



**Edward
River**
COUNCIL

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www.edwardriver.nsw.gov.au
ABN 90 407 359 958
Address all correspondence
to the General Manager

Department of Planning and Environment
PO Box 58
DUBBO NSW 2830

12 December 2016

Dear Sir/Madam

**DENILIQUIN LOCAL ENVIRONMENTAL PLAN 2013 – PLANNING PROPOSAL 7 (KYALITE STABLES)
(PP_2012_DENIL_001_00)**

I am writing to seek permission to proceed to agency and community consultation for the above planning proposal.

The amended gateway determination required Council to satisfy condition 2 (SEPP 55) and condition 7(a) (flooding) and these have now been satisfied by the following actions:

- Condition 2 (SEPP 55) – Council wrote to the Department on 22 November 2016 addressing this requirement; and
- Condition 7(a) (flooding) – Council wrote to the Office of Environment and Heritage (OEH) on 22 November 2016 and received a response on 1 December 2016. Council sought further clarification from OEH from on the flood planning levels for the site on 2 December 2016 and a received their response on 8 December 2016. Copies of this correspondence is attached for your information.

In accordance with the amended gateway determination dated 18 November 2016, I request that the Department grant permission for the agency and community consultation to proceed.

Should you have any further enquiries in relation to this matter, please do not hesitate to contact me on (03) 5898 3111.

Yours Sincerely

Julie Rogers
Manager Environmental Services
Economic and Business Development

Direct: (03) 5898 3111
Email: julie.rogers@edwardriver.nsw.gov.au

CC: Mr Robert Wilson, Decentralised Demountables
robert@demountables.com.au



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Mr Peter Ewin
Senior Team Leader Planning, South West
Regional Operations Group (South Branch)
Office of Environment and Heritage
Email: peter.ewin@environment.nsw.gov.au

22 November 2016

Dear Peter

DENILIQUIN LOCAL ENVIRONMENTAL PLAN 2013 – PLANNING PROPOSAL 7 (KYLITE STABLES)

The Department of Planning and Environment have issued an amended gateway determination on 18 November 2016 for the above planning proposal. I am writing to formally consult with the Office of Environment and Heritage (OEH) as detailed in the amended gateway determination.

Condition 7a of the amended gateway determination states that Council must consult with the OEH prior to community consultation to confirm whether the inconsistency of the planning proposal with Section 117 Direction 4.3 Flood Prone Land can be adequately justified based on 4.3(9)(a) or 4.3(9)(b).

This condition also requires Council to confirm the most suitable flood planning level (FPL) across the subject site through formal consultation with OEH. The information provided by Council about the proposed site specific flood planning clause and flood planning area mapping are suitable for consultation purposes. Council is required to consult with OEH to establish a mutually acceptable and justifiable FPL across the subject site having regard to the preliminary consultations with OEH and information from the Edward River at Deniliquin Flood Study (2014), the draft Edward River at Deniliquin Floodplain Risk Management Study and Plan and site specific flood modelling work (flood impact assessment).

Council is required to forward the formal response from OEH to the Department and request permission from the Department to proceed to community and agency consultation.

Please find attached the amended planning proposal, amended gateway determination, Edward River at Deniliquin Flood Study (2014) and the draft Edward River at Deniliquin Floodplain Risk Management Study and Plan for your consideration.

Edward River Council

Should you require any further information in relation to this matter, please do not hesitate to contact me on (03) 5898 3111.

Yours Sincerely

A handwritten signature in black ink that reads "Julie Rogers". The signature is written in a cursive, flowing style.

Julie Rogers
Manager Environmental Services
Economic and Business Development

Direct: (03) 5898 3111
Email: julie.rogers@edwardriver.nsw.gov.au



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Mr Peter Ewin
Office of Environment and Heritage
PO Box 544
ALBURY NSW 2640

2 December 2016

Dear Peter

DENILIQUIN LOCAL ENVIRONMENTAL PLAN 2013 – PLANNING PROPOSAL 7 (KYALITE STABLES)

I am writing in response to your letter dated 1 December 2016 in relation to the above matter and the establishment of a flood planning level for the subject site.

The letter refers to the establishment of a flood planning level of 1%AEP + 300mm and Council supports this for parts of the flood planning area for the site which are outside the floodway. However, I would like to seek clarification about the application of a flood planning level for parts of the site which are floodway. Whilst Council acknowledges that development will not be occurring within the floodway, the production of the mapping for the flood planning clause will mean that parts of the site which are floodway will have no flood planning level even though it is located within the flood planning area. Council believes that this can be interpreted as meaning that there will be no flood planning level for that land in the floodway. In addition to this, Council believes it will be inconsistent with the implementation of the flood planning area and flood planning levels for the former Deniliquin local government area in accordance with the recommendations of the draft Edward River at Deniliquin Floodplain Risk Management Study and Plan. Council intends to prepare a planning proposal to amend the Deniliquin Local Environmental Plan 2013 once the draft Study and Plan is finalised (scheduled for 2017).

I look forward to response and appreciate your prompt response and assistance in progressing this planning proposal.

Should you have any further enquiries in relation to this matter, please do not hesitate to contact me on (03) 5898 3111.

Yours Sincerely

Julie Rogers
Manager Environmental Services
Economic and Business Development

Direct: (03) 5898 3111
Email: julie.rogers@edwardriver.nsw.gov.au



**Office of
Environment
& Heritage**

Your reference:
Our reference: DOC16/613151
Contact: Peter Ewin
Ph. 6022 0606

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

Dear Mr Bilske

RE: Deniliquin Local Environmental Plan 2013 – Planning Proposal 7 (Kyalite Stables)

I refer to your letter dated 1 December 2016 to the Office of Environment and Heritage (OEH) seeking clarification on the Planning Proposal to amend the *Deniliquin Local Environmental Plan 2013* in relation to the proposed Kyalite Stables development. Specifically, Council has sought clarification on the application of a flood planning level for parts of the proposal site which are floodway.

OEH confirms the following:

- 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.

This is consistent with the draft Edward River at Deniliquin Floodplain Risk Management Study and Plan.

OEH notes that the Planning Proposal identifies that building envelopes will be located outside the floodway, an approach which OEH supports.

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

Yours sincerely,

P. Ewin 8/12/16

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

Deniz Kilic

From: Deniz Kilic
Sent: Monday, 12 December 2016 11:46 AM
To: Katrina Handford
Subject: FW: Deniliquin LEP 2013 Planning Proposal 7 (Kyalite Stables) PP_2012_001_00
Attachments: DoPE Letter 12 December 2016.pdf; Office of Environment and Heritage 22 November 2016 Flooding.pdf; Office of Environment and Heritage 2 December 2016.pdf; OEH Response 8 December 2016.pdf; OEH Response 1 December 2016.pdf

Hey Katrina,

Can I have a workflow for this one – routine.

Thanks,
D

From: Julie Rogers [mailto:julie.rogers@edwardriver.nsw.gov.au]
Sent: Monday, 12 December 2016 11:19 AM
To: Deniz Kilic <Deniz.Kilic@planning.nsw.gov.au>; DPE PSVC Western Region Mailbox <westernregion@planning.nsw.gov.au>
Cc: Robert Wilson <robert@demountables.com.au>
Subject: Deniliquin LEP 2013 Planning Proposal 7 (Kyalite Stables) PP_2012_001_00

Good morning Deniz

Please find attached a letter from Council requesting permission to proceed to agency and community consultation for the Kyalite Stables Planning Proposal.

Regards
Julie

Julie Rogers
Manager Environmental Services

Edward River Council
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Edward River
COUNCIL



This message contains confidential information and is intended only for Deniz.Kilic@planning.nsw.gov.au, westernregion@planning.nsw.gov.au, robert@demountables.com.au. If you are not Deniz.Kilic@planning.nsw.gov.au, westernregion@planning.nsw.gov.au, robert@demountables.com.au you should not disseminate, distribute or copy this e-mail. Please notify julie.rogers@edwardriver.nsw.gov.au immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. Julie Rogers therefore does not accept liability



Office of Environment & Heritage

Your reference:
Our reference: DOC16/594534
Contact: Peter Ewin
Ph. 6022 0606

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

Dear Mr Bilske

RE: Deniliquin Local Environmental Plan 2013 – Planning Proposal 7 (Kyalite Stables)

I refer to your letter dated 22 November 2016 to the Office of Environment and Heritage (OEH) seeking comment on the Planning Proposal to amend the *Deniliquin Local Environmental Plan 2013* in relation to the proposed Kyalite Stables development. The proposal is now for a seven lot subdivision with construction of a road. Lots would range in size from 1.2 to 2.6 hectares.

OEH has reviewed the amended Planning Proposal and associated documentation. Our comments in relation to flooding, biodiversity and Aboriginal cultural heritage are provided below.

Flooding

The amended Planning Proposal adequately addresses Section 117 requirements, and has demonstrated minor significance in accordance with clause 4.3 (9)(b). This is on the basis that the amended Planning Proposal now has:

- the building envelopes for the lots situated outside the floodway, and proposes the necessary protections to prevent the envelopes being moved; and
- a flood planning level of 1% AEP level + 300 mm (consistent with the draft Floodplain Risk Management Strategy and Plan).

It is noted, however, that the associated lots have an elevated flood risk, as discussed in Section 5.6 of the Planning Proposal. To avoid evacuation issues, access roads are proposed to be set at an elevation of 92.60m AHD. However, the Planning Proposal does not demonstrate how this requirement will be achieved. We recommend that Council identify an action in Section 7 to document how this will be achieved.

We also believe that it would be beneficial for prospective landholders to be made aware of the level of flood risk, but the Planning Proposal does not propose any particular action to do this. OEH recommends that information regarding flood risk and emergency response should be included in the Section 88B instrument (under the *Conveyancing Act 1913*) associated with the subdivision consent.

Biodiversity

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.

There is some confusion in the Planning Proposal about the loss of hollow-bearing trees (HBT). Section 5.1 of the Biodiversity Assessment (Appendix 9) states in the 3rd dot point (Page 21) that two HBT will be removed, but in the text that follows it is stated that these trees will be "potentially impacted", which is reinforced by Figure 4.6. However in the Assessments of Significance (Appendix E) it is repeatedly stated that the proposal would result in the loss of "several hollow-bearing trees". Section 6.3 of the Biodiversity Assessment states that "if any HBT trees (sic) are to be removed, further assessment would be required".

It is assumed that two HBT are proposed for removal, but Council should confirm this with the proponent. The final development applications associated with subdivision and future development should incorporate the outcomes of this study. This information can then be used to minimise impact on biodiversity including HBTs. For example, the access roads to the building envelopes are shown as straight lines on Figure 4.6, but these could be routed to avoid the need to remove these HBT.

Aboriginal cultural heritage

An assessment in accordance with the Due Diligence Code of Practice (including Aboriginal Heritage Information Management System (AHIMS) search and visual inspection) has been undertaken. 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 AHIMS 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 at peter.ewin@environment.nsw.gov.au.

Yours sincerely,

 1/12/16

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