

Deniliquin Development Control Plan



2016

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1 INTRODUCTION

1.1 NAME OF THIS PLAN

The name of this Plan is the Deniliquin Development Control Plan 2016 (DCP).

1.2 LAND TO WHICH THIS PLAN APPLIES

The DCP applies to all land within the Deniliquin Local Government Area.

1.3 DATE OF COMMENCEMENT

The DCP has been prepared under Section 74C of the Environmental Planning and Assessment Act 1979 and was approved by Deniliquin Council on 27 April 2016. The Plan came into effect on 6 May 2016, being the date that public notification of the adoption of the DCP was published in the Deniliquin Pastoral Times newspaper.

1.4 RELATIONSHIP WITH OTHER PLANS AND POLICIES

The DCP **repeals** all other DCPs for Deniliquin Council, including:

- Development Control Plan No 1 Urban.
- Development Control Plan No 2 Davidson Street.
- Development Control Plan No 3 Flood Prone Lands Davidson Street Area.
- Development Control Plan No 5 Deniliquin Aerodrome Land.
- Development Control Plan No 6 Exhibition and Notification.

The DCP should be read in conjunction with:

- *Deniliquin Local Environmental Plan 2013* (LEP 2013).
- *Deniliquin Local Environmental Plan 1997* (LEP 1997), where land is within area labelled "Deferred Matter" in Figure 1-1.
- *Murray Regional Environmental Plan No.2 –Riverine Land*.
- Relevant State Environmental Planning Policies (SEPPs).
- Relevant Council policies.
- Council's Development Control Manual.

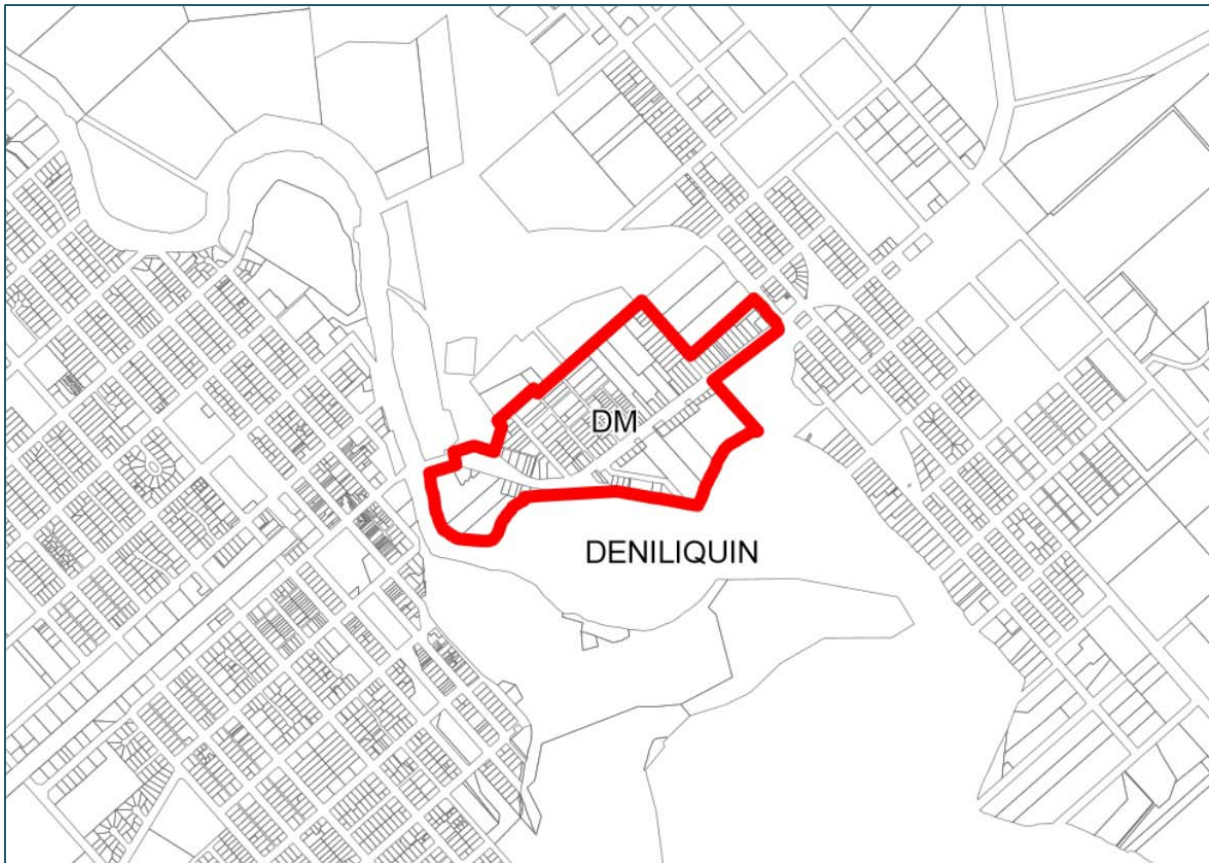


Figure 1-1 Land to Which LEP 1997 Applies

Where there is an inconsistency between the DCP and any environmental planning instrument applying to the same land, then the provisions of the environmental planning instrument shall prevail.

1.5 AIMS OF THIS PLAN

The general aims of this DCP are to:

- a. Promote growth and development to support and enhance the vitality of the Central Business District.
- b. Encourage development that responds to the needs of the community.
- c. Encourage residential development of a high standard to improve the quality of the urban environment.
- d. Encourage development that respects and minimises the impacts on surrounding land and the wider environment.
- e. Encourage new development that will enhance streetscapes and vistas.
- f. Ensure that development incorporates safe, effective and convenient pedestrian, bicycle and vehicle access, movement and parking areas.

- g. Encourage energy efficiency in building design.
- h. Provide for effective and well-utilised open space with security and access for the community.
- i. Control and minimise the impact of stormwater run-off.
- j. Ensure that new development is fully integrated into Council's sewerage system wherever possible.
- k. Promote the orderly and efficient development of land to ensure that provision of services to that land is adequate.

Council shall not grant consent to the carrying out of development on land to which the DCP applies unless it is satisfied that the development is consistent with the aims of the Plan.

1.6 SAVINGS AND TRANSITIONAL PROVISIONS

A development application shall be determined in accordance with the provisions of the DCP that applied at the date of lodgement.

1.7 TYPES OF DEVELOPMENT

1.7.1 Exempt Development

Exempt development is development considered to be of minimal environmental impact and does **not** need the consent of Council. Exempt development must be carried out in accordance with the instrument that defines it as being exempt. It is the applicant's responsibility to ensure that compliance with relevant standards is achieved. Council's Environmental Services section can help you determine if your development is exempt development.

A development may be defined as "exempt" by:

- o *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, and
- o Any other relevant environmental planning instrument.

It is noted that exempt development is not excluded from any approval, licence, permit or authority that is required under any other Act. Adjoining owner's property rights and the common law still apply.

1.7.2 Development Permitted Without Consent

Where an environmental planning instrument states that a type of development on particular land is "permitted without consent", the development may be carried out in accordance with the instrument without obtaining development consent. Even though development consent may not be needed, in some cases the environmental impact of the development may still need to be considered in accordance with Part 5 of the *Environmental Planning and Assessment Act 1979*.

1.7.3 Development Permitted With Consent

Where an environmental planning instrument states that a type of development on particular land is “permitted with consent”, development consent must first be obtained by way of a development application or application for a complying development certificate. In assessing an application Council must ensure the development would not generate significant impacts and that it is compatible with relevant plans, policies and the objectives and controls of this DCP.

1.7.4 Prohibited Development

Prohibited development is development that is listed as ‘Prohibited’ in:

- The Land Use Table of LEP 2013,
- The land Use Table of LEP 1997 (where applicable),
- The Planning Control and Consultation Table under clause 13 of the MREP No. 2, and
- Any other relevant environmental planning instrument.

Council is not able to accept an application for development that is prohibited. If a development application for prohibited development is submitted to Council, the application will be returned to the applicant.

1.8 USING THIS PLAN

This Plan applies where a development application is required. Generally a Local Environmental Plan (LEP) details whether a development requires consent. However in some cases another environmental planning instrument may override an LEP, for example the *State Environmental Planning Policy (Infrastructure) 2007*. Figure 1-2 provides a guide to working out if you require consent for your development using one of Deniliquin’s LEPs.

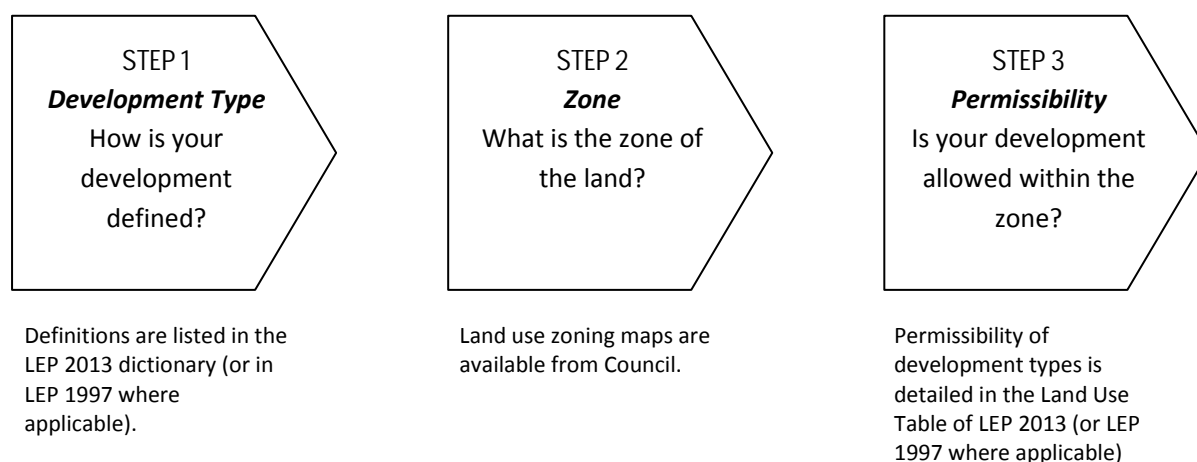


Figure 1-2 Is a Development Application Required?

If your development is listed as “permitted with consent” in the Land Use Table of the LEP that applies to your land, you will be required to submit either a development application or an application for a complying development certificate. Complying development is defined by the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or by the LEP that applies to the site.

This DCP applies to development that is “permitted with consent” but does not include complying development. Figure 1-3 provides a guide to working out what matters need to be addressed in a development application to Council. It is important that applicants check all sections of the DCP for relevance. In applying for development consent, applicants must respond to each section that applies to the proposal or the subject land.

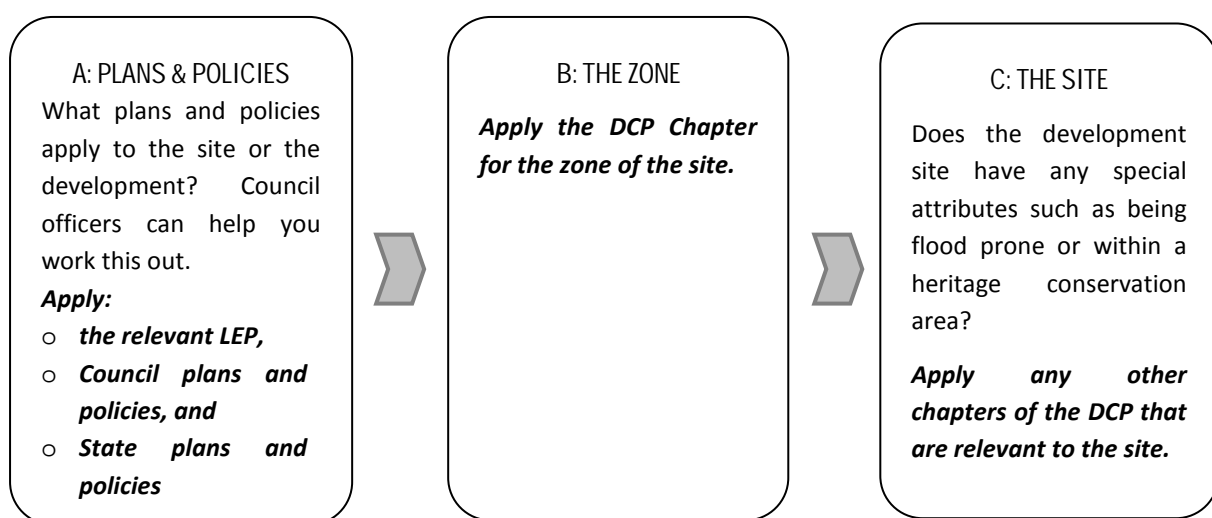


Figure 1-3 What Does My Development Application Need to Meet or Address?

Council Policies

The most commonly used Council policies include:

- Technical Services Policy 4.9 Water and Sewer Limits
- Technical Services Policy 4.20 Road Upgrading Construction Policy
- Technical Services Policy 4.21 Liquid Trade Waste
- Town Planning Policy 5.7 Obstruction to and on Flood Protection Levees
- Town Planning Policy 5.9 Flood Planning Levels
- Town Planning Policy 5.10 Bonds and Development Contributions
- Building Policy 6.3 Location of Buildings over Sewer Mains

1.9 DEVELOPER CONTRIBUTIONS

Headworks Contributions

Under the provisions of Section 64 of the *Local Government Act 1993* Council is able to collect water and sewerage headworks fees to help pay for improvements and rehabilitation works to water and sewer infrastructure. Council has a Headworks Plan in place that details the levies that are applicable and the circumstances under which they are payable. Please speak to Council’s staff for a copy of the Plan and an explanation of the fees that may apply to your new development.

Voluntary Planning Agreements

Developers may make contributions, in accordance with section 93F of the *Environmental Planning and Assessment Act 1979*, by entering into a voluntary planning agreement (VPA) with Council. This allows developers to provide public benefits in conjunction with a development or rezoning.

Public benefits can be in the form of monetary contributions to fund public benefits, dedication of land and direct provision of public benefits, including:

- Public infrastructure and facilities such as footpaths, parks, park embellishments, stormwater drainage, sport and recreation facilities, a carpark, public toilets, landscaping and footpaths
- Affordable housing
- Mitigation for the loss of public amenity caused by the development

VPA's are generally suited to large or complex proposals where public benefits can be negotiated. They cannot be used to break the planning controls for a site or to achieve development that is unreasonable or does not meet planning principles for good development.

Developers should negotiate a VPA with Council before lodging a development application for the work. A draft copy of the VPA would then be lodged with the development application and placed on public exhibition.

Council can also require a VPA as a condition of consent for a development. In this case the agreement made must be consistent with the other conditions of consent.

1.10 LODGING A DEVELOPMENT APPLICATION

If your proposal requires development consent, it is necessary to make the appropriate application for consideration and assessment.

Council has prepared an Application Guide to assist you in preparing your development application, available from Council's website or customer service desk. However, it is highly recommended that you discuss your proposal with Council Officer(s) prior to lodging an application. This will assist in avoiding delays and requests for additional information during the assessment process to ensure compliance with the requirements of the *Environmental Planning and Assessment Act 1979*.

Council has a range of checklists on its website to assist you in preparing your development application. These checklists detail information and the number of copies required. As a minimum, all development applications should be accompanied by the following:

- Completed Development Application form, including written authority of all the owners of the land to which the application relates.
- Statement of Environmental Effects.
- A set of development plans as detailed in the checklists.
- Additional information, plans and/or documents specified in the appropriate checklists.

- Application fees as per Council's Schedule of Fees and Charges.

Following the assessment of a development application, Council may approve the application with conditions of consent, approve the application without conditions of consent or refuse the application. A formal Notice of Determination will be issued to the applicant detailing Council's decision, any conditions of consent, reasons for refusal if applicable and relevant dates applying to the notice.

1.11 NOTIFICATION OF A DEVELOPMENT APPLICATION

The following table details Council's notification and exhibition policy.

Table 1-1 Notification and Exhibition Policy

Application Type	Property Sign	Advertisement In Local Paper	Neighbour Notification Letters	Public Authority Notification	Exhibition Period
Murray REP No. 2: Development required to be advertised in accordance with clause 13. Consultation may also be required for development in accordance with clause 12.	Yes	Yes (a minimum of two separate occasions)	Yes	<ul style="list-style-type: none"> ○ Public authorities specified by clause 12 and/or 13. ○ Any other public authorities Council considers appropriate. 	30 days
DA – LEP 1997 “Deferred Area”: for boarding houses, hotels, motels, residential flat buildings, industries (other than home industries and rural industries) in 1(a) General Rural zone, intensive livestock keeping establishments, junkyards, liquid fuel depots, sawmills, stock and sale yards.	Yes	Yes	Yes	<ul style="list-style-type: none"> ○ Where Council considers appropriate. ○ Where required under MREP No. 2. 	14 days
DA – Designated Development	Yes	Yes (a minimum of two separate occasions)	Yes	<ul style="list-style-type: none"> ○ Where Council considers appropriate. ○ Where required under MREP No. 2. 	30 days
DA – Nominated Integrated Development Needing approval under one or more of the following acts as specified in section 91(1) of the EP&A Act : <ul style="list-style-type: none"> ▪ Heritage Act 1977 ▪ Water Management Act 2000 ▪ Protection of the Environment 	Yes	Yes	Yes	<ul style="list-style-type: none"> ○ Relevant concurrence authorities and/or approval bodies. ○ Where Council considers appropriate. ○ Where required under MREP No. 2. 	30 days

Application Type	Property Sign	Advertisement In Local Paper	Neighbour Notification Letters	Public Authority Notification	Exhibition Period
Operations Act 1997, but not including threatened species development or class 1 aquaculture development					
DA – Where Council is the Applicant Any development where Council is the Applicant, landowner or are in care and control of the land in question.	Yes	Yes	Yes	<ul style="list-style-type: none"> ○ Where Council considers appropriate. ○ Where required under MREP No. 2. 	14 days
DA – Threatened Species Development Development referred to in s78A(8)(b) of the EP&A Act and defined as “other advertised development” in the EP&A Reg.	Yes	Yes	Yes	<ul style="list-style-type: none"> ○ Where Council considers appropriate. ○ Where required under MREP No. 2. 	30 days
DA - Other	To be determined by Council staff, taking into consideration the nature of the development, attributes of the site and expected level of impact.			<ul style="list-style-type: none"> ○ Where Council considers appropriate. ○ Where required under MREP No. 2. 	14 days
Modification – Designated Development (s96(2) and s96AA(1))	As per original DA	Yes	Yes - To authors of original DA notification submissions	Unless stated elsewhere in the Act: <ul style="list-style-type: none"> ○ As per original DA. ○ The Court must be notified for s96AA(1). 	14 days
Modification – Other Development (s96(2) and s96AA(1))	As per original DA	As per original DA	Yes - To authors of original DA notification submissions	Unless stated elsewhere in the Act: <ul style="list-style-type: none"> ○ As per original DA. ○ The Court must be notified for s96AA(1). 	14 days

Application Type	Property Sign	Advertisement In Local Paper	Neighbour Notification Letters	Public Authority Notification	Exhibition Period
Review of Determination – s82A	As per original DA	As per original DA	Yes - To authors of original DA notification submissions	As per original DA	14 days

1.12 VARIATIONS TO DEVELOPMENT CONTROLS

Development applications will be assessed on the individual merits of the particular development and of the site. Council may vary the development controls in this Plan if it is considered reasonable to do so, that the development will not cause conflicts with surrounding land uses or generate significant adverse impacts on the environment. Council may approve variations to the DCP controls where:

- The development satisfies the aims of this Plan,
- Varying a numeric control is not a significant variation, and
- In the opinion of Council, satisfactory justification for the variation has been provided by the applicant.