for clearing of vegetation in close proximity to the Edward River. The location of the nominated building envelopes set out in the proposal will require clearing to create the necessary asset protection zones required for residential development. Council must be confident that clearing will be supported in such close proximity to the Edward River.

Yours sincerely,

Jason Masjen
Team Leader, Development Assessment & Planning - East

Postal address

NSW Rural Fire Service
Records Management
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
Planning & Environment Services - South
Unit 2, 63 Cranbrook Road
BATEMANS BAY NSW

T (02) 4472 0600
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www.rfs.nsw.gov.au

Email:
csc@rfs.nsw.gov.au





**Office of
Environment
& Heritage**

Your reference PP 7 Kyalite Stables
Our reference: DOC17/92465
Contact: Peter Ewin
Ph. 6022 0606

Mr Des Bilske
Interim General Manager
Edward River Council
PO Box 270
DENILQUIN NSW 2710

Via email: council@edwardriver.nsw.gov.au

Dear Mr Bilske

**RE: Draft Amendment to Deniliquin Local Environmental Plan 2013 – Planning Proposal 7
Kyalite Stables**

I refer to your letter dated 1 February 2017 to the Office of Environment and Heritage (OEH) seeking comment on the Draft Amendment to the *Deniliquin Local Environmental Plan 2013 – Planning Proposal 7 Kyalite Stables*.

OEH has reviewed the documentation provided and the issues we have previously raised have been addressed. For clarity the key points are as follows:

Consistent with the draft Edward River at Deniliquin Floodplain Risk Management Study and Plan:

- A flood planning level of 1% AEP level + 500 mm should apply to land within the mapped floodway extent; and
- A flood planning level of 1% AEP level + 300 mm should apply to land outside of the mapped floodway extent, within the flood planning area.

OEH supports the location of building envelopes outside the floodway, as identified in the Planning Proposal.

OEH concurs with the assessment that the proposed rezoning and associated seven lot subdivision is unlikely to have a significant impact upon biodiversity, including threatened species. The assessment of significance for impacts on threatened species and communities adequately addresses the relevant issues.

While OEH does not endorse Due Diligence assessments, the information presented is sufficient to show that no Aboriginal objects have been identified in the proposed area. We recommend that future development applications consider this assessment when submitting future development applications. Depending on the timing of these applications it may be necessary to update the Aboriginal Heritage Information Management System search to address any recently identified Aboriginal objects or places.

If you have any questions regarding this matter please contact me on (02) 6022 0606 or by email on peter.ewin@environment.nsw.gov.au.

Yours sincerely

PETER EWIN
Senior Team Leader Planning
South West Region
Regional Operations
Office of Environment and Heritage



17 March 2017

SF2017/036815
CR2017/000700

The General Manager
Edward River Council
PO Box 270
DENILIQUN NSW 2710

Attention: Julie Rogers

DRAFT AMENDMENT TO DENILIQUN LOCAL ENVIRONMENTAL PLAN 2013 - PLANNING PROPOSAL - KYALITE STABLES, LOTS 2 AND 3 DP562598 AND LOT 1 DP1121183, RIVERINA HIGHWAY (HW20), DENILIQUN.

I refer to your correspondence regarding the subject Application which was referred to the Roads and Maritime Services for assessment and comment.

From the information supplied it is understood that the planning proposal to amend the Deniliquin Local Environmental Plan 2013 is for the rezoning of the subject site from RU1 – Primary Production to R5 – Large Lot Residential to allow for a future subdivision to create 7 allotments which are intended to be used for rural residential purposes and a new road to the Riverina Highway. The subject site has frontage to the Riverina Highway (HW20) within a 100 km/h speed zone.

Currently the Deniliquin Local Environmental Plan identifies a strip of land, which is defined by DP 247147 along the frontage of the subject site to the Riverina Highway as SP2 Infrastructure. This land has been identified as being required for future road widening purposes and may in the future be acquired by the relevant road authority for road purposes. For the purposes of this planning proposal the current zoning shall remain as is for this strip of land along the frontage of the subject site.

Under the provisions of the SP2 zone no significant buildings or major structures are permitted to be built or established on this part of the site. Clause 100 of State Environmental Planning Policy (Infrastructure) essentially states that consent for development which meets the specified criteria, as listed in that clause, on land reserved for the purposes of a classified road may only be granted with the concurrence of Roads and Maritime Services. Information relating to any land acquisition was forwarded to Council in correspondence dated 20 January 2012.

It is understood that the proposed subdivision will be subject to submission of Development Application in future if the proposed rezoning is approved. However from the information provided it is noted that all the proposed allotments are designed with have frontage and therefore vehicular access to a new road however 2 of the allotments (proposed Lots 10 and 11) will also have frontage to the road reserve of the Riverina Highway. This SP2 zone affects proposed Lots 10 and 11 along the frontage to the Riverina Highway. To deny access from these 2 allotments directly to the Riverina Highway is consistent with the provisions of Clause 101(2) of State Environmental

Planning Policy (Infrastructure). Further to this the current roadside environment and the speed limit along the Riverina Highway in the vicinity of the development site gives the motorist the impression of this road as being a rural road having limited access points rather than an urban road along which multiple access points at limited spacing would be expected.

Roads and Maritime Services is mainly concerned with the provision of safe access between the subject site and the public road network and the impact of the development on the safety and efficiency of the road network. Relevant issues for road safety and intersection design within the 100 km/h speed zone will be addressed as part of the future Development Application.

Roads and Maritime Services has assessed the planning proposal based on the information provided and advises that it would not object to the rezoning as proposed subject to consideration of the issues outlined above and the retention of the SP2 Infrastructure zone as defined by plan DP 247147 and identified on the per the current Local Environmental Plan.

Should Council resolve to amend the Deniliquin Local Environmental Plan 2013 the inclusion of the following notation may be appropriate:-

1. The location of any proposed dwelling and ancillary structures on the subject land shall be located at least 5 metres outside the extent of the SP2 zone as per the Deniliquin Local Environmental Plan 2013. Only minor structures, such as rural fencing and landscaping are permitted to be erected within that part of the subject site that is zoned as SP2.

Any enquiries regarding this correspondence may be referred to the Manager, Land Use for Roads and Maritime Services (South West Region), Maurice Morgan, phone (02) 6923 6611.

Yours faithfully



Per:
Mr Lindsay Tanner
Regional Manager
South West Region