



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

Attention: Julie Rogers – Manager Environmental Services

Amended planning proposal (PP_2012_DENIL_001_00) seeking to rezone 13.6ha of land at Lots 2 and 3 DP 562598 and Lot 1 DP 1121183 being 21701- 21703 Riverina Highway, Deniliquin from RU1 Primary Production to R5 Large Lot Residential; reduce the minimum lot size (MLS); insert a site specific flood planning clause and a river front area model clause under the Deniliquin LEP 2013.

Dear Mr Bilske,

I am writing in response to Council's request on 26 September 2016 for an altered Gateway determination for an amended planning proposal to rezone land at 21701-21703 Riverina Highway, Deniliquin. I note the amended proposal reduces the scope of the original planning proposal from a proposed 13 lot community-titled subdivision to a proposed 7 lot residential development.

I have determined as delegate of the Minister, in accordance with section 56(7) of the *Environmental Planning and Assessment Act, 1979*, to alter the Gateway determination dated 25 October 2012 (as altered). The Alteration of Gateway determination is enclosed as Attachment 1.

It is noted that the amended proposal includes additional supporting information and specialist reports to satisfy original Gateway conditions 1 and 3. Prior to proceeding to community consultation, Council is required to address and satisfy original condition 2 relating to SEPP No. 55 – Remediation of Land. Once this condition is satisfied Council may then request permission from the Department to proceed to community and agency consultation with the amended planning proposal.

Council has demonstrated that the inconsistencies with section 117 Directions 1.2 – Rural Zones, 1.5 – Rural Lands and 2.1 Environment Protection Zones are of minor significance and no further work is required (Original condition 1).

Council is required to demonstrate consistency with the requirements of section 117 Directions 1.3 – Mining, Petroleum Production and Extractive Industries, 3.5 – Development Near Licensed Aerodromes, 4.3 - Flood Prone Land, 4.4 Planning for Bushfire Protection and 6.2- Reserving Land for Public Purposes through formal consultation with agencies based on the amended proposal. The relevant agencies have been identified under amended condition 6 of the attached Alteration of Gateway determination. Original condition 6 has been replaced by new condition 6.

Original condition 7 has been deleted and replaced with new condition 7 identifying work to be undertaken relating to site specific flood planning and riverfront areas. Council is required to formally consult with the Office of Environment and Heritage (OEH) prior to community consultation to confirm that the inconsistency with section 117 Direction 4.3 – Flood Prone Land can be adequately justified. Council is required to forward the formal response from OEH to the Department. Once new condition 7(a) is satisfied Council may then request permission from the Department to proceed to community and agency consultation with the amended planning proposal.

Council is encouraged to liaise with the Department during the drafting of site specific river front area provisions in the Deniliquin Development Control Plan (DCP) to satisfy new condition 7(b) and ensure the provisions of the flood study will be applied appropriately to all future development on the site. The DCP provisions including supporting mapping should be submitted to the Department at section 59.

Original condition 8 relating to public hearings has been retained without any changes.

Original condition 9 has been amended to confirm completion date no later than 2 May 2017.

A new condition 10 has been inserted to address final LEP Map requirements.

The Department is available to provide advice in resolving these conditions as required.

Council is also encouraged to finalise the draft Deniliquin Rural Residential Strategy and submit it to the Department for endorsement.

The Minister delegated plan-making powers to Councils in October 2012. It is noted that Council has accepted this delegation and requests to exercise delegations in this case. I have considered the nature of the amended planning proposal and the outstanding matters that require resolution and have decided not to issue an authorisation for Council to exercise delegation to make this plan in this instance.

The timeframe for completing the amended planning proposal remains as extended on 19 July 2016 to be finalised no later than **2 May 2017** (condition 9). Council should aim to commence exhibition of the amended proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 10 weeks prior to the projected publication date. Council's request to finalise the LEP should be made to the Department of Planning and Environment (westernregion@planning.nsw.gov.au).

All related files for the LEP Amendment, including Maps, Map Cover Sheet, Planning Proposal document, section 59 Reporting and GIS data, if available, must be submitted to the Department via the Planning Portal Website at <https://www.planningportal.nsw.gov.au/planning-tools/online-submission-planning-data>. To submit the data, Council is required to create an account and log in using these details.

The State Government is committed to reducing the time taken to complete the LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the *Environmental Planning and Assessment Act 1979* if the time frames outlined in the determination are not met.

Should you have any further enquiries, please contact Deniz Kilic, Planning Services, at the Department on (02) 6841 2180.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'A. Dobson'.

18.11.16

Azaria Dobson
Acting Director Regions, Western
Planning Services

Encl: Attachment 1 – Alteration of Gateway determination



Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2012_DENIL_001_00)

I, the Acting Director Regions, Western at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 25 October 2012 (as since altered) for the proposed amendment to the Deniliquin Local Environmental Plan 2013 as follows:

1. Change the description of the Planning Proposal

- from** "Planning proposal (Department Ref: PP_2012_DENIL_001_00): to rezone rural land on the Riverina Highway from 1(a) General Rural Zone to 1(c) Rural Small Holding Zone."
- to** "Amended planning proposal (Department Ref: PP_2012_DENIL_001_00): to rezone land at Lots 2 and 3 DP 562598 and Lot 1 DP 1121183 being 21701-21703 Riverina Highway, Deniliquin from zone RU1 Primary Production to zone R5 Large Lot Residential and reduce the Minimum Lot Size to part 1ha and part 2ha to facilitate a 7 lot residential development."

2. Delete:

"condition 5" Community consultation

and replace with:

new condition 5. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 as follows:

- (a) the planning proposal (as amended) and relevant supporting material must be made publicly available for a minimum of 28 days;
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).

3. Delete:

"condition 6" Consultation with public authorities

and replace with:

new condition 6. Consultation is required with the following public authorities under section 56(2)(d) of the Environmental Planning and Assessment Act 1979 and to comply with the requirements of relevant section 117 Directions:

- Civil Aviation Safety Authority
- NSW Department of Primary Industries – Agriculture
- NSW Department of Primary Industries – Resources and Energy
- Office of Environment and Heritage
- Roads and Maritime Services
- Local Land Services - Murray
- NSW Office of Water
- Fire and Rescue NSW
- NSW Rural Fire Service

Each public authority is to be provided with a copy of the amended planning proposal and relevant supporting material, and given at least 21 days to comment on the proposal.

4. Delete:

“condition 7” Consultation with public authorities to comply with section 117 Directions.

and replace with

new condition 7. Council is required to provide further information and justification to resolve the following outstanding matters:

(a) *Site specific (flood planning) clause:*

Council is required to formally consult with the Office of Environment and Heritage (OEH) prior to community consultation to confirm whether the proposal’s inconsistency with section 117 Direction 4.3 Flood Prone Land can be adequately justified based on 4.3(9)(a) or 4.3(9)(b). Council is required to forward the formal response from OEH to the Department prior to proceeding to community consultation.

Council is also required to confirm the most suitable flood planning level (FPL) across the subject site through formal consultation with OEH. The information provided about the proposed site specific flood planning clause and flood planning area (FPA) 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 Deniliquin Flood Study, Floodplain Risk Management Plan (FRMP) and site specific flood modelling work (Flood Impact Assessment).

The proposed intent of the site specific flood planning clause is to be drafted and submitted to the Department for endorsement in the section 59 report. The section 59 report is to include the result of all formal consultations with agencies.

(b) *Site specific (river front area) clause:*

The proposed intent of the site specific ‘river front area’ (RFA) clause is required to give effect to the intended outcomes of the site specific flood modelling work and ensure development cannot occur within the ‘river front area’, as illustrated in

the proposed RFA mapping. The proposed intent of the site specific 'river front area' (RFA) LEP clause is to be submitted to the Department for endorsement in the section 59 report.

Detailed site specific river front area provisions should be included in an addendum to the Deniliquin Development Control Plan (DCP) 2016, including mapping of building envelopes, access corridors and any flood mitigation structures, as presented in indicative mapping in Appendix 12 of the amended planning proposal. The DCP provisions should also be submitted to the Department in the section 59 report.

5. Delete:
"condition 9" Timeframe to complete LEP.

and replace with

new condition 9. The LEP is to be completed no later than 2 May 2017

6. Insert:

new condition 10. Prior to submission of the planning proposal under section 59 of the *Environmental Planning and Assessment Act, 1979*, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.

Dated 18th day of November 2016



Azaria Dobson
Acting Director Regions, Western
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning